

BEFORE THE INDIAN CLAIMS COMMISSION

THE YAKIMA TRIBE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 162
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	

ORDER ALLOWING ATTORNEY FEE

Upon consideration of the application for an award of an attorney fee filed November 30, 1965, the defendant having had notice thereof and not objecting thereto, and having considered the entire record in this case, the Commission finds that:

1. The original contract with the Yakima Tribe of the Yakima Reservation was entered into with Attorney Paul M. Niebell of Washington, D. C. on July 20, 1948, and was approved on February 14, 1949 for a ten year period. Subsequently, the same parties entered into a contract dated December 10, 1958 and approved February 16, 1959 for a period of ten years, beginning on February 14, 1949. Said contracts provide for an attorney fee to be fixed in an amount not in excess of ten percent (10%) of any and all sums recovered or procured for the said Yakima Tribe.

2. Pursuant to the aforesaid contracts of employment, the said attorney prepared and filed a petition on July 24, 1951, asserting a claim for 23,000 acres of timber land located in the State of Washington, reserved to the Yakima Tribe under the Treaty of June 9, 1855, 12 Stat.

951, and conveyed to the United States by agreement of the parties entered into June 8, 1894, for a consideration of \$20,000.00 alleged to be unconscionable. After hearings on the issue of liability held in Seattle, Washington, in 1953 and 1954, this Commission on June 5, 1956, entered an interlocutory order holding the defendant liable and determined the value of the said lands in 1894 was \$69,000.00; that the \$20,000.00 paid by the defendant under said Agreement of 1894 was unconscionable and that the plaintiff was entitled to recover in the net amount of \$49,000.00, less offsets to which the defendant would be entitled to under the provisions of the Indian Claims Commission Act.

3. Because of the small award in this case counsel entered into a stipulation to delay the entry of final judgment until the defendant's offset claims against the Yakima Tribe could be determined in another larger Yakima case. Most of the defendant's claimed offsets were settled in the Yakima case, Docket No. 161, in which final judgment was entered by the Commission on April 5, 1965 (15 Ind. Cl. Comm. 196). This action paved the way for the entry of a final judgment in this Docket No. 162.

4. By agreement of counsel a further hearing was held before the Commission on June 15, 1965, on the motion of plaintiff for entry of final judgment for \$49,000.00 and on August 31, 1965 the Commission entered a final award in favor of the Yakima Tribe in the amount of \$49,000.00, which sum has been appropriated by the Congress of the United States and this amount is now credited on the books of the United States Treasury.

The Commission further finds that the attorney for plaintiff has

earned and is entitled to the full sum allowable under his said contracts with plaintiff namely, ten percent (10%) of the amount recovered of \$49,000.00, or \$4,900.00.

IT IS THEREFORE ORDERED AND ADJUDGED that the said attorney, Paul M. Niebell, be and he is hereby allowed the sum of \$4,900.00, which sum shall be in full compensation for legal services rendered the Yakima Tribe in the prosecution of its claim against the United States in this Docket No. 162; that said sum shall be paid out of the appropriation which the Congress of the United States made to satisfy the final award made by this Commission on August 31, 1965.

Dated at Washington, D. C., this 16th day of February, 1966.

Arthur V. Watkins  
Chief Commissioner

Wm. M. Holt  
Associate Commissioner

T. Harold Scott  
Associate Commissioner