

Complaint

IN THE MATTER OF

ILLINOIS COMMERCIAL MEN'S ASSOCIATION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6245. Complaint, Oct. 14, 1954—Decision, Oct. 4, 1955*

Consent order requiring an insurance company in Chicago to cease misrepresenting the terms and benefits of its accident policies.

Before *Mr. Loren H. Laughlin*, hearing examiner.

Mr. Paul R. Dixon and *Mr. Robert R. Sills* for the Commission.

Mr. Richard K. Decker of *Lord, Bissell & Brook*, of Chicago, Ill.,
for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as that Act is applicable to the business of insurance under the provisions of Public Law 15, 79th Congress (Title 15, U. S. Code, Sections 1011 to 1015, inclusive), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Illinois Commercial Men's Association, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Illinois Commercial Men's Association, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 332 South Michigan Avenue, Chicago 90, Illinois.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged as an insurer in the business of insurance in commerce, as "commerce" is defined in the Federal Trade Commission Act, by entering into insurance contracts with insureds located in various States of the United States other than the State of Illinois, in which States the business of insurance is not regulated by State law to the extent of regulating the practices of respondent alleged in this complaint to be illegal. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said insurance policies in commerce between and among the several States of the United States.

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Generally, such policies provide that in consideration of a stated sum of money, sometimes referred to as a premium, and other considerations, respondent promises to indemnify the insured for losses resulting from accidental injury in accordance with the various terms and conditions of said policy.

Said policy has become known in the insurance business, and is sometimes hereinafter referred to as "Accident policy."

PAR. 3. Respondent is licensed, as provided by Illinois State law, to engage in the business of insurance as hereinbefore generally described in Paragraph 2 of this complaint, in the State of Illinois. Respondent is not now, nor has it been during the two years last past, licensed to engage in the business of insurance in any State of the United States other than the State of Illinois.

Respondent solicits business by mail in the various States of the United States in addition to the State of Illinois. As a result thereof it has entered into insurance contracts with insureds located in many states in which it is not licensed to do business. Respondent's business practices are not regulated by any of these states as it is not subject to the jurisdiction of such states.

PAR. 4. In the course and conduct of its business, respondent, during the two years last past and continuing to the present time, disseminated and caused to be disseminated, in the form of circulars and other printed and written matter, advertisements concerning the terms and provisions of its "Accident policy." These advertisements were disseminated through the United States mails in commerce between and among the various States of the United States. The purpose and effect of these advertisements was and is to induce members of the public to purchase one or more of the policies so advertised.

PAR. 5. In the course and conduct of its said business in said commerce, as aforesaid, the respondent has disseminated, among others of similar import and meaning, not herein set out, advertisements relating to its policy containing statements hereinafter set forth:

1. Although you must be between the age limits specified at the right at the time you apply for ICMA membership, there is NO limit to the age at which you may continue your protection.

2. *With ICMA you're protected 24 hours a day.* On or off the job, at home or on trips, ICMA covers you for EVERY accident you might have with only three exceptions: ICMA doesn't cover 1) suicide, 2) wartime military or naval service or acts of war, or 3) airplane accidents UNLESS you're a fare-paying passenger on a regularly scheduled commercial airliner, which IS covered.

These are the ONLY exceptions that ICMA has * * *, whereas many policies cover you only for certain specified accidents, leaving you unprotected for the common accidents likely to happen. With ICMA

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you're covered around the clock—you never have to worry about whether a certain accident is covered or not—and this is mighty important to you since you can't select your accidents to suit your policy! THE IMPORTANT POINT is that these benefits cover you for ALL accidents * * * ANYTIME, ANYWHERE * * * with only three exceptions: * * * These are the ONLY exceptions that ICMA has.

3. GET THESE MAN-SIZED BENEFITS
WHEN AN ACCIDENT STRIKES YOU

These are the benefits provided by two ICMA policies. One ICMA policy would pay one-half as much for each of the benefits listed below. You may apply for either one or two policies.

\$214.00 A MONTH FOR
TOTAL DISABILITY
(\$50.00 a week up to two years)
\$107.00 A MONTH FOR
PARTIAL DISABILITY
(\$25.00 a week up to 6 months)
\$10,000.00 FOR ACCIDENTAL DEATH
(At age 70, this benefit becomes \$2,000)
\$10,000.00 FOR ANY ONE OF THESE
ACCIDENTAL LOSSES:
(a) Both hands or feet
(b) Sight of both eyes
(c) One hand and one foot
\$5,000.00 FOR ACCIDENTAL LOSS
OF ONE HAND OR FOOT
\$2,500.00 FOR ACCIDENTAL LOSS
OF SIGHT OF ONE EYE
\$100.00 FOR HERNIA

You'll get these generous benefits when an accident strikes:

\$ 107.00—A MONTH for total disability
\$ 53.00—A MONTH for partial disability
\$5,000.00—IN CASE OF ACCIDENTAL DEATH
AND MANY OTHER BENEFITS RANGING UP TO \$5,000

* * * as listed on the enclosed application.

Note that you can DOUBLE these benefits
simply by applying for two policies!

PAR. 6. Through the use of said statements and representations, and others of similar import and meaning not specifically set out in Paragraph 5, the respondent represents and has represented, directly or by implication, with respect to its said policy that:

1. The indemnity provided against loss by accident may be continued indefinitely at the option of the insured.

2. The indemnity provided covers all accidents, anytime, anywhere, with only three exceptions, namely: suicide; wartime military or naval service or acts of war; or airplane accidents unless the policyholder is a fare-paying passenger on a regularly scheduled commercial airline.

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3. In the case of a single accident the insured is indemnified for total disability, partial disability, loss of life, limbs or vision, and hernia in any amount equal to the total of the payments provided for all these conditions.

PAR. 7. The aforesaid statements and representations are false, misleading and deceptive. In truth and in fact:

1. The policy provides that it is cancellable by respondent; and that it is automatically terminated upon the payment to the policyholder for loss of limb or total loss of vision of eye or eyes.

2. Under the terms of respondent's policy no indemnification is provided:

(1) In any event unless the injury or injuries involved are "received through accidental means independently of all other cases";

(2) In the case of total disability, unless such injury or injuries also "independently of all other causes, immediately, wholly and continuously disable" the policyholder from "doing work of any kind or transacting any business";

(3) In the case of loss of life, loss of limb or total loss of vision of eye or eyes, unless such loss results, "independently of all other causes" from such injury or injuries and provided, further, "that such loss occurs within 90 days after the accident which caused it" and that the policyholder "shall have been wholly and continuously disabled from time of receiving said injuries" until the time of said loss.

3. The insured is not indemnified in case of a single accident in an amount equal to the total of the payments provided for all of the various conditions. On the contrary, such indemnification is limited to an amount smaller than such total by the following provisions in respondent's policy which restrict the amount of payments which will be made in case of a single accident:

(1) "All weekly indemnity for loss of time paid to a policyholder for bodily injuries resulting in loss of life, loss of vision or loss of limb shall be deducted from the sum payable for any such loss respectively. Any sum paid to a policyholder for loss of limb or loss of vision shall be deducted from the sum payable for loss of life."

(2) "In case hernia shall be the result of such bodily injuries (as have been heretofore described) the Association shall in no event be liable for more than Fifty Dollars indemnity."

(3) Indemnity for partial disability is provided only if such disability is preceded by total disability and the right to indemnity for such total disability shall have terminated.

PAR. 8. The use by the respondent of the aforesaid false and misleading statements and representations with respect to the terms and

conditions of its said policy and its failure to reveal the limitations of its said coverage found in said policy have had and now have the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the aforesaid statements and representations were and are true and to induce said portion of the purchasing public to purchase insurance coverage from the respondent because of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION AND ORDER BY LOREN H. LAUGHLIN, HEARING EXAMINER

The initial hearing in this proceeding was opened in Chicago, Illinois, on July 13, 1955, pursuant to due notice theretofore given to the parties. Thereupon counsel for both parties jointly moved the hearing examiner to defer the reception of evidence and to recess the initial hearing for thirty days to permit negotiation of an agreement containing a consent cease and desist order disposing of the whole proceeding. This motion was granted and the proceeding was ordered so continued by the hearing examiner, after having first carefully considered the nature of the proceeding, the requirements of the public interest, the representations of both parties and the probability of an agreement being reached by the parties which would result in a just disposition of all of the issues involved.

In accordance with the said order and within the time granted therefor, on August 4, 1955, counsel for both parties submitted to the hearing examiner for his approval an agreement for consent order, including a proposed order, such document having been properly executed both by counsel supporting the complaint and by the respondent by its vice president and by its attorneys of record. Said agreement bears date of July 13, 1955, and has been approved by the Director of the Commission's Bureau of Litigation.

Upon due consideration of said agreement the undersigned hearing examiner finds that said agreement has been properly prepared, approved, and submitted to him for his approval in accordance with the requirements of Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, effective on and after May 21, 1955.

The hearing examiner specially finds that by said agreement the parties have agreed:

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That a true copy of the complaint issued against the respondent on October 14, 1954, was thereafter duly served by registered mail on the respondent; and that respondent is now and at all times mentioned therein has been a corporation organized and existing under the laws of the State of Illinois and having its principal place of business in Chicago, Illinois, as alleged in said complaint;

That the signing of this agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated any law as alleged in the complaint;

That respondent has admitted all the jurisdictional allegations set forth in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations;

That respondent may withdraw the answer and both parties waive a hearing before a hearing examiner or the Commission, and all further and other procedure before the hearing examiner and the Commission to which the parties may be entitled under the Federal Trade Commission Act and the Rules of Practice of the Commission; and that the proposed order therein provided for shall have the same force and effect as if made after a full hearing with findings of fact and conclusions of law;

That respondent has also specifically waived any and all right, power, or privilege to challenge or contest the validity of the order to be entered in accordance with said agreement;

That the complaint may be used in construing the proposed order, which may be altered, modified or set aside in the manner provided by statute for orders of the Commission; and

That said agreement, together with the complaint, shall constitute the entire record herein; that said agreement shall be filed with the hearing examiner for his consideration in accordance with Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings; and that said order shall have no force and effect unless and until it becomes the order of the Commission.

The hearing examiner further finds from the complaint and said agreement that the Commission has jurisdiction over the person of respondent; that the Commission also has jurisdiction over the subject matter of this proceeding under the provisions of the Federal Trade Commission Act, as that Act is applicable to the business of insurance under the provisions of Public Law 15, 79th Congress (Title 15, U. S. Code, Sections 1011 to 1015, inclusive); that the complaint alleges acts of respondent which are violative of the provisions of the Federal Trade Commission Act, in that it alleges in substance that respondent insurance company in the course of its business has

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disseminated, and continues to disseminate, certain written false and misleading advertisements concerning the provisions, exceptions and limitations of its "Accident policy" by mail in interstate commerce in the various States of the Union other than in its domiciliary and sole licensing State of Illinois, in which other States respondent is not regulated by State law; and that such advertisements have the tendency to deceive and do deceive and have deceived a substantial portion of the purchasing public; that this proceeding is to the interest of the public; and that the proposed order conforms to the order set forth in the "Notice" portion of the complaint with the two exceptions that are recommended by counsel supporting the complaint, namely, that the words "health, hospital or surgical" should be properly deleted from the preamble of the proposed order as respondent sells accident insurance only; and that the general misrepresentation clause, Section (b) of said proposed order, should be properly deleted because it is unnecessary in view of the breadth of remainder of such proposed order. The hearing examiner takes official notice and finds that respondent is chartered only as an assessment accident insurance association under the laws of the State of Illinois and that the proposed order is appropriate and adequate for the prompt and complete disposition of this proceeding.

The agreement for consent order is therefore accepted by the hearing examiner and ordered placed on file, but neither it nor this initial decision and order shall become parts of the official record of this proceeding, or be published unless, and until, this initial decision and order are approved by, and become a part of the official decision and order of the Commission.

ORDER

It is ordered, That respondent, Illinois Commercial Men's Association, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any accident insurance policy, do forthwith cease and desist from:

(A) Representing, directly or by implication:

(1) That said insurance policy may be continued in effect indefinitely or for any period of time, when, in fact, said policy provides that it may be canceled by respondent or terminated under any circumstances over which insured has no control, during the period of time represented.

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(2) That said policy provides for indemnification to insured in cases of accident generally or in any or all cases of accident, when such is not the fact.

(3) That said policy provides for the payment of certain benefits in addition to other benefits when such is not the fact.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 4th day of October, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

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IN THE MATTER OF

AMERICAN WHOLESALE FURNITURE COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6258. Complaint, Nov. 3, 1954—Decision, Oct. 4, 1955

Consent order requiring dealers in Chicago to cease using the word "Wholesale" in their corporate name and representing falsely thereby that their merchandise, including furniture, rugs, appliances, and luggage, was sold to the general public at wholesale prices.

Before *Mr. Loren H. Laughlin*, hearing examiner.

Mr. William R. Tincher for the Commission.

Mr. Julius J. Schwartz, of Chicago, Ill., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that American Wholesale Furniture Company, a corporation, and Peter K. Barskis and Eleanora Barskis, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, American Wholesale Furniture Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 916 South Wabash Avenue, Chicago 5, Illinois. The individual respondents, Peter K. Barskis and Eleanora Barskis, are President and Secretary-Treasurer, respectively, of the corporate respondent. These individuals formulate, control and direct the practices and policies of said corporate respondent. Said individual respondents have their offices at the same place as the corporate respondent.

PAR. 2. Respondents are now, and for more than two years last past have been, engaged in the business of offering for sale and selling furniture, rugs, appliances, luggage and other merchandise. A substantial percentage of such sales are made to members of the general public.