

**ORIGINAL**

Decision No. 69792

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PHIL JOE, INC., a corporation,  
PHILIP D. SEATE, President,

Complainant,

vs.

Case No. 8181

PACIFIC TELEPHONE,

Defendant.

Arthur Shivell, for complainant.  
Lawler, Felix & Hall, by Robert C. Coppo,  
for defendant.  
Roger Arnebergh, City Attorney, by  
Michael T. Sauer, for the Police  
Department of the City of Los Angeles,  
intervener.

O P I N I O N

Complainant seeks restoration of telephone service at 7431 Van Nuys Blvd., Van Nuys, California. Interim restoration was ordered pending further order (Decision No. 69152, dated June 1, 1965).

Defendant's answer alleges that on or about April 6, 1965, it had reasonable cause to believe that service to Philip Shatz, under number 787-9257, was being or was to be used as an instrumentality directly or indirectly to violate or aid and abet violation of law, and therefore defendant was required to disconnect service pursuant to the decision in Re Telephone Disconnection, 47 Cal. P.U.C. 353.

The matter was heard and submitted before Examiner DeWolf at Los Angeles on September 13, 1965.

By letter of April 5, 1965, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 787-9857 was being used to disseminate horse-racing information used in connection with bookmaking in violation of Penal Code Section 337a, and requested disconnection (Exhibit 2). Defendant notified the subscriber of disconnection (Exhibit 1).

Complainant testified that he is the owner and operator of a bar and has no knowledge of any illegal use of the telephone. Complainant testified that one of his employees was arrested for bookmaking and he was discharged and is no longer on the premises.

Complainant further testified that telephone service is essential in the conduct and operation of his business and he did not and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainant, but no testimony was offered on behalf of any law enforcement agency.

We find that defendant's action was based upon reasonable cause, and the evidence fails to show that the telephone was used for any illegal purpose. Complainant is entitled to restoration of service.

ORDER

IT IS ORDERED that Decision No. 69152, dated June 1, 1965, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff provisions and existing applicable law.

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

Dated at San Francisco, California, this 13<sup>th</sup> day of OCTOBER, 1965.

Frederick B. Hallock  
 President

George H. Crowe

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Commissioners

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

*I dissent to this entire procedure. See my views in the Bottol case. William L. Brund*