



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

August 6, 1953

Hon. C. A. Freeze, Chairman
Texas State Board of Public Accountancy
Perry-Brooks Building
Austin 1, Texas

Opinion No. MS-77

Re: Legality of an individual's
practicing public account-
ancy in Texas under an as-
sumed or fictitious name.

Dear Mr. Freeze:

Your request for an opinion reads in part as follows:

"I should like a written opinion as to whether or not an individual may practice public accountancy in the State of Texas under an assumed or fictitious name, as in the following manner:

John Doe, C. P. A. (or Public Accountant)
Address
DBA John Doe (&) Company

or

John Doe (&) Company
Address
John Doe, C. P. A. (or Public Accountant)
Sole Owner.

Furthermore, would it ever be permissible for an individual to practice public accountancy in the State of Texas using the appendate 'And Company' to the individual's name?"

Our understanding of your fact situation is that "John Doe" is the individual's true name and the term "assumed or fictitious" as applied to your examples means only that his business is being conducted under some name other than, or in addition to, his individual name only.

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Article 41a, Vernon's Civil Statutes, known as the Public Accountancy Act of 1945, provides for the granting of certificates or permits to individuals, partnerships and corporations under compliance with the terms thereof.

Section 24 of the statute further provides that it shall be a misdemeanor for any person to "hold himself out to the public as a public accountant" or to "engage in the practice of public accountancy" without having obtained a certificate or permit. It must be observed that the statute, in Section 2(c), technically defines the term "person" as being inclusive of individuals, partnerships and corporations.

We therefore hold that it would be a misdemeanor for anyone holding a permit or not, to hold himself out to the public as being an accountant possessing a permit or certificate in a capacity -- either individual, partnership, or corporate -- in which he had not been duly licensed by the Board. Whether your particular examples constitute such a "holding out" would clearly be a fact question to be resolved in each separate instance.

We trust that this answers your inquires.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By
Mert Starnes
Assistant

MS:hep:am