



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider,
Attorney General

December 30, 1976

ATTORNEY GENERAL OPINION NO. 76-378

The Honorable Elwill M. Shanahan
Secretary of State
2nd Floor - State Capitol Building
Topeka, Kansas 66612

Attn: Mr. Sherman Parks

Re: Uniform Commercial Code--Information Requests--Date
of Information

Synopsis: An information request submitted pursuant to K.S.A. 1975 Supp. 84-9-407(2) may request information regarding a particular financing statement available on the date the request is received by the filing officer, or an earlier date specified in the information request itself.

* * *

Dear Secretary Shanahan:

You advise that on December 9, 1976, you have received a request for a certificate showing whether a financing statement of a particular debtor was on file as of March 1, 1975. You advise that prior to January 1, 1976, the original terminated and lapsed documents which were kept in the alphabetical file were returned to the secured party, leaving only numerical file numbers on record, to which requesting parties ordinarily do not have access to identify information which is sought.

You inquire what responsibility, if any, the filing officer has under K.S.A. 84-9-407 when a request for information refers to a date prior to the date that the information request, the UCC Form 3, is stamped filed in your office. K.S.A. 1975 Supp. 84-9-407(2) states in pertinent part thus:

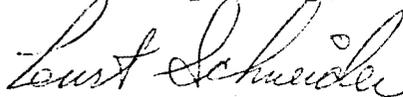
The Honorable Elwill M. Shanahan
Page Two
December 30, 1976

"Upon written request of any person and tender of the proper fee, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof" [Emphasis supplied.]

In my judgment, the phrase "presently effective" refers to the date and hour stated in the information request, and not to the time the information request is stamped, received by the filing officer.

Thus, in my judgment, it is the responsibility of the filing officer to respond to such information requests, referring to dates prior to the date of the request itself, to the extent permitted by the records maintained in the office. If the information is not available due to the previous practice of returning the original terminated and lapsed documents to the secured party, the party submitting the information request should be notified accordingly. In the instance presented by the request enclosed with your letter, the certificate should be executed, if the information is available, as of the March 1, 1975, date. If, as it appears, the information is not available for that date, the party submitting this request should be notified of that fact.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj