

ORIGINAL

Decision No. 46767

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IONE WEST,

Petitioner,

vs.

THE PACIFIC TELEPHONE & TELEGRAPH
COMPANY, a Corporation,

Respondent.

Case No. 5308

J. S. Gould, attorney for complainant. Pillsbury,
Madison & Sutro by John A. Sutro, Lawler, Felix & Hall by L. B.
Conant for respondent.

O P I N I O N

The complaint alleges that Ione West is the operator of a restaurant and cocktail lounge at 5735 South Broadway, Los Angeles, California, and that on or about the 14th day of April, 1951, the complainant was advised by the respondent telephone company that the telephone facilities at the above address, under number Pleasant 3-9410, were to be disconnected as a result of information received by the respondent telephone company to the effect that these communication facilities were being used as an instrumentality to violate the law or in aiding and abetting such violation. The complaint further alleges that immediately thereafter, the telephone facilities were disconnected and that as a result, the complainant has suffered and will suffer irreparable injury to her business and reputation and great hardship. The

complaint further alleges that the communication facilities in question were not used to violate the law nor to aid or abet such violation but were, in fact, used to conduct business and personal calls.

Subsequently, on June 29, 1951, this Commission by Decision No. 45898 in Case No. 5308, issued an order granting temporary interim relief, directing the respondent telephone company to restore telephone service to complainant pending a hearing on the complaint.

On June 9, 1951, the respondent telephone company filed an answer, the principal allegation of which was that it had reasonable cause to believe that on April 6, 1951, the use made and to be made of the telephone service in question was prohibited by law and that as a result of such reasonable cause the respondent telephone company did disconnect telephone facilities pursuant to the order of this Commission in Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held in Los Angeles on December 13, 1951, before Examiner Syphers, at which time evidence was adduced and the matter submitted. In the hearing the complainant testified that she has been operating a business at 5735 South Broadway in the City of Los Angeles, for the past five years under the name of Ione's Cocktail Lounge. During this period there has been installed there a coin-operated pay telephone under the number of Pleasant 3-9410, which telephone was disconnected on or about the 6th day of April, 1951. The complainant further testified that to her knowledge the telephone had not been used for any unlawful

purposes and that she did not intend to so use it.

The supervising special agent of the respondent telephone company testified that this telephone, Pleasant 3-9410, was a coin-operated semi-public wall telephone subscribed for under an arrangement whereby the subscriber paid a monthly guarantee if the calls over the telephone are not of a sufficient number. Connected to this telephone was an extension hand set over which calls could be received but over which a call could not be placed without going through the main wall telephone. The witness further testified that on April 15, 1951, this telephone service was disconnected pursuant to a letter received from the chief of police of the City of Los Angeles, advising that these telephone facilities were being used "for the purpose of receiving and forwarding bets on horse races." A copy of this letter was received in evidence as Exhibit No. 1.

A police officer from the City of Los Angeles testified that on March 30, 1951, at about 2:45 p.m., he and another officer went to the premises of 5735 South Broadway, which premises consisted of a bar and cocktail lounge in a room about 170 feet long by 50 to 60 feet wide. The telephone was at the north rear side of the room. The two officers seated themselves at the bar and watched three or four men who were seated at a booth near the telephone. During a period of about ten minutes, Mr. Harry West, one of the men, went to the telephone several times. On one occasion West came over to the end of the bar, picked up a piece of paper and threw it into a crate that had some trash in it. At this point the officers went up to him, advised that they were police officers and picked up the piece of paper; on it they

discovered the names of horses which that day were running at Bay Meadows race track. Subsequently they searched the premises and found other slips of paper with horses' names on them. While the officers were there the telephone rang several times and one of the officers answered the telephone. On one occasion a masculine voice said, "Harry, this is Joey. I want two heats on My Lode Star in the fourth and two heats on Short Sale in the fifth at Bay Meadows." After this the telephone rang approximately every half minute for 30 or 40 minutes and unknown voices would ask for either Harry or Ione. The officers arrested Harry West on suspicion of bookmaking and also removed the telephone. Further testimony developed that the case against West was dismissed in court.

A second police officer from the City of Los Angeles substantiated all of this testimony.

The position of the telephone company was simply that it had acted upon reasonable cause in removing the telephones. After consideration of this record we now find that the telephone company exercised due care in taking the action it did and that this action was based upon reasonable cause, as such term is used in Decision No. 41415, supra. We further find that the telephone facilities here in question, the telephone under number Pleasant 3-9410 and the extension thereto, were used as an instrumentality to aid and abet the violation of the law.

O R D E R

The complaint of Ione West against The Pacific Telephone and Telegraph Company having been filed, public hearing having been held thereon, the matter now being ready for decision and the

Commission being fully advised in the premises and basing its decision upon the evidence of record in this case and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be denied and that the said complaint be, and it hereby is, dismissed. The temporary interim relief granted by Decision No. 45898, dated June 29, 1951, in Case No. 5308, is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of sixty (60) days after the effective date of this order, The Pacific Telephone and Telegraph Company may consider an application for telephone service from the complainant herein, on the same basis as the application of any similar new subscriber.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 19th day of February 1952.

R. T. [Signature]
President
Justus F. Craven
Harold H. Hill

Commissioners