

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,)	
)	
Plaintiffs,)	
)	Docket No. 40-K
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEYS' FEES

HAVING CONSIDERED the application for allowance of attorneys' fees filed by Jay H. Hoag, Rodney J. Edwards, and James R. Fitzharris as contract attorneys for the above-named plaintiffs in Docket No. 40-K; the contracts under which the attorneys served the plaintiffs; the defendant's response to such application filed on February 19, 1969; and the remainder of the record herein, the Commission finds as follows:

1. Award. On March 27, 1968, the Commission entered a final judgment in this docket in the amount of \$932,620.01 in favor of the Grand River Band of Ottawa Indians as such band was constituted on March 25, 1822 (19 Ind. Cl. Comm. 95). Funds to satisfy this judgment were appropriated by the Act of October 21, 1968 (82 Stat. 1190).

2. Contractual Authority. This claim was prosecuted under various contracts. Contract No. I-1-ind. 42078, dated June 5, 1948, between the Ottawa Tribe and Nation of Indians of Michigan and northern Wisconsin and Attorneys Charles B. Rogers and Arthur B. Honnold, was approved by the Commissioner of Indian Affairs on September 23, 1948, for a period of 10 years beginning with the date of approval.

Contract No. I-1-ind. 42488, dated May 7, 1951, between Robert Dominic, as an individual of Ottawa descent and as a representative of the Ottawa Tribe of Michigan and northern Wisconsin, and Attorneys Charles B. Rogers and Arthur B. Honnold, was approved on June 15, 1951, and incorporated by reference the provisions in Contract No. I-1-ind. 42078, supra.

Attorneys Rogers and Honnold entered into an agreement dated August 10, 1953, with Attorneys Jay H. Hoag, Rodney J. Edwards, Clarence J. Lindquist, Denis McGinn, James R. Fitzharris, and Col. O. R. McGuire, under which Attorneys Rogers and Honnold assigned to the other attorneys a 50 percent interest in any fee resulting from this claim. The agreement was approved on May 27, 1955.

Contract No. 14-20-0350-196 dated August 29, 1959, between the Ottawa and Chippewa Indians in the State of Michigan and Attorneys Jay H. Hoag, Rodney J. Edwards, Clarence G. Lindquist, Denis McGinn, and James R. Fitzharris, was approved for a period of 10 years beginning September 23, 1958.

Contract No. F50C14200360 dated June 17, 1967, between the Ottawa and Chippewa Indians in the State of Michigan and Attorneys Jay H. Hoag, Rodney J. Edwards, and James R. Fitzharris, was approved on February 8, 1968, for a period of 10 years beginning with the date of approval. This contract provided that any compensation payable to the estates of the deceased attorneys Arthur B. Honnold, Charles B. Rogers, Dennis McGinn, Clarence G. Lindquist, and O. R. McGuire shall be paid by Attorneys Hoag, Edwards, and Fitzharris.

3. Compensation under the Contracts. All of the contracts cited above provide that compensation to the attorneys for services rendered by them is wholly contingent upon recovery for the Indians and that in no event shall the aggregate compensation exceed 10 percent of all sums recovered.

4. Response of Defendant. The defendant's response to this application attached a copy of a letter dated February 7, 1969, from the Deputy Solicitor, Department of the Interior, and a copy of an accompanying memorandum dated February 3, 1969, in which the Deputy Commissioner of Indian Affairs indicated that he had no "recommendation as to the amount of compensation earned by the attorneys." The defendant advised, in line with the views expressed in the letter and memorandum, that the Department of Justice "takes no position with reference to the amount of claims for attorney fees."

5. Notice to Tribe. A notice of the filing of the attorneys' application for allowance of their fees was mailed to the representative of the Ottawa Tribe of Indians on June 10, 1969. No response to this notice was received.

6. Services. The contract attorneys herein have rendered valuable services in their successful prosecution of the plaintiffs' claim in this docket. Tested by the standards fixed in Section 15 of the Indian

Claims Commission Act (60 Stat. 1053), including those obtaining for prosecuting similar claims in courts of law, and considering the complex and contingent nature of the claim and the result obtained, the applicants earned, and are entitled to, attorneys' fees of \$93,262.00 representing 10 percent of the award to the plaintiffs.

7. Payment to Attorney of Record. On June 28, 1971, the applicants filed with the Commission an Amended Petition for Award of Attorneys' Fee. This petition indicated that "[t]he application is made by the attorney of record on behalf of himself and all other contract attorneys having an interest in the fee."

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the aforementioned judgment, there be paid to James R. Fitzharris as Attorney of Record on behalf of all contract attorneys the sum of \$93,262.00 as payment in full of the attorneys' fees owed for legal services rendered herein for the Ottawa Tribe of Indians.

Dated at Washington, D. C., this 1st day of September 1971.


 Jerome K. Kuykendall, Chairman


 John T. Vance, Commissioner

Richard W. Yarborough, Commissioner

Margaret H. Pierce, Commissioner


 Brantley Blue, Commissioner