

BEFORE THE INDIAN CLAIMS COMMISSION

THE KIOWA, COMANCHE AND APACHE)	
TRIBES OF INDIANS,)	
)	
Petitioners,)	
)	Docket No. 258
v.)	
)	Docket No. 259
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: January 29, 1968

Appearances:

J. Roy Thompson, Jr. with whom was Frank Muskovsky, Attorneys for Petitioners

Clifford R. Stearns, with whom was Mr. Assistant Attorney General, Clyde O. Martz, Attorneys for Defendant

OPINION OF THE COMMISSION

PER CURIAM:

These two cases, Docket Nos. 258 and 259, are now before the Commission for consideration of a joint motion of the parties seeking approval of a proposed compromise settlement designated Stipulation of Settlement and for Entry of Final Judgment which is set forth in full in Finding No. 14.

The claim in Docket No. 258 is that the defendant disbursed tribal interest bearing funds when tribal non-interest bearing funds were available or expended moneys from tribal funds bearing a higher rate of interest when tribal funds bearing a lower rate of interest were available; in other words, that the defendant violated the principles

laid down in the case of *Menominee Tribe v. United States*, 101 Ct. Cls. 10.

Docket No. 259 is a petition for a general accounting of tribal funds and property.

The stipulation for entry of final judgment provides that Docket Nos. 258 and 259 shall be consolidated for all purposes and that there shall be entered in said consolidated dockets, after all allowable deductions and credits, a final judgment in the net amount of \$6,000,000 in favor of the Kiowa, Comanche and Apache Tribes which shall finally dispose of all rights, claims, or demands which petitioners have asserted or could have asserted with respect to the subject matter of these two dockets. The stipulation further provides that the defendant may reserve its contentions and claims regarding offsets and may assert the same in Docket No. 257 or 259-A, wherein the same tribes are petitioners, and, in addition, specifically allows the petitioners to assert in a separate petition to be assigned Docket No. 259-A, such of its land claims as are set out in the stipulation. Docket No. 257 before this Commission is not affected in any way by this settlement, except as mentioned with respect to offsets.

The Commission has found that the members of the Kiowa, Comanche and Apache Tribes have been fully advised of the terms of the proposed settlement of all of the claims asserted in Docket Nos. 258 and 259, with the reservations described, and the reasons why it should be entered into by the petitioners; that at a general council of the members of the Kiowa Tribe held on November 18, 1967, duly and properly called to consider the

settlement, a vote was taken and the result of the vote was 265 in favor of acceptance and none opposed; that at a general council of the Comanche Tribe held on November 18, 1967, a vote was taken and the result of the vote was 386 in favor of acceptance and none opposed; and that at a general council of the Apache Tribe held on December 9, 1967, duly and properly called to consider the settlement, a vote was taken and the result of the vote was 28 in favor of acceptance and none opposed. The proposed settlement has also been approved by the Commissioner of Indian Affairs.

We are of the opinion that all the formal requirements of the Commission, which were adopted with respect to proof of a valid approval of compromise settlement by petitioners and defendant, have been substantially complied with by the parties.

Under all the circumstances, we are of the opinion that the compromise settlement is fair and just to both the petitioners and the defendant and should be approved. Therefore, we conclude that the joint motion of the parties for consolidation and for entry of final judgment in accordance with the Stipulation of Settlement and for Entry of Final Judgment should be granted and final judgment will be entered in Docket Nos. 258 and 259 in accordance therewith. Also in accordance with said

joint motion, leave is granted to petitioners to file Docket 259-A within 20 days after the entry of this final judgment.

/s/ Wm. M. Holt
Commissioner

/s/ T. Harold Scott
Commissioner

/s/ Jerome K. Kuykendall
Commissioner

/s/ Richard W. Yarborough
Commissioner

/s/ John T. Vance
Commissioner