

ORIGINAL

54984

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MORRIS FIELDS, dba REDWOOD ROOM )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 THE PACIFIC TELEPHONE & TELEGRAPH )  
 COMPANY, a corporation, )  
 )  
 Defendant. )

Case No. 5913

Max A. Knepper, for complainant.  
Lawler, Felix & Hall by L. B. Conant, for  
 defendant.  
Roger Arnebergh, City Attorney, by Walter C.  
Foster, Deputy City Attorney, for the Police  
 Department of the City of Los Angeles,  
 intervenor.

O P I N I O N

The complainant, Morris Fields, by the complaint herein filed on March 4, 1957, alleges that he is doing business as the Redwood Room, an on-sale liquor establishment, at 3372 West Eighth Street, Los Angeles, California; that for some years last past complainant has subscribed for telephone service at his establishment, and that defendant has furnished complainant with such telephone service under number DUnkirk 2-0100; that the type of service was a (semi) public pay telephone with an extension to the bar; that on or about February 25, 1957, agents or employees of the defendant removed the telephone and terminated telephone service from complainant's premises; that as a result of the removal of said service complainant has been seriously hampered in the conduct of his business, has lost patrons, has been

deprived of ready access to police and fire protection, is unable to receive reservations for evening entertainment, and is hampered and restricted in the conduct of his business.

On March 21, 1957, 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), on or about February 18, 1957, had reasonable cause to believe that the telephone service furnished to complainant under number DUnkirk 2-0100 at 3372 West Eighth 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 on April 12, 1957, before Examiner Kent C. Rogers.

The complainant testified that for about four years prior to February 25, 1957, he owned and operated an on-sale liquor store at 3372 West Eighth Street, Los Angeles, under the name "Redwood Room"; that he had therein a semipublic pay telephone having the number DUnkirk 2-0100; that this telephone was a coin-box operated telephone located in the rear of the premises (Exhibit No. 2); that there was a nondial extension on the bar (Exhibit No. 1); that he usually worked at the bar and could not hear conversations on the primary telephone; and that he did not and would not permit the telephone to be used for illegal purposes and that it was not so used. He further testified that until the day the telephone was removed (February 13, 1957), and for about four months prior thereto, he had an employee named Riseley who, each week, worked one day in the bar and four days in the kitchen;

*Discharged*

*John*

that this man was ~~fired~~ the day of his arrest (February 13, 1957); that there is a General Electric Company building next door to his place of business and many of the company's employees call in in the mornings for sandwiches; that he receives a total of approximately 20 to 25 such calls per day, and such incoming calls were received on either the main phone or the extension on the bar; that he is familiar with horse racing; that he knows scratch sheets and does not allow them in his place of business; and that on one occasion prior to the arrest he observed Riseley taking money from people, and Riseley told the complainant that he took the money to the race track to bet.

By stipulation of the parties, Exhibit No. 3 was received in evidence. Exhibit No. 3 is a letter from the Chief of Police of the City of Los Angeles to the defendant advising it that the complainant's telephone at 3372 West 8th Street (Los Angeles) was being used for receiving and forwarding bets; and that said telephone facility was being used as an instrumentality to violate and to aid and abet the violation of the law. It was further stipulated that Exhibit No. 3 was received by defendant on February 18, 1957, and that complainant's service was disconnected on February 21, 1957. 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 complainant's telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

Two police officers of the City of Los Angeles testified concerning the events leading up to the removal of the telephone.

Officer Goodman testified that on January 31, 1957, he was in the bar and observed complainant's employee Riseley take money from several people in the bar and go to the telephone with a scratch sheet and make telephone calls, and that this happened about five times in a period of about one-half hour; that complainant was in the immediate vicinity when these events happened; that on February 13, 1957, he and Officer Davis returned to the premises; that Officer Davis went to the front door and the witness entered the back door; that Riseley came out the back door and the witness took him into custody; that he was on the premises from about 3:30 p.m. to 4:45 p.m., during which time the telephone rang about thirty times; that the first two times the telephone rang he answered it on the main telephone and the complainant answered the extension and told the calling parties that the party requested was not there; that the witness instructed the complainant to leave the extension telephone alone and that thereafter the witness answered about thirty calls from parties who asked for "Red"; that he said he was "Red" and a few of the callers hung up, but he received several bets on horse races being run that day; that no caller asked for complainant, but all asked for "Red"; that there was a scratch sheet in the kitchen but the witness found no betting markers; and that Riseley was nicknamed "Red." The witness further testified that he knows hand book operations; that a hand book is where a person receives bets and calls them in immediately, writing nothing down; that a relay spot is where bets are received, relayed on to another spot immediately, and any record made immediately destroyed; and that in his opinion Riseley was running a combination hand book and relay spot.

Officer Davis testified that he was with Officer Goodman at the time of the raid on February 13, 1957; and that in a period of about 45 to 55 minutes the complainant's telephone rang 25 to 35 times.

On rebuttal the complainant testified that while the officers were on the premises the telephone rang only about 10 times; that one call was to an employee and two were from beer salesmen.

After consideration of the record, we now find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, supra. We further find that complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing, and that complainant either knew that it was so used or was so negligent in the manner in which he permitted it to be used that its use for illegal purposes resulted.

O R D E R

The complaint of Morris Fields 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 complainant's request for restoration of telephone service is denied.

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 application is made The Pacific Telephone and Telegraph Company shall install telephone service at complainant's place of business at 3372 West Eighth Street, Los Angeles, 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 17th day of MAY, 1957:

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.