

UNITED STATES OF AMERICA  
BEFORE THE  
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

IN THE MATTER OF  
TRANSAMERICA CORPORATION

STATEMENT AND ORDER ON RESPONDENT'S EXCEPTION,  
APPEAL AND REQUEST DATED AUGUST 29, 1949

Respondent has filed with the Board an exception, appeal and request, dated August 29, 1949, entitled "Exception and Appeal from Ruling of Hearing Officer Denying Respondent's Motion to Dismiss for Failure of Proof, and Request for Adjournment of Hearing Date Prescribed in Said Ruling."

Neither due process of law, nor any statute applicable to this proceeding, requires the Board to entertain or determine interlocutory appeals from the rulings of its hearing officers. And no such appeals are contemplated or authorized by the Board's Rules of Practice. On the contrary, the effect of Rules VII and VIII of the Board's Rules is to preclude interlocutory appeals, and to require that exceptions to a hearing officer's rulings be filed after the filing of the hearing officer's report containing his recommended decision, and "be argued only at the final hearing, if any, on the merits before the Board or one or more members thereof." The ruling of the Hearing Officer upon respondent's motion to dismiss for failure of proof was not an initial decision of the case within the meaning of the Administrative Procedure Act; it was not a recommended decision within the meaning of the Act or of the Board's Rules, and no report in connection with the ruling was filed or required. Respondent's exception to and appeal from such ruling is therefore dismissed as premature,

but without prejudice to respondent's right to renew the same in accordance with the provisions of the Board's above mentioned Rules VII and VIII.

Insofar as respondent's exception and appeal challenges the Hearing Officer's action in fixing September 19, 1949, as the date on which hearings are to be resumed, we may add that while such action is not subject to interlocutory appeal -- and nothing in Rule IV of the Board's Rules of Practice provides otherwise -- the Board has treated respondent's request for an adjournment of the hearing date as a motion for an adjournment or continuance of the hearings, and has carefully considered respondent's brief and the affidavit of respondent's counsel in support of respondent's request. However, for the reasons stated by the Hearing Officer in his Notice denying respondent's motion to dismiss for failure of proof, the Board is of the opinion that the date prescribed by the Hearing Officer for the resumption of hearings is not unreasonable. Respondent's request that the hearings be adjourned until a date at least five months after the Board's determination of respondent's exception and appeal is therefore denied.

ORDER

For the reasons set forth in the foregoing statement, it is ORDERED that:

1. Respondent's exception to and appeal from the Hearing Officer's ruling denying respondent's motion to dismiss for failure of proof be, and it hereby is, dismissed, but without prejudice to respondent's right to renew the same in the manner and at the time prescribed by Rules VII and VIII of the Board's Rules of Practice.