

In the Matter of METROPOLITAN LIFE INSURANCE COMPANY and THE INDUSTRIAL AND ORDINARY INSURANCE AGENTS' UNION #22947, A. F. OF L.

In the Matter of METROPOLITAN LIFE INSURANCE COMPANY and THE INDUSTRIAL AND ORDINARY INSURANCE AGENTS' UNION #23488, A. F. OF L.

*Cases Nos. 5-R-1369 and 5-R-1441, respectively.—Decided
June 24, 1944*

*Mr. Charles A. Horsky, of Washington, D. C., for the Company.
Mr. George L. Russ, of Washington, D. C., for the Unions.
Mrs. Augusta Spaulding, of counsel to the Board.*

DECISION
AND
ORDER

STATEMENT OF THE CASE

Upon separate petitions duly filed by Local 22947 and by Local 23488 of The Industrial and Ordinary Insurance Agents' Union, herein collectively called the Unions, each alleging that a question affecting commerce had arisen concerning the representation of employees of Metropolitan Life Insurance Company, New York City, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Colonel C. Sawyer, Trial Examiner. Said hearing was held at Washington, D. C., on January 25, 1944. The Company and the Unions appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

On April 18, 1944, a hearing was held before the Board at Washington, D. C., for the purposes of oral argument.¹ The Company and

¹For the purposes of oral argument, the representation cases in the instant proceeding were consolidated with two other representation cases involving employees of the Company in Ohio. See *Matter of Metropolitan Life Insurance Company*, 56 N. L. R. B 1635

56 N. L. R. B., No. 294.

the Unions appeared and presented argument. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Metropolitan Life Insurance Company, a New York corporation, has its principal office and place of business, known as the home office, in New York City. The Company is a mutual life insurance corporation engaged in the business of selling and servicing life, health, and accident insurance in every State in the United States and in the Dominion of Canada.

On December 31, 1942, the Company had approximately 40,300,000 policies of insurance in force, with a total face value of approximately \$26,800,000,000. These policies were held by some 29,700,000 policyholders, residing in every State of the United States, in the District of Columbia, and in Canada. On December 31, 1942, the Company's admitted assets, consisting of cash, Government bonds, stocks, mortgages on real estate, real estate and bonds, real estate and policy loans, and notes, totaled a little less than \$6,000,000,000. All securities purchased by the Company are delivered to, or are immediately transferred to, and kept in, its home office at New York City except those on deposit with various Governmental agencies. The Company owns the real estate in New York upon which its home office is located, and other real estate used in the administration of its business in the States of New York, California, and Virginia, and in Ontario, Canada. The Company has acquired and owns other real estate through mortgage foreclosures, or conveyances in lieu of such foreclosures. On December 31, 1942, the Company owned, through such transactions, real estate valued at approximately \$259,000,000. During the 5-year period from 1938 to 1942 the Company annually invested in bonds, stocks, and mortgages approximately \$635,500,000. In 1942 it so invested approximately \$807,500,000.

The Company is licensed to do business in 48 States, in the District of Columbia, and in most of the Provinces of Canada. On December 31, 1942, there were in the United States 9 agency divisions of the Company's operations and 758 district offices. At this time, the Company had 28,378 employees, exclusive of 17,853 agents selling insurance and otherwise dealing with its policyholders.

During the calendar year 1942, the Company purchased for its operating requirements, furniture, fixtures, and mechanical equipment valued at \$991,456. Most of this equipment was shipped to the Company from points within the State of New York, and approxi-

mately 34 percent of such goods, originating in New York, was shipped to, and used in, Canada and States other than the State of New York. During the same period the Company purchased stationery supplies valued at \$1,502,092. Approximately 25 percent of these supplies, most of which originated in the State of New York, was shipped to offices of the Company located in other States and in Canada. During the same period the Company spent approximately \$2,595,628 for postage and telephone, telegraph, and express services, and spent \$2,558,724 for traveling expenses.

We find that the Company's widespread financial and investment activities have a direct and substantial effect upon commerce between the several States and that the Company's various activities themselves constitute commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Local 22947 and Local 23488 are labor organizations chartered by The Industrial and Ordinary Insurance Agents' Union and affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNITS

The Company's home office is at New York City, where its insurance business is managed and directed by national directors and officers. For administrative purposes in the United States, the Company presently groups its agents in 12 agency divisions or territories. Each territory is under the direct control of a superintendent of agencies, who is to all intents and purposes the effective executive presiding over all district offices and office account agencies in that territory. Each of the offices in Virginia is under the supervision and control of the superintendent of agencies for territory B, which includes not only Virginia, but also Florida, Georgia, North Carolina, and South Carolina. In territory B, as of November 24, 1943, there were 47 district offices, of which 11 were in Virginia. Of these offices, 2 are at Richmond² and 1 at Lynchburg, Virginia. Each office is a small administrative unit under the charge of a manager directly responsible to the superintendent of agencies in the territory. Immediately under the manager are one or more assistant managers. Each office has a cashier and one or more other office employees.

Agents are authorized to solicit and write various types of insurance sold by the Company—ordinary, industrial, group, and accident and health insurance. Their fees and rates of commissions are determined by the directors and officers of the Company at New York

² The Richmond offices include the Lee and Richmond offices.

City and are uniform throughout the United States. All the factors which affect the agents' work, such as selection, promotion, compensation, working conditions, rules and regulations, supervision, and termination of employment, are uniform throughout the State of Virginia and territory B. At their request, agents are occasionally transferred from one district office to another within a territory. There are approximately 200 agents of the Company working in the several offices in Virginia. Of this number, 10 are assigned to the Lynchburg office and 47 to the offices at Richmond.

The Unions contend that separate bargaining units limited to the agents at Lynchburg and Richmond, respectively, constitute appropriate, separate bargaining units. The Company contends that the proposed units are not appropriate for bargaining and that the appropriate unit for these employees should be State-wide in scope.

The Unions admit that the parent body with which they are affiliated is presently engaged in organizing agents at other offices in Virginia; that State-wide units are preferable to smaller units for bargaining purposes; and that organization among the Company's agents generally is successfully progressing on a State-wide basis from Connecticut to California. The Unions, however, contend that bargaining on a State-wide basis is not an immediate possibility for the Company's agents in Virginia; that the Company's agents at Lynchburg and Richmond have manifested a desire for bargaining; and that these agents should not be deprived of the right of collective bargaining, pending completion of a successful organizational campaign covering agents in that State.³ Based upon the extent of organization among employees of an employer, we have frequently found appropriate for bargaining purposes small groups of employees with a provision for revision of the unit upon a broader organizational showing at a later time.⁴ We believe, however, that the principle upon which we have set up such provisional units is not controlling in the instant case. Organization among insurance agents is comparatively recent, but steadily progressing. The tendency of organization of agents, both those of the Company and those of The Prudential Insurance Company of America, its principal competitor, is admittedly toward State-wide units.⁵ Since the entire record herein does not convince us that a State-wide bargaining unit for agents of the Company in Vir-

³ In support of their claim to have organized the 10 agents at Lynchburg and the 47 agents at Richmond, the Unions submitted 7 cards and 16 cards, respectively, all purporting to bear signatures of agents at these cities in the order named. The dates upon the cards indicate that organization began in the summer of 1943.

⁴ *Matter of Mine Safety Appliances Co.*, 55 N. L. R. B. 1190.

⁵ See *Matter of Metropolitan Life Insurance Company*, cited in footnote 1, *supra*.

ginia is improbable in the near future, we are of the opinion that the limited city-wide units proposed by the Unions herein are not appropriate bargaining units at this time. We shall therefore dismiss without prejudice the petitions filed herein.

Since the units proposed in this consolidated proceeding are not appropriate for the purposes of collective bargaining, we find that no questions have arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) of the Act.

ORDER

Upon the basis of the foregoing findings of fact, and the entire record in this proceeding, the National Labor Relations Board hereby orders that the petitions for investigation and certification of representatives of employees of Metropolitan Life Insurance Company, New York City, filed by Local 22947 and Local 23488 of The Industrial and Ordinary Insurance Agents' Union, respectively, be, and they hereby are, dismissed without prejudice.