

BEFORE THE INDIAN CLAIMS COMMISSION

THE CONFEDERATED TRIBES OF THE COLVILLE)	
RESERVATION as the representative of)	
the JOSEPH BAND OF THE NEZ PERCE TRIBE,)	
)	
CHARLES E. WILLIAMS, JOSEPH REDTHUNDER AND)	
HARRY OWHI, as the representatives of)	
the JOSEPH BAND OF THE NEZ PERCE TRIBE,)	
)	
THE CONFEDERATED TRIBES OF THE COLVILLE)	
RESERVATION, as successor to the claims)	
of the JOSEPH BAND OF THE NEZ PERCE)	
TRIBE,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 186
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEYS' FEE

HAVING CONSIDERED the application for allowance of attorneys' fee filed on March 6, 1975, by I.S. Weissbrodt, Esquire, attorney of record for the above-named plaintiffs in Docket 186, in behalf of himself and all other contract attorneys having an interest in the attorneys' fee in this docket; the contract under which the attorneys served the said plaintiffs; the defendant's response to said application filed on May 5, 1975; and the remainder of the record herein, the Commission finds as follows:

1. Award. On October 31, 1974, following an approved settlement agreement between the parties, the Commission entered a final judgment in this docket in the amount of \$725,000.00, in favor of the plaintiffs, for and on behalf of the Joseph Band of the Nez Perce Tribe (35 Ind. Cl. Comm. 74, 84).

2. Attorneys' Contract. The attorneys' services in behalf of the plaintiffs were rendered under contract No. I-i-ind. 42442 dated November 28, 1949, between the Confederated Tribes of the Colville Reservation

and Attorneys James E. Curry and I.S. Weissbrodt, with Lyle Keith, Esquire, as Associate Attorney. The contract was approved on April 13, 1951, and had a specified initial term of ten years beginning with the date of execution. The contract has been extended several times. The extension agreement approved on October 3, 1969, provided for the continuance of the contract until August 18, 1974. The last extension of contract 42442, until August 18, 1979, was approved on November 3, 1974.

An amendment to the contract relieving Mr. Curry of any obligations and responsibilities under the contract, and adding Attorneys David Cobb and Patrick H. Winston, was approved on December 23, 1955. An agreement to add Attorney Abe W. Weissbrodt to the contract and to permit the engagement of Attorney Rella R. Shwartz (now deceased) was approved on December 31, 1959. A later agreement to add Attorney Morton Liftin as an additional attorney under the contract and to relieve Mr. Cobb of further duties and obligations was approved on January 4, 1965. The agreement approved on October 3, 1969, included provisions relieving Mr. Liftin of any further duties and obligations under the contract.

Said contract, as extended and amended, fixes the compensation of the attorneys at 10 percent (10%) of the amount recovered for the plaintiffs less the amounts of any retainers paid. The contract also provides for the payment to the attorneys of a retainer of \$3000 per year. Since 1951, when the contract was first approved, retainer fees have been paid annually to the attorneys. Of the entire amount of retainer fees so paid, all except \$9000, representing advance payments for three annual periods (December 8, 1970 - December 7, 1973), has been deducted from fees awarded to the attorneys by the Commission in other dockets involving the plaintiffs herein. (See, 23 Ind. Cl. Comm. 409, 411).

3. Fee Application. The application by the attorney of record is made pursuant to section 15 of the Indian Claims Commission Act and under the terms of the approved attorneys' contract. The application seeks an allowance of attorneys' fee in the amount of \$72,500, (being 10 percent of the final award of \$725,000 entered in this case), subject to the deduction of \$9000 in retainer fees (finding 2, supra), leaving a net balance payable in the sum of \$63,500.

4. Notice to the Parties. Pursuant to Rule 34b(c) of the Commission's General Rules of Procedure, the Clerk of the Commission notified the appropriate parties of the filing of this application on March 6, 1975. No reply has been received from the plaintiff tribes. The Department of Justice filed a response on May 5, 1975, enclosing comments, dated April 23, 1975, from the Assistant Solicitor, Indian Affairs, Department of the Interior. After reviewing the application, the attorneys' contracts, and the aforementioned deductible retainer

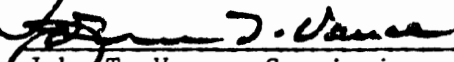
fees paid to the contracting attorneys, the Department of the Interior concluded in its comments, that it had "no objection to allowance of an attorneys' fee in Docket 186 in the net amount of \$63,500.00." The Department of Justice took no position with respect to this application.

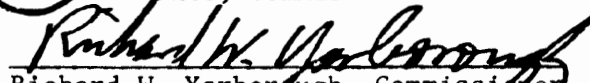
5. Conclusion and Order. Pursuant to section 15 of the Indian Claims Commission Act, and the approved attorneys' contract, the Commission concludes that the attorneys for plaintiffs are entitled to an award of fees in the requested sum of \$63,500.00, representing ten percent of the award to the plaintiffs, less \$9000 in previously advanced retainer fees.

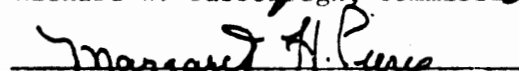
IT IS THEREFORE ORDERED that out of any funds appropriated to satisfy the judgment herein, there be paid to I.S. Weissbrodt, attorney of record, on behalf of all contract attorneys having an interest in the fee of this case, for distribution by him to such attorneys in accord with their respective interests, the sum of \$63,500.00, in full satisfaction for legal services rendered to the plaintiffs in Docket 186.

Dated at Washington, D. C., this 18th day of June 1975.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarbrough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner