

BEFORE THE INDIAN CLAIMS COMMISSION

THE SWINOMISH TRIBE OF INDIANS,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 233
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEYS' FEE

HAVING CONSIDERED that part of the application for allowance of attorney's fee and expenses filed on September 18, 1972, by Frederick W. Post, Esquire, applicable to the allowance of attorney's fee; the defendant's response to the application, filed on February 21, 1973; the contracts under which Frederick W. Post and Malcolm S. McLeod, Esquire, served the plaintiff; and the entire record and all proceedings in this case, the Commission finds as follows:

1. Award. On July 6, 1972, the Commission entered a final award in this docket in the sum of \$29,000.00 in favor of the Swinomish Tribe (28 Ind. Cl. Comm. 220, 231). Funds to satisfy the award were appropriated by Public Law 92-607, approved October 31, 1972 (86 Stat. 1498).

2. Attorney Contracts. The representation of the plaintiffs in this case was under two approved contracts. The first contract, Symbol 14-20-650 No. 579, was entered into by the Swinomish Tribe on July 18, 1955, with Malcolm S. McLeod. It was approved on February 13, 1959, for a period of five years beginning with the date of approval. This contract was never renewed or extended.

On March 16, 1971, the Swinomish Tribe entered into a new contract with Frederick W. Post. This contract, assigned Symbol 14-20-0500 No. 3332, was approved on April 6, 1971, for a period of five years from that date.

3. Compensation Under the Contracts and Requested Fee. The 1971 contract provides for compensation for the attorney at the fixed rate of ten percent of the sum recovered for the tribe. The application by the attorney of record requests allowance of an attorney's fee in this case in the amount of \$2,900.00, representing 10 percent of the aforementioned award.

4. Response of the Defendant. The defendant's response to the petition transmitted a copy of a letter dated February 9, 1973, from the Associate Solicitor of the Department of the Interior and a memorandum dated January 26, 1973, from the Deputy Assistant Secretary of Management and Budget. Both transmittals indicated that there was no objection to the allowance of the requested fee.

5. Notice to the Plaintiff. A notice of the filing of the application for allowance of attorney's fee, together with copies of the application and the statement in support thereof, was mailed by the Deputy Clerk of the Commission on September 18, 1972, to Martin J. Sampson, Chief and Chairman, the Swinomish Tribe. The Commission received a reply to the notice from Chairman/Chief Martin J. Sampson dated September 28, 1972, and filed on October 2, 1972, which stated in part that the Swinomish Tribal Council has approved attorneys' fees of \$2,900.00.

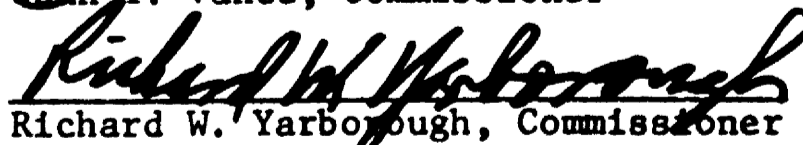
6. Attorneys' Services. Attorneys Frederick W. Post and Malcolm S. McLeod have rendered valuable services in the successful prosecution of the plaintiff's claim in this docket. The Commission finds that the attorneys for the plaintiff are entitled to an attorneys' fee in the requested amount of \$2,900.00, representing 10 percent of the award to the plaintiff.

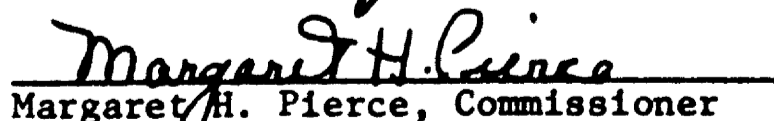
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on July 6, 1972, in favor of the Swinomish Tribe, there shall be disbursed to Frederick W. Post the sum of \$2,900.00 for distribution by him to the participating attorneys in accordance with their respective interests therein. This amount represents payment in full for all services rendered in the prosecution of this case.

Dated at Washington, D. C., this 28th day of March 1973.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner