

X-7603

(INTERPRETATION OF BANKING ACT OF 1933)

Copies to be sent to all Federal reserve banks.

September 21, 1933.

Mr. _____, President,

_____.

Dear Sir:

Reference is made to your letter of July 18, 1933, in which you requested to be advised whether, in the opinion of the Federal Reserve Board, the _____ Company, a _____ corporation, is an "affiliate" of the _____ Bank of _____, _____, _____, within the meaning of the Banking Act of 1933.

From the statements in your letter, the Federal Reserve Board understands that all of the capital stock of the _____ Company, with the exception of directors' qualifying shares, was issued in the names of certain individuals as trustees for the stockholders of the _____ National Bank of _____. The _____ National Bank of _____ was formerly affiliated with the _____ Savings Bank of _____, the present _____ Bank of _____, and is now in the hands of a receiver. It appears that a majority of the directors of the _____ Company were directors of the _____ Bank of _____ on the date of your letter, but in a telegram under date of July 27, signed by "_____, President, _____ National Bank of _____", it is stated that no member of the board of directors of the _____ Company "is now a director of this bank". Although the telegram was signed by you as _____ of the _____ National Bank of _____, it is assumed that you had reference

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therein to the _____ Bank of _____, and not to the _____
National Bank of _____.

From the information submitted, it would not appear that the _____ Company is an "affiliate" of the _____ Bank of _____ within the meaning of section 2, subparagraph (b), subdivision (1) or (2) of the Banking Act of 1933, unless the shareholders of the _____ Bank of _____, who own "more than 50 per centum of the number of shares voted for the election of directors of such bank at the preceding election", and who also own more than 50 per centum of the beneficial interest in the stock of the _____ Company, control the latter company, directly or indirectly, through stock ownership or in any other manner, within the meaning of the Act. You state that such stockholders do not control the _____ Company, notwithstanding that they own a majority of the beneficial interest in the stock of that company. In the absence of additional information and of an opportunity to examine any agreement under which the shares of the _____ Company are trusteeed for the benefit of the shareholders of the _____ National Bank of _____, the Board is unable to determine whether your conclusion in this respect is correct, and it cannot at this time undertake to rule on this point.

It appears that a majority of the directors of the _____ Company were directors of the _____ Bank of _____ until July 25, 1933, when an entire new board of directors of the _____ Company was elected. Since a majority of the directors of the _____ Company were directors of the _____ Bank of _____ prior to the

election of new directors, the _____ Company was an "affiliate" of the _____ Bank of _____ during such time, and the _____ Bank of _____ must obtain and furnish a report of such affiliate as of June 30, 1933, unless the subsequent termination of the affiliation is held to relieve the _____ Bank of the duty imposed upon it by law to obtain such report. It is the opinion of the Board that if a State member bank is affiliated with any corporation, business trust, association, or other similar organization, on the date the Board issues a call for condition reports of State member banks and their affiliates, the member bank is required by law to obtain a report of such affiliate as of the date of call, notwithstanding the fact that such affiliation may have been terminated subsequent to that date; and the member bank is also required to publish such report under the same conditions as govern its own condition reports. In this connection, however, you are advised that the Board will offer no objection if the _____ Bank of _____ publishes with any report of condition of the _____ Company an explanatory statement of the relationship existing between the two institutions.

Under date of August 1, 1933, the Board advised you that it understood that a question similar to that discussed above had been submitted by the Comptroller of the Currency to the Attorney General of the United States for an opinion. The Attorney General has now rendered an opinion, but you will note from the copy thereof inclosed herewith that he refused to rule on the matter in question.

For your information, there is also inclosed a copy of a press

release relative to the publication of reports of affiliates of member banks.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,
Assistant Secretary.

Inclosures.