

Opinion No. 77.**Mines and Mining—Blue Sky Law—
Investment Company.**

HELD: A mining company which sells its own stock within the state of Montana is an investment company within the meaning of Section 4026, R. C. M. 1921, as amended, and is therefore subject to the provisions of the Blue Sky Law.

April 4, 1935.

Hon. John J. Holmes
State Auditor
The Capitol

You have asked us whether or not a mining company which sells its own stock in the state of Montana, is subject to the provisions of our Blue Sky Law as amended. The Blue Sky Law, originally Chapter 85 of the Laws of 1913, appears in the Revised Codes of 1921, as Sections 4026-4055 thereof. The legislature has seen fit to amend Sections 4026, 4027, 4028, 4033, 4036, 4038, 4040, 4041, 4044 and 4050. The statute in its original form and as amended is designed to regulate the business of investment companies and stockbrokers. An affirmative answer to the question depends then on whether or not such mining company is an investment company, as the term is defined by Section 4026, Revised Codes 1921, as amended by Section 1 of Chapter 47, Laws of 1933.

Section 4026, as so amended, reads as follows:

“That name ‘Investment Company’ as used in this Act shall include: All domestic and foreign corporations, whether incorporated or unincorporated, associations, joint stock companies, partnerships, firms, trusts, common law companies, syndicates, pools, or any other form of organization or association, organized or proposed to be organized, ex-

cept as otherwise provided in this Act, who shall sell, attempt to sell, or negotiate for the sale of, or of taking subscriptions for any stock, bonds, units or shares, or debentures, evidence of indebtedness, certificates of interest or participation, certificates of interest in profit sharing agreement, collateral trust certificates, contracts of interest, diversified trustee shares, fixed investment trusts, selected shares corporations, investment contracts, or contracts for the performance of personal services of the furnishing of materials in connection with the burial or cremation of dead human bodies, which contracts are to be performed at a future time determinable only by the death of the person in connection with whose decease said services are to be performed or materials furnished, contracts or agreements or securities of any kind or character, to any person or persons in the State of Montana.”

It is apparent, we think, that the mining company is an investment company within the meaning of section 4026, as amended. Any other conclusion would do violence to the plain language of the provision. (People v. Clum, 182 N. W. 136; National Bank of the Republic v. Price, 234 Pac. 231; Guaranty Mortgage Co. v. Wilcox, 218 Pac. 133; Bracey v. Darst, 218 Fed. 482; Strong v. Efficiency Apartment Corp., 17 S. W. (2d) 1; Biddle v. Smith, 256 S. W. 453).