

BEFORE THE INDIAN CLAIMS COMMISSION

SAC AND FOX TRIBE OF THE MISSISSIPPI IN )  
 IOWA, THE SAC AND FOX TRIBE OF INDIANS )  
 OF OKLAHOMA, AND KENNETH YOUNGBEAR, )  
 CHARLES DAVENPORT, HARRY LINCOLN, )  
 ALBERT DAVENPORT, EDWARD DAVENPORT, )  
 PERCY BEAR, COLUMBUS KEAHNA, EDWARD )  
 MACK, PAULINE LEWIS, WILLIAM NEWASHE, )  
 AND AMOS BLACK, appearing as the )  
 representatives of and on the relation )  
 of the SAC AND FOX OF THE MISSISSIPPI, )  
 and as representatives of and on behalf )  
 of all the members thereof, and appearing )  
 as the representatives of and on the )  
 relation of the CONFEDERATED OR UNITED )  
 TRIBES OF SAC AND FOX INDIANS, and as )  
 representatives and on behalf of all )  
 of the members thereof, )

Plaintiffs, )

v. )

THE UNITED STATES OF AMERICA, )

Defendant. )

Decided: August 9, 1974 )

Docket No. 219

FINDINGS OF FACT ON AMENDED PETITION FOR  
ADDITIONAL ATTORNEYS' EXPENSES

Upon consideration of: the petition for the allowance of additional reimbursable expenses, filed April 25, 1974, for the law firm of Mills and Garrett, of Chicago, Illinois, by Lawrence C. Mills, Esq., attorney of record for the Sac and Fox Tribe of the Mississippi in Iowa, and of the previous Order of the Commission relative to the reimbursable expenses incurred by said firm in the prosecution of the matters in this docket, the petition for allowance of reimbursable expenses, filed May 7, 1974, on behalf of the law firm of Schiff,

Hardin and Waite, of Chicago, Illinois, by George P. Pletsch, attorney of record for the Sac and Fox Tribe of Indians of Oklahoma, the defendant's response to the petition, filed June 21, 1974, and the record in its entirety, the Commission makes the following findings of fact:

1. Docket 219 represents a joint claim of the Sac and Fox Tribe of the Mississippi in Iowa, represented by the law firm of Mills and Garrett, of Chicago, Illinois, and the Sac and Fox Tribe of Indians of Oklahoma, represented by the law firm of Schiff, Hardin and Waite, of Chicago, Illinois. As a result of the efforts of both groups of attorneys, a final order was entered on September 29, 1967, in favor of the Sac and Fox plaintiffs for the sum of \$899,408.54 (18 Ind. Cl. Comm. 558). Funds to satisfy the award were appropriated on October 21, 1968 (82 Stat. 1190).
2. The contracts of each group of attorneys in force at the time of the award provided for reimbursement for expenses incurred in the prosecution of the tribal claim.
3. On October 6, 1971, upon consideration of the petition of Lawrence C. Mills, Esq., the attorneys' employment agreement and the record of this case at the time, the Commission entered its order allowing reimbursement of attorneys' expenses in the amount of \$3,338.09, to the law firm of Mills and Garrett (26 Ind. Cl. Comm. 315).
4. On May 7, 1974, Lawrence C. Mills, Esq., on behalf of the law firm of Mills and Garrett filed a petition for reimbursement of

certain items of expense not included in the original petition, asserting that through an oversight the law firm of Mills and Garrett had not been billed by the attorneys for the Sac and Fox Tribe of Indians of Oklahoma for one-half of the expense incurred for the joint benefit of both plaintiffs involved in this case.

5. Appropriate notices of the filing of the petition for supplementary reimbursement were sent to the Tribal Chairman of the Sac and Fox Tribe of the Mississippi in Iowa, to the Justice Department and to the Department of the Interior. The Sac and Fox Tribal Chairman did not respond to the notice. The Justice Department responded on June 21, 1974, incorporating the reply of the Office of the Solicitor, Department of Interior and enclosing a memorandum from the Bureau of Indian Affairs which, in pertinent part, read:

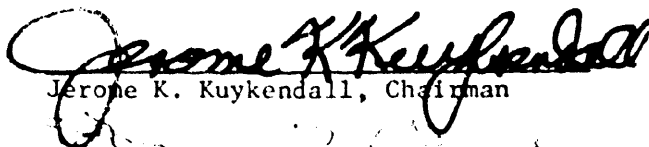
"The expenses now claimed by the law firm of Mills and Garrett are one-half of expenses totaling \$11,680.70 as set out in the letter which the law firm of Schiff, Hardin and Waite, claims counsel for the Sac and Fox Tribe of Indians of Oklahoma, addressed to the law firm of Mills and Garrett on November 21, 1973. Except for that letter, the \$5,840.35 now claimed by the law firm of Mills and Garrett is not supported by documents in accord with 25 CFR 503.34b(a). Part of the amount claimed is for services of experts. We do not have copies of the contracts of employment under which the experts rendered services. Therefore, we do not know whether the amount claimed for expert assistance is proper and reasonable."

Neither the Justice Department or the Interior Department adopted a position or provided additional comments or information with respect to the additional expenses being claimed.

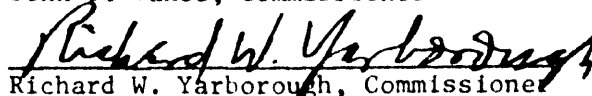
6. On May 7, 1974, the law firm of Schiff, Hardin and Waite, of Chicago, Illinois, by George B. Pletsch, Esq., attorney of record for the Sac and Fox Tribe of Indians of Oklahoma, filed its petition for reimbursement of allowable expenses incurred in the prosecution of its client's claim. The petition, inter alia, contains documentation of the full payment of several items for which it is claiming reimbursement of one-half of the cited expense. These items of expense are identifiable as those for which the law firm of Mills and Garrett is presently claiming reimbursement of the remaining cost. The Commission, in its consideration of the petition of the firm of Schiff, Hardin and Waite, has determined that the documentation in support thereof establishes that the expense claimed for copying of deeds, microfilming, employment of experts and the printing of findings, briefs and a reply brief were incurred on behalf of both plaintiff groups. As a result, the law firm of Mills and Garrett became obligated for one-half of the cost.

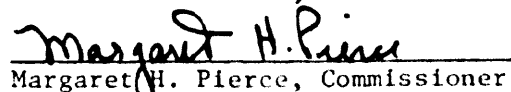
7. Predicated upon the foregoing findings of fact, which establishes the plaintiffs, Mills and Garrett, have an obligation for the payment of the expense cited in their petition, that such expenses were incurred in the prosecution of this case and that they have not received payment, and the record in its entirety, the Commission concludes that the law firm of Mills and Garrett is entitled to receive

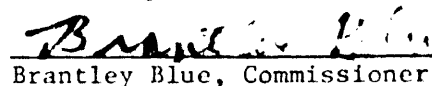
out of the funds appropriated to pay the award aforementioned, the additional sum of \$5,840.35, as reimbursement for expenses.

  
Jerome K. Kuykendall, Chairman

John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner