



**THE ATTORNEY GENERAL
OF TEXAS**

Gerald C. Mann

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AUSTIN 11, TEXAS

Hon. O. P. Lockhart
Chairman
Board of Insurance
Commissioners
Austin, Texas

Opinion No. O-3987
Re: Are agents and attorneys of Texas
State Life Insurance Company entitled
to copy letters written to the Board
of Insurance Commissioners about the
company?

Dear Sir:

We have your request for our opinion on the above question, as contained in your letter of September 15, 1941, which we quote:

"You are familiar with the fact that the Board of Insurance Commissioners voted to refer the Texas State Life Insurance Company of Dallas, Texas, to you for legal action to place it in receivership and to cancel its charter; further, that following an application for an injunction filed by the Company it was agreed that this Department would answer inquiries with a certain form of letter, copy of which is attached.

"We have had some discussion with the Company about this letter and have indicated to them that we would like to answer inquiries more in detail, at the same time making only such statements as are correct and proper. In discussing this matter with the Company's attorneys on Saturday, February 13, they requested to see some of the letters that were written to the Department which we desired to answer. Some of these letters were shown to their attorney by Mr. Barrow, Chief Examiner and Chief Clerk, in the office. Their attorney, Mr. Milton Vance, then stated they would like to have a stenographer come to the Department and make a copy of all letters which have been written to us about the Texas State Life Insurance Company since the filing of the suit in May of this year.

"Will you please give us your opinion as to whether or not the Company and its attorneys are entitled to make a copy of letters written to us about the Company?"

We are informed by Mr. D. B. Barrow, Chief Examiner for the Board of Insurance Commissioners, that the letters to which you refer are communications from private parties to the Board, most of them being inquiries about the Texas State Life Insurance Company, and some of them being complaints about the company.

It must be conceded that the Texas State Life Insurance Company can show an interest in these letters. Then if these letters are records of a public nature, and not secret and confidential, the duly appointed representatives of the company would seem to have a right to inspect them, and copy them. Such is the holding of our Opinions No. 0-2044 and No. 0-3755, copies of which are attached hereto.

But who can say that these letters are not secret and confidential? In the very nature of them, many of the writers must have so intended them.

"With respect to property in letters and the right to restrain the publication of private correspondence, there appear to be no Texas authorities, although decisions on these questions are to be found in other jurisdictions." 27 Tex.Jur. 433

The general rule seems to be that the writer of even a mere business or personal letter has a property right therein; and that no one else, with certain exceptions not necessary to be noted here, has any right to make any unauthorized publication thereof. (See Note, 51 L.R.A. 360, 361.)

Further, the Board of Insurance Commissioners has the right, by inference at least, to refuse private persons access to such communications, under the terms of Section 15 of Article 4682, Revised Civil Statutes, 1925, which is as follows:

"15. Give certified copies. - At the request of any person, and on the payment of the legal fee, he shall give certified copies of any record or papers in his office, when he deems it not prejudicial to public interest, and shall give such other certificates as are provided for by law." (Underscoring ours.)

It is therefore our opinion that agents and attorneys of an insurance company are not entitled, as a matter of right, to copy letters written by private parties to the Board of Insurance Commissioners about such insurance company.

APPROVED SEP 23, 1941
/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS
APPROVED: OPINION COMMITTEE
BY: BWB, CHAIRMAN

Yours very truly
ATTORNEY GENERAL OF TEXAS
By /s/ W. R. Allen
W. R. Allen, Assistant

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ENCLOSURE