

## BEFORE THE INDIAN CLAIMS COMMISSION

THE LOWER SIOUX INDIAN COMMUNITY, ETC.,	)	
	)	
Petitioners,	)	
	)	Docket Nos.
THE SISSETON AND WAHPETON BANDS	)	359
OR TRIBES, ETC.,	)	360
	)	361
Intervenors in Docket No. 359	)	362
	)	363
V.	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: March 14, 1968

FINDINGS OF FACT ON ATTORNEYS' FEES

The petition for allowance of attorneys' fees in the above-entitled cases came on for hearing before the Commission on February 28, 1968, and the Commission having considered the evidence in support of the petition, including the entire record and all proceedings in these cases, makes the following findings of fact:

1. The awards. On July 25, 1967, the Commission entered final awards in Docket Nos. 359-363 as follows:

<u>Docket No.</u>	<u>Award</u>	<u>Sioux Tribes</u>
359	\$ 776,464.50	Medawakanton and Wahpakoota
359	776,464.50	Sisseton and Wahpeton
360	1,129,359.00	Medawakanton
361	64,680.00	Medawakanton
362	4,338,517.00	Medawakanton and Wahpakoota
363	<u>66,940.00</u>	Medawakanton and Wahpakoota
Total	\$ 7,152,425.00	

2. Attorneys' contracts and assignments. The Medawakanton and Wahpakoota interests in Docket Nos. 359 through 363 were prosecuted pursuant to the following contracts and assignments of contracts:

A. Contract No. I-1-ind. 42526 dated May 21, 1951, between the Prairie Island Indian Community in Minnesota and the Lower Sioux Indian Community in Minnesota and Emerson Hopp, approved July 6, 1951 by the Commissioner of Indian Affairs for a period of ten years from the date of approval and extended for a period of ten years beginning July 6, 1961 by extension approved August 9, 1962 by the Deputy Solicitor, Department of the Interior. (Pet. Exs. 1, 3)

By assignment, approved December 7, 1951, by the Commissioner of Indian Affairs, Emerson Hopp conveyed a 50 percent interest in Contract No. 42526 to Marvin J. Sonosky. (Pet. Ex. 2)

B. Contract No. 12, Symbol 14-20-650, between the Upper Sioux Indian Community of Granite Falls, Minnesota and Emerson Hopp and Marvin J. Sonosky, approved February 2, 1953 by the Commissioner of Indian Affairs for a period of ten years from the date of approval and extended for a period of ten years beginning February 2, 1963 by extension approved January 11, 1963 by the Area Director, Bureau of Indian Affairs, Minneapolis, Minnesota. (Pet. Exs. 4, 5)

By letter of October 23, 1957 the Acting Commissioner of Indian Affairs approved the association of Louis L. Rochmes as an attorney to render services under Contract No. 12. (Pet. Ex. 6)

C. Contract No. 13, Symbol 14-20-650, between the Flandreau Santee Sioux Tribe of South Dakota and Emerson Hopp and Marvin J. Sonosky,

approved February 10, 1953 by the Commissioner of Indian Affairs for a period of ten years and extended for a period of ten years beginning January 1, 1963, by extension approved June 18, 1963 by the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. (Pet. Exs. 7, 8)

By letter of October 23, 1957 the Acting Commissioner of Indian Affairs approved the association of Louis L. Rochmes as an attorney to render services under Contract No. 13. (Pet. Ex. 9)

D. Contract No. 14, Symbol 20-0650-450, between the Santee Sioux Tribe of Nebraska and Marvin J. Sonosky, approved August 26, 1957 by the Acting Commissioner of Indian Affairs for a period of ten years from the date of approval and extended for a period of ten years beginning August 27, 1967 by extension approved October 6, 1967 by the Assistant Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. (Pet. Exs. 10, 11)

Contract No. 14 embraces claims of the Tribe against the United States in addition to those covered in Docket Nos. 359 through 363. Marvin J. Sonosky assigned to the law firm of Strasser, Spiegelberg, Fried and Frank an interest in fees paid under the contract, excluding from such assignment fees payable in the subject Docket Nos. 359 through 363. (Pet. Ex. 12)

There has been included in the record a letter, dated February 27, 1968, and addressed to the Indian Claims Commission from the law firm of Strasser, Spiegelberg, Fried, Frank & Kampelman, which letter confirms

the terms of the above assignment in that this law firm disclaims any interest in the attorney fees now under consideration. This letter is as follows: (Pet. Ex. 23)

February 27, 1968

Indian Claims Commission  
726 Jackson Place, N. W.  
Washington, D. C.

Gentlemen:

We understand that you have before you an application for attorneys' fees in Mississippi Sioux Docket Nos. 359-363.

The firm of Strasser, Spiegelberg, Fried, Frank & Kampelman holds an assignment from Marvin J. Sonosky of 50 percent of the fees, other than fees payable in Docket Nos. 142, 359 through 363, paid under Contract No. 14 between Marvin J. Sonosky and the Santee Sioux Tribe.

The firm of Strasser, Spiegelberg, Fried, Frank & Kampelman does not claim any contract interest in any fees due in Docket Nos. 142, 359-363 by reason of the assignment of fees in Contract No. 14 to us from Marvin J. Sonosky.

Very truly yours,

STRASSER, SPIEGELBERG, FRIED,  
FRANK & KAMPELMAN

By /s/ Arthur Lazarus, Jr.  
Arthur Lazarus, Jr.

The Sisseton and Wahpeton interests affected by this proceeding are confined to Docket No. 359 and were prosecuted pursuant to the following contracts:

E. Contract No. 10, Symbol 14-20-650, between the Sisseton and Wahpeton Sioux Tribe of South Dakota and Emerson Hopp and Marvin J. Sonosky, approved December 31, 1952 by the Commissioner of Indian Affairs for a period of ten years from the date of approval and extended for

a period of ten years beginning January 1, 1963, by extension approved May 3, 1963, by the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. (Pet. Exs. 13, 14)

By letter of October 25, 1957 the Acting Commissioner of Indian Affairs approved the association of Louis L. Rochmes as an attorney to render services under Contract No. 10. (Pet. Ex. 15)

F. Contract No. 11, Symbol 14-20-650, between the Sisseton and Wahpeton Sioux Tribe of North Dakota and Traynor and Traynor, Emerson Hopp and Marvin J. Sonosky, approved December 31, 1952 by the Commissioner of Indian Affairs for a period of ten years from the date of approval and extended for a period of ten years beginning January 1, 1963 by extension approved May 1, 1963 by the Area Director, Bureau of Indian Affairs, Minneapolis, Minnesota (Pet. Exs. 17, 18). The letter of approval dated December 31, 1952 from the Commissioner of Indian Affairs specified that Contract No. 11 superseded a prior attorney's Contract No. 42008 dated October 16, 1947 between the Sisseton and Wahpeton Band or Tribe of Sioux Indians of North Dakota and Traynor and Traynor. No suit was filed or services rendered under Contract No. 42008 with respect to the claim arising out of the Treaty of July 15, 1830 resulting in the award of \$776,464.50 entered in Docket No. 359 for the Sisseton and Wahpeton Sioux Tribes. The law firm of Traynor and Traynor does not claim any interest in any fees allowed in Docket No. 359.

By a letter, dated February 26, 1968, and addressed to the Indian Claims Commission, the law firm of Traynor and Traynor explicitly disclaimed any right to any fee in Docket No. 359. The letter reads as follows:  
(Pet. Ex. 22)

February 26, 1968

Indian Claims Commission  
Room 5001  
726 Jackson Place NW  
Washington, D. C. 20006.

Attention: William M. Holt.

Gentlemen: In re: Mississippi Claims  
Docket Nos. 142, 359-363

In Docket No. 359 before the Indian Claims Commission, an award was entered in favor of the Sisseton and Wahpeton Sioux in the sum of \$776,464.50.

This is to advise you that our firm of Traynor & Traynor was a party to Contract No. 42008 with the Sisseton and Wahpeton Tribe of Sioux Indians of North Dakota. This Contract No. 42008, however, was superseded by Contract No. II, between the Sisseton and Wahpeton Sioux Tribe of North Dakota and Traynor & Traynor, Emerson Hopp and Marvin J. Sonosky.

The firm of Traynor & Traynor does not claim any interest in any attorneys fees derived from the award to the Sisseton and Wahpeton Tribe of Sioux Indians in Docket No. 359 before the Indian Claims Commission, but this firm, Traynor & Traynor, claims an interest in attorneys fees in Docket No. 142, which is covered in a separate application for fees. Furthermore, Attorney Marvin J. Sonosky is authorized to appear for our firm in any hearing pertaining to such matter of attorneys fees as herein specified.

Respectfully,

TRAYNOR & TRAYNOR

BY: /s/ Mack V. Traynor

MVT:FS  
cc: Attorney Marvin J. Sonosky  
1225-19th Street NW  
Washington, D. C. 20036.

Mack V. Traynor.

By a letter dated October 27, 1957, the Acting Commissioner of Indian Affairs approved the association of Louis L. Rochmes with the contract attorneys under Contract No. 11 (Pet. Ex. 19).

G. Contract No. 14, Symbol 20-0250-3439, between the Sisseton-Wahpeton Sioux of the Fort Peck Reservation, Montana, and Marvin J. Sonosky, approved July 21, 1965 by the Area Director, Bureau of Indian Affairs, Billings, Montana, for a period of five years from the date of approval. (Pet. Ex. 20)

3. Compensation provisions of the contracts. With one exception, all contracts identified in Finding 2, supra, provide that the compensation for attorneys' services should be ten percent of the amount recovered. The exception is Contract No. 14, identified in Finding 2, subparagraph D, supra, which provides that the compensation for attorneys' services should not exceed ten percent of the amount recovered.

4. Services. The attorneys of record have rendered valuable legal services in the successful prosecution of the tribal claims asserted in Docket Nos. 359 through 363. Having tested these legal services by the standards obtaining for prosecuting similar claims in courts of law, by the long protracted period of litigation that was involved, by the very complex and contingent nature of the cases, and by the highly rewarding results obtained, the Commission finds and concludes that the attorneys of record directly concerned under all the attorney contracts, as set forth in preceding findings of fact, are entitled to attorney fees equal to ten percent (10%) of the awards rendered in Docket Nos. 359 through 363.

5. The attorney fees awarded herein shall be allocated between Docket Nos. 359 through 363 in the following manner:

(a) Fees, Medawakanton and Wahpakoota, in Docket No. 359. As compensation for services rendered in Docket No. 359 to the Medawakanton

and Wahpakoota Tribes, Marvin J. Sonosky, Emerson Hopp, and Louis L. Rochmes are entitled to fees in the sum of \$77,646.45, representing ten percent of the award to the Medawakanton and Wahpakoota Tribes in Docket No. 359.

(b) Fees, Sisseton and Wahpeton, in Docket No. 359. As compensation for services rendered in Docket No. 359 to the Sisseton and Wahpeton Tribes, Marvin J. Sonosky, Emerson Hopp and Louis L. Rochmes are entitled to fees in the sum of \$77,646.45, representing ten percent of the award to the Sisseton and Wahpeton Tribes in Docket No. 359.

(c) Fees, Medawakanton, in Docket No. 360. As compensation for services rendered in Docket No. 360 to the Medawakanton Tribe, Marvin J. Sonosky, Emerson Hopp and Louis L. Rochmes are entitled to fees in the sum of \$112,935.90, representing ten percent of the award to the Medawakanton Tribe in Docket No. 360.

(d) Fees, Medawakanton, in Docket No. 361. As compensation for services rendered in Docket No. 361 to the Medawakanton Tribe, Marvin J. Sonosky, Emerson Hopp and Louis L. Rochmes are entitled to fees in the sum of \$6,468.00, representing ten percent of the award to the Medawakanton Tribe in Docket No. 361.

(e) Fees, Medawakanton and Wahpakoota, in Docket No. 362. As compensation for services rendered in Docket No. 362 to the Medawakanton and Wahpakoota Tribes, Marvin J. Sonosky, Emerson Hopp and Louis L. Rochmes are entitled to fees in the sum of \$433,851.70 representing ten percent of the award to the Medawakanton and Wahpakoota Tribes in Docket No. 362.



(f) Fees, Medawakanton and Wahpakoota, in Docket No. 363. As compensation for services rendered in Docket No. 363 to the Medawakanton and Wahpakoota Tribes, Marvin J. Sonosky, Emerson Hopp and Louis L. Rochmes are entitled to fees in the sum of \$6,694.00, representing ten percent of the award to the Medawakanton and Wahpakoota Tribes in Docket No. 363.

Wm. M. Holt  
Wm. M. Holt, Commissioner

T. Harold Scott  
T. Harold Scott, Commissioner

Jerome K. Kuykendall, Commissioner

John T. Vance  
John T. Vance, Commissioner

Richard W. Yarborough  
Richard W. Yarborough, Commissioner

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THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

ORDER ALLOWING ATTORNEYS' FEES

The petition for allowance of attorneys' fees in these cases came on for hearing on February 28, 1968 and the Commission having filed its findings of fact this day, which findings of fact are hereby made a part of this order, it is

ORDERED AND ADJUDGED, that Marvin J. Sonosky, Emerson Hopp and Louis L. Rochmes be paid as attorneys' fees in these cases the sum of \$715,242.50, representing ten percent (10%) of the aggregate of the respective final awards entered July 25, 1967, allocated in each of the cases as follows:

In Docket No. 359, the sum of \$77,646.45 being ten percent of the award to the Medawakanton and Wahpakoota Tribes;

In Docket No. 359, the sum of \$77,646.45 being ten percent of the award to the Sisseton and Wahpeton Tribes;

In Docket No. 360, the sum of \$112,935.90 being ten percent of the award to the Medawakanton Tribe;

In Docket No. 361, the sum of \$6,468.00 being ten percent of the award to the Medawakanton Tribe;

In Docket No. 362, the sum of \$433,851.70 being ten percent of the award to the Medawakanton and Wahpakoota Tribes;

In Docket No. 363, the sum of \$6,694.00 being ten percent of the award to the Medawakanton and Wahpakoota Tribes.

Dated at Washington, D. C., this 14th day of March, 1968.

Wm. M. Holt  
Wm. M. Holt, Commissioner

T. Harold Scott  
T. Harold Scott, Commissioner

Jerome K. Kuykendall, Commissioner

John T. Vance  
John T. Vance, Commissioner

Richard W. Yarborough  
Richard W. Yarborough, Commissioner