

## 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 BALANCE OF REIMBURSABLE ATTORNEY EXPENSES  
TO C. LENOIR THOMPSON

The Commission has before it the amended application of Mr. C. LeNoir Thompson of Bay Minette, Alabama, attorney for the intervenor, The Creek Nation East of the Mississippi, for an order allowing reimbursement of expenses incurred by him in connection with his prosecution herein of the claim of the said intervenor.

Mr. Thompson and one of the attorneys associated with him in the case, Mr. Claude Pepper of Miami, Florida, initially filed herein on March 10, 1966 a joint application for reimbursement of their attorney expenses. Their application was scheduled for a hearing before the Commission on June 27, 1966. The expenses examined in the hearing on that date, however, were limited to those represented as incurred by Mr. Thompson. Mr. Pepper's claim for his reimbursable expenses was heard by the Commission on March 21, 1967 and his claimable expenses herein were allowed by our order of March 22, 1967 (18 Ind. Cl. Comm. 132).

Amendments to the original application were filed by Mr. Thompson after the hearing of June 27, 1966 which had, inter alia, the effect of eliminating from the application those amounts not claimed by him in his own behalf.

The amounts claimed by Mr. Thompson as his costs incurred herein on account of the fees and expenses of three expert witnesses employed by him in the case were allowed by our order of April 6, 1967 (18 Ind. Cl. Comm. 362). As requested by Mr. Thompson, the order provided for direct payment of those amounts to the three experts.

Our consideration of exceptions filed herein to various remaining expenses claimed by Mr. Thompson, especially the exceptions filed by the defendant on October 26, 1966 "for the reason and on the ground that many of the expenses for which reimbursement is requested were in fact paid by the membership of the Creek Nation East or were reimbursed to Mr. Thompson by said membership" has deferred until now the disposition of the balance in his application.

A memorandum to the Commissioners on Mr. Thompson's application was entered herein on May 12, 1967 which presents a summary of the conclusions developed in a comprehensive audit of the expenses claimed by Mr. Thompson. The audit involved, inter alia, a comparison of Mr. Thompson's claimed expenses with the vouchers submitted by him and also with the paid checks of the Creek Nation East and other documents on which the defendant's above mentioned objections of October 26, 1966 are founded. A detailed report of the results of the comparison is set out in schedules attached to the May 12 memorandum.

Under cover of a letter dated May 15, 1967, the Commission supplied Mr. Thompson with a photocopy of the said memorandum together with a photocopied set of its accompanying schedules. Inter alia, the letter explained to Mr. Thompson that the Commission proposed to use the summary in the said memorandum, which shows an unreimbursed balance of \$2,677.25 remaining in his claim, as a basis for finally disposing of his application. In a reply to the Commission's letter, filed herein on May 29, 1967, Mr. Thompson indicated that he was agreeable to such proposal.

On May 15, 1967 photocopies of the Commission's letter to Mr. Thompson and the memorandum of May 12 and its attached schedules were sent to the attorney for the defendant, Mr. Ralph A. Barney, Chief of the Indian Claims Section in the Department of Justice; the Department of the Interior; Mr. Paul M. Niebell, attorney for The Creek Nation of Oklahoma; Mr. Calvin W. McGhee of Atmore, Alabama; and Mr. Randolph McGowan, Sr., of Bay Minette, Alabama. To the date hereof no exception or objection to the proposal in the Commission's letter or to the memorandum and schedules transmitted therewith has been entered herein.

On June 29, 1967 a reply was filed herein for the defendant entitled "RESPONSE TO ANALYSIS OF EXPENSE ACCOUNT OF C. LE NOIR THOMPSON" which transmitted a photocopy of a letter dated June 19, 1967 from the Deputy Solicitor of the Department of the Interior to the Hon. Edwin L. Weisl, Jr., Assistant Attorney General, and a photocopy of a memorandum to the Solicitor dated June 2, 1967 from the Acting Deputy Commissioner of the Bureau of Indian Affairs. The Acting Deputy Commissioner's memorandum expressed, inter alia, the concurrence of the Bureau with the proposal of the Indian Claims Commission for disposing of the expense petition of Mr. Thompson. The last paragraph of the Deputy Solicitor's letter states that: "The Acting Deputy Commissioner recommends proceeding as proposed in the May 15 letter with respect to Mr. Thompson's petition. We concur that the balance of \$2,677.25 be used as the basis for finally disposing of the petition."

Upon consideration of the above mentioned memorandum of May 12, 1967 and the schedules attached thereto and the rest of the entire record herein, 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 proceeds of such judgment of his actual and reasonable expenses incurred herein as determined by this Commission.

3. Before giving effect to any adjustments other than the correction of errors of addition in his original itemized schedules of expenses and the allowance by our above mentioned order of costs incurred for the fees and expenses of three expert witnesses, the reimbursable expenses claimed herein by Mr. Thompson in his own behalf totaled \$28,079.18. After other proper adjustments of his application that are summarized in the above mentioned memorandum of May 12, 1967, which adjustments include many made by or at the request of Mr. Thompson, there remains in Mr. Thompson's claim a reimbursable balance of \$2,677.25.

IT IS THEREFORE ORDERED AND ADJUDGED that out of the above mentioned award of \$3,913,000.00 there shall be disbursed to Mr. C. LeNoir Thompson of Bay Minette, Alabama, the sum of \$2,677.25 as payment in full of the balance of his reimbursable expenses herein.

Dated at Washington, D. C., this 11th day of July, 1967.

/s/ Arthur V. Watkins

Arthur V. Watkins  
Commissioner

/s/ Wm. M. Holt

Wm. M. Holt  
Commissioner

/s/ T. Harold Scott