

ORIGINAL

Decision No. 53573

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MONTEREY CLUB, a co-partnership,)
 Complainant,)
 vs.)
 THE PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a corporation, and)
 H. B. QUIGLEY,)
 Defendant.)

Case No. 5779

Gray, Glass and Allen, by Charles Glass, Jr.,
for complainant.

Pillsbury, Madison & Sutro, and Lawler, Felix,
and Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint, filed on June 1, 1956, alleges that the complainant is the Monterey Club, a co-partnership, located at 13927 South Vermont Avenue, Gardena, California; that on or about April 23, 1956, the defendant telephone company disconnected a telephone from premises of the complainant; that said telephone number was Davis 4-9239; that the Monterey Club at no time had any knowledge, nor could it have had any knowledge, of any illegal or immoral transactions being conducted upon said telephone; that complainant is ignorant of any grounds for disconnecting the telephone.

On June 19, 1956, 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 April 17, 1956, had reasonable cause to believe that the telephone service furnished by defendant to J. Lockheed (sic) and E. J. Primm, doing business as the Monterey Club, under number Davis 4-9239 at 13927 South Vermont Avenue, Gardena, 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 July 10, 1956, and the matter was submitted.

John Lockheed testified that he is the manager of the complainant co-partnership consisting of himself and E. J. Primm; that these partners are conducting a restaurant and card club at 13927 South Vermont Avenue, Gardena, California; that the complainant has four pay telephones in booths in a small room off the card room in the club; that the club has never permitted said telephones to be used for illegal purposes or bookmaking purposes; and that the telephones are necessary for the conduct of the business.

A deputy sheriff connected with the Vice Detail of the Los Angeles County Sheriff's office stated that on April 13, 1956, he and his partner went to the Monterey Club in Gardena; that he saw several people hand money and slips of paper to a man by the name of James Clyde Pierce; that Mr. Pierce entered one of the telephone booths in complainant's place of business looking at

a scratch sheet; that the witness entered the next telephone booth and heard the said Pierce place a bet on a race being run at a race track in California that day; that when Pierce left the phone booth the witness placed him under arrest and searched him and found owe sheets and betting markers in his possession; that he asked Pierce if he was taking bets and Pierce did not answer; and that the owe sheets were in the handwriting of said Pierce. The officer further testified that he took Pierce to the Gardena Sheriff's office and booked him; that he did not take the telephone out for the reason that it was a pay telephone; and that on June 28, 1956, a bookmaking complaint against the said Pierce was submitted on the preliminary transcript and decision is still pending. The officer further testified that although the bookmaking activity was carried on in a place visible to the members of the complainant partnership he does not believe that the members of the partnership were aware of what was going on.

An employee of the telephone company presented Exhibit No. 1 which is a letter from the Vice Detail of the Sheriff's office of Los Angeles County requesting that the facilities in question be disconnected. The witness stated that pursuant to the request, telephone service was disconnected on or about April 17, 1956. The position of the telephone company was that it had acted with reasonable cause, as that term is defined in Decision No. 41415, referred to supra, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After full consideration of this record, we now find that the telephone company's action 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 that complainant was engaged in, was directly connected with or permitted the telephone facilities to be used for bookmaking activities. Therefore the complainant is now entitled to restoration of telephone service.

O R D E R

The complaint of the Monterey Club, a co-partnership, 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 on 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 complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall restore telephone service at the complainant's property at 13927 South Vermont Avenue, Gardena,

California, 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 7th day of August, 1956.

[Signature]
President
Justus J. Cravens
[Signature]
[Signature]

Commissioners

Commissioner Ray E. Untereiner, being necessarily absent, did not participate in the disposition of this proceeding.