

BEFORE THE INDIAN CLAIMS COMMISSION

THE HOPI TRIBE, an Indian Reorganization Act Corporation, suing on its own behalf and as a representative of the Hopi Indians and the Villages of FIRST MESA (consolidated Villates of Walpi, Shitchumovi and Tewa), MISHONGNOVI, SIPAULAVI, SHUNGOPAVI, ORAIBI, KYAKOTSMOVI, BAKABI, HOTEVILLA and MOENKOPI,)	
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)	
Plaintiff,)	Docket No. 196
)	
THE NAVAJO TRIBE OF INDIANS,)	
)	
)	
Plaintiff,)	Docket No. 229
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER DENYING HOPI MOTION TO AMEND FINDINGS

On August 28, 1970, the Hopi plaintiff in Docket No. 196 filed a motion herein captioned, "Motion For Further Hearing On Dates of Taking, For Rehearing And For Amendment of Findings". Oppositions to the Hopi motion were filed by the Navajo plaintiff in Docket No. 229 on October 12, 1970, and by the defendant on January 15, 1971. On April 28, 1971, the Commission granted the Hopi motion for rehearing for the purpose of permitting the parties to present all evidence "relating to the date(s) of taking of the aboriginal lands of the Hopi Tribe". On May 22, 1972, the matters as set forth above came on for hearing before the Commission. The Commission, now being fully advised in the premises,

IT IS ORDERED that the Hopi plaintiff's motion, as set forth above, to amend the Commission's findings of fact with respect to the nature and extent of the Hopi aboriginal title lands and the "date(s) of taking" thereof, be, and the same is hereby, denied.

Dated at Washington, D. C., this 9th day of July 1973.

Jerome K. Kuykendall
Jerome K. Kuykendall, Chairman

Margaret H. Pierce
Margaret H. Pierce, Commissioner

John T. Vance
John T. Vance, Commissioner

Brantley Blue
Brantley Blue, Commissioner

Richard W. Yarborough
Richard W. Yarborough, Commissioner

BEFORE THE INDIAN CLAIMS COMMISSION

THE CREEK NATION,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 273
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEY'S FEE

HAVING CONSIDERED the application for allowance of attorney fee for services in behalf of the plaintiff herein that was filed on May 1, 1973, by Paul M. Niebell, Esquire, and the accompanying statement in support of the application; the defendant's response to the application filed on May 4, 1973; the contract under which Paul M. Niebell served the plaintiff; and the entire record and all proceedings in this case, the Commission finds as follows:

1. Award. On March 14, 1973, in consonance with an approved compromise settlement agreement between the parties, the Commission entered a final award in this docket in the sum of \$400,000.00 in favor of the Creek Nation (29 Ind. Cl. Comm. 519-529). Funds to satisfy the award were appropriated by the Second Supplemental Appropriation Act, H. R. 7447, 93rd Cong., 1st Sess., H. Doc. No. 93-89, p. 10.

2. Attorney Contracts. The representation of the plaintiffs in this case was under two approved contracts. The first contract, assigned No. I-1-ind. 18361, was entered into by the Creek Nation of Indians on August 28, 1946, with Paul M. Niebell, Esquire. It was approved by the Department of Interior on November 12, 1947, for a period of ten years beginning with the date of approval.

On October 30, 1957, the Creek Nation entered into a second contract with Paul M. Niebell. This contract, assigned No. 14-20-650-529, was approved on January 6, 1958, for a period of ten years, beginning on November 12, 1957. An extension of this contract for a 5-year period, beginning on November 12, 1967, was approved on August 2, 1967. A further extension of this contract for a period of five years that commenced on November 12, 1972, was approved on July 10, 1972.

3. Compensation Under the Contracts and Requested Fee. The contracts cited above provide that compensation to the attorney for services

rendered by him is wholly contingent upon recovery for the plaintiff and shall be in an amount not to exceed 10 percent of the plaintiff's recovery. The application of counsel for plaintiff herein requests compensation in the amount of \$40,000.00, which is 10 percent of the award of \$400,000.00. Counsel has indicated that no petition for reimbursement of attorney expenses will be filed or otherwise claimed with this Commission, as such expenses have been substantially reimbursed to him from Creek Nation tribal funds.

4. Response of the Defendant. The defendant's response to this application attached a copy of a letter dated June 11, 1973, from the Office of the Solicitor, Department of the Interior, and a copy of an accompanying memorandum dated June 8, 1973, from the Commissioner of Indian Affairs. The Acting Associate Solicitor stated that the Department did not have sufficient detailed information on which to make a recommendation as to the amount of the compensation earned by the attorney, but made no specific objection to the allowance of the requested attorney fee.

5. Response from the Tribe. On May 4, 1973, the Commission received a letter from the Principal Chief of the Creek Nation, Claude A. Cox, in which he stated that he had no objection to the allowance of \$40,000.00 for the legal services rendered the Creek Nation in Docket 273 by Paul M. Niebell.

6. Attorney's Services. Pursuant to the aforementioned contract, the attorney of record, on behalf of the plaintiffs herein, filed and prosecuted the claim in this docket on which those plaintiffs received an award of \$400,000.00. The attorney rendered valuable services for his Creek Nation clients, and he is entitled under the terms of his contract with the Creek Nation to an award of an attorney's fee for services rendered in this case in the requested amount of \$40,000.00.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on March 14, 1973, in favor of the Creek Nation, there shall be disbursed to Paul M. Niebell, the attorney of record, as payment in full of all claims for legal services rendered in the prosecution of this case, the sum of \$40,000.00.

Dated at Washington, D. C., this 11th day of July 1973.

Margaret H. Pierce
Margaret H. Pierce, Commissioner

Brantley Blue
Brantley Blue, Commissioner

Jerome K. Kuykendall
Jerome K. Kuykendall, Chairman

John T. Vance
John T. Vance, Commissioner

Richard W. Yarborough
Richard W. Yarborough, Commissioner