

BEFORE THE INDIAN CLAIMS COMMISSION

THE SAC AND FOX TRIBE OF INDIANS OF)	
OKLAHOMA, et al., THE SAC AND FOX)	
OF MISSOURI, et al., and SAC AND)	
FOX OF THE MISSISSIPPI IN IOWA,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 95
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING EXPENSES INCURRED BY ATTORNEYS FOR THE
SAC AND FOX TRIBE OF THE MISSISSIPPI IN IOWA

HAVING CONSIDERED the application for reimbursement of attorneys' expenses in the amount of \$2,653.83 filed on August 14, 1975, by Lawrence C. Mills, the attorney of record and partner in the firm of Mills and Garrett, the expense schedules, vouchers, and other supporting documentation; the response to the application filed on April 13, 1976, by the United States Department of Justice; and the contracts under which said counsel prosecuted this claim, the Commission finds as follows:

1. Award. On September 25, 1974, the Commission entered a final award in favor of the plaintiff tribe (Sac and Fox Tribe of the Mississippi in Iowa) and other plaintiffs in this consolidated case in the amount of \$20,421.78, which represents the amount of the Commission's interlocutory award to plaintiffs of December 27, 1971 (35 Ind. Cl. Comm. 14). Funds to satisfy the award were appropriated by P. L. 94-32, approved June 12, 1975. The Commission award of September 25, 1974, also ordered that the Sac and Fox of Mississippi in Iowa recover from the defendant the sum of \$23,083.34 which sum constituted the balance standing to the credit of said tribe in Treasury Account No. 14X7085 as of November 30, 1973, less any payments made from that account between November 30, 1973, and the date of payment of the award. Since no recovery resulted from this portion of the claim, no funds were required to be appropriated by the Congress.

2. Attorneys' Contracts. The Sac and Fox Tribe of the Mississippi in Iowa entered into contract No. I-1-ind. 42274 on March 31, 1950, with the law firm of Dempsey, Mills & Casey (now Mills and Garrett). This contract, approved on August 29, 1950, for a period of 10 years from the date of its approval was extended until August 29, 1965. The same parties entered into contract 14-2C-0350, No. 278 on March 12, 1965. This contract was approved on July 23, 1965, for 5 years from the date of approval. Its subsequent extension covers the period during which the expenses herein were incurred.

3. Application for Reimbursement of Expenses. In their application of August 14, 1975, petitioners allege that since their engagement as attorneys for the Iowa Sac and Fox they have advanced all of the moneys necessary to pay the reasonable expenses allocable to the Iowa Sac and Fox which have been incurred in the prosecution of the claims which have been filed on their behalf. Petitioners have not received payment for any of the expenses which are the subject of this petition from the said tribe or from any officer or agency of the United States or from any other source.

The expenses listed on Revised Schedule A attached to their petition relate solely to Docket 95. Various expenses have been shared with attorneys for other tribes and some items show a shared cost to reflect these arrangements. The expense items include costs of printing and mailing, xeroxing, telephone tolls, a filing fee, and transportation and related expenses for an oral argument in Washington, D. C. Since filing the petition herein, counsel have withdrawn items of expense totalling \$925.70, leaving a net claim in the amount of \$1,728.13.

4. Notification. Pursuant to Rule 34b(c) of our General Rules of Procedure (25 C.F.R. 503.34b(c)), the Clerk of the Commission timely notified the appropriate parties including the tribal client (Iowa Sac and Fox) and the United States Departments of Justice and Interior respecting the filing of the application. The tribal client has filed no response to date.

The Department of Justice responded to the notice on April 13, 1976, stating that it takes no position in respect to the petition.

Enclosed with the response was a copy of a letter dated September 10, 1975, from the Assistant Solicitor, Division of Indian Affairs, U. S. Department of the Interior, transmitting a copy of a memorandum dated September 5, 1975, from the Commissioner of Indian Affairs. The Commissioner was satisfied as to the reasonableness of the total expenses claimed, found that they fell in those categories of expenses proper for reimbursement, and recommended allowance and payment thereof.

5. Determination of Expenses. Section 15 of the Indian Claims Commission Act (60 Stat. 1049) provides for the reimbursement of attorneys for actual, reasonable expenses incurred in the prosecution of the claim. After an examination of the application, the supporting documentation, and the entire record of expenditures incurred by the attorneys in the prosecution of the claim, the Commission concludes that the claimed items of expenses are reasonable and proper expenses of litigation and should be allowed.

6. Conclusion. On the basis of the foregoing findings the Commission concludes that the sum of \$1,728.13 (balance after deducting withdrawn items) is reasonable and proper for reimbursement.


IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on September 25, 1974, there shall be disbursed to the law firm of Mills and Garrett the sum of \$1,728.13 as full reimbursement for expenditures incurred in the prosecution of this case.

Dated at Washington, D. C., this 30th day of June 1976


 Jerome K. Kuykendall, Chairman


 John T. Vance, Commissioner


 Richard W. Yarborough, Commissioner


 Margaret H. Pierce, Commissioner


 Brantley Blue, Commissioner