

ORIGINAL

Decision No. 76854

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PETE R. BUFFO, doing business as
Pete Buffo Insurance Agency,

Plaintiffs,

vs.

PACIFIC TELEPHONE, a corporation,

Defendant.

Case No. 8957
Filed August 29, 1969

Michael J. Bruce, for Pete R. Buffo,
doing business as Pete Buffo Insurance
Agency, plaintiff.
Robert E. Michalski, for The Pacific
Telephone and Telegraph Company,
defendant.

O P I N I O N

Plaintiff complains that defendant used an erroneous address to designate plaintiff's place of business in defendant's 1969 white page and yellow page directories for the San Diego area. Plaintiff seeks damages in the amount of \$327. Public hearing was held before Examiner Robert Barnett on December 16, 1969 at San Diego.

Findings of Fact

1. In 1967 plaintiff contracted with defendant for ads to be inserted in the 1968 yellow page directory issued by defendant in the San Diego area. These ads were duly published and showed the address of plaintiff's insurance agency as 1269 East Broadway, El Cajon, California. In July 1968 defendant again solicited plaintiff for yellow page advertising. Plaintiff ordered the same ads for the 1969 yellow page directory as were placed in the 1968 yellow page directory. Plaintiff's order for the 1969 directory showed his address as 1269 East Broadway, El Cajon, California. In October 1968 defendant was notified by the City of El Cajon that the address 1269 East Broadway had been changed to 1271 East Broadway. Defendant, relying on this notice, changed its records accordingly and changed the address shown in plaintiff's 1969 white page listing and yellow page advertising from 1269 East Broadway to 1271 East Broadway. Defendant did not contact plaintiff to see if the change was accurate or to ask if plaintiff concurred in the change. It was stipulated that the total charge for the advertising in question was \$327, which sum was paid by plaintiff to defendant.

2. The building involved in this case is a one story office building that has two offices, both of which face East Broadway. In July 1968 plaintiff occupied the easterly office with the address 1269 East Broadway; the westerly office was unoccupied. In October 1968 plaintiff obtained a tenant who wished to use the east side office. Plaintiff agreed and moved to the west side office. Plaintiff wished to keep his address of 1269 East Broadway and so requested the City of El Cajon to issue addresses for the building showing the west side office to be 1269 and the east side office to be 1271. The City of El Cajon issued those numbers and notified defendant that old 1269 East Broadway was new 1271 East Broadway.

3. Because of the erroneous address shown for plaintiff's place of business in defendant's yellow page directory much of plaintiff's mail was misdirected to 1271 East Broadway which caused inconvenience to plaintiff and generated inquiries from the post office concerning the discrepancies in addresses. Plaintiff made at least two trips to the post office in order to explain the situation. Other than this inconvenience plaintiff's business was not harmed by the error.

4. Defendant's tariff rules provide in pertinent part:
"In case of error in an advertisement, the extent of the Company's credit allowance shall be a pro rate abatement of the charge in such a degree as the error shall affect the entire advertisement which may amount to abatement of the entire charge."

5. Plaintiff is entitled to \$50 as a result of defendant's error.

The Commission concludes that defendant should refund to plaintiff the sum of \$50.

O R D E R

IT IS ORDERED that defendant shall pay to plaintiff
the sum of \$50.

The effective date of this order shall be twenty days
after the date hereof.

Dated at San Francisco, California, this 3rd
day of MARCH, 1970.

William Lyons, Jr.
President

Augusta

J. H. Harkin, Jr.

John H. Harkin

Vernon L. Sturgeon
Commissioners