



**THE ATTORNEY GENERAL
OF TEXAS**

GERALD C. MANN
~~XXXXXXXXXXXX~~
WILLIAM WILSON
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Teacher Retirement System of Texas
Austin, Texas

Dear Sir:

Attention: Mr. K. E. Davis

Opinion No. O-1854

Re: Teacher Retirement System --
Beneficiary -- member designation
under assumed name.

Your question for a legal opinion from this department is as follows:

"May a member of the Teacher Retirement System legally designate a beneficiary to receive the amount of his accumulated contributions in case of his death before retirement by using as his signature a name other than his legal name?"

"The above question is prompted by the following circumstance: a Personal Data Form has been issued to Mr. John M. Slavik, a member of the Teacher Retirement System whose account is being carried under that name. This Form contains a section that enables a member to designate a beneficiary to receive the amount of his accumulated contributions in case of his death before retirement. Mr. Slavik informs us that John M. Slavik is not his legal name but is the name he has been known by since shortly after his birth at which time his mother remarried. There has been no action taken in connection with changing his legal name, John Rudolf Mazoch to John M. Slavik. It is his desire, however, to designate a beneficiary over his signature as John M. Slavik, if such action would be held legal."

One execution, whether of contract, conveyance, receipt or instrument whatsoever, under a fictitious or assumed name is as valid and binding in law as though he had executed in his legal name. It is a question of identity. If the person executing is the person to be bound, then he is bound by whatever name he executes. It can make no difference whether the assumed name is a fictitious name or that of another person. (30 Tex. Jur. 592, Sec. 11). Neither can it make any difference as to why, or the reasons for the use of a fictitious or assumed name. One who is unable to write his name may nevertheless validly execute by his mark or any character indicating his intention to execute. Such instruments executed in any of the modes above mentioned are not only binding upon the party executing but they are likewise binding upon the other party to the instrument. In other words, the instrument is in all respects valid and enforceable according to its legal purport and effect.

Very truly yours

ATTORNEY GENERAL OF TEXAS

s/ Ocie Speer

By Ocie Speer
Assistant

OS:MR:LDW

APPROVED Jan 27, 1940

s/ Gerald C. Mann

By GERALD C. MANN
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE BY B. W. B. CHARIMAN