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MAIL-ORDER INSURANCE: THE F.T.C. RIDES AGAIN

By Mary M. Walker

On May 15 of this year the Federal Trade Commission issued Guides, effective as of July 14, for the Mail Order Insurance Industry. The Guides were obviously a response to the rapid growth of the mail-order insurance business in this country and to the increased alarm being voiced about its consequences. In a recent ruling the State Treasurer and Insurance Commissioner of Florida branded mail-order insurance as a "growing menace" to the insurance industry and the policy buyer as well. He characterized many mail-order companies as firms which do not pay license fees, are not admitted to do business in the state, and are not responsible to anyone to pay off claims when they are submitted. They are, according to him, out-of-state companies which advertise cut-rate insurance policies, solicit by mail, pay no taxes to the state, pay off by mail (if at all), "operate through advertising, more or less on the fringe of our huge insurance industry, and all too often... give the entire industry a bad name."

The proliferation of mail-order insurance companies is not particularly phenomenal nor is it necessarily an evil. It is one of many expectable results of the so-called nationalization of commerce and of the widespread use of direct mailing and mass communication advertising techniques in modern business. What has made it a potential menace, however, is the variation in licensing require-

1 2 Trade Reg. Rep. ¶ 7904 (1964). Certain industries and products which are regulated by the FTC under its power to enforce antitrust and trade regulation laws, are governed or guided by special rules adopted for that purpose by the FTC. These special guides and rules set forth in considerable detail what type of conduct is or is not likely to be in violation of the law. Although they do not have the force of law themselves, they may be considered "top authority" in judging what the Commission is likely to consider unlawful and should be consulted first if there is any doubt about a particular practice. The Guides currently in effect may be found in 2 Trade Reg. Rep. ¶¶ 7893-7899 (1964).
2 State Department Rulings, Ins. L.J. 354 (June, 1964).
3 Ibid.
ments from state to state as well as the general ineffectiveness of individual state regulation in reaching such companies.

The objectives and intent of the FTC in issuing the new Guides are clearly stated in the introduction and appear to be in line with FTC concerns generally: to prevent deception of purchasers of insurance and maintain fair competition in the industry. They are applicable to all advertising and sales promotion of insurance sold or offered for sale through the mails. The introduction states specifically, however, that they are not to be understood as delimiting the jurisdiction of the Commission with respect to the business of insurance under the Clayton Act and Federal Trade Commission Act as such acts are affected by the McCarran-Ferguson Insurance Regulation Act.

To understand the significance of this statement it is necessary to review briefly the relation of these statutes to each other and to the legal and legislative history of insurance regulation in general. Under the earliest doctrine, insurance was not considered to be "commerce" at all and regulation was confided entirely to the states. The landmark decision in United States v. South-Eastern Underwriters Ass'n reversed this, classified insurance as commerce, and by bringing it thus within the purview of federal regulation via the commerce clause of the Constitution, threatened the established regulatory machinery of the individual states. Among the federal statutes deriving from the commerce clause which would have been applicable to the insurance business at this point were the Clayton Act with its antitrust provisions and the Federal Trade Commission Act which gave to the FTC broad

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6 38 Stat. 717 (1914), as amended, 15 U.S.C. § 45 (1959). The FTC is the only administrative agency which enforces the antitrust and trade regulation laws. It was created by the Federal Trade Commission Act and given under it a variety of responsibilities and broad powers. Its chief function is to enforce that Act's prohibition against unfair methods of competition and unfair or deceptive acts or practices, and in conjunction, the Clayton Act, dealing with price and other discriminations, exclusive dealing and related arrangements, corporate acquisitions of stock and assets, and interlocking directorates. Violations of the Clayton Act, when found, have been considered by definition to constitute "unfair trade practices" and fall within the prohibition of the Federal Trade Commission Act.
8 Paul v. Virginia, 75 U.S. (8 Wall.) 168, 183 (1868): "Issuing a policy of insurance is not a transaction of commerce."
power to regulate unfair and deceptive trade practice in interstate commerce. Congress undertook to rectify the situation by passing the McCarran-Ferguson Act, which returned regulation of insurance to the states, providing specifically that neither the Federal Trade Commission nor Clayton Acts, nor any other federal statute undertaking to regulate the business of insurance were to apply in any state which itself regulated the same areas.\textsuperscript{11} This presumably settled the question, and the states, by enacting statutes such as the Maryland act on unfair trade practices,\textsuperscript{12} were considered to have foreclosed the possibility of insurance regulation by the FTC or any other federal agency.\textsuperscript{13}

On its face then, the specific disavowal in the Guides appears to be a reaffirmation of the status quo. There is, however, another statement in the introduction to the Guides which belies the simplicity of this assumption. This statement specifies that the Guides are intended for use in states where mail-order insurance companies are either unlicensed (and hence, presumably beyond the reach of state regulation) or, if licensed, have no agents. That this represents a change from the previous prevailing view can be seen by comparing this excerpt from an article in the Insurance Law Journal of October, 1963:

"The courts interpret licensing of insurance companies as sufficient regulation for . . . [the] purpose [of the McCarran Act[.]] . Thus, the Federal Trade Commission is concerned only with insurance sold by mail and not with all of that. If executives of an insurance company want to avoid the Federal Trade Commission entirely, they can do so simply by becoming licensed in all states in which they accept business. Merely being licensed is sufficient; they need not appoint agents. . . . It is estimated that there are no more than 15 or 20 insurance companies of the roughly 2,000 currently operating, with which the Federal Trade Commission is concerned."\textsuperscript{14}

\textsuperscript{11} McCarran-Ferguson Insurance Regulation Act §§ 1, 2(a) (b), 59 Stat. 33 (1945), as amended, 15 U.S.C. §§ 1011, 1012(a) (b) (1959). This act, which provides for state regulation of insurance, specifies that the Clayton and Federal Trade Commission Acts are applicable to that business only to the extent it is not regulated by state law.
\textsuperscript{14} Howard, The Current Status of Federal Regulation of Insurance, Ins. L.J. 581, 583 (October, 1963). (Emphasis added.)
It is even more significant in the light of two recent Supreme Court decisions dealing with Federal Trade Commission power to regulate mail-order insurance. These two cases had to do with a qualification on state ability to regulate insurance which was recognized as early as the South Eastern Underwriters decision. That decision said that it was within the power of Congress "to govern affairs which the individual states, with their limited territorial jurisdiction, are not fully capable of governing." The McCarran Act uses similar language in providing that "The Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law."

The first of the two recent cases, FTC v. National Casualty Co., decided in 1958, held that where the foreign insurer was licensed and had agents to whom advertising matter was sent and who mailed it locally to state residents, the federal government was excluded from regulating because the state had legally sufficient control over the insurer. Two years later, in FTC v. Travelers Health Ass'n, it was held that where the foreign insurer was neither licensed nor had agents in the state, and mailing was direct to residents of the state, there was no adequate regulation in the place where the deception was practiced and had its impact. The fact that the state (Nebraska) in which the insurer was organized had a statute on unfair practices did not constitute regulation within the contemplation of the McCarran Act. On remand of the latter case to the 8th Circuit, that court considered whether the state provisions "are in legal concept sufficient in their form and in their enforceability to be capable of controlling the mailing of deceptive or unfair soliciting material... into the state." It concluded that to the extent that one state must depend on provisions, instrumentalities or processes of another, it is not able to exercise the "ultimate legal compulsion" necessary for effective regulation. With these developments in mind, it is possible to recognize the importance of the statement that the Guides are intended to apply to insurers which are licensed in a state but have no agents there. It seems safe to assume that the FTC has

19 Travelers Health Ass'n v. FTC, 298 F. 2d 820, 822 (8th Cir. 1962).
20 Id. at 824.
concluded that this is an area in which the state lacks “effective” control and hence is subject to federal regulation. The questions and misgivings which may be raised throughout the insurance industry as to the effect of this conclusion on state regulation of insurance warrant a closer look at the Guides themselves, the corresponding Maryland law and the possible jurisdictional problems posed by co-existence of the two.

I. THE GUIDES

The new Guides set out detailed standards to be applied by the Commission in determining whether a mail-order insurer’s advertising practices are unfair or deceptive. There are fourteen guides preceded by a section of definitions. Noteworthy in the latter is the term “advertisement”, defined as:

“1) Any printed or published material, descriptive literature, statements or depictions of an insurer used in newspapers, magazines, radio and TV scripts or presentations, billboards, and similar displays, and

2) Descriptive literature and sales aids of all kinds issued or caused to be issued by an insurer or by an insurer’s agent or broker for presentation to members of the public, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters, and policy forms”.

This definition incorporates the many varieties of advertising which have been involved in previous FTC decisions in all industries and seems to indicate an intent to clarify and emphasize the comprehensive nature of the subject matter covered by the Guides. A brief survey of the Guides themselves provides a better indication of their scope.

Guide 1 is a prohibition against deception in general and forbids advertisements which “have the capacity and tendency to mislead or deceive purchasers or prospective purchasers, irrespective of whether a policy advertised is made available to an insured prior to the consummation of the sale, or an offer is made of a premium refund if a purchaser is not satisfied.” Use of words whose meaning is unclear or too technical is also prohibited.

Guide 2 deals with advertisements describing benefits, losses covered, or premiums payable and is by far the most

\[21 \text{Trade Reg. Rep. } \#7004 \ (1964)\]

\[22 \text{Ibid.}\]
detailed of the Guides. Specifically, it requires clear and conspicuous disclosure of all exceptions, reductions and limitations relating to any insurance policy advertised, the cost of such policy, or the period of time for which any benefit is payable. This includes waiting, elimination, or probationary periods; benefits contingent on conditions; pre-existing conditions; deceptive words or phrases to characterize the degree or type of coverage, amount payable, or time limitation; and age limitations. It also specifically forbids deception as to coverage of diseases and additional benefits.

Guide 3 prohibits misleading advertisements as to the importance of the condition of the applicant's or insured's health, or the necessity for a medical examination, and requires conspicuous disclosure of any other conditions pertaining to the insured's health under which the insurer will not be liable for benefits.

Guide 4 covers disclosure of policy provisions relating to renewability, cancellability or termination, and requires that such disclosure be clear and in close conjunction with any other statement or reference which may, by implication, concern these subjects. In addition it forbids deceptive implications as to the length of time a policy may be continued in effect if, in fact, it may be terminated during the time stated by events over which the insured has no control.

Guide 5 requires that all testimonials, appraisals or analyses used in any advertisement represent the current opinion of the author and be genuine, accurate, applicable to the policy or insurer advertised, and a correct reflection of the present practices of the insurer. It also notes that an insurer makes as his own all statements contained in any testimonial which he uses, and the advertisement which incorporates it is subject to all provisions of the Guides.

Guide 6 forbids any deceptive use of statistics, including those relating to time within which claims are settled, number of claims paid or persons insured, and generosity of claim settlements.

Guide 7 requires identification of plans under which different amounts of benefits are payable together with disclosure that the premium will vary with the amount of benefits. It also requires clear disclosure that advertised benefits are provided only through a combination of policies, if such is the case.
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Guide 8 prohibits deception as to introductory, initial, or special offers.

Guide 9 deals with misrepresentation as to licensing, approval, or endorsement of insurer, policy or advertisement by any individual, governmental agency, society, association or other group.

Guide 10 provides that no advertisement is to represent falsely that policyholders become group or quasi-group members or enjoy special rates or privileges usually associated with group insurance.

Guide 11 forbids deceptive advertising of benefits payable under a "family group" policy.

Guide 12 bars deceptive use of trade names, service marks, slogans, symbols, etc. concerning the identity of the insurer or its relation with public or private institutions.

Guide 13 forbids false disparagement of competitors and their policies, services, or business methods.

Guide 14 is the last, and it provides that no advertisement shall be used which could mislead a prospective purchaser with respect to an insurer's assets, corporate structure, financial standing, age or relative position in the insurance business, or in any other material respect.

II. CURRENT MARYLAND LAW

There are three areas, Titles 3, 14 and 15, of the new Maryland Insurance Code,\(^23\) effective December 3, 1963, which bear more or less directly on the question of mail-order insurance regulation and which determine its extent and effectiveness in Maryland.

Title 3 deals with the general requirements for licensing insurers doing business in Maryland.\(^24\) Obtaining a certificate of authority to do insurance business in Maryland is made an absolute prerequisite for all insurers and would be applicable to any mail-order firm whether organized in Maryland or not. It is clearly intended to prevent any insurer, mail-order or otherwise, from doing business in this state without meeting the licensing requirements, or from using Maryland as a base to do business in other states without first being licensed for the same kind of business in Maryland.\(^25\) Violations of these or any other provisions in the Code are punishable by a general fine of not more than $1,000 in addition to any other administrative pen-


These provisions, which together are calculated to bar unlicensed insurers from operating in or from Maryland, are on a par with the law of most states, though they are less stringent than some and more stringent than those few which currently provide the base of operations for a great many mail-order insurance companies. This section of the Code sets out general requirements for certification which are similar to those in the majority of states: minimum capital and surplus requirements; minimum deposit requirements; good management and affiliations; appointment of the Insurance Commissioner as attorney for service of process; requirements of annual statements; use of resident agents and countersignature of all policies by them.

Title 14 deals with unauthorized insurers. This, basically, is the Uniform Unauthorized Insurers Process Act and is designed to enable the state to obtain jurisdiction over any unauthorized insurer, including mail-order companies, "doing business" in or having sufficient contact with the state to warrant subjecting it to suit either by the state or, probably, by a resident thereof. Maryland's statute, like those of other states which have adopted the Uniform Act, enumerates specific acts of the insurer which, whether effected by mail or otherwise, constitute appointment of the Commissioner as agent for service:

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28 E.g., N.M. Stat. Ann. ch. 58, § 58-4-9 (1962). New Mexico forbids an insurer, licensed in New Mexico, to do business in another state unless authorized by that state.
29 E.g., 3A Neb. Rev. Stat. ch. 44 (1943, Reissue 1960). Nebraska's statute sets out relatively few specific requirements for insurers organizing in that state (§§ 44-125 to 44-137), allows the Director of Insurance wide discretion in regulating matters connected with the organization of such domestic insurers (§ 44-208.07), and allows any citizen of Nebraska to act as agent for an unlicensed insurer upon payment of a yearly fee and posting of bond (§ 44-139).
"... (1) the issuance or delivery of contracts of insurance to residents of this State or to corporations authorized to do business therein, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments, or other considerations for such contracts, or (4) any other transaction of insurance business. . . ."\(^{41}\)

Section 201, the only section in this title that is not part of the Uniform Act, provides in subsection (a) that no one shall represent or aid, directly or indirectly, any unauthorized insurer.\(^{42}\) Subsection (b) prohibits, in detail, the publishing, broadcasting, or distribution of advertising matter for any unauthorized insurer.\(^{43}\) This latter prohibition has been construed as applying even to reinsurance, which is excepted from the terms of subsection (a), thus giving the broadest possible scope to the sanctions in (b) against serving as the vehicle for an unauthorized insurer’s advertising.\(^{44}\)

Title 15 of the Code deals with unfair trade practices. Essentially this is the Model Fair Trade Practices Act\(^{45}\) which has been enacted in one form or another by all states in order to preclude federal regulation in that area and to conform to the purpose of Congress when it passed the McCarran-Ferguson Act delegating the regulation of insurance to the states.\(^{46}\) Maryland’s statute prohibits, in general language, all unfair methods of competition and unfair or deceptive acts or practices in the business of insurance,\(^{47}\) and provides for issuance of cease and desist orders by the Commissioner of Insurance in connection with such practices.\(^{48}\) It provides for discretionary action by the Commissioner as to undefined practices that may be unfair\(^{49}\) and then lists various deceptive practices specifically barred: misrepresentation and false advertising of policies;\(^{50}\) false information or advertising generally;\(^{51}\) defamation of any person engaged in or proposing to engage

in the business of insurance;\textsuperscript{52} boycott, coercion and intimidation resulting in unreasonable restraint of or monopoly in the business of insurance;\textsuperscript{53} false financial statements;\textsuperscript{54} stock operations and advisory board contracts;\textsuperscript{55} unfair discrimination;\textsuperscript{56} rebates;\textsuperscript{57} use of insurance as an inducement to the purchase of goods, services, securities, commodities or periodical subscriptions;\textsuperscript{58} "twisting";\textsuperscript{59} favored agent or insurer;\textsuperscript{60} interlocking ownership or management;\textsuperscript{61} illegal dealing in premiums and improper charges for insurance;\textsuperscript{62} fictitious groups;\textsuperscript{63} and misleading names deceptively implying that a person is an insurer when he is not.\textsuperscript{64} The remainder of the title is composed of sections constituting the Unauthorized Insurers False Advertising Process Act,\textsuperscript{65} which provides for the same type of substituted service as the Unauthorized Insurers Process Act. Taken together, the provisions in this title cover substantially the same subject matter as do the new FTC Guides and were obviously enacted in the belief that they would be sufficient to keep the regulation of insurance entirely under state control. The issuance of the new Guides, however, indicates that this belief may have been erroneous and the question now is: to what extent is Maryland or state regulation effective in controlling the mail-order insurance industry and to what extent has or will this business come under federal regulation?

\section*{III. Jurisdictional Questions}

The jurisdictional problems which are likely to arise in connection with the new FTC Guides are a product of the changing regulatory scope of the FTC in this area, evi-

\textsuperscript{60} Md. Code Ann. art. 48A, §§ 228 (1957, repl. vol. 1964). The practice referred to here is the requiring, as condition precedent to loaning money secured by property, extending or renewing loans and mortgages, or selling property under contract, that the owner of the property place, continue or renew insurance on the property through a particular insurer or broker.
enced by the direction recent decisions have taken and the issuance of the Guides themselves. Both state and federal governments have recognized that the growth of mail-order insurance presents problems not adequately covered by the existing regulatory system. The central weakness arises from a lack of effective means or regulating insurers whose contracts are made in another state and may thus be beyond the reach of the regulating state. Various states, including Maryland, have tried to alleviate this problem by enacting jurisdictional statutes, such as the Unauthorized Insurers Process Act mentioned above, which specify certain acts that will subject a foreign insurer to the jurisdiction of the enacting state and enable it to protect its resident policyholders.

The question of due process limitations on state jurisdiction which has been raised in connection with such statutes is one of the two major stumbling blocks to effective state regulation of mail-order insurance. Although these particular statutes have been upheld as constitutional and the acts therein enumerated held to constitute "sufficient minimum contacts" to avoid offending the concept of due process, no state has been successful in pushing its jurisdiction beyond this. An article by one experienced insurance counselor has advocated liberalizing the concept of due process, in particular as to the amount of "minimum contact" with the state needed to warrant its taking jurisdiction over a foreign insurer. Under this view contracts made outside the state, would provide a basis for assuming jurisdiction if, for example, the insured property is within the state, even though that is the only contact the insurer has with the state and the owner does not reside there. As the article notes, most current authority is not in accord with this view and it cites the Supreme Court's decision

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68 See Selby v. Crown Life Ins. Co., 189 S.W. 2d 135 (St. Louis Ct. App., Mo. 1945). In this case an Illinois insurer sent policy directly to resident of Missouri who applied for policy after listening to commercial broadcast over radio station in Illinois; insurer held not "doing business" for purpose of giving Missouri courts jurisdiction. See also 20 Am. Jur. Insurance §§ 19-22, 28 (1960); Restatement, Conflict of Laws §§ 317-19 (1934).


65 Id. at 465-66. See also 2 Couch, Cyclopedia of Insurance Law § 21:53 (2d ed. 1959) : "Insuring property in one state, when the application is received at and the policy issued from the home office in another state, does not constitute doing business within the state in which the property is located."
in *State Bd. of Ins. v. Todd Shipyards Corp.*,76 as illustrating the prevailing position. There the majority opinion noted that the specific intent of Congress, in passing the McCarran-Ferguson Act, was to adhere to three Supreme Court decisions71 which held that the states had no power to tax "contracts of insurance or reinsurance entered into outside its jurisdiction by individuals or corporations resident or domiciled therein covering risks within the State or to regulate such transactions in any way."72 Dissenting, Justice Black maintained that the decision would hamper the state's ability to provide effective regulation and in addition would give unlicensed companies an unfair tax advantage.73 The author of the article sees an invitation to federal regulation in these gray areas of due process which the state is at present powerless to reach. He advocates amending the McCarran Act to "unfreeze" the concept of due process embodied therein and give the states greater jurisdictional leeway in coping with unlicensed insurers.74 Assuming this were done, however, and the concept of due process given its maximum elasticity, it is quite conceivable that it still would not exclude the federal government from the field of mail-order insurance regulation.

The reason for this is the second stumbling block to effective state regulation — the problem of ultimate enforcement. The mere fact that special statutes (such as Maryland's) may prohibit unfair trade practices and give the state jurisdiction for purposes of administrative cease and desist proceedings, injunction suits, and probably actions seeking judgment for forfeitures or penalties provided by the statute75 does not necessarily mean that they afford "effective" regulation in the sense of adequate means of enforcement.76 The *National Casualty* and *Travelers* cases indicate that the courts have recognized this problem and have opened the way for federal regulation under circumstances in which the state, even with technical jurisdiction over the insurer, could achieve ultimate enforcement of its orders only through the process of other

72 370 U.S. 451, 455-56 (1962). (Emphasis added.)
73 Id. at 458-59.
74 Schlothauer, supra note 68, at 467.
75 Travelers Health Ass'n v. FTC, 298 F. 2d 520, 524 (8th Cir. 1962).
states. All previous views to the contrary notwithstanding, it appears that the FTC will be involved, to some extent at least, in the regulation of mail-order insurance. Exactly where and how the lines will be drawn between state and federal regulation of mail-order advertising is still a matter of speculation and will, as always, depend upon the circumstances of each case. Certain delineations are clearer, however, in light of the two decisions mentioned and the specific statement in the Guides that they are intended to apply not only to insurers not licensed in the state in which they are soliciting but also to those who, if licensed, have no agents there. The “ultimate effectiveness” of a state’s regulation and its ability to enforce its orders, process, and judgments against the person or property of the insurer will apparently be the main factor in determining whether the FTC will have exclusive, concurrent, or no jurisdiction.

Where the insurer is licensed and maintains agents in the state, the state, under the National Casualty doctrine, presumably has a sufficient control over the insurer and will have exclusive jurisdiction.\(^7\) Where the insurer is not licensed and does not maintain agents in the state (cases involving direct mailing and mass communication advertising) the most effective regulation will clearly be that of the federal government, although states such as Maryland, while lacking means of effective enforcement, will have concurrent jurisdiction through their Unauthorized Insurers Process Acts. The remaining area, where the insurer is licensed but has no agents or, possibly, is not licensed but either maintains agents or has sufficient “minimum contacts” in the state, will also be an area of overlap and concurrent federal-state jurisdiction. Whether this jurisdiction is exercised by one or both will in all probability depend on the remedies sought and the sanctions available in any particular situation.

Maryland’s position in this regard might be considered typical. Where the insurer is licensed in Maryland, the state can revoke or suspend the license if licensing requirements are not met,\(^7\) and can take possession of the insurer’s books, records, and property if they are within the state.\(^9\) The latter is clearly the state’s only means of

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\(^7\) It can be argued, however, that even where the insurer is licensed and maintains agents in the state, FTC jurisdiction is not excluded because the state still has effective control only over the license and the agent, not the insurer itself or its practices. Palmer, supra note 76, at 75-6.


effective, affirmative enforcement although it can also refuse to enforce an insurance contract in a suit brought for that purpose by any insurer failing to meet the licensing requirements or doing business without a license. 60

Unlicensed insurers are also subject to Maryland's jurisdiction through the Unauthorized Insurers Process Act. The statute specifically includes insurance companies doing any business in the state by mail 81 and enables the Commissioner of Insurance to subject such an insurer to a cease and desist order or an injunction proceeding as well as proceedings to require the payment of fines or penalties provided for by law. 82 It would also enable a citizen of Maryland to sue a foreign insurer in this state on an insurance contract made by mail outside the state and recover a judgment for damages, or sue to rescind the contract. 83 With the exception of rescission of the contract, however, none of these remedies is likely to achieve the desired result; though Maryland is the state in which suit is brought or proceedings held, it has no effective means of enforcement against a foreign insurer which has no property or assets within Maryland or capable of being reached without relying upon the process of another state. In such a case it would still be necessary to sue on the judgment in the insurer's home state.

Finally, Maryland can exercise a certain amount of control over both licensed and unlicensed insurers through any agents they may have in the state. If the agent is licensed, his license may be revoked or suspended; 84 he may also be subjected to criminal proceedings and a statutory penalty either for violating licensing requirements 85 or for representing an unlicensed insurer; 86 he may also lose commissions and fees. 87 But again it is obvious that this approach can be of only limited effectiveness, depending primarily on how important the agent is to the insurer.

In all of these cases, then, state regulation may fall short of the desired objective, either for lack of effective 88

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80 Griffin v. McOoach, 313 U.S. 498 (1941).
enforcement power against foreign insurers, or because at best its remedies provide relief only as individual cases arise and only within its own boundaries, rather than eliminating the objectionable practice at its root. In such instances the FTC alone could provide effective nationwide regulation and the ability to reach across state lines to enforce its orders.