

The Authority of Notary Supervisors in Taking Action Against Violations of The Dissemination of Deed of Agreement on Social Media

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Abstract

This research aims to find out clear arrangements related to the authority of the regional supervisory assembly as the guardian of notary honor to monitor and respond to the attitude of notaries, especially in taking action against notary violations of the dissemination of deeds of agreement on social media. The formulation of the problem in this study is first, how is the responsibility of notaries who disseminate deeds of agreement through social media, and second, how is the authority of notary supervisors in taking action against these violations. In this writing, the researcher uses a normative research method with a statutory approach and conceptual approach. Based on the research conducted by the researcher, the conclusions are obtained, namely: First, notaries who disseminate deeds through social media can be held accountable ethically, civilly and criminally. The liability is certainly based on the fulfillment of the elements of the act committed, whether the act meets the elements of violation of the code of ethics, or meets the elements of the offense for criminal liability, and whether the act meets the elements of unlawful acts for civil liability. Second, the Notary Supervisory Council has a mechanism for enforcing ethics and imposing administrative sanctions. The sanctions are imposed if the notary who disseminated the deed on social media is proven to have violated the code of ethics based on the Supervisory Panel's examination. Ethical sanctions can be in the form of: a). verbal warning; b). written warning; c). temporary dismissal; d). proposal for honorable dismissal; or e). proposal for dishonorable dismissal. In the process of examining a notary who commits an ethical violation, the principle of presumption of innocence must be put forward until the decision of the Supervisory Panel states that the person concerned is proven guilty.

1. Introduction

The notary profession has an important position in creating legal certainty and protection for the community. His position as a public official authorizes the validity of a document. Administrative Law divides authority or power into 3 (three) based on how it is obtained, namely the authority of attribution, delegation or mandate. Notary as a public official has the authority or authority of attribution, meaning that the notary's authority is given directly by law,¹ this is stated in Article 1 number 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary which states that the authority of a notary as a public official is to make deeds and has other powers as referred to in this Law or based on other laws. thus, the notary is an independent public official who has the authority to make authentic deeds as long as the deed is not excluded for other officials.²

Based on its form, the deed is divided into an authentic deed and a deed under the hand. In the perspective of positive law, authentic deeds are regulated in Article 1868 of the Civil Code, which means that an authentic deed is a deed made in the form prescribed by law by / or before a public official authorized for that purpose, at the place where the deed is made ".³ In Article 165 HIR, it is stated that "An authentic deed is a deed made by or before an official authorized for that purpose, an authentic deed is then further divided into two types, namely official deeds (*acte ambtelijk*) and deeds of the parties (*partijacte*). An official deed is a document whose creation initiative comes from the official himself, not from the parties listed in the deed. Meanwhile, a *partijacte* deed is a document created based on the initiative of the parties facing the official, such as a power of attorney deed, a land title deed, and a sale and purchase deed. These deeds are usually drawn up in the presence of notary officials, known as notarial deeds.⁴

Notarial deeds have higher legal force because they are made by officials recognized by law.⁵ With his position as an official that not only affects individual interests (individual trust) but also concerns the public interest (public trust), the notary has the responsibility to carry out his profession with full honesty and promote moral values. In carrying out the profession, notaries must have solid integrity, be honest with clients and themselves (intellectual honesty), be aware of the limits of their authority and not solely based on monetary considerations.⁶ Notaries are required to always be oriented towards the public interest. The existence of a professional code of ethics and strict supervision aims to ensure that notaries carry out their duties responsibly and uphold the values of justice.

The responsibility of a notary includes the obligation to ensure material truth in every deed he makes. In terms of the notary's responsibility as a public official towards material truth, it can be categorized into four aspects. First, civil responsibility, where the notary must ensure the material validity of the deed he drafts in this regard, the notary can be held civilly liable if something goes wrong. Second, criminal responsibility, where notaries can be subject to criminal sanctions if there is an element of intent or negligence in the preparation of deeds that have an impact on the loss of

¹ Jozan Adolf, Widhi Handoko, Muhamad Azhar. "Eksistensi Wewenang Notaris Dalam Pembuatan Akta Bidang Pertanahan". Notarius, Volume 13 Nomor 1 (2020)

² Yulia, A., Riyanto, R. B., & FX, J. P. (2018). The role of notary public honorary council in the enforcement of the notary code of ethics in indonesia. *IOP Conference Series.Earth and Environmental Science*, 175(1) doi:<https://doi.org/10.1088/1755-1315/175/1/012172>

³ Syifa Aisyah, R. Ismala Dewi, Enny Koeswarni. "Akibat Hukum Terhadap Akta Notaris Yang Tidak Sesuai Dengan Fakta Hukum". Repertorium: Jurnal Ilmiah Hukum Kenotariatan Vol.10 No.2 November 2021. 146

⁴ Anggun Lestari Suryamizon, "Kedudukan Akta Otentik Sebagai Alat Bukti Dalam Perkara Perdata" *Menara Ilmu*. Vol. X Jilid 1 No.70 September 2016.

⁵ *Ibid*.

⁶ Vadilla, Cica, Nabilla Alya Rahmah, And Baidhowi Baidhowi. 2023. "Pelanggaran Kode Etik Profesi Terhadap Kewenangan Notaris Dalam Pembuatan Akta". *As-Salam: Jurnal Studi Hukum Islam & Pendidikan* 12 (1), 14

other parties. Third, responsibility based on the Notary Position Regulation, which regulates the obligations of notaries in carrying out their duties in accordance with applicable legal provisions, especially regarding the material truth of the deed. Finally, responsibility based on the notary code of ethics, which requires notaries to behave professionally and maintain integrity in carrying out their duties, by complying with the ethical standards set by professional organizations.⁷

Supervision of the implementation of the office of notary aims to ensure that every action of a notary is in accordance with applicable legal principles, as well as supporting compliance with the professional code of ethics. The code of ethics serves as a guide in preventing unethical behavior, as well as providing direction for members of the profession to maintain moral integrity. In addition, the code of ethics ensures that notaries carry out their duties by prioritizing responsible professionalism, so as to provide maximum legal protection to the public, maintain public trust, and ensure the quality of legal services is maintained in accordance with high moral standards. Thus, the notary profession can make a significant contribution to law enforcement and national legal development.

The rapid development of technology has brought significant changes in aspects of people's lives. The use of technology, especially the internet, has changed people's culture and habits through interactions that used to rely on physical encounters now switch to digital which allows people to connect with anyone in various parts of the world instantly. The internet has successfully created a transformation in the way people communicate, access information, and work. This is no exception to the notary profession.

Distance constraints, which were previously an obstacle in providing legal services, can now be overcome by utilizing various digital platforms, the use of the internet has revolutionized notary practice, Notaries can conduct online legal consultations, draft deeds remotely, and even conduct electronic signings. This not only makes things easier for clients, but also increases the efficiency of notary work. According to Kottler and Keller, social media is a medium used by consumers to share text, images, sound, video and information with others.⁸ One form of media is Social Networking, which is an application that allows users to connect with other people using personal information. The information can be in the form of photos or videos. Some examples of digital platforms in the form of social networks / social media include Instagram and Facebook.

Notaries now cannot avoid the use of technology in their profession and personal activities. The existence of electronic signatures and seals began to be considered for use,⁹ more than a decade earlier, precisely June 30, 2000, President Clinton signed the Global and National Trade Act using electronic signatures,¹⁰ in addition to the phenomenon of using *e-contracts* which began to become a public concern about its validity and security.¹¹ In various government services, Electronic

⁷ Riyan Saputra & Gunawan Djajaputra, "Penegakan Hukum Terhadap Notaris Yang Mempromosikan Diri Melalui Media Sosial" [Vol. 1 No. 1 \(2018\): Jurnal Hukum Adigama](#)

⁸ Philip Kottler Dan Kevin Lane Keller, Handbook Of Research Of Effective Advertising Strategies In The Social Media Age, (Cambridge: Igi Global, 2016), Hlm. 338

⁹ Wildstrom, S. H. (2003, Jun 02). JUST CLICK ON THE DOTTED LINE notaries are adopting a digital system that should lead to broader use of e-signatures. *Bloomberg Businessweek*, , 18. Retrieved from <https://www.proquest.com/magazines/just-click-on-dotted-line-notaries-are-adopting/docview/236782323/se-2>

¹⁰ Freeman, E. H. (2004). Digital signatures and electronic contracts. *Information Systems Security*, 13(2), 8-12. Retrieved from <https://www.proquest.com/scholarly-journals/digital-signatures-electronic-contracts/docview/229653598/se-2>

¹¹ Berenstein, G. L., & Campbell, C. E. (2002). Electronic contracting: The current state of the law and best practices. *Intellectual Property & Technology Law Journal*, 14(9), 1-11. Retrieved from <https://www.proquest.com/scholarly-journals/electronic-contracting-current-state-law-best/docview/227144152/se-2>

Integrated Licensing Services were also built, every licensing service activity must go through the Online Single Submission (OSS) system.¹²

The use of social media has its own challenges for its users, like a double-edged knife on the one hand it can make a positive contribution but it does not rule out the possibility of having a negative impact, especially on the notary profession where notarial deeds usually contain sensitive data such as personal identity, financial data, and confidential agreements. This information is valuable and vulnerable to misuse. Irresponsible use of social media can expand the risk level of leakage of such sensitive information. Therefore, the protection of data contained in notarial deeds must be given more attention, both in terms of storage and distribution of documents.

As public officials, notaries are bound by strict legal rules and codes of ethics, especially in maintaining the confidentiality of data and information entrusted by clients. Violation of this obligation, whether intentional or unintentional, can have serious consequences, both legally and ethically. Careless use of social media by a notary, for example by posting important documents without authorization, can potentially violate the law, damage the reputation of the profession, and trigger criminal and ethical sanctions as professionals in maintaining the confidentiality and security of the information they manage, in order to maintain public trust in the notary profession and prevent adverse legal effects. Legal principles and ethical considerations are necessary in evaluating the implications of notarial actions in the digital era.¹³ This research aims to find out clear arrangements related to the authority of the regional supervisory assembly as the guardian of notary honor to monitor and respond to the attitude of notaries, especially in taking action against notary violations of the dissemination of agreement deeds on social media.

2. Research Method

The methodological approach used is a normative juridical analysis, focused on examining the role of the Securities Investor Protection Fund (SIPF) in optimizing investor protection against losses resulting from securities company crimes in relation to capital market law in Indonesia. The focus of normative juridical studies includes the inventory of positive law, legal principles and doctrines, legal findings in specific cases, systematic law, the level of legal synchronization, comparative law, and legal history.¹⁴ This approach is conducted through library research, emphasizing secondary data, including primary legal materials, secondary legal materials, and tertiary legal materials related to Capital Market Law. Subsequently, the researcher selects, classifies, and analyzes the data.¹⁵

The data used in this study is secondary data:

¹² Riviyusnita, R., & Busroh, F. F. (2019). Notary and the implementation of integrated electronics business licensing services. *Journal of Advanced Research in Law and Economics*, 10(3), 886-889. doi:[https://doi.org/10.14505/jarle.v10.3\(41\).25](https://doi.org/10.14505/jarle.v10.3(41).25)

¹³ Hidayat, R., Suwadi, P., & Solikhah. (2024). Measuring The Criteria For Notary Accountability In The Use Of Online Media As A Means Of Notary Promotion In Indonesia. [Medindo Os Criterios Para A Responsabilidade Notaria No Uso De Mídia Online Como Meio De Promoção Notaria Na Indonesia Medición De Los Criterios Para La Responsabilidad Notarial En El Uso De Los Medios En Línea Como Medio De Promoción Notarial En Indonesia] *Revista De Gestão Social e Ambiental*, 18(5), 1-12. doi:<https://doi.org/10.24857/rgsa.v18n5-074>

¹⁴ Bambang Sunggono, *Metode Penelitian Hukum*, Jakarta, Raja Grafindo, 1997, p. 52.

¹⁵ Belardo Prasetya Mega Jaya and Muhamad Uut Lutfi, (2021). "The Law Enforcement Towards Foreign Vessels Which Did Illegal, Unreported and Unregulated Fishing (IUU-Fishing) In Indonesia Fisheries Management Areas" *Jurnal Dinamika Hukum*, Vol 20. No1. pp. 245-255 <http://dinamikahukum.fh.unsoed.ac.id/index.php/JDH/article/view/2838>

- a. Primary legal materials, which are binding legal sources consisting of:
 - 1) The 1945 Constitution
 - 2) Law No. 8 of 1995 on Capital Markets
 - 3) Law No. 21 of 2011 on the Financial Services Authority
- b. Secondary legal materials, which provide explanations regarding primary legal materials, such as literature, supporting books, and related legal journals on the issue raised by the researcher, namely the role of the Securities Investor Protection Fund (SIPF) in optimizing investor protection against losses due to securities company crimes in relation to Capital Market Law in Indonesia.
- c. Tertiary legal materials, which offer guidance on primary and secondary legal materials, commonly known as legal reference materials or legal references.¹⁶

3. Results and Discussion

Liability of Notary Who Disseminates Deed of Agreement Through Social Media

The use of social media by notaries either as individuals or professional activists is certainly not a violation and is a human right. The use of social media as part of technological development as long as it is used responsibly will be able to build relationships and even facilitate various daily activities. Notary when using social media will get a positive impact including making it easier to interact with many people, expanding relationships, distance and time are no longer a problem, easier to express themselves, disseminating information can take place quickly, cheaper costs. Currently, *cyber notary* or *e-notary* is developing as a response to technological developments in supporting the efficiency of notary work.¹⁷

Notaries can use social media to conduct legal counseling,¹⁸ so that the task of notaries in disseminating legal knowledge in serving the public in the field of civil law is still carried out.¹⁹ Counseling through social media itself is a phenomenon that arises due to factors that allow this to happen, namely: 1). The location factor is outside the city; 2). Notary's busy schedule so that direct meetings are not possible; and 3). Other factors that limit physical social contact (e.g. pandemic).²⁰

In connection with the right to use social media, notaries must comply with ethics in using social media, generally such as: 1) using good and correct language and not using multi-interpretive phrases, so as not to cause a high risk of misunderstanding; 2) not creating/disseminating tribal, religious, racial, pornographic and violent acts; 3) not creating/disseminating *hoax* content; 4) not *plagiarizing* people's work; and 5) not disseminating personal information.

The ethics are certainly not excluded from actions related to the notary profession itself, one

¹⁶ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Cetakan-9, Jakarta, Rajawali Press, 2006, p. 115.

¹⁷ Konsep *E-notary* dimaknai sebagai notaris yang menjalankan tugas atau kewenangan jabatan dengan berbasis teknologi informasi yang berkaitan dengan tugas dan fungsi notaris, khususnya pembuatan akta

¹⁸ Pasal 15 ayat (2) UUJN angka 5 menyatakan bahwa notaris berwenang memberikan penyuluhan hukum sehubungan dengan pembuatan Akta. Akta yang dibuat melalui *E-Notary* harus memenuhi aspek keamanan, yaitu: aspek kerahasiaan (confidentiality), keutuhan (integrity), keaslian (authentication), dan Nir-penyangkalan (non-repudiation). Lihat di: Mulyadi, "Analisis Keamanan Akta Elektronik Pada Cyber Notary Sesuai UU Nomor 2 Tahun 2014 tentang Jabatan Notaris (UUJN)"

¹⁹ Ghansam, Anand, *Karakteristik Jabatan Notaris di Indonesia*, (Jakarta: Prenadamedia Grup, 2018), hlm. 108

²⁰ Muhammad Marlo Razzaq Irhanka Syarief Akrabi, dkk. *Pemanfaatan Sosial Media oleh Notaris Sebagai Sarana Pelaksanaan Penyuluhan Hukum*. Unes Law Review, Vol. 6, No. 2, Desember 2023, hlm. 4789-4801

of which is maintaining the confidentiality of each deed of agreement made by the parties. In the deed of agreement there are things that are confidential and may not be disseminated to third parties. If a notary *uploads* the deed of agreement on social media, then the things contained in the deed of agreement will be known by third parties. These things will certainly have an impact on the possibility of loss to one or the parties who made the deed of agreement. Losses can be in the form of material or immaterial. Such actions are certainly also contrary to the law and code of ethics in the office of notary.

The provision refers to Article 16 paragraph (1) number 1 letter f, which states that notaries are obliged to keep confidential everything regarding the Deed they make and all information obtained for the purpose of making the Deed in accordance with their oath/pledge of office, unless the law determines otherwise. This obligation requires the notary to uphold the *privacy* of the parties making the deed of agreement, including the contents of the deed. Although under his control, the deed of agreement may not be disseminated to third parties either directly or indirectly.

In addition, it is also emphasized in the code of ethics regulations, including:²¹ a). Notary personality ethics, as a public official and as a professional; b). Professional ethics of job duties; c). Ethics of service to clients; d). Ethics of relationships among fellow Notaries. So if referring to letter a, then the notary must always behave professionally, not only as a public official but also as a professional in his daily life. The act of disseminating through social media is a violation of the code of ethics for notaries even though it is done without any tendency and does not harm the parties.

A notary in his position has obligations contained in article 3 of the Notary code of ethics, including:²²

1. Having good morals, morals and personality because Notary exercises part of the State's power in the field of private law, is a position of trust and an honorable position;
2. Respect and uphold the dignity of the office of Notary;
 - a. Notaries must realize that their own behavior can affect the position they hold;
 - b. Honor is an integral part of the association;
3. Act honestly, independently, impartially, with a sense of responsibility based on legislation and the contents of the Notary oath of office.
 - a. Be honest with yourself, with clients and with the profession;
 - b. Independent in the sense that it can organize its own office, does not depend on other people or parties and does not use the services of other parties that interfere with its independence;
 - c. Impartiality means not favoring one party and always acting for truth and justice;
 - d. Full sense of responsibility in the sense of always being able to account for all his actions, deeds made and responsible for the trust he carries.

Thus, professional activists should be supported by professional ethics and a sense of responsibility in carrying out their profession. So that professional responsibility and ethics can be more defined as an obligation to carry out the work of the profession, based on law and based on morals so that every giver of trust to him always appreciates and respects him as a responsible professional.²³ If a sense of responsibility and adherence to professional ethics is always on the shoulders of professional servants, then there will be integrity and morals. Integrity and morals are

²¹ Abdulkadir Muhammad, *Etika Profesi Hukum*, Bandung, Citra Aditya Bakti, 2004, hlm.32.

²² Pasal 3 Kode Etik Notaris, Ikatan Notaris Indonesia

²³ Ignatius Ridwan Widyadharma, *Hukum Profesi Tentang Profesi Hukum*, Semarang, CV. Wahyu Pratama, 1991, hlm. 61.

the main milestones or pillars in upholding and strengthening in terms of professional responsibility and ethics, because without integrity and morals, the matter of professional responsibility and ethics will fade in the mechanism of his life.²⁴

A profession, especially in the position of notary where the position of trust is given directly by law, for this reason a notary is responsible for carrying out the trust given to him by always upholding legal ethics and the dignity and nobility of his position, because if this is ignored by a notary, it can cause harm to the general public.²⁵

Notaries who are proven to have committed unlawful acts or violated the code of ethics in carrying out their profession must be held accountable for their actions. In imposing sanctions on Notary, there are several conditions that must be met, namely fulfilling the formulation of the act prohibited by law, the loss caused by the act and the act must be against the law, both formal and material. Formal in the sense that it fulfills the formulation in the law, materially fulfills the test with the code of ethics and the notary office law.²⁶

Notary responsibility for the dissemination of the deed of agreement on social media in addition to ethical liability, can also be civil and criminal liability. Ethical accountability is carried out through organizational mechanisms and the sanctions are administrative, such as reprimands and or other sanctions, the heaviest sanction is dishonorable dismissal.

In contrast to criminal responsibility, a notary who disseminates a deed of agreement on social media can be subject to criminal sanctions if the act committed meets the formulation of the provisions of the offense, which is defamation, for example. It is related to criminal responsibility as a mechanism in determining whether a person can be held accountable for a criminal act that occurs or not. Criminal responsibility contains the principle of monodualistic balance that the principle of guilt based on the value of justice must be aligned with the principle of legality based on the value of certainty. To be able to punish the perpetrator, criminal law requires elements that have been determined in the law. The subjective element relates to the intention or inner attitude of the perpetrator when committing a criminal offense which is based on the element of guilt. The fault consists of two types, namely intent (*opzet*)²⁷ and negligence (*culpa*).²⁸ Criminal liability is imposed if there is no reason for the elimination of criminal²⁹ or the elimination of the unlawful

²⁴ *Ibid*

²⁵ Pratiwi Ayuningtyas, "Sanksi Terhadap Notaris Dalam Melanggar Kode Etik", *Repertorium Jurnal Ilmiah Kenotariatan Vol.9 No.2 November 2020, Issn No. 2086-809x, Fakultas Hukum Universitas Sriwijaya, Hlm. 95-104*

²⁶ *Ibid*

²⁷ Willfulness (*opzet*) In accordance with Indonesian criminal law theory, willfulness consists of three types, namely as follows: 1. Intentionality in the nature of purpose, meaning that an act is carried out so that one's purpose is achieved. 2. Intentionality as certainty, meaning that the perpetrator knows with certainty that his actions will lead to prohibited or harmful consequences, and he still continues his actions. In this context, the element of the perpetrator's intention is considered very clear, because he is aware of these consequences but still chooses to do it. 3. Intentionality by way of foreknowledge means the shadow of a certainty that a result will occur that is blatantly irrelevant.

²⁸ The act of negligence (*culpa*) is a mistake without intention that causes a criminal offense. The offense of culpa contains two types, namely offenses of negligence that cause consequences and those that do not cause consequences, but what is threatened with punishment is the act of negligence itself. The elements that must be present in the offense of negligence are First, the act is committed without intent (*dolus*), meaning that the perpetrator does not intend to cause adverse consequences. Second, the perpetrator lacks due care, failing to carry out the obligation to act with reasonable care in a particular situation. Third, there is a legal obligation to act with reasonable care, and the perpetrator breached this obligation. Fourth, there must be a causal link between the perpetrator's negligence and the result that occurred. Finally, the negligence must have caused adverse consequences, whether physical, material or social. If these conditions are met, the perpetrator can be held criminally liable.

²⁹ These reasons include justification and excuse in criminal law theory.

nature of the crime committed. Thus, a notary is criminally liable if the act fulfills the elements of the offense and there is a relationship between the perpetrator and the act, either intentionally or negligently.³⁰

In the context of civil law, if it is related to the law on the office of notary, a notary absolutely has a legal obligation to maintain the confidentiality of documents and information received in the course of his duties unless there is a court order or law that requires the notary to disclose the information. (otherwise provided by law). The act of disseminating the deed of agreement on social media if it then causes harm to one or the parties contained in the deed of agreement, then it is an unlawful act as stipulated in Article 1365 of the Civil Code (KUH Perdata) which reads "every act that violates the law and brings harm to another person, obliges the person who causes the loss because of his fault to replace the loss".

However, a tort claim can be brought against a notary if the following elements are met:

- a. The existence of an action, meaning that there must be an active action performed.
- b. Contrary to the law, meaning that the act must be contrary to the rules that are bound to the profession. The act must be contrary to the law.³¹
- c. There is a loss,
- d. There is a causal link between the fault and the loss

Occurs when a notary performs actions that are contrary to legal obligations or codes of ethics such actions violate the rights of others or cause harm to certain parties if the notary violates these obligations it will have legal consequences including the possibility of civil compensation

The Role Of The Regional Supervisory Board On Notary Violations Related To The Dissemination Of Deeds Through Social Media

In carrying out their duties and positions, Notaries must comply with Law Number 2 of 2014 which is an amendment to Law Number 30 of 2004 concerning the Position of Notary (Stb. 1860:3) and Reglement op Het Notaris Ambt in Indonesia (Stb. 1830:3). Notaries are required to live up to the overall dignity of their position and skillfully carry out their profession which is always oriented towards the interests of society, the provisions of the Law, ethics, and public order. If these things as required by the code of ethics are upheld in every step of his daily life both as a person and a professional activist, then he will be found as a professional and with integrity.³²

A code of ethics is guidance, moral guidelines or decency for a particular profession or is a list of obligations in carrying out a profession that is compiled by members of the profession itself and binds them in practice. Thus the code of ethics of Notary is guidance, moral guidance or decency of Notary both as a person and a public official appointed by the government in order to provide services to the general public, especially in the field of deed making.³³

Notaries are required to have an attitude of independence, honesty, impartiality and a sense

³⁰ Hidayat, R., Suwadi, P., & Solikhah. (2024). *Loc.,Cit*

³¹ Based on the jurisprudence of the Supreme Court (HR Decision of January 31, 1919), unlawful acts include four things: 1). violating the law; 2) violating the subjective rights of others; 3) violating the legal obligations of the perpetrator; 4). violating the principles of decency, prudence, and moral norms prevailing in the social relations of society.

³² Supriadi, *Etika dan Tanggung Jawab Profesi Hukum di Indonesia*, Jakarta, Sinar Grafika, 2010, hlm. 108

³³ Liliana Tedjosaputro, *Etika Profesi Notaris Dalam Penegakan Hukum Pidana*, Bandung, BIGRAF Publishing, 1995, hlm. 29

of responsibility in carrying out their duties. Thus, the realization of the above attitude, the act of disseminating the deed of agreement on social media is an attitude that is considered to have no responsibility in carrying out the task. It is also an unprofessional and non-integrity behavior.

The act of a notary disseminating a deed of agreement, as previously described, is not only a violation of the Law, but also of the code of ethics that should be upheld as a professional. Therefore, law enforcement is not limited to criminal law proceedings or civil proceedings, but also through the enforcement of the code of ethics as a form of supervisory action carried out by the organization to maintain the spirit of the organization so that it is not damaged in front of the public.

Because logically, a notary knows and is aware of the provisions contained in the Law on the Position of Notary and/or the Notary Code of Ethics in carrying out his duties and obligations (legal fiction), considering that before being appointed, the Notary will go through several stages by attending seminars, training, and examinations. One of the exams passed is the professional code of ethics exam.³⁴ In such conditions, if the concept of culpa (negligence) contains the term there is reason to suspect or should have known, should have known, and should have known, then it is still included in the concept of culpa (negligence). This is because there is an act that is prohibited to do (for a reason), he suspects, knows, recognizes or realizes that it is something that is prohibited, therein lies the fault of the person or notary.

In order to supervise and implement the code of ethics, an honor council was formed to conduct examinations and make decisions on ethical violations.³⁵ Supervision is carried out by the Minister,³⁶ in its implementation a Supervisory Panel is formed.³⁷ The supervisory panel consists of elements of the government, notary organizations and experts/academics.³⁸ If there are no elements of government agencies in the region, membership in the Supervisory Panel is filled from other elements appointed by the Minister.³⁹

The Honor Council cooperates and coordinates with the Supervisory Assembly to make efforts to enforce the code of ethics.⁴⁰ The role of the Notary Supervisory Council is to supervise Notaries, so as not to deviate from their authority in carrying out their duties and not to exceed the limits of applicable legislation, as well as to implement examinations, supervise and impose sanctions. Then the role of the Notary Supervisory Assembly is so that all obligations and rights given to Notaries when carrying out their work duties which are distributed by applicable regulations, which are carried out according to the established path, not only legal events, but also on moral and ethical considerations in order to ensure legal certainty and legal protection for parties in need. The Supervisory Assembly consists of the Regional Supervisory Assembly, the Regional Supervisory Assembly; and the Central Supervisory Assembly.⁴¹

³⁴ Silvanus Vigo. Promosi Jabatan Notaris Melalui Media Instagram Sebagai Bentuk Pelanggaran Kode Etik Profesi Notaris. Jurnal Kertha Semaya, Vol. 9 No. 11 Tahun 2021. hlm 204

³⁵ Suhrawardi, Etika Profesi Hukum, Jakarta, Sinar Grafika, 2010, hlm. 35

³⁶ Pasal 67 ayat (1) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

³⁷ Pasal 67 ayat (2) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

³⁸ Pasal 67 ayat (3) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

³⁹ Pasal 67 ayat (4) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁴⁰ Pasal 1 huruf (d) Kode Etik Notaris Ikatan Notaris Indonesia

⁴¹ Pasal 68 Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

The Regional Supervisory Assembly established in the regency or city,⁴² its authority has been regulated, among others, in addition to several authorities, namely holding a hearing to examine alleged violations of the Notary Code of Ethics or violations of the implementation of the Notary position,⁴³ receiving reports from the public regarding alleged violations of the Notary Code of Ethics or violations of the provisions in the Notary Position Law,⁴⁴ and making and submitting reports to the Regional Supervisory Assembly.⁴⁵ Meanwhile, there are also obligations that must be carried out, including making minutes of examination and submitting them to the local Regional Supervisory Assembly, with copies to the Notary concerned, the Notary Organization, and the Central Supervisory Assembly,⁴⁶ and examining public reports against Notaries and submitting the results of the examination to the Regional Supervisory Assembly within 30 (thirty) days, with copies to the reporting party, the Notary concerned, the Central Supervisory Assembly, and the Notary Organization.⁴⁷

Next, there is also a Regional Supervisory Council that is based in the Provincial Capital.⁴⁸ Its authority is as follows:⁴⁹

- a. hold a hearing to examine and make decisions on public reports submitted through the Regional Supervisory Council;
- b. summon the reported Notary for examination of the report as referred to in letter a;
- c. grant leave permits for more than 6 (six) months to 1 (one) year;
- d. examine and decide on the decision of the Regional Supervisory Council that rejects the leave proposed by the reporting Notary;
- e. give sanctions in the form of verbal or written warnings;
- f. propose sanctions against Notary to the Central Supervisory Board in the form of:
 1. temporary suspension of 3 (three) months up to 6 (six) months; or
 2. dismissal with dishonor.
- g. make minutes of each decision to impose sanctions as referred to in letters e and f.

Finally, the Central Supervisory Council is based in the national capital.⁵⁰ The Central Supervisory Council is authorized:⁵¹

⁴² Pasal 69 ayat (1) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁴³ Pasal 70 huruf a Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁴⁴ Pasal 70 huruf g Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁴⁵ Pasal 70 huruf h Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁴⁶ Pasal 71 huruf b Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁴⁷ Pasal 71 huruf e Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁴⁸ Pasal 72 ayat (1) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁴⁹ Pasal 73 ayat (1) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁵⁰ Pasal 76 ayat (1) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

⁵¹ Pasal 77 Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris

- a. organize hearings to examine and make decisions on appeals against the imposition of sanctions and denial of leave;
- b. summon the reported Notary for examination as referred to in letter a;
- c. impose a sanction of temporary dismissal; and
- d. propose sanctions in the form of dishonorable dismissal to the Minister.

In connection with the examination of violations committed by notaries, the person concerned has the right to make legal efforts. If proven to have committed a violation, then the examination process against the alleged notary who committed the violation is carried out in accordance with the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2020 concerning Procedures for Examining the Supervisory Panel Against Notaries. In the event that a Notary is proven to have committed a violation of behavior and performance of office, the Panel of Supervisors may impose a decision in the form of: ⁵² a). oral warning; b). written warning; c). temporary dismissal; d). proposal to impose a respectful dismissal; or e). proposal to impose a dishonorable dismissal.

Decisions on the imposition of sanctions of verbal warnings and written warnings are final. While against the imposition of sanctions in the form of temporary dismissal, sanctions of respectful dismissal and sanctions of dishonorable dismissal, an appeal process can be carried out by the Violator to the Central Supervisory Panel submitted through the secretariat of the Regional Supervisory Panel. ⁵³

Thus, the Central Examining Tribunal is then authorized to examine and decide on: a). appeals against objections to decisions of the Regional Supervisory Tribunal; b). proposals for imposing sanctions by the Regional Supervisory Tribunal; or c). legal facts regarding violations of the conduct and implementation of the office of Notary. ⁵⁴ The decision of the Central Examining Tribunal may: uphold the decision of the Regional Supervisory Tribunal or change or cancel the decision of the Regional Supervisory Tribunal and issue its own decision. ⁵⁵

Thus, notaries who disseminate deeds on social media can be subject to ethical enforcement through the mechanism of the established Supervisory Panel. The ethical enforcement process must always prioritize the principle of presumption of innocence that is firmly held in law enforcement in Indonesia.

4. Conclusion and Suggestion

Based on the research conducted by researchers, the conclusions are obtained, namely: First; Notaries who disseminate deeds through social media can be held accountable both ethically, civilly and criminally. The liability is certainly based on the fulfillment of the elements of the act committed, whether the act meets the elements of a violation of the code of ethics, or meets the elements of the offense for criminal liability, and whether the act meets the elements of unlawful acts for civil liability. Second, the Notary Supervisory Council has a mechanism for enforcing ethics and imposing administrative sanctions. The sanctions are imposed if the notary who disseminated

⁵² Pasal 36 Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia Nomor 15 Tahun 2020 Tentang Tata Cara Pemeriksaan Majelis Pengawas Terhadap Notaris

⁵³ Pasal 28 ayat (1) Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia Nomor 15 Tahun 2020 Tentang Tata Cara Pemeriksaan Majelis Pengawas Terhadap Notaris

⁵⁴ Pasal 31 Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia Nomor 15 Tahun 2020 Tentang Tata Cara Pemeriksaan Majelis Pengawas Terhadap Notaris

⁵⁵ Pasal 32 ayat (1) Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia Nomor 15 Tahun 2020 Tentang Tata Cara Pemeriksaan Majelis Pengawas Terhadap Notaris

the deed on social media is proven to have violated the code of ethics based on the Supervisory Panel's examination. Ethical sanctions can be in the form of: a). verbal warning; b). written warning; c). temporary dismissal; d). proposal for honorable dismissal; or e). proposal for dishonorable dismissal. In the process of examining a notary who commits an ethical violation, the principle of presumption of innocence must be put forward until the decision of the Supervisory Panel states that the person concerned is proven guilty.

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