

# ORIGINAL

Decision No. 54088

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOE LIMA,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 5800

Charles Holloper, for the complainant.

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

Harold W. Kennedy, County Counsel, by Roland T.  
Worthy, Deputy County Counsel for the  
Los Angeles County Sheriff's Department,  
intervener.

## O P I N I O N

The complaint of Joe Lima, filed on July 19, 1956, alleges that Joe Lima resides at 2111 Mozart Street, Los Angeles, California, and is doing business at 1709 W. Valley Boulevard, Alhambra, California; that prior to July 6, 1956, complainant was a subscriber and user of telephone service furnished by defendant under telephone numbers Atlantic 1-8242 and Cumberland 3-6266, at 1709 W. Valley Boulevard, Alhambra; that on or about July 6, 1956, the telephone facilities of complainant were disconnected by deputy sheriffs of the County of Los Angeles and were disconnected at the time of the complaint; that complainant has demanded that the telephone facilities be restored, but that the

defendant has refused and still refuses to do so; that complainant has suffered and will suffer irreparable injury and loss to his business and reputation as a result of being deprived of the telephone services; and that complainant did not use and does not intend to use said facilities as an instrumentality to violate the law or to aid and abet such violation.

On August 7, 1956, by Decision No. 53565 in Case No. 5800, this Commission issued an order directing the telephone company to restore telephone service to the plaintiff pending a hearing on the matter.

On August 14, 1956, the telephone company filed an answer, the principal allegation of which was that on or about July 13, 1956, it had reasonable cause to believe that the use made or to be made of the telephone services furnished by defendant to complainant under numbers Cumberland 3-6266 and Atlantic 1-8242 at 1709 W. Valley Boulevard, Alhambra, California, were being or were to be used as instrumentalities directly or indirectly to violate or to aid and abet the violation of the law, and that having such reasonable cause the defendant was required to disconnect the services pursuant to this Commission's Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

Public hearings were held in Los Angeles before Examiner Kent C. Rogers on September 27, 1956, and October 15, 1956, and the matter was submitted.

Joe Lima, the complainant herein, testified that he is and was on July 5, 1956, operating a used car business at 1709 W. Valley Boulevard, Alhambra, California, and had therein private telephones under numbers Atlantic 1-8242 and Cumberland 3-6266; that he is sole owner of the premises; that he has a 12-foot by 14-foot office on the premises; that he needs telephones and cannot conduct the business without telephones; that he has never at any time conducted bookmaking operations on the premises; that he has never registered or recorded bets; and that he has never used the telephone for receiving bets. He further testified that on July 5, 1956, in the afternoon, his brother, James Lima, came to the premises; that his brother James has no connection with the business whatsoever; that he and his brother went into the office on the premises and that he was taking a nap while his brother was sitting at another desk in the office; that there was a telephone on the desk where his brother was sitting, and that when he awakened his brother had been arrested.

Exhibits Nos. 1 and 2 are letters from the Sheriff of Los Angeles County to the telephone company advising it that the telephone services furnished by the defendant to the complainant under numbers Atlantic 1-8242 and Cumberland 3-6266, at 1709 W. Valley Boulevard, Alhambra, were being used for the purpose of disseminating horse racing information and requesting that such telephones be disconnected. A telephone company employee testified that Exhibit No. 1 was received on July 9, 1956, and that Exhibit No. 2 was received on July 13, 1956, and central office disconnections were effected pursuant to those requests.

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 Exhibits Nos. 1 and 2.

A deputy sheriff of Los Angeles County testified that he and other deputies from the Los Angeles County Sheriff's Office went to complainant's place of business at 1709 W. Valley Boulevard on July 5, 1956; that he called the complainant's place of business from a nearby telephone and that complainant's brother James answered the telephone and the deputy gave him a horse race bet over the telephone. Another deputy sheriff testified that he went to the complainant's premises at the same time as the deputy who made the telephone call; that he saw the complainant's brother James talk over the telephone; that the complainant was sitting in the office while his brother James was talking over the telephone; that after the other deputy sheriff called in the witness entered the premises; that the telephone rang while the witness was in the office, and the witness answered the telephone and received a bet over the telephone; and that outside the door was a bucket with some partially burned trash in which there were some burned or partially burned betting markers.

After consideration of this record, we now 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 there is no evidence that complainant was engaged in, was directly connected with, or permitted the telephone services to be used in bookmaking activities. Therefore, the complainant is now entitled to restoration of telephone service.

O R D E R

The complaint of Joe Lima 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 findings of record and the evidence herein,

IT IS ORDERED that the order of the Commission in Decision No. 53565, dated August 7, 1956, 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 19<sup>th</sup> day of NOVEMBER, 1956.

[Signature]  
President

[Signature]

[Signature]

[Signature]

[Signature]  
Commissioners