

*See 1978 Amendments
to Ch. 105*

OPINION NO. 55 (1967)
Opinion No. 147 (1966)
Answered by Letter (Randolph)

April 19, 1967



Honorable Melvin D. Benitz
Prosecuting Attorney
Callaway County Courthouse
Fulton, Missouri

Dear Mr. Benitz:

This letter is in answer to your request for an opinion of this office on two questions. Your first question is whether the Conflicts of Interests Law is violated when a city treasurer of a third class city is vice-president and a substantial stockholder of a city depository. Your second question is whether the Conflicts of Interests Law is violated when an individual who is the appointed city counselor for a third class city is also attorney for the administrator of an estate, which estate seeks to sell property within such city to such city.

As to your first inquiry, we believe that the enclosed opinion of the Attorney General, No. 400, dated October 27, 1966, covers the matter, holding that a treasurer of a third class city with a mayor-council form of government does not violate the Conflicts of Interests Law of Missouri, Section 105.490, RSMo Supp. 1965, merely because he is a stockholder and an officer of a bank which is the depository for city funds.

Your second inquiry, we think, is answered by the enclosed opinions of the Attorney General, namely, the opinion dated May 15, 1958, to Rolin T. Boulware; the opinion dated December 8, 1960, and numbered 72, to Charles A. Powell, Jr.; and Opinion No. 291, answered by letter dated July 27, 1962, to Thomas D. Graham.

Said opinion of May 15, 1958, to Rolin T. Boulware concluded that a lease consummated by city officials who have a pecuniary interest in it comes within the purview of Section 106.300, RSMo. Said opinion of December 8, 1960, to Charles A. Powell, Jr., concluded that an assistant city marshal of a third class city is prohibited by law from selling to the city in which he is assistant marshal, a motor vehicle, because of the fact that he

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is a city officer. Said letter of July 27, 1962, to Thomas D. Graham, concluded that it was unlawful for a third class city to pay its city attorney extra compensation for reviewing and revising and codifying the ordinances of the city.

Under the reasoning and authority in the last three cited opinions, we conclude that it is unlawful for a city counselor to represent, as attorney, an estate which seeks to sell property within such city to such city. This is true because both Sections 77.470 and 106.300 RSMo, proscribe direct and indirect interest in "any contract under the city" on the part of "any city officer." The city counselor is interested in the proposed sale, inasmuch as he conducts the legal negotiations for the administrator and receives compensation for such services. As city counselor, appointed by the mayor and council to perform legal work for the city, he is of course an officer of the city. The Conflicts of Interests Law, Sections 105.450 to 105.495, RSMo, need not be construed to answer this question since it is obviously within the purview of Sections 106.300 and 77.470, RSMo, as explained in the enclosed opinions.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

Enclosures:

Opinion 400, Avery, 10-27-66;
Opinion to Boulware, 5-15-58;
Opinion 72, Powell, 12-8-60; and
Opinion 291, Graham, 8-27-62.