

Decision No. 80159

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BUDDY ROGERS VACUUM-SEWING
CENTERS,

Complainant,

vs.

GENERAL TELEPHONE COMPANY
PUBLIC UTILITY SYSTEM, a
Corporation,

Defendant.

Case No. 9292
(Filed November 11, 1971)

Norma L. Rogers, for Buddy Rogers
Vacuum-Sewing Centers, complainant.
A. M. Hart, by Lorin H. Albeck,
Attorney at Law, for defendant.

O P I N I O N

Complainant, Buddy Rogers Vacuum-Sewing Centers, who signs the complaint Norma L. Rogers, in propria persona, seeks cancellation of claims which defendant holds against complainant for directory advertising, and for restoration of credit standing.

Public hearing was held before Examiner DeWolf on April 14, 1972 and the matter was submitted on the same date.

Complainant alleged and testified substantially as follows:

Complainant is a vacuum cleaner-sewing machine chain store type operation, consisting of one (1) main store and numerous branch locations throughout the Los Angeles County area.

In August 1970, complainant signed contracts at the main store for advertisements for location 17160 Bellflower Boulevard, Bellflower, California (213) 925-7415. Advertisements were to appear in the Long Beach Directory 1970-71.

Upon signing of contracts, defendant's representative failed to give complainant copies of same.

January 1971, complainant became very concerned as to outstanding balance appearing as arrears on statements from defendant; complainant again contacted via telephone defendant's representative requesting copies of signed contracts; billing discrepancies became apparent at this time to complainant; defendant reaffirmed that defendant's representative would contact complainant and furnish necessary copies of contracts not given to complainant at time of signature. Defendant's representative reiterated former instructions to withhold payment of advertising portion appearing on billing as arrears until such request by complainant had been satisfied by defendant and/or defendant's representative.

Complainant has acted in good faith; complied with advice given to complainant by the defendant's representatives; complainant has been grossly ignored, insulted, and discriminated against pertaining to directory advertising in all defendant's 1971-72 directories; also that complainant has suffered extreme embarrassment as the foregoing was injurious to the morale of complainant's employees, who were understandably lacking in knowledge of the circumstances of the situation.

Defendant has failed to make any meaningful attempt to resolve this dispute, this being apparent to complainant by the long lapse in response regarding complainant's original request. Defendant further failed to respond when complainant refused to continue payments on utility portion of billing for a period of five months.

Following the failure to resolve this matter complainant has still continued in good faith to make payments on an obligation, concerning which because of defendant's failure to provide complainant with consistent billing statements, complainant is at present no closer to an accurate knowledge of liability.

Regardless of complainant's good faith in resuming payment defendant has subjected complainant through its assignment to a collection agency, to threatening and intimidating communications, which have jeopardized complainant's credit ratings and future advertising relations with other branches within defendant's organization, relating to other locations of complainant's business operation.

Complainant further testified that her husband, Buddy Rogers, was engaged with her in the business and that they have a business manager by the name of Ron Keith who has full authority to act for the business and they presently are operating 9 stores.

Two witnesses testified for defendant. One witness is a sales representative who testified that he transacted business with Ron Keith for the telephone advertising for complainant and identified Exhibits Nos. 1 and 2. Exhibit No. 1 is a photocopy of a contract for directory advertising signed by Ron Keith for complainant. The witness testified that he left a copy of the contract with Ron Keith at the complainant's place of business. Exhibit No. 2 is a blank form which the witness testified is similar to the carbon copy left with Ron Keith.

A witness from the accounting department of defendant testified that complainant is indebted to the defendant for balance due on account of directory advertising in the sum of \$2,185.83 but that he did not have the books of account in the hearing room to show the items involved.

The district sales manager for defendant testified that he transacted the business with Ron Keith and did not see Mrs. Rogers.

Findings of Fact

1. The allegations of complainant are general and indefinite and are not supported by any specific evidence.

2. The complainant has not submitted any proof of any errors in the charges made by defendant for directory advertising.

3. The evidence shows the complainant's authorized agent signed the contract identified as Exhibit No. 1 on 6-4-70 and 5-17-71 showing items of directory advertising.

4. An unsupported statement of a claim of loss or damage cannot support an award for refund or cancellation of telephone charges for directory advertising.

5. The Commission is without jurisdiction to award damages as prayed for indirectly in the complaint. (Schumacher v. Pacific Telephone, 64 Cal. P.U.C. 295, and cases there cited.)

The Commission concludes that the complaint should be dismissed without prejudice to refiling the same to show specific errors in the accounts which are claimed due by defendant which were not reviewed in this proceeding.

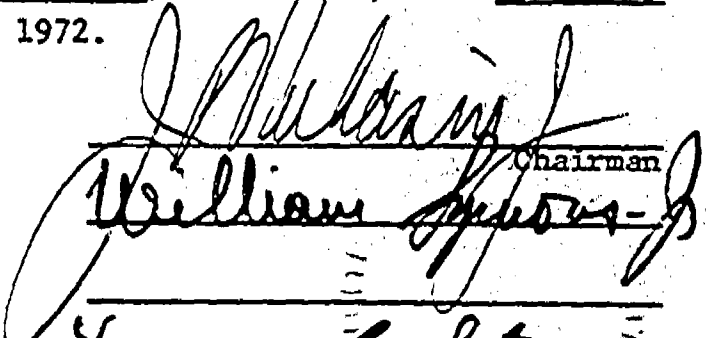
Defendant should furnish complainant with a statement of his account showing a breakdown of the items involved. A copy of this statement should be furnished to the Commission staff.

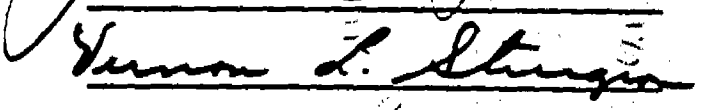
O R D E R


IT IS ORDERED that the complaint in Case No. 9292 is dismissed without prejudice.

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

Dated at San Francisco, California, this 12th day of JUNE, 1972.



Chairman




Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.