



STEVE CLARK
ATTORNEY GENERAL

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL

201 EAST MARKHAM STREET
HERITAGE WEST BUILDING
LITTLE ROCK, ARKANSAS 72201

(501) 371-2007

Opinion No. 86-093

September 18, 1986

Mel Nixon, Executive Secretary
Abstracters Board of Examiners
4006 Royal Forest
Pine Bluff, Arkansas 71603

Dear Mr. Nixon:

This letter is in response to your request for an opinion concerning the legality of companies advertising as "abstracters" in a county if licensing requirements have not been met. You provide information regarding two companies who allegedly advertise as "abstracters" although they apparently are not actually engaging in the business of preparing and selling abstracts of title in certain counties.

The field of abstracting is governed by the Abstracters Licensing Law of 1969, Act 109 of 1969, as amended, compiled at Ark. Stat. Ann. §71-101 et seq. Section 7 of the Act provides:

No person, firm or corporation shall engage in the business of abstracting in this state until a certificate of authority has been issued to such person, firm or corporation by the Board.

Your first question concerns Landmark Abstract & Title Insurance Company. This firm is licensed by your Board to prepare abstracts of title in Pulaski County. You state that you have received a complaint that Landmark Abstract & Title has advertised in Sebastian County but is not licensed in Sebastian County.

There is nothing illegal about an abstracter licensed in Pulaski County advertising his services in another county. Persons in Sebastian County hold title to real property

Mel Nixon, Executive Secretary
Abstracters Board of Examiners
September 18, 1986
Page 2

located in Pulaski County. There is no good reason why an abstract company licensed in Pulaski County cannot reach out to market its services to these persons. Of course, it would be improper for Landmark to abstract property situated in Sebastian County if it is not licensed to do so.

Your second concern involves an ad by Quapaw Title Company offering the following services: closings, escrows and title insurance which appears under the "abstracters" category in the Southwestern Bell phone book for metropolitan Little Rock. You ask whether Quapaw Title Company can legally advertise in this category of the phone book if it is not licensed to perform title examinations in Pulaski County. You further state that you have no evidence that Quapaw Title Company has engaged in preparing abstracts of title.

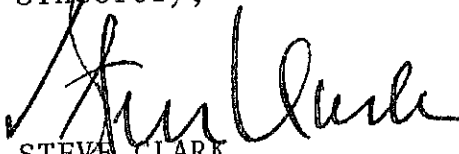
Section 12 of the Act provides:

Any person, firm, partnership, association or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25, no more than \$110, for each such offense and each succeeding day on which the provisions of this act are violated shall be a separate offense.

It is my opinion that the Abstracters Licensing Law of 1969 is violated only when a person, firm or corporation actually engaged in the business of abstracting without having previously been issued a certificate of authority. This act does not make unlawful advertising as an abstracter when the person, firm, or corporation has not been issued a certificate of authority.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Arnold M. Jochums.

Sincerely,


STEVE CLARK
Attorney General

JSC:amj:jk