

ORIGINAL

Decision No. 5122A

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SECURITY CURRENCY SERVICES, LTD.,)
a California corporation,)

Complainant,)

vs.)

Case No. 5630

THE PACIFIC TELEPHONE AND)
TELEGRAPH COMPANY, a corporation,)

Defendant.)

Benjamin D. Brown, for complainant.
Pillsbury, Madison and Sutro and Lawlor,
Felix and Hall, by L. B. Conant, for defendant.

O P I N I O N

The complainant, a California corporation, in its complaint filed on March 3, 1955, alleges that prior to September 15, 1954, it was a subscriber and user of telephone service furnished by defendant company under the number LUDlow 1-6796 at 7210 South Compton Avenue, Los Angeles, California; that on or about September 15, 1954, the telephone facilities of complainant were disconnected by the defendant at the request and upon the complaint of the Los Angeles County Sheriff's office on the charge that the telephone was being used for bookmaking operations in violation of the Penal Code of California and were disconnected at the time of filing this complaint; that complainant has made demand upon the defendant to have the said telephone facilities

restored but defendant has refused and does now refuse to do so; that complainant has suffered and will suffer irreparable injury to its reputation and hardship as a result of being deprived of said telephone facilities; and that complainant did not use and does not now intend to use said telephone facilities as an instrumentality to violate the law, nor in aiding or abetting such violation.

On March 16, 1955, the defendant filed an answer in which, among other things, it alleged that the use made or to be made of the telephone facilities in question was prohibited by law and that said service was being or was to be used as an instrumentality, directly or indirectly, to violate or aid and abet the violation of the law; and that defendant, having reasonable cause, discontinued said service and since said discontinuance has refused and now refuses to restore said services, pursuant to Decision No. 41115, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853). The answer further states that on November 1, 1954, complainant filed a complaint with the Public Utilities Commission of the State of California alleging substantially the same facts and praying for the same relief as it does in the instant complaint; that said complaint was designated Case No. 5589 on the Commission's docket; that hearing on said complaint was held before the Commission on February 21, 1955, and submitted on that date; and that the matter is still under submission.

The Commission's records reflect that on March 21, 1955, Case No. 5589 was dismissed (Decision No. 51239, dated March 21, 1955). This decision will be referred to hereinafter.

A public hearing was held in Los Angeles on April 14, 1955, before Examiner Kent C. Rogers. At the hearing evidence was presented by the complainant and it was stipulated that the evidence presented at the hearings in Case No. 5589 and the opinion and order therein (Decision No. 51239 referred to supra) may be incorporated in the record herein. Accordingly the record in Case 5589 is so incorporated. Case No. 5589 was filed by "The Security Currency Services, Ltd." The decision therein (Decision No. 51239, referred to supra, and likewise included by stipulation) reads as follows:

"The complainant alleges that the (sic) Security Currency Services, Ltd., prior to September 21, 1954, was a subscriber and user of telephone service furnished by defendant company (defendant herein) under number LUdlow 1-6796 at 7210 Compton Street, Los Angeles, California. On or about September 21, 1954, these telephone facilities were disconnected by representatives of the Los Angeles County Sheriff's office on charges of bookmaking. The complaint further alleges that complainant has made a demand upon the defendant company to have the said telephone facilities restored, and that defendant telephone company has refused such demand. It is also alleged that the complainant did not use and does not now intend to use the telephone facilities in question as an instrumentality to violate the law nor in aiding or abetting such violation.

"Under date of November 16, 1954, the defendant filed an answer, the principal allegation of which was that the defendant company had reasonable cause to believe that the use made, or

"to be made of the telephone facilities in question was prohibited by law, pursuant to Decision No. 41115, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

"Public hearings were held in Los Angeles on February 10, and February 21, 1955 before Examiner Syphers, on which dates evidence was adduced and on the last-named date the matter was submitted.

"On the first date of hearing, a representative of the complainant company testified that the principal business of that company is check cashing and money order selling. The business was incorporated on January 1, 1955 and maintains various offices throughout the city, one of them at 7210 Compton Avenue in the City of Los Angeles. This office consists of a cage which is located in the front of a shoe repair shop. He testified that a telephone is necessary in the business inasmuch as it is necessary to verify checks which are presented for cashing. However, the witness stated that he had no connection with or control of the office in question and that he did not have anything to do with the application for telephone service.

"A deputy sheriff of Los Angeles County testified that on September 15, 1954, he entered the premises in question and found there a man by the name of Von Botch. This man gave him a piece of paper which apparently was a betting marker listing the names of horses which were running at the different tracks on that date, and told the deputy that he had accepted calls over the telephone for bets on horse races and had relayed these calls to another number. Von Botch stated that for this activity he was to receive 5% of the amount of the bets placed. The deputy arrested him at that time and disconnected the telephone.

"The supervising special agent of The Pacific Telephone and Telegraph Company presented Exhibit No. 1 which is a letter from the Los Angeles County Sheriff's office to the telephone company dated September 16, 1954, requesting that the telephone facilities in question be disconnected. The position of the telephone company was that it had disconnected service pursuant to this request and accordingly had acted upon 'reasonable cause' as that term is defined in Decision No. 41115, supra.

"At the conclusion of the hearing on February 10, the matter was continued and it was suggested that complainant have a representative appear who had some control or authority over the office in question and the proposed subscription to telephone service.

"On February 21, 1955, at the continued hearing, there was no appearance for the complainant.

"Upon this record we find that the action of the telephone company was based upon 'reasonable cause' as such term is used in Decision No. 41115, supra. We further find that the telephone facilities in question were used for bookmaking purposes. Inasmuch as the complainant has not made an adequate showing as to the proposed use of the telephone service now requested, and since there was no appearance for complainant at the continued hearing, which continuance was specifically granted for the purpose of permitting complainant to remedy defects in its showing, the matter will be dismissed."

In accordance with the foregoing findings, the complaint was dismissed.

At the hearing on April 14, 1955, on the instant complaint the secretary and one of the directors of the complainant testified that said Von Botch is no longer connected with complainant in any capacity either as a stockholder, employee or director, and that the complainant is licensed as a check seller and cashier (Financial Code, Division 3). This witness further stated that there are three stockholders in the complainant corporation and that these parties acquired the corporation from Von Botch about December 30, 1954.

In the light of the record herein we find that the action of the telephone company was based upon reasonable cause, as such term is used in Decision No. 41415 referred to supra. We further find that there is no evidence to indicate that the complainant herein or its officers, directors, stockholders or employees engaged in or were directly connected with bookmaking activities. Therefore, the complainant now is entitled to a restoration of telephone service.

O R D E R

The complaint of Security Currency Services, Ltd., a corporation, against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence of record and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be granted and that, upon the filing by the complainant of an application for telephone service

on the premises used by it at 7210 South Compton Avenue,
Los Angeles, California, The Pacific Telephone and Telegraph
Company shall install telephone service at said address, such
installation to be subject to all duly authorized rules and
regulations of the telephone company and to the existing appli-
cable law.

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

Dated at San Francisco, California,
this 3rd day of May, 1955.

(John C. Mitchell)
President

Justus J. Calmes

Royce L. Anderson

Thomas D. Walsh

Commissioners