

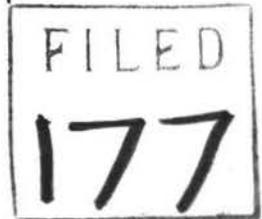
INSURANCE:  
TRUE NAME:

"True name" as used in Section 375.012, subsection (2), RSMo Cum. Supp. 1967, means a person's actual and not fictitious name and includes a surname, a first name, and a middle name or initial.

May 2, 1968

OPINION NO. 177

Honorable J. Anthony Dill  
Missouri House of Representatives  
St. Louis County, District 44  
8011 Grandvista Avenue  
Affton, Missouri 63123



Dear Representative Dill:

This is in response to your letter of January 26, 1968, requesting an opinion in regard to Section 375.012, subsection (2), RSMo Cum. Supp. 1967. (All statutory references herein are to RSMo Cum. Supp. 1967 unless otherwise noted.) Your question was posed as follows:

"Section 375.061 states that no insurance agency shall act as such unless licensed. Section 375.012(2) defines an agency as any individual transacting business under any name other than his 'true name'.

Clearly, if an individual agent or broker named Joseph J. Jones did business as 'Acme Insurance Agency', he would be required to register as an agency. However, it is unclear if registration is required if the same Joseph J. Jones did business as 'Jones Insurance Agency'.

I respectfully request your opinion regarding this situation. Does 'true name' as used in 375.012 (2) mean 'full name' (Joseph J. Jones), merely true surname (Jones), or something else."

Section 375.012, subsection (2) contains the following definition:

Honorable J. Anthony Dill

"'Insurance agency'; any individual transacting or doing business under any name other than his true name, any partnership, unincorporated association, corporation, or other group transacting or doing business with the public or insurance companies as an insurance agent or broker;"

Section 375.061, subsection (1) requires that "No insurance agency shall act as an agency in this state unless it is licensed by the superintendent of insurance as provided in this chapter." If an individual is transacting business as an "insurance agency" under the definition found in 375.012(2), he is required to be licensed as an agency by the superintendent of insurance pursuant to the provisions of 375.061(1). Apparently, an individual can avoid the agency classification only by doing business under his "true name".

Section 1.090, RSMo 1959, relating to the construction of statutes, provides that "Words and phrases shall be taken in their plain and ordinary and usual sense....". Webster's New International unabridged dictionary, 2nd edition, defines the word "true" in the following manner: "Conformable to fact; in accordance with the actual state of things; correct, not false, erroneous, inaccurate, or the like;" The plain and ordinary meaning of "true" as it is defined in the dictionary will be followed here.

It is sometimes said that the word "name" contemplates a person's surname and a given first name. 65 C.J.S. 53. That was the rule followed at common law and it has subsequently been held that a person's middle name or initial was unimportant. State vs. Hands, Mo., 260 SW 2d 14. This viewpoint was initially expressed in State vs. Crowe, Mo., 382 SW2d 38, but in that case the St. Louis Court of Appeals went on to say: "However, in modern times recognition is frequently given to one or more middle names or initials." (Emphasis added). The court in the Crowe case then quoted with approval the following definition of "name" given by the Missouri Supreme Court in State ex rel Lane vs. Corneli, Mo., 149 SW 2d 815:

"A person's name is the designation ordinarily used, and by which he or she is known in the community. Names are used as a method of identification. Whether the identification is sufficient is ordinarily a question of fact." (Emphasis ours) Lane, at 821.

Honorable J. Anthony Dill

The Crowe case concluded by saying that "A person's name, therefore, is the designation by which he is commonly known and one which he knows himself and others call him." This common sense definition seems well established in Missouri law. State vs. Deppe, Mo., 286 SW 2d 776.

This brings us to the point where we must decide how much of a person's name must be used in order to satisfy the "true name" provision of Section 375.012 (2). In other words, must he use only his first and last name, or his name exactly as it appears on his birth certificate, or enough of his name so that he can be identified?

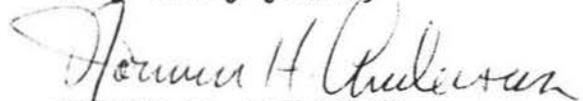
The legislative intent is controlling. The purpose of the Legislature in enacting Section 375.012(2) was to enable the Superintendent of Insurance to identify those under his jurisdiction by requiring them to do business in their true names, or failing in this, they must be registered as an agency. The statute will not achieve its purpose unless enough of a person's name is given so that he can be readily identified and distinguished from other persons. For this reason, we hold that "true name" as it appears in Section 375.012 (2) contemplates the use of a surname, a first name, and a middle name or initial.

#### CONCLUSION

It is the opinion of this office that "true name" as used in Section 375.012, subsection (2) RSMo Cum. Supp. 1967, means a person's actual and not fictitious name and includes a **surname**, a **first name**, and a middle name or initial.

The foregoing opinion, which I hereby approve, was prepared by my Assistant Gary G. Sprick.

Very truly yours,



NORMAN H. ANDERSON  
Attorney General