

The record discloses that there have been instances where the court has been able to persuade petitioners to agree to the appointment of more qualified persons than those first nominated. The several individuals who are acting as guardians and conservators for a number of estates are for the most part competent business or professional men in the community who were nominated by the Indians because of special trust and confidence reposed in them. Many times such relationships of confidence arose long years before the institution of the conservatorship or guardianship proceeding. So far as we have been able to determine, the court has been conscientious in the exercise of this responsibility.

Item 8, the matter of split fees, is the one field where, on occasion, the highest ethical standards have not been always observed. We did find cases where there had been a sharing of fees or where compensation had been sought from lessees. This practice is not condoned by this Department and our views have been made known to the judge and to the conservators and guardians who have indulged in such activities. The local practices in this regard are now being re-examined by those concerned, and we have been given to understand that these parties will hereafter adhere to procedures more strictly in accord with ethical standards and which do not offend conflict of interest concepts.

Summarizing all that is said above, we find:

a. The fees being allowed to conservators, guardians, and attorneys, when all the facts and circumstances are carefully considered, are neither excessive nor unreasonable.

b. Under the circumstances existing in the Palm Springs area, we do not believe there is any unwarranted concentration of fees.

c. The newly formed association of conservators and guardians can serve a beneficial purpose if properly administered.

d. There have been past instances of questionable practices involving fee splittings and other similar arrangements.

e. There is no evidence of waste or dissipation of the Indian trust estates arising out of the conservator-guardianship proceedings under review.

We fully share your concern that there be no maladministration of these estates. In the one area where we found that criticism might be justifiably leveled (your Item 8), we have registered our disapproval and have taken appropriate steps to preclude repetitions in the future. The effectiveness and appropriateness of the Association of Conservators, Guardians and Allottees of Agua Caliente Indians Lands and Estates will be evaluated periodically. Finally, to guard against the possibility of irregularities or improprieties in the matter of fee allowances in the future, including payment to the Association, we are arranging for a review by representatives of the Department's Solicitor of the annual and final reports filed by conservators and guardians and for representation at the hearings for the setting of fees, should such latter action ever be deemed necessary or advisable.

Sincerely yours,

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

EXHIBIT 5

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Sacramento, Calif., May 12, 1967.

For use of Solicitor's Office only

Subject: Background briefing re pending conference on Agua Caliente Indian conservatorship and guardianship problems.

As you are aware, the problems here concerned are not new and have been under consideration by this office and the Commissioner of Indian Affairs for a number of years. Over this period of time various investigations, studies, and recommendations have been made. See, for example, Commissioner Nash's letter to the Chairman of the Agua Caliente Tribal Council dated October 7, 1964; the report of June 10, 1966, of Robert L. Cox, Resources Trust Officer for the Palm Springs Bureau of Indian Affairs office; recommendations of Leonard Hill, Area Director, Sacramento Area Office, and Frank B. Horne, Regional Solicitor, Sacramento Region, as attached to and set forth in Mr. Horne's memorandum to the Associate Solicitor, Indian Affairs, of July 20, 1966; and more recently the re-