

BEFORE THE INDIAN CLAIMS COMMISSION

THE MIAMI TRIBE OF OKLAHOMA, also known))	
as THE MIAMI TRIBE, et al.,))	
)	
Petitioners,))	
)	
v.))	Docket No. 76
)	
THE UNITED STATES OF AMERICA,))	
)	
Defendant.))	

Decided: November 21, 1961

FINDINGS OF FACT

This matter having come on for hearing October 12, 1961, and having thereafter been taken under advisement, the Commission now makes the following findings of fact:

1. The petition filed in this matter on February 3, 1950, seeks an accounting from the defendant growing out of its relations with the petitioners as detailed in a number of treaties set forth in the petition. The petition consists of two counts and was timely filed under the Indian Claims Commission Act which created this Commission.

2. Responding to the petition, defendant, through its General Accounting Office, has prepared 11 separate reports reflecting the appropriation and distribution of funds by it according to the terms of the several treaties or agreements between the petitioners and the defendant, or by the several acts or statutes relating to petitioner Indians and the handling by it of trust funds and properties belonging to petitioners and coming into possession or under control of the defendant.

3. The eleven reports filed by defendant contain complete and accurate reflections of the monetary and other transactions occurring between defendant and petitioners, both with respect to the obligations of defendant arising under the statutes, acts, treaties, or agreements, respecting petitioner Indians and pertaining to the trust funds belonging to the petitioner Indians.

4. These several reports received in evidence disclose that the defendant has fully accounted for all trust and other funds of petitioner Indians coming into its possession or under its control, and that it has fully paid to said Indians, or otherwise satisfied, the financial obligations created according to the terms of the several treaties or agreements between these parties, or under the acts or statutes involving petitioner Indians. The petitioners are not entitled to recover under the first count in their amended petition.

5. With respect to Count II of said petition, all records of the defendant respecting transactions between the defendant and petitioners, in which the petitioners have or profess to have an interest, as stated in said Count, have been made available by the defendant for petitioners' examination. But the petitioners took the position that the investigation of the facts which might give rise to claims has been hampered by the defendant's failure to disclose information in its possession. Petitioners then proceeded to explain what they meant by that statement. The defendant has not withheld any documents from the files of the government which under the statutes are open for investigation, but on the other hand the defendant has not done anything affirmative, so that

it has become the task of petitioners to find the documents, what they are, where they are, and so on. Petitioners further took the position that the purpose of Count II was to preserve the possibility of prosecuting claims which might be disclosed more specifically by information which might be found subsequent to the filing of the petition, and which was not available at the time the petition was filed.

6. Within the time specified by the Indian Claims Commission Act, the petitioners filed with this Commission, and the Commission has taken cognizance of, and has disposed of, or now has under various stages of consideration a number of other petitions wherein petitioners present, among other things, the same claims and demands against the United States as are alleged in Count II of the petitioners' petition herein. These petitions, together with Docket

Numbers are as follows:

67	The Miami Tribe of Oklahoma, et al.
124	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.
124-A	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.
124-B	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.
124-C	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.
124-D	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.
124-E	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.
124-F	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.
124-G	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.
124-H	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.
130	Ira Sylvester Godfroy, et al., on the relation of The Miami Indian Tribe, et al.

131 Ira Sylvester Godfroy, et al., on the relation
of The Miami Indian Tribe, et al.
251 The Miami Tribe of Oklahoma, et al.
251-A The Miami Tribe of Oklahoma, et al.
252 The Miami Tribe of Oklahoma, et al.
253 The Miami Tribe of Oklahoma, et al.
254 The Miami Tribe of Oklahoma, et al.
255 The Miami Tribe of Oklahoma, et al.
256 The Miami Tribe of Oklahoma, et al.

7. The petitioners have failed to present any evidence in support of the claims specified in Count II. At the hearing they advised the Commission that they expect to have these claims adjudicated in the other docket numbers which have been set forth in the preceeding finding. But in the event they should fail to recover on such claims in said docket numbers, they want to have Count II available as a safety measure which will permit them to prosecute claims on matters which are not now known; or if they have overlooked anything in the other Miami cases, they could proceed to adjudicate such omissions under Count II. In this respect the petitioners advised the Commission that since the filing of the petition herein "we have not discovered any information upon which we could prosecute a claim which is not already covered in another Miami Tribe petition * * * and we cannot of course say that it is likely that we will make such a discovery."

8. There are other actions now pending before the Commission, in which the petitioners in the instant proceeding set forth the same claims and subject matter as are stated in petitioners' second count herein.

9. Based on the preceding findings, the Commission finds that the defendant is entitled to have the petition dismissed as to each of said counts.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner