

ORIGINAL

Decision No. 46891

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THOMAS ROSS

Petitioner,

vs.

Case No. 5346

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Respondent.

E. Charles Forde, attorney, for complainant. Pillsbury, Madison & Sutro by John A. Sutro, and Lawler, Felix & Hall by L. B. Conant, for defendant. Lawrence R. MacNair, Deputy Sheriff of Los Angeles County Sheriff's Office.

O P I N I O N

The complaint alleges that Thomas Ross, the owner of real property at 6033 and 6033½ Atlantic Boulevard in the City of Maywood, operates a real estate business at the first address and maintains a residence apartment in the rear of the property and designated by the second address given above. On or about the 25th of May 1951, the petitioner rented the apartment to one Virginia Wright, and immediately upon renting the apartment it is alleged that the petitioner closed up his real estate office and left the city for several days. Upon returning he discovered that the telephone service in the apartment, which was merely an extension of the main telephone located in the real estate office, had been disconnected, allegedly because

the facilities had been used by the said Virginia Wright for illegal purposes. The complainant alleges that he had no knowledge or information that the said telephone would be used for an illegal purpose and that he will suffer irreparable damage if the service is not restored.

Subsequently, on December 27, 1951, this Commission, by Decision No. 46594 in Case No. 5346, issued an order granting temporary interim relief, directing the respondent telephone company to restore telephone service to the complainant pending a hearing on the complaint.

On January 4, 1952, the telephone company filed an answer, the principal allegation of which was that it had been advised that the said communication facilities were being used for an illegal purpose. The answer either denied specifically or on information and belief the remaining allegations in the complaint.

A public hearing was held before Examiner Syphers on March 4, 1952, at Los Angeles, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that he had maintained a telephone in his real estate office under number Lafayette 6932 and that from this telephone there was an extension going to the apartment. He described the circumstances under which he rented this apartment to two girls, one of them named Virginia Wright. This occurred on a Friday and complainant testified that he then left town over the weekend. Upon returning on Monday he learned that the telephone

extension in the apartment had been taken out by representatives of the Sheriff's Office. Likewise, the police had removed another telephone in the apartment which was under number Kimball 1020. The telephone in the real estate office had not been disturbed.

Subsequently the complainant received a letter from the telephone company stating that both principal telephones, Kimball 1020 and Lafayette 6932, would be disconnected, whereupon complainant filed the complaint with this Commission.

A deputy sheriff of the Sheriff's Office of Los Angeles County introduced a copy of the Sheriff's Complaint Report, which states that about 4:45 P.M., on May 26, 1951, deputy sheriffs entered the apartment and there discovered two women, Necia Howard and Shirley Jean Wright. On a table by the telephone Kimball 1020 was a National Scratch Sheet and also a group of approximately twenty betting markers containing records of bets on horses running at various tracks throughout the United States on that date. On another table was the telephone Lafayette 6932 and also a California Digest, a National Scratch Sheet, and a group of approximately twelve betting markers. Both telephones rang while the officers were there. They answered the telephones, receiving and recording bets on race horses running at various tracks throughout the United States. The two women both admitted that they had been using these telephones for bookmaking purposes. Both women were arrested on charges of bookmaking.

It was stipulated that the telephone company received a letter from the Sheriff's Office, requesting disconnection of the telephone service, and a copy of this letter was received in evidence as Exhibit No. 1.

The complainant further testified that the two women were not now renting the apartment, and that it was, as a matter of fact, being rented to other tenants.

The position of the telephone company was that it had acted upon reasonable cause in removing the telephone. 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, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853). We further find that the telephone facilities here in question were used as an instrumentality to aid and abet the violation of the law.

The evidence appears conclusive that the complainant had no part in these bookmaking activities nor, in fact, did he know that they were being conducted. There is every reason to assume that his actions were reasonable in renting the apartment as he did, and on these facts there is no reason to infer that the complainant was connected with the bookmaking activities. Further, the two women who were conducting these activities no longer have access to the telephones. In view of this situation we find that the complainant is entitled to telephone service subject to all of the applicable rules and regulations of the telephone company and the existing applicable law.

O R D E R

The complaint of Thomas Ross 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 HEREBY ORDERED that the order of this Commission in Decision No. 46594, dated December 27, 1951, in Case No. 5346, temporarily restoring telephone service to complainant, be made permanent, such restoration being subject to all rules and regulations of the telephone company and to the applicable law.

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

Dated at San Francisco, California, this 25th day of March, 1952.

A. T. [Signature]
 President

Justin F. [Signature]

Harold [Signature]

[Signature]

 Commissioners