

ORIGINAL

Decision No. 88402

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARION R. SMITH,

Complainant,

Case No. 10440  
(Filed October 12, 1977)

PACIFIC TELEPHONE COMPANY,

Defendant.

Marion R. Smith, for herself, complainant;  
Norman H. Krause, Attorney at Law, for  
The Pacific Telephone and Telegraph  
Company, defendant.

OPINION

Complainant seeks reparations in the amount of \$950.40 for alleged errors in connection with her yellow page advertising in the 1977 Marin County telephone directory published by defendant. Pursuant to Rule 13.2 of the Commission's Rules of Practice and Procedure, both parties consented to the Expedited Complaint Procedure and waived the presence of a court reporter and a record of the hearing and findings of fact and conclusions of law. The matter was heard by Administrative Law Judge Donald B. Jarvis in San Francisco on December 7, 1977.

Complainant is a florist. In February 1977, after complainant had been in business for four months, one of defendant's directory sales representatives solicited her advertising. The advertisement here involved is her first one in the yellow pages. In the course of providing information for the advertisement complainant told the sales representative that she had applied for membership in Florists Transworld Delivery (FTD); that she anticipated being admitted to membership but that she was not yet a member. There is conflicting testimony concerning what was said about

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DEFENDANT'S MOTION TO DISMISS AND TO SET ASIDE VERDICT AND TO REVOKE WRIT OF HABEAS CORPUS

including the FTD logo in the advertisement. It was included in the speculative ad prepared by the sales representative. It was included in the final proof. The closing date for corrections was March 10, 1977. The proof was mailed to complainant on that date. Defendant's routine procedure provides for review of emblems and logos in advertisements to determine whether the use is authorized. It is conceded that defendant did not follow the procedure and there was no review of the advertisement in question. As a result of the advertisement appearing in the directory with the logo, FTD rejected complainant's application for membership because of improper use of its logo and advised her that she could not reapply for two years. Complainant contends that as a result of the FTD rejection she has suffered \$15,000 damages, although she realizes she is limited to reparations in this proceeding.

Under the circumstances of this complaint we find that 65 percent of the \$950 charge for one year's advertising in the yellow pages is a reasonable amount to allow complainant as reparations for errors in connection with complainant's yellow page advertisement in the 1977 Marin County directory.

O R D E R

IT IS ORDERED that defendant shall pay to complainant as reparations for errors in connection with complainant's yellow page advertisement in the 1977 Marin County directory the sum of \$617.76.

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

Dated at San Francisco, California, this 24th day of JANUARY, 1977.

Robert B. Berman  
President

*I dissent. The complainant should have some responsibility in cases such as this. William S. Young,*

William L. Sturgeon  
Richard D. Howell  
Clare J. DeSicil  
Commissioners