

BEFORE THE INDIAN CLAIMS COMMISSION

CHEYENNE-ARAPAHO TRIBES OF INDIANS)	
OF OKLAHOMA suing on its own behalf)	
and as representative of the CON-)	
FEDERATED TRIBES OF CHEYENNE AND ARAPAHO)	
INDIANS OF THE UPPER ARKANSAS, also known)	
as the SOUTHERN CHEYENNE AND ARAPAHO)	Docket No. 329-A
TRIBES OF INDIANS, and on behalf of the)	
CHEYENNE AND ARAPAHO TRIBES OF INDIANS,)	Docket No. 329-B
)	
Petitioner,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: April 14, 1966

FINDINGS OF FACT

The attorneys for the Cheyenne-Arapaho Tribes of Indians of Oklahoma, petitioner herein, filed a petition on October 5, 1965, for an allowance of attorneys' fees and for reimbursement of expenses, a copy of which was served on the defendant. On December 13, 1965, the attorneys filed a motion to sever from said petition so much thereof as relates to reimbursable expenses and permission to file a separate petition at a later date for allowance of such expenses, which motion was granted. A hearing on the petition for allowance of attorneys' fees was held before the Commission on December 15, 1965, at which both oral and written evidence was received, and the Commission having considered the entire record in said cases including the contracts of employment of said attorneys and assignments of interest therein, makes the following findings of fact:

1. The applicants in this proceeding are William Howard Payne, attorney of record for the Cheyenne-Arapaho Tribes of Indians of Oklahoma, his associate counsel, Arthur P. Scibelli of Washington, D. C., the law partnership of Hutton, Schiltz & Sheehy of Billings, Montana, and Kent H. Myers, Executor of the Estate of John H. Brigleb who was an associate attorney but is now deceased. They seek an award by the Commission of attorney fees of \$1,500,000.00, based on ten percent of \$15,000,000.00, which is the amount of the final judgment entered October 18, 1965 in these consolidated cases, Docket Nos. 329-A and 329-B.

2. The Indian Claims Commission Act (60 Stat. 1049) under which this claim was prosecuted, contains the following provision relative to the allowance of attorney fees:

Sec. 15. * * * The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the Commission or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the Commission at such amount as the Commission, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case * * * but the amount so fixed by the Commission, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in any case. * * *

3. The first attorney contract, No. 42014, was entered into on February 14, 1948, between the Cheyenne-Arapaho Tribes of Indians of the State of Oklahoma and William Howard Payne, and was approved by the Acting Commissioner of Indian Affairs on April 28, 1948 for a period of ten years from date of such approval. Said contract provided that said attorney should act as general counsel and also prosecute tribal claims.

In consideration of his services as general counsel he was to receive \$3600.00 per annum for a term of four years, and in consideration of his services rendered in prosecuting tribal claims it was agreed he was to receive additional compensation to be contingent upon recovery for said tribes but not to exceed ten percent (10%) thereof. In accordance with the terms of the contract, said contract was extended for five years from April 28, 1958, by the Deputy Commissioner of Indian Affairs.

4. An assignment of a 25% undivided interest in the claims provisions of aforesaid attorneys' contract No. 42014 was made by William Howard Payne to John H. Brigleb on March 2, 1959, and approved by the Commissioner of Indian Affairs on May 11, 1959. Mr. Brigleb died on January 3, 1961, or about a year and ten months after the assignment was made. His will was admitted to probate in the Probate Court of Cuyahoga County, Ohio, and on February 7, 1961, Letters Testamentary on the Estate of John H. Brigleb, deceased, were granted to Kent H. Meyers, who as Executor of said estate has signed the petition for an award of attorneys' fees.

5. On June 16, 1961, the said William Howard Payne and Arthur P. Scibelli as an associate attorney entered into a second contract with the Cheyenne-Arapaho Tribes of Oklahoma for the same purposes as set forth in the former contract No. 42014 and specifically undertook to carry out the stipulations undertaken in contract No. 42014. This contract was approved on April 4, 1962, by the Assistant Secretary of the Interior and was assigned number 14-20-0650-1133. The term of said contract was for a period of ten years from April 4, 1962. This contract

also provided for a contingent fee not to exceed ten percent of any recovery for the tribes.

6. On October 15, 1964, the said William Howard Payne assigned to the law partnership of Hutton, Schiltz and Sheehy an undivided interest in said contract 14-20-0650-1133. This assignment was approved by an authorized agent of the Secretary of the Interior on April 23, 1965, subject to the conditions that the fees to be paid to the assignee shall be made only from that portion of the attorney fees allowed William Howard Payne, and, that the interest assigned was not to affect the prior contractual rights in the claims contract of John H. Brigleb, deceased, and of Arthur P. Scibelli, who were not parties to said assignment.

7. Any attorneys' fees in these cases are payable to William Howard Payne, Arthur P. Scibelli, the law partnership of Hutton, Schiltz & Sheehy of Billings, Montana, and Kent H. Myers, Executor of the Estate of John H. Brigleb, deceased.

8. The attorney contract of February 14, 1948, with Mr. Payne imposed upon him the responsibility of prosecuting all tribal claims for and on behalf of the Cheyenne-Arapaho Tribes of Indians of the State of Oklahoma. This necessitated investigation of the history of the Cheyenne and Arapaho Tribes, the discovery, preparation and prosecution of the claims.

9. (a) Pursuant to said contracts of employment, attorney Payne investigated and researched all potential claims of the Cheyenne-Arapaho Tribes of Oklahoma (herein referred to as the Southern Cheyenne-Arapaho Tribes). The Southern Cheyenne-Arapaho Tribes were, prior to 1861, a

part of the Cheyenne and Arapaho Tribes who occupied some 51 million acres in Colorado, Wyoming, Kansas and Nebraska recognized as owned by said tribes by the Fort Laramie Treaty of 1851. As a result of later treaties of 1861, 1865, 1867, and an agreement made in 1891, the Southern Cheyenne-Arapaho Tribes became located in various places, finally being settled in Oklahoma. Since the claim for the Fort Laramie lands was owned jointly with the Northern Arapaho and Northern Cheyenne Tribes, Mr. Payne prepared and on August 10, 1951, filed on behalf of the Southern Cheyenne-Arapaho Tribes all their claims in a joint petition with the said Northern Cheyenne Tribe and the Northern Arapaho Tribe seeking recovery for the value of their proportionate interests in the Fort Laramie lands, which petition was assigned Docket No. 329. In the same petition, Mr. Payne also included claims of the Southern Cheyenne-Arapaho Tribes for the unconscionable cession of the tribes' 1867 treaty reservation, for the unconscionable cession of the tribes' 1869 Executive Order Reservation, and for a general accounting.

(b) The attorneys representing the Northern Cheyenne Tribe in said joint petition were Ernest L. Wilkinson and William A. Brown and later, the law firm of Wilkinson, Cragun & Barker. The Northern Arapaho Tribe was represented by attorneys Kenneth Simmons and Ralph G. Wiggenhorn and later by the law firm comprising Mr. Wiggenhorn, George J. Hutton, John M. Schiltz and John Sheehy.

10. In the course of the litigation, Mr. Payne worked with counsel for the Northern Tribes in the preparation and filing on September 17, 1955 of a motion for partial summary judgment holding that the 1851

Fort Laramie Treaty constituted a recognition by defendant of petitioners' title to the lands described therein as belonging to the Cheyenne and Arapaho Tribes and for findings of fact upon the same issues in similar form and manner as made by the Commission on June 11, 1954 in the case of Crow Nation v. United States, 3 Ind. Cl. Comm. 147, wherein the identical issues were presented and determined. The motion was briefed and argued before the Commission and on November 1, 1955, the Commission entered an interlocutory decree granting said motion for partial summary judgment based on findings of fact made and entered on the same date. Later counsel for all the parties agreed by stipulation, filed January 31, 1958, that the date for evaluating the Fort Laramie lands would be October 14, 1865.

11. By order entered November 28, 1958, all claims of the Southern Cheyenne-Arapaho Tribes except their claim for the 1851 Fort Laramie Treaty lands, were severed from the joint petition in Docket 329 and set up in a separate petition by counsel which was filed and assigned Docket No. 329-A.

12. Mr. Payne states that after the joint petition was filed in Docket 329, the problem was finding the necessary funds to employ expert witnesses to establish the value of the Fort Laramie Treaty lands when ceded. Since neither the Southern Cheyenne-Arapaho Tribes nor the Northern Cheyenne Tribe had the necessary funds to assume their shares of such expenses but the Northern Arapaho Tribe did have funds available, a meeting of tribal delegates of all three tribes and their attorneys was held in Billings, Montana, in December of 1954, where they worked out

an agreement whereby the Northern Arapaho Tribe would undertake to finance the trial of the Fort Laramie land claims, and to be reimbursed later. The Northern Arapaho Tribe failed to ratify the agreement and a new agreement along the same line was entered into a year or so later, which was approved by the Commissioner of Indian Affairs.

13. A four day trial of the Fort Laramie Treaty land claims was held in November of 1958, with the transcript of the proceeding consisting of 642 pages. Prior to said trial, the attorneys for the three petitioning tribal entities held a series of conferences and agreed that John M. Schiltz, at that time an attorney for the Northern Arapaho Tribe, was to be in charge of the trial. Mr. Schiltz conducted the examination of all but one of petitioners' witnesses and also the cross examination of defendant's chief appraisal witness.

14. Counsel for the three tribal entities in Docket 329 joined in the preparation and filing of requested findings of fact and brief on July 15, 1959. The defendant's requested findings of fact and brief were filed on May 9, 1960, to which counsel for petitioners filed a reply brief on June 6, 1960, and by agreement of counsel for all parties the case was submitted without oral argument. The Commission entered its findings of fact, opinion and an interlocutory order on December 6, 1961, fixing the value of the Fort Laramie lands at \$23,500,000 and holding that the Southern Cheyenne and Arapaho Tribes had an undivided one-half interest therein, and that as consideration for the cession of such interest the tribes received money, goods and services in the amount of \$1,434,131.38, and the lands in Oklahoma set apart for said tribes by the executive order

of the President of August 10, 1869. It was ordered that evidence be submitted of the value of the land in the said executive order reservation so as to determine the amount of the consideration said tribes received for their interest in the Fort Laramie lands.

15. During the trial held in November, 1958, counsel for the three tribal entities had orally agreed that each tribal group was to share in the gross recovery for the Fort Laramie lands in proportion to its present day population. The Southern Cheyenne and Arapaho Tribes did not have an up-to-date membership roll and Mr. Payne states that a great deal of effort and time was consumed bringing the roll down to date, obtaining the necessary approval thereof by the Northern Cheyenne and Northern Arapaho Tribes and the Commissioner of Indian Affairs. By this agreement the interest of the Southern Cheyenne and Arapaho Tribes in the Fort Laramie lands was to be fixed at 50.61%. The Commission having fixed such interest at 50% in its order of June 6, 1961, it was necessary to obtain the Commission's approval of the agreement and after several motions filed by counsel and hearings thereon, the Commission entered an amended order on August 6, 1962, changing said interest to 50.61% as agreed by the parties.

16. At the request of counsel for the three tribal groups in Docket No. 329, the Commission entered an order on November 13, 1962, amending its August 16, 1962 interlocutory order permitting each of the three groups to proceed separately and independently with their Fort Laramie land claims and assigned Docket No. 329-B to the claim of the Southern Cheyenne and Arapaho Tribes.

17. Although the Commission had found that the 1869 Executive Order Reservation was a part of the consideration for the cession of the Fort Laramie lands, the Southern Cheyenne and Arapaho Tribes had been granted a reservation in Oklahoma by the October 28, 1867 treaty which they had refused to occupy. However, they did not formally relinquish said reservation until 1891 when they also relinquished the Executive Order Reservation. Mr. Payne states that he was confronted with the problem that since Executive Order Reservations have been held to be non-compensable, then in the event the defendant appealed on such issue it would be necessary to fall back on their title to the 1867 treaty reservation. Mr. Payne considered this made it necessary to have an expert appraiser appraise both the Executive Order Reservation and the 1867 Treaty Reservation as of 1891 and, because of limited funds, to forego an immediate appraisal of the Executive Order Reservation as consideration for the Fort Laramie lands as of 1869.

18. Counsel had the land in both of the aforesaid reservations appraised as of 1891, and elected to proceed with the trial on the tribes' claim therefor in Docket No. 329-A. A four day trial was held on the issue of value of the land in the two reservations in May of 1965 with the transcript of the proceeding consisting of 418 pages. There were three witnesses for the petitioners and three for the defendant. John M. Schiltz of the law partnership of Hutton, Schiltz and Sheehy conducted the examination of all petitioners' witnesses and the cross examination of all defendant's witnesses.

19. Counsel states that immediately following aforesaid trial, Mr. Schiltz began working on proposed findings and brief and continued such work during the period of negotiating the settlement and until the Government had informally agreed to a settlement of all claims. At that time the findings were completed in rough form and the brief outlined but not prepared.

20. The petition of the tribes in Docket 329-A contained a claim for an accounting. Counsel states that the Government duly rendered an accounting of its handling of such tribal funds and that after careful analysis it was determined by the attorneys that no recovery could be made for this claim.

21. (a) Soon after the May 1965 trial of Docket 329-A, the attorneys commenced negotiations with Government attorneys regarding a compromise settlement of all the tribes' claims. Important in such settlement were some \$6,500,000.00 in offsets the Government had asserted against the Southern Cheyenne and Arapaho Tribes. Mr. Payne states that the attorneys made a thorough analysis of the claimed offsets, checked all the appropriation acts involved and all prior decisions of the Commission on allowable offsets; that an analysis was prepared and presented to Government attorneys and General Accounting Office officials with the result that the offsets were settled for slightly over two million dollars. After many consultations with Government officials and the tribes, Mr. Payne, in a letter of June 23, 1965, to the Assistant Attorney General, offered to settle all the claims of the tribes in Docket Nos. 329-A and 329-B for the sum of \$15,000,000.00 net to the tribes. In a letter

dated August 12, 1965, the Assistant Attorney General advised Mr. Payne that his offer was accepted provided the settlement was officially approved in writing by the Cheyenne and Arapaho Tribes of Oklahoma and the Secretary of the Interior or his authorized representative. Such approvals of the settlement were promptly obtained by the attorneys.

(b) On October 11, 1965, the attorneys for the tribes and for the United States filed with the Commission a joint motion for entry of a final judgment in the amount of \$15,000,000.00 pursuant to a stipulation of the parties filed therewith. A hearing on said joint motion was held before the Commission on October 11, 1965. On October 18, 1965, the Commission entered its findings of fact and opinion approving the compromise settlement and a final judgment in favor of the Southern Cheyenne and Arapaho Tribes against the United States for the sum of \$15,000,000.00.

(c) On October 18, 1965, the Commission submitted a report of its final determination in Docket Nos. 329-A and 329-B to the United States Congress as required by the Indian Claims Commission Act. On October 20, 1965, the U. S. Senate added the Southern Cheyenne and Arapaho Tribes' judgment by amendment to the appropriation bill passed by the House of Representatives. The bill was passed on October 22 and signed into law on October 31, 1965. The \$15,000,000.00 is now on deposit in the Treasury of the United States to the credit of said tribes.

22. (a) William Howard Payne has an A.B. degree from Oklahoma A&M College and an LL.B. degree from Southeastern University. He has practiced law for 25 years in Washington, D. C. with emphasis on Indian and taxation law. Prior to entering private practice he was Chief Clerk

of the U. S. House of Representatives' Standing Committee on Indian Affairs. He is also claims attorney for the Cheyenne River Sioux Tribe of South Dakota and the Sioux Tribe of the Fort Peck Reservation, Montana.

(b) Mr. Payne was the principal attorney and attorney of record in these cases. He had the responsibility of prosecuting the tribal claims of the Southern Cheyenne and Arapaho Tribes and had full control and direction of the work on both cases. Mr. Payne states that he investigated and researched all possible claims of the Southern Cheyenne and Arapaho Tribes. It involved all known records and studies concerning the Cheyenne-Arapaho Tribes and covered all treaty and agreement relationships with the United States from the beginning of such relationships to modern times; that such investigation consumed the first three years of his contract time, finally culminating in the preparation and filing of a petition jointly with the Northern Cheyenne and Northern Arapaho Tribes.

In the course of the litigation, Mr. Payne worked with attorneys for the Northern Tribes in the preparation, argument and briefs on the motion for summary judgment holding the Fort Laramie Treaty was a recognition of title; that he assisted in the preparation for trial and the findings of fact and brief on the Fort Laramie land claim, and on the two reservation claims in Docket 329-A; that at various stages of the litigation he was engaged in protracted negotiations with the defendant's attorneys in an effort to compromise the Fort Laramie land claim separately from the reservation claims, and on the compromise of the large offsets claimed and finally on the compromise of all the claims.

(c) Mr. Payne did not keep day-by-day records of time spent on the cases, but estimated that from 1948 to November, 1965, he had devoted at least 25% of his productive time exclusively to work on various aspects of the two cases, or 12,000 hours. He estimates that between 1948 and 1960 he traveled 10,198 miles between Washington, D. C. and Oklahoma and was away from his Washington office 223 days, and that between 1960 and September, 1965, he traveled 54,000 miles between Washington, D. C. and Oklahoma and Billings, Montana, and was away from his Washington office 137 days, all in connection with these two claims cases.

23. (a) Mr. John H. Brigleb, associate attorney, obtained an A.B. degree from Brown University and an LL.B. degree from Western Reserve University in Cleveland, Ohio, and was admitted to practice in 1947. He served as Administrative Assistant to Steven M. Young when he was a congressman from Ohio and later practiced law in Cleveland until his death on January 3, 1961.

(b) Mr. Brigleb became an associate attorney in May of 1959 as the result of the approved assignment of a 25% interest in Mr. Payne's contract. Although Mr. Brigleb practiced in Cleveland, Mr. Payne testified that during the period from 1959 to January 1961, Mr. Brigleb would spend a week or ten days about every month in Mr. Payne's Washington office, for the most part working on various facets of the cases. Mr. Payne stated that he considered Mr. Brigleb was a skilled trial lawyer and it was intended that he take an active part in the prosecution of the cases but his untimely death prevented it.

24. (a) Mr. Arthur P. Scibelli obtained his LL.B. degree from Harvard in 1957, and a Master of Laws in Taxation from George Washington University in 1960. From 1957 to 1959, he was an Attorney-Advisor in the United States Housing and Home Finance Agency. In November of 1959, he became associated with Mr. Payne in the general practice of law.

(b) Mr. Scibelli became Associate Counsel for the Southern Cheyenne and Arapaho Tribes under the attorney contract with said tribes made in June of 1961, which contract was approved on April 4, 1962. He stated, however, that he first began working on these claims cases in November, 1959, and continued to perform services right on through the compromise settlement in October of 1965. He states that he assisted in reviewing and analyzing the General Accounting Office reports on claimed offsets, and the findings on offsets in other claims cases, also reviewing and analyzing value evidence adduced in other Indian Claims Commission cases, and drafting contracts with the appraisers for the 1891 valuation and the historian in Docket 329-A.

(c) No estimate is submitted of the time Mr. Scibelli spent working on the claims.

25. (a) Mr. John M. Schiltz practices law in Billings, Montana, as a partner in the firm of Hutton, Schiltz & Sheehy, formerly Wiggernhorn, Hutton, Schiltz & Sheehy. Mr. Schiltz is a graduate of Montana State University with A.B. and LL.B. degrees and was admitted to the Montana Bar in 1947. Since 1954 he has specialized in Indian law and has appeared before the Commission in his former representation of the Coeur d'Alene, -

Crow and Northern Arapaho Tribes for whom he assisted in the recovery of sizeable awards. He is experienced in practice before the highest courts of various jurisdictions.

(b) Mr. Schiltz' law firm became Associate Counsel for the Southern Cheyenne and Arapaho Tribes under the assignment of an interest in the attorney contract by Mr. Payne made on October 15, 1964 and approved April 23, 1965. Mr. Schiltz states that he began working on the claims cases in September of 1964 when Mr. Payne sent him all his records pertaining to said cases, including appraisal reports; that after reviewing the decisions and familiarizing himself with the issues he worked three months in preparing a report on the claimed offsets which was submitted to the Government looking to a compromise of the Fort Laramie land claim in Docket 329-B and then proceeding with trial of the claims in Docket 329-A; that in December, 1964 he attended a meeting in Washington with defendant's counsel at which a proposal was made on behalf of the tribes to settle all claims or to compromise only the Fort Laramie land claim, which proposals were not accepted by the defendant's counsel; that in February and again in April of 1965, he accompanied Mr. Payne to Oklahoma and in April, after a full explanation to the tribes, obtained a resolution of the tribes approving a proposed settlement of the claim in Docket 329-B for \$4,000,000.00 which was presented to defendant's attorneys but it was rejected. He states that he then finished preparation and participated in the trial in Docket 329-A in May of 1965, of the value of the lands in the 1867 Treaty and the 1869 Executive Order Reservation. Mr. Schiltz also rendered extensive service in

connection with negotiating the final compromise settlement of all the claims and obtaining the required approval thereof by the tribes, the Department of the Interior, the defendant and this Commission.

(c) He states that he has devoted at least thirteen and a half months of his productive time working on the two cases. During that time he made seven trips to Washington, D. C. for conferences and trial, each trip lasting an average of four or five days. He also made three trips to Oklahoma, each lasting close to a week, and one trip to Helena, Montana, on research. He estimates that during the thirteen and a half months spent on the two cases that he traveled some 35,000 miles.

26. The compensation of the attorneys was entirely contingent upon recovery by their clients. At the outset, it was known that the prosecution of the claims would require several years and that the attorneys would incur some expenses which might never be recovered by them unless the litigation was successfully concluded. There was also the risk of the attorneys' loss of other employment because of the time to be devoted to the prosecution of these cases.

27. (a) During the course of the litigation the attorneys were never sure of a recovery so they could be paid for their work. The recognized title question of the Fort Laramie lands was not definitely settled until the Crow decision became final in May of 1961. Even after that there was the possibility the consideration the Southern Tribes received for their Fort Laramie lands might be held not to be unconscionable. This was also true with respect to the Executive Order Reservation, and in addition there was the problem that executive order

reservations have been held to be non-compensable, a problem they could have been confronted with in the event the defendant appealed.

(b) There was also additional complications which arose as a result of possible conflicting claims of the Pawnee Tribe in Docket No. 10, the Jicarilla Apaches in Docket No. 22-A and the Cherokee Nation in Docket No. 173 with the claims of the Southern Cheyenne and Arapaho. These conflicts resulted in proceedings involving motions, answers, arguments, briefs and negotiations by the attorneys to settle said conflicts.

28. The offsets claimed by the United States were exceedingly large, almost \$6,500,000. The attorneys were especially diligent in their analysis of said offsets, and as a result of their diligence and skill they were successful in having the offsets reduced approximately 68% in the compromise settlement.

29. (a) The judgment herein is next to the largest rendered by the Commission to date. Although the tribes received a lump sum settlement of \$15,000,000.00, two separate dockets were combined and settled for that sum. It is quite apparent from the record, however, that the attorneys spent a great deal more time working on the Fort Laramie land claim in Docket 329-B than on the reservation claim in Docket 329-A. Yet the attorneys have estimated the claim in 329-B was compromised for a net sum of \$4,275,000.00, while the reservation claim in Docket 329-A which was not tried until May of 1965, was compromised for about \$10,725,000.00.

(b) The judgment having been entered as a result of the settlement, the attorneys were relieved from trial and briefing on the value of the

Executive Order Reservation in 1869, which was necessary to complete Docket 329-B, and, as the attorneys have stated, from the hazard that the Government might appeal on the grounds the tribes did not have a compensable interest in the Executive Order Reservation. They were also relieved of the necessity of a trial on the claimed offsets of some \$6,500,000.00.

(c) In establishing the recognized title of the Cheyenne and Arapaho Tribes to the 1851 Fort Laramie Treaty lands, Mr. Payne had the benefit of the prior work done by the other attorneys in the Crow case, supra. Also in the trial on value of the 1851 Fort Laramie Treaty lands in Docket 329, Mr. Payne had the benefit of working with the two able law firms representing the two Northern Cheyenne and Arapaho Tribes, and appears to have relied heavily on them in their presentation of the case to the Commission.

(d) In October of 1964, Mr. Payne found it necessary to employ Mr. Schiltz, one of the principal attorneys for the Northern Arapaho in Docket 329, to aid and assist him in these cases. It was after Mr. Schiltz' employment that the cases moved forward to completion. He presented the case in Docket 329-A to the Commission in May of 1965. While Mr. Schiltz testified that after the trial he worked out a rough draft of the proposed findings of fact and brief, the settlement relieved the attorneys from additional work thereon and with a possible reply brief for petitioners.

30. Based on the entire record in these dockets, and having considered the facts peculiar to these cases as well as all appropriate

factors involved in the determination of a reasonable attorney fee under the standards established by the Indian Claims Commission Act, the Commission concludes that the contract attorneys in these cases should be awarded and they are hereby awarded an attorney fee of \$1,312,500.00, and an order will be entered to that effect.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner

BEFORE THE INDIAN CLAIMS COMMISSION

CHEYENNE-ARAPAHO TRIBES OF INDIANS)
OF OKLAHOMA suing on its own behalf)
and as representative of the CON-)
FEDERATED TRIBES OF CHEYENNE AND ARAPAHO)
INDIANS OF THE UPPER ARKANSAS, also known)
as the SOUTHERN CHEYENNE AND ARAPAHO) Docket No. 329-A
TRIBES OF INDIANS, and on behalf of the)
CHEYENNE AND ARAPAHO TRIBES OF INDIANS,) Docket No. 329-B
)
Petitioner,)
)
v.)
)
THE UNITED STATES OF AMERICA,)
)
Defendant.)

ORDER ALLOWING ATTORNEY FEES

Upon consideration of the petition for allowance of attorney fees for services rendered in the above-entitled cases, and in accordance with the findings of fact of the Commission this day filed herewith,

IT IS HEREBY ORDERED AND ADJUDGED that William Howard Payne, Arthur P. Scibelli, the law partnership of Hutton, Schiltz & Sheehy and Kent H. Myers, Executor of the Estate of John H. Brigleb, deceased, are hereby awarded the sum of \$1,312,500.00, which sum shall be in full compensation for legal services rendered the Cheyenne and Arapaho Tribes of Indians of Oklahoma in the prosecution of their said claims in Docket numbers 329-A and 329-B, and that said sum shall be paid out of the appropriation which the Congress has made to satisfy the final award to said Indians made by this Commission on October 18, 1965.

Dated at Washington, D. C., this 14th day of April, 1966.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner