

## BEFORE THE INDIAN CLAIMS COMMISSION

RED LAKE, PEMBINA AND WHITE EARTH	)	
BANDS, ET AL.,	)	Docket No. 18-A
	)	
TURTLE MOUNTAIN BAND OF CHIPPEWA	)	
INDIANS,	)	Docket No. 113
	)	
THE LITTLE SHELL BAND OF CHIPPEWA	)	
INDIANS, ET AL.,	)	Docket No. 191
	)	
Petitioners,	)	
	)	
v.	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

ORDER ALLOWING REIMBURSABLE ATTORNEY EXPENSES  
OF CLARENCE G. LINDQUIST, DECEASED

The Commission has before it the application filed herein on January 4, 1965 by A. Blake MacDonald, executor of the estate of Clarence G. Lindquist, deceased, who was one of the attorneys for the Red Lake and Pembina Bands of Chippewa Indians, petitioners in Docket 18-A, for an order allowing payment to the said estate of unreimbursed travel expenses incurred by Clarence G. Lindquist in connection with the prosecution herein of the claims of the said bands.

At the time of the filing of Mr. MacDonald's application there was also filed herein an application for allowance of the unreimbursed expenses claimed by Messrs. Jay H. Hoag and Rodney J. Edwards, two of the attorneys with whom the late Clarence G. Lindquist was associated in the prosecution of the claims of the aforementioned petitioners in Docket 18-A. The defendant filed a response to these applications on July 15, 1965 to which were attached a copy of a letter dated July 12, 1965 from the Deputy Solicitor, Department of the Interior to Hon. Edwin L. Weisl, Jr., Assistant Attorney General, and a copy of a memorandum dated June 4, 1965 and its enclosures from the Commissioner of Indian Affairs that reported separately the results of an examination of the two applications. The defendant's response requested that this Commission consider the matters set forth in the memorandum of June 4, 1965 in determining the amount of expenses for which the attorneys should be reimbursed. Our Order of June 25, 1968 (19 Ind. Cl. Comm. 205) disposed of the expense application of Messrs. Hoag and Edwards.

A hearing on the aforementioned applications was held before the Commission on July 15, 1965. Testimony on the unreimbursed expenses claimed for the estate of Clarence G. Lindquist was received from Executor MacDonald, and also from Mr. Jay H. Hoag under whose direction some, if not all, of the travel involved in the unreimbursed expenses claimed for the said estate was performed.

In a letter to the Commission dated October 3, 1967, that was entered herein on October 6, 1967, Mr. Jay H. Hoag mentioned, inter alia, that Mr. A. Blake MacDonald had resigned as executor of the estate of Clarence G. Lindquist. Formal evidence of the appointment of the present executor of the estate, if there be one, has not been filed with the Commission.

Having considered the said application of Mr. A. Blake MacDonald and its supporting papers, the above mentioned response of the defendant and the letter and memorandum received therewith, the information relating to travel performed by Clarence G. Lindquist in the papers accompanying the original and amended versions of the aforementioned application of Messrs. Hoag and Edwards, the contracts under which Clarence G. Lindquist served the Red Lake and Pembina Bands, and the rest of the record herein, the Commission finds that:

1. In compliance with the decision of the Court of Claims in Appeal No. 7-62 (164 C. Cls. 389), this Commission entered herein on April 24, 1964 an amended final award that in pertinent part reads as follows:

" IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Commission that the petitioners herein for and on behalf of and for the benefit of the Red Lake and Pembina Bands, as such bands were constituted and recognized by the United States at the time of the Treaty of October 2, 1863, do have and recover of and from the defendant the sum of \$2,034,889.56, said sum to be divided as follows:

- |   |                 |
|---|-----------------|
| (1) On behalf of and for the benefit<br>of the Red Lake Band..... | \$1,797,761.74  |
| (2) On behalf of and for the benefit<br>of the Pembina Band.....  | \$ 237,127.82 " |

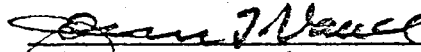
2. The following amounts in the said application of A. Blake MacDonald are not allowable for reimbursement out of the award herein:

<u>Amount</u>	<u>Trip</u>	<u>Description</u>
\$ .70	29	This amount consists of an error of 10¢ in totaling expenses of March 5, 1953 and an error of 60¢ in listing expenses of March 7, 1953 (a taxi fare of 40¢ in Mr. Lindquist's itemization is listed as \$1.00 in the application).
9.10	30	This amount is the sum of the subsistence expenses claimed for September 18 and 19 of 1953 when it appears that Mr. Lindquist was accompanying Mr. Jay H. Hoag on a trip to Madison, Wisconsin in regard to a case not litigated herein.
53.96	31	This amount consists of \$34.00 for the purchase of an automobile tire on a trip to Red Lake and Winnipeg of August 16-18, 1954 that Mr. MacDonald said he would move to have stricken from the claim (Hearing Tr. pages 68-69); and \$19.96 that adjusts the claimed automobile mileage charge for the trip to a rate of 5¢ per mile as required by the attorneys' contract with the Pembina Band.
1.92	32	This amount consists of an error of 20¢ in totaling expenses of December 1, 1954; and \$1.72 for an unexplained purchase of a road map on November 30, 1954.
152.32	33	This amount consists of \$128.44 representing 53% of the claimed cost of the round trip from Duluth to Washington of June 7-16, 1950, that is regarded as allocable to other cases than the cause of the Red Lake and Pembina Bands in Docket 18-A; and \$23.88 that adjusts the charge for the portion of the automobile mileage of the trip regarded as allocable to Docket 18-A (47%) to a rate of 5¢ per mile as required by the attorneys' contract with the Pembina Band.
9.00	34	This amount is the difference between \$12.00 claimed for subsistence on February 12, 1964 and Mr. Lindquist's actual subsistence costs for that day as shown in his handwritten itemization thereof. Mr. MacDonald indicated at the hearing that this \$9.00 amount would be eliminated from the claim (Tr., pages 65-67).
<u>\$227.00</u>	--	Total not allowable for reimbursement.

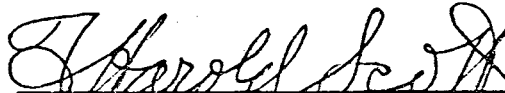
3. After deducting the sum of the disallowed amounts listed above, the balance of unreimbursed expenses claimed in the said application amounts to \$667.26. The claimed expenses that make up such balance are reasonable and properly reimbursable out of the award herein. The charge for these expenses should be divided between the Red Lake and Pembina Bands according to the same ratio used for the division of the gross award herein, namely, 2/3rds to the Red Lake Band and 1/3rd to the Pembina Band.

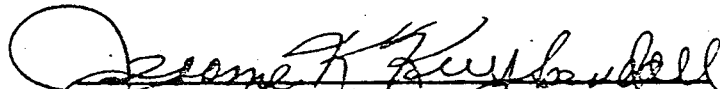
IT IS THEREFORE ORDERED AND ADJUDGED that there shall be disbursed to the Estate of Clarence G. Lindquist, deceased attorney of Duluth, Minnesota, as payment in full of the unreimbursed expenses incurred herein by him, the sum of \$667.26, of which sum \$444.84 shall be disbursed out of the above mentioned award of \$1,797,761.74 for the benefit of the Red Lake Band and \$222.42 shall be disbursed out of the above mentioned award of \$237,127.82 for the benefit of the Pembina Band.

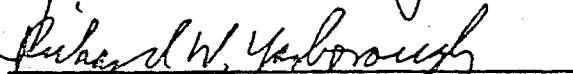
Dated at Washington, D. C., this 28th day of June, 1968.

  
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John T. Vance, Chairman

  
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Wm. M. Holt, Commissioner

  
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T. Harold Scott, Commissioner

  
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Jerome K. Kuykendall, Commissioner

  
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Richard W. Yarborough, Commissioner