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Decision 91-07-002 July 2, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALLIED TEMPORARIES,

Complainant,

v.

MCI,

Defendant.

ORIGINAL

Case 90-04-019  
(Filed April 13, 1990)

SUPPLEMENTAL OPINION

This complaint was dismissed at the written request of complainant by Decision (D.) 90-05-096 dated May 23, 1990. On May 22, 1990, complainant filed a request for compensation from the Advocates Trust Fund. On June 8, 1990, defendant filed a response which opposed the request for compensation.

The Advocates Trust Fund of the California Public Utilities Commission was established on October 11, 1982. The specific purpose of the Trust "is to receive, hold and, from time to time, disburse funds from either income or principal solely to defray expenses, including attorneys' fees and expert witness fees directly related to litigation or representation of consumer interests in 'quasi-judicial complaint cases,' as defined in Consumers Lobby Against Monopolies vs. Public Utilities Commission, 25 Cal. 3d 891 (1979) where the California Public Utilities Commission...has jurisdiction to make attorney fee awards." The Trust provides that:

"1.3 Attorneys fees may be awarded only where it is clearly and convincingly demonstrated that the private party has made a direct, primary and substantial contribution to the result of the case. Fees will be awarded from the Advocates Trust Fund where complainants have generated a common fund but that fund is

inadequate to meet reasonable attorney or expert witness fees, where a substantial benefit has been conferred upon a party or members of an ascertainable class of persons but no convenient means are available for charging those benefited with the cost of obtaining the benefit, or where complainants have acted as private attorneys general in vindicating an important principle of statutory or constitutional law, but no other means or fund is available for award of fees.

"1.4 An award will be based upon consideration of three factors: (1) the strength or societal importance of the public policy vindicated by the litigation, (2) the necessity for private enforcement and the magnitude of the resultant burden on the complainant, and (3) the number of people standing to benefit from the decision. No award will be made without a specific finding by the CPUC of what would be a reasonable amount for advocates' attorneys', or expert witness fees, in view of the time spent, expenses proven, level of skill shown, and comparable fees paid to others practicing public utility law. No award should be made where a party's own economic interest is sufficient to motivate participation."

The Commission makes the following findings and conclusion.

Findings of Fact

1. The complaint in this matter was dismissed at the written request of complainant in D.90-05-096, dated May 23, 1990.
2. No hearing was held in this matter.
3. No substantive rulings were made in this matter.
4. The Commission did not adjudicate any issue sought to be raised by the complaint.
5. The request for eligibility for compensation does not meet the requirements of Section 1.3 of the Trust.

Conclusion of Law

The request for eligibility for compensation should be denied.

ORDER

IT IS ORDERED that:

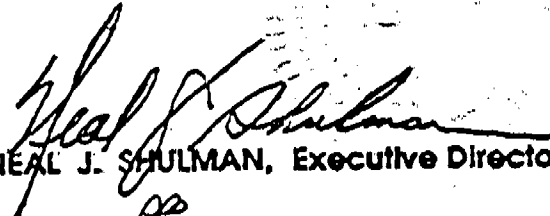
1. Allied Temporaries' request that it or its president, Clarence Hunt, be found eligible for compensation from the Advocates Trust Fund is denied.

This order becomes effective 30 days from today.

Dated July 2, 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President  
G. MITCHELL WILK  
JOHN B. OHANIAN  
DANIEL Wm. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

  
NEAL J. SHULMAN, Executive Director