

CONFLICT OF INTEREST:
CIRCUIT CLERK:

Entering into a contract of employment by the Circuit Clerk with a bank where the Circuit Clerk's account is on deposit is a violation of Section 105.495, RSMo Cum. Supp. 1967, a section of the conflict of interest law.

OPINION NO. 145

June 19, 1969

Honorable P. Wayne Kuhlman
Assistant Prosecuting Attorney
Clay County Court House
Liberty, Missouri 64068



Dear Mr. Kuhlman:

This is in response to your request for an official opinion on the question whether it would be a conflict of interest for the Circuit Clerk to accept a part-time position with a bank where the Circuit Clerk's account is on deposit.

Our Supreme Court has recognized the right of the Circuit Clerk to select the banks which will serve as depositories for the funds entrusted to his care. This was done in State ex rel Ridge vs. Shoemaker, 212 S.W. 1, 4 where the court stated:

"* * *The defendant Shoemaker, under the law as enunciated by this court, had the right to deposit the moneys received by him from Hochland in the banks aforesaid in his name as clerk.* * *"

The purpose of the conflict of interest law is to remove or limit the possibility of any personal influence, either directly or indirectly, which might bear on an official's decision. Section 105.495, RSMo Cum. Supp. 1967, provides:

"No officer or employee of an agency shall enter into any private business transaction with any person or entity that has a matter pending or to be pending upon which the officer or employee is or will be called upon to render a decision or pass judgment. If any officer or employee is already engaged in the business transaction at the time that a matter arises, he shall be disqualified from rendering

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any decision or passing any judgment upon the same. Any person who violates the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than five hundred dollars or confinement for not more than one year, or both."

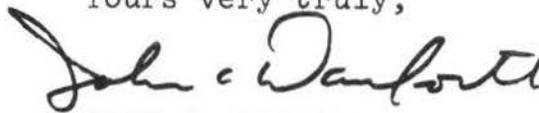
A contract of employment entered into between the Circuit Clerk and the bank would constitute a "private business transaction." Moreover, this private transaction would be directly related to "a matter pending or to be pending upon which the 'circuit clerk' is or will be called upon to render an opinion or pass judgment." The Circuit Clerk will be called upon to decide which bank is to serve as the depository for his official funds. In such circumstances, the execution of a contract of employment between the Circuit Clerk and the bank is a private business transaction entered into while the Clerk has a matter pending which requires him to render a decision or pass judgment.

CONCLUSION

It is the opinion of this office that entering into a contract of employment by the Circuit Clerk with a bank where the Circuit Clerk's account is on deposit is a violation of Section 105.495, RSMo Cum. Supp. 1967, a section of the conflict of interest law.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, L. J. Gardner.

Yours very truly,



JOHN C. DANFORTH
Attorney General