

OPINION NO. 99

Answered by Letter - (Brannock)

January 10, 1969

FILED
99

Mr. George W. Flexsenhar, Director
Division of Industrial Inspection
Department of Labor & Industrial Relations
Broadway State Office Building
Jefferson City, Missouri 65101

Dear Mr. Flexsenhar:

We have your request dated December 6, 1968, for an official opinion as follows:

"I received a letter from an attorney, Mr. Robert Gandal, who represents Management Recruiters, an employment agency licensed by this office. We have also licensed another employment agency by the name of Management Brokers. Both agencies operate in St. Louis.

"Mr. Gandal thinks the names are too similar. Inasmuch as we have a number of agencies licensed with similar names, I know of nothing we can do about it. However, I would appreciate receiving your thinking on the matter."

Private employment agencies are required to obtain licenses under Section 289.010, RSMo 1959, pertinent part of which is as follows:

"No person, firm or corporation in this state shall open, operate or maintain an employment office or agency for hire, or where a fee is charged to either applicants for employment or for help, without first obtaining a license for the same from the director of the division of industrial inspection of the state department of labor and industrial relations. Such license fee in cities of fifty thousand population and over shall be fifty dollars per annum, and in

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all cities containing less than fifty thousand population, a uniform fee of twenty-five dollars per annum. Every license shall contain a designation of the city, street and number of the building in which the licensed party conducts said employment agency...."

We have carefully considered Chapter 289, RSMo 1959, entitled "Private Employment Agencies", and we can find no authority or duty stated in said chapter for the Division of Industrial Inspection to refuse to issue a license to operate an employment office to an applicant because of an alleged similarity between the name of such applicant and another person, firm or corporation holding a license to operate an employment agency.

We are enclosing Opinion No. 99 rendered June 7, 1940, to the Honorable Carl F. Wymore holding that in the absence of statutory authority the Secretary of State cannot refuse to register similar or the same names under the "fictitious name" statutes. We believe the reasoning to be applicable insofar as the authority of the director of the Division of Industrial Inspection is concerned.

It is therefore the view of this office that the Division of Industrial Inspection has no duty or authority to refuse to issue a license to operate an employment office to an applicant because of an alleged similarity between the name of such applicant and another person, firm or corporation holding a license to operate an employment agency.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

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