

BEFORE THE INDIAN CLAIMS COMMISSION

THE CREEK NATION OF OKLAHOMA, Plaintiff,)	
)	
THE CREEK NATION EAST OF THE MISSISSIPPI,)	
Intervenor,)	
)	
v.)	Docket No. 21
)	
THE UNITED STATES OF AMERICA, Defendant.)	

ORDER ALLOWING CERTAIN ATTORNEY EXPENSES

The Commission has before it the request of Mr. C. LeNoir Thompson of Bay Minette, Alabama, attorney for the intervenor, The Creek Nation East of the Mississippi, that an order be issued providing for direct payment to the three expert witnesses who were employed by him in this case of the amounts of their fees for their services rendered and the amounts of their reimbursable expenses incurred in the performance of such services. The amounts of these fees and expenses constitute a portion of the total expenses that Mr. Thompson is claiming in his application for allowance of his reimbursable expenses incurred herein in connection with his prosecution of the claim of the said intervenor.

Mr. Thompson's application for allowance of his expenses was filed herein on March 10, 1966 and was the subject of a hearing before the Commission on June 27, 1966. Final action on the application has been delayed because of objections to it that have been filed herein. It appears, however, that none of the objections have involved the amounts claimed by Mr. Thompson as his costs incurred for the fees and expenses of the expert witnesses.

In effect, Mr. Thompson's request asks that the Commission consider, apart from the other expense items in his said application, the amounts of the fees and expenses of the expert witnesses and allow the immediate payment of them direct to the expert witnesses.

The said request appears in the last paragraph of Mr. Thompson's letter of

September 3, 1966 to the Commission which was filed herein on September 6, 1966. The defendant entered no objection to it after having had a copy of Mr. Thompson's letter served upon it. The plaintiff, The Creek Nation of Oklahoma, in a statement filed herein by its attorney of record on April 5, 1967, advised the Commission that it has no objection to the payment of the expert witnesses' fees in the amounts agreed upon in the several contracts executed with them, and further stated that: "Their testimony contributed to securing an increase in the valuation of the lands involved in this case, and plaintiff believes that these witnesses should be paid for the services they rendered in this case."

Upon consideration of the above mentioned request from Mr. Thompson, and having considered the entire record in this case, the Commission finds:

1. A final judgment was entered herein on September 10, 1962 (11 Ind. Cl. Comm. 53), awarding to the Creek Nation of Oklahoma, plaintiff, and the Creek Nation East of the Mississippi, intervenor, the sum of \$3,913,000.00.
2. The approved contract under which Mr. Thompson served the said intervenor provides for reimbursement from the amount of such judgment of his actual and reasonable expenses incurred herein as determined by this Commission.
3. In the hearing of June 27, 1966, on his application for reimbursement of his expenses herein, Mr. Thompson testified, in effect, that irrespective of the outcome of the case he was firmly bound by the contracts he negotiated with the expert witnesses to pay them the amounts claimed by him as his costs herein on account of their fees and expenses (Tr. pp. 113-117). Similar testimony as to the binding nature of the obligation running to the expert witnesses under their employment contracts was received from Mr. Claude Pepper of Miami, Florida in a hearing before the Commission March 21, 1967 on his application for allowance of his expenses herein (Tr. pp. 7-9). Mr. Pepper was associated with Mr. Thompson in the case and signed the written contracts with Mr. Thompson.

The documentary evidence of the contracts that accompanied Mr. Thompson's said application supports the aforementioned testimony. The amounts claimed as the expenses of the expert witnesses are itemized and documented with paid checks, receipts and other evidence of payment by the expert witnesses.

4. The names, titles, and addresses of the three expert witnesses and the amounts of their fees and expenses are as follows:

<u>Expert Witness</u>	<u>Fee</u>	<u>Expenses</u>	<u>Total</u>
Dr. E. Merton Coulter, Professor of History Emeritus, University of Georgia, Box 587, Athens, Georgia	\$10,000.00	\$812.67	\$10,812.67
Dr. James F. Doster, Professor of History, University of Alabama, Box 1955, University, Alabama	\$15,000.00	\$946.69	\$15,946.69
Mr. M. J. Williamson, Real Estate Appraiser, Appraisal Service Company, Jackson Building, Birmingham, Alabama	\$10,000.00	\$410.92	\$10,410.92

The above named expert witnesses, in connection with the proceedings herein relating to the valuation of the Indian lands involved in the case, performed research, prepared reports and gave testimony before the Commission. Their contribution to the record herein was of substantial benefit both to the intervenor and the plaintiff. The Commission is aware of the services they performed and considers the above listed amounts, which are claimed in Mr. Thompson's above mentioned application as his costs for their services and expenses, as being reasonable expenses incurred in the prosecution herein of the intervenor's claim. No portion of the above listed amounts has as yet been paid to the expert witnesses.

5. Under the terms of their employment contracts, payment direct to the expert witnesses of the amounts of their fees and expenses, as requested by

Mr. Thompson, will discharge Mr. Thompson's obligation under the contracts to pay such amounts. Such direct payment will also dispose of so much of Mr. Thompson's above mentioned application as consists of the amounts of the fees and expenses of the expert witnesses.

IT IS THEREFORE ORDERED AND ADJUDGED that out of the above mentioned award of \$3,913,000.00 there shall be disbursed to Dr. E. Merton Coulter the sum of \$10,812.67 in payment for his services rendered and expenses incurred herein; to Dr. James F. Doster the sum of \$15,946.69 in payment for his services rendered and expenses incurred herein; and to Mr. M. J. Williamson the sum of \$10,410.92 in payment for his services rendered and expenses incurred herein.

Dated at Washington, D. C., this 6th day of April, 1967.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner