

ORIGINAL

Decision No. 53528

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PIETRO FERRO, doing business as
CLIFF INN,)

Petitioner,)

vs.)

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY,)

Defendant.)

Case No. 5774

Sigfried Levitt, for petitioner.

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

O P I N I O N

The complaint, filed on May 31, 1956, alleges that Pietro Ferro, doing business as Cliff Inn at 2640 North Figueroa Street, Los Angeles, California, since 1937 has been conducting a business at that address as a restaurant and on-sale liquor establishment; that at all times complainant has operated the business in a businesslike manner and has complied with the laws of the State of California; that petitioner's telephone was removed by defendant upon request of the Los Angeles Police Department; that petitioner never at any time has permitted his employees or himself to operate

his telephones for any purpose except in the operation of his business and that at no time did he or his employees make any calls in relation to bookmaking. The petitioner prays that his telephone service be restored.

On June 11, 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 May 25, 1956, had reasonable cause to believe that telephone service furnished by defendant under number CAPITOL 5-4729 and number CAPITOL 5-9462 at 2640 North Figueroa Street, Los Angeles, 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.

Complainant testified that he has been operating the Cliff Inn at the stated address since 1937; that during that time he has had no trouble with any governmental agency; that in the premises he had one telephone with two extensions and a public telephone in a booth; that the principal private phone with a dial was in his office; that there was an extension in the kitchen with a dial, and that there was an extension without a dial in the bar; that the telephone in the office was kept locked and he and his manager were the only persons who had keys; that the one in the kitchen was kept locked and the cook was the only

person who had a key, and that the one in the bar had no dial. He further testified that he did not permit the phones to be used for any illegal purposes and that on or about May 18, 1956, in his absence, an arrest was made on the premises and subsequently both the private and public telephones were removed. Complainant stated that he only requests that the private telephone be reinstalled.

A police officer attached to the Vice Detail of the Police Department of the City of Los Angeles testified that on May 18, 1956, he and another officer visited the complainant's premises; that he contacted a man named Victor Falzoni who accepted money and placed a race bet over the pay phone on the complainant's premises; that the witness also observed complainant's bartender receive a phone call on the non-dial phone in the bar and call a man by the name of Etzkhorn; that said Etzkhorn took the phone and the witness heard said Etzkhorn discuss horse races and horse race results; that at that time the witness and his partner placed Falzoni under arrest for bookmaking and took him to the police station; and that said Falzoni was held to answer at the preliminary hearing; and that the telephones were not removed at that time.

An employee of the telephone company testified that on or about June 1, 1956, the telephone company received letters from the Chief of Police of the City of Los Angeles advising the telephone company that the complainant's telephones were being used for bookmaking purposes and requesting that the telephones

be disconnected. The witness stated that pursuant to the request of the Police Department the complainant's telephone facilities were disconnected on or about June 1, 1956. The position of the telephone company was that it had acted with reasonable cause in disconnecting the telephone services inasmuch as it had received the letters designated as Exhibit No. 1 and Exhibit No. 2.

After consideration of this record we now find that the telephone company's action was based on reasonable cause as that 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 a restoration of telephone service.

O R D E R

The complaint of Pietro Ferro, doing business as Cliff Inn, 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 and the findings herein,

IT IS ORDERED that 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 private telephone service at the complainant's premises at 2640 North Figueroa Street, Los Angeles, California, such installation being subject

to all duly authorized rules and regulations of the telephone company and 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

[Signature]

[Signature]

[Signature]

Commissioners

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