

BEFORE THE INDIAN CLAIMS COMMISSION

THE SAC AND FOX TRIBE OF INDIANS OF OKLAHOMA, ET AL.,)	Docket No. 158
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)	
THE IOWA TRIBE OF THE IOWA RESERVATION IN KANSAS AND NEBRASKA, ET AL.,)	Docket No. 209
)	
)	
THE SAC AND FOX TRIBE OF INDIANS OF OKLAHOMA, ET AL.,)	Docket No. 231
)	
)	
Plaintiffs,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEYS' FEES

HAVING CONSIDERED the joint application for allowance of attorneys' fees filed on July 21, 1970, for the law firm of Dykema, Wheat, Spencer, Goodnow & Trigg of Detroit, Michigan (the Dykema firm) and the law firm of McCarter & English of Newark, New Jersey by Brian Sullivan, Esquire, a member of the Dykema firm and the attorney of record for the Iowa Tribe of the Iowa Reservation in Kansas and Nebraska (the Iowa Tribe of Kansas and Nebraska) and Nicholas Conover English, Esquire, a member of the firm of McCarter & English and the attorney of record for the Iowa Tribe of the Iowa Reservation in Oklahoma (the Iowa Tribe of Oklahoma); the defendant's response to the application dated October 14, 1970; the contracts under which the attorneys served the aforementioned tribes; and the remainder of the record herein, the Commission finds as follows:

1. On May 12, 1969, final awards in favor of the Iowa plaintiffs were entered herein totaling \$1,795,506.40 as follows (20 Ind. Cl. Comm. 439, 505):

In Docket No. 158	the sum of	\$1,340,435.00.
In Docket No. 209	the sum of	168,555.00.
In Docket No. 231	the sum of	<u>286,516.40.</u>

Total . . . \$1,795,506.40

2. Funds to satisfy the above-listed awards were appropriated by the Act of July 6, 1970 (84 Stat. 376). The application by the attorneys

of record requests allowance of attorneys' fees in the sum of \$179,550.64 comprising 10% of the total of the awards.

3. The representation herein of the Iowa Tribe of Kansas and Nebraska was initially under a contract, No. I-1-ind. 42192, that the tribe entered into with the law firm of Dykema, Jones & Wheat (now Dykema, Wheat, Spencer, Goodnow and Trigg) on May 24, 1949. This contract was approved on September 8, 1949, and had a specified term of 10 years beginning with its approval date. An extension of the contract for a period of five years beginning on September 8, 1959, was approved on June 22, 1959. On September 30, 1964, the same tribe entered into a new contract, No. 14-20-0200-1857, with the Dykema firm which continued in effect essentially the same terms and conditions that had been in effect under the prior contract. The new contract was approved on December 24, 1964, and has a specified term of 5 years commencing with the expiration of contract No. I-1-ind. 42192 on September 7, 1964. An extension of contract No. 14-20-0200-1857 for a period of 10 years beginning on September 8, 1969, was approved on September 12, 1969.

4. The representation herein of the Iowa Tribe of Oklahoma was under contract No. I-1-ind. 42016 that the tribe entered into with the law firm of McCarter, English & Studer (now McCarter and English) on February 14, 1947. This contract was approved on May 10, 1948, and had a specified term of 10 years beginning with its approval date. An extension of the contract for a period of 5 years beginning on May 10, 1958, was approved on March 17, 1958. Another extension for a period of 10 years beginning on May 10, 1963, was approved on May 23, 1963.

5. All of the aforementioned contracts provide for compensation of the attorneys in the amount of 10% of any and all sums recovered by them for the Indians.

6. The defendant's response to the joint application transmitted a copy of a letter dated September 30, 1970, from the Associate Solicitor, Indian Affairs, Department of the Interior, and a copy of an accompanying memorandum dated September 18, 1970, from the Commissioner of Indian Affairs and indicated that the Department of Justice "takes no position with respect to the amount of fee which should be awarded." The letter from the Associate Solicitor was in response to a request from the Department of Justice for comments on the attorneys' joint application. It reads in part as follows:

"There are enclosed two copies of a memorandum dated September 18, 1970, from the Commissioner of Indian Affairs which advises that he has no objection to the

requested fees because they are in accordance with the applicable approved tribal claims attorney contracts, which provide that the attorneys shall receive 10 percent of any amount recovered for the tribes. We concur in the views expressed by the Commissioner."

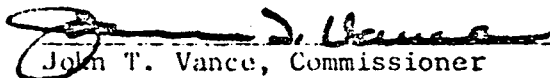
7. Notices of the filing of the joint application for allowance of attorneys' fees were sent on August 31, 1970, to the Chairman of the Executive Committee of the Iowa Tribe of Kansas and Nebraska and the Chairman of the Business Council of the Iowa Tribe of Oklahoma. No response to either notice was received.

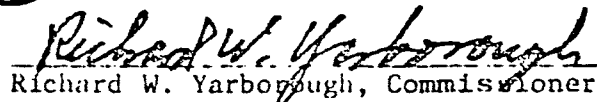
8. The attorneys have rendered valuable legal services to the Iowa Tribe of Kansas and Nebraska and the Iowa Tribe of Oklahoma in the successful prosecution of the Iowa claims asserted herein, and they are entitled under the terms of the aforementioned contracts to fees in the requested sum of \$179,550.64.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the aforementioned Iowa awards there shall be disbursed to the law firm of Dykema, Wheat, Spencer, Goodnow & Trigg of Detroit, Michigan, and the law firm of McCarter & English of Newark, New Jersey, the sum of \$179,550.64 as payment in full of the attorneys' fees owed for services rendered herein by the attorneys for the Iowa plaintiffs. Of this sum the amount of \$134,043.50 shall be charged against the Iowa award in Docket No. 158, the amount of \$16,855.50 shall be charged against the Iowa award in Docket No. 209, and the amount of \$28,651.64 shall be charged against the Iowa award in Docket No. 231.

Dated at Washington, D. C., this 10th day of November 1970.

Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner

Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner