

BEFORE THE INDIAN CLAIMS COMMISSION

THE SNOHOMISH TRIBE OF INDIANS,)	
)	
Petitioner,)	
)	
v.)	Docket No. 125
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: March 31, 1967

FINDINGS OF FACT ON PETITION FOR ALLOWANCE OF ATTORNEY FEE AND REIMBURSABLE EXPENSES

The Commission makes the following findings of fact:

1. We have for consideration the application filed herein for the allowance of an attorney fee and reimbursable costs and expenses of the litigation paid or incurred by the attorney.

Attorney Fee

2. The attorney's contract between the Snohomish Tribe and attorney Frederick W. Post under date of April 21, 1951 was approved by the Commissioner of Indian Affairs on June 19, 1951, for a period of five years beginning June 19, 1951. A renewal contract between Frederick W. Post and the Snohomish Tribe under date of August 17, 1956, was approved by the Commissioner of Indian Affairs on December 18, 1956, for a period of ten years beginning June 19, 1956, which contract was extended for a period of two years beginning June 19, 1966, and is currently in effect.

3. The approved attorney's contracts, as extended, provide that the compensation to be received by the attorneys shall be wholly contingent

upon a recovery for the tribe and shall not exceed ten percent of such recovery.

4. The attorney's contracts imposed upon the attorney the responsibility of investigating and prosecuting to a final conclusion the claim of the Snohomish Tribe against the United States. The claim which was instituted and prosecuted by the attorney in this case was for payment for lands of the tribe in the present State of Washington which were included in a cession with other tribes under the Treaty of January 22, 1855.

5. The litigation in this case has consumed over sixteen years. The first phase of the case was the trial and determination with respect to the issue of the extent and boundaries of the lands aboriginally owned by the petitioner tribe, and other hearings and determinations with respect to the value of such lands and the consideration paid therefor by the defendant. At each of these trials numerous exhibits were received in evidence and the testimony of expert witnesses was taken. The issue of defendant's counterclaims and offsets were resolved based upon a stipulation of a compromise settlement negotiated by the attorney, entered into by the parties, approved by the Secretary of the Interior, and approved and adopted by the Indian Claims Commission.

6. A final judgment was entered in the case on March 30th, 1967, adjudging that the Snohomish Tribe should recover from the defendant the sum of \$136,165.79.

7. The Commission having considered the services performed by the attorney, the amount of the recovery, the time spent on the case, and

the contingent character of the fee, finds that the attorney has earned and is entitled to the full sum allowed by his contracts with the Snohomish Tribe, namely, ten per cent of the recovery in this case, or \$13,616.57.

Reimbursable Expenses Incurred by Attorney

8. The attorney's contracts provide that the attorney shall also be allowed and reimbursed from the amount of any judgment received such actual expenses incurred by him as may be fixed by the Indian Claims Commission pursuant to Section 15 of the Act of August 13, 1946. Section 15 of the Act provides for the payment of "all reasonable expenses incurred in the prosecution of the claim."

9. The attorney seeks an allowance for items of expense incurred by him in the prosecution of the case which he has paid from his personal funds totaling \$640.90. We find these items totaling \$640.90 are allowable as reimbursable expenses.

10. The attorney's renewal contract with the Snohomish Tribe of August 17, 1956, provides that the attorney "may employ such technical or stenographic assistance in respect of his obligations under this contract as he may deem necessary, same to be paid as expenses incidental to his employment thereunder."

11. The attorney employed Colin E. Tweddell as an expert witness and anthropologist to research the history of the Snohomish Tribe, prepare a report and give testimony before the Commission at the trial establishing the petitioner's Indian title to the subject lands. The attorney testified at the hearing before the Commission for payment of

attorney's fee and expenses on March 16, 1967, that he had agreed to pay Mr. Tweddell \$2,500.00 for his services as an expert in said case irrespective of the outcome of the case; that he had paid him \$505.50 and was reimbursed for this amount by petitioner and is personally committed to pay Mr. Tweddell the additional sum of \$1,994.50.

The attorney also employed Dr. James A. Crutchfield, a Professor of Economics at the University of Washington, as an expert witness to prepare a report and give testimony before the Commission on the value of the petitioner's lands when ceded, which he did. The attorney testified at the March 16, 1967 hearing that he had agreed to pay Dr. Crutchfield \$1,000.00 for his services as an expert in said case irrespective of the outcome of said case; that he had paid him \$300.00 and was reimbursed for this amount by the petitioner tribe and is personally committed to pay Dr. Crutchfield the additional sum of \$700.00.

The Commission is aware of the services performed by Mr. Tweddell and Dr. Crutchfield as expert witnesses in this case and we consider the compensation agreed to be paid to Mr. Tweddell of \$2,500.00 and to Dr. Crutchfield of \$1,000.00 for such services are reasonable expenses incurred in the prosecution of the claim and therefore Attorney Post's claim for the balance due Mr. Tweddell of \$1,994.50 and Dr. Crutchfield of \$700.00, or a total of \$2,694.50, is approved and allowed.

12. Accordingly, Attorney Frederick W. Post is entitled to an attorney fee of \$13,616.57, and in addition thereto he is entitled to

the sum of \$3,335.40 as reimbursable expenses incurred in the prosecution of the petitioner's claim, and it will be so ordered.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner