

OPINION
48-46

May 12, 1948 (OPINION)

CONDITIONAL SALES CONTRACTS

RE: Filing - Signature - Copy Receipt

This will acknowledge your letter of May 4, in which you state that occasionally copies of conditional sales contracts are handed to you to be filed, wherein the signatures are all in carbon copy, which copies are not authenticated in any manner. You also state you presume the law contemplates that original contracts should be filed, but that many firms want to retain the original, since it also contains the original note. You raise two questions, as I understand your letter-

- (1) Whether a carbon copy signature is a legal signature on a conditional sales contract; and
- (2) Whether a conditional sales contract needs to have attached thereto a receipt for copy.

It seems to me that when a carbon copy of a conditional sales contract is presented to you and the signature thereon is also produced by the use of a carbon paper, you would not need to determine whether that is a valid or legal signature. If the instrument is entitled to filing and bears what ostensibly appears to be the signature of the party or parties to the contract, it is not necessary for you to determine whether that is a legal signature, if adopted as the signature of the parties to the instrument. There is no law of which I have any knowledge that requires that copies be signed as originals.

Section 12-3929 of the 1943 Revised Code provides that a facsimile signature shall be considered a written signature. A carbon copy signature is in fact a facsimile signature and, since the statute says that it shall be a written signature, it appears to me that a carbon copy signature is legal and valid. If it is not, the only parties who could challenge the signature are the parties to the instrument and, having adopted that mode of signing the copies, it appears to me that they would come within the statute above referred to, which makes a facsimile signature a written signature.

Now with reference to your second question, we have previously held that a conditional sales contract need not contain a receipt for copy of the contract. An opinion was issued out of this office, written by myself, dated May 7, 1945, on this question. Rather than send you a copy of that opinion, and with the possible thought that you might have use for the written opinions of this office, I am sending you under separate cover the 1944-1946 report of the attorney general's office. You will find the opinion referred to on page 69 of the report.

It is the opinion of this office that you should file all conditional sales contracts that are presented to you, whether they are originals

or copies and whether they are signed by the use of carbon sheets or contain original signatures, and even though they do not contain a receipt for copy of the contract.

NELS G. JOHNSON

Attorney General