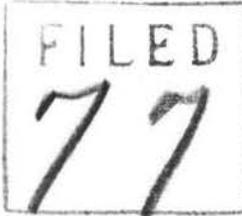


TRUST COMPANIES:
BANKS:

Trust companies operating under Chapter 363, RSMo 1949, may refuse to offer fractional shares of stock or issue certificates of stock evidencing ownership of such fractional shares.



September 23, 1953

Honorable J. A. Rouveyrol
Commissioner of the Division of Finance
Jefferson Building
Jefferson City, Missouri

Dear Sir:

The following opinion is rendered in reply to your request reading as follows:

"In a letter recently received from one of the trust companies in this state, relative to a proposed increase in its capital stock, is included the following inquiry:

"Please also give us your opinion as to our right to refuse to issue fractional shares. Business Corporations have this right under Section 351.300 R.S. Mo. 1949, but the Statutes relating to Trust Companies are not definite on this point."

"May we have an opinion on this question at your convenience."

Section 351.300, RSMo 1949, provides:

"A corporation may, but shall not be obliged to, issue a certificate for a fractional share, and, by action of its board of directors, may issue in lieu thereof scrip or other evidence

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of ownership which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip or other evidence of ownership aggregating a full share, but which shall not, unless otherwise provided, entitle the holder to exercise any voting right, or to receive dividends thereon or to participate in any of the assets of the corporation in the event of liquidation. The board of directors may cause such scrip or evidence of ownership to be issued subject to the condition that it shall become void if not exchanged for share certificates before a specified date, or subject to the condition that the shares for which such scrip or evidence of ownership is exchangeable may be sold by the corporation and the proceeds thereof distributed to the holders of such scrip or evidence of ownership, or subject to any other conditions which the board of directors may deem advisable."

A reading of Section 351.300, RSMo 1949, quoted above, discloses that such statute does give a general business corporation the right to offer fractional shares of stock and issue certificates of stock evidencing ownership of such fractional shares, but the statute is merely permissive, and no duty is placed on the general business corporation to issue fractional shares.

Turning now to Chapter 363, RSMo 1949, the particular law in Missouri pertaining to the organization and supervision of trust companies, no reference is found therein relative to the power or duty of a trust company to offer fractional shares of stock. At 18 C.J.S., Corporations, Sec. 198, p. 628, we find the general rule stated touching subdivision of shares of stock:

"In the absence of legislative authority, it seems that a share cannot be further subdivided."

The above quotation from C.J.S., Corporations, was adopted as lately as 1949 in the case of Kennedy v. Kennedy, 91 N.Y.S. 249, l.c. 303, where the Supreme Court of Westchester County, N.Y. spoke as follows:

"The Court has found no legislative authority for the issue of fractions of a share and without that authority apparently a share cannot be subdivided."

Honorable J. A. Rouveyrol

In answering the particular question posed in the request for this opinion, heretofore quoted, the conclusion hereinafter reached is directed only to the right of the trust company to refuse to issue fractional shares, and not to the power of the trust company to issue such fractional shares under circumstances which might make such a course advisable.

CONCLUSION

It is the opinion of this department that trust companies subject to the provisions of Chapter 363, RSMo 1949, may refuse to offer fractional shares of stock or issue certificates of stock evidencing ownership of such fractional shares.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Julian L. O'Malley.

Yours very truly,

JOHN M. DALTON
Attorney General

JLO'M:lw