

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

February 6, 1980

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 80-33

Ms. Arlene Sejkora
City Clerk
Chapman, Kansas 67431

Re: Commercial Paper--Signature--Use of
Rubber Stamp on City Warrant Checks

Synopsis: A city may use rubber stamps to affix
the required signatures to city warrant
checks.

* * *

Dear Ms. Sejkora:

You have asked us to advise you about the propriety of using a rubber stamp to affix the names of the mayor, treasurer and city clerk to checks issued by the city. According to both statutory and case law, such a method of signing negotiable instruments is entirely appropriate.

Article Three, Commercial Paper, of the Kansas Uniform Commercial Code--K.S.A. 84-3-101 through 84-3-805--regulates transactions in negotiable instruments (checks, drafts, notes and the like). K.S.A. 84-3-401(2) provides, in pertinent part:

"A signature is made by use of any name . . . upon an instrument, or by any word or mark used in lieu of a written signature."

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The comments following this provision explain that "[a] signature may be handwritten, typed, printed or made in any other manner." K.S.A. 84-3-401, comment 2. Although the comments are not a part of the law, they are persuasive as to the proper interpretation of the statutory material.

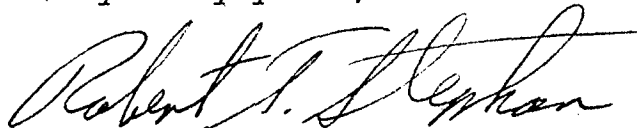
The Kansas Supreme Court in Bank v. King, 108 Kan. 108 (1920), held that under the provisions of the negotiable instruments laws then in effect, an endorsement made by one using a rubber stamp was valid as long as the endorser had both the authority and the intent to endorse the instrument (Id., syl. 1 at 108). Although the laws governing negotiable instruments have changed somewhat since this decision, we believe that the expression of the court as to the use of a signature stamp is still valid.

Further explanation of the use of a signature stamp is given in 11 Am.Jur.2d, Bills and Notes, §210 (19633):

"Signature may be by initials or by mark, facsimile, print, or typing, or by rubber stamp, which is notorious in case of indorsements. A signature on a check is not insufficient where it is in the form agreed upon between the drawer and the bank. What is important is not the manner of signature but the intent, the authority with which it is applied, and the adoption of the particular method." (Footnotes omitted.)

Based on the foregoing, it is our opinion that the use of a rubber stamp to affix names to your city checks is a valid method of signing them, assuming such method is authorized by the city governing body.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



W. Robert Alderson
First Deputy Attorney General

RTS:WRA:gk