

Opinion

52 F. T. C.

IN THE MATTER OF

FEDERAL LIFE AND CASUALTY COMPANY

Docket 6312. Order and opinion, May 11, 1956

Interlocutory order reversing ruling of hearing examiner who limited scope of proceeding to states without regulating statutes, and returning the matter to him to determine whether insurance advertising activity beyond the reach of state regulation may be involved.

Before *Mr. Frank Hier*, hearing examiner.

Mr. J. W. Brookfield, Jr. and *Mr. Donald K. King* for the Commission.

Beaumont, Smith & Harris, of Detroit, Mich., for the respondent.

ORDER GRANTING APPEAL FROM HEARING EXAMINER'S ORDER LIMITING
SCOPE OF PROCEEDING

Counsel in support of the complaint having filed an interlocutory appeal from a ruling of the hearing examiner limiting the scope of this proceeding to the respondent's advertising representations disseminated in the States of Rhode Island and Mississippi and in the District of Columbia; and

The Commission having concluded, for the reasons set forth in its opinion in the matter of *The American Hospital and Life Insurance Company*, Docket No. 6237, issued April 24, 1956, that the examiner was in error in so ruling:

It is ordered, That the appeal of counsel in support of the complaint be, and it hereby is, granted.

It is further ordered, That insofar as the hearing examiner's order of November 16, 1955, purports to limit the scope of this proceeding to advertising representations disseminated in Rhode Island, Mississippi and the District of Columbia, said order is hereby reversed.

It is further ordered, That the respondent's request for consideration of other alleged errors in the examiner's order, raised for the first time in the answering brief, be, and it hereby is, denied.

Commissioners Gwynne and Mason dissenting in part and concurring in part.

JOINT OPINION OF CHAIRMAN GWYNNE AND COMMISSIONER MASON,
DISSENTING IN PART AND CONCURRING IN PART

In *American Hospital and Life Insurance Company* (Docket 6237) we stated our views as to the proper accommodation of federal-state authority over the insurance industry under the unique conditions of

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the McCarran Insurance Act. We did not, however, on the record there presented, attempt to define the precise scope of federal power, nor do we believe that such definition could be accomplished in any single proceeding.

The hearing examiner found here that the respondent was licensed to sell insurance and did sell in all the states of the Union, except Montana and Utah; that the business is handled through general agents in the states and respondent does not sell by mail; that in all but three jurisdictions, state regulating statutes did exist; that some of respondent's agents have used radio and television advertising in interstate commerce, sometimes with and sometimes without respondent's permission.

We believe that there *may* be an area of insurance advertising activity in commerce—for example, radio or TV—within the peculiar aegis of the federal government and effectively beyond the reach of state regulation.

We would, therefore, return this proceeding to the hearing examiner for the limited purpose of identifying such commercial activity and determining the extent to which those practices may be condemned under Section 5 of the Federal Trade Commission Act. Before passing upon such a novel question, we believe that due administrative process requires full opportunity for counsel on both sides to brief the issue.

To this limited degree we concur in the order herein.

Complaint

52 F. T. C.

IN THE MATTER OF
LUXURIOUS WOOLLENS, LTD., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

Docket 6518. Complaint, Feb. 20, 1956—Decision, May 11, 1956

Consent order requiring manufacturers in New York City to cease violating the Wool Products Labeling Act through misrepresenting the percentage of beaver fur in certain wool fabrics on sales invoices and shipping memoranda and on attached labels, and through furnishing similar labels to customers for attachment to garments manufactured from the fabrics; through furnishing false guaranties that certain of their wool products were not misbranded; and through failing to label certain wool products as required.

Before *Mr. Everett F. Haycraft*, hearing examiner.

Mr. Donald R. Moore for the Commission.

Mr. Frederick E. M. Ballon, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Luxurious Woollens, Ltd., a corporation, Max Wasserman, individually and as an officer of said corporation, and Paul A. Raich, individually and as General Manager of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, 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 Luxurious Woollens, Ltd., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York. Respondent Max Wasserman is president and secretary, and respondent Paul A. Raich is general manager of the corporate respondent and they formulate, direct and control the acts, policies and practices of the corporate respondent. Respondents have their principal place of business at 234 West 37th Street, New York, New York.

PAR. 2. Respondents, in the course and conduct of their business, are and were in competition with other corporations and with firms and individuals likewise engaged in the sale of wool products in commerce.