

BEFORE THE INDIAN CLAIMS COMMISSION

QUINAIELT TRIBE OF INDIANS, et al.,)	
)	
Petitioner,)	
)	
v.)	Docket No. 242
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

FINDINGS ON ATTORNEY FEES

This matter was submitted, without hearing, on petition of attorneys filed herein on March 17, 1964, for the allowance of an attorney's fee, and the response of the defendant with attached letter and memorandum from the Office of the Solicitor of the Department of Interior, filed June 10, 1964.

The record discloses this litigation was originally instituted on behalf of petitioner tribe by Kenneth R. L. Simmons of Billings, Montana, under a ten-year contract between the Quinaielt Tribe of Indians and the said Kenneth R. L. Simmons, executed July 23, 1951, and approved by the Acting Commissioner of Indian Affairs on August 7, 1951; that the said Kenneth R. L. Simmons departed this life April 13, 1953, and said litigation was thereafter conducted by the firm of Wilkinson, Cragun, and Barker, (formerly Wilkinson, Boyden, Cragun & Barker; and Wilkinson, Boyden & Cragun) under attorney's contract between said tribe and said firm, executed August 31, 1953, amended January 12, 1954, and approved, as amended, by the Commissioner of

Indian Affairs on the 21st day of June, 1954. By virtue of a subsequent extension approved by the Acting Area Director under authority delegated by Order No. 551 of the Bureau of Indian Affairs, as amended, said contract is presently in full force and effect.

Said contract of July 23, 1951, provided for the advancement of a retainer in amount of \$2,500 to Kenneth R. L. Simmons, and "in the event a recovery is obtained, the retainer herein provided for shall be deducted from the total amount ultimately awarded to the attorney;" that the claim of said Kenneth R. L. Simmons for said retainer was approved by the Acting Commissioner on September 4, 1951, and thereafter paid from tribal funds of the petitioner tribe; that such sum is for credit against the attorney fee hereinafter allowed.

Said contract of July 23, 1951 further provided for the association of other attorneys with the said Kenneth R. L. Simmons but that such associates were to be paid by the said Kenneth R. L. Simmons and petitioner herein has no obligation to remunerate said associates for any services rendered by them under the contract of employment negotiated by the petitioner tribe and said Kenneth R. L. Simmons.

The record further discloses the said Kenneth R. L. Simmons departed this life April 13, 1953, and that Newton Day Simmons and Sara Simmons Hertz are entitled to participate in the award of attorney fees hereafter entered as next of kin and distributees of the estate of the said Kenneth R. L. Simmons, deceased.

The record discloses at divers times John M. Murray and Angelo A. Iadarola have each appeared as attorneys of counsel with the firm Wilkinson, Cragun and Barker and that said parties were regularly associated with said firm and have no interest in the attorney contract of August 31, 1953, or the award hereafter granted.

This docket was originally filed August 9, 1951; detailed investigation was had respecting the aboriginal structure of petitioner tribe, the area it occupied, and possible overlaps of territorial claims with tribes to the south and east. Conferences with attorneys representing such tribes were required; the issue involved was duly presented to this Commission; lengthy and detailed proposed findings of fact and brief, and a response to like pleadings of the defendant were prepared and submitted. A more favorable ruling for petitioner tribe was obtained upon motion for rehearing, and an appeal instituted. Negotiations with the Department of Justice for a compromise settlement were successfully conducted and the Commission's approval of such settlement was obtained. The Commission's final award to the petitioner tribe (including the Queets Tribe or Band) was entered April 17, 1963 in the net sum of \$205,172.40. Said amount has been appropriated by Congress and is now held in the United States Treasury.

Considering the services performed by the attorneys, the contingent character of the compensation, the results achieved and the fidelity demonstrated by the attorneys, together with the request of

the Quinaielt General Council that said attorney fee be fixed in the maximum amount of 10% of the award, and defendant having no objection thereto, the Commission is of the opinion the sum of \$20,517.24 is a proper fee for allowance herein, from which sum there should be deducted the retainer paid, \$2,500.00, leaving a net award of \$18,017.24 to be allowed for payment from the appropriation Congress has made to satisfy the final award of this Commission entered April 17, 1963.

Dated at Washington, D. C., this 24th day of July, 1964.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner