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September 29, 1986

Ron L. Oliver, Executive Secretary
Arkansas Burial Association Board
1515 West 7th St., Suite 514
Little Rock, AR 72201

Dear Mr. Oliver:

This Office acknowledges your request for an official opinion on behalf of the Arkansas Burial Association Board. Your question concerns whether a burial association may invest its reserves in mutual funds which invest only in U.S. Government Securities.

Burial associations are regulated by the Arkansas Burial Association Board which was created by Act 91 of 1953, as amended, which is compiled at Ark. Stat. Ann. §66-1801, et seq.

The statute specifies the kinds of investments which may be made by burial associations. The investments permitted are as follows:

1. U.S. Treasury Bonds, direct or indirect obligations of the Federal government.
2. Bonds, notes, debentures or other obligations issued by an agency of the United States Government, the principal and interest of which are fully guaranteed by the U.S. Government, and mortgages on real estate which are fully guaranteed as to principal and interest by the U.S. government or agency thereof.
3. Preferred stocks of corporations.
4. Certificates of deposit of any State or national bank in Arkansas which is insured by the Federal Deposit Insurance Corporation.

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5. Savings accounts of any savings and loan association which are insured by the Federal Savings and Loan Association.

6. "A" rated or better corporate bonds.

7. "A" rated State and municipal bonds as designated by one or more nationally known investment services. These bonds must be issued by an Arkansas governmental entity.

Ark. Stat. Ann. §66-1814 (1985 Cum. Supp.)

The legislature has provided seven categories of investment which it has deemed sufficiently safe to protect the burial association membership.

The act, which was amended as recently as the 1985 session, contains no mention of investment in mutual funds. The Arkansas Supreme Court has long followed the rule of construction that when there is a clear designation of a form of conduct or manner of performance there is an inference that all omissions from that designation should be understood as exclusions. Watkins v. Wassell, 20 Ark. 410 (1859); Cook v. Arkansas Missouri Power Corp., 209 Ark. 750, 192 S.W.2d 210 (1946). If the legislature had intended to allow burial associations to invest in mutual funds, it would have expressly made provision for such investments.

Thus it is the opinion of this Office that burial associations have not been authorized to invest in mutual funds.

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

Sincerely,


STEVE CLARK
Attorney General

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