

BEFORE THE INDIAN CLAIMS COMMISSION

ROBERT DOMINIC, ET AL., As	)	
the Representatives and on	)	
Behalf of All Members By Blood	)	
of the Ottawa Tribe of Indians,	)	Docket No. 40-K
	)	(Heretofore consolidated with
Plaintiffs,	)	Docket Nos. 146, 15-M and 29-K)
	)	
v.	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: March 27, 1968

ADDITIONAL FINDINGS OF FACT ON COMPROMISE  
SETTLEMENT OF OFFSETS IN DOCKET NO. 40-K

The Commission has heretofore made findings of fact numbers 1 through 52 in consolidated Docket Nos. 40-K, 15-M, 29-K and 146, and now makes the following additional findings of fact in Docket 40-K.

53. On December 23, 1964, the Commission in the consolidated action (14 Ind. Cl. Comm. 518) entered an interlocutory order making a separate award to the plaintiffs in Docket 40-K, Robert Dominic, et al., in the sum of \$937,291.67, for and on behalf of the Grand River Band of Ottawa Indians, as such Band was constituted on March 25, 1822, less such offsets, if any, as may be allowable under the Indian Claims Commission Act.

54. On February 19, 1968, this Commission entered an order severing Docket No. 40-K from Docket Nos. 146, 15-M and 29-K "for purposes of possible entry of final judgment."

55. On February 1, 1968, the attorney for plaintiffs in Docket No. 40-K filed a motion with the Commission for approval of a proposed

compromise settlement of offsets and entry of final judgment in Docket No. 40-K, based upon a Stipulation made and executed by James R. Fitzharris, Attorney of Record for the plaintiffs in Docket No. 40-K, and Clyde O. Martz, Assistant Attorney General, and W. Braxton Miller, attorneys for defendant. Said Stipulation which is attached to plaintiffs' motion is set forth in words and figures as follows:

STIPULATION AS TO ALLOWABLE OFFSETS

Plaintiffs and defendant in Docket No. 40-K through their respective attorneys of record hereby agree and stipulate as follows:

1. Offsets in the amount of \$4,671.66 shall be allowed and deducted from the \$937,291.67 separately awarded to the petitioners in Docket No. 40-K on behalf of the Grand River Band of Ottawa Indians by order entered herein on December 23, 1964.
2. The stipulated amount of \$4,671.66 includes all offsets (not arising out of treaty obligations or provisions) which the United States is entitled to claim on account of gratuitous expenditures for the tribal benefit of the Ottawa and Chippewa Indians in Michigan between January 1, 1822 and January 1, 1836, as itemized in Sections A, B, E, I, K and L of the "General Accounting Office Report Re: Petitions of the Ottawa Tribe of Oklahoma and the Ottawa and Chippewa Indians of Michigan", certified November 27, 1953, and filed herein as defendant's exhibit.
3. All offsets other than those specifically identified and described in above Paragraph 2 hereof are reserved for possible assertion by the United States against other claims by or on behalf of said Indians.
4. The proposed settlement of offsets in the amount of \$4,671.66 to be deducted from the award of \$937,291.67 entered on December 23, 1964, was submitted to the Grand River Band of Ottawa Indians at a regular meeting at Potoskey, Michigan, October 16, 1965. (See attached Exhibit "A"). The proposed settlement was unanimously approved and adopted by Resolutions 101 and 102. (See attached Resolution 101, Exhibit "B" and Resolution 102, Exhibit "C".)

5. The Commissioner of Indian Affairs on November 20, 1967, duly approved the proposed settlement in the sum of \$4,671.66 (See attached Exhibit "D".)

6. This stipulation and settlement shall be subject to approval of the Indian Claims Commission

Dated December 28, 1967 /s/ James R. Fitzharris  
James R. Fitzharris  
Attorney of Record for Plaintiff

January 17, 1968 /s/ Clyde O. Martz  
Assistant Attorney General

/s/ W. Braxton Miller  
Attorney

56. On February 23, 1968, the defendant filed a response to plaintiffs' motion stating it had no objection to approval of aforesaid stipulation of compromise of offsets and for entry of final judgment, but that it did not at this time waive its right to appeal as to the determination of the Commission as to liability and value. Copies of plaintiffs' motion in Docket 40-K and defendant's response thereto were served on the plaintiffs in the other consolidated Docket Nos. 146, 15-M and 29-K, and no objection or response to plaintiffs' motion has been filed by them.

57. At the annual meeting of the Northern Ottawa Association and Ottawa-Chippewa Tribal Council held at Petoskey, Michigan, on October 16, 1965, the proposed compromise settlement of the claimed offsets furnished prior to 1836 was fully explained at the meeting by the attorney for plaintiffs and was there separately considered and voted upon by the Grand River Band of Ottawa Indians. By a vote of 81 for and none against, a resolution was adopted authorizing and directing plaintiffs' attorney

to sign the appropriate stipulation settling said claimed offsets at \$4,671.66. The resolution is set forth in words and figures as follows:

RESOLUTION NO. 101

It appearing that the gratuities furnished to the Ottawa Tribe prior to 1836 and which would probably be allowed as offsets can be settled in the amount of \$4,671.66.

NOW, THEREFORE, BE IT RESOLVED that our attorneys be authorized and directed to sign the appropriate stipulation settling said gratuities as offsets in the amount of \$4,671.66.

It is understood that gratuities furnished in 1836 and subsequently are deferred for consideration in connection with Dockets 18-E and 58, which involved the cession of March 28, 1836.

Dated : October 16, 1965.

/s/ Waunetta Dominic  
Secretary

Attest:

/s/ Robert Dominic  
President

CERTIFICATE

The undersigned certifies that the foregoing is a true and correct copy of the resolution duly adopted at a regular called meeting of the members of the Ottawas and Chippewas of Michigan and Northern Michigan Ottawa Association.

The vote 81 Yes, 0 No.

/s/ Waunetta Dominic  
Secretary

Attest:

/s/ Robert Dominic  
Chairman and Chief

Dated: October 16, 1965

58. The attorneys' contracts provide that the attorneys shall not make any compromise settlement unless with the approval of the Commissioner of Indian Affairs and the Indians. An approval in accordance with the attorneys' contracts and also as required by the Commission of the proposed compromise to settle the offsets in Docket No. 40-K at \$4,671.66 is contained in a letter dated November 20, 1967, and filed with the Commission on February 1, 1968, from Robert L. Bennett, Commissioner of Indian Affairs and addressed to attorneys for plaintiffs. It reads in pertinent part as follows:

\* \* \*

You submitted an offer to Assistant Attorney General Weisl on August 23, 1965, to settle offsets in Docket No. 40-K at \$4,671.66. He accepted the offer with conditions. One of the conditions is that the proposed settlement be approved by the proper tribal authorities and by the Secretary of the Interior or his authorized representative.

The proposed settlement will dispose of all offsets to which the United States is entitled for the period January 1, 1822, to January 1, 1836, which are set out in Sections A, B, E, I, K, and L of the General Accounting Office Report certified on November 27, 1953.

The Ottawa Indians held their annual meeting in Petoskey, Michigan, on October 16, 1965. There were at least 128 present who were eligible to vote. The 1821 treaty claim and the proposed settlement was explained to them by Attorney Fitzharris. Resolution No. 101 was then adopted, by a vote of 81 for and 0 against, authorizing and directing the claims attorneys to sign the appropriate stipulation settling the offsets at \$4,671.66. A representative of this Bureau attended the meeting. We are satisfied that the meeting was held according to the customs of the Indians and that the resolution was adopted in the usual manner.

In light of the information which you submitted to us, that supplied by our field offices, and that obtained from other sources, the proposed compromise to settle offsets in Docket No. 40-K at \$4,671.66 is hereby approved.

Only a small sum of offsets is involved in the proposed settlement. Therefore, we recommend that the Indian Claims Commission be requested, pursuant to its requirements and guidelines on compromises as set out in its decision in the Omaha Case to waive the requirement that representatives of the claimant Indian group appear as witnesses at any hearing held by the Indian Claims Commission on the proposed settlement of offsets in Docket No. 40-K.

Sincerely yours,

/s/ Robert L. Bennett

Commissioner

59. The Commission finds that the proposed compromise settlement of offsets furnished prior to 1836 for \$4,671.66 was understood by the members of the Grand River Band of Ottawas and that it was voluntarily approved by said Band without being subjected to undue pressures of any kind.

60. Taking into consideration all the pleadings in this case, and the evidence presented at the hearing on the proposed compromise settlement, the Commission finds that said compromise settlement of offsets is fair to both the Grand River Band of Ottawas and the defendant and said stipulation should be and is hereby approved.

Accordingly, a final judgment in the amount of \$932,620.01 will be entered against the defendant and in favor of the plaintiffs in

Docket No. 40-K for and on behalf of the Grand River Band of Ottawa  
Indians as such Band was constituted on March 25, 1822.

/s/ John T. Vance  
John T. Vance, Chairman

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

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

/s/ Jerome K. Kuykendall  
Jerome K. Kuykendall, Commissioner

/s/ Richard W. Yarborough  
Richard W. Yarborough, Commissioner

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Decided: March 27, 1968

Appearances:

James R. Fitzharris, with whom was Jay H. Hoag, Attorneys for Petitioners in Docket No. 40-K

W. Braxton Miller, with whom was Mr. Assistant Attorney General, Clyde O. Martz, Attorneys for Defendant

OPINION OF THE COMMISSION

PER CURIAM:

This case, Docket No. 40-K, is now before the Commission for consideration of a compromise settlement of offsets claimed by the defendant and for the entry of a final judgment.

The claim in this case arose out of the Treaty of August 29, 1821, 7 Stat. 218. Due to possible conflicting claims of other tribes, it was necessary to consolidate Docket 40-K with Docket Nos. 146, 15-M and 29-K for purposes of trial. On December 23, 1964, the Commission in said consolidated cases entered an interlocutory order making a separate award







