

NOV 20 1991

Decision 91-11-037 November 20, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Richard Pierce,
dba Investors Development,
Complainant,

vs.

Pacific Bell,
(U 1001 C)
Defendant.

ORIGINAL

(ECP)

Case 91-08-011
(Filed August 6, 1991)

Richard Pierce, for himself, complainant.
Lea Jones, for Pacific Bell, defendant.

OPINION

Complainant testified that he owns an apartment house in Anaheim, California and had installed telephone (714) 999-0862 for the use of his manager. In late 1990 he noticed that his telephone bill was unusually high and he complained to defendant, who informed him that it had issued a telephone credit card in the name of his manager. Complainant stated that he had never authorized the credit card and that calls made under that credit card were not authorized by him and not for his benefit. Complainant requests that all charges made on the credit card (\$202.27) be canceled.

Findings of Fact

1. In January 1990 telephone number (714) 999-0862 was installed at the apartment house owned by complainant, 728 West Romneya Drive, Apartment 101, in the name of Investors Development.

2. During the period covered by this complaint the manager of the apartment house was Ms. Sutton, who lived in Apartment 101 and was complainant's agent.

On September 28, 1990 Ms. Sutton requested a credit card from defendant in the name of Investors Development, which was issued the following day.

4. On December 19, 1990 the telephone credit card was canceled by defendant due to an unusual amount of calls being charged. The total charged was \$202.27.

5. On February 7, 1991 complainant called defendant to disconnect (714) 999-0862. He informed defendant that he had fired Ms. Sutton and had never authorized her to apply for a credit card. The calls were not for his benefit.

Conclusions of Law

1. Because an employer is liable for the wrongful conduct of his agent regardless of whether the agent acted in excess of authority, complainant is responsible for calls placed on the credit card issued at Ms. Sutton's request. (2 Witkin, Summary of Cal. Law, Agency and Employment 109.)

2. The relief requested by complainant should be denied.

ORDER

IT IS ORDERED that the relief requested in the complaint is denied and the money on deposit with the Commission shall be released to defendant.

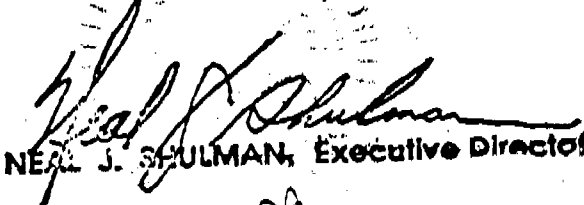
This order is effective today.

Dated November 20, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.

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


NEAL J. SHULMAN, Executive Director