

Interpretive Letter 94-003 (March 14, 1994)

State bank may use a divisional or trade name only in conjunction with its corporate name on signage or other written materials.

We are writing in response to your request for the opinion of the Illinois Commissioner of Banks and Trust Companies ("Commissioner") concerning the use of the name * [Trade Name Bank] by the * ("Bank") for its proposed branch to be located in *, Illinois. We conclude that Bank may use Trade Name Bank in conjunction with Bank's corporate name for its branch in *.

You have informed us that Bank intends to open a branch in * and desires to name the branch Trade Name Bank. While the name * Bank is recognizable and important in *, you do not feel that Bank's name will be recognizable in *. Also, Bank is owned by * Bancshares, Inc., an Illinois bank holding company. It is your intention to eventually change the name of Bank to Trade Name Bank. You are now in the process of developing signage for the * branch and have inquired as to the Commissioner's requirements for such signage.

There are no statutes or rules administered by the Commissioner that contain requirements or prohibitions relating to bank signage. The Commissioner does not regulate changes in a bank's name once the bank has commenced a general banking business. Section 13(a) of the Illinois Banking Act, 205 ILCS 5/13(a) (1992), does require the bank to provide written notice to the Commissioner to accomplish a change of its corporate name.

However, the possibility of confusion or misunderstanding by bank customers due to name usage may give rise to safety and soundness concerns, and therefore, the Commissioner believes that certain limitations are appropriate. It is the position of this Office that a bank may use a divisional name or trade name only in conjunction with its corporate name on signage and other written material. "In conjunction" means that the true corporate name must appear somewhere on the sign or written material. This opinion is consistent with a provision applicable to Illinois general business corporations which allows a corporation to use a divisional or trade name in conjunction with its corporate name. 720 ILCS 265/220 (1992).

Therefore, the Commissioner would have no objection to Bank using the name "Trade Name Bank, a branch of Bank," or similar words to that effect, for its branch in * on all signage and other written materials.

Please be advised that this position is limited to and based solely on the representations that you have communicated to the Commissioner. Any changes in the facts and circumstances surrounding the proposed name usage might change this position. The Commissioner may impose other signage or written material requirements if we find signage to be fraudulent, unsafe or unsound.

SEE NOTE ON FOLLOWING PAGE Added June 7, 1996.

The Agency has learned that Interpretive Letter 94-003 (March 14, 1994) may have generated confusion and may have encouraged some banks to adopt branch names that are, or may be, deceptive and confusing to bank customers [in particular, the use of the word "division" instead of "branch" is discouraged]. To the extent that the following requirements conflict with the policies and interpretations enunciated below, provisions of IL 94-3 is superseded. The Agency has determined that there is a substantial likelihood that branch names different from the charter name will be confusing, deceptive or misleading unless the following requirements are followed. Furthermore, it is the Agency's opinion that engaging in confusing, deceptive or misleading business practices is inherently unsafe or unsound banking practice which is forbidden by Section 48(8) of the Illinois Banking Act. Therefore, the Office of Banks and Real Estate will require the following actions with respect to the branch name of a bank if the bank proposes to use a name different from the bank's charter name:

- A. the branch name may not state or imply that the branch is a separately chartered bank ;
- B. the branch name may not state or imply that the branch possesses separate FDIC insurance;
- C. Bank may not use the branch name unless it is followed in clear and conspicuous type with the words, "a branch of [bank charter name];"
- D. Bank shall use only Bank's charter name on all legal documents in the place indicating the name of the bank party on the document, including but not limited to: checks; deposit slips; certificates of deposit; signature cards; promissory notes and mortgages; and
- E. Bank shall train branch staff to avoid customer confusion, including but not limited to: prior to opening a new account, inquiring of the prospective customer whether they have deposits at other branches or banking premises of Bank; and answering the phone at the branch as described in subparagraph C. above.

The Agency is in the process of formulating a permanent policy to govern permissible names for bank branches. We anticipate that the Agency will promulgate the policy and guidelines as a rule or regulation after soliciting public comment. In the rulemaking process the policy could evolve to be more liberal than the requirements enunciated in this letter, but it could also be more strict.

¹Therefore names such as "[town name] bank," "bank of [town name]" or "[town name] bank & trust company" are not appropriate as branch names--each is a name that implies that that location is a separately chartered institution.