

STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

July 15, 1977

ATTORNEY GENERAL OPINION NO. 77-230

Mr. Payne H. Ratner, Jr.  
Banking Department  
Suite 600 - 818 Kansas Avenue  
Topeka, Kansas 66612

Re: Elections--Banks--Contributions

Synopsis: Payment of membership dues or assessments by member banks to the Association, and use of those funds for operating costs of the Association, to include the costs of administering the fund, does not constitute a payment "in order to aid, promote, or prevent the nomination or election of any person to public office," for no corporate funds of any bank will reach the campaign treasuries of candidates for public office.

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Dear Mr. Ratner:

You advise that the Kansas Bankers Association is considering the establishment of a separate fund for the purpose of contributing to persons seeking election to state and federal office. Association personnel would be utilized in the organization and administration of the fund, and would be utilized in seeking contributions to it. The fund would be held separate and apart from other monies of the Association.

Contributions to the proposed fund itself would not be solicited or accepted from banking institutions. Contributions would be solicited and received only from individuals, who in the usual case would be stockholders or executive personnel of banks, and other individuals interested in Kansas banking. Recipients of contributions from the fund would be determined by a committee

Mr. Payne H. Ratner, Jr.  
Page Two  
July 15, 1977

of individual bankers and Kansas Bankers Association personnel. The Association is an unincorporated trade association, the membership of which consists of state and national banks located within the State of Kansas. Because banking institutions themselves are prohibited by K.S.A. 25-1709, the question arises whether the establishment and operation of the fund described above by the Association likewise runs afoul of that statute. It provides in pertinent part thus:

"No corporation carrying on the business of a bank . . . , and no trustee or trustees owning or holding the majority of the stock of such corporation, shall pay or contribute in order to aid, promote or prevent the nomination or election of any person to public office, or in order to aid, promote or antagonize the interests of any political party . . . ."

In addition to banking corporations, others carrying on particular businesses, such as insurance, railroad, telegraph, telephone, gas, electricity, and water companies, are likewise prohibited from making political contributions. The apparent purpose of the statute is to prohibit certain corporations whose businesses are specifically subject to government regulation from exercising possibly undue and untoward influence on regulatory policies by means of candidate contributions.

As the operation of the proposed fund is described above, however, no monies would be contributed by a banking corporation to the fund which is used for political contributions. All monies which would be deposited in the fund, and contributed to designated candidates, would be derived from entirely lawful contributions. However, the Association is an unincorporated body whose members are state and national banks located in Kansas, and its operating funds are derived from those members. Some portion of those operating funds would necessarily be utilized to pay the expenses of organizing and administering the political fund, and of soliciting contributions for it.

Obviously, the Association cannot be used as a conduit whereby a banking corporation may accomplish indirectly what it cannot do indirectly. However all moneys collected under the auspices of the Association and contributed to individual candidates would derive from other than banking corporations. The fund is not

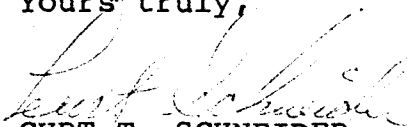
Mr. Payne H. Ratner, Jr.  
Page Three  
July 15, 1977

proposed to be used to "launder" otherwise illegal contributions. The sole question is whether the use of the Association's operating funds, which are derived from its membership of Kansas banking corporations, for the administration costs of the fund renders the payment of membership dues by Kansas banks to the association a payment or contribution "in order to aid, promote, or prevent the nomination or election of any person to public office." In my judgment, the relationship between member banks' payment of membership dues or assessments to the Association, and those monies which are collected from individuals and ultimately contributed to candidates for public office as described above, is too remote to invoke the prohibition of K.S.A. 25-1709.

All corporations conducting the businesses enumerated in that statute are traditionally subject to fairly close and pervasive public regulations. Their operations are directly affected by legislative and regulatory policy, and as a result, they have a particularly keen economic interest in the political process. Presumably, the 1911 legislation perceived that corporations in these regulated industries might seek to exercise untoward and oppressive influence on that process through the leverage of political contributions, and chose to prohibit them entirely. Neither the spirit nor the letter of the statute is compromised by the proposed fund as described above, for corporate funds will not reach the candidates' campaign coffers. The amount of any bank's Association membership fee or assessment which will be applied to the cost of the fund operation is practicably indeterminable, and predictably negligible. Of overriding importance, however, is that even if determinable, that pro rata portion of the membership fee will not be used for a prohibited purpose, i.e., to make a payment or contribution to "aid, promote, or prevent the nomination or election of any person to public office. . . ." The corporate wealth of those industries enumerated in K.S.A. 25-1709 remains unavailable for use in political campaigns.

Accordingly, it is my opinion that establishment and operation of the fund by the Kansas Bankers Association, as described above, does not violate K.S.A. 25-1709.

Yours truly,

  
CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj