

ORIGINAL

Decision No. 76797

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FRED WILZIG, dba CHARLOTTE
INTERIORS,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Case No. 8905
(Filed April 1, 1969)

Paul A. Eisler, for complainant.

Richard Siegfried, for defendant.

O P I N I O N

Complainant asks this Commission for an order requiring defendant to refund all charges duly paid for a listing in its classified directory and for a free listing until the next issue of said classified directory. Defendant has answered, denying the material allegations of the complaint, and has filed a motion to dismiss the complaint on the ground that the relief sought by complainant is inappropriate under its filed tariff.

The matter was heard before Examiner Gillanders at San Francisco on August 19 and 20, 1969. It was submitted on December 12, 1969 upon receipt of defendant's recommended findings of fact and conclusions of law as requested by the examiner. Complainant did not file the requested document by the agreed upon date.

Based upon the record, the Commission finds that:

1. Complainant was contacted by defendant in February and April 1968 regarding advertising in the September 1968 San Francisco directory. During these visits complainant advised defendant that he was not prepared to discuss his advertising as he was negotiating for a new business location.
2. On May 28, 1968, complainant ordered and signed for advertising in the September 1968 San Francisco directory even though he planned to later move his business to a new location. This signed advertising order (Exhibit 1) was never cancelled.
3. During the May 28, 1968 visit, defendant advised complainant that he had until July 3, 1968 to change his listing (i.e., his telephone number and address) in the 1968 San Francisco directory if he found a new location for his business.
4. A change in complainant's address and telephone number affects the alphabetical and classified section of the directory as well as other vital records of the defendant.
5. The September 1968 San Francisco directory closed to additions, deletions and changes of listings on July 3, 1968.
6. Defendant established July 3, 1968 as the listing closing date for the 1968 San Francisco directory by working backward from the date the directory was scheduled for delivery, allowing the required number of days to bind, print and compile the directory.
7. On approximately July 19, 1968, complainant learned that he would definitely be moving his business to 1185 Vicente Street, San Francisco, on some future date as of then yet undetermined.
8. On approximately July 24, 1968, complainant requested that defendant change his address and telephone number in the 1968

San Francisco directory. Defendant advised complainant that the date for listing changes, July 3, 1968, was past, and that no change in his listing could be made.

9. During the period July 29-31, 1968, complainant made numerous requests of defendant that defendant change the telephone number and address in his 1/4 column advertisement.

10. Defendant advised complainant that, although the closing date for listing changes was past, complainant could add his new address and telephone number as an additional line of copy in the 1/4 column advertisement by reducing the size of some of the copy in the advertisement. Such line was to read "On or about November 1, 1968, my new address will be 1185 Vicente Street and my new phone number will be 566-3888".

11. Complainant rejected defendant's offer to add the new address and telephone number as a line of copy in his 1/4 column advertisement.

12. Defendant printed the advertisement in the 1968 San Francisco directory as specified in the May 28, 1968 advertising order.

13. The 1968 San Francisco directory was delivered to defendant's customers on September 1, 1968.

14. Complainant moved to his new location at 1185 Vicente Street in late October, 1968.

15. On December 11, 1968, complainant changed his former telephone number 752-5826 from an individual message rate business service and a secretarial line to a business answering line terminating on an answering service.

16. The charges for complainant's advertising program were \$39.75. The charge for the specific 1/4 column advertisement in which complainant wished to change his telephone number and address was \$27 per month.

17. Complainant made numerous requests for an adjustment of these charges.

18. Defendant has made no adjustment of these charges.

Conclusions of Law

1. The advertising order signed by complainant on May 28, 1968 was a contract between complainant and defendant.

2. Complainant did not cancel the contract for advertising prior to the closing date as specified on the contract and in Schedule Cal. P.U.C. No. 39-T, 2nd Revised Sheet 4, Special Condition 3.

3. Defendant's action in establishing a July 3, 1968 listing closing date for a telephone directory to be delivered September 1, 1968 is reasonable.

4. No error was made in the printing of complainant's advertising which would entitle him to relief under Schedule Cal. P.U.C. No. 39-T, 8th Revised Sheet 5, Special Condition 8.

5. Complainant is not entitled to any relief and the complaint should therefore be dismissed.

O R D E R

IT IS HEREBY ORDERED that the complaint in Case No. 8905
is dismissed. San Francisco

Dated at _____, California, this
17th day of FEBRUARY, 1970.

William Symons Jr.
President

Augusta

J. B. Williams

T. B. Williams

James L. Williams
Commissioners