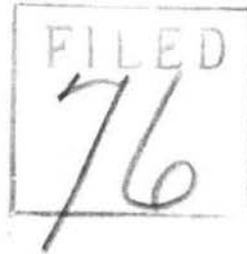


LICENSE FEES-- Bond and stock brokers required to pay license fee under Section 14044, R. S. Mo. 1929.

5-7

May 3, 1935



Honorable Fred A. Renick
License Collector
St. Louis, Missouri

Dear Sir:

We have your request of April 22, 1935 for an opinion as follows:

"For years this office has collected a semi-annual State License Fee of \$50.00 from stock and bond brokers in the City of St. Louis. At the present time there is a stock and bond broker here who refuses to pay this fee and I am addressing you to request that you cite the authority under which this office can require the payment of this fee."

The law relating to licenses of brokers is found in Chapter 123, R. S. Mo. 1929, Sections 14044 to 14051, inclusive.

Under Section 14044, no persons shall carry on the business of,

- (1) dealing in;
- (2) buying;
- (3) selling;
- (4) shaving

any kind of bills of exchange, checks, drafts, bank notes, promissory notes, bonds or other kind of writing obligatory, or in procuring the gold and silver of the country to dis-

#2 - Honorable Fred A. Renick

pose of the same for a premium, without a license.

The question raised by your letter is whether a "stock and bond broker" is subject to this license fee. The statute itself uses the term bonds, which in itself makes all brokers who deal in the business of buying or selling bonds liable for the license fee. It will be noted that the statute does not specifically enumerate stocks. The question then arises as to whether or not the term "writing obligatory" includes stocks.

The words "writing obligatory" are technical and imply a written instrument under seal. Clark v. Phillip, 5 Fed. Cas. 908; Stull v. Wilcox, 2 Ohio State, 569, 573; Luna v. Mohr, 1 Pac. 860, 864; Egan v. Horrigan, 51 Atl. 246, 248; Denton v. Adams, 6 Vt. 40; Ide v. Passumpsic and C. RR. Co. 32 Vt. 297, 298; Smith v. Womans' Medical College of Baltimore City, 72 Atl. 1107; Kidd v. Beckley, 60 S. E. 1089, 1090.

The term "writing obligatory" has not from common usage acquired a broader meaning than its technical one. The expression is rarely used. Watson v. Hoge, 15 Tenn. (7 Yerg.) 344, 351.

The term has been applied to a written promise to do something, such as to take a subscription to a paper. State v. Hazard, 80 N. E. 149.

One of the powers bestowed upon domestic corporations in this state by Section 4555, R. S. Mo. 1929 is as follows:

"Third. To make and use a common seal and alter the same at pleasure."

It is a matter of common knowledge that all corporations issue written papers under the seal of the corporation. A share of stock in a corporation is an instrument in writing under seal; it is the legal conveyance of that particular interest in the corporation to the holder thereof. It may or may not carry the authority to vote at any elections for the election of its directors. It may carry a contingent

#3 - Honorable Fred A. Renick

interest in the profits of the company or a fixed annual preferred income. In substance, it is the equivalent of a deed in writing to that particular interest which the holder thereof owns in the corporation, and a deed in writing is a "writing obligatory". *Ide v. Passumpsic and C. R.R. Co.*, 32 Vt. 297, 298.

It may be said in passing that those who engage in the issuing of drafts or checks, for a consideration, such as certain express companies, come within the words of this statute (Section 14044); that those who engage in the business of purchasing promissory notes also come within the license feature of the act.

It is, therefore, the opinion of this office that those persons who carry on the business of dealing in, buying or selling, etc. stocks and bonds, must procure a license and pay the tax fixed in Section 14046, R. S. No. 1929.

Respectfully submitted,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General

PER:FE