

BEFORE THE INDIAN CLAIMS COMMISSION

THE SAC AND FOX TRIBE OF INDIANS)	
OF OKLAHOMA, et al.,)	
)	
THE SAC AND FOX TRIBE OF MISSOURI,)	Docket No. 158
et al.,)	
)	
SAC AND FOX TRIBE OF THE MISSISSIPPI)	Docket No. 231
IN IOWA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

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

Having considered the entire record of litigation in these cases and the petition for allowance of reimbursable expenses filed herein on April 23, 1977, by law the firm of Mills and Garrett (by Lawrence C. Mills one of its partners and attorney of record), attorneys for the Sac and Fox Tribe of the Mississippi in Iowa, one of the plaintiff tribes in these dockets, together with supporting schedules, vouchers and other documentation, and the contracts under which the petitioners prosecuted these cases, the Commission finds as follows:

1. Award. On November 23, 1973, the Commission entered a final award in these dockets which among other things awarded the Sac and Fox plaintiffs as successors in interest of the Sac and Fox Nation the sum of \$3,530,578.21 in Docket 158, and the sum of \$943,799.79 in Docket 231. 32 Ind. Cl. Comm. 256, 271; rehearing denied, 206 Ct. Cl. 897 (1975); cert. denied, 523 U. S. 1016 (1975). Funds to satisfy the final award were appropriated by Congress in the Second Supplemental Appropriation Act, approved June 1, 1976, 90 Stat. 597, 629.

2. Attorney Contracts. By its order of December 9, 1976, allowing attorneys' fees in these cases, the Commission entered findings of fact (No. 3) covering in detail the attorneys' contracts and amendments thereto under which these dockets were prosecuted. 39 Ind. Cl. Comm. 235, 236. Those findings are hereby incorporated by reference. The terms of the contract, between petitioners herein and the Sac and Fox Tribe of the Mississippi in Iowa respecting expenses, including stenographic and technical assistance, provide for reimbursement, pursuant to Section 15 of the Indian Claims Commission Act of 1946, 60 Stat. 1049, of all reasonable expenses incurred in the prosecution of the claim before this Commission.

3. The Application. The petitioners request that the Commission enter an order for payment to them of the sum of \$44,539.40 as reimbursement for litigation expenses described in their petition under Schedules A, B, D, and X, said payment to be payable out of the final award entered in these dockets. The claimed expenses per the above schedules (with supporting vouchers) are as follows:

Schedule A (Travel) :	\$ 2,381.06
Schedule B (General) :	28,077.52
Schedule D (Microfilm):	7,250.00
Schedule X (Witnesses):	<u>6,830.82</u>
Total Expense	\$44,539.40

The above expenses include those directly related to prosecution of the claims herein and those jointly related to a number of dockets involving the Sac and Fox plaintiffs. Joint expenses have been apportioned and allocated in accordance with procedures established in Docket 138 (25 Ind. Cl. Comm. 215 (1971)); Docket 143 (25 Ind. Cl. Comm. 218 (1971)); Docket 220 (25 Ind. Cl. Comm. 223 (1971)); Docket 153 (31 Ind. Cl. Comm. 316 (1973)); and Docket 135 (35 Ind. Cl. Comm. 228 (1974)).

4. Notice to Parties. Pursuant to our rules, the Clerk of the Commission, on April 14, 1977, notified the appropriate parties of the filing of this petition. The parties include the petitioners' tribal client (Sac and Fox of the Mississippi in Iowa), the United States Department of Justice and the United States Department of the Interior, Bureau of Indian Affairs. The tribal client has not filed a response to date. On November 17, 1977, the Justice Department, taking no position relative to the reimbursement claim, forwarded to the Commission a response from the Solicitor, United States Department of the Interior, dated November 10, 1977, which contained a copy of a report prepared by the Bureau of Indian Affairs (B.I.A.), U. S. Department of the Interior. The Solicitor advised the Department of Justice that his office concurred in the report of the B.I.A. The B.I.A. found that all the items of expense claimed were reasonable

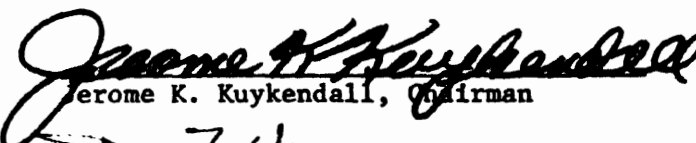
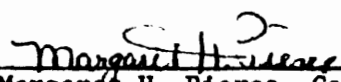
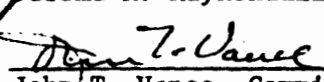
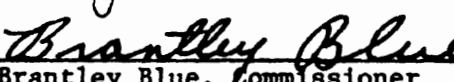
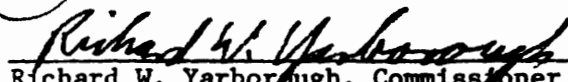
and fell into categories of expenses that are proper for reimbursement, and that it therefore had no objections to the allowance of the expenses claimed.

5. Petition Adjustments. The Commission's examination of the petition disclosed several errors in calculation in Schedules A and B. In Schedule A, voucher A-19, an error in the amount of \$1.76 was noted. Accordingly, the claimed expenses in Schedule A should be \$2,379.30 instead of \$2,381.06. Charges for storage which have been withdrawn in prior related dockets will be treated as withdrawn in this docket. See Docket 153, 29 Ind. Cl. Comm. 477 (1973). Accordingly, the Schedule B expenses will be reduced by \$574.22 and an additional \$6.65 representing an error in calculation, leaving a net Schedule B claim in the amount of \$27,496.65. Making allowances for the foregoing adjustments the Commission finds that the claim herein totals \$43,956.77 instead of \$44,539.40.

6. Determination of Expenses. Pursuant to Section 15 of our act, Rule 34(b) of the Commission's Rules of Procedure (25 CFR §504.34 (b)), as amended, 39 Fed. Reg. 41173 (1974), the Commission's Policy Statement §102 issued July 15, 1968, and upon examination of the application, the supporting documentation, and the entire record of expenditures incurred in the prosecution of this claim, the Commission concludes that the claimed expenses in this application in the total amount of \$43,956.77 are reasonable and proper expenses of litigation and should be allowed.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on November 23, 1973, there shall be disbursed to the petitioners, the law firm of Mills and Garrett, the sum of \$43,956.77 as reimbursement in full for all expenditures incurred in the prosecution of these dockets, said sum to be distributed by said law firm to all parties who may have an interest in this application.

Dated at Washington, D. C., this 2nd day of June 1978.

	
	Jerome K. Kuykendall, Chairman
	
Margaret H. Pierce, Commissioner	John T. Vance, Commissioner
	
Brantley Blue, Commissioner	Richard W. Yarbrough, Commissioner