

ORIGINAL

Decision No. 56092

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MORTON E. OLSHAN,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a corporation,)
)
 Defendant.)

Case No. 6005

Adolph Alexander, attorney for complainant.

Lawler, Felix & Hall, by Gene Otsea, for defendant.

Roger Arnebergh, City Attorney, by Patrick Coleman,
Deputy City Attorney, for the Los Angeles Police
Department, intervener.

O P I N I O N

By the complaint herein, filed on November 5, 1957, Morton E. Olshan, complainant, states that prior to October 5, 1957, under the name "NATION-WIDE FOOTBALL," he was conducting a business at 2525 South La Brea Avenue, in the City of Los Angeles, State of California; that during the continuance of said business defendant had supplied to complainant telephone service; that the aforesaid business was that of evaluating the merits of various football teams, predicting the winners, publishing and then selling said publication; that on or about the 5th day of October, 1957, the Police Department of the City of Los Angeles arrested complainant and charged him with the violation of Section 337a of the Penal Code; that said complaint

was subsequently dismissed after a hearing in the Municipal Court; that as a result of said arrest, complainant has been denied telephone service by defendant and defendant refuses to provide complainant with telephone service.

On November 22, 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 October 8, 1957, had reasonable cause to believe that the telephone service furnished to complainant under telephone numbers WEbster 8-3903, WEbster 8-3904, WEbster 8-3905, WEbster 1-2861 and WEbster 5-7111 at 2525 South La Brea Avenue, 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, and that having such reasonable cause defendant was required to disconnect the services pursuant to this Commission's Decision No. 41415, referred to supra.

A public hearing was held in Los Angeles on December 13, 1957, before Examiner Kent C. Rogers.

The complainant testified that he has a business at 2525 South La Brea and that therein he had the telephone numbers heretofore referred to; that his business consisted of publishing sport sheets concerning basketball and football and that he supplements the publication by giving information to his customers over the telephone; that his sport sheets are distributed nationally (See Exhibit No. 1 for examples); and that he also predicts results of football games, and that such predictions are published in newspapers of general circulation such as the Los Angeles Examiner (See Exhibit

No. 2 as indicated); that on October 5, 1957, he was arrested for the first time in his life by the Wilshire Vice Division of the Los Angeles Police Department, his telephone was removed, and he was taken into custody; that the telephone has never been restored; that he was charged with the violation of Section 337a of the Penal Code and such charge was dismissed on preliminary hearing; and that he has never violated the law and does not intend to violate the law in the future.

A police officer connected with the Vice Detail of the Los Angeles Police Department testified that on or about January 5, 1957, at 11:30 a.m., he was in the vicinity of the complainant's premises; that he could see the complainant and a Mr. Schmitman inside; that Mr. Schmitman was sitting at a desk facing the witness and talking over the telephone and writing on a piece of paper at the same time; that he entered the premises and placed the complainant and Mr. Schmitman under arrest; that the paper Mr. Schmitman was writing on contained the name of a man, his address, the state he lived in, and a dollar amount following the name of the bettor and the names of football teams with the points by which they were favored to win or to lose in a coming game; that he searched the desk where Mr. Schmitman was seated and found a weekly football schedule which had the point-spread for the football games to be played that day; that he searched Mr. Olshan's desk and found a piece of paper with the names of numerous football teams, numerous figures, initials of persons, and at the bottom of the page a recap of parlays; that he had a conversation with the complainant concerning the paper and its purpose; that complainant said the names of the football teams were

in his handwriting and that the initials thereon were the initials of persons who call him on the telephone and ask him the point-spread of different football teams; that the witness asked the complainant what the numbers meant and the complainant said that the numbers indicated money, that the person whose initials appeared had told him they were to wager on teams he advised them to bet on, and that he kept track of wins or losses but charged no money for his services although he expected a percentage from the person who wagered and won.

Exhibit No. 3 is a letter dated October 7, 1957, from the office of the Chief of Police of the City of Los Angeles to the defendant advising the defendant that complainant's telephones located at 2525 South La Brea Avenue, Los Angeles, were being used for the purpose of disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephones had been removed by police officers; and requesting that the defendant disconnect services. Exhibit No. 3 was received by the defendant on October 8, 1957, and all telephone services were disconnected on October 11, 1957. They have not been restored to date. The position of the telephone company was that it had acted with reasonable cause, as that term is used in Decision No. 41415 referred to supra, in disconnecting the telephone services inasmuch as it had received the letter designated as Exhibit No. 3.

After full 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 petitioner was engaged ✓
in, was directly connected with, or permitted the telephone facili- ✓
ties to be used for illegal purposes. Therefore, the petitioner is ✓
now entitled to restoration of telephone service. ✓

O R D E R

The complaint of Morton E. Olshan 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 upon the evidence of record and the findings herein,

IT IS ORDERED that complainant's request for restoration of telephone service be and it is granted. ✓

IT IS FURTHER ORDERED that upon the effective date of this order the complainant herein may file an application or applications for telephone service, and if such filing is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's place of business, 2525 South La Brea Avenue, 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 the date hereof.

Dated at San Francisco, California, this 14th day of January, 1958

Walter E. Mitchell
 President

Paulo L. Intererene

Walter J. ...

R. Hardy

L. Lynn Cox
 Commissioners