



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

October 14, 2003

Interpretive Letter #975
December 2003
12 USC 24(7)

Dear []:

This letter responds to your request for a legal opinion regarding the authority of [] (Bank”), to dispose of old coin and cash found in several of the Bank’s office vaults. Your request indicates that some of the coins may be “rare,” that is, their numismatic value exceeds their face or metallic value. The Bank wishes to dispose of, and receive fair market value for, the found coin and cash. For the reasons discussed below, we believe that the Bank may dispose of the found coins for their fair market value.

Discussion

Your request represents that the facts are as follows. The Bank has discovered old coin and cash found in several of the Bank’s office vaults. This coin and cash has been in the Bank’s vaults for years, but the Bank does not know when or why it acquired the coin and cash. A number of the coins are likely “rare” coins – *i.e.*, they have a numismatic value beyond their face or metallic value – though they likely were not “rare” coins at the time the Bank acquired them. To the best of your knowledge, the coins were not acquired for speculative purposes. The Bank now wishes to dispose of the found coins, including the “rare” coins, for their fair market value.

Twelve U.S.C. § 24(Seventh) expressly authorizes national banks to buy and sell coins. In pertinent part the statute states that a national bank may “carry on the business of banking” by, for example, “buying and selling exchange, coin, and bullion.” Banking Circular No. 58 (Rev.) (Nov. 11, 1981) (“Circular”) sets forth general guidelines that apply to national banks’ coins and bullion activities. The Circular makes it clear that banks may not speculate by purchasing coins, such as “rare” coins, the value of which is based upon such factors as rarity, age, condition, a mistake in the minting or other intangible factors.

Here, the Bank is not engaging in the impermissible speculation addressed by the Circular. Rather, the Bank has simply found some old coins in its vaults. Several of the coins, in their years in dormancy, have acquired a value beyond their face or metallic value. Yet the Bank, to the best of its knowledge, acquired these coins in the normal course of its banking

business. Because the Bank did not acquire the coins with the intent to speculate in “rare” coins, the Bank should now be permitted to dispose of the coins at their fair market value.

This situation is analogous to a national bank that has acquired and used real estate for bank premises and now wishes to dispose of that property at fair market value. National banks have express statutory authority to acquire real estate for use as bank premises. 12 U.S.C. § 29(First). The OCC has long taken the position that, once a bank ceases to use premises to engage in the business of banking and must dispose of the property, the bank may dispose of premises for fair market value, even if that value exceeds the price the bank originally paid for the property.¹ In the present situation, the Bank has discovered coins in its vaults that, while originally acquired pursuant to the “coin and bullion” authority in Section 24(Seventh), have acquired numismatic value. As national banks are permitted to dispose of bank premises even in cases where the premises has appreciated in value, so should the Bank be permitted to dispose of the “rare” coins even though the coins have acquired numismatic value.

If you have any questions, please feel free to contact me at (202) 874-5300.

Sincerely,

/s/ Steven V. Key

Steven V. Key
Senior Attorney
Bank Activities and Structure Division

¹ See Letter from J.T. Watson, Deputy Comptroller (Feb. 7, 1974) (unpublished). Cf. Letter from John D. Gwin, Deputy Comptroller (Aug. 10, 1972) (bank may sell OREO at fair market value). Indeed, from a supervisory perspective, disposal of former bank premises at a less than fair market value may adversely impact a bank’s safety and soundness. While disposal of the found coins for face or metallic value may not adversely impact the Bank’s safety and soundness, disposal of the coins for fair market value most certainly will enhance the Bank’s position.