

BEFORE THE INDIAN CLAIMS COMMISSION

THE KICKAPOO TRIBE OF KANSAS, THE)
 KICKAPOO TRIBE OF OKLAHOMA, THE)
 KICKAPOO NATION, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

Docket No. 193

ORDER ALLOWING ATTORNEYS' FEE

HAVING CONSIDERED the petition for allowance of attorneys' fee filed on December 10, 1969, for the law firm of Harrison, Thomas, Spangenberg & Hull by Allan Hull, Esquire, a member of said firm and the attorney of record herein for the above-named plaintiffs, the response of the defendant filed on March 6, 1970, the contracts under which the attorneys served the said plaintiffs, and the remainder of the record herein, the Commission finds as follows:

1. On February 29, 1968, in consonance with an approved compromise settlement between the parties, the Commission entered a final judgment herein in favor of the plaintiffs in the amount of \$540,000.00 (19 Ind. Cl. Comm. 37, et. seq.). Funds to satisfy the judgment were appropriated by the Act of July 9, 1968 (82 Stat. 307). The petition by the attorney of record requests allowance of an attorneys' fee of \$54,000.00 comprising ten percent of the said final judgment.

2. The attorneys' services in behalf of the plaintiffs were rendered under contracts separately made with The Kickapoo Tribe of Kansas and The Kickapoo Tribe of Oklahoma.

The Kickapoo Tribe of Kansas initially entered into a contract with the law firm of Pam, Hurd & Reichman (now Schiff, Hardin, Waite, Dorschel & Britton) dated September 4, 1948. This contract, assigned number I-1-ind. 42141, was approved on March 10, 1949, and had a specified term of ten years beginning with the date of approval. By a stipulation and agreement, dated April 8, 1950, between the law firm of Harrison, Thomas, Spangenberg & Hull and the law firm of Pam, Hurd & Reichman all rights of the latter under contract No. I-1-ind. 42141

were assigned to Harrison, Thomas, Spangenberg & Hull who accepted such assignment and assumed the attorneys' obligations under the contract. The said assignment was approved on June 14, 1950. An extension of the contract for a period of five years beginning March 10, 1959, was approved on March 19, 1959. On December 20, 1964, The Kickapoo Tribe of Kansas and the firm of Harrison, Thomas, Spangenberg & Hull entered into a new contract numbered 14-20-0200-1900. This contract was approved on April 9, 1965, and had a specified term of five years beginning March 10, 1964. An extension of the contract for an additional period of ten years from and after March 14, 1969, was approved on June 24, 1969.

The Kickapoo Tribe of Oklahoma initially entered into a contract with the law firm of Dempsey, Mills and Casey (now Mills and Garrett) dated August 14, 1948. This contract, assigned number I-1-ind. 42128, was approved on December 24, 1948, and had a specified term of ten years beginning with its date of approval. By a stipulation and agreement, dated April 20, 1951, between the law firm of Harrison, Thomas, Spangenberg & Hull and the law firm of Dempsey, Mills and Casey, all rights of the latter under the said contract were assigned to Harrison, Thomas, Spangenberg & Hull who accepted such assignment and assumed the attorneys' obligations under the contract. The said assignment was approved on August 14, 1951. An extension of contract No. I-1-ind. 42128 for a period of five years beginning December 24, 1958, was approved on June 5, 1958. On December 20, 1964, The Kickapoo Tribe of Oklahoma and the law firm of Harrison, Thomas, Spangenberg and Hull entered into a new contract numbered 14-20-0200-1899. This contract was approved on April 8, 1965, and had a specified term of five years beginning December 27, 1963. An extension of the contract for a period of ten years beginning December 28, 1968, was approved on May 28, 1969.

3. All of the aforementioned contracts provide that the compensation of the attorneys for services rendered shall be ten percent of any and all sums recovered for the Indians.

4. Attached to the petition for allowance of attorneys' fee is a photo reproduction of a letter, dated December 4, 1969, from the law firm of Mills and Garrett, successor to the firm of Dempsey, Mills and Casey, disclaiming any interest in any legal fees due for services rendered in the prosecution before the Indian Claims Commission of any cases of The Kickapoo Tribe of Kansas or The Kickapoo Tribe of Oklahoma. Also attached to the said petition is a photo reproduction of a letter, dated March 4, 1968, from the law firm of Schiff, Hardin, Waite, Dorschel & Britton, successor to the firm of Pam, Hurd & Reichmann, expressing a similar disclaimer as to legal fees earned in respect to claims of The Kickapoo Tribe of Kansas.

5. The defendant's response to the petition for allowance of attorneys' fee transmitted a copy of a letter, dated January 21, 1970, from the Associate Solicitor for Indian Affairs, Department of the Interior, and a copy of an accompanying memorandum, dated January 8, 1970, from the Acting Assistant Commissioner of the Bureau of Indian Affairs. The letter expressed the concurrence of the Department of the Interior with the advice in the memorandum that the Bureau of Indian Affairs has no objection to the allowance of the \$54,000.00 fee sought since it is ten percent of the amount awarded to the Kickapoo Tribes and the applicable claims attorney contracts provide for an attorney fee of ten percent of any and all sums recovered for the Indians. Inter alia, the defendant's response mentioned the provision in the several contracts with plaintiffs' counsel for compensation in the amount of ten percent of all sums recovered, the concurrence of the Department of the Interior with the aforementioned advice in the memorandum from the Acting Commissioner of the Bureau of Indian Affairs, and concluded by stating, in effect, that the ten percent fee requested is permissible under the Indian Claims Commission Act, and that the defendant has no reason to question any of the allegations made in the petition for allowance of attorneys' fee.

6. Notices of the filing of the petition for allowance of attorneys' fee were duly sent on December 10, 1969, to the Chairman of the Tribal Council of The Kickapoo Tribe of Kansas and the Chairman of the Tribal Council of The Kickapoo Tribe of Oklahoma. No response to either notice was received.

7. The attorneys have rendered valuable legal services to The Kickapoo Tribe of Kansas and The Kickapoo Tribe of Oklahoma in the successful prosecution of the claims asserted herein, and they are entitled under the terms of the aforementioned contracts to the requested fee of \$54,000.00.

IT IS THEREFORE ORDERED that out of the judgment money resulting from the final judgment entered herein on February 29, 1968, there shall be disbursed to the law firm of Harrison, Thomas, Spangenberg & Hull the sum of \$54,000.00 as payment in full of the attorneys' fee owed for services rendered herein by the attorneys for the above-named plaintiffs.

Dated at Washington, D. C., this 18th day of March, 1970.


Jerome K. Kuykendall, Chairman

Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner

John T. Vance, Commissioner


Richard W. Yarborough, Commissioner