

BEFORE THE INDIAN CLAIMS COMMISSION

THE NAVAJO TRIBE,)	
)	
Plaintiff,)	
)	
v.)	Docket Nos. 69, 299 and 353
)	(Accounting Claims)
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER DENYING DEFENDANT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT

In this accounting action, the Commission on July 25, 1973, ordered defendant to provide a fuller accounting, including dates, amounts, purposes and sources of the revenues and disbursements of tribal organization funds and revenues "unexplained and unaccounted for" by defendant's accounting report of March 9, 1961. 31 Ind. Cl. Comm. 40. Thereafter, in response to defendant's motion for rehearing, the Commission modified its previous order, in that defendant was not required to account for tribal organization funds if management thereof had been transferred to plaintiff, and ordered that defendant submit a supplemental accounting showing the dates on which control over specific tribal organization funds or enterprises were transferred to plaintiff, and the authority for the transfer. 34 Ind. Cl. Comm. 432 (1974).

On January 24, 1975, defendant moved that the Commission grant "partial summary judgment that the United States may not be required to account for or be held liable for any transactions" pertaining to 35 tribal organization funds listed on pages 879-971 of the General Accounting Office Report of 1961. Defendant submitted with the motion a report prepared by the General Services Administration showing that no activity in the 35 funds occurred until after August 13, 1946, the jurisdictional cutoff date of the Commission. 25 U.S.C. §70a.

Plaintiff's response alleged that wrongdoing in management may have been present before August 13, 1946, which continued thereafter and affected the funds in question. Defendant filed a reply to plaintiff's response.

The Commission has previously discussed the obligation to provide a post-1946 accounting in Blackfeet and Gros Ventre Tribes v. United States 32 Ind. Cl. Comm. 65, 71-76 (1973). We concluded there that our jurisdiction to order a post-1946 accounting depends upon finding a course of wrongful action which was still going on at the cutoff date.

At this point in the proceedings, therefore, the obligation of defendant is limited to the submission of accounting data for the period to August 13, 1946. Until a course of wrongful action is established which was still going on at the cutoff date, consideration of any post-1946 accounting matters, including the accounts which are the subject of defendant's motion, is premature. Wherefore,


UPON CONSIDERATION of defendant's motion, plaintiff's response and defendant's reply, and the entire record, it is hereby

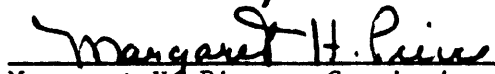
ORDERED that defendant's motion for partial summary judgment be, and hereby is, denied without prejudice.

Dated at Washington, D. C., this 11th day of June, 1975


Jerome K. Kuykendall, Chairman


John F. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner