



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Joe E. Webb  
County Attorney  
Madison County  
Madisonville, Texas

Dear Sir:

Opinion No. 0-1948  
Re: County depositories --  
F. D. I. C. -- Maximum  
insurance of deposit  
accounts -- Principles  
considered.

We have your letter of February 8, 1940, asking  
this department for an opinion upon the following stated  
case:

\*The county depository of Madison  
County, Texas, was the North Zulch State  
Bank, located in Madison County in the  
town of North Zulch. Deposits up to  
\$5000.00 were guaranteed by the Federal  
Deposit Insurance Corporation. This  
bank closed on January 4, 1940, and a  
liquidating agent of the State Banking  
Department and officials of the Federal  
Deposit Insurance Corporation immedi-  
ately took charge.

\*The F. D. I. C., as guarantor, has  
paid to the Treasurer of Madison County  
the sum of \$5000.00, without prejudice  
to any further claims. The F. D. I. C.  
takes the position that the several ac-  
count balances of the County Treasurer,  
and the account balance of the County  
Tax Assessor-Collector comprise only  
one insurable account within the mean-  
ing of the F. D. I. C. Act, and that,

therefore, the payment of \$5000.00 by the F. D. I. C. completely discharges its insurance liability. With this, the county officials do not agree.

"A list of all accounts involved is attached hereto and made a part hereof. The names of the several accounts are the same as appear on the bank books and the records of the County Treasurer. Each of these accounts was carried separately, and on a separate sheet by the bank, also by the respective County officials. This list indicates which accounts were carried by the County Treasurer, and which were carried by the Tax Assessor-Collector.

"Does the money in any account carried by the County Treasurer, or carried by the Tax Assessor-Collector, held in trust or otherwise, enjoy such actual separate ownership as to entitle it to separate insurance under the terms of the F. D. I. C. Act?"

Some time ago the writer had occasion to investigate the question presented by your letter, and under date of March 20, 1936, as counsel for the Banking Commissioner, he advised that officer as follows:

"Mr. McCreary (former Banking Commissioner) inquired of the Federal Deposit Insurance Corporation as follows:

"Kindly inform us by return air-mail the protection afforded each political subdivision account for county funds. For instance, we are a county depository for Bell County, Texas, and various road districts and common school districts in said county, and it is our understanding that each separate unit, school district, or road district account is protected up to \$5000.00."

"The Executive Assistant to the Comptroller of Currency replied by wire, as follows:

**\*If the road district is a separate entity, capable of ownership of property and if it actually owns the funds on deposit and the records of the bank reflect such ownership, then such account is insured to the extent of \$5000.00 the same is true of an account of a school district.\***

**\*In Texas there can be no doubt that a county, city, school district, water-improvement district, irrigation district and the like are legal entities authorized not only to own property but to contract, sue and be sued and the like, and if such corporate entity carries an account insured bank, it undoubtedly is protected.\* (Opinion No.522)**

The Circuit Court of Appeals for the Tenth Circuit has recently handed down an elaborate opinion upon this question. It is in the case of Federal Deposit Insurance Corporation v. Casady, Iowa Treasurer, 108 F. (2) 784. It quotes Section 12B, subsection (1) of the Federal Reserve Act of June 16, 1933, as amended by the Act of June 16, 1934, defining the term **\*insured deposits liability\*** as follows:

**\*For the purposes of this subsection, the term 'insured deposit liability' shall mean with respect to the owner of any claim arising out of a deposit liability of such closed bank the following percentages of the net amount due to such owner by such closed bank on account of deposit liabilities. \* \* \***

**\*That, in determining the amount due to such owner for the purpose of fixing such percentage, there shall be added together all net amounts due to such owner in the same capacity or the same right, on account of deposits, regardless of whether such deposits be maintained in his name or in the names of others for his benefit.\***

As pointed out in the writer's advice to the Banking Commissioner above referred to, there can be no doubt that school districts, water-improvement districts, irriga-

tion districts and the like are legal entities eligible in all respects to have and to claim the protection of the insurance given by the Federal Deposit Insurance Corporation.

Where such legal entity owns a deposit account and the fact of ownership appears from the bank's books, there can be no doubt of its right to the insurance thereof to the maximum amount of the individual account.

Another instance of such right, very closely akin to, if not identical with the above, is the case of an account by one depositor in trust for another person or specific use.

The Circuit Court of Appeals' opinion above cited discusses especially this latter phase of the problem.

This well-reasoned opinion makes clear that funds on deposits in banks, representing a trust, held in fact or in law for a definite purpose, and not within the general control of the depositor, are deposits for the account of the cestui que trustent and not those of the actual depositor, entitled under the Federal Reserve Act to the insurance afforded by the Federal Deposit Insurance Corporation to the maximum amount for individual accounts.

The principles announced in that decision are controlling of the questions propounded by you. The essence of those principles is that the real owner of the account, whether it be a political subdivision of the State or county, or a beneficiary of a trust, and where that ownership appears from the bank's books, each such separate legal entity or trustee, as the case may be, is entitled to the maximum insurance upon its or his account. These principles, when rightly applied, will answer your inquiries above set forth. It would serve no useful purpose to elaborate upon such principles to the point of considering the various respective funds listed and appended to your letter of inquiry. As County Attorney you are quite familiar with these funds and their exact status as to real ownership, and are likewise capable of determining each of them in the light of this opinion, especially the Casady opinion,

which appears to be the latest exposition of the law upon this question.

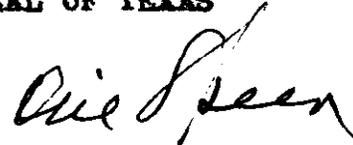
We have assumed, as stated by you in your letter, that "each of the accounts was carried separately and on a separate sheet by the bank."

Trusting that this will have answered your inquiries satisfactorily, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By



Ocie Speer  
Assistant

OS-MR

APPROVED FEB 15, 1940



ATTORNEY GENERAL OF TEXAS

