

BEFORE THE INDIAN CLAIMS COMMISSION

THE KICKAPOO TRIBE OF KANSAS)	
AND THE KICKAPOO TRIBE OF)	
OKLAHOMA,)	
)	
Plaintiffs,)	
)	
v.)	Docket NO. 317
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: May 21, 1976

FINDINGS OF FACT AND ORDER ALLOWING REIMBURSEMENT OF ATTORNEYS' EXPENSES

HAVING CONSIDERED the application for reimbursement of expenses filed June 18, 1974, by Allan Hull, Esquire, attorney of record herein for the plaintiffs, the supporting record of expenditures, vouchers and other documentation, including the supplemental data submitted October 23, 1975; the defendant's response to said application, filed October 11, 1974; the employment contract; and the record in its entirety, the Commission finds that:

1. Award. Docket 317 was completed on February 11, 1970, with the entry of final judgment in favor of the plaintiffs herein in the amount of \$340,250.00 (22 Ind. Cl. Comm. 443). Funds to satisfy the judgment were appropriated by the Act of July 6, 1970 (84 Stat. 376). Subsequently on February 10, 1971, the Commission issued an order for attorneys' fees in the amount of \$34,025.00, the same being ten per centum (10%) of the final award (24 Ind. Cl. Comm. 402).

2. Application. A petition for reimbursement of allowable attorneys' expenses was filed on June 18, 1974, by Allan Hull, attorney of record. The petition requests reimbursement of \$4,839.89 (subsequently amended to \$4,925.04), as the sum expended on behalf of the plaintiffs in this docket for the prosecution of their claim before the Commission.

3. Attorney Contracts. The Kickapoo Tribe of Kansas was first represented herein by the law firm of Pam, Hurd and Reichmann (now Schiff, Hardin, Waite, Dorschel & Britton) under a contract (I-1-ind. 42141) approved March 10, 1949, which had a life term of 10 years from its approval date. By stipulation and agreement, dated April 8, 1950, to which the Kickapoo Tribe of Kansas, the law firm of Harrison, Thomas, Spangenberg & Hull, and the law firm of Pam, Hurd & Reichmann were parties, all rights and obligations of the latter firm under contract No. I-1-ind. 42141 were assigned to and assumed by Harrison, Thomas, Spangenberg & Hull. The said assignment was approved on June 14, 1950. An extension of contract No. I-1-ind. 42141 for a period of 5 years beginning on March 10, 1959, was approved on March 19, 1959. An association of Attorney Louis L. Rochmes in the prosecution of the claim under contract No. I-1-ind. 42141 was approved May 7, 1963.

On December 20, 1964, the Kickapoo Tribe of Kansas and the firm of Harrison, Thomas, Spangenberg & Hull entered into a new contract numbered 14-20-0200-1900. This contract was approved on April 9, 1965, and had a

life term of 5 years commencing March 10, 1964. An extension of this contract for an additional period of 10 years from March 15, 1969, was approved June 24, 1969.

The initial contract of the Kickapoo Tribe of Oklahoma No. I-1-ind. 42128, entered into on August 14, 1948, with the law firm of Dempsey, Mills and Casey, was approved on December 24, 1948, and had a life term of 10 years beginning with its approval date. By a stipulation and agreement, dated April 20, 1951, to which the Kickapoo Tribe of Oklahoma, the law firm of Harrison, Thomas, Spangenberg & Hull, and the law firm of Dempsey, Mills and Casey were parties, all rights and obligations of the latter firm under contract No. I-1-ind. 42128 were assigned to and assumed by Harrison, Thomas, Spangenberg & Hull. The said assignment was approved on August 14, 1951. An extension of contract No. I-1-ind. 42128 for a period of 5 years beginning on December 24, 1958, was approved June 5, 1959. An association of Attorney Louis L. Rochmes in the prosecution of the claim under contract No. I-1-ind. 42128 was approved May 7, 1963.

On December 20, 1964, the Kickapoo Tribe of Oklahoma and the firm of Harrison, Thomas, and Spangenberg & Hull entered into a new contract, No. 14-20-0200-1899. This contract was approved on April 14, 1965, and had a life term of 5 years commencing December 27, 1963. An extension of this contract for an additional period of 10 years from December 28, 1968, was approved May 28, 1969.

The contracts entered into by the attorneys and the plaintiff tribe

provided, in pertinent part, for reimbursement to the attorneys of all reasonable expenses incurred in the prosecution of the claim, provided all said expenditures be itemized and supported by proper vouchers.

4. Notice to Parties. By letter dated June 25, 1974, the Commission notified all interested parties of the filing of the petition, requesting their comments and any other information for the Commission's consideration in determining the reasonableness of the expenses claimed. The plaintiffs did not respond to the notice. The Department of Justice advised the Commission that it had adopted no position regarding the application for reimbursement. Incorporated in the defendant's reply was a memorandum from the Acting Deputy Commissioner of Indian Affairs stating that the items appear to fall within those categories of expenses proper for reimbursement, but that various items for which a receipted bill could have been obtained were not properly identified either by cancelled checks or ledger entries.

5. Determination of Expenses and Conclusion. In response to the Commission's inquiry regarding unsupported and improperly identified ledger items, the petitioner submitted thereupon further information and a detailed explanation of his failure to supply adequate documentation of certain claimed attorney expenses. Based upon the entire record of attorney expenses, as supplemented, and, in light of section 15 of Indian Claims Commission Act (60 Stat. 1053), Rule 34(b) of the Commission's

Rules of Procedure (25 CFR §503 34(b)), as amended, and the Commission's Policy Statement §102, the Commission finds and concludes that the petitioner is entitled to receive as proper and reasonable reimbursable expenses incurred in the prosecution of this claim, the amount claimed less the deductions made therefrom for the reason:

(a) that the attorney expenses hereinafter listed have not been properly identified as having been incurred in the prosecution of the claim herein.

<u>Item</u>	<u>Expense</u>	<u>Amount</u>
4	Richard Cusick, Aug. expenses	\$ 16.60
4A	United Airlines, Chicago trip	11.00
12	City Blue Printing Co., photostats	40.84
14	Guardian Comm. Service, photostats	13.60
15	Guardian Comm. Service, photostats	585.87
24	Guardian Comm. Service, photostats	4.74
27	Richard Cusick, car fare	1.00
33	Richard Cusick, meals	16.15
38	May Z. Raolaux, maps	10.00
39	Richard Cusick, meals	2.30
40	Richard Cusick, hotel room	2.00
41	Louis Rochmes, L.D. call	2.91
42	Richard Cusick, meals	9.15
45	Louis L. Rochmes, June disbursements	15.00
52	Ohio Bell Tel. Co., L.D. calls	10.50
64	Ohio Bell Tel. Co., L.D. calls	10.73
69	Ohio Bell Tel. Co., L.D. calls	13.59
71	Certified Corp., folders	5.20
72	Unidentified Payee, xeroxing	11.10
		<u>\$782.28</u>

(b) that the attorney expense hereinafter listed is considered to have been incurred primarily for the personal benefit of the attorney and not in the interest of the Indian plaintiffs.

<u>Item</u>	<u>Expense</u>	<u>Amount</u>
66	Stouffer's Food Co., evening meals	\$ 5.79

According, we find the petitioner entitled to recover as reimbursable expense the sum of \$4,925.04, less \$788.07, or the sum of \$4,136.97.

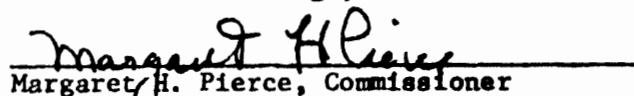
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on February 11, 1920, shall be disbursed to Allan Hull, attorney of record, the sum of \$4,136.97, for distribution by him to all parties having an interest therein, as reimbursement in full for expenditures made in the prosecution of this claim.

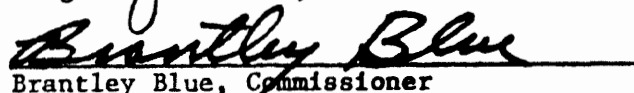
Dated at Washington, D. C., this 21st day of May, 1976.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner