

ORIGINALDecision No. 52404

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

KATHLEEN ENGLANDER, a.k.a.
KATHLEEN KURTZMAN,

Petitioner,

vs.

Case No. 5681

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Respondent.

Herbert Colden, for complainant.
Pillsbury, Madison and Sutro, and Lawler, Felix
 and Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint, filed on September 23, 1955, alleges that Kathleen Englander, also known as Kathleen Kurtzman, residing at 9363 Burton Way, Beverly Hills, California, is a subscriber and user of telephone services furnished by respondent at said address; that on or about January 11, 1955, complainant was advised by the defendant that the defendant had received information to the effect that the telephone facilities were being used as an instrumentality to violate the law or to aid and abet the violation of the law and that defendant, for that reason, was disconnecting the telephone; that immediately thereafter the telephone was disconnected by the defendant and was disconnected when the complaint herein was filed; that complainant has suffered injury to her reputation and great

hardship and financial loss as a result of the disconnection of the telephone; that complainant has no independent knowledge of the circumstances or facts upon which defendant purports to have based its action in disconnecting the telephone and that defendant's agents have refused and failed to furnish such information to the complainant; and that the telephone was not used as an instrumentality to violate the law nor in aiding or abetting such violation.

On October 4, 1955, by Decision No. 52041, in Case No. 5681, this Commission issued an order directing the telephone company to restore service to complainant pending a hearing on the matter.

On October 14, 1955, the telephone company filed an answer, the principal allegation of which was that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853) defendant, on or about January 13, 1955, had reasonable cause to believe that the telephone service furnished by defendant under number CRestview 6-6688 at 9363 Burton Way, Beverly Hills, 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 November 30, 1955, and the matter was submitted.

The complainant testified that she is a saleslady; that she resides at 9363 Burton Way, Beverly Hills, with her two minor children, aged 14 and 16 years respectively; that she is a widow; that she had been furnished telephone service by the defendant; that on January 11, 1955, she heard a knock on the door, she opened

it, a man showed her a badge, walked in and took the telephone; that she demanded of the telephone company that it return the telephone but the company said she would have to get a clearance from the Sheriff's office; that prior to January 11, 1955, the telephone was used for personal business only, and not to violate the law; that she and her children have been embarrassed by the removal of the telephone; and that she was unable to get a job for three months during the period her telephone was out.

On cross-examination, the complainant testified that she had telephone service under number CRestview 6-6688 prior to the removal on January 11, 1955, and that the service was reinstalled under number CRestview 4-3196; that she told the officer who removed the telephone that it was not used for bookmaking purposes; that she, her son, and her daughter were the only ones who used the telephone; that she has not received calls from persons who gave her only their names and telephone numbers; that she does not and did not take bets over the telephone; and that at the time the telephone was removed she so advised the police officer.

A Los Angeles County Deputy Sheriff testified that on January 11, 1955, he, another deputy sheriff and two Beverly Hills police officers went to complainant's residence at 9363 Burton Way in Beverly Hills at about 3:15 p.m.; that one of the officers knocked and the door was opened by the complainant; that the officers entered; that in the room was a divan and a small coffee table on which were a telephone and a 3-inch by 5-inch pad showing indentations from writing; that in his opinion the indentations resulted from the recordation of numbers and names; that the tele-

phone rang, he answered the phone and the party calling hung up; that this happened on several occasions; that thereupon a policewoman was secured from Beverly Hills who answered the telephone; that he observed what the policewoman wrote when she answered the telephone; that on several occasions she wrote telephone numbers and names and on several occasions she wrote bets on horse races; that on one occasion the witness answered the telephone and received a bet on a horse race; that the complainant was asked if she accepted bets over the telephone and she refused to answer; that the telephone was confiscated and the complainant was taken to the Beverly Hills police station and was booked for suspicion of bookmaking; and that the District Attorney refused to issue a complaint for lack of evidence. The witness further testified that in his opinion the telephone location was what is known as a "relay," that is, a telephone location which prospective bettors call and at which they leave their names and telephone numbers with the party who has the telephone, and these numbers are then relayed to a bookmaker.

In rebuttal the complainant testified that the telephone has not been used for illegal purposes since it was reinstalled and she intends to use it for legal purposes only.

It was stipulated that a letter, Exhibit No. 2, was received by the telephone company on January 13, 1955, and a central office disconnection was effected that date. This letter was from the Captain of the Vice Detail of the Office of the Sheriff of Los Angeles County; advised the telephone company that complainant's telephone had been used for illegal purposes, and that the

telephone had been confiscated; and requested that the telephone facilities be disconnected.

It was the position of the telephone company that it had acted with reasonable cause in disconnecting the telephone inasmuch as it had received the letter designated as Exhibit No. 2.

After a consideration of the record herein we find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, referred to supra. We further find that the telephone services were used for bookmaking purposes.

O R D E R

The complaint of Kathleen Englander, also known as Kathleen Kurtzman, against The Pacific Telephone and Telegraph Company 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,

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. 52041 in Case No. 5681 is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein may file an application for telephone service, and if such filing is made The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 9363 Burton Way,

Beverly Hills, California, such installation 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 28th day of December, 1955.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Rox Hardy, being necessarily absent, did not participate in the disposition of this proceeding.