



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

Jan. 30, 1947

Hon. L. S. Johnson, Commissioner
State Department of Banking
Austin, Texas

Opinion No. V-49

Re: Authority of the State Banking Department to supply certain information to an attorney representing a client who has a judgment against a Savings and Loan Association in the State of Texas.

Dear Sir:

We are in receipt of your request for an opinion upon the above subject matter as follows:

"We are in receipt of a letter from an attorney, the substance of which is as follows:

" 'I represent a client who has a judgment against, of, Texas, who is president of the Savings and Loan Association. I ran a writ of garnishment against the loan company who answers "That the defendant owns in the garnishee company, to wit; Association, shares of the value of dollars described as special fully paid stock and evidenced by stock certificate #....., which has been deposited with the Department of Banking, State of Texas, to cover an existing deficit and pledged by to guaranty loss from said deficit to the shareholders."

" 'This may be true and I doubt it.

" 'Please let me know if there is such deficit, and if said stock owned by said is pledged with your department.

" 'Thanking you for your prompt attention

and reply, I am,

" 'Cordially yours,

.....'

"For your information, the statement of the garnishee company, as hereinabove quoted, is substantially true, except for the number of shares which is stated therein and the amount of the value thereof.

"We seek advice from your Department as to whether or not there is a legal prohibition against our furnishing the information requested of us in the above letter.

"In this connection, you are advised that none of the information that we have on the subject incorporated in the garnishee company's answer was obtained by us through an examination of the association, but resulted out of a transaction between this department and the Board of Directors of the Association in the process of a reorganization of said Association."

Senate Bill No. 9, Chapter 18, of the Acts of the 42nd Legislature, 3rd Called Session, Article 1136a-9 of the Penal Code, Vernon's Codification, is as follows:

"The Banking Commissioner and my examiner, inspector, deputy, assistant or clerk, appointed or acting under the provisions of this Act, failing to keep secret any facts or information regarding an association obtained in the course of an examination or by reason of his official position, except when the public duty of such officer required him to report upon or take official action regarding the affairs of the association so examined, or who wilfully makes a false official report as to the condition of such association, shall be removed from his position or office and shall be fined not more than five hundred dollars, or imprisoned in the county jail for not more than one year, or both. Reports of examinations made to the Banking Commissioner of Texas shall be regarded as confidential and not for public record or inspection, except that for good reason same may be made by the Commissioner, but copies thereof may, upon request of the Association, be furnished to the Federal Home Loan Bank Board and/or to the Federal Home Loan Bank for the purpose of meeting the requirements of the Federal Home Loan Bank Act. Nothing herein shall prevent the proper exchange of information relating to building and loan associations and the business

thereof with the representatives of building and loan departments of other states, but in no case shall the private business or affairs of any individual association or company be disclosed. Any official violating any provision of this Section, in addition to the penalties herein provided, shall be liable, with his bondsmen, to the person or corporation injured by the disclosure of such secrets."

The language of this Article precludes your giving the information requested, and moreover, it would appear to be sufficiently broad to preclude your permitting anyone to make an examination of your files which would disclose such information. The language "or by reason of his official position" makes the prohibition broader than the examiners report as such. You and the members of the Department are authorized to make use of such facts or information only when the public duty imposed upon you requires a report covering such matters or imposes upon you the duty to take official action regarding such association as by reporting its condition to the Attorney General for action.

SUMMARY

Penal Code, Article 1136a-9, (Vernon's Cod.) makes privileged all instruments or information in the possession of the Banking Department regarding a Building and Loan Association, when obtained in the course of an examination or by reason of official position. This information must be kept secret and not be divulged to the public.

Very truly yours,

ATTORNEY GENERAL OF TEXAS

By

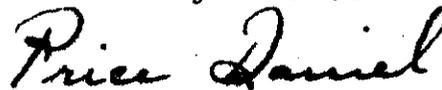


Ocie Speer
Assistant

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APPROVED
OPINION COMMITTEE
BY FD
CHAIRMAN

APPROVED JAN 30 1947



ATTORNEY GENERAL OF TEXAS