

Opinion No. 38-1994

July 12, 1938

BY: FRANK H. PATTON, Attorney General

TO: Mr. R. W. Heflin Securities Commissioner State Banking Department Santa Fe, New Mexico

{*248} Your letter of July 12th relates the circumstances relative to the sale of oil leases by Mr. Elmer J. Fisher and you desire to know whether or not Mr. Fisher should be required to obtain a permit from the Securities Department of New Mexico, and whether or not such sales are to be classed as dealing in speculative securities.

If I understand the facts, Mr. Fisher sells leases outright on surrounding property of the proposed drilling cite and the purchaser of the lease has the right to do whatever he pleases with same and he may drill an oil well or otherwise.

There is no public offering as to any participating interest in the well and there is no possibility of any {*249} accounting under the sale of the acreage for monies expended or profits taken for the reason that, as stated, the purchaser obtains title to the lease and any future development is by said owner.

While it is true that in a certain degree the value of these leases may depend materially upon the proposed future development of the acreage by drilling rather than upon their present tangible worth, nevertheless I have serious doubts as to a negotiation of this type falling within the purview of our statute upon speculative securities, which is set forth in Chapter 32 of the 1929 Compilation, and upon the facts set forth in your letter, this is my conclusion.