

BANK: BANKING: Records and files in possession of Commissioner of Finance for defunct banks, open for inspection of examiners of Federal Deposit Insurance Corporation.

June 9, 1937.

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Honorable O. H. Moberly  
Commissioner of Finance  
Jefferson City, Missouri

Dear Mr. Moberly:

This is to acknowledge your letter of June 2, 1937, in which you requested the opinion of this Department. For convenience we are setting forth your letter, which includes the request made of your Department for an opinion from Mr. Fred C. Kellogg, Chief, Division of Liquidation, Federal Deposit Insurance Corporation, Washington, D. C., as follows:

"I am quoting below a letter under date May 27th, received from Mr. Fred C. Kellogg, Chief, Division of Liquidation, Federal Deposit Insurance Corporation, Washington, D. C.:

"In accordance with the various recent discussions which Mr. Vance Sailor of this Corporation has had with you, this Corporation would appreciate having the opportunity of examining into the affairs of the insured banks in Missouri which have closed. We are making this request on the basis that the Corporation is now the substantial creditor of such closed institutions by reason of the assignments of deposits now held by it.

"If this request meets with your approval and that of any other official concerned, we would greatly appreciate hearing from you at an early date."

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"My hasty conclusion is that your opinion of October 24, 1934, would justify my compliance with the request of Mr. Kellogg to examine into the affairs of the insured banks in Missouri which have closed; but since this is a blanket request to examine into the affairs of any and every closed insured bank in this State I felt I should refer the matter to your office for an opinion."

You are correct in your assumption that our opinion to you of October 24, 1934, in which we stated "that the files and records of your Department pertaining to failed banks and trust companies in your hands for purpose of liquidation, may be inspected by litigants and other parties at reasonable times" is applicable to and is authority for the officials and examiners of the Federal Deposit Insurance Corporation to examine into the affairs of the insured banks in Missouri which have closed their doors.

In the case of *Ex parte French*, 315 Mo. 75, 285 S. W. 513, 1. c. 516, the Supreme Court of Missouri, in interpreting Section 11679, R. S. Mo. 1919 (now Section 5291, R. S. Mo. 1929), stated the following:

"We are unable to conceive of any reason why general knowledge of the affairs of a defunct bank discovered in a trial in court would injuriously affect the public morals, public health, or public safety. What public interest can be served by concealing the methods by which banks are guided to destruction by those intrusted with their control? Ordinarily, we would say the public is entitled to know all about the inside jobs which cause banks to fail, because through such knowledge the people's representatives may apply a remedy for the conditions revealed. So far as appears on the surface, the only persons served by concealment of such condition would be those concerned in bringing it about. "

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The Federal Deposit Insurance Corporation, as an insurer of the bank which has closed its doors and as the principal creditor, is vitally interested in the affairs of the closed bank and in the preservation of its assets, and, therefore, should have access to the books and records of such bank.

There appears to be no good reason why official representatives and examiners of the Federal Deposit Insurance Corporation should not be permitted to examine the affairs of such banks, and it is, therefore, our opinion that such representatives and examiners as it may designate may examine into the affairs of said banks at all reasonable times.

Very truly yours,

COVELL R. HEWITT  
Assistant Attorney-General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney-General

CRH:EG