



STATE OF KANSAS

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July 16, 1979

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ATTORNEY GENERAL OPINION NO. 79- 139

Mr. John C. Powell, Director  
Kansas Real Estate Commission  
Room 1212  
535 Kansas Avenue  
Topeka, Kansas 66603

Re: Personal and Real Property--Real Estate Brokers  
and Salesmen--Qualifications of Licensees

Synopsis: Pursuant to the Professional Corporation Law of  
Kansas, K.S.A. 17-2706 et seq., and the Real Estate  
Brokers' License Act, K.S.A. 58-3001 et seq., only  
individuals may engage in the activities of licensed  
real estate salesmen, and a corporation may not be  
formed for the purpose of offering such services.

\* \* \*

Dear Mr. Powell:

You request the opinion of this office as to the ability of  
a licensed real estate salesman to incorporate as a professional  
corporation, and to receive a commission from the employing  
broker paid to the corporation rather than the individual.

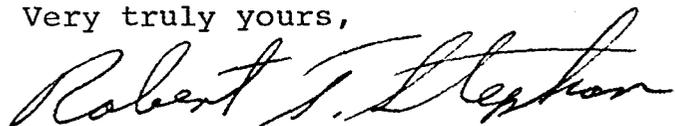
The Professional Corporation Law of Kansas, K.S.A. 17-2706,  
et seq., specifically enumerates in K.S.A. 1978 Supp. 17-2707(b),  
those professions which may incorporate a "professional corpora-  
tion" to perform specified professional services. Since real  
estate salesmen are not included in such enumeration it is  
clear that a licensed real estate salesman may not incorporate  
a professional corporation pursuant to said act.

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A related issue, which is suggested by your letter, is the ability of a licensed real estate salesman to incorporate in a form other than a professional corporation, i.e., pursuant to the General Corporation Code of Kansas. Although there is no provision in the General Corporation Code which would prohibit real estate salesmen from forming corporations to engage in real estate sales activities, the Real Estate Brokers' License Act, K.S.A. 58-3001 et seq., must be construed as allowing only individuals to engage in the activities of licensed real estate salesmen. Such a construction is required by subsection (b) of K.S.A. 58-3002, which defines the term "real estate salesman" as "any person associated with or employed or engaged by or on behalf of a real estate broker or by a partnership, association or corporation having one or more real estate brokers licensed under this act to perform any act set out in subsection (a) of this section for compensation or otherwise." (Emphasis added.) Similar provisions regulating the practice of optometry have been held to preclude a corporation from offering optometry services. State ex rel., v. Goldman Jewelry Co., 142 Kan. 881 (1935). The Goldman case and other authorities on this subject were examined in Attorney General Opinion 79-111 (June 11, 1979), wherein we concluded that non-professional corporations may not perform services such as engineering, land surveying, architecture and landscape architecture. A copy of that opinion is attached hereto for your reference.

In summary, it is our opinion that only individuals may engage in the activities of licensed real estate salesmen, and that a corporation may not be formed for the purpose of offering such services.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Terrence R. Hearshman  
Assistant Attorney General

RTS: BJS: TRH: jm  
Enclosure