

BEFORE THE INDIAN CLAIMS COMMISSION

THE PEORIA TRIBE OF INDIANS OF)
OKLAHOMA AND AMOS ROBINSON SKYE)
ON BEHALF OF THE WEA NATION,)

Petitioners,)

v.)

Docket No. 314-E

THE UNITED STATES OF AMERICA,)

Defendant.)

Decided: July 18, 1967

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. The petitioners, the Peoria Tribe of Indians of Oklahoma and Amos Robinson Skye on behalf of the Wea Nation are entitled to prosecute the claim of the Wea Nation set forth in the petition filed in Docket No. 314-E. The Wea Nation or Tribe, previously an independent entity, united in 1849 with the Piankeshaw, Peoria and Kaskaskia Tribes to form the group now known as the Peoria Tribe of Indians of Oklahoma. A formal consolidation of the four tribes, with the approval of the defendant, was effected by the Treaty of May 30, 1854, 10 Stat. 1082 (4 Ind. Cl. Comm. 223).

2. By the Treaty of October 2, 1818 (7 Stat. 186) the Wea Tribe of Indians ceded to the United States all the lands claimed and owned by the said tribe within the limits of the States of Indiana, Ohio and Illinois, with the exception of a small tract of land on the Wabash

River in Indiana, identified as Royce Area 114, which was reserved to the Wea Tribe under Article 2 of said treaty.

3. By the Treaty of August 11, 1820 (7 Stat..209) the Wea Tribe ceded to the United States the aforesaid reservation on the Wabash River which was reserved to it under Article 2 of the 1818 treaty, for the sum of five thousand dollars, "in money and goods."

4. The claims asserted in the petition filed in this case involve the fair or conscionable consideration for the reservation lands in Royce Area 114 in Indiana ceded by the Wea Tribe under the 1820 treaty. The acreage of Royce Area 114, as determined from the official plats of survey by the Bureau of Land Management, Department of the Interior, is fixed at 27,330.66 acres (Joint Exh. "C") for which land the Wea Tribe was paid \$5,000.00 or about 18 cents an acre.

5. On April 27, 1967, the parties by and through their respective attorneys of record filed a joint motion for entry of final judgment herein in accordance with a Stipulation For Entry of Final Judgment filed in this case simultaneously therewith. In the joint motion, the parties request that judgment be entered on the motion and the record, without the usual formal requirements and hearing. The Stipulation For Entry of Final Judgment is made and executed by Jack Joseph, Attorney of Record for petitioners, and Edwin L. Weisl, Jr., Assistant Attorney General and W. Braxton Miller, attorneys for defendant. Said stipulation is set forth in words and figures as follows:

STIPULATION FOR ENTRY OF FINAL JUDGMENT

The parties by and through their respective attorneys of record hereby agree and stipulate that the above-entitled case shall be settled and finally disposed of by entry of final judgment, from which no appeal or review will be taken by either party, as follows:

1. There shall be entered in the above-entitled case, after all allowable deductions, credits and offsets, a net final judgment of \$33,262.92.
2. The entry of said final judgment in the above-entitled case shall finally dispose of all claims or demands whatsoever which the petitioner has asserted against the defendant in this case, Docket No. 314-E, and petitioners shall be barred from asserting all such claims or demands in any further action.
3. In arriving at the amount of the net final judgment to be entered herein, the parties did not extend or go beyond the offsets and counter claims which were heretofore adjudicated between the same parties in Docket No. 314, Amended, and defendant shall be barred from asserting offsets and counter-claims in other actions only as to those which it asserted or could have asserted against the Wea Nation, Tribe or Band of Indians in said Docket No. 314, Amended.

Attached to this stipulation and marked respectively Exhibit A and Exhibit B are the following authorizations and approvals of the foregoing stipulation and agreement for settlement:

Exhibit A. A resolution by letter of November 28, 1966 from the Business Committee of the Peoria Tribe approving the foregoing settlement.

Exhibit B. A letter of January 17, 1967, from Deputy Assistant Commissioner of Indian Affairs verifying the above approval by the Business Committee of the Peoria Tribe and approving the foregoing settlement as the duly authorized representative of the Secretary of the Department of the Interior.

/s/ Jack Joseph
Attorney of Record for Petitioners

/s/ Edwin L. Weisl, Jr.
Assistant Attorney General

/s/ W. Braxton Miller
Attorney for Defendant

6. In a letter (Exh. B. to the Stipulation) under date of January 17, 1967, addressed to the attorney of record for petitioners, the authorized representative for the Secretary of the Interior states that:

The Peoria Tribe of Indians of Oklahoma organized under the Act of June 26, 1936 (49 Stat. 1967) with an approved constitution and bylaws. The organizational document provides that the Business Committee shall have the power to transact business and otherwise speak or act on behalf of the Peoria Tribe in all matters on which the tribe is empowered to act.

And, after full investigation, recommended that judgment be entered on the proposed settlement without the usual formal requirements applied in larger and more complicated cases.

7. On November 14, 1966, the attorney of record for petitioners forwarded to Mr. Guy Froman, Chief of the Peoria Tribe of Oklahoma, a memorandum explaining fully the claim in Docket No. 314-E and the various items considered in reaching a conclusion that the proposed settlement of the claim for a net sum of \$33,262.92 was fair and just and recommended its approval (Pet. Exh. 2).

8. The proposed settlement of the claim in Docket No. 314-E for the net sum of \$33,262.92 was approved by the Business Committee of the Peoria Tribe of Oklahoma by a resolution in the form of a letter under date of November 28, 1966, addressed to the attorney of record for petitioners and signed by the 2nd Chief, the Secretary and two councilmen. The letter of approval (Exh. A to the Stipulation) reads as follows:

Miami, Oklahoma
214 F.N.E.
Nov. 28, 1966

Mr. Jack Joseph
Chicago, Ill.

Dear Sir;

In reference to your letter of Nov. 14, 1966 regarding The settlement negotiations with the government with respect to Docket 314E. We, the Business Committee, believe the net final judgment of \$33,262.92 is a fair and reasonable settlement. Therefore we approve the settlement on Docket 314 E.

Chief Guy Froman is at the present time hospitalized in a sanitarium in Clinton, Okla. Before leaving he authorized Rodney Arnette, 2nd. Chief to carry on in his place.

Very truly yours,

Chief

/s/ Rodney P. Arnette
2nd. Chief

/s/ Willis McNaughton
Councilman

/s/ Louis E. Myers
Councilman

/s/ Alice Eversole
Secretary

Petitioners' Exhibit No. 3 is the sworn statement of Alice O. Eversole, Secretary of the Business Committee of the Peoria Tribe of Oklahoma, authenticating the signatures of the members of said Business Committee on the aforesaid approval of the compromise settlement. It reads as follows:

STATE OF OKLAHOMA)
) SS
 COUNTY OF OTTAWA)

I hereby certify that I am the duly elected and acting secretary of the Peoria Tribe of Indians of Oklahoma; that I am acquainted with the signatures of Rodney P. Arnette, Willis McNaughton, and Louis E. Myers; that said persons, together with Chief Guy Froman, constitute the business committee of The Peoria Tribe of Indians of Oklahoma; that the signatures of said persons, together with my signature, were placed on the original of the document, a copy of which is attached to this certificate, and that said document truly represents action taken by the business committee of The Peoria Tribe of Indians of Oklahoma.

/s/ Alice O. Eversole
 Alice O. Eversole, Secretary

Subscribed and Sworn to before
 me this 22nd day of May, 1967.

/s/ Louise F. Katner
 Notary Public

9. A copy of the contract of employment of attorneys for the Peoria Tribe of Oklahoma, petitioners, together with amendments and extension thereof to December 23, 1973, are on file with the Commission, all of which are duly approved by the authorized officials acting for the Secretary of the Interior. These show the law firm of Brown, Dashow and Ziedman (now Brown, Dashow and Langeluttig) of which firm Jack Joseph is a member, as the contract attorneys.

10. The attorneys' contract, as amended, provides that the attorneys shall be subject to the supervision of the Secretary of the Interior, or his authorized representative, and that they shall not make any compromise, settlement, or other adjustment of the matters in controversy unless with the approval of the Secretary of the Interior, or his authorized representative.

The proposed compromise settlement of the claim of petitioners in Docket No. 314-E for a net final judgment of \$33,262.92 was approved by the Bureau of Indian Affairs, in a letter signed by William E. Finale, Deputy Assistant Commissioner, dated January 17, 1967, addressed to the attorney of record for petitioners (Exhibit B to the Stipulation).

The letter is as follows:

Jan. 17, 1967

Mr. Jack Joseph
Attorney at Law
69 West Washington Street
Chicago, Illinois 60602

Dear Mr. Joseph:

You requested, by letter dated December 28, 1966, approval of a proposed compromise settlement of the case of the Peoria Tribe, et al., on behalf of the Wea Nation, Indian Claims Commission Docket No. 314-E, for a net final judgment of \$33,262.92.

Contract No. I-1-ind. 42129, dated October 18, 1948, between the Peoria Tribe of Oklahoma and the law firm of Brown, Dashow and Ziedman (now Brown, Dashow and Langeluttig of which you are a member) was approved December 24, 1948, for a period of ten years beginning with the date of approval. The contract has been amended and extended until December 23, 1973.

The contract, as amended, provides that the attorneys shall not make any compromise, settlement, or other adjustment of the matters in controversy except with the approval of the Secretary of the Interior, or his authorized representative.

The Peoria Tribe of Indians of Oklahoma organized under the Act of June 26, 1936 (49 Stat. 1967), with an approved constitution and bylaws. The organizational document provides that the Business Committee shall have the power to transact business and otherwise speak or act on behalf of the Peoria Tribe in all matters on which the tribe is empowered to act.

The Act of August 2, 1956 (70 Stat. 937), provides for the termination of Federal supervision over the affairs of the Peoria Tribe and its individual members. It provides that nothing in the act shall affect any claims previously filed against the United States by the Peoria Tribe. The act also states that, effective when all claims of the tribe that are pending before the Indian Claims Commission or the Court of Claims have been finally adjudicated, all powers of the Secretary of the Interior or other officer of the United States to take, review, or approve any action under the constitution and bylaws of the tribe are hereby terminated.

Your offer of July 22, 1966, to the Assistant Attorney General to settle and dispose of the case without further litigation was accepted on November 9, 1966, with conditions. One of the conditions is that the proposed settlement be accepted and approved in writing by the proper tribal officials and by the Secretary of the Interior or his authorized representative.

You sent to Mr. Guy Froman, Chief of the Peoria Tribe of Oklahoma, on November 14, 1966, a memorandum explaining the claim in Docket No. 314-E and various items considered in reaching a conclusion that the proposed settlement is a fair one.

A letter approving the settlement was addressed to you on November 28, 1966, over the signatures of the Second Chief, the Secretary, and two Councilmen of the Business Committee of the Peoria Tribe of Oklahoma. We are satisfied that the Business Council had the authority to act on behalf of the Peoria Tribe. The letter of November 28, 1966, is accepted as a resolution duly adopted by the Business Committee. We are further satisfied that the signatures on the letter of November 28, 1966, are genuine.

Procedures to be followed with respect to compromises were set out by the Indian Claims Commission in the Omaha Case (8 Ind. Cl. Comm. 392). However, the Commission stated that it may allow modification of the procedures when unusual circumstances exist and where rigid enforcement of the steps and requirements would cause undue hardships to the parties to a compromise agreement. The claim in Docket No. 314-E is small. No substantial sums are involved. The members of the Peoria Tribe whose names appear on the final roll prepared and approved pursuant to the 1956 Act are widely scattered. The time and expense of noticing, assembling

and holding of a meeting of the Indians involved relative to this small case would, in our opinion, place an undue hardship on them. Therefore, we recommend that you request the Indian Claims Commission to find the circumstances unusual, modify its requirements as provided in the Omaha case, and accept as satisfactory the procedures you have used in processing the proposed settlement of Docket No. 314-E.

In light of the information which you have sent to us, that supplied by our Area Office, and that obtained from other sources, we believe that the proposed compromise settlement is fair to the Indians. The proposed settlement of Indian Claims Commission Docket No. 314-E for a net final judgment of \$33,262.92 is hereby approved under authority of Section 11, Secretarial Order 2508 (27 F.R. 11560).

Sincerely yours,

/s/

William E. Finale

Deputy Assistant Commissioner

11. Based on the record in the case, the approval of the proposed compromise settlement by the authorized representative of the Secretary of the Interior, the Business Committee of the Peoria Tribe of Indians of Oklahoma, and representations by counsel that the settlement is fair to the Indians and to the defendant, the Commission finds that the settlement is fair and just to both the Indians and to the defendant, and, therefore, the Commission approves and adopts the terms of the Stipulation For Entry of Final Judgment on file herein, and finds that

a final judgment should be entered on the claims in this Docket No. 314-E in favor of the Peoria Tribe of Indians of Oklahoma for the benefit of the Wea Nation or Tribe, and against the defendant in the amount of \$33,262.92.

/s/ Arthur V. Watkins
Arthur V. Watkins
Commissioner

/s/ Wm. M. Holt
Wm. M. Holt
Commissioner

/s/ T. Harold Scott
T. Harold Scott
Commissioner