

INSURANCE:

FRATERNAL AND BENEFIT ASSOCIATIONS: Location of principal office and executive offices.

June 8, 1943



Hon. Ross E. Millet
State's Attorney of DeKalb County
Sycamore, Illinois

Dear Mr. Millet:

We acknowledge receipt of your letter of May 20, 1943, requesting an opinion, which letter is as follows:

"Some questions have arisen with reference to the Insurance Laws of Missouri and I am wondering if you would extend me the courtesy of sending me a copy of your opinion if you have passed on this subject, and if not, would you give me your opinion as to the following questions:

"1. Is it mandatory under Section 6008 of Chapter 37, Fraternal Beneficiary Associations, to maintain its principal office in the State of Missouri?

"2. Is it permissible for a Missouri Fraternal Association to maintain an office in the State of Missouri but maintain its executive offices in a foreign State in which it is authorized to do business?

"Any information you can furnish me on this subject will be helpful and greatly appreciated."

Section 6008 of Chapter 37, as it appears in Revised Statutes of Missouri, 1939, referred to in your letter, has no bearing on the location of the principal office or executive offices of a fraternal benefit association. Said section merely provides for service of process upon foreign insurance companies and associations not incorporated or authorized to do business under the laws of this state.

The question contained in Part One of your letter is answered by Section 6124, R. S. Mo. 1939, which is as follows:

"Any domestic society may provide that the meetings of its legislative or governing body may be held in any state, district, province or territory wherein such society has subordinate branches, and all business transacted at such meetings shall be valid in all respects as if such meetings were held in this state. But its principal office shall be located in this state."

Section 6116, R. S. Mo. 1939, provides for the organization of fraternal benefit societies and is quite lengthy, and therefore is not set out in this opinion. Said section provides that a majority of the citizens forming the fraternal benefit society must be residents of this state.

Section 6108, R. S. Mo. 1939, provides for the exemption of fraternal benefit societies from the general insurance laws of this state, and is as follows:

"Except as herein provided, such societies shall be governed by this article and shall be exempt from all provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose, and no law hereafter enacted shall apply to them, unless they be expressly designated therein."

We believe that the proposition contained in Part Two of your letter presents a question of fact and not a question of law. Section 6124, supra, specifically provides that the principal office shall be located in this state. When all of the executive offices are located in a foreign state, it could hardly be said that the principal office of the company would be located in this state.

We find no statute and no cases in the State of Missouri defining the term, "principal office" as used in this statute. The term has been defined when similarly used in other jurisdictions. In the case of Milwaukee Steamship Co.

v. City of Milwaukee, 53 N. W. 839, 840, 83 Wis. 590, 18 L.R.A. 353, it was held that a corporation's principal office is the place where the principal affairs, business and otherwise, of the company are transacted, and that an office for the annual election of officers, while its business is done elsewhere, is not a principal office.

In the case of Jossey v. Georgia & A. Ry., 28 S. E. 273, 274, 102 Ga. 706, it was held that the principal office of a corporation as fixed by itself includes only such offices as are created by the charter, or by the directory in pursuance of the charter, for the administration of the corporate affairs proper; but such term does not necessarily include merely the administrative offices of the company, and as so used is synonymous with the word "headquarters."

In the case of In re Lone Star Shipbuilding Co., C. C. A. N. Y., 6 F. 2d 192, 196, the court held that a Maryland corporation's voluntary petition in bankruptcy, stating that its principal office was in Southern District of New York, sufficiently alleged its "principal place of business"; "principal," as applied to such office, having no relation to statutory office, but to office where the major portion of the bankrupt's business is actually conducted.

It seems that the law does authorize the establishment of executive offices in foreign states and Section 6108, supra, specifically mentions the holding of meetings of legislative or governing bodies in any state.

All references made above are to domestic fraternal benefit associations. Foreign fraternal benefit associations need only comply with the provisions of Chapter 37, Article 13, and specifically Sections 6119, R. S. Mo. 1939, and Section 6120, as it appears in Laws of Missouri, 1941, page 404, relating to the administration and licensing of foreign fraternal benefit societies.

CONCLUSION

It is the opinion of this department that the principal office of all domestic fraternal benefit societies must

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be located in this state, and the principal office of foreign societies need not be located in this state, but that foreign fraternal benefit societies must comply with the requirements of Section 6119, R. S. Mo. 1939, and Section 6120, as the same appears in the Laws of Missouri, 1941, at Page 404.

It is the opinion of this department that executive offices of a fraternal benefit association may be located in any foreign state so long as the principal office can be determined from the intention and practice on the association to be located in the State of Missouri.

Respectfully submitted,

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APPROVED:

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LAPNH