

BEFORE THE INDIAN CLAIMS COMMISSION

THE SIOUX TRIBE OF INDIANS OF THE)
CHEYENNE RIVER RESERVATION,)
SOUTH DAKOTA,)

Plaintiffs,)

v.)

Docket No. 114

THE UNITED STATES OF AMERICA,)

Defendant.)

Decided: OCT 29 1989

FINDINGS OF FACT ON ATTORNEYS' FEE

1. The original petition was filed on May 24, 1951 by Ralph H. Case, now deceased. On May 25, 1953 Mr. Ralph H. Case assigned an interest in his attorney contract with the plaintiffs to Mr. Richard W. Case. Mr. Ralph H. Case died July 12, 1957. Mr. Richard W. Case resigned July 17, 1957, the resignation was accepted and the contract terminated effective December 6, 1957. After the death of Mr. Case the Cheyenne River Sioux Tribe entered into a contract with Mr. William Howard Payne, dated March 5, 1958, for the prosecution of the claim in this docket and other dockets. The contract bears Interior Department designation symbol 14-20-650, Contract No. 541. It was approved by the Commissioner of Indian Affairs on May 28, 1958, and filed with this Commission on November 24, 1958.

2. Contract No. 14-20-650, No. 541, provides for a fee of not to exceed ten percent of the recovery. Paragraph 6 of said contract

of employment provides as follows:

"In consideration of the services to be rendered hereunder the said Attorney shall receive a contingent fee not to exceed ten percentum (10%) of the amount of any cash judgment hereafter rendered or settlement hereafter made or Congressional appropriation hereafter approved or the value of any property hereafter obtained for said Indians, which fee shall be subject to such compensation claims as may be legally or equitably established (or privately agreed upon) by the Estate of Ralph H. Case, deceased, former Attorney of record in said three Dockets."

3. Paragraph 5 of said contract provides for the assignment of an interest in the contract by the contract attorney, William Howard Payne, as follows:

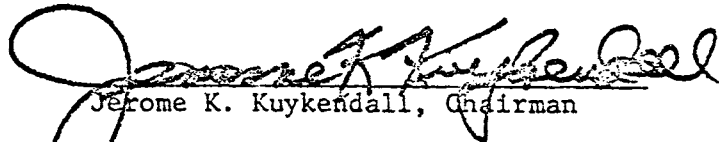
"The said Attorney, with the consent of said Indians and with the approval of the Commissioner of Indian Affairs, may assign an interest in this contract to another attorney or attorneys who associate with him in the prosecution of said claims or who perform services under this contract, subject to Provisions of Section 2103-2106 Revised Statutes."

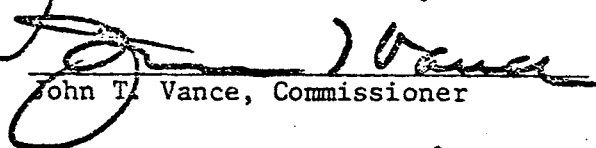
4. Pursuant to said paragraph 5, William Howard Payne associated the law firm of Hutton, Schiltz & Sheehy of Billings, Montana, in this Docket No. 114 and assigned to said firm an undivided 49 percent in the employment contract to the extent that the contract related to Docket No. 114, and 49 percent of any and all fees that shall be earned pursuant to Contract No. 14-20-650, No. 541, in Docket No. 114. The assignment by William Howard Payne to Hutton, Schiltz & Sheehy is dated October 2, 1968, approved by the Tribe on October 2, 1968, by the Bureau of Indian Affairs on November 1, 1968, and is on file with the Commission.

5. The attorneys employed under the said employment contracts have rendered valuable legal services in successfully prosecuting the

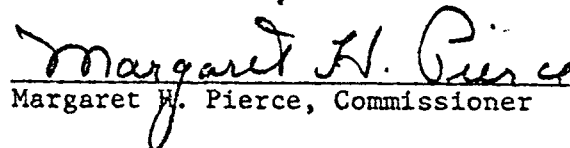
claim of the Cheyenne River Sioux Tribe of Indians to an award. Tested by the standards fixed in Section 15 of the Indian Claims Commission Act (25 U.S.C. 70n), including those obtaining for prosecuting similar claims in courts of law, and considering the complex and contingent nature of the claim and the result obtained, the plaintiff attorneys earned, and are entitled to, and are hereby awarded, an attorneys' fee of \$130,000.00, representing ten percent (10%) of the award to the Cheyenne River Sioux Tribe of Indians in Docket No. 114.

An order will be entered to that effect.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner

Brantley Blue, Commissioner