

BEFORE THE INDIAN CLAIMS COMMISSION

THE SALT RIVER PIMA-MARICOPA)	
INDIAN COMMUNITY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 291
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: August 13, 1975

Appearances:

Z. Simpson Cox, Attorney for the
Plaintiffs.

Alexander J. Pires, Jr., with whom
was Assistant Attorney General Wallace
H. Johnson, Attorneys for Defendant.

OPINION OF THE COMMISSION

Yarborough, Commissioner, delivered the opinion of the Commission.

In this action for an accounting, defendant filed its motion to dismiss plaintiffs' exceptions No. 8 and 9 to the 1971 General Services Administration report on March 3, 1975^{1/}. Plaintiffs' exceptions were filed on May 12, 1972. On February 21, 1975, in accordance with an order issued by the Commission on November 22, 1974, 35 Ind. Cl. Comm. 225, the plaintiffs filed a statement making more definite their exceptions No. 8 and 9. Exceptions No. 8 and 9 are concerned with obtaining information about plaintiff's funds necessary to determine the accuracy of defendant's computations of interest on plaintiff's tribal funds.

^{1/} Plaintiffs have not responded to defendant's motion.

For purposes of convenience in dealing with the instant motion, we shall follow the numerical style used by the plaintiffs in their more definite statement.

1. (a) Plaintiffs request information identifying the specific principal fund. This information is found in the GSA report on pages 4 and 5. Therefore, this request will be denied.

(b) Plaintiffs request information regarding the names and locations of depositories in which their funds were kept. This information is not relevant to a calculation of interest. Therefore, this request will be denied (but compare with our ruling on points 2 and 3, infra).

(c) Plaintiffs request information regarding the dates, amounts and sources of each deposit to their fund. Information as to the source of these deposits is provided generally in the GSA report on page 19. Information as to dates and amounts of these deposits is found in the GSA report on pages 93 through 96. Although it cannot be ascertained from the GSA report that the dates of the deposits are within 30 days of the dates of collection, in accordance with the rule as stated in Menominee Tribe v. United States, 107 Ct. Cl. 23 (1946), this issue is raised by plaintiffs' exception No. 6, which has been dealt with in our order of November 22, 1974, 35 Ind. Cl. Comm. 225. Therefore, this request will be denied.

(d) Plaintiffs request information regarding the date, amount, and purpose of each disbursement or withdrawal from their funds. This information is found in the GSA report on pages 49 through 54. With regard

to dates more specific than annual dates, defendant will make the payment vouchers available to plaintiffs for inspection and copying. The Commission will not require that the month and date of each disbursement or withdrawal be set out in the accounting reports. See Blackfeet and Gros Ventre Tribes v. United States, 32 Ind. Cl. Comm. 65, 90 (1973). Therefore, this request will be denied.

(e) Plaintiffs request information regarding the period of time over which interest on their funds was computed. This information is shown on page 81 of the GSA report. Prior to 1930, no interest was paid, and since 1930, it has been paid annually. Therefore, this request will be denied.

(f) Plaintiffs request that they be told the rate at which the interest was computed. This information is found on page 5 of the GSA report. Therefore, this request will be denied.

2 and 3. Plaintiffs inquire of defendant whether it had funds of plaintiffs on which it credited interest other than those funds reported in the GSA Report, or unreported funds of plaintiffs on which it failed to credit interest.

On February 21, 1975, plaintiffs propounded interrogatories to defendant covering in significant part those questions raised in its more definite statement, i.e., were there funds on which interest was credited other than those shown in the report, or were there funds not covered by the report on which no interest was credited? In the case of affirmative answers by defendant, plaintiffs asked for full details.

On March 6, 1975, defendant's attorney filed answers to plaintiffs' foregoing interrogatories as follows: "To the best of my knowledge the answer is no."

It would appear that what plaintiffs may be attempting to determine by their more definite statement and interrogatories is whether there were any Indian funds which do not appear in the GSA Report, but which properly belong to the tribe. More specifically, plaintiffs are presumably concerned with Individual Indian Monies (IIM) accounts. Originally IIM accounts were set up in the field for funds of individual Indians. IIM accounts therefore have not been included in GSA Reports. However, it has come to the Commission's attention that on occasion IIM accounts have been used for tribal monies, without appearing in accounting reports.^{2/}

Plaintiffs are entitled to know whether defendant maintained IIM accounts, or other accounts, which included tribal monies. We are of the opinion that defendant's answers to plaintiffs' interrogatories are not determinative of this question.

Therefore these requests of plaintiffs will be granted. We shall require defendant to request GSA to examine its records to determine whether defendant maintained any IIM or other funds not previously reported which were tribal in nature.^{3/} If so, defendant shall furnish an accounting of such funds.

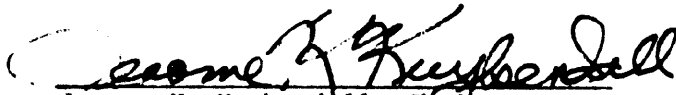
^{2/} Cf., Order of November 21, 1974, Granting Plaintiff's Motion to File an Additional Exception, Sioux Tribe v. United States, Docket 119..

^{3/} See Blackfeet and Gros Ventre Tribes v. United States, 32 Ind. Cl. Comm. 65, 93 (1973). Defendant's response should include GSA's report of its examination.

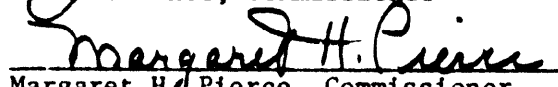
This ruling is made in consideration of the particular circumstances of the requests now before us and the timing of the various motions and answers made. We do not think it an appropriate stage of the case to insist on every procedural nicety, but base our ruling on the fact that this plaintiff should be entitled to the accounting information that we have ruled other tribal plaintiffs should have. Therefore, defendant's motion to dismiss exceptions 8 and 9 is denied. Defendant shall have 60 days from the date of this opinion to provide the information required.


Richard W. Yarborough, Commissioner

We concur:


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner