

1983 WL 182031 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 18, 1983

***1 RE: Insurance Agent Serving as Executive Secretary for Funeral Directors' Association**

The Honorable Nikki Setzler
Senator
District No. 8
Post Office Box 1036
West Columbia, South Carolina 29171

Dear Senator Setzler:

Your letter of August 31, 1983, has been referred to me for a response. As I understand your question, you wish to know whether a licensed life insurance agent may serve as executive secretary of the South Carolina Funeral Director's Association in view of the language of Section 38-9-530, CODE OF LAWS OF SOUTH CAROLINA, 1976.

As you are aware, Section 38-9-530, CODE, prohibits any funeral director, undertaker, mortuary, or any agent, officer or employee thereof to be licensed as an agent or salesman for any life insurance company doing business in this State. The statute specifically provides as follows:

It shall be unlawful for any funeral director, undertaker or mortuary or any agent, officer or employee thereof to be licensed as agent, solicitor or salesman for any life insurance company, corporation or association doing business in this State.

The statutory scheme was upheld by the United States Supreme Court in [Daniel v. Family Security Life Insurance Company](#), 386 US 220, 93 L.Ed. 632 (1949), wherein the Supreme Court discussed the rationale for such a statute and noted that other states have similar statutes.

It is my opinion that Section 38-9-530, CODE, precludes a life insurance salesman or agent from serving as executive secretary for the South Carolina Funeral Director's Association inasmuch as the section makes it unlawful for a licensed life insurance salesman or agent to act in the capacity of agent, officer or employee for any funeral director, undertaker or mortuary. While an argument can be made that the statute does not apply to the situation you raised, I believe the more prudent course to be to construe Section 38-9-530, CODE, to apply to the facts you presented, especially in view of the fact that Section 38-9-530, CODE, does carry criminal sanctions.

I trust this letter answers your question. Please feel free to contact me if I can be of further assistance.

With kind regards, I am
Very truly yours,

William K. Moore
Assistant Attorney General

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