

ORIGINALDecision No. 51558

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MELODY GRILL,
FRANK H. BAGLIAZO,

Complainant,

vs.

Case No. 5618

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Frank H. Bagliazo, in propria persona.
Pillsbury, Madison & Sutro, and Lawler, Felix
& Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint herein, filed on February 4, 1955, alleges that Frank H. Bagliazo, doing business as Melody Grill, 1206 South Pacific Avenue, San Pedro, California, prior to January 28, 1955, was a subscriber and user of telephone service furnished by defendant under number TErminAl 2-9291 at the above address; that on or about January 28, 1955 the defendant disconnected this service and despite a demand by the complainant that it restore the said telephone service it has refused to do so; that complainant has suffered and will suffer irreparable injury and great hardship as a result of being deprived of said telephone facility; and that the complainant did not use and does not now intend to use the telephone as an instrumentality to violate or to aid and abet the violation of the law.

An order granting temporary interim relief was issued by this Commission on February 15, 1955, in Decision No. 51105, directing the telephone company to restore the facilities in question pending a hearing on the complaint.

On February 23, 1955, the telephone company filed an answer, the principal allegation of which was that the telephone company pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), had reasonable cause to believe that the telephone service furnished to complainant under number TErMinal 2-9291 at 1206 South Pacific Avenue, San Pedro, California, was being or was to be used as an instrumentality directly or indirectly to violate or to aid and abet the violation of the law.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers, on May 13, 1955, and the matter was submitted.

The complainant testified that he and his brother, Henry Bagliazo, own a restaurant and cocktail lounge known as the Melody Grill at 1206 South Pacific Avenue, San Pedro; that Henry Bagliazo does not work on the premises, but complainant does; that on January 28, 1955, the defendant's agent showed him a letter (Exhibit No. 1) and removed the telephone; that the telephone is necessary for his business, in that people call in for reservations and stevedores wait at his place of business for telephone calls to report for work at the docks; that he has never allowed the telephone to be used for illegal purposes; and that no criminal complaint has ever been filed against the complainant.

A police officer of the City of Los Angeles testified that on or about January 25, 1955, he and two other officers went to the premises in question; that the telephone rang and he picked it up; that a girl asked for Charley; that he said he would take a message; that the girl gave her name and a \$2.00 bet on a particular horse running at a particular California horse race track that day. Thereupon the officers left the premises and went nearby to 1218 South Pacific Avenue where they found a Charles Shore seated at a desk. In these premises the officers found betting markers.

Charles Shore was arrested for and subsequently acquitted of bookmaking charges. Complainant testified that he did not know the man.

Exhibit No. 2 is a letter from the Chief of Police of the City of Los Angeles received by the telephone company on January 27, 1955, advising the telephone company that the telephone was being used for illegal purposes. Defendant's witness said that, acting on that advice, the defendant removed the telephone from the premises on that date. The position of the telephone company was that, as a result of the receipt of the letter from the Chief of Police of Los Angeles, it acted with reasonable cause as that term is defined in Decision No. 41415, supra, in disconnecting and refusing to reconnect the service until ordered to do so by the Commission.

In the light of this record we find that the action of the telephone company was based upon reasonable cause, as such term is used in Decision No. 41415, supra. We further find that

there is no evidence that the complainant herein engaged in or was directly connected with bookmaking activities. Therefore, the complainant is now entitled to restoration of telephone service.

O R D E R

The complaint of Frank H. Bagliazo, doing business as Melody Grill, 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 order of the Commission in Decision No. 51105, dated February 15, 1955, temporarily restoring telephone service to the complainant, be made permanent, such restoration being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

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

Dated at San Francisco, California, this 9th day of June, 1955.

[Signature]
President
[Signature]
[Signature]

Commissioners
Justus F. Cramer
Commissioner Rex Hardy being necessarily absent, did not participate in the disposition of this proceeding.