



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable L. D. Bakman
County Attorney
Montague County
Montague, Texas

Dear Sir:

Opinion No. 8-5574

Re: May a public weigher who has weighed and stored cotton buy the cotton and the loan future payments of the owner.

Your letter of recent date makes the following inquiry:

"Under Art. 5703, Vernon's Texas Statutes, it shall not be lawful for any factor, commission merchant, or other person or persons, to employ any other than a public weigher, or his deputies to weigh cotton, wool, sugar, hay or grain or other produce sold or offered for sale in any city or justice precinct having a public weigher duly qualified.

"I would like to have your opinion whether or not a public weigher has the right or not to buy cotton after he has served as the public weigher on the cotton and also served as warehouseman to store the cotton. If in your opinion this public weigher has the right to weigh the cotton, store it in his warehouse, and then buy it, I would like to know if he has the right to buy the federal loan papers against this cotton from the owner of the cotton after the owner has put the cotton in a federal loan and received his loan on the cotton. In other words, does the public weigher have the right to buy whatever future payment which the owner of the cotton might have in the cotton.

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"I have been unable to find any law which prohibits the public weigher who also serves as warehouseman and buys the cotton and the loan future payments from the owner. I will appreciate your opinion on this matter."

You have supplemented your inquiry with the statement that the public weigher inquired about is an elected public weigher.

Article 5680, Vernon's Annotated Civil Statutes, defines a public weigher as:

"Any person engaged in the business of public weighing for hire, or any person who shall weigh or measure any commodity, produce or article, and issue therefor a weight certificate or weight sheet, which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce or article is based, shall be known as a public weigher, . . ."

Article 5684, in setting out the qualifications of a public weigher, states among other qualifications the following:

"No person shall be appointed or elected public weigher, or deputy public weigher who is interested in the buying or sale of cotton, wool, sugar or grain to be weighed, either as principal, agent, factor, commission merchant or employee."

We think that it would defeat the purpose of the Legislature in enacting Article 5684, supra, to allow a public weigher after he has qualified as such, to do those things which would disqualify him from being elected public weigher. Therefore, it is the opinion of this department that your questions should be answered in the negative, and they are so answered.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

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