

BEFORE THE INDIAN CLAIMS COMMISSION

THE CREEK NATION,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 167
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEY'S FEE

HAVING CONSIDERED the application for allowance of an attorney fee filed by Paul M. Niebell on February 16, 1972, the defendant's response to such application, the contracts of employment and the evidence in support of the application, including the entire record and all proceedings in the docket, the Commission finds as follows:

1. Award. On May 26, 1971, in conformance with an approved compromise settlement agreement between the parties hereto, the Commission entered a final judgment in the sum of \$50,000.00 in favor of the Creek Nation (25 Ind. Cl. Comm. 351). Funds to satisfy the judgment were appropriated by Public Law 92-184, 92nd Congress, approved December 15, 1971 (85 Stat. 627).

2. Contractual Authority. The representation herein for the Creek Nation was under two formal contracts:

(a) The first of these contracts, assigned No. I-1-ind. 18361, was entered into by the Creek Nation of Indians, State of Oklahoma, on August 28, 1946, with Paul M. Niebell of Washington, D. C. This contract was approved on November 12, 1947, and had a specified initial term of 10 years beginning with its date of approval.

(b) The second contract, assigned No. 14-20-650-529, was entered by the Creek Nation with Paul M. Niebell on October 30, 1957, and was approved on January 6, 1958, for a period of 10 years, beginning on November 12, 1957. An extension of this contract for a period of 5 years, beginning on November 12, 1967, was approved on August 2, 1967.

3. Compensation under the Contracts. The contracts cited above provide that compensation to the attorney for services rendered by him is wholly contingent upon recovery for the plaintiff and shall

be in an amount not be exceed 10 percent of the plaintiff's recovery. The application of the counsel for plaintiff herein discloses a request for allowance of compensation in the amount of \$5,000.00, which is 10 percent of the award of \$50,000.00. Counsel has indicated that no petition for reimbursement of attorney expenses will be filed or otherwise claimed with this Commission, as such expenses "have been substantially reimbursed to counsel from Creek Tribal funds".

4. Response of the Defendant. The defendant's response to this application attached a copy of a letter dated March 14, 1972, from the Office of the Solicitor, Department of the Interior, and a copy of an accompanying Memorandum dated March 7, 1972, from the Commissioner of Indian Affairs. The Associate Solicitor stated that the Department of the Interior had no objection to the allowance of the requested 10 percent fee.

5. Response from the Tribe. On February 22, 1972, the Commission received a letter from Principal Chief Claude A. Cox of the Creek Nation wherein he advised that as Principal Chief he had no objection to the allowance of \$5,000.00 as an attorney fee for the services rendered the tribe by Paul M. Niebell for Creek Docket No. 167.

6. Services. Considering the responsibilities undertaken, the difficult problems of fact and law involved in the case, the long period of litigation, the contingent nature of the compensation, and all appropriate factors pertinent to the determination of attorney fees under Section 15 of the Indian Claims Commission Act (25 U.S.C. 70n), the Commission finds that the attorney for plaintiff herein is entitled to an attorney fee in the amount of \$5,000.00, representing ten percent (10%) of the net award to the plaintiff.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on May 26, 1971, in favor of the plaintiff tribe, there shall be disbursed to Paul M. Niebell, attorney of record, as payment in full of all claims for legal services rendered in the prosecution of this case, the sum of \$5,000.00.

Dated at Washington, D. C., this 3^d day of May 1972.

Margaret H. Pierce
Margaret H. Pierce, Commissioner

Brantley Blue
Brantley Blue, Commissioner

Gerome K. Kuykendall
Gerome K. Kuykendall, Chairman

John T. Vance
John T. Vance, Commissioner

Richard W. Yarborough
Richard W. Yarborough, Commissioner