

Decision 08-04-041 April 10, 2008

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Jacob David Binstok,

Complainant,

vs.

Pacific Bell Telephone Company, dba AT&T  
California (U1001C) and Verizon California Inc.  
(U1002C),

Defendants.

Case 07-09-023  
(Filed September 26, 2007)

Michael B. Kadish, Attorney at Law, for complainant.

Selina Shek, Attorney at Law, for the California

Public Utilities Commission's Consumer

Protection and Safety Division, interested party.

**O P I N I O N**

**Summary**

Jacob David Binstok (Binstok or Complainant), doing business as A Admiral Moving or J B Moving, seeks restoration of two business service telephone lines following disconnection by Pacific Bell Telephone Company, doing business as AT&T California, and Verizon California Inc. (Verizon), at the direction of the Superior Court for the County of Los Angeles. The Commission finds that probable cause has been established to support the termination of the

telephone service, and because we find no basis upon which to provide interim relief, we deny the request for restoration of service and deny the complaint.

## **Background**

Binstok operates a moving company that does business under the names of “A Admiral or J B Moving” in Los Angeles County, California. He lists his home mailing address as 834-½ North Formosa Avenue, Los Angeles, California. Binstok is accused by the Commission’s Consumer Protection and Safety Division (CPSD) of using his two telephone numbers to engage in the business of transporting used household goods without holding a valid permit from the Commission authorizing such operations. The CPSD maintains that the character of those violations is such that they pose significant danger to the safety and welfare of the people of California. The CPSD asserts that the violations uncovered are punishable as misdemeanors under provisions of the Public Utilities (Pub. Util.) Code and the Business and Professions Code.<sup>1</sup>

Pursuant to the September 18, 2007 order of Superior Court Judge Maral Injejikian, AT&T disconnected a (323) area code telephone number and Verizon disconnected a toll free telephone number used by A Admiral or J B Moving. The court, acting on an affidavit prepared by the CPSD, found probable cause to believe that A Admiral or J B Moving’s telephone lines were being used as instrumentalities to violate the law, and that this presented a significant danger to the public health, safety, or welfare. In this complaint, Binstok seeks reconnection of the telephone lines pursuant to Pub. Util. Code § 5322 and

---

<sup>1</sup> Specifically, Pub. Util. Code §§ 5133, 5314.5, 5139, 5161, Commission General Order (GO) 100-M, GO 136-C, Item 88 of the Commission’s MAX 4 tariff applicable to household goods carriers, and Business and Profession Code § 17500.

Rule 31 of both AT&T California's and Verizon's tariffs. The scope of this proceeding is set forth in Pub. Util. Code § 5322 and Tariff Rule 31.

Section 5322 requires disconnecting service to an existing customer upon receipt of a writing from any authorized official of the Commission,<sup>2</sup> signed by a magistrate, finding that there is probable cause to believe that the customer:

is advertising or holding out to the public to perform, or is performing, household goods carrier services without having in force a permit issued by the Commission authorizing those services, or that the telephone service otherwise is being used or is to be used as an instrumentality, directly or indirectly, to violate or to assist in violation of the laws requiring a household goods carrier permit.

Section 5322 specifies that a magistrate must find that, absent immediate and summary action, a danger to public welfare or safety will result.

Rule 31, titled "Legal Requirements for Refusal or Discontinuance of Service," requires disconnecting service to a customer upon written demand of a law enforcement agency, signed by a magistrate, asserting that there is probable cause to believe that the telephone facilities "have been or are to be used in the commission or facilitation of illegal acts." The character of such acts must pose significant danger to public health, safety, or welfare.

Under both Section 5322 and Tariff Rule 31, a disconnected subscriber may file a complaint with the Commission seeking restoration of service. The Commission is required to schedule a hearing on the complaint within 20 days<sup>3</sup>

---

<sup>2</sup> After it is shown that other available enforcement remedies of the commission have failed to terminate unlawful activities detrimental to the public welfare and safety.

<sup>3</sup> Section 5322 requires that the hearing be held within 21 calendar days of the filing and assignment of a docket number to the complaint.

of filing, and to serve notice on the concerned law enforcement agency. At hearing, the law enforcement agency has the burden of proving that the disconnection of service was based on probable cause, and that service should not be restored.

Tariff Rule 31, as amended, was approved by this Commission in Decision (D.) 91188, dated January 8, 1980. The California Supreme Court dismissed constitutional objections to the rule and upheld its validity in *Goldin v. Public Utilities Commission*, 23 Cal.3d 638 (1979).

A hearing in this case was initially scheduled in the Commission's courtroom in Los Angeles on October 12, 2007, within 20 days of filing of the complaint. At the request of the Complainant,<sup>4</sup> the hearing was rescheduled until October 18, 2007. At the conclusion of the hearing, Complainant and CPSD, through closing statements, gave a summation of their respective views of the evidence presented. The case was deemed submitted for Commission consideration on October 25, 2007.<sup>5</sup>

### **Evidence at Hearing**

At hearing, CPSD presented its evidence through the testimony of four witnesses, all of them CPSD employees. AT&T California and Verizon did not appear at the hearing or submit any evidence. Complainant, through counsel, cross-examined all witnesses and questioned the legal sufficiency underlying the

---

<sup>4</sup> On October 4, 2007, Complainant's attorney submitted a request that the hearing be rescheduled and the 20-day hearing requirement be waived.

<sup>5</sup> This case was submitted upon receipt of the corrected transcript and following the *in camera* review of the original copy of the customer complaint that was photocopied and identified and received into evidence as Exhibit 3.

disconnections. Complainant presented no witnesses. The Commission received six exhibits into evidence.

### **Enforcement Agency Testimony**

The CPSD accuses Binstok, doing business as A Admiral or J B Moving, of holding himself out to engage in the business of transporting used household goods without holding a valid permit from the Commission authorizing such operations. It further claims that A Admiral or J B Moving has falsely held itself out to the public as a licensed households goods carrier by displaying an invalid permit number in its advertisements in two AT&T Yellow Pages directories, specifically the Airport Area November 2006 issue, and the Los Angeles and West Side April 2007 issue. Under provisions of the Public Utilities Code and the Business and Professions Code, the alleged violations are misdemeanors.

Violet A. May, a CPSD investigator, testified that she is charged with the responsibility of conducting investigations of household goods carriers and passenger carriers for compliance with Commission regulations, the California Public Utilities Code, and Commission General Orders.<sup>6</sup> She stated that she has been authorized by the Commission to sign affidavits for disconnect orders for about a year and a half. May also testified that, including the one at issue here, she has signed three affidavits during her tenure at the Commission. However, she has conducted investigations of numerous household goods carriers.<sup>7</sup>

---

<sup>6</sup> The Commission regulates and licenses intrastate movers of used household goods over the public highways within the State of California pursuant to Article II of the California Constitution and the Household Goods Carriers' Act (Pub. Util. Code § 5101 et seq.). Exhibit 1 at p. 2 (*Affidavit In Support of a Probable Cause Finding for Termination of Telephone Service Pursuant to Public Utilities Code Section 5322*).

<sup>7</sup> *Id.* at p. 6.

With regard to Complainant, Investigator May testified that she was assigned to investigate Binstok, doing business as A Admiral or J B Moving, as a result of two complaints<sup>8</sup> lodged with the Commission in 2001 and 2002. The complaints alleged that A Admiral or J B Moving was advertising in the Yellow Pages directories as a household goods carrier, transporting used household goods without holding a valid permit from this Commission. She explained that, although several years old, the complaints were investigated again in order to determine whether this unlicensed mover was still operating in violation of the law.

May stated that her investigation disclosed that A Admiral or J B Moving advertised its moving services in three issues of AT&T Yellow Pages<sup>9</sup> directories and on its internet website at [www.jbmoving.com](http://www.jbmoving.com). She identified A Admiral or J B Moving's advertisements displayed in the Movers section of five AT&T Yellow Pages issues.<sup>10</sup> Then, she described the first of the Yellow Page ads appended to her affidavit as being in the middle of the page, in a one inch by one and three-quarter inch box format, under the name of A Admiral Moving. Included in the ad were Cal-T No. 171802 and the two currently disconnected

---

<sup>8</sup> Exhibit 2 (complaint of David M. Roth: 1/10/02) and Exhibit 3 (complaint of Valerie S. Weiss: 9/25/02).

<sup>9</sup> Formerly SBC Yellow Pages.

<sup>10</sup> These issues were from different areas in Southern California and for various time periods: (1) Culver City and Marina Del Rey Yellow Pages (April 2005, p. 238), (2) SBC Airport Area Yellow Pages (November 2005, p. 220), (3) AT&T Airport Area Yellow Pages (November 2006, p. 235), (4) AT&T Real Yellow Pages, Los Angeles West Side (April 2007, p. 461), and (5) AT&T Real Yellow Pages, Culver City and Marina Del Rey (April 2007, p. 233). Exhibit 1, Attachment 4 and Reporter's Transcript (RT) at pp. 6-7, lines (ll.) 26-28 and 1-14 (October 18, 2007).

phone numbers, (800) 831-6683 and (323) 934-6683. She pointed out that “the advertisement also stated that the company provides very low cost moving.”<sup>11</sup>

May explained that a Cal T number is a file number assigned by the Commission’s License Section when an applicant files an application for a household goods permit. Once the applicant complies with all the licensing requirements, a permit is issued, and the number becomes the permanent number. The same number is assigned if the application is denied. She stated that Cal-T No. 171802 was not a valid number. Although License Section official records and electronic database revealed no remaining paper or computer record of the number, during the hearing, Suong Le, Supervising Transportation Representative, presented a copy of an order of revocation issued to J B Moving and Delivery,<sup>12</sup> revoking its permit for failure to maintain adequate insurance. Le testified that any file in the License Section official records, whose status is either denied, revoked or expired, is purged from the records after a period of three years with no activity. The License Section does not retain a hard copy of the file. However, in this case, Investigator May’s predecessor made a copy of the revocation and it was discovered after CPSD submitted the affidavit to the magistrate.

May further stated that the License Section’s records show that in late 2002, Binstok submitted an application for a household goods permit,<sup>13</sup> which the Commission denied in April 2003, for failure to complete all requirements,

---

<sup>11</sup> RT at pp. 7-8, ll. 28 and 1 (October 18, 2007).

<sup>12</sup> Effective March 16, 1999, and sent to the attention of Jacob D. Binstok, President.

<sup>13</sup> The application was assigned File Number MTR 189638.

including filing of insurance. In May 2006, Binstok again filed for a household goods carrier permit. In March 2007, the CPSD informed Binstok that it would not issue a household goods permit to him, because it concluded that doing so would not be in the public interest.<sup>14</sup>

May also indicated that over the course of the investigation, the CPSD issued Complainant at least four Cease and Desist letters<sup>15</sup> and three verbal admonishments.<sup>16</sup> She stated that she also asked two of her colleagues to pose as customers and place three calls to A Admiral or J B Moving at the two phone numbers listed in its advertisements and on its website.<sup>17</sup> In all three calls, a person calling himself J. B. quoted an hourly rate for the potential moves, where the point of origin and destination were solely within California, conditional upon number of trucks and workers.<sup>18</sup> Investigators Zundel and Vaia described

---

<sup>14</sup> Exhibit 1, Attachment 2. On April 20, 2007, Complainant filed Application 07-04-019 to appeal the May 2006 denial. In September 2007, Complainant asked to withdraw his application.

<sup>15</sup> The letters were dated March 2, 2005; April 8, 2005; April 19, 2006 and January 10, 2007. The CPSD mailed the first letter to 7323 W. Sunset Blvd., Los Angeles, CA 90046, and the other three letters to 5143 W. Adams Blvd., Los Angeles, CA 90016-2729. Exhibit 1, Attachment 3 and RT at pp. 12-13, ll. 25-28 and 1-3 (October 18, 2007).

<sup>16</sup> May testified that she called the company on April 18, 2006 and May 5, 2006, spoke to Jacob Binstok, and told him to cease and desist all unlawful advertising and household goods moving operations until the company obtained a valid household goods carrier permit issued by the Commission. *Id.* at p. 8 and RT at p. 12, ll. 15-20 (October 18, 2007).

<sup>17</sup> *Id.*, Attachment 5.

<sup>18</sup> (1) On April 24, 2006, CPSD Investigator Deborah Zundel posed as a customer and placed a call to A Admiral/ J B Moving at (323) 934-6683, inquiring about rates to move from Los Angeles to Tarzana; (2) On January 10, 2007, CPSD Investigator Stephen Vaia posed as a customer and placed a call to A Admiral/ J B moving at (800) 831-6683, inquiring about rates to move a two-bedroom apartment from Manchester/Sepulveda area to Sepulveda/ Palms area in Los Angeles; (3) On July 24, 2007, Zundel called (323)

*Footnote continued on next page*

the preparation of their respective declarations and their participation on these calls.<sup>19</sup>

May testified that the Commission issued subpoenas<sup>20</sup> to AT&T California, Idearc Media Corporation/Verizon and AT&T Yellow Pages requesting subscriber information for the phone numbers listed in the advertisements and documents relating to A Admiral/J B Moving advertisements. Subscriber status reports provided by AT&T California and Idearc Media Corporation/Verizon showed Jacob Binstok as the subscriber to the (323) 934-6683 and (800) 831-6683 telephone numbers, and that billing for these services is sent to Jacob Binstok at 834 ½ N. Formosa Avenue, Los Angeles, CA 90046.<sup>21</sup>

May pointed out that the documents<sup>22</sup> containing layouts of advertisements and the advertising contract provided by AT&T Yellow Pages revealed that Jacob Binstok signed the advertising contracts to place the boxed advertisement in at least three AT&T Yellow Pages.<sup>23</sup> She also discussed that she went to A Admiral/J B Moving's place of business on July 31, 2006, and took pictures of the two trucks parked at the business facility. May asserted that she

---

934-6683, "JB" answered the phone and provided a quote for a move from Culver City to Tarzana. *Id.* at pp. 10-11 and Attachment 10, RT at p. 15, l. 24 – p. 17, l. 13 (October 18, 2007).

<sup>19</sup> *Id.*, Attachment 10 and RT at pp. 63-72.

<sup>20</sup> *Id.*, Attachment 6 and RT at p. 13, ll. 8-11.

<sup>21</sup> *Id.*, Attachment 7 and RT at p. 14, ll. 15-24.

<sup>22</sup> *Id.*, Attachment 8.

<sup>23</sup> Greater Los Angeles September 2006 issue (contract signed May 16, 2007); Culver City April 2007 issue (contract signed February 5, 2007) and Beverly Hills April 2007 issue (contract signed February 5, 2007). *Id.* at p. 10 and Attachment 8.

believed that A Admiral/J B Moving is using these trucks to conduct its moving services. On the website and in the Yellow Pages' advertisements, the address listed for A Admiral or J B Moving was 5143 W. Adams Blvd., LA or 5143 W. Adams Bl., Los Angeles, CA 90046.

Based on the preceding particulars, Investigator May prepared an affidavit that stated that telephone numbers (323) 934-6683 and (800) 831-6683 were being used to assist an unlicensed moving company in violation of the law, and the unlicensed service is preying on the public. The affidavit noted that the Commission staff has found the disconnection of telephone service to be a very effective means of stopping ongoing criminal activity. Investigator May presented this affidavit to Superior Court Judge Maral Injejikian, who signed the disconnection order, the finding of probable cause.

### **Complainant's Position**

In closing argument, Complainant's attorney contended that there was no evidence that CPSD had notified AT&T California and Verizon of other available enforcement remedies that it had utilized against Complainant, before seeking to disconnect his telephone, as required by Pub. Util. Code § 5322(c). He also maintained that neither the affidavit nor any evidence presented at hearing indicated that AT&T California and Verizon had given Complainant notice and a copy of the statute, as also required by Pub. Util. Code § 5322(f).

Complainant also argued that the affidavit was insufficient and "lacked the quality and persuasiveness required for the issue of a warrant,"<sup>24</sup> which is the standard being applied. No reasonable judge looking at it with knowledge of the

---

<sup>24</sup> RT at p.88, ll. 16-18.

facts presented at hearing would have signed it.<sup>25</sup> He further maintained that the Commission erred by sending notices to him at the addresses listed in the Yellow Pages directories, rather than to his Formosa Avenue address. He asserted that as sent, the Commission did not address the notices to Binstok as an individual, nor did it send it to an address likely to be received by him. Consequently, the Commission did not meet its procedural due process obligations.<sup>26</sup>

## **Discussion**

For a business relying on telephones, uninterrupted telephone service is an interest in “property” constitutionally entitled to protection against “taking” without due process of law.<sup>27</sup> Before disconnection of telephone service can occur, in the context of the instant case, there must be probable cause to believe that the telephone facilities are being or are about to be used to commit illegal acts, and it must be shown that the character of the acts is such that, absent summary action, significant dangers to public health, safety, or welfare will result.<sup>28</sup>

Such a showing of probable cause must be made before a magistrate – in this case, the Superior Court for the County of Los Angeles – and is reasonably comparable to the showing that must be made in order to obtain a search warrant.<sup>29</sup> Based on the affidavit and supporting documentation that has been

---

<sup>25</sup> *Id.* at p. 90, ll. 8-10.

<sup>26</sup> *Id.*, ll. 7.

<sup>27</sup> *Goldin v. Pub. Util. Comm.* 23 Cal.3d 638 at 662 (1979); *see also Board of Regents v. Roth*, 408 U.S. 564 (1972).

<sup>28</sup> 23 Cal.3d at 663-664.

<sup>29</sup> *Sokol v. Pub. Util. Comm.* 65 Cal.2d 247, 256 (1966).

entered into evidence here (Exhibit 1), Judge Injejikian concluded that there was probable cause to believe that complainant's business telephones were being used to violate or assist in violating the law, and that, absent summary action, such violation could cause significant danger to public health, safety, or welfare. (Exhibit 1)

Binstok faults May's experience and attacks the evidence of the Yellow Pages ads because they do not specifically solicit business for a carrier of "used household goods." His specious arguments do not reduce the probity of the facts outlined in the affidavit and substantiated through the ten supporting attachments. The evidence indicated that Binstok was moving any goods that he was hired to move. Moreover, the affidavit clearly shows in its two supporting cease and desist warning letters and the testimony of May, that CPSD had tried on several occasions to correct Binstok's behavior through other means.<sup>30</sup>

Binstok claims that the Commission erred by sending notices to the business address where the telephones were located, rather than to his residence. However, he does not deny that 5143 W. Adams Blvd. is the address of A Admiral/J B Moving Company or that the two disconnected telephones are located there. Apart from this assertion at hearing, Complainant's interaction

---

<sup>30</sup> Complainant interprets Section 5322(c) to require that the Defendants be shown that "other available enforcement remedies" had failed prior to the Commission seeking the telephone disconnection order. If so, CPSD's failure to enumerate the enforcement remedies it had used, for AT&T California and Verizon, was a minor violation of the provision with no substantive effect.

with the Commission's Docket Office did not suggest that there had been a problem with the notices.<sup>31</sup> Thus, Complainant received adequate notice.

The Commission is empowered to rule on the adequacy of the showing of probable cause, and to determine whether interim relief is warranted pending the resolution of the misdemeanor charges brought against the subscriber. As the California Supreme Court has stated:

In a civil administrative proceeding of this nature, where the liberty of the subscriber is not at stake, it is sufficient for purposes of the interim protection involved that the Commission limit itself to the face of the affidavits and an assessment of their adequacy to support the magistrate's finding....Even in cases when it appears to the Commission that the finding is adequately supported by the affidavits presented to the magistrate, it may wish to consider the strength and character of the showing made as a factor to be weighed, along with pressing need or imminent economic damage, in its determination whether or not interim relief should be afforded to the subscriber.<sup>32</sup>

The evidence presented here reveals that Binstok has held himself out as a licensed mover, and operated as a mover of used household goods without authority since 2005.<sup>33</sup> Investigators Zundel and Vaisa testified that they each called Binstok's business number, described the moves that they were seeking, and received hourly rate and time estimates. All three investigators offered

---

<sup>31</sup> In July 2006, November 2006, and February 2007, the CPSD corresponded with Binstok at 5143 W. Adams. See, In the Matter of Jacob David Binstok dba J B Moving for a household goods carrier permit, A.07-04-019.

<sup>32</sup> *Goldin*, *supra* at 668, footnotes omitted.

<sup>33</sup> However, Exhibits 2 and 3 are consumer complaints submitted in 2002.

credible assessments of what they observed and heard from Binstok and A Admiral/J B Moving. The three all have sufficient experience in unlicensed moving company investigations to support their analyses of A Admiral/J B Moving's business.

We find Complainant's allegation that AT&T California and Verizon failed to give him notice and include in those notices a copy of the controlling statute, pursuant to Section 5322(f) and Tariff Rule 31(A)(5), troubling if true.<sup>34</sup> However, a review of the complaint form that Complainant filed indicates that Complainant was aware of the precise timing deadlines of the statute, and he was served with copies of both utilities' Tariff Rule 31 within three days after he requested that it be filed with the Docket Office. In light of this, we find that the utilities' purported error does not rise to a level requiring us to order the telephone service restored.

Based on the testimony and the exhibits, we find that the totality of the evidence would lead a reasonably prudent person to conclude that violations of the laws governing household goods carriers' licensing and conduct have been shown, and that such violations posed a significant danger to public health, safety, or welfare. We find that these violations were made possible in large part

---

<sup>34</sup> On January 28, 2008, AT&T California responded to Complainant's appeal of the Presiding Officer's Decision (POD) that contrary to his assertion, it notified him by letter about the disconnection order and appended a copy of Tariff Rule 31. It maintained that Complainant made no allegations against AT&T California nor claimed to have failed to receive notice or a copy of the tariff in his complaint. AT&T California noted that since its presence seemed unnecessary, with leave from the Commission, it did not attend the evidentiary hearing and later learned that the procedure it followed prior to disconnection became an issue at the hearing.

by the use of the disconnected telephone numbers, since prospective customers used this number to contact A Admiral or J B Moving, which in turn enabled the violation and assistance in the violation of licensing laws of the State of California, as alleged in the affidavits. Thus, we find that the CPSD has met its burden of showing that the disconnection order was justified and that the telephone service in question was being used directly or indirectly to violate or to assist in violating the law. We also find that the process followed by the CPSD complies with the *Goldin* decision such that Complainant's contentions are unfounded.

The second showing that Section 5322 imposes on the Commission staff is the burden of persuading the Commission that the telephone services should be refused or should not be restored. May testified that despite written and verbal warnings to stop soliciting the public and operating as a household goods mover, Binstok continued to hold himself out as a licensed mover. At hearing, when asked if he was operating unlawfully, Binstok's attorney stated: "...He is not operating in an unlawful manner for the moves that he does."<sup>35</sup> Still, there was no evidence that Binstok selectively either solicited or conducted moves with an eye to operating lawfully. If Binstok's telephone service is restored now, there is every indication that he will resume his unlicensed moving business and jeopardize the welfare of the public.

We, therefore, further find that good cause has been shown to deny any interim restoration of telephone service pending Binstok obtaining a valid

---

<sup>35</sup> RT at p. 90, ll. 20-22.

household goods carrier permit. Accordingly, the request for reinstatement of the disconnected telephone service is denied.

### **Appeal of the Presiding Officer's Decision**

Complainant has appealed from the decision of the Presiding Officer, alleging errors in two areas. First, he reasserts that AT&T California and Verizon disconnected his business telephones prior to giving him notice and a copy of the controlling statute(s). Consequently, he contends that this failure to follow the correct procedure nullifies the disconnection, and service should be resumed for both telephones. Second, Complainant argues that his yellow pages advertisements made no reference to local moving; therefore, they were not in violation of the law.

CPSD responded that, despite Complainant's assertions about the failure to follow proper procedure and the yellow pages advertisements, the POD does not demonstrate an error the Commission should correct. AT&T California responded that Complainant's claim at hearing and on appeal that it did not follow the correct procedure is improper since he did not raise this issue in his complaint. Moreover, this appeal does not identify any factual or legal error in the POD's conclusion that Complainant knew of the timing of the deadlines in the statute and was served with copies of Tariff Rule 31.

We have reviewed the record and have made slight clarifications to the POD, none of which change the result. Complainant has identified no legal or factual errors in the POD; therefore, we affirm the decision.

### **Assignment of Proceeding**

Timothy Alan Simon is the assigned Commissioner and Jacqueline A. Reed is the assigned ALJ and presiding officer in this proceeding.

### **Findings of Fact**

1. Binstok, an individual doing business as A Admiral or J B Moving, operates an unlicensed moving business in Los Angeles County, California.
2. A Admiral or J B Moving has falsely held itself out to the public as a licensed household goods carrier by displaying an invalid permit number in its advertisements in two Los Angeles area AT&T Yellow Pages directories in November 2006 and April 2007.
3. AT&T California and Verizon disconnected telephone numbers (323) 934-6683 and (800) 831-6683, respectively, upon receipt from the CPSD of a Finding of Probable Cause, signed by Judge Maral Injejikian and dated September 18, 2007.
4. Pursuant to Pub. Util. Code § 5322(d) and Tariff Rule 31(A)(2), Binstok filed a complaint seeking restoration of the telephone numbers disconnected by AT&T California and Verizon, and a timely hearing was held on the complaint on October 18, 2007.
5. The CPSD presented credible evidence through three investigators and a supervisor of CPSD's transportation Enforcement Section that the telephone service at issue here was being used to violate and assist in the violation of the state laws governing the licensing and conduct of household goods carriers.
6. A Admiral or J B Moving, an unlicensed moving company, poses a danger to public welfare and safety because it operates without accountable to State laws.

### **Conclusions of Law**

1. In *Goldin*, the California Supreme Court approved the process set out in Tariff Rule 31, against constitutional challenges.

2. *Goldin*, Pub. Util. Code § 5322 and Rule 31 require the Commission to examine the face of the affidavit supporting the finding of probable cause on which the disconnection of telephone service is based in order to determine the adequacy of the affidavit and weigh any request for relief.

3. Pub. Util. Code § 5322 and Rule 31 place the burden on the law enforcement agency responsible for a disconnection to (1) show that the telephone service was used directly or indirectly to violate or assist in violating the law; (2) show that the character of the violation was such that significant dangers to public health, safety, or welfare would result if immediate and summary action had not been taken; and (3) show that the service should not be restored.

4. In satisfaction of Pub. Util. Code § 5322(e), the CPSD demonstrated at hearing that Complainant had been utilizing the disconnected telephone numbers to operate an unlicensed moving company, and if the telephone services were restored, Complainant would likely resume the illegal activity.

5. The affidavit set forth in Exhibit 1, and the ten attachments which were affixed to the affidavit presented to the Court, are adequate to support the Court's disconnection order of September 18, 2007.

6. The request for immediate restoration of the disconnected telephone lines should be denied.

7. Complainant's appeal of the Presiding Officer's Decision should be denied.

8. Because the complaint seeks immediate action by the Commission, this order should be made effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. The complaint of Jacob David Binstok, doing business as A Admiral or J B Moving, seeking restoration of telephone lines (323) 934-6683 and (800) 831-6683, disconnected pursuant to Public Utilities Code Section 5322 and AT&T California and Verizon Tariff Rules No. 31, is denied.
2. Complainant's appeal of the Presiding Officer's Decision is denied.
3. Case 07-09-023 is closed.

This order is effective today.

Dated April 10, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners