

BEFORE THE INDIAN CLAIMS COMMISSION

THE ABSENTEE SHAWNEE TRIBE OF)
 OKLAHOMA (on behalf of the)
 SHAWNEE NATION),)
)
 Plaintiff,)
)
 v.)
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

Docket No. 334-B

Decided: May 19, 1971

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

On April 14, 1971, the plaintiff and the defendant herein filed a Joint Motion for Approval of Proposed Compromise Settlement based on a Stipulation for Entry of Final Judgment, filed with said motion.

The matter having come on for hearing before the Commission on May 7, 1971, and the Commission having considered the record and the evidence presented, both written and at the hearing, does hereby make the following findings of fact which are supplemental to the findings numbered 1 to 17, inclusive, heretofore made in this docket at 12 Ind. Cl. Comm. 180 (1963), and findings of fact numbered 18 to 21, inclusive, heretofore made on this docket at 22 Ind. Cl. Comm. 18, 25 (1969).

22. On September 2, 1970, Jack Joseph, attorney of record for the plaintiff, directed a letter to the Honorable Shiro Kashiwa, Assistant Attorney General and attorney for the defendant herein, containing the following proposai:

This is to advise that, subject to the conditions set forth below, the petitioners are willing to accept by way of compromise a net judgment in the amount of \$300,000.00 in full satisfaction of the claim being prosecuted under the petition in said Docket 334 B.

It is understood that this figure includes settlement for all credit which might be due the United States by reason of offsets that could be asserted against a judgment obtained upon a trial of the cause, for the period from May 10, 1854 to June 30, 1970 (specifically including but not limited to the value of property conveyed to certain of the petitioners under Public Law 88-421, 88th Congress, August 11, 1964), and that upon acceptance of this settlement, any offsets which could so have been asserted will be deemed fully satisfied.

It is further understood that the settlement proposed herein is subject to approval by the undersigned's clients; that it is subject to the approval of the Commissioner of Indian Affairs and that it is subject to approval by the Indian Claims Commission.

Upon your acceptance of the proposed settlement, the undersigned will undertake to request approvals from the foregoing.

23. On October 8, 1970, Walter Kiechel, Acting Assistant Attorney General, conditionally accepted the settlement proposed in the aforesaid letter of September 2, 1970, as follows:

The offer to settle the claim asserted and being prosecuted under the petition in Absentee Shawnee Tribe of Oklahoma (on behalf of the Shawnee Nation) v. United States Docket No. 334-B, before the Indian Claims Commission, for the sum of \$300,000, including all offsets to which the United States might be entitled from May 10, 1[8]54 to June 30, 1970, as set out in your letter of September 2, 1970, is accepted subject to the following conditions:

1. That the proposed settlement be approved by appropriate resolution by the governing body of the Absentee Shawnee Tribe of Oklahoma as representatives of the Shawnee Nation and on behalf of said Shawnee Nation;

2. That the approval of the settlement, as well as the resolution of the Absentee Shawnee Tribe, be secured from the Secretary of the Department of the Interior or his authorized representative;

3. That responsible officials and representative members of the Absentee Shawnee Tribe be present to testify in behalf of said tribe and as representatives of the Shawnee Nation on the compromise settlement before the Indian Claims Commission.

24. Pursuant to the foregoing exchange of correspondence, the proposed settlement was taken to the Absentee Shawnee Tribe. A meeting was duly called for November 7, 1970, in the Tecumseh City Hall, Tecumseh, Oklahoma. The meeting was called as provided in the tribe's approved organizational document, and in addition, notices were published in two newspapers that serve the area where many of the Absentee Shawnee Indians live. Also, a notice was posted in the Shawnee Agency.

25. On November 7, 1970, a meeting of the Absentee Shawnee Tribe was held in the Tecumseh City Hall, Tecumseh, Oklahoma. The meeting was attended by representatives of the Bureau of Indian Affairs, by the tribe's attorney of record and by 75 adult members of the tribe. The meeting lasted approximately four hours. Mr. Joseph, attorney of record, explained the proposed settlement and recommended that it be approved. An interpreter was used for those who may not have had a good understanding of the English language. A recess was called during which the Indians could discuss the proposed settlement among themselves. Upon reconvening the members present proceeded to vote by secret ballot, either to reject or accept the proposed settlement. The resolution was adopted by a vote of 38 for, 15 opposed, and was duly signed by the Chairman and other tribal officials.

26. On November 11, 1970, the Business Committee of the Absentee Shawnee Tribe convened with a quorum present and by vote of five for and none against adopted Resolution No. AS-70-6, accepting the proposed settlement, thus supporting the views expressed by the General Council on November 7, 1970.

27. Although the acceptance of the settlement was not conditioned upon the approval of any other group, Mr. Joseph, who is also attorney of record for the Eastern Shawnee Tribe of Oklahoma, a part of the Shawnee Nation and one of the beneficiaries of the judgment herein pursuant to the decision of the Court of Claims of April 17, 1964, Absentee Shawnee Tribe v. United States, 165 Ct. Cl. 510, presented the proposed settlement to the Eastern Shawnee Council and Business Committee of the Eastern Shawnee Tribe. A meeting of the General Council was duly called and held on November 8, 1970, in the Seneca Indian School near Wyandotte, Oklahoma, to consider the proposed settlement. Mr. Joseph explained the proposed settlement and answered all questions. Thereafter, on motion duly made, the settlement was accepted by a vote of 17 for and one opposed. Subsequently, the Business Committee met formally and adopted a resolution accepting the proposed settlement.

28. The representatives of the Bureau of Indian Affairs, who attended the aforesaid meetings of the Absentee Shawnee Tribe and the Eastern Shawnee Tribe of Oklahoma, in due course reported on said meetings to the Commissioner of Indian Affairs. After considering the said reports and other material matters, on March 10, 1971, the Honorable Louis R. Bruce, Commissioner of Indian Affairs, forwarded to the attorney of record a letter approving the

