

ORIGINAL

Decision No. 59846

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DANIEL BACCARAT,

Complainant,

vs.

Case No. 6398

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Herbert R. Lande, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Laurence R. Corcoran, for Police Department of the City of Los Angeles, intervener.

O P I N I O N

By his complaint filed on December 16, 1959, complainant, Daniel Baccarat, requests that his telephone service formerly furnished to him by the defendant, The Pacific Telephone and Telegraph Company, at 211 West Ninth Street, San Pedro, California, be ordered restored.

On January 4, 1960, 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 December 7, 1959, had reasonable cause to believe that the telephone service furnished to complainant, under telephone number TErminAl 2-9412 at 211 West Ninth Street, San Pedro, 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 telephone service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held in San Pedro on February 11, 1960, before Examiner Kent C. Rogers.

Complainant testified that he has an office in which he runs his hotel at 211 West Ninth Street, San Pedro, California, and has been operating this office since 1949 at the same address; that he needs a telephone therein; that on November 6, 1959, he was arrested in said office; that on that date he did not use the telephone therein to place horse race bets; and that prior to the arrest, he did not use the telephone for bookmaking purposes.

Exhibit No. 1, herein, is a letter dated December 4, 1959, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the complainant's telephone at 211 West Ninth Street, San Pedro, California, having telephone number Terminal 2-9412, was being used for forwarding and receiving bets and requesting defendant to disconnect the service. It was stipulated that this letter was received on December 7, 1959, by the defendant and that the defendant disconnected the complainant's service pursuant to said letter on December 10, 1959, and that the service has not been reconnected. This letter was received in evidence by stipulation of the parties.

The position of the telephone company was that it had acted with reasonable cause, as that term is defined in Decision No. 41415, supra, in disconnecting the service, inasmuch as it had received the letter designated as Exhibit No. 1.

A police officer, connected with the Vice Detail in the City of Los Angeles Police Department, was called as a witness. The record shows that this officer entered complainant's place of business unbeknown to the complainant and secreted himself therein and observed and heard certain things, including the placing of horse race bets by the complainant over the complainant's telephone. This evidence was objected to by the complainant on the grounds that matters there discovered by said witness were inadmissible as being based on an illegal search. This question need not be passed on herein, however, inasmuch as the letter, Exhibit No. 1, was received by stipulation and the statements contained in the letter constitute sufficient grounds for the Commission to determine that the telephone facilities of the complainant were being used for illegal purposes as defined in Decision No. 41415, supra.

Therefore, after consideration of this record, disregarding the evidence presented by the police officer, we now find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, supra, and that, based on the letter from the Chief of Police (Exhibit No. 1 herein), the 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.

O R D E R

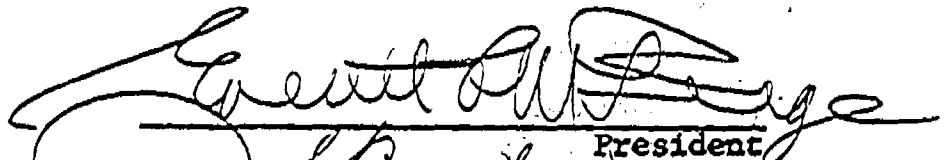
The complaint of Daniel Baccarat against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence of record,

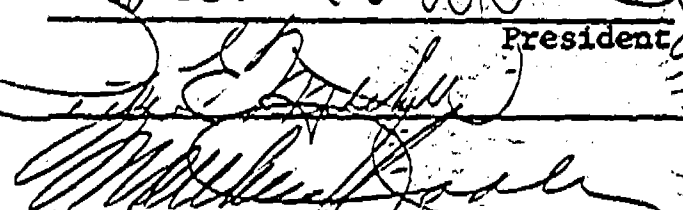
IT IS ORDERED that complainant's request for restoration of telephone service be, and it is, denied.

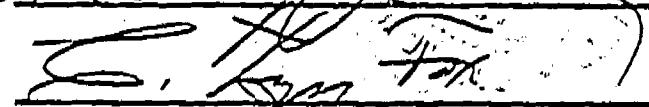
It is further ordered that upon the expiration of thirty days after the effective date of this order the complainant herein may file an application for telephone service and if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's place of business at 211 West Ninth Street, San Pedro, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

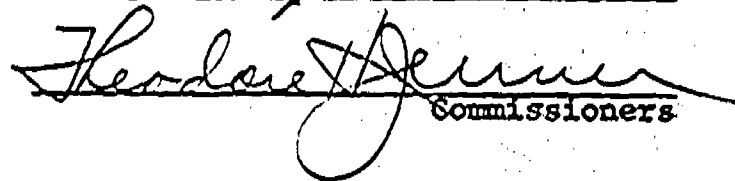
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 29th day of March 1960.



President






Commissioners