



Office of the State Bank Commissioner

Regulatory Mailing

RM2000-5

TO: All Kansas State-Chartered Banks
FROM: Franklin W. Nelson, Bank Commissioner
DATE: August 7, 2000
RE: Special Order 2000-3

K.S.A. 9-1715 authorizes the Commissioner to issue a Special Order upon the request of a specific bank. Attached please find a copy of Special Order 2000-3, which authorizes The Peoples Bank, Pratt, Kansas, to acquire a minority interest in stock of a Kansas corporation that engages in postal substation activities. As you can see, the Special Order is a very narrow, specific-purpose Order. In considering this proposal, I have determined it would be beneficial for our office to conduct a general review of the powers of state-chartered banks and how they compare with their national bank counterparts. I would urge you to contact me, or our General Counsel, Sonya Allen, with any thoughts or ideas of items we could address either legislatively next session, or through other Special Orders, that would benefit consumers or the state-chartered banks of Kansas. We look forward to hearing from you.

SPECIAL ORDER 2000-3

THIS ORDER, is hereby issued this _____ day of August, 2000 by the Kansas State Bank Commissioner (commissioner) pursuant to K.S.A. 9-1715, as amended.

WHEREAS, the Comptroller of the Currency, pursuant to 12 C.F.R. 5.36 and various Interpretive Letters, including but not limited to OCC Interpretive Letter Nos. 697, 732 and 889, has ruled that a national bank has authority to acquire a minority interest in a corporation engaged solely in activities which are permissible for the bank itself to engage in, provided certain requirements or standards are satisfied; and

WHEREAS, pursuant to 12 C.F.R. § 7.1010, maintaining and operating a postal substation in accordance with rules and regulations of the United States Postal Service and advertising, developing and extending those services for the purpose of attracting customers to the bank is a permissible activity for a national banking association to engage in directly; and,

WHEREAS, no provision of Kansas law presently allows a Kansas state bank to acquire a minority interest in a corporation engaged in activities that the bank itself could engage in; and

WHEREAS, The Peoples Bank, Pratt, Kansas, has requested authority to acquire a minority interest in a Kansas corporation which will engage in postal substation activities; and,

WHEREAS, K.S.A. 9-1715, as amended, grants to the commissioner "... the power to authorize any ... state bank[s] to engage in any activity in which such banks could engage were they operating as national banks at the time such authority is granted..."; and,

WHEREAS, the Commissioner deems the issuance of this special order to be reasonably required to preserve the welfare of state banks and to promote competitive equality of state banks and national banking associations;

IT IS THEREFORE ORDERED, that The Peoples Bank, Pratt, Kansas, may acquire a minority interest in stock of a Kansas corporation that engages in postal substation activities, provided the following standards are met:

1. The services to be provided by the corporation are activities that a national bank could engage in directly through operation of a postal substation;
2. The corporation's articles of incorporation or bylaws specifically limit its activities to those activities a national bank could perform through a postal substation, and the bank has the ability to prevent the corporation from engaging in activities that do not meet the foregoing standard, or to withdraw its investment; and
3. The bank's potential loss exposure is limited to the amount of its investment in the corporation.

IT IS FURTHER ORDERED, that pursuant to K.S.A. 9-1715(b), as amended, the terms of this special order shall become effective August _____, 2000 and shall remain in full force and effect until amended or revoked by the State Bank Commissioner.

IT IS SO ORDERED.

STATE BANK COMMISSIONER

Franklin W. Nelson