

FEBRUARY 22, 2013

## Be Judicious If Your Name Is Fictitious: Tips for Nonprofits Using DBAs

*"Names are not always what they seem. The common Welsh name BZJXLLWCP is pronounced Jackson." — Samuel Clemens ("dba" Mark Twain)*

Nonprofits use alternate names for many reasons, from making a name shorter to representing a particular project. A nonprofit considering a name change can either legally change its name by amending its articles of incorporation (or comparable founding document), or it can use a "fictitious business name," often called a "doing business as" name or a "DBA."

Generally, an organization must register its DBA in each state (or, depending on the state, in each county) where it plans to use its DBA. In some states, nonprofits are exempt from DBA registration requirements (e.g., [California](#)), but this is not so elsewhere (e.g., [New Jersey](#)). DBA registrations are straightforward and inexpensive, so a nonprofit operating nationally may wish to register in multiple states. Consult with counsel if in doubt. Whether or not your nonprofit is legally required to register its DBA, the following tips may be useful.

**Contracts (Use Legal Name, dba Fictitious Name).** A nonprofit may enter into contracts using a DBA, but in some states it cannot enforce such contracts until it has complied with the DBA registration requirements. If a nonprofit registers its DBA after it decides to enforce a contract, it could owe a penalty. To avoid this, just use the legal name plus the DBA in all contracts. Conversely, don't worry if your counterparty uses a DBA. Organizations using a DBA may still have contracts enforced against them. Nevertheless, knowing the legal name of a counterparty can help in locating information about the organization, such as public filings.

**Checks (Either Name Is Probably Fine).** When writing checks, you may use either name, depending on what the recipient will accept (the name on the check should probably match the name on the underlying contract, but this is not required). When accepting and depositing checks, you may use either name, provided the bank will deposit the checks. Banks set their own rules, so it is worth inquiring.

**Regulatory Filings and Policies (Use Both Legal Name and Fictitious Name).** The IRS requires organizations to list both a legal name and any DBAs on tax filings. Corporate policies should likewise use the legal name (plus DBA, if desired), since these are part of the corporate record. Furthermore, many of these policies must now be attached to Form 990.

**Promotional Materials (Probably Fine to Use Fictitious Name).** There is no legal impediment to using DBAs on promotional materials. However, be careful if your DBA

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bears no resemblance to your legal name, since this can cause confusion. For instance, imagine that an organization legally named “Zebra Inc.” uses the DBA “Tiger” in its promotional material. If a benefactor leaves a bequest to “Tiger,” the executor and probate court may be confused about which organization is entitled to the funds. Similarly, an organization considering a DBA should research whether other organizations are already using confusingly similar names.

**Project Materials (Use Fictitious Name, a Project of Legal Name).** Organizations using a DBA for a particular project may have letterhead, etc., in the name of the project. To avoid confusion about whether the project is a separate entity or part of the existing organization, we recommend clarifying this (e.g., if the letterhead provides “Global Scholarships, a project of World Charity,” readers understand that Global Scholarships is part of World Charity, not a separate entity).

Can’t remember your nonprofit’s legal name? Check the articles of incorporation (or comparable founding document). Can’t find a recent copy? Order a certified copy of the articles from the Secretary of State (for California’s, click [here](#)). You can also search the Secretary of State business registry, available online in most states (California’s is available [here](#)).