

BEFORE THE INDIAN CLAIMS COMMISSION

THE SAC AND FOX TRIBE OF INDIANS)	
OF OKLAHOMA, ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 220
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING REIMBURSEMENT OF ATTORNEYS' EXPENSES

HAVING CONSIDERED the application for allowance of unreimbursed attorneys' expenses filed 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 that accompanied the original application; the additional documentation and itemization of certain expense amounts supplied in the fall of 1970 for the said law firm by Mr. Louis L. Rochmes, the firm's Washington, D. C. representative; the defendant's responses to the original application and the amendment and supplement to the application filed on December 20, 1967, and March 27, 1970, 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 February 14, 1967, a final judgment was entered in this docket in favor of the Sac and Fox Tribe of Indians of Oklahoma in the sum of \$692,564.14 (17 Ind. Cl. Comm. 544, et seq.). Funds to satisfy the judgment were appropriated by the Act of June 19, 1968 (82 Stat. 239).

2. The attorneys' original application sought reimbursement of claimed expenses totaling \$18,779.35. The amendment of February 23, 1968, effected certain withdrawals and reductions, and added a pro-rata 1/8th portion of certain expenses originally listed and documented in the attorneys' application in Docket No. 138, and a pro-rata 1/7th portion of certain expenses originally listed and documented in the attorneys' application in Docket No. 143. The attorneys' expense applications in Docket Nos. 138 and 143 were reduced on account of the transferred amounts. As so modified by the amendment, the attorneys' application in this docket prays for an order allowing reimbursement of expenses totaling \$20,003.78.

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 220, for the most part, were generally within those categories of expenses proper for reimbursement. It also mentioned, inter alia, deficiencies in the documentation or explanation of some of the claimed items.

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 significant deficiencies in the documentation or explanation of other items were made up by additional documentation and information supplied several months after the filing of the amendment.

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 stated that "The Department of Justice takes no position in this matter."

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 observed, inter alia, that the amended petition shows reductions in amounts claimed in the original petition due to reducing the costs of xeroxing so that it does not exceed ten cents per page and "reducing the costs of mimeographing so that it does not exceed \$1.00 for each copy of a page" and indicated that the Bureau considered a rate of \$1.00 for each mimeographed copy of a page as excessive.

With respect to the net increase in the application resulting from proportionate allocations of joint charges, the Deputy Commissioner's memorandum commented: "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."

6. In regard to mimeographing expenses the amendment to the application states, among other things, that "mimeographing charges where they exceeded \$1.00 per page have been reduced to that amount." Our examination of the mimeographing charges revealed that the \$1.00 per-page charge applies to each stencil page, not to each page of mimeographed copy run off from each stencil as suggested by the language in the amendment. Regardless of the number of pages of copy, a uniform rate of \$1.00 per stencil was intended to apply. The documentation of the charges indicates that 60 or more copies were usually made from each stencil, and that much of the mimeographed material in the case was used in making reports to the tribe.

7. A notice of the filing 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 14, 1969. No response to the notice was received.

8. 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.

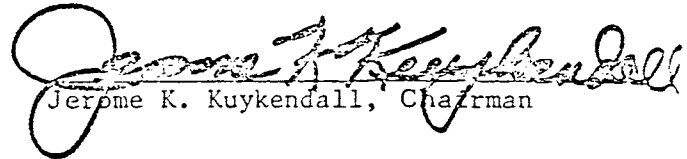
9. The following expense amounts in the amended application are not proper for reimbursement:

<u>Amount</u>	<u>Description and Exhibit Numbers</u>
\$23.55	Flight insurance (\$5.00 on A-7, \$9.75 on A-8, and \$8.80 on A-9).
10.00	Excess mimeograph charge not eliminated by the amendment of February 23, 1968 (on B-106).
1.00	Certificate of admission to the Supreme Court, State of Illinois, for Guenther M. Philipp (on B-132).
5.00	Fee for admission of Guenther M. Philipp to practice before the United States Court of Claims (on B-134).
33.58	Excess amount claimed in Schedule C. Inter alia, Schedule C purports to show the 1/8th amounts of certain charges originally claimed in Docket No. 138 that were reallocated to Docket No. 220. The attorneys' amended application in Docket No. 138 indicates that such amounts transferred to Docket No. 220 totaled \$1,243.70. The sum claimed in Schedule C 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.
<u>\$73.13</u>	Total

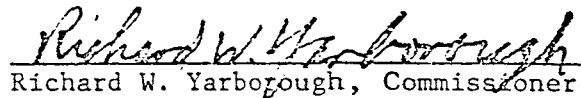
10. After deducting the above-listed amounts, the expenses remaining in the amended application total \$19,930.65. All of the expenses included in this total are reasonable and proper for reimbursement.

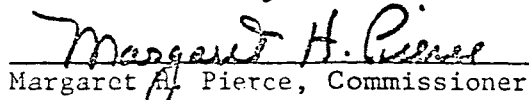
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final judgment entered in this docket on February 14, 1967, in favor of the Sac and Fox Tribe of Indians of Oklahoma there shall be disbursed to the law firm of Schiff Hardin Waite Dorschel & Britton of Chicago, Illinois the sum of \$19,930.65 as payment in full of the said firm's claim herein for unreimbursed expenses.

Dated at Washington, D. C., this 7th day of April 1971.


Jerome K. Kuykendall, Chairman

John T. Vance, Commissioner


Richard W. Yarbozough, Commissioner


Margaret A. Pierce, Commissioner


Brantley Blue, Commissioner