

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

In the Matter of THE LIFE INSURANCE COMPANY OF VIRGINIA and INDUSTRIAL AND ORDINARY INSURANCE AGENTS UNION #21354, A. F. L.

*Cases Nos. 5-R-1499 and 5-R-1535 respectively—Decided July 14, 1944*

*Mr. Sidney J. Barban, for the Board.*

*Mr. S. J. Hilton, of Baltimore, Md., for the Company.*

*Mr. George L. Russ, of Washington, D. C., for the Unions.*

*Mr. Robert Silagi, of counsel to the Board.*

## DECISION

### DIRECTION OF ELECTION

AND

### ORDER

#### STATEMENT OF THE CASE

Upon separate petitions duly filed by Industrial and Ordinary Insurance Agents Union #22947, A. F. L., Lynchburg, Va., herein called Local 22947, and Industrial and Ordinary Insurance Agents Union #21354, A. F. L., herein called Local 21354, and herein collectively called the Unions, each alleging that a question affecting commerce had arisen concerning the representation of employees of The Life Insurance Company of Virginia, Richmond, Virginia, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Robert N. Denham, Trial Examiner. Said hearing was held at Washington, D. C., on April 4, 1944. The Company and the Unions appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.

At the hearing the Company moved to dismiss the petition in Case No. 5-R-1499 on jurisdictional grounds. The Trial Examiner referred the motion to the Board for appropriate action. The motion

is hereby denied; however, the petition is hereinafter dismissed on other grounds. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. 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

The Life Insurance Company of Virginia is a Virginia corporation having its principal office in Richmond, Virginia. It is engaged in the writing of ordinary and weekly premium insurance. It is duly licensed to conduct such business in 16 States and the District of Columbia. The business of the Company is managed and directed by its directors and officers located at its home office in Richmond. The terms and conditions of the various policies of insurance offered by the Company are determined, and all investments of the Company's funds are made by such officials at the home office. All applications for insurance, policies of insurance, claims, applications for loans, checks covering disbursements, and other matters pertaining to insurance in force are either acted upon or executed by the Company at its home office.

In the conduct of its business the Company has accumulated assets which on December 31, 1943, amounted to \$140,828,279.99, and consisted of cash bonds, stocks, mortgage loans, real estate, and other assets. As of that date cash belonging to the Company was deposited in 121 banks and trust companies located in 18 States and the District of Columbia. During 1943 the Company purchased securities from companies located in 10 States, the District of Columbia, and Canada. All securities purchased by the Company are delivered to it at its home office and are kept in Richmond, Virginia. The Company holds some common stock; stock holdings of the Company, however, consist mainly of preferred stocks of railroads, public utilities, industrial and miscellaneous corporations. Loans are made on notes secured by mortgages on residences, apartment buildings, business property and farms. The Company now has outstanding loans secured by real estate located in 19 States and the District of Columbia. Some of these loans are insured by the Federal Housing Authority. The Company has loan correspondents in 18 States and the District of Columbia, through whom loans are purchased or mortgage investments are made.

In 1943 the Company purchased furniture, fixtures, and mechanical equipment having a value of \$3,013.22, 29 percent of such purchases being made outside the State of Virginia. During the same year the

Company spent \$43,750.44 for postage, telephone, telegram and express service. A total of \$21,881.96 was spent for traveling expenses of the Company's Agency Supervisors during that year.

At the end of 1943, the Company had in force and effect policies amounting to \$689,753,899. In that year policies in the Company's Lynchburg, Virginia, district office numbered 15,451 for the face amount of \$6,363,078. In its Washington, D. C., district office the Company had 27,985 policies in effect, for the face amount of \$14,907,965.

We find, contrary to the contention of the Company, that it is engaged in commerce within the meaning of the National Labor Relations Act.<sup>1</sup>

## II. THE ORGANIZATIONS INVOLVED

Industrial and Ordinary Insurance Agents Union #22947, Lynchburg, Va., and Industrial and Ordinary Insurance Agents Union #21354, are labor organizations affiliated with the American Federation of Labor admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION IN CASE NO. 5-R-1535; THE ALLEGED QUESTION CONCERNING REPRESENTATION IN CASE NO. 5-R-1499

On March 3, 1944, the organizer for the Unions addressed a letter to the Company advising it that Local 21354 represented a majority of the industrial agents employed in the Company's Washington, D. C., office, and requesting a conference for the purpose of negotiating a collective bargaining contract on their behalf. Several days later the Company replied by suggesting that the Local proceed in accordance with the applicable provisions of the Act.

A statement of a Board agent, introduced into evidence at the hearing, indicates that Local 21354 represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</sup>

We find that a question affecting commerce has arisen concerning the representation of the employees of the Company employed at its Washington, D. C., office, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act. Since, however, we hereinafter find that the unit petitioned for in Case No. 5-R-1499 is inappropriate, we find that no question affecting commerce has arisen concerning the representa-

<sup>1</sup> *Matter of The Life Insurance Company of Virginia*, 24 N. L. R. B. 411, 29 N. L. R. B. 246, 31 N. L. R. B. 674, and 38 N. L. R. B. 20.

<sup>2</sup> The Field Examiner reported that there are 23 persons employed in the Washington, D. C., office of the Company, who, Local 21354 contends, are within the appropriate unit, and for whom 22 authorization cards were submitted. The cards were dated between February 25 and March 2, 1944.

tion of employees in the unit alleged to be appropriate by Local 22947, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The Company functions through district offices which, in the main, are established and conducted along identical lines. They are headed by a district manager who is responsible for the conduct of the office and upon whose recommendation as to the hiring and discharging of his subordinate employees, the Company places implicit confidence. Next in order of supervisory rank are the assistant managers. These men supervise the activities of the industrial agents who solicit and sell insurance. Although to a lesser degree than the district managers, the assistant managers also have authority effectively to recommend the discharge or change in status of the industrial agents. Each office has cashiers and clerical employees attached to it. These groups, however, are not within the jurisdiction of the Unions nor are they sought to be included within appropriate units in the present cases. The same applies to some writers of ordinary insurance over whom the unions make no claim to jurisdiction.

Local 22947 and Local 21354 seek separate units of the industrial agents employed in the Lynchburg and Washington, D. C. areas, respectively, excluding, however, the managers, assistant managers, cashiers, clerical employees and special agents who write ordinary insurance. The Company expresses no opposition to the composition of the units.

The Company has been the object of union organization many times within the past few years. The parent organization to which the unions are affiliated has frequently, and usually successfully, petitioned the Board for certification as collective bargaining representative of the Company's insurance agents in many of its district offices in the State of Virginia and elsewhere.<sup>3</sup> Both Local 22947 and Local 21354 have previously participated in Board elections held in the same units they now seek.<sup>4</sup> As we recently stated in *Matter of Metropolitan Life Insurance Company*,<sup>5</sup> wherein careful reconsideration was accorded the type of unit most appropriate generally throughout the insurance business, organization among insurance agents is steadily progressing and tending toward State-wide units which we believe are, in most instances, the most practicable for collective bargaining purposes. Consequently, as stated in that case, it is the Board's policy to avoid setting up units for insurance agents smaller than State-wide in scope in the

<sup>3</sup> See footnote 1, *supra*.

<sup>4</sup> See *Matter of Life Insurance Company of Virginia*, 24 N. L. R. B. 411, also 38 N. L. R. B. 20.

<sup>5</sup> 56 N. L. R. B. 1635 and 1642; see also *Matter of Washington National Insurance Co.*, 57 N. L. R. B. 224.

absence of unusual circumstances. Since the establishment of a State-wide bargaining unit for the Company's agents throughout the State of Virginia does not appear improbable in the near future, and since no other circumstances are presented which would warrant a departure from the policy thus adopted by the Board, we are of the opinion that the limited unit sought by Local 22947, covering the Lynchburg office, is inappropriate. We shall, therefore, dismiss Local 22947's petition without prejudice.

The situation with respect to the unit of employees in the Washington, D. C., office, sought by Local 21354, however, is readily distinguishable from that discussed above. As indicated in *Matter of Metropolitan Insurance Co., supra*, we are of the opinion that the organization of insurance agents throughout the District of Columbia is comparable to organization on a State-wide basis. Accordingly, we find that the unit sought by Local 21354 is appropriate.

We find that all industrial insurance agents employed by the Company in its Washington, D. C., office but excluding the cashiers, clerks, special agents, manager, assistant managers, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

#### DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Life Insurance Company of Virginia, Richmond, Virginia, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Fifth Region, acting in this matter as agent for the National Labor Relations Board, and subject to

Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Industrial and Ordinary Insurance Agents Union #21354, A. F. L., for the purposes of collective bargaining.

### 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 petition in Case No. 5-R-1499 for the investigation and certification of representatives of employees of The Life Insurance Company of Virginia, Richmond, Virginia, filed by Industrial and Ordinary Insurance Agents Union #22947, A. F. L., Lynchburg, Va., be, and it hereby is, dismissed without prejudice.