

Decision 88 03 025 MAR 09 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Edward Siegel,)
)
 Complainant,)
)
 vs.)
)
 Pacific Bell, (U 1001 C),)
)
 Defendant.)

Case 87-03-018
(Filed April 22, 1987)

Edward Siegel, for himself, complainant.
John W. Body, Attorney at Law, for Pacific
Bell, defendant.

OPINION

Edward Siegel's complaint against Pacific Bell makes various allegations concerning his telephone service in a three-page, single-spaced, typewritten pleading. Pacific Bell filed its answer to the complaint on April 22, 1987, in which it seeks dismissal of the complaint on various grounds. A public hearing was held July 7, 1987, before Administrative Law Judge (ALJ) Robert T. Baer and the case was submitted subject to the filing of an opening brief by complainant and a closing brief by defendant. Siegel subsequently hand-delivered to the ALJ a 14-page letter summarizing his arguments regarding the evidence. The letter is undated and unsigned and attached to it are three letters intended to support his arguments. Pacific Bell filed a reply brief on July 28, 1987. After the record had closed Siegel hand-delivered to the ALJ two envelopes, one of which contained a letter, which he

wished to be considered as evidence in deciding his case. Also, by letter postmarked August 10, 1987, Siegel submitted to the ALJ his July 8, 1987 bill from Pacific Bell. (Late-filed Exhibit 4.)

Because the complaint and the complainant's closing brief are lengthy, convoluted, and difficult to understand, we will rely in this decision upon the transcript and the statements and testimony of the complainant in discussing his various causes of action.

Siegel described his complaint as falling into four parts. The first part concerns Pacific Bell's alleged misuse of his account information for his unlisted telephone number, that is, the selling to telemarketing companies and junk mailers of his unlisted telephone number and address. Part two of the complaint has to do with the alleged inadequacy of Pacific Bell's 411 service. Part three concerns double billing by AT&T and U. S. Sprint.

Part four is the crux of this complaint. It deals with Pacific Bell's assertion that Siegel subscribed to telephone service at his current address in another name in an attempt to defraud the telephone company of revenues for service in the fraudulent name. We will deal with each of these parts in the order that they appear above as that is the manner in which the evidence was received in the transcript.

Sale of Telephone Number and Address

Siegel testified that he believed that Pacific Bell had sold his unlisted telephone number and his address to telemarketers and junk mailers. As evidence in support of his allegation he referred to a copy of a letter from a consultant for the Northern California Office of the Commission's Consumer Affairs Branch. Siegel testified about the letter as follows:

"She [the consultant] makes a statement that Pacific Bell says it does not sell unlisted telephone numbers, and I presume addresses."
(TR. 10.)

Siegel did not offer the letter in evidence nor did he read its contents into the record. However, he attached the original of the letter to his closing brief. It is dated March 9, 1987, and states in part that: "Pacific Bell does not sell unlisted telephone numbers". Siegel then asked for a stipulation from Pacific Bell that the policy on unlisted numbers stated in the letter was indeed their corporate policy. Pacific Bell through its attorney entered into a stipulation that: "The phone company's policy, then, is not to sell either addresses or phone numbers of their unlisted subscribers" (TR. 11.)

Siegel next introduced a letter dated December 12, 1986, from AT&T-Communications addressed to "E. J. Sigel" at his address. (Exhibit 1.) Siegel testified that on the date of the letter his name was and is Siegel and that he never used his middle initial "even legally". Siegel's theory of the case is that Pacific Bell had mistakenly recorded his account in the name of E. J. Sigel, which name Pacific Bell had provided to AT&T-Communications, and to telemarketers and junk mailers.

Next, Siegel introduced into evidence as Exhibit 2, a number of items of junk mail. Fifteen of the sixteen items are addressed to E. Sigel and one item is addressed to E. J. Sigel.

This single piece of junk mail addressed to E. J. Sigel is remarkable for several reasons. First, it is a solicitation to subscribe to a well-known men's magazine enclosed in a window envelope. All of the enclosures are printed except for the addressee and address, which are handwritten in red felt-tip pen at the bottom of a two-page letter after the P.S. It is obvious that this addressee and address were not on the original printed documents, for, when the letter is placed in the envelope so that the addressee and address appear in the window, the city, state, and zip code are entirely obscured and the street address is partly obscured. Moreover, the paper on which the address and addressee are handwritten is smaller in width than the width of the envelope,

allowing the document to slip to one side of the window thus obscuring the address even further. It is clear that the addressee and address were inscribed by the proponent of this evidence in his own handwriting and not by the magazine publisher or its advertising agency. We know from our own experience that high volume advertising by mail is not hand-addressed. In addition, the style of the spacing and punctuation on the city, state, and zip code is identical for this hand-written address to a typewritten letter submitted by Edward Siegel to the Docket Office. Both lines are in the following form: "San Francisco, CA 94118".

Siegel testified in conclusion that the documents introduced in support of this claim indicate that someone at Pacific Bell must make a little profit out of selling unlisted telephone numbers and addresses to third parties. He stated that he is on lots of other mailing lists, usually as Dr. Edward Siegel or Dr. E. Siegel, but that his name is never misspelled the way it is on the junk mail as E. or E.J. Sigel. He infers from this evidence that Pacific Bell must be responsible for placing his name on mailing lists. Complainant believes that the service that he paid for, that is, his unlisted service, has been misused by either the company or an employee of the company. He also believes that while the company may have policies against the sale of unlisted addresses and telephone numbers to third parties, this policy does not constitute proof that employees of the company do not violate that policy.

Inadequate 411 Information Service

The second part of Siegel's complaint concerns inadequate 411 information service. His complaint actually involves two phases of 411 service. The first is that when he requests a telephone number to be given him through the information service and the number is wrong he will be charged both for the call to the information service and for the call that is the wrong number as given him by the information service. His second grievance with

information concerns the manner in which the numbers are provided. According to Siegel he is entitled to three requests for telephone numbers for each 411 call he makes. However, in his experience after he requests the first number the operator provides it to him through a taped message and thereafter disconnects the information call. Thus in order to receive the three numbers to which he believes he is entitled for every call to the 411 service, he must place three calls to the 411 service. Siegel did not quantify how often he has been deprived of his right to receive three numbers for each 411 information call.

Double Billing By U.S. Sprint and AT&T

Siegel's next grievance concerns double billing by U.S. Sprint and AT&T for long-distance calls. Siegel has selected U. S. Sprint as the long-distance carrier of his choice. However, he points out that on his Pacific Bell statement dated March 8, 1987, he has been billed for five calls placed February 29, 1987 within less than a one-hour period to the same telephone number over AT&T lines. He claims he does not understand how he is being billed for five calls by AT&T, which is not even his designated carrier, when presumably one call to the number would have sufficed in that short span of time. He points out other instances of this phenomenon occurring.

Subscribing in Another Name

In his direct showing Siegel offered only a letter from Pacific in support of his position. This letter, dated November 17, 1986, releases Siegel from responsibility for the final bill in the name of Ruben Edwin Sagala, Account No. 415-221-1576. (Exhibit 5.)

Other evidence that came out in cross-examination of Siegel in pleadings, in documentary exhibits, in correspondence signed by him, and in argument indicates that Siegel claims that he was out of the state when the phone calls on "Sagala's" account

were made; that Sagala was his housesitter during the period in question; and that Siegel was not responsible for the calls.

Cross-Examination of Siegel

On cross-examination Siegel testified that his true name is Edward Siegel. Yet, Pacific showed during cross-examination that he subscribes to U. S. Sprint as "E. J. Sigel"; and that he has subscribed to PG&E's gas and electric service as "E. J. Segal" between May 1984, and May, 1987, at his current address. Every piece of junk mail he introduced, except one, was addressed to E. Siegel. He first leased an apartment at the 183-14th Avenue address in May of 1984, at which time he established PG&E service. Yet, he claimed that he did not establish phone service at that address until May 1986. During the two-year period from May, 1984, to May, 1986, Ruben Sagala was a housesitter at Siegel's apartment, according to Siegel. Although Siegel testified he knew Sagala's address, Siegel did not call him as a witness.

Showing of Pacific Bell

Pacific Bell called Judy Walls its manager in the residence accounts service center that handles the San Francisco area. She testified about the contents of Pacific Bell's records concerning Account No. 221-1576 at Mr. Siegel's address. The records indicate that service was established on October 19, 1984. The account was unpublished service under the name of Debra Sagala. The billing name was Debra Bugarin Sagala c/o Ruben Edwin Sagala at the service address, 183-14th Avenue, Apartment 2, San Francisco. Five weeks later, on November 30, 1984, the billing name was changed to Ruben Edwin Sagala and there was a corresponding change of responsibility from Debra to Ruben Edwin. The billing address also changed to c/o Carol Levine at 403 8th Avenue, in San Francisco. The bills were paid monthly in full through July 1985; however, the last payment for July was received in September of 1985. No further payments were made after that date.

On October 25, 1985, Mr. Sagala called into the billing office and stated that he did not recognize any of the calls on his bill for the August, September, and October bills. He did not dispute any other charges, nor did he pay any of the other charges. Pacific's representative checked the listings for the telephone numbers recorded on Sagala's bill. The representative also checked the numbers called by the distant parties to determine if those parties had made phone calls back to Sagala's San Francisco number. The distant parties had in fact done so in many cases. When Pacific has made this kind of a determination, it infers that there is mutual knowledge of the complaining party and the distant parties and therefore no basis exists for the calling party not paying for the calls. Pacific therefore concluded that it would not make any adjustment of the bill for Mr. Sagala. On December 18, 1985, Pacific mailed a letter advising Mr. Sagala that there would be no adjustment. On February 25, 1986, Pacific called and requested payment of the undisputed portion of the bill. The monthly service charges at that point were approximately \$180. Sagala agreed to mail payment on February 28, 1986. No payment was received; therefore, Pacific Bell sent a notice of interruption on March 22, 1986. The notice of interruption stated the unpaid or delinquent amount on the bill and it gave the subscriber seven days in which to remit payment. The amount that Pacific expects is stated on the notice. It also cites the restoral fee and the deposit that would be required if no payment is received by the end of the seven-day period. Pacific received no payment at the end of the seven-day notice period and service was temporarily disconnected on April 15, 1986.

On April 16, 1986 the subscriber called to question the reason for disconnection. He was advised that Pacific had not received the agreed-upon payment of \$180 for the monthly service charges that had accrued and that Pacific would need that payment in order to avoid permanently disconnecting the line. Pacific

received no payment in response to this call and on April 29, 1986 the line was permanently disconnected. The final amount owing on Account No. 221-1576 was \$811.89.

Pacific next received an order for telephone service at Mr. Siegel's address on April 21, 1987, the day that it expected to hear from the subscriber regarding payment of his delinquent bills pursuant to the phone conversation of April 16, 1986. On April 21, a person identifying himself as Ed Edwards contacted Pacific's order department and requested service at the 183-14th Avenue apartment. On April 25, 1986, the order department advised Mr. Edwards that Pacific would need a copy of his rental agreement for the premises and a picture I.D. in order to establish new service, since it had not yet disconnected the existing service at that address and it needed to be sure who Pacific was dealing with at that address. Pacific received no further contact from Mr. Edwards thereafter.

On May 7, 1986, service was established at the above address under the name of E. J. Sigel.¹ To establish his account Mr. Siegel provided Pacific with Social Security Number 073-14-2859. He also gave his occupation as Real Estate, employed by Mr. Lipschulz, with a work number of 474-3411. He gave his date of employment as April 1983 and he advised Pacific that he could be reached at home if Pacific needed to call him. Pacific asked for a daytime message number or can-be-reached number. Siegel advised Pacific that his home would be that number.

Pacific provided a written record of the Social Security Number given by Mr. Siegel at the time he subscribed to telephone service on May 7, 1986. The record consists of a Xerox copy of a computer printout which was marked Exhibit 7. Based on the

¹ The name was later corrected to "Siegel" on Pacific's records.

information provided to Pacific the company established service for Mr. Siegel with Account No. 221-4901.

Pacific later determined to hold Mr. Siegel responsible for the bill incurred in the name of Ruben Sagala through the work of one of its service representatives, David Schmidt, who it later called as a witness. On October 29, 1986, Schmidt made a determination that the voice, manner, concerns, and inquiries regarding the two separate accounts were similar. He also identified matching toll calls on each of the account numbers. That is, he determined that the same telephone numbers had been dialed directly from each of the two separate telephone accounts, 221-1576 and 221-4901. Both accounts had calls to exactly the same telephone numbers. Pacific infers from such evidence that the same user is placing the calls.

Pacific conducted additional investigation in order to substantiate the toll matches. It referred both accounts to its final account collection bureau for toll fraud investigation. A witness from that bureau testified later in the proceeding.

Pacific next called Molly J. Booth as a witness. She is a collection manager in the final account collection center in Sacramento. That center is responsible to collect all of the non-paid disconnected accounts in Northern California. Ms. Booth testified that when her center finds a new customer at an address where there is a very large, outstanding, disconnected account they usually check the new account to see if there were any matching tolls or anything to indicate that the same customer still lives at that address. Mr. Siegel's account and the previous account at his address were referred by Ms. Walls to the center. The center verified the toll matches and then sent a letter to Mr. Siegel that his service would be subject to disconnect in accordance with Tariff Rule A-2, which states:

"The Utility shall have the right to refuse or discontinue telephone service if the acts of the customer, including furnishing false credit

information, or the conditions upon their premises are such as to indicate intention to defraud the utility." (Schedule Cal. P.U.C. No. A-2, Rule 11 (A.5).)

According to Booth, the investigation conducted by the center indicated an intention to defraud the utility. Accordingly, the center determined to hold Siegel responsible for the previous telephone bill in the name of Ruben Sagala.

Booth also prepared an exhibit showing the toll matches between the account for Edward Siegel and the previous account at his address. The exhibit is a one-page document entitled "Toll Matches Between 221-1576 and 221-4901". The bill shows matches between calls made from Sagala's number (221-1576) during the period February 1986 through May 1986 and calls made on Siegel's number (221-4901) during the period May 1986 through January 1987. There were eleven matching telephone numbers and 55 calls placed over those numbers from Mr. Siegel's number.

Mr. Siegel called Ms. Booth in response to the letter threatening disconnection. Ms. Booth testified that Siegel told her that he had been apartment-hunting during the period of time when the first few matches appeared on the bills; that he had looked at Mr. Sagala's apartment; and while he was looking at the apartment, he used his phone to make long distance calls. He further told Ms. Booth that at that time he called for and obtained the time and charges from the operator and paid Mr. Sagala. A preliminary investigation by Ms. Booth tended to verify the story reported by Mr. Siegel to her. She therefore had no reason to doubt Mr. Siegel's explanation for the matching toll calls on the two accounts. She therefore told Mr. Siegel that she would release him from responsibility because she did not have any substantial evidence at that time. He requested that she notify him in writing and she did so.

Later, however, she reached and talked with Debra Sagala, because her name was the original billing name. She told Ms. Booth

that she did not know Edward Siegel; she was however married to Ruben Sagala. He had never lived at the 183-14th Street apartment address. They were married in April 1984, and had moved to their current address at 295-21st Avenue. Their billing at that address indicated that what she was saying was true. She gave Ms. Booth her husband's work phone number and also the name and telephone number of her previous landlord at 183-14th Avenue.

Ms. Booth obtained a written statement, a declaration under penalty of perjury, from Debra Sagala. (Exhibit 10.)

After talking to Debra Sagala Ms. Booth called Ruben Sagala and talked with him at his work. She asked him if he had ever lived at 183-14th Avenue, Apartment 2. He denied that he had ever lived there. He also denied that he had known Edward Siegel. He did not know a Carol Levine. He had not given permission for anyone to use his name to establish a telephone service. Ms. Booth obtained a written statement from Ruben Sagala, a declaration under penalty of perjury. (Exhibit 11.)

After talking to Ruben Sagala, Ms. Booth called the landlord of the property, Rae Slaby. She asked her if she knew Ruben Sagala who, she thought, had sublet the apartment from Mr. Siegel. She did not know any Ruben Sagala. She did however know Debra Bugarin Sagala, who used to be her tenant. She told Ms. Booth that she never ran into anybody by the name of Ruben Sagala. Ms. Booth asked her if she ran into Mr. Siegel. She said yes, she did in May of 1984, in front of Apartment No. 2. She also told Ms. Booth that Mr. Siegel had given her the phone number 221-1576 in December as his number where he could be reached. That same number was printed on his rental checks that he gave her. Ms. Booth also asked her if she knew a Mr. Lipschultz. She had never heard of such a person and had never used a Mr. Lipschultz as a rental agent for her apartment building. Ms. Booth asked her if she knew that Mr. Siegel had sublet his apartment. She said no, that she did not know that he had ever sublet the apartment.

Ms. Booth obtained a written statement from Ms. Slaby, a declaration under penalty of perjury. (Exhibit 12). Attached to the declaration is a hand-written codicil that came back from the declarant after the typewritten declaration was sent to her for signing. Based upon what Ms. Booth was told by Ms. Slaby over the telephone, Ms. Booth prepared the typewritten declaration, sent it to Ms. Slaby for her signature, and the document with the hand-written codicil came back in the mail.

Ms. Booth compared the toll records for the telephone account established for Debra and Ruben Sagala at their current address with the toll records of Mr. Siegel's address during the period in which Mr. Siegel had said Mr. Sagala was living or house-sitting there. None of the toll calls matched.

Ms. Booth concluded after her conversations with the declarants that Mr. Siegel had fraudulently put the telephone service in the name of Ruben Sagala without the knowledge or consent of Mr. Sagala. He did that solely to avoid paying for telephone service. Ms. Booth then informed Mr. Siegel of her conclusion. Mr. Siegel offered to make small monthly payments for the charges he had incurred in the name of Ruben Sagala. But Ms. Booth advised him that he would need at least half of the bill for \$800 paid in order to continue with his current service. He said he would try to get the money, but he did not have it at that time. That conversation was conducted on December 2, 1986, after the first telephone number was disconnected and after he had obtained service as Edward Siegel. Mr. Siegel never made any payments toward the delinquent bill on the Sagala account. The total unpaid charges accrued on Account 221-1576, are \$811.89. Accrued charges on Account 221-4901 as of June 8, 1987, were \$340.76.

Pacific next introduced through Ms. Booth two letters provided by Mr. Siegel to the Consumer Affairs Branch in connection with his informal complaint. (Exhibit 13.) The first letter, dated November 11, 1986, and addressed "To Whom It May Concern" is

on the letterhead of the International Atomic Energy Agency and is signed "Cl. Deplanche, Deputy Director". The second letter, dated June 1, 1987, is on the letterhead of a university in Bonn, West Germany. It is addressed to Dr. Edward Siegel at 183-14th Avenue and is signed by a Dr. R. Haberstroh. Ms. Booth pointed out that both letters were sent to Mr. Siegel and not to Pacific Bell or to the PUC; also, there were no envelopes to substantiate from where they had been mailed. Finally, the two letters contained the same typing mistakes, although they are purportedly from two completely different sources. The common mistakes between these two letters are the lack of spacing between month and year, as in "April,1977", a construction found on the November letter and "Fall,1984", a construction found four times in the June letter. Similarly, both letters have the characteristic lack of spacing in "Dr.A.Reichmann" on the November letter and "Dr.R.Haberstroh" on the June letter. Finally, the construction "Vanderbilt University,(no space) Nashville,(no space) Tennessee,(no space) U.S.A." is found in the November letter and the construction "Vanderbilt Universitat,(no space) Nashville,(no space) Tennessee" is found in the June letter. Having noted the similarities described above, Ms. Booth did not believe that the letters were authentic. She thought that they might have been written by Mr. Siegel himself.

As a result of this opinion, she did further investigation. She called Vanderbilt University to verify Mr. Siegel's employment. She asked if Professor Siegel worked there or had worked there. The person with whom she talked told her that they did have a Professor Siegel there but he could not be reached at the moment. She then asked for a telephone number where he could be reached and was given his home phone number. She called Professor Siegel at his home and talked with him. She explained to him who she was and why she was calling. She asked for his complete name, address, and telephone number; and she also asked

for his social security number. He told her that his social security number was 073-14-2859. She asked him if he knew of a Mr. Siegel who lived at 183-14th Avenue in San Francisco. He did not know of anybody by that name. She asked him if he had ever lived in San Francisco at the address in question. He had not. She asked him if he had ever lived in California and he replied that he had one time in the 1970s lived in Palo Alto and Berkeley. Professor Siegel asked Ms. Booth if someone had been using his social security number. Ms. Booth told him that she did not at that time know because she did not know if Pacific records showed Mr. Siegel's social security number on them. She told him that she would check the records and call him back, if that were true. She checked the records and found that Mr. Siegel had given Pacific that same social security number when he had applied for service. Professor Siegel was very upset that somebody had been using his social security number. He was concerned about his credit. Ms. Booth obtained a written statement from Professor Siegel, a declaration under penalty of perjury. (Exhibit 14.) Ms. Booth was asked by Pacific's attorney what Mr. Siegel would have to gain by using Professor Siegel's social security number. She replied that it would give him the ability to use Professor Siegel's good credit to establish accounts with almost any creditor. On further direct examination by the ALJ Ms. Booth was asked whether there was a social security number associated with the account of Ruben Sagala, to which question the witness answered no. There were no identifying numbers associated with that account, such as a driver's license or any other form of identification. The telephone company can ask for these numbers but cannot force a customer to give them to establish service.

On cross-examination Siegel asked Ms. Booth whether she knew if he had actually made the telephone calls on the toll matching exhibit. She stated that she didn't know who made the calls but that the matching tolls indicated to her that there was

need for further investigation. Also, she did not call the individual numbers to determine who had placed the call and to whom the call was placed. She did not feel that that was necessary because of the number of matching toll calls.

Pacific next called as a witness David Schmidt, a service representative in the residence accounting center. The duties of his office are to handle billing inquiries from customers and also to handle the collection of customers' bills. Schmidt has spoken on at least two occasions with Mr. Siegel in connection with his service: on July 3, 1986, and October 6, 1986. Mr. Siegel had several items that he was concerned about. He requested an adjustment for directory assistance calls. He requested long distance service by a company other than by the one he was served by at that time. He questioned specific long distance charges from AT&T that were already on his bill. He also wanted a supervisor to call him back; and he gave Mr. Schmidt a time frame of the following Friday between 9:00 a.m. and 1:00 p.m. within which to call him.

In response to Siegel's concerns, Schmidt made an adjustment for his directory assistance charges. He also referred him to SPRINT for his long distance service. He also gave him a telephone number where he could call AT&T about his long distance charges. Finally, he advised him that a manager would call on the Friday following their conversation, which would be October 10, between 9:00 a.m. and 1:00 p.m. Since Siegel had specifically requested that Schmidt respond to him in writing, Schmidt told him that the next day he would mail him a letter to recap their conversation. The next day Schmidt sent the letter, dated October 7, 1986. (Exhibit 15.)

On October 6, Schmidt granted to Siegel a credit of \$10.35 for his directory assistance problems. Previously on July 3, 1986, Pacific had granted a credit for \$6.16. In the letter, among other things, Schmidt instructed Siegel on how to get

better service from 411 operators and how to obtain credits through the 411 office.

Counsel for Pacific then asked Schmidt, as follows:

"Q Are there any other times when you believe you may have spoken to Mr. Siegel?

"A Yes. on December 18th of 1985, when he called to inquire about a toll claim on Account No. 221-1576. That was the account in the name of Ruben Sagala.

"Q Did he represent himself as Mr. Sagala?

"A He did not indicate that he had any other name. So I assumed that was who he was saying he was.

"Q What was your basis for the belief, then-- for your belief--that the person you spoke to about the Sagala account and the person who later spoke to you as Mr. Siegel was the same person?

"A His tone of voice. His voice. And the tone about the attitude towards the company. His insistence that he speak without being interrupted. His particular complaint about the directory operators was something that was unusual. And that he was going to refuse to pay if the numbers were unlisted. And that his request that we respond to him in writing with a letter.

All these things were a key when I made that connection in my head.

"Q Okay. You've heard the complainant testify. Is his voice the same as the voice that identified himself--who spoke to the Ruben Sagala account?

"A Yes.

"Q And also it's the same person who called about the Edward Siegel account sometime later?

"A Yes." (Tr. 147-148.)

Schmidt testified that Pacific does not sell unlisted telephone numbers. He offered as a possible explanation for Siegel's receipt of junk mail that numerous catalogue companies and magazines sell their lists of subscribers. Schmidt also explained how Siegel could receive calls from telemarketers even if his name and number had not been disclosed to them by the telephone company. Schmidt explained that some companies pick a prefix and then randomly dial through that prefix without specific reference to what numbers they are calling or whether they are listed or unlisted. This process can be done manually or by machine. Schmidt also explained how Siegel may be billed by AT&T even though his designated long distance carrier is U.S. SPRINT. Schmidt advised Siegel during the October 6, 1986, telephone conversation that even though his primary long distance company was SPRINT, he could dial a 5-digit code to reach a different company. Schmidt also explained that steps were taken to exclude the possibility of central office error in billing Siegel for AT&T calls. Schmidt testified that the company did checks in the central office, the last of which was in April, 1987, when it verified that Siegel's equipment was registered to U.S. SPRINT.

Schmidt also sponsored evidence that Siegel is dialing the 5-digit code to complete calls over the AT&T network. Schmidt identified a document called an automatic format description, showing exactly how calls are dialed. This is a technical document containing supporting information for the data that is used for billing telephone calls. The document contains exactly what is reported by the switching system to the company's computer network. The document includes the calling number, the exact time, date, and length of the call, and the service characteristics. (Exhibit 16.)

Schmidt explained in detail how the computer printout is interpreted. He demonstrated that the printout shows that three calls were placed from Siegel's number (221-4901) within a one and

one-half minute period on April 20, 1987. The first call was placed to (914) 359-2900 and lasted 30 seconds. That call was placed over the AT&T system by using the 5-digit code, explained by Schmidt above. The 5-digit code appears in the printout. The second call was placed over the SPRINT system to the same number, except the area code was misdialled. Therefore, no phone call was actually connected. The third call was placed to (914) 359-2900 using the SPRINT system. That call lasted 2 minutes and 2 seconds. In summary the record shows that someone using Siegel's phone dialed one number first using a company code and then dialed the same number without a code within minutes.

Declaration of Debra Sagala-Exhibit 10

Pacific submitted as Exhibit 10 the declaration under penalty of perjury of Debra Sagala; she declares:

- "1. My name is Debra Sagala. My name before I married was Debra Bugarin. I reside at 295 21st Avenue, Apartment No. 8, San Francisco, California. My husband, Ruben Sagala, and I have lived full-time at this address since May 1984.
- "2. From February 1983 until April 1984, that is, before my marriage to Ruben Sagala, I lived at 183-14th Avenue, Apartment 2, San Francisco. I vacated that apartment in April 1984, and moved with my husband to our current residence.
- "3. Until now, I did not know, and had never heard of the complainant in this case, Edward Siegel. However, I have been informed, and on that basis believe, that he succeeded me as the tenant at 183-14th Avenue, Apartment 2, moving into that apartment in May 1984. Furthermore, another tenant at 183-14th Avenue informed me, and on that basis, I believe, that Mr. Siegel told her he had received my husband Ruben's Kaiser Health Insurance Card in the mail. It is my belief that Mr. Siegel obtained my husband's name from that card or from other correspondence he received but never forwarded to us, and used it to establish telephone service at 183-14th Avenue in my husband's name, but without his knowledge or consent.

"4. My husband has lived with me full-time since our marriage. To my knowledge he has never known or spoken to the complainant in this case. Nor has he ever lived at 183-14th Avenue. Neither of us has ever visited that address since I vacated my apartment there in April 1984."

The declaration is dated June 27, 1987.

Declaration of Ruben Sagala-Exhibit 11

Pacific also submitted the declaration under penalty of perjury of Ruben Sagala, who stated:

"1. My name is Ruben Sagala. I reside at 295 21st Street, San Francisco, California. My wife and I had lived and had telephone service exclusively and full-time at this address since May 1984.

"2. I have never lived at 183-14th Avenue, Apartment 2, San Francisco. I have never established telephone service at that address. However, before our marriage in May 1984, my wife, Debra, lived and had telephone service at that address. She vacated her apartment there in April 1984. I never entered the premises after April 1984. I did not make any telephone calls from or charge to the telephone number on those premises after April 1984.

"3. I have never met or spoken to the complainant in the above-captioned case, Edward Siegel. If Mr. Siegel established telephone service at that address or incurred charges in my name, it was without my knowledge or consent. I do not know anyone named Carol Levine.

"4. Ms. Molly Booth of Pacific Bell has provided me with a copy of the complaint filed by Mr. Siegel. The complaint contains a number of statements about me that, from personal knowledge, I know to be untrue. I was not 'intermittent housesitter' for Mr. Siegel from the Fall of 1984 to the Spring of 1986, as he alleges in paragraph 2A. As I have stated, I never entered the premises after my wife

vacated them in April 1984, or spoke to Mr. Siegel at any time. Contrary to paragraphs 2A, 2B, 2E, and 2F, I never established telephone service at 183-14th Avenue, or made any telephone calls from that address after April 1984. It follows that Mr. Siegel statements that he paid me for some calls, that I 'complain or challenge' any toll calls for (415) 221-1576, and that I made 'some nine months of continual complaints' (paragraph 2A) those paragraphs are not true."

The declaration is signed by Ruben Sagala on June 29, 1987.

Declaration of Rae Slaby-Exhibit 12

Pacific submitted the declaration under a penalty of perjury of Rae Slaby, who stated:

- "1. My husband and I own the apartment building located at 183 14th Avenue, San Francisco, California, in which Mr. Edward Siegel is a tenant.
- "2. Mr. Siegel has rented Apartment 2 in this building from us since May 1984. He was not referred to us by the previous tenant, Debra Bugarin, who vacated the same apartment in April 1984. To the best of my knowledge, Mr. Siegel and Ms. Bugarin did not know each other.
- "3. Mr. Siegel has been in continuous residence in the apartment since he moved into it. He did not sublet the apartment at any time. In fact, the rental agreement he signed in May 1984 specifically prohibits subletting the apartment without the approval of the owners. I do not know anyone named Mr. Lipschulz and do not use a rental agent. From the Fall of 1984 to the Spring of 1986, when I am informed by PacBell Mr. Siegel states he was in San Francisco only intermittently, my husband was on the premises at 183-14th Avenue every

day.² Altho (sic) statement section * is true we cannot swear Mr. Siegel was there every day from 84-86. It's possible he was gone on and off during this period. We don't always see every tenant when there. Ex. Mr. Siegel was gone from 3/13/87-3/28/87 heard & seen leaving and returning, mail pileup etc. He did not observe Mr. Siegel to be absent at any time. nor did he observe anybody 'housesitting' for Mr. Siegel.

"4. In 1984 Mr. Siegel gave me 221-1576 as his telephone number. His rent checks also had that number printed on them. I reached him on that number numerous times. Nobody else ever answered the phone when I called that number.

"5. I have attached and incorporated in this declaration a copy of the rental agreement signed by Edward Siegel in my presence on May 6, 1984. I hereby attest that this is a correct copy of the original."

The copy of the rental agreement dated May 6, 1984 is signed by Edward Siegel and shows that he was to pay \$400 per month in advance, the rent to commence May 1984. The declaration of Rae Slaby is signed June 30, 1987.

Declaration of Professor Edward Siegel-Exhibit 14

Pacific also submitted the declaration of Professor Edward Siegel, who stated under penalty of perjury:

"1. I am employed as a professor of Physics and Astronomy at Vanderbilt University, Nashville, Tennessee 37235. My telephone number at Vanderbilt University is (615) 322-2828. I reside at 4500 Post Road, Nashville, Tennessee, 37201. My telephone number at this residence is (615) 352-9693. My Social Security Number

² At this point Rae Slaby attached to the typewritten declaration a note indicating that an additional section should be inserted to qualify the sentence following. The underscored text represents Ms. Slaby's handwritten amendment.

is 073-14-2859. I am not a party to the above captioned complaint.

"2. I have resided in Nashville since 1976. Prior to 1976, I resided in Missouri. I have not resided in California since 1970, when I lived in Palo Alto and Berkeley.

"3. I have no personal knowledge of any Edward Siegel living in California. I have no personal knowledge of anyone who resides or has ever resided at 183 14th Avenue, Apartment 2, San Francisco, California. I have never applied for telephone service with Pacific Bell in San Francisco. I have never held any academic position at the University of Bonn, West Germany, nor was I ever employed by the International Atomic Energy Agency.

"4. I am writing this declaration in the information and belief that the complainant in the above-captioned complaint furnished by Social Security Number in order to establish telephone service with Pacific Bell in San Francisco, California in April, 1986."

The declaration is signed by Professor Edward Siegel on June 12, 1987 and subscribed by Patsy Mullican, a Notary Public, for Davidson County, Tennessee. Her official stamp is affixed to the original copy of the declaration. (Exhibit 14.)

Post-Hearing Events

At hearing the ALJ provided that Mr. Siegel could file a brief and that Pacific could reply thereto. Mr. Siegel hand delivered a 14-page typewritten letter brief to the ALJ to which was attached a letter in a window envelope. The envelope is postmarked July 1, 1987. The letter accompanying the envelope does not contain an addressee or an address. There is a blank space in the upper left-hand corner of the letter where an addressee and address could appear. The letterhead on which the letter is typed is a Xerox copy. The text of the letter is a Xerox copy. The signature is original, but the last name is missing two letters. The text of the letter contains the same characteristic punctuation

as has been described in other documents submitted by Mr. Siegel. For instance, no spacing occurs in the phrases "Winter, 1984" or "Spring, 1986".

Following the submission of the letter brief, Mr. Siegel delivered to the ALJ another letter in an envelope. Again the letterhead is a Xerox copy as is the text of the letter. However, the signature is original. The date of this letter appears to be June 1, 1987, whereas the postmark on the envelope is July 1, 1987. This letter also displays the characteristic lack of spacing between phrases such as "Fall, 984", "Summer, 1985" and "Spring, 1985". This letter is addressed to Dr. Edward Siegel and the typewritten address is in the same form that appeared on the handwritten address of the solicitation for the men's magazine mentioned above. The same lack of spacing is noticeable in both addresses and the "TH" on 14th Avenue is raised above the base line. The two letters were purportedly signed by different individuals in different cities in West Germany: the first in Freiburg and the second in Bonn.

Mr. Siegel submitted at the same time as the second letter an envelope from the International Atomic Energy Agency in Vienna. This envelope is much damaged. Three parts of the envelope were torn off before it was submitted. The major portion of the postmark is missing, that which would show the date of the postmark; however, the remaining portion of the postmark shows that it was mailed in "Wien", the German word for Vienna. This envelope, submitted for reasons that are not clear to us, seems to bear a relationship to the Freiburg letter mentioned above. After signing off, "We hope this answers your inquiry", the purported Dr. Rupprecht adds a final sentence as follows: "He was on a U.N. research project sponsored by I.A.E.A. in Wien." Perhaps the damaged envelope submitted by Mr. Siegel was intended to support the afterthought in the Freiburg letter regarding his presence in

Wien or his relationship to the International Atomic Energy Agency there.

The Freiburg letter and envelope, formerly attached to the letter brief of Mr. Siegel, will be marked Exhibit 20 for identification and placed in the exhibit file. The Bonn letter and accompanying envelope will be marked Exhibit 21 for identification and be placed with the exhibits. The damaged envelope showing a "Wien" postmark will be marked Exhibit 22 for identification and placed with the exhibits.

During the hearing Pacific Bell asked that the Commission take official notice of the informal complaint file in the Consumer Affairs Branch of the Commission staff. There was no objection to this request from Mr. Siegel and the ALJ ruled that the Commission would take official notice of that file. It is File No. 861-01921. It contains a number of documents submitted by Mr. Siegel pertaining to this complaint proceeding.

First there is a photocopy of two pages from the undergraduate catalog for 1984-85 of Vanderbilt University. Page 490 of that catalog shows a list of faculty members in alphabetical order including Edward Siegel, Professor of Physics, BS (City University of New York); PhD (California, Berkeley).

Another document is a photocopy of the cover of the bulletin of the American Physical Society 1985 Membership Directory. The second page of this submission is page 2157 of that directory and includes the name Edward Siegel, Department of Physics, Vanderbilt University, Nashville, Tennessee 37235. Mr. Siegel has circled this entry in black felt pen and underlined so vigorously that the paper is now fuzzy. The telephone number associated with Professor Siegel is obliterated as is the next entry in the directory. The next page of this submission is page 2332 of the directory which is a listing by state and city; it shows Edward Siegel under Nashville, Tennessee.

Another submission by Mr. Siegel is a photocopy of the 1984-1985 Directory of Physics and Astronomy Staff Members, a publication of the American Institute of Physics. Page D.203 of that directory is also included and it shows Edward Siegel at Vanderbilt University, Department of Physics and Astronomy Nashville, Tennessee, 37235. However, the entry is circled and underscored with heavy, black, felt-tip pen to the point where the telephone number associated with the entry is obliterated. Mr. Siegel has also submitted Page D.324 of that Directory which shows in the alphabetical listing by university an Edward Siegel on the faculty of Vanderbilt University Department of Physics and Astronomy in Nashville, Tennessee 37235. Again, the entry for Vanderbilt University is heavily circled and underscored to the point where the telephone number associated with the Department of Physics and Astronomy is obliterated.

The next page in the file is a typewritten postcard sent by Mr. Siegel to the Consumer Affairs Branch regarding his informal complaint that pertains to this complaint proceeding. In the postcard he states:

"I have offered (Pacific Bell's Mrs. Booth-final collection office) to pay \$50/month on that old bill (until I can prove that it is not mine- hopefully with some documentation shortly proving I was elsewhere during the 11/84-5/ or 5/86 period in question on the old bill (415) 221-1576) in addition to my current bill charges."

The next document in the informal complaint file is a letter from Mr. Siegel to the Consumer Affairs Branch dated December 5, 1986. In that letter he complains about Ms. Booth of Pacific Bell, stating:

"She demands \$400 forthwith, which I do not have, and refuses to accept reasonable offer of payments I can afford monthly."

The next three documents in the file are photocopies of correspondence from the United Way, Montgomery Ward, and Sears; each of these institutions correspond with Mr. Siegel as E. Sigel, 183 14th Avenue, San Francisco. Another document in the file is a photocopy of a check dated December 11, 1986 for \$50 payable to Pacific Bell. The address shows E. Siegel at 183 14th Avenue, San Francisco.

The next document in the file is a letter on the stationary of Vanderbilt University dated February 2, 1987. It is addressed to the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco and the salutation reads: "To Whom It May Concern". The letter in the file is a photocopy with a note written on it saying "Sent Original Back to Customer on March 13th '87 per his request." There is also a handwritten note photocopied onto the photocopy of the letter which reads: "Mrs. Yorn, Just received 2/7 the long-awaited letter from Vanderbilt University, Signed Edward Siegel". The Consumer Affairs Branch received this letter on February 10, 1987 as is evidenced by the Consumer Affairs Branch stamp. Also in the file is a photocopy of the envelope preprinted with the Vanderbilt University name and address in which the foregoing letter was purportedly delivered. That letter is addressed to "IMPE" at 183-14th Avenue, San Francisco. It is clear from this file that the original of the letter of February 2, 1987, addressed to the Commission, was first in Mr. Siegel's hands, was then delivered to the Consumer Affairs Branch, and was then returned to him.

Finally, the last letter in the file is a photocopy of the Bonn letter, which we have marked for identification as Exhibit 21. A handwritten notation on the photocopy states: "Sent Orig Back to Cust. on 3/13/87 per his request." Mr. Siegel submitted to the ALJ the original from which the photocopy in the Informal Complaint File was made. We will mark this document as Exhibit 23 for identification. It is noteworthy that Exhibit 21

and Exhibit 23 are identical in that they consist of photocopies of the same master signed in the original by "R. Haberstroh". The only difference in the two letters is that Exhibit 23 has in pencil the Informal Complaint File Number in the upper right hand corner, the Consumer Affairs Branch date and time stamp, and a rectangular punched hole in the upper left hand corner, indicating that the letter was originally part of the Informal Complaint File.

We will mark two additional pieces of correspondence as exhibits in this proceeding because they are both from Edward Siegel and they both contain stylistic similarities to the letters allegedly from various european personalities. The letter of Edward Siegel to John W. Bogy dated June 20, 1987 will be marked Exhibit 24 for identification and the letter of Edward Siegel dated March 13, 1987 to the Commission's Docket Office Supervisor will be marked Exhibit 25 for identification.

Discussion

Siegel's theory of the case, as revealed in his complaint, testimony, and correspondence, is that Pacific Bell is harassing him regarding the telephone charges incurred by Ruben Sagala. According to Siegel, those charges were not incurred by him but by his housesitter, Ruben Sagala, while Siegel was out of the state. Siegel placed in evidence certain letters purportedly from european personalities to support the argument that he was in Europe during the time when the charges were incurred. When faced with the evidence of matching toll calls on both Sagala's account and his own account, Siegel responded that he occasionally dropped in on Sagala during the time that Sagala was housesitting, made telephone calls on Sagala's line, paid Sagala in cash for the charges incurred, and expected Sagala to pay the telephone bill.

Siegel has not called a single witness to support his version of the facts. Although he has stated that he arranged with a Mr. Lipschultz to forward to his landlord monthly checks prepared in advance while he was in Europe, Mr. Lipschultz was not called as

a witness to corroborate this account. If a Ruben Sagala was truly a housesitter for Siegel, Siegel could have called him as a witness to testify to those facts. He did not do so. The documents offered by Siegel to support his claim that he was in Europe during certain periods do not in fact support that claim. Each one of the letters submitted during hearing or delivered afterwards to the ALJ, bear the unmistakable mark of a common author. Since each of them was submitted through Mr. Siegel it could only have been he that composed the letters and signed on behalf of the various authors. We do not doubt that Siegel has corresponded with various universities and agencies in Europe. He has submitted envelopes bearing printed return addresses and letters bearing letterheads that could only have had a European source. However, it is clear that the correspondence that Siegel received in the envelopes and on the letterheads is not before this Commission. Rather, fabricated letters consisting of Xeroxed letterheads and text prepared by Siegel and signed by him on behalf of the purported writers is what is in evidence.

Common authorship of these documents is indicated by the form of the address used on the advertising material from the men's magazine (Exhibit 2), by the Bonn letter (Exhibit 21), and by Exhibits 24 and 25. In addition common patterns of spacing and punctuation are found throughout the documents purportedly by European personalities and those submitted directly by Edward Siegel. Finally, none of the letters from Europe or from Vanderbilt University contain an original letterhead nor an original text, although the signature is original on all of the documents. We therefore find that Siegel's story is fabricated and unbelievable in any sense. Since he has the burden of proof as the complainant, his complaint must fail on that ground alone.

In addition, however, Pacific Bell sponsored testimony and documentary evidence that showed without question that Siegel originally took service at 183 14th Avenue in the name of Ruben

Sagala. When he could not pay the bill on Sagala's account, the service was terminated and he resubscribed in his own name. The most telling evidence is that produced by Pacific Bell's witness Schmidt, who testified that the voices, manner, concerns, requests, and inquiries of Sagala and Siegel were in fact those of the same individual. Secondly, even when Siegel subscribed in his own name he attempted to pass himself off as another Edward Siegel, a Professor of physics and astronomy at Vanderbilt University in Tennessee. Siegel gave Professor Siegel's Social Security number to Pacific Bell in establishing service in his own name. Siegel also submitted to the Consumer Affairs Branch photocopies of directories showing Professor Siegel's location in Tennessee during the years when the phone calls were allegedly made by Sagala from the San Francisco address. When asked about these directory pages found in Siegel's Consumer Affairs Branch informal complaint file, Siegel would not admit that he had submitted them to the Consumer Affairs Branch. The excessive highlighting and underlining in black marking pen on these directory pages was an obvious attempt to obliterate the telephone numbers thereon associated with Professor Siegel's name and address in order to make cross-checking of Siegel's story more difficult. The telephone numbers are obliterated with such vigor that the paper is fuzzy where the telephone number should be.

We will not further discuss Pacific's evidence; it is summarized in detail above. Suffice it to say that we believe Pacific Bell's account of the events beginning with the opening of the Sagala account with Pacific Bell in 1984. Accordingly, we reject Siegel's version and hold him responsible for all of the charges incurred under the Sagala name and account number at 183-14th Avenue, San Francisco.

Siegel also complains that he should not be held responsible for calls made over AT&T lines when his primary long distance company was Sprint. Pacific Bell explained to our

satisfaction how any person may, by using a five-digit code, place telephone calls through the AT&T system when he has elected another primary long distance carrier. Pacific Bell's evidence also shows that at one point in time Siegel made calls both over Sprint and AT&T to the same number within a 2-minute period. There is therefore no reason to believe that Siegel, or someone using his phone, did not place the calls over AT&T lines of which he complains. We therefore reject this portion of Siegel's complaint.

Siegel also complains about 411 service. Pacific Bell has explained to Siegel how to use 411 service to get all the service he is entitled to and how to obtain credits for service he did not receive. It has also granted him credits for a service allegedly not received by Siegel from the 411 service. Siegel has testified to no facts that would support any further award of credits for failure to receive appropriate levels of 411 service. Therefore this portion of his complaint is denied.

Finally, Siegel complains that Pacific Bell has sold his unlisted telephone number and address to junk mailers and telephone solicitors. Pacific Bell has testified that it is not their policy to sell the names, telephone numbers, and addresses of its unlisted subscribers to anyone. Rather it has explained that telephone solicitors do not need names and telephone numbers in order to solicit every telephone subscriber within a given prefix. They merely go through all four-digit numbers in a given prefix serially in order to cover all possible subscribers using that prefix. There is no evidence in this record supporting Siegel's claim that Pacific Bell has violated its policy as described by Siegel. Accordingly, we will deny this portion of the complaint as well.

Findings of Fact

1. Complainant subscribed to Pacific's telephone service, Account No. 221-1576 at 183-14th Avenue in the name of Ruben Sagala in late 1984.

2. The bills for Account No. 221-1576 were paid in full through the July, 1985, bill. This account was closed and the service permanently disconnected on April 29, 1986. At that time the amount owing on Account No. 221-1576 was \$811.89.

3. Complainant is responsible for paying the delinquent amount of \$811.89 on Account No. 221-1576.

4. Complainant produced no credible evidence that the facts alleged in his complaint, as they relate to Account No. 221-1576, are true.

5. Any person may place long-distance calls over the AT&T system, using a 5-digit code, even if that person's designated long-distance carrier is a company other than AT&T.

6. Calls made to the same number over both AT&T and SPRINT systems from Siegel's number within minutes of each other were not the produce of mechanical or electronic failures and are not the responsibility of Pacific.

7. Pacific's records show that a person using Siegel's account number was able at one point to direct dial long-distance calls to the number over both AT&T and SPRINT systems within minutes.

8. Siegel is responsible for those calls and other like it.

9. Pacific has twice granted credits to Siegel for inadequate 411 service.

10. Pacific has instructed Siegel in how to obtain maximum service from 411 offices and how to obtain credits from those offices for future failure to provide satisfactory service.

11. Siegel did not provide any evidence that would show that he is entitled to any additional credits.

12. Pacific's policy is not to sell telephone numbers and addresses of its unlisted subscribers.

13. Siegel produced no evidence that Pacific has sold, or is selling, such information.

Conclusion of Law

The complaint should be denied for failure of proof.

ORDER

IT IS ORDERED that the complaint in Case 87-03-018 is denied.

This order becomes effective 30 days from today.

Dated MAR 09 1988, San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Victor Weiss
Victor Weiss, Executive Director