

## BEFORE THE INDIAN CLAIMS COMMISSION

THE SAC AND FOX TRIBE OF INDIANS	)	
OF OKLAHOMA, THE SAC AND FOX	)	
TRIBE OF MISSOURI, SAC AND FOX	)	
TRIBE OF THE MISSISSIPPI IN IOWA,	)	
ET AL.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Docket No. 143
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

ORDER ALLOWING REIMBURSEMENT OF EXPENSES OF THE ATTORNEYS  
FOR THE SAC AND FOX TRIBE OF INDIANS OF OKLAHOMA

HAVING CONSIDERED the application for allowance of unreimbursed attorneys' expenses filed in this docket on September 12, 1967, for the law firm of Schiff Hardin Waite Dorschel & Britton, attorneys for the Sac and Fox Tribe of Indians of Oklahoma, by George B. Pletsch, Esquire, a partner in the firm and attorney of record for the said tribe; the amendment and supplement to the application filed for the said firm by Mr. Pletsch on February 23, 1968; the documentation of the claimed expenses; the defendant's responses to the original application, and the amendment and supplement to the application, filed on December 14, 1967, and April 18, 1968, respectively; the contracts under which the attorneys prosecuted the claims of the Sac and Fox Tribe of Indians of Oklahoma; and the remainder of the record herein, the Commission finds as follows:

1. On May 19, 1965, a final order was entered in this docket awarding to the Sac and Fox plaintiffs the sum of \$1,789,201.45 (15 Ind. Cl. Comm. 381, et seq.). Funds to satisfy the award were appropriated by the Act of October 31, 1965 (79 Stat. 1133, 1152).

2. The attorneys' original application sought reimbursement of claimed expenses totaling \$2,240.49. The amendment of February 23, 1968 withdrew certain amounts, reduced amounts charged for certain items, reduced certain other amounts claimed in this docket to 1/7th of the amounts claimed for them in the original application on account of the allocation of 6/7ths of such amounts in the original application among 6 other dockets, and added a pro-rata 1/8th portion of certain expenses originally listed and documented in the attorneys' application in Docket No. 138. As so modified by the amendment, the attorneys'

application in this docket prays for an order allowing reimbursement of expenses totaling \$3,265.53.

3. The defendant's response to the original application transmitted a copy of a letter dated November 24, 1967, from the Acting Associate Solicitor for Indian Affairs, Department of the Interior, enclosing a copy of a memorandum dated November 20, 1967, from the Deputy Assistant Commissioner, Bureau of Indian Affairs, and moved that the Commission require strict proof of each of the items referred to in the memorandum. The memorandum indicated that the expense items claimed in Docket No. 143 were generally within the categories of expenses proper for reimbursement. It also made general comments on, inter alia, deficiencies in the documentation or explanation of some of the claimed expense amounts.

4. The items or amounts not proper for reimbursement, except those deducted below, were eliminated from the application by the amendment of February 23, 1968. The detailed documentation of certain substantial amounts representing pro-rata portions of expenditures shared with other Sac and Fox attorneys was not submitted by the attorneys for the Sac and Fox Tribe of Indians of Oklahoma, but such documentation was available to the Commission in the vouchers accompanying the expense application filed in this docket by the attorneys for the Sac and Fox Tribe of the Mississippi in Iowa who handled these expenditures for all of the attorneys involved.

5. The defendant's response to the amendment and supplement to the application forwarded a copy of a letter dated April 10, 1968, from the Assistant Solicitor, Appeals and Litigation, Department of the Interior, enclosing a copy of a memorandum dated April 1, 1968, from the Deputy Commissioner, Bureau of Indian Affairs, and expressed agreement with the 2d paragraph quoted below from the Deputy Commissioner's memorandum and moved that the Commission require adequate proof of the reasonableness of claimed costs of duplication (mimeographing).

The Assistant Solicitor's letter indicated that its purpose was to transmit the Deputy Commissioner's memorandum as a supplement to the earlier memorandum of November 20, 1967, mentioned above.

The Deputy Commissioner's memorandum reads in part as follows:

"Expenses totaling \$2,240.49 were claimed for reimbursement in the original expense petition, or \$1,025.09 less than is claimed in the amended petition. The amended petition shows reductions in amounts claimed in Schedules A, B, and C of the original petition due to eliminating items for lunches and taxi fares for stenographers who worked overtime, reducing the cost of xeroxing so that it does not exceed ten cents per

page, and proportioning joint charges incurred in prosecution of several Sac and Fox cases, including Docket No. 143. However, a net increase results from proportioning joint charges claimed by the law firm in Docket No. 138 with the shares chargeable to Docket No. 143 being shown on Schedule D of the amended petition.

"The Indian Claims Commission has not yet allowed the expenses claimed by the law firm in Docket No. 138. The amount of joint charges claimed in Docket No. 138 should therefore be reduced according to the shares now charged to Docket No. 143 plus the other shares chargeable to cases other than Docket No. 138.

"We support the principle that each claims case resulting in an award should bear its own litigation costs. This is in accordance with our understanding of the provision in Section 15 of the Indian Claims Commission Act. It authorizes the Commission to allow reasonable, actual expenses incurred by attorneys in prosecution of the claim.

"We noticed that the law firm in its amended petition requests allowance for duplicating by mimeograph at the rate of \$1.00 for each copy of a page. We believe this rate to be excessive except where only a few copies were made or where each copy had attached to it a formal certification that it is a true copy. . . ."

6. The attorneys' application in Docket No. 138 was reduced for, inter alia, all expense amounts allocated out of that docket among other dockets precisely as the 2d quoted paragraph above from the Deputy Commissioner's memorandum said it should be.

7. Our examination of the documentation of the expenses claimed in the amended application for duplicating by mimeograph revealed that these costs are charged at a rate of \$1.00 per page of stencil or master--not \$1.00 for each copy of a page reproduced from the stencil or master page. Regardless of the number of pages made from a single stencil the charge is limited to \$1.00. The same \$1.00 per-stencil rate is charged in the attorneys' applications in Docket Nos. 138 and 220. The documentation of these charges indicates that 60 or more copies were usually made from each stencil and that much of the mimeographed material was used in making reports to the tribe.

8. A notice of the filing in this docket of the original application and the amendment and supplement to the application was sent to the Chairman of the Sac and Fox Tribe of Indians of Oklahoma on October 10, 1969. No response to the notice has been received.

9. The attorneys' contracts with the Sac and Fox Tribe of Indians of Oklahoma provide for reimbursement of the attorneys' reasonable expenses out of funds recovered for the tribe.

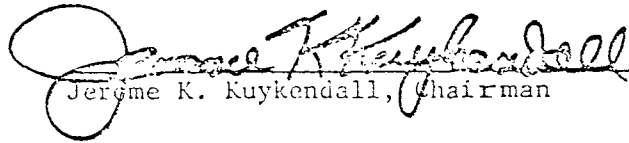
10. The following amounts in the amended application are not allowed for reimbursement:

<u>Amount</u>	<u>Description</u>
\$ 3.19	Item B-10, said to be cost of telegrams, no voucher supplied.
1.43	Item B-24, said to be telephone tolls, no voucher supplied.
33.58	Excess amount claimed in Schedule D. Inter alia, Schedule D purports to show the 1/8th amounts of certain charges originally claimed in Docket No. 138 that were reallocated to Docket No. 143. The attorneys' amended application in Docket No. 138 indicates that such amounts transferred to Docket No. 143 totaled \$1,243.70. The sum claimed in Schedule D exceeds such total by \$33.58. This mathematical error resulted primarily from a failure to reflect in the schedule a 1/8th portion of reimbursements totaling \$269.80 received from other Sac and Fox attorneys.
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\$38.20	Total

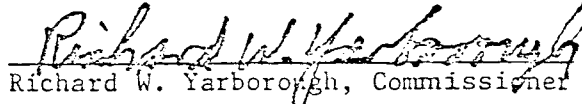
11. After an increase adjustment to correct the effect of an error of \$10.00 in the 6/7ths amount shown by the amendment to Schedule A as being allocated among 6 other dockets, and deducting the above-listed amounts totaling \$38.20, the expenses remaining in the amended application total \$3,237.33. All of the expense amounts included in this total are reasonable and proper for reimbursement to the attorneys.

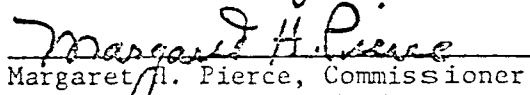
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered in this docket on May 19, 1965, there shall be disbursed to the law firm of Schiff Hardin Waite Dorschel & Britton of Chicago, Illinois, the sum of \$3,237.33 as payment in full of the said firm's claim in this docket for unreimbursed expenses.-

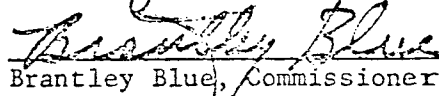
Dated at Washington, D. C., this 7<sup>th</sup> day of April 1971.

  
Jerome K. Kuykendall, Chairman

John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner