

In the Matter of AMERICAN NATIONAL INSURANCE COMPANY and
INDUSTRIAL AND ORDINARY INSURANCE AGENTS' COUNCIL, AFL

Case No. 20-R-1638.—Decided July 19, 1946

Mr. W. L. Volger, of Galveston, Tex.; *Mr. W. B. Handley*, of Dallas, Tex.; *Messrs. Knight, Boland, and Riordan*, by *Mr. J. W. Radil*, of San Francisco, Calif., for the Company.

Mrs. I. B. Padway, of Washington, D. C., and San Francisco, Calif., and *Mr. Gene de Christofaro*, of San Francisco, Calif., for the AFL.

Mr. Richard Lewis, of San Francisco, Calif., for the CIO.

Mr. Benj. E. Cook, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Industrial and Ordinary Insurance Agents' Council, AFL, herein called the AFL, alleging that a question affecting commerce had arisen concerning the representation of employees of American National Life Insurance Company, Galveston, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William T. Whitsett, Trial Examiner. The hearing was held at San Francisco, California, on May 21, 1946. The Company, the AFL, the Insurance Division, Professional Workers of America, CIO, herein called the CIO 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. 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

American National Insurance Company, a Texas corporation with its principal place of business located at Galveston, Texas, is engaged
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in the business of selling life insurance in 31 States of the United States and the District of Columbia. At the close of the fiscal year ending December 31, 1945, the Company had policies in force with a total face value of \$1,356,976,729. On December 31, 1945, the Company's total assets, consisting of cash, bonds, stocks, and mortgage loans amounted to \$176,081,229.80. The Company maintains bank accounts in all States where it sells insurance and it purchases securities in a majority of such States. In the State of California, the only State in which its operations are affected by this proceeding, the Company has in force approximately 10 percent of its insurance policies.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Industrial and Ordinary Insurance Agents' Council is a labor organization, affiliated with the American Federation of Labor, admitting to membership employees of the Company. Insurance Division, United Office and Professional Workers of America is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the AFL as the exclusive bargaining representative of the Company's industrial agents until the AFL has been certified by the Board in an appropriate unit.

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The parties agree that the Company's industrial insurance agents,¹ excluding supervisors, cashiers, and clerks, constitute a unit appropriate for the purposes of collective bargaining. They disagree, however, as to the geographical extent thereof. The AFL and the Company contend that the unit should comprise the entire State of California; the CIO requests a unit limited to the district offices in Los Angeles. The Company maintains 13 district offices in the State of California.²

¹ Only those agents engaged in the sale and handling of industrial life insurance, as distinguished from ordinary life insurance, are involved in this proceeding.

² The district offices are located at Santa Rosa, San Francisco, Glendale, Pasadena, San Diego, Huntington Park, Santa Ana, Oakland, Los Angeles (two offices), Fresno, Sacramento, and Long Beach.

The CIO argues that because its organizational campaign has been confined to two of these districts and in view of the fact that previous organization among the Company's agents has progressed on a district basis, the two Los Angeles District offices constitute an appropriate bargaining unit. However, in the absence of unusual or extenuating circumstances,³ and we find none in the instant case, we are of the opinion that State-wide bargaining units for insurance agents are more practicable for collective bargaining purposes.⁴ Moreover, the Board customarily will not predicate its unit finding on the extent of one union's organization where, as here, organization of employees by a rival union has been effected on the basis of a broader and more appropriate bargaining unit.⁵ Accordingly, we find that a less than State-wide unit is inappropriate for the purposes of collective bargaining.

We find that all industrial insurance agents employed by the Company in the State of California, excluding superintendents, assistant superintendents, clerks, cashiers, and all 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 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. In accord with the requests made by the AFL and the CIO at the hearing, we shall designate them on the ballot as Industrial and Ordinary Insurance Agents' Council, AFL, and Insurance Division, United Office and Professional Workers of America, CIO, respectively.

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with American National

³ Cf. *Matter of The Western and Southern Life Insurance Company*, 57 N. L. R. B. 1439.

⁴ *Matter of Metropolitan Life Insurance Company*, 56 N. L. R. B. 1635; *Matter of The National Life and Accident Insurance Company*, 57 N. L. R. B. 1119.

⁵ See *Matter of Minneapolis Honeywell Regulator Company*, 66 N. L. R. B. 314, and cases cited therein.

Insurance Company, 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 Twentieth 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 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 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 they desire to be represented by Industrial and Ordinary Insurance Agents' Council, AFL, or by Insurance Division, United Office and Professional Workers of America, CIO, for the purposes of collective bargaining, or by neither.