

Before The
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Complaint on Stamped Stationery)

Docket No. C2004-3

OFFICE OF CONSUMER ADVOCATE STATEMENT
AS TO ISSUES OF MATERIAL FACT
(APRIL 27, 2006)

The Office of the Consumer Advocate hereby responds to the Commission's request for a statement of material facts remaining to be determined in these proceedings.

By Order No. 1460, the Commission denied the Postal Service's motion to dismiss the complaint in this proceeding and determined it is appropriate to conduct a formal proceeding pursuant to §3624 of the Postal Reorganization Act.¹ To determine whether to hold hearings in this docket, the Commission requested the participants to address the question of whether there are any genuine issues of material fact remaining to be presented. Statements are due not later than April 27, 2006, and replies may be filed on or before May 4, 2006.

As settlement coordinator in this proceeding, the OCA gained insight into the issue presented by the complaint and the several filings. In OCA's view, the essential facts are straightforward, have been established, and are uncontested. The

¹ "Order Denying Motion to Dismiss and Notice of Proceeding," Order No. 1460, April 13, 2006.

Commission may take notice of a similar stamped stationery product with a different stamp also currently sold by the Postal Service that is in all pertinent respects for purposes of this proceeding identical to that of “The Art of Disney: Friendship Stationery” styled “Garden Bouquet Stationery.” The Postal Service is currently selling both stamped stationery products. On April 24, undersigned counsel for OCA purchased online from the Postal Service each of those postal stationery products. The USPS website for the purchase of the Disney stamped stationery is

<http://shop.usps.com/webapp/wcs/stores/servlet/ProductDisplay?catalogId=10152&storeId=10001&categoryId=11822&productId=20655&langId=-1> . The USPS website for the purchase of the Garden Bouquet stamped stationery is

<http://shop.usps.com/webapp/wcs/stores/servlet/ProductDisplay?catalogId=10152&storeId=10001&categoryId=11822&productId=11527&lang=-1> .

The issues have been joined by the pleadings and further evidentiary hearings are not necessary for the Commission to rule on the primary jurisdictional issue as to whether the product is a postal service. It is OCA’s view that the stamped stationery is a postal service for which a classification is required. The matter is therefore ripe for decision without the need for a hearing to gather further evidence of material facts not included in the pleadings.

Of course, if the Commission determines the stationery to be postal in nature rather than philatelic, further classification proceedings will be necessary to determine the appropriate class of service and to establish an appropriate postage rate or fee. (See Order No. 1460, note 2) OCA does not contemplate such proceedings pending the Commission’s determination of the jurisdictional question.

Respectfully submitted,

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