

H-11111

Subject

*Courts Probate Court
Escheat Procedure*

Copy to _____

STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

April 23, 1974

Opinion No. 74- 124

Mr. Malcolm G. Copeland
Attorney at Law
708 Merchants National Bank Building
Topeka, Kansas 66612

Dear Mr. Copeland:

We have been advised by the State Treasurer's Office that you are serving as attorney for the administrator of the estate of Adolph Johnson. There are no known heirs. The estate presently has several securities in the form of stock and a cemetery lot.

The question arises whether the State Treasurer is authorized to accept the certificates and title from the administrator for subsequent sale by him during a more favorable market period.

K.S.A. 1973 Supp. 59-901 establishes the escheat proceeds suspense fund. It provides:

"Administration; proceeds deposited in escheat proceeds suspense fund. The estate of an intestate decedent without known heirs shall be administered in the same manner as the estate of any other intestate decedent, except as herein otherwise provided. The administrator shall as expeditiously as possible, convert the personal property into money, and collect the rents, income, and profits from the real estate. If no one claims as heir, devisee, or legatee within nine (9) months after the appointment of the administrator, the administrator shall sell the real estate and close the estate as other estates are closed and remit the net proceeds

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of the estate to the state treasurer. The state treasurer shall deposit the entire amount of any such remittance in the escheat proceeds suspense fund, which fund shall not be a part of the state treasury. All disbursements and transfers from such fund shall be made upon special warrants of the director of accounts and reports issued pursuant to special vouchers approved by the secretary of revenue or by a person or persons designated by him."

From a review of the foregoing, we find no authority for the State Treasurer to undertake the fiscal management of property belonging to such an estate by periodic sales weighing market factors. It appears rather clear that his authority and responsibility commences only after the assets have been converted into money by the administrator and presented in that form for deposit.

While the impetus to convey the securities at their highest market value is understandably strong, we are constrained to the view that their sale must be completed before the State Treasurer may accept the deposit.

Very truly yours,



VERN MILLER
Attorney General

DRH:gh

cc: Mr. Donald E. DeShazer
Assistant State Treasurer
Office of the State Treasurer
State Capitol Building
Topeka, Kansas 66612