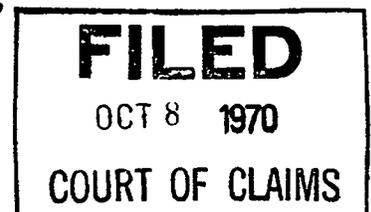


IN THE  
UNITED STATES COURT OF CLAIMS

No. 342-70

1. CHEYENNE-ARAPAHO TRIBES OF INDIANS OF OKLAHOMA;
2. CONFEDERATED TRIBES OF THE COLVILLE RESERVATION;
3. CONFEDERATED TRIBES OF THE COLVILLE RESERVATION as the representative of THE YAKIMA NATION;
4. CONFEDERATED TRIBES OF THE UMATILLA RESERVATION;
5. FORT McDERMITT PAIUTE-SHOSHONE TRIBE;
6. FORT McDERMITT PAIUTE-SHOSHONE TRIBE AND THE PAIUTE-SHOSHONE TRIBE OF THE FALLON RESERVATION AND THE PYRAMID LAKE PAIUTE TRIBE AND THE RENO-SPARKS INDIAN COLONY, AND THE WALKER RIVER PAIUTE TRIBE AND THE YERINGTON PAIUTE TRIBE as the representative of THE PAVIOTSO OR PAIUTES OF WESTERN NEVADA AND THE MONOS OR PAIUTES OF OWENS VALLEY AND THE SNAKE OR PAIUTE INDIANS OF THE OREGON AREA;
7. HOOPA VALLEY TRIBE;
8. HOOPA VALLEY TRIBE as the representative of THE INDIANS OF CALIFORNIA;
9. PAIUTE SHOSHONE TRIBE OF THE FALLON RESERVATION;
10. PYRAMID LAKE PAIUTE TRIBE;
11. RENO-SPARKS INDIAN COLONY;
12. SOUTHERN UTE TRIBE OR BAND OF INDIANS;
13. SOUTHERN UTE TRIBE OR BAND OF INDIANS as the representative of THE CONFEDERATED BANDS OF UTE INDIANS;



- 14. TLINGIT AND HAIDA INDIANS OF ALASKA;
- 15. WALKER RIVER PAIUTE TRIBE;
- 16. YANKTON SIOUX TRIBE OF INDIANS; and
- 17. YERINGTON PAIUTE TRIBE,

and each of the foregoing on behalf of all other tribes, bands and identifiable groups of American Indians similarly situated,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

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PETITION

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Mismanagement of Judgment Funds

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COUNT I

1. This petition is filed pursuant to Title 28, U.S. Code, Sec. 1491; Section 24 of the Act of Congress of August 13, 1946 (60 Stat. 1049, 1055, 25 U.S. Code, Sec. 70w) as amended by the Act of Congress of May 24, 1949, c. 139, Sec. 89(a) (63 Stat. 102); Title 28 U.S. Code, Sec. 1505.

2. This petition does not seek to assert or bring against defendant any claim, or to recover any damages with respect to any claim, which is now pending before the Indian Claims Commission or this Court or any other court.

3. Each of the plaintiffs specifically named in the above caption is a tribe, band or other identifiable group of American Indians residing within the territorial limits of the United States.

4. Each of the above specifically named plaintiffs is, or was during or after 1965, the beneficial owner of, or has, or had during or after 1965, a beneficial interest in, (a) certain funds appropriated by Congress after August 13, 1946, to pay judgments against the United States, awarded under the Indian Claims Commission Act (60 Stat. 1049) or other Acts of Congress (said funds being hereinafter called "judgment funds"), or (b) certain securities or other obligations purchased by defendant, or arranged by defendant to be purchased, with said judgment funds (said securities or other obligations being hereinafter called "trust securities"), or (c) interest earnings on said judgment funds or trust securities, which judgment funds, trust securities and interest earnings defendant holds or held in its possession or in various accounts as a fiduciary, or over which judgment funds, trust securities and interest

earnings defendant exercises or exercised control or management as a guardian or trustee.

5. The said specifically named plaintiffs are members and representatives of a readily ascertainable class which includes more than one hundred other tribes, bands and identifiable groups of American Indians, each of which, like the specifically named plaintiffs, is, or was during or after 1965, the beneficial owner of, or has, or had during or after 1965, a beneficial interest in, said judgment funds, trust securities or interest earnings, which defendant holds or held in its possession or in various accounts as a fiduciary, or over which defendant exercises or exercised control or management as a guardian or trustee. Said other tribes, bands and identifiable groups of American Indians that are similarly situated are so numerous as to make it impracticable to bring them all before the Court, for which reason the specifically named plaintiffs sue herein on behalf of all such similarly situated tribes, bands and identifiable groups of American Indians. There are questions of law and of fact common to all the specifically named plaintiffs and the similarly situated tribes, bands and identifiable groups, for whose benefit defendant holds, controls or manages, or has held, controlled or managed said judgment funds, trust securities and interest earnings. These common questions predominate over questions affecting only individual members

of the class so as to make the class action superior to any other method of proceeding to adjudicate the claims herein presented fairly, efficiently and expeditiously. The claims asserted herein by the specifically named plaintiffs are typical of the claims of the similarly situated tribes, bands and identifiable groups, and the specifically named plaintiffs can and will fairly and adequately protect the interests of all the similarly situated tribes, bands and identifiable groups.

6. In breach of its obligations under various Acts of Congress, including, but not limited to, the Act of April 1, 1880, 21 Stat. 70, 25 U.S.C. 161 and the Act of June 24, 1938, 52 Stat. 1037, 25 U.S.C. 162a, and in violation of its fiduciary duties, or in the course of acting for its own benefit and advantage, the defendant is and has been mishandling, mismanaging and wrongfully and arbitrarily administering said judgment funds, trust securities and interest earnings to its own unjust enrichment, or to the detriment, loss and damage of each of the above specifically named plaintiffs and the similarly situated tribes, bands and identifiable groups of American Indians on whose behalf this suit is brought, as hereinafter set forth.

7. Certain of the judgment funds which are the subject of this action comprise or comprised moneys which the defendant holds, or held, in its treasury in various

principal accounts, or moneys over which defendant exercises or exercised control or management for each of the said tribes, bands and groups, on which moneys interest earnings were credited by defendant during 1965 and subsequent there- to at a rate of 4 percent per annum.

8. During 1965 and at all times thereafter to the present time, by reason of changes in the money market, there were and have been readily available for acquisition with said judgment funds and interest earnings, various public-debt obligations of the defendant and its agencies, including bonds, notes, bills, securities and other obligations which are unconditionally guaranteed by the defendant as to both principal and interest, as well as bank certificates or obligations secured by bonds or other collateral unconditionally guaranteed by defendant as to both principal and interest, carrying interest rates significantly higher than the 4 percent rate.

9. In breach of its obligations and in violation of its fiduciary duties, the defendant mishandled and wrongfully administered said judgment funds, or portions thereof, by borrowing them for its own purposes and benefit at the said 4 percent rate and by failing to invest or reinvest or arrange to invest or reinvest them in said obligations, bonds, notes, bills, securities and certificates carrying interest rates significantly in excess of said 4 percent rate.

COUNT II

10. Plaintiffs reallege Paragraphs 1 through 8 hereof as though set forth in full.

11. Defendant invested or reinvested, or arranged or permitted the investment or reinvestment of, certain of the judgment funds which are the subject of this action in certain trust securities, including various public-debt obligations of the defendant and its agencies, unconditionally guaranteed by the defendant as to both principal and interest, as well as bank certificates or obligations secured by bonds or other collateral unconditionally guaranteed by defendant as to both principal and interest. Said investments or reinvestments were made by defendant wrongfully or for its own benefit and purposes, or to the detriment of the said tribes, bands and groups, or in breach of its obligations and in violation of its fiduciary duties, in that at the time they were made other securities or obligations of the same or similar type and nature and similarly guaranteed by defendant as to both principal and interest were readily available for investment at significantly higher interest rates.

COUNT III

12. Plaintiffs reallege Paragraphs 1 through 8

hereof as though set forth in full.

13. In breach of its obligations and in violation of its fiduciary duties, defendant mishandled said judgment funds and trust securities or portions thereof in that it wrongfully and negligently delayed for unreasonable periods of time in making investments and reinvestments thereof.

#### COUNT IV

14. Plaintiffs reallege Paragraphs 1 through 8 hereof as though set forth in full.

15. Certain of the interest earnings which are the subject of this action comprise or comprised moneys credited by defendant on balances of said judgment funds carried on the books of defendant. Defendant arbitrarily deposited and held said moneys in noninterest-bearing accounts, or invested or reinvested portions of said moneys in trust securities at certain rates of interest at a time or times when other trust securities of the same or similar nature were readily available for investment at significantly higher interest rates. In breach of its obligations and in violation of its fiduciary duties, defendant wrongfully borrowed portions of said moneys for its own purposes and benefit without paying any interest thereon, or held portions of said moneys in unproductive accounts for unreasonable periods of time and failed to invest or reinvest said moneys

so as to produce the highest available interest earnings, or delayed for unreasonable periods of time in crediting or depositing said moneys and in making investments or reinvestments thereof.

COUNT V

16. Plaintiffs reallege Paragraphs 1 through 8 hereof as though set forth in full.

17. Certain of the interest earnings which are the subject of this action comprise or comprised (a) moneys which defendant credited as interest earned on trust securities which were public-debt obligations of the defendant, or (b) moneys collected from various sources by defendant as interest earned on trust securities which were obligations of private banking institutions or federal agencies. Defendant arbitrarily deposited and held said moneys in noninterest-bearing accounts, or invested or reinvested portions of said moneys in trust securities at certain rates of interest at a time or times when other trust securities of the same or similar nature were readily available for investment or reinvestment at significantly higher interest rates. In breach of its obligations and in violation of its fiduciary duties, defendant wrongfully borrowed said moneys for its own purposes and benefit without paying or crediting any interest thereon, or held said moneys in unproductive accounts for

unreasonable periods of time and failed to invest or reinvest said moneys so as to make them productive at the highest available rate of interest, or delayed for unreasonable periods of time in crediting or depositing said moneys and in making investments or reinvestments thereof.

#### CLAIMS FOR RELIEF

18. Based on each and all of the foregoing allegations, plaintiffs assert that defendant has not fulfilled its aforesaid obligations and fiduciary duties or has performed them wrongfully, negligently and arbitrarily, or has unjustly enriched itself, and that substantial sums are due and owing by defendant to each of the above specifically named plaintiffs and each of the other tribes, bands and groups similarly situated on whose behalf this suit is brought.

19. WHEREFORE, each of the above specifically named plaintiffs prays on its own behalf and on behalf of each of the other tribes, bands and groups similarly situated:

(a) for a determination that defendant is liable to make payment to each of them by way of damages for the injuries and losses caused to each of them;

(b) upon determination of such liability, for an order directing the defendant to render a separate accounting as to each of them for purposes of enabling the

Court to determine the amount of damages which each of them is entitled to recover;

(c) for a determination of the amount of damages to each of them; and

(d) for such other and further relief for each of them as the Court may deem just.

*I. S. Weissbrodt*

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 Attorney of Record for
2. Confederated Tribes of the Colville Reservation;
  3. Confederated Tribes of the Colville Reservation as the representative of The Yakima Nation;
  5. Fort McDermitt Paiute-Shoshone Tribe;
  6. Fort McDermitt Paiute-Shoshone Tribe and The Paiute-Shoshone Tribe of The Fallon Reservation and The Pyramid Lake Paiute Tribe and The Reno-Sparks Indian Colony, and The Walker River Paiute Tribe and The Yerington Paiute Tribe, as the representative of The Paviotso or Paiutes of Western Nevada and The Monos or Paiutes of Owens Valley and The Snake or Paiute Indians of the Oregon Area;
  9. Paiute Shoshone Tribe of The Fallon Reservation;
  10. Pyramid Lake Paiute Tribe;
  11. Reno-Sparks Indian Colony;

- 14. Tlingit and Haida Indians of Alaska;
- 15. Walker River Paiute Tribe; and
- 17. Yerington Paiute Tribe

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- 4. Confederated Tribes of the Umatilla Reservation;
- 7. Hoopa Valley Tribe;
- 8. Hoopa Valley Tribe as the representative of The Indians of California;
- 12. Southern Ute Tribe or Band of Indians;
- 13. Southern Ute Tribe or Band of Indians as the representative of The Confederated Bands of Ute Indians; and
- 16. Yankton Sioux Tribe of Indians

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