

ORIGINAL

Decision No. 88400 JAN 24 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORANGE COUNTY SECURITY CONSULTANTS,  
INC., a California corporation,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY,

Defendant.

Case No. 10390  
(Filed August 11, 1977)ORDER OF DISMISSAL

Orange County Security Consultants, Inc. (Security) owned and operated two separate establishments known as Anaheim Lock and Key, located in Anaheim; and Orange Lock and Key, located in Orange. In June 1977, Security completed the purchase of an existing lock and key business in Fullerton and started operating it under the name of Fullerton Lock and Key. Security advertised its Anaheim and Orange facilities in the yellow pages of The Pacific Telephone and Telegraph Company (Pacific) directories for those cities with a quarter page display ad for each location. Security sought to procure a third display ad for its Fullerton operation and was refused by Pacific on the grounds its multiple display advertising standard prohibited more than two display ads per single advertiser. Security sought a mandatory injunction directing Pacific to accept the third ad which was denied.<sup>1/</sup> Security appealed and sought a Writ of Mandamus from the Supreme Court which also was denied.<sup>2/</sup> A prehearing conference was held on September 21, 1977 in Anaheim. At the

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<sup>1/</sup> D.87718 dated August 16, 1977.

<sup>2/</sup> SF 23764 dated September 2, 1977.

direction of the Administrative Law Judge, the parties worked out a stipulation of facts at the prehearing conference. The Administrative Law Judge ordered Security to reduce to writing the facts that had been agreed upon, to submit them to Pacific by October 3, 1977, and to submit its request for discovery on the same date. Pacific was ordered to respond to the discovery request by October 22, 1977. Security was further ordered to advise the Administrative Law Judge by October 28, 1977 of the specific factual issues that might remain for trial.

Security did not submit the written stipulation or its discovery request on the date ordered.<sup>3/</sup> On November 18, 1977 Pacific again sent a letter to Security's attorney with a carbon copy to the Administrative Law Judge. This letter shows that Pacific prepared a document entitled "Stipulation of Facts"; the original of which, plus 14 copies, was sent special delivery to Security's attorney with the request that the document be signed and filed with the Commission. It was also requested that Security contact Pacific's attorney if there were any problems with the document. The letter pointed out that Security's attorney had failed to return calls made to him on three different occasions in connection with the earlier correspondence, and it was requested that some action be taken immediately.

No documents have been filed with the Commission in this matter in connection with the Administrative Law Judge's rulings, nor has there been any communication by Security with Pacific or the Administrative Law Judge.

Security has the responsibility of pursuing its claim in good faith, and abiding by the prehearing conference orders of the Administrative Law Judge. (In re Apex Bulk Commodities (1977) D.87286,

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<sup>3/</sup> Letter from Pacific to the ALJ dated October 4, 1977, carbon copy to Security's attorney.

C.9959 (mimeo.); Rule 1 of the Commission's Rules of Practice and Procedure: Williams v Travelers Ins. Co. (1975) 49 CA 3d 805.)

Findings of Fact

1. Security failed to submit a written stipulation of facts, as agreed upon and ordered by the Administrative Law Judge.
2. Security failed to submit its discovery request as ordered by the Administrative Law Judge.
3. Security failed to notify the Administrative Law Judge of the remaining factual issues, if any, that it believed remained to be adjudicated, as ordered by the Administrative Law Judge.
4. Security failed to communicate with Pacific with respect to a stipulation prepared by Pacific, or to answer telephone calls made by Pacific for the purpose of complying with the Administrative Law Judge's order.
5. Security has not prosecuted its complaint with reasonable diligence.

Conclusion of Law

The complaint should be dismissed.

IT IS ORDERED that the complaint is dismissed.

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

Dated at San Francisco, California, this 24th day of JANUARY, 1978.

Robert B. ...  
President  
William ... Jr.  
Sergio ...  
Richard D. ...  
Walter ...  
Commissioners

904

DECISIONS NOS.

88401

THRU

DECISIONS NOS.

88500