

## Opinion No. 23-3723

July 27, 1923

**BY:** MILTON J. HELMICK, Attorney General

**TO:** Requested by: W. B. Wagner, Deputy for Insurance, Santa Fe, New Mexico.

**A Fire Insurance Company Must Use Its Own Name on a Policy and the Name of no Other Company will be Permitted.**

### OPINION

{\*74} This inquiry arises on the use of a form of a fire insurance policy in this state which is headed in large type, "Liberty Underwriters," and underneath in small type, "of Capital Fire Insurance Company of California." The policy purports to be signed and executed by the Capital Fire Insurance Company of California solely. This company is authorized to do business in New Mexico but there is no qualified organization, association or company known as Liberty Underwriters. An opinion is requested as to whether this form of policy can lawfully be used in New Mexico in view of the provisions of Section 2860 of the Code of 1915.

This section, among other things, provides that if a company has qualified "such company shall thereupon become entitled to do such business and issue fire insurance contracts and policies under the name and title so designated, and not under any other name or title either by itself or jointly with any other corporation, firm or association and no contract or policy issued by it shall bear any title or any words appearing to constitute a title other than the name or title so designated." It occurs to me that this statute is quite clear and that the form of policy mentioned is in plain violation thereof. The State of Kansas has a very similar provision in its insurance laws as follows:

{\*75} "Every insurance corporation, foreign or domestic, shall conduct its business in this state in its own proper and corporate name; and the policies and contracts of insurance issued by it shall be headed or entitled only by its corporate name."

I am informed that the Attorney General of Kansas is of the opinion that this section means exactly what it says and that under it no insurance corporations, either foreign or domestic, can conduct its business under any name other than its own proper or corporate name.

It is my opinion that the form of policy in question should not be headed by the words, "Liberty Underwriters," because it is a policy executed by the Capital Fire Insurance Company of California and only the name of such company and no other should appear on the policy.

It should be mentioned that Section 2860 further permits a company to designate an additional title under which it may carry on business and issue policies, but this may only be done by again qualifying as in the first instance.