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July 21, 1981

ATTORNEY GENERAL OPINION NO. 81-172

Mr. Nick A. Tomasic
District Attorney
Wyandotte County Courthouse
710 N. 7th Street
Kansas City, Kansas 66101

Re: Crimes and Punishments -- Trading Stamps -- Exemptions
from Prohibited Activities

Synopsis: A plan whereby retail merchants in a given area pay an advertising agency to print their coupons on the reverse side of cash register tapes, which tapes are then sold at a discount to grocery store chains in the same area, and shoppers at the grocery stores can then redeem the coupons from the retail merchants for discounts on items which these merchants stock and sell, is exempted from coverage under the Kansas Trading Stamp Act and not violative of the same. Cited herein: K.S.A. 21-2801 et seq., K.S.A. 1980 Supp. 21-2803.

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Dear Mr. Tomasic:

You have requested an opinion as to whether the method of distribution of advertising coupons outlined in the enclosure with your letter is prohibited by the Kansas Trading Stamp Act, K.S.A. 21-2801 et seq. The system, as explained in the memo you enclosed, is briefly as follows:

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Retail merchants in a given area pay an advertising agency to print their coupons on the reverse side of cash register tapes, and these tapes are then sold at a discount to grocery store chains in the same area. Shoppers at the grocery stores can then take the coupons on the reverse of their receipts to the retail merchants for discounts on items which they stock and sell.

In our opinion, this plan falls within one of the exceptions to the prohibitions of the Trading Stamp Act, and is, thus, not unlawful. The statutory exemption reads, in pertinent part:

"This act shall not apply to any coupon, ticket, certificate, card or other similar device which is issued, distributed, furnished or redeemed:

. . . .

"(b) By a retailer, when such coupon, ticket, certificate, card or other similar device is redeemable by the retailer, with or without accompanying cash, for any product which the retailer normally sells in its usual course of business."
K.S.A. 1980 Supp. 21-2803.

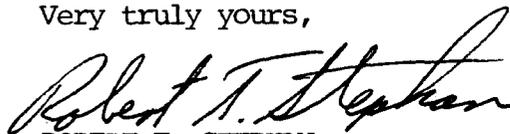
There seems little doubt that, under the system outlined, the retail merchants redeem the coupons for items these merchants normally sell in their usual course of business. Thus, we believe the plan about which you have inquired fits squarely within the exemption prescribed by K.S.A. 1980 Supp. 21-2803(b). Your letter and accompanying research suggests that, under the proposed system, the retail merchant furnishes as well as redeems the coupons, but such fact does not alter our conclusion, as the statute's specific exemption is phrased in the alternative -- "issued, distributed, furnished or redeemed."

We also note from the specific description of the scheme as presented to us that there appear to be no hidden costs to the customers of the grocery stores receiving the "coupon tapes." We are given to understand these tapes will be less expensive than conventional tapes, and seemingly such savings will be passed along to the consumer. We find this situation akin to advertisements and coupons contained in various newspapers and magazines.

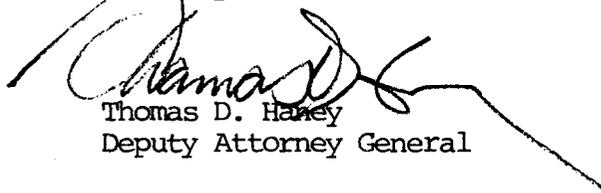
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For these reasons, we believe the system of coupon distribution under discussion does not violate the Trading Stamp Act.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Thomas D. Haney
Deputy Attorney General

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