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## CML Guidance 2019-2 Use of Fictitious Names October 24, 2019

The purpose of this memorandum is to clarify the opinion of this office regarding a licensee's use of fictitious names, also referred to as trade names, or dba (doing business as) names in loan contracts and other documents. Our office routinely receives questions from regulated entities as to the proper use of these names.

While a document that references only the fictitious name of a licensee may be valid and enforceable by either party to the transaction, the use of an alternative name could lead to confusion for consumers. It is recommended that licensees use their full legal name in all documents prepared or used by a licensee when entering into transactions with Kansas consumers. It is acceptable to add a fictitious name that is properly noted on the entity's license in legal documents when the legal name is also used. A licensee may use just the fictitious name that is listed on the license without the official legal name so long as the use is not intended to cause confusion or deceit to the public.

Assume the legal name of a licensee is "XYZ Financial Group" but with a dba of "XYZ Mortgage." The company has properly noted both names on the license. The best practice is for all loan documents to include the official legal name "XYZ Financial Group." The company may also include the company's dba "XYZ Mortgage" with the legal name, or alone if the dba does not cause confusion or deception to the public.

Should you have any questions or concerns please contact the Office of the State Bank Commissioner, Consumer and Mortgage Lending Division, at 785-296-2266.