

BEFORE THE INDIAN CLAIMS COMMISSION

THE MIAMI TRIBE OF OKLAHOMA, et al.,)
)
 Petitioners,)
)
 v.) Docket No. 251-A
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

Decided: January 9, 1969

Appearances:
 Edwin A. Rothschild, Attorney for
 Petitioners in Docket No. 251-A

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

OPINION OF THE COMMISSION

PER CURIAM

It appears that the background events leading to this compromise settlement are fully set forth in the findings of fact filed herein.

Subsequently, on August 6, 1968, the petitioners herein and the defendant filed a joint motion in Docket No. 251-A for approval of a proposed compromise settlement. A "Stipulation For Entry Of Final Judgment" was also filed with the Commission at the same time. This stipulation sets forth the terms and conditions of the proposed settlement. The stipulation was executed on behalf of the Miami Tribe of Oklahoma by Attorney Edwin A. Rothschild. Assistant Attorney General Clyde O. Martz and Attorney W. Braxton Miller signed the stipulation on behalf of the defendant.


Under the stipulation it is proposed that a net final judgment in the sum of \$10,000 be entered in Docket No. 251-A. No appeal or review of the final judgment is to be taken by either party.

The entry of the above net final judgment in the amount of \$10,000 disposes of all claims or demands which the petitioners have asserted or could have asserted with respect to the subject matter of the claim in Docket No. 251-A and takes into consideration all allowable deductions, credits and offsets of the defendant. However, the defendant is barred from asserting offsets and counterclaims in other actions only as to those which it asserted or could have asserted in Docket No. 67.

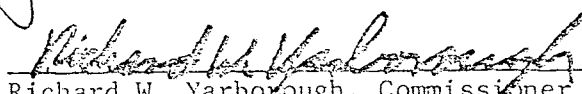
In reviewing the evidence in support of the proposed compromise settlement, the Commission has found that the petitioners have been fully advised by their respective counsel of all the circumstances surrounding the terms and conditions of the proposed settlement and that petitioners have given their voluntary approval to the settlement in the course of their meetings convened for the purpose of giving this proposition due consideration.

The Commission finds that the said proposed compromise settlement in Docket No. 251-A has been approved by the Secretary of the Interior. The Commission concludes from all the facts and circumstances surrounding the proposed compromise settlement that it is in the best interests of the petitioners and is a fair and equitable settlement for both the petitioners and the defendant. The Commission is satisfied that the parties herein have substantially complied with the Commission's

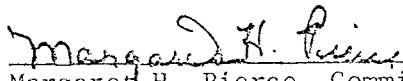
requirements with respect to obtaining valid approval of the proposed compromise settlement of the claims asserted in this docket.



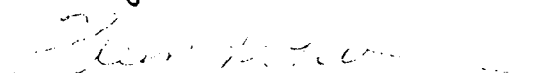
Jerome K. Kuykendall, Commissioner



Richard W. Yarbofough, Commissioner



Margaret H. Pierce, Commissioner



Theodore R. McKeldin, Commissioner

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 Defendant.)
 Decided: January 9, 1969

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

1. The Miami Tribe of Oklahoma, et al., petitioners in Docket 251, filed timely claims under the Indian Claims Commission Act in connection with matters occurring after the removal of the Miami Tribe to Kansas. Certain claims, originally pleaded in Docket 251, were severed for separate trial under a separate docket number, 251-A. (Docket 251 has been tried and disposed of.)

2. Docket 251-A includes claims for forced allotments, failure to protect the Indians from injury by settlers, improper taxation, and particularly, an accounting by the United States as trustee for the proceeds of sales of unallotted lands. These lands amounted to slightly more than 10,000 acres on which about \$80,000 was realized. They were sold at appraised value. Since the Commission has repeatedly disallowed tribal recovery for forced allotments or for individual injuries of tribal members, and since there was little evidentiary basis for challenging the appraisals, it appeared unlikely that further investigation and prosecution of these claims would produce substantial recoveries or would

indeed justify further expense. Accordingly, the settlement was negotiated at \$10,000.00.

3. On November 29, 1966, tribal counsel for petitioners incorporated this settlement proposal in a letter to the Department of Justice. The offer was accepted by the Assistant Attorney General on February 28, 1967, subject to approval of the Miami Tribe of Oklahoma as well as of the Secretary of the Interior or his authorized representative.

4. More than ten days prior to April 15, 1967, Mrs. Helen L. Efird, Secretary-Treasurer of the Miami Tribe of Oklahoma, issued a notice of meeting to all members of the tribe to be held Saturday, April 15, 1967, at 1:00 P.M., in the Community Room, Ottawa County Courthouse, Miami, Oklahoma, for the purpose of considering and voting upon acceptance or rejection of the proposed settlement. Written notice of the meeting was mailed to all members of the tribe with express reference to the proposed settlement more than ten days prior to the meeting. Notice of the meeting was also published in various daily newspapers, including those of Miami and Tulsa, Oklahoma, and Joplin, Missouri.

5. On April 15, 1967, at 1:00 P.M., the scheduled meeting took place in the Community Room, Ottawa County Courthouse, Miami, Oklahoma. Sixty-four members of the tribe were present. A quorum is twenty-five under the bylaws of the Miami Tribe of Oklahoma.

6. The Bureau of Indian Affairs was represented by Erma Walz, Tribal Operations Officer, Washington, D.C.; Frank Sokolik, Assistant Tribal Operations Officer, Muskogee Area Office; Marcel McDaniel, Operations

Assistant, Muskogee Area Office; and T. J. Perry, Miami Indian Agency, Miami, Oklahoma.

7. Edwin A. Rothschild, attorney of record for the Miami Tribe of Oklahoma and partner of the claims attorneys of said tribe, reported to the tribe on the proposed settlement. After explaining the basis of the proposed settlement, the meeting was opened for questions from the floor. Many questions were asked, all were fully answered and full opportunity for discussion and questioning was given to all.

8. All of the proceedings were conducted in English. All members of the Miami Tribe of Oklahoma being fully conversant with English, no interpreters were necessary. Moreover, in many preceding meetings with the tribe, the attorney of record had discussed the progress of the respective claims, including the claim in Docket 251-A, and most of the members of the tribe were familiar with them.

9. After full discussion, on motion duly made and seconded, the following resolution was adopted:

WHEREAS, the Miami Tribe of Oklahoma as petitioner is prosecuting claims before the Indian Claims Commission which were severed from Docket 251 and are now known as Docket 251-A, which claims involve miscellaneous acts and omissions of the government after the tribe emigrated from Indiana; and

WHEREAS, the United States Department of Justice representing the defendant in said claims has agreed to a settlement of said claims, after allowance of consideration and offsets, of \$10,000, subject to approval of the Miami Tribe of Oklahoma and the Secretary of the Interior or his authorized representative; and

