

LIQUIDATED BANKS: Proceeds or dividends arising from corporation bonds held by a bank, later liquidated, such bonds being sold as remaining assets of the bank to individuals, are private property. The Commissioner of Finance has no duty to assume respecting such dividends or proceeds.

September 16, 1947

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Honorable H. G. Shaffner
Commissioner of Finance
of Missouri
Jefferson City, Missouri

Dear Mr. Shaffner:

This will acknowledge your letter of recent date, requesting an opinion from this Department on the subject-matter of the letter, which letter is in words and figures as follow:

"Re: Verona Coal Company
Liquidation Dividend

"This office has been advised there is a liquidation dividend awaiting payment in connection with the bond issue by the above mentioned company.

"Those bonds were in the remaining assets of the Bank of Loose Creek, Loose Creek, Missouri, and by order of the circuit court in session in Osage County on October 18, 1937, were sold to the highest bidder. Efforts to locate the purchaser of those bonds have been unsuccessful.

"Parties making the distribution of those dividends are interested in disposing of those funds; therefore, have asked whether or not the State of Missouri would be entitled to receive this dividend.

"May I be favored with an opinion respecting whether or not these funds will belong to the state under the escheat statutes."

We were first under the impression, after reading your letter, that your Department or the Court in which the Bank of Loose Creek, Loose Creek, Missouri, was liquidated and by which Court a final order of sale of the remaining assets was made, and the sale later, upon report, approved, as you state, had the custody or control over the mentioned dividends arising from the sale of bonds of Verona Coal Company.

The personal conference between yourself and the writer, after your letter was received, reveals that during the existence of the Bank of Loose Creek, Loose Creek, Missouri, said bank became possessed of certain debenture bonds of the Verona Coal Company. Such bonds, it is said, were still in the possession of said bank upon its liquidation, and were sold by order of the Court as part of the remaining assets of the bank, on October 18, 1937. The bonds, as you relate, at the sale, were purchased by an individual. That individual, you further state, paid for such bonds, the purchase price thereof going into the hands of the Deputy Commissioner of Finance in charge of the liquidation of said bank, and into the bank's general assets to be distributed, and which, as you state, were distributed to the depositors on the percentage of recovery of their deposits against the bank upon its final liquidation. It further appears from your statement that the purchaser of such bonds himself disposed of such bonds, or by some method was disposed of such bonds, and they came into the hands of a distinct third person. It is now said, according to the information you give us, that the purchaser of such bonds from the person who became the purchaser at the final sale of the remaining assets of the Bank of Loose Creek is now liquidating, or has immediately liquidated, said bonds, and that he has funds therefrom which he believes the immediate purchaser of said bonds at the sale of the remaining assets of the bank is entitled to, but that the original purchaser of such bonds at the sale of the remaining assets of the bank cannot now be found.

We believe under the circumstances, as related by you in the personal conference, that you have no duty whatsoever to perform in this situation.

If it had been a fact that your office or a Deputy Commissioner of Finance, who is made by the statutes and

upheld by the decisions of this State as a "receiver", now had the custody of such dividends then any such funds as you mention might be directed by the Court having jurisdiction in the bank liquidation proceedings to be paid into the escheat fund under our escheat statutes. But such is not the case.

These funds, the title to them, the custody of them and the whole scheme of their future handling and custody lie in the hands of utter strangers to your Department and the Court having charge of the liquidation of the Bank of Loose Creek, Loose Creek, Missouri. There is just nothing for you to do about it.

The only suggestion we may be able to make, and that a gratuitous one, is that the person in possession of the funds mentioned as arising from the liquidation of said bonds may have the right to ask a Court of competent jurisdiction for a declaratory judgment as to the disposition of such funds.

CONCLUSION.

It is, therefore, the opinion of this Department that your Department is not concerned with the disposition of the funds derived from the bonds mentioned in your letter. They are the subject of disposition, and any possible litigation necessary or incident thereto, of private individuals, as private property.

Respectfully submitted,

GEORGE W. CROWLEY
Assistant Attorney General

APPROVED:

J.E. TAYLOR
Attorney General

GWC:lr