

Legal Effort Undertaken by Notaries in Restoring Their Good Name from Sanctions Imposed by The Notaries Supervisory Council

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Abstract. *As a public official in the preparation of authentic deeds, a notary public has a role in ensuring certainty, order, and legal protection in the preparation of deeds as regulated in the Notary Public Law and other laws and regulations. However, in carrying out their duties, a notary public is under the supervision of the Notary Supervisory Board. If proven to have violated statutory provisions or the code of ethics, they will be subject to sanctions such as verbal warnings, written warnings, temporary dismissal, or dishonorable dismissal. This study aims to analyze the forms of legal efforts that a notary can take to restore his good name, as well as to examine the effectiveness of these recovery mechanisms within the framework of legal protection for notaries. This research uses a normative juridical approach with a case study approach and analysis of applicable laws and regulations, particularly the Notary Law and its implementation. Data obtained using literature studies obtained from secondary data on legal literature, court decisions, and documents related to the preparation of this scientific work, and the analysis in this study is perspective. The results of the study indicate that legal remedies that can be taken include administrative objections, appeals to the Notary Honorary Council, and lawsuits to the State Administrative Court. However, there are still challenges in its implementation, such as a lack of transparency and accountability in the supervisory process and the less than optimal restoration of good name both formally and socially. Therefore, it is necessary to strengthen regulations and legal protection mechanisms that are more in favor of the principles of justice and the human rights of Notaries as citizens.*

Keywords: Notary; Notary Supervisory Board; Reputation Restoration.

1. Introduction

In ensuring legal certainty, a notary public has the function of creating authentic deeds, which are required as written evidence and serve as strong evidence in a contract. All deeds created by a notary are concrete and cannot be contested because they are legally binding. Therefore, caution is essential when creating a deed. When meeting with a notary, they are required to be meticulous and thorough to avoid future legal consequences. In carrying out their duties, a notary public is required to possess the following qualities:

- a. Trustworthy, namely being trustworthy and keeping all customer deeds and documents confidential
- b. Honest, speak truthfully and do not exaggerate the facts in providing information to customers
- c. Carefully, Be careful and precise, as this is crucial in drafting a deed to avoid multiple interpretations. Ensure that diction and sentences are used appropriately.
- d. Independent, namely not being intervened by any party and not liking to ask other notaries
- e. Not siding with anyone,, which means not being subject to interference from any party and not asking other notaries. A notary must not be biased toward one party, as a public official who must be neutral. Therefore, a notary must not handle cases involving family members, as this could lead to bias and a tendency to favor the family.
- f. Maintaining the interests of each party, that is, whatever data and interests the party entrusts to the notary, a professional must safeguard the interests of his client and ensure that these interests are handled and safeguarded properly and correctly.

If an error occurs while carrying out a duty, the Notary Supervisory Board (MPN) will impose sanctions in the form of a verbal warning, written warning, temporary dismissal, honorable dismissal, or dishonorable dismissal.

If a notary in carrying out his duties makes a mistake that results in a loss to someone, then that person can take legal action such as:

- a. Report to the regional supervisory board for review and the trial was held
- b. Reported criminally
- c. Taking the path of family deliberation

In this regard, the Supervisory Council (MPN) plays a significant role in overseeing the Notary's position. Article 1, paragraph 6 of the Notary Law states that the MPN is a body authorized and obligated to supervise and guide notaries. It serves not only as a supervisory body but also as an auditing body to determine whether the matters reported by the public actually occurred. Because notaries are essentially honorable public officials, this mandate prevents the public from arbitrarily

reporting matters that should not be the notary's fault. Professionals are required to uphold their profession with full responsibility.¹The purpose of establishing a notary supervisory board is as a form of optimization in terms of supervision and guidance of notaries so that there are no more violations committed by notaries as public officials, at least these violations are reduced from year to year.

The Notary Supervisory Board (MPN) is not only tasked with overseeing the notary's operations, but the Honorary Council also has the authority to supervise notaries. Essentially, the Honorary Council is a complementary body authorized to investigate all internal code of ethics violations or those not directly related to the public interest and to impose sanctions for violations within its authority.²The existence of the Honorary Council itself aims to ensure that if a notary is given a sanction for violating the code of ethics, he can file a defense by filing a tiered appeal to the Regional Honorary Council (at the first level), the Regional Honorary Council (at the appeal level), and the Central Honorary Council as a final level examination. The duties of the Honorary Council include providing guidance, guidance, supervision, improvement, examining and making decisions on alleged violations of the internal code of ethics provisions and providing advice and opinions to the Supervisory Board on alleged violations of the code of ethics and the Notary Position. However, there are several notaries who have not been legally and convincingly proven guilty according to law and regulations but have been given recommendations for sanctions by the Notary Supervisory Board.

As Notary MI, SH, Sp.N. did, he received a sanction of being dishonorably dismissed by the Ministry of Law and Human Rights based on decree number: AHU.55.AH.02.04 of 2019 on the proposal of the Central Supervisory Board. For this reason, he filed a legal action to the State Administrative Court (PTUN) to demand that the object of the lawsuit be deleted and canceled to the level of the Judicial Review decision with case number: 235 / G / 2019 / PTUN.JKT Juncto Number: 245 / B / 2020 / PT.TUN.JKT Juncto Number: 294 K / TUN / 2021 Juncto Number: 200 PK / TUN / 2022 on November 29, 2019. What Notary MI SH, Sp.N. did, he received a sanction of being dishonorably dismissed by the Ministry of Law and Human Rights based on decree number: AHU.55.AH.02.04 of 2019 on the proposal of the Central Supervisory Board. For this reason, he filed a legal action to the State Administrative Court (PTUN) to demand that the object of the lawsuit be deleted and canceled up to the level of the Judicial Review decision with case number: 235/G/2019/PTUN.JKT Juncto Number: 245/B/2020/PT.TUN.JKT Juncto

¹E.Y. Kanter, (2001), *Etika Profesi Hukum Sebuah Pendekatan Religius*, Jakarta : Stora Grafika, p. 12.

²Yuniati Sri & Wahyuningsih Endah S, (2017), *Mekanisme Pemberian Sanksi Terhadap Notaris Yang Melakukan Pelanggaran Kode Etik Jabatan Notaris*, Jurnal Akta. Vol.4. No.4, p.857, <https://jurnal.unissula.ac.id/index.php/akta/article/view/2501>, accessed on 20 November 2024, at 21.00 WIB.

Number: 294 K/TUN/2021 Juncto Number: 200 PK/TUN/2022 on November 29, 2019.

Therefore, the Notary Supervisory Board has the right to restore the good name of the notary and declare him free from all legal charges or applicable fines if he has been proven innocent. In order to create justice for Notaries who are proven innocent but suffer losses due to recommendations issued by the MPN, it is deemed necessary to have regulations regarding the procedures for restoring the good name and rights of Notaries on recommendations for sanctions from the MPN, so that the dignity and honor of a Notary returns to its original state. For this reason, the author wants to raise the problem in the form of a thesis entitled: "Legal Efforts Carried Out by Notaries in Restoring Their Good Names for Sanctions Imposed by the Notary Supervisory Board".

2. Research Methods

This research approach uses a normative legal research method. Normative legal research is an approach carried out based on concepts, legal principles, and laws and regulations related to this research. This research uses secondary data sources, where data is obtained using regulations and books related to this research. The data collection method obtained from this research uses library techniques, namely collecting data by reviewing literature or secondary data, which includes primary legal materials, secondary legal materials, and tertiary legal materials.

3. Results and Discussion

3.1. Efforts to Restore Good Name Against Supervisory Board Sanctions Notary After Court Decision

Law No. 30 of 2004 concerning the Position of Notary, as amended by Law No. 2 of 2014, states that a Notary is a public official authorized to issue authentic deeds and exercise other authority as referred to in this Law. All activities carried out by a Notary are supervised by the Notary Supervisory Board. The Notary Supervisory Board is crucial in enforcing the code of ethics.³The MPN is useful for supervising, examining and imposing sanctions on notaries who violate the notary professional code of ethics.⁴All deeds executed by a notary are concrete and irrevocable evidence, as they are legally valid. Therefore, careful attention must be paid to the drafting of such deeds. When meeting with a notary, a notary must be meticulous and thorough in drafting an authentic deed to avoid future legal consequences.⁵

³Santiaji, D, (2020), Peran Majelis Pengawas Terhadap Ketaatan Notaris Dalam Upaya Penegakan Kode Etik. *Aktualita*, Vol.3, (No.1). accessed on 18 May 2025, at 17.00 WIB.

⁴Habib Adjie, (2011), *Majelis Pengawas Notaris Sebagai Pejabat Tata Usaha Negara*, Bandung : PT. Refika Aditama, p.3.

⁵I Gusti Ketut Ariawan, Idan Bagus Paramaningrat Manuba, I wayan Parsa, (2008), "Prinsip kehati-hatian Notaris dalam Membuat Akta", *Acta Comitatus*, p. 62,

The authority of a Notary has been regulated in the Notary Law Number 2 of 2014. And if this authority is violated, there will be sanctions regulated in Article 16 of the Notary Law Number 2 of 2014. These sanctions can be;

- a. A written warning, explanation of the matter, and recommendations for improvement are provided. The goal is to encourage the notary to be more careful and comply with applicable regulations.
- b. Temporary suspension, This sanction is imposed if a notary commits a serious violation. Temporary suspension is carried out based on the Code of Ethics and Law Number 2 of 2014 concerning the Position of Notary. This sanction is imposed if the notary abuses their authority, commits a flagrant violation of the code of ethics, or engages in illegal or criminal practices. The duration of this suspension varies and is uncertain.
- c. Honorable discharge, An honorable dismissal granted by the Notary Supervisory Board is an administrative step taken to officially terminate a notary's office, usually taking into account ethics and compliance with applicable regulations. Reasons for an honorable dismissal can include a request from the notary for personal, health, or retirement reasons, or a decision by the board if the notary is unable to perform their duties effectively without serious violations.
- d. Dishonorable discharge, A dishonorable discharge issued by the Notary Supervisory Board is an administrative sanction imposed on a notary for serious violations of the code of ethics, laws and regulations, or for actions that harm other parties. These violations can include violations of the notary's code of ethics, abuse of authority in carrying out duties, involvement in corrupt practices or criminal acts, and inability to carry out notarial duties professionally.

In the case of dismissal of a Notary, which is the authority of the Minister of Law and Human Rights for various reasons, namely because they have completed their duties or because they were dismissed by the Minister upon the recommendation of the Central Supervisory Board (MPP). Notaries whose term of office has expired will receive a letter of honorable dismissal due to their retirement status obtained from the Minister of Law and Human Rights. However, if a Notary commits an Action that violates professional ethics, they are entitled to be dishonorably dismissed. The criteria for dishonorable dismissal are regulated in Article 12 of the Notary Law Number 2 of 2014.

The sanctions imposed by the Notary Supervisory Board are not without reason, but rather have received reports that there are allegations of Notaries violating the rules or their positions. Therefore, the Regional Notary Supervisory Board has the authority to summon the notary in question for questioning based on Article 66 of

<https://media.neliti.com/media/publications/241261-prinsip-kehati-hatian-notaris-dalam-memb-38db8cdc.pdf> , accessed on 12 November 2024, at 19.00 WIB

the Notary Public Law. The provisions of this article are absolute and are not owned by the Regional Supervisory Board and the Central Supervisory Board. If there is a criminal case for investigation, then law enforcement officers must request approval from the Regional Supervisory Board to summon the Notary involved because without permission from the Regional Supervisory Board, an investigator, public prosecutor and judge cannot summon or request a Notary in a case.⁶ Then, if the allegation is proven to be true, the report will be escalated to the Regional Supervisory Board in accordance with its authority in Article 73 paragraph 1 of the Notary Public Law Number 2 of 2014. After the examination by the Regional Supervisory Board, a decision will be made which will be issued by the Regional Supervisory Board, which can be in the form of:

- a. There is no violation for which this case will be dismissed or;
- b. There are minor or moderate violations for which the Regional Supervisory Council will issue sanctions in the form of warnings, reprimands, or coaching or;
- c. There are serious violations which will be forwarded to the Central Supervisory Board.

The Central Supervisory Board has the authority regarding serious violations, because the authority of the Central Supervisory Board is regulated in Article 73 letter F of the Notary Public Law in the form of the Central Supervisory Board can issue a letter regarding temporary dismissal of 3 (three) to 6 (six) months or dishonorable dismissal. If this leads to a crime, the Central Supervisory Board issues a permit for an examination of the Notary concerned to be investigated by authorized law enforcement officers. For the imposition of sanctions given by the Central Supervisory Board in the form of dishonorable dismissal, the Notary can accept the dishonorable dismissal sanction by submitting all protocols to another Notary who is entitled to receive the protocol. or even a Notary who is dishonorably dismissed has the right to file a legal action with the High State Administrative Court (PTUN).

The State Administrative Court (PTUN) is an administrative institution that resolves disputes related to state administration or government administration. If the public feels their rights have been violated by a State Administrative dispute, they can file a lawsuit through the State Administrative Court (PTUN), as its duty is to ensure compliance with the law in government actions and decisions.⁷

by submitting a written lawsuit to the State Administrative Court (TUN) which states that the lawsuit directed at him must be declared null and void or invalid

⁶Habib Adjie 1, "Majelis Pengawas Notaris Sebagai Pejabat Tata Usaha Negara", p. 7

⁷ Difa Ayu Oktarina, (2023), *Mengenal Lebih Dekat Tentang PTUN (Pengadilan Tata Usaha Negara)*, <http://jdih.baritoutarakab.go.id/berita/baca/mengenal-lebih-dekat-tentang-ptun-pengadilan-tata-usaha-negara>, accessed on 16 May, at 19.24 WIB

with or without compensation.⁸This legal remedy is open and can be pursued by a notary. With this remedy, the notary has the right to speak and argue the reasons for his dishonorable dismissal from his perspective, accompanied by supporting evidence and a decree declaring his dishonorable dismissal from the Ministry of Law and Human Rights. The State Administrative Court will then issue a decision. The decision will consist of:⁹

- Lawsuit Rejected
- Lawsuit Granted
- Lawsuit Not Accepted
- Lawsuit Dismissed

If the lawsuit is granted, the court decision can determine the obligations that can be carried out by the State Administrative body or official who issued the decision.

If the Notary is not proven guilty by the State Administrative Court, then the Ministry of Law and Human Rights is obliged to revoke the letter of Decision of dishonorable dismissal to the Notary concerned and restore his good name by allowing the Notary to carry out his duties and position as a Notary. However, if in the review by the judge it has been found that the Notary fulfills the elements of error and elements of a criminal act, namely the existence of elements of intent, negligence, or the absence of excuses and justifications, and the act is against the law that complies with the Law, then the proposal of the Central Supervisory Board to the Minister of Law and Human Rights remains valid and ends with the issuance of a Decree to dishonorably dismiss the Notary and dismiss the Notary from membership in the organization or his position.

In this regard, it is necessary to underline that the Minister of Law and Human Rights as a State Administrative Official who has issued a decision to dishonorably dismiss a notary is the object of a dispute that can be submitted to the Administrative Court by the party receiving the decision, namely the Notary.

Cases of violations committed by Notaries often occur in Indonesia, one of which is in the City of Tangerang, Banten, namely MI, SH, Sp.N as a Notary in the city became one of the Notaries who was dishonorably dismissed by the Minister of Law and Human Rights based on Decree Number: AHU. 55.AH.02.04 of 2019. Feeling that he was harmed by the Minister of Law and Human Rights, the Notary sued the Minister of Law and Human Rights to the State Administrative Court until he conducted a Judicial Review through the Supreme Court with Decision Number: 235 / G / 2019 / PTUN.JKT Juncto Number: 245 / B / 2020 / PT.TUN.JKT Juncto Number: 294 K / TUN / 2021 Juncto Number: 200 PK / TUN / 2022 on November 29, 2019 so that the object of the lawsuit was canceled. Even though the cassation

⁸Habib Adjie 1, *"Keadilan Bagi Notaris, Upaya Hukum Notaris yang Diberhentikan secara Tidak Hormat"*, p.4.

⁹ *Op.cit*

of the decision was granted by the High State Administrative Court, there was no response from the Ministry of Law and Human Rights, until the Ministry of Law and Human Rights submitted a final effort, namely a Judicial Review and in the final decision, the request of the Ministry of Law and Human Rights was granted and Notary MI, SH, Sp.N was declared guilty and sentenced to dishonorable dismissal by the Ministry of Law and Human Rights.

3.2. Legal Protection Against Sanctions from the Notary Supervisory Board After There is a Court Decision

Everything related to Notaries has been regulated in the Notary Public Law Number 2 of 2014 regarding the amendment to the Notary Public Law Number 30 of 2004, and is also regulated in the Notary's professional code of ethics and other statutory regulations. The Notary profession is under the supervision of the Notary Supervisory Board (MPN). In the supervision of Notaries, it is divided into three levels, namely, the Regional Supervisory Board (MPD), the Regional Supervisory Board (MPW), and the Central Notary Supervisory Board (MPP). Each has its own duties and authorities that have been regulated in the Notary Public Law Number 2 of 2014 regarding the amendment to the Notary Public Law Number 30 of 2004. The need for supervision of Notaries aims to:¹⁰

1. So that there is no misuse of the notary profession
2. Protecting the interests of the community who use notary services
3. Ensure that notaries carry out their duties in accordance with professional ethics and applicable laws.
4. Enforcing discipline on Notaries

The legal protection that a Notary can take if they receive sanctions is:

a. Preventive Efforts : Preventive measures are measures taken to prevent disruption, damage, or loss to someone. Therefore, preventive measures are actions taken before something occurs. This is done because the event could be detrimental. Notary publics are a profession protected by the Notary Honorary Council (MKN). Therefore, preventive measures are in place to protect the honor of notaries. These measures include:

- Self-defense: Article 28 D paragraph 1 State Constitution of 1945, Article 28 E paragraph 3 State Constitution of 1945, Article 74 paragraph 2 of Law Number 2 of 2014 concerning the Position of Notary Public, Article 66 paragraph 1 of Law Number 2 of 2014 concerning the Position of Notary Public
- Legal Assistance: Article 54 Criminal Procedure Code (KUHP), Articles 1, 2 and 3 of Law Number 18 of 2003 concerning Advocates

¹⁰Hayati, (2018), Pelanggaran Kode Etik Notaris Terkait Persaingan Tidak Sehat Sesama Rekan Notaris Ditinjau Dari Peraturan Kode Etik Ikatan, <https://www.neliti.com/id/publications/276835/pelanggaran-kode-etik-notaris-terkait-persaingan-tidak-sehat-sesama-rekan-notari>, accessed on 20 July 2025, at 08.00 WIB

- Re-examination: Article 75 letter b of the Notary Law Number 2 of 2014, Minister of Law and Human Rights Regulation Number 15 of 2020, Article 10 of the Notary Code of Ethics concerning examination and imposition of sanctions at the appeal level, Article 10 Paragraph 7

b. Repressive efforts, namely A form of social control implemented after a violation has occurred, whether it be a violation of regulations or social deviation. Repression here is not intended to prevent the violation, but rather to address the impact or consequence of the violation. Repressive action aims to restore the situation to its original state and prevent similar violations from occurring in the future.

In this case, repression can occur in the Notary profession if the Decision of the Supervisory Board cannot be changed for the same reason and there is no new evidence submitted by the Notary or the application is submitted not in accordance with procedures, then the decision of the Notary Supervisory Board is final and will then be escalated to the Ministry of Law and Human Rights.

If the Ministry of Law and Human Rights has determined a sanction, namely dishonorable dismissal, the Notary has the right to file an appeal to the State Administrative Court, this is based on:

1. Article 75 paragraphs 1, 2, and 3 of Government Law Number 30 of 2014
2. Article 76 Government Law Number 30 of 2014 Government Law Number
3. 30 of 2014
4. Article 67 Criminal Procedure Code (KUHP)
5. Article 68 Criminal Procedure Code (KUHP)

The above article indicates that a Notary still has legal remedies to restore his/her good name due to the decision he/she received from the Minister of Law and Human Rights. A Notary also has the right to file a lawsuit with the State Administrative Court at the appellate level, up to a judicial review at the Supreme Court. If the Notary's lawsuit is rejected at the appellate level, the Notary has the right to file a lawsuit with the previous decision and new evidence to support his/her charges. If the lawsuit is accepted by the High State Administrative Court, the Ministry of Law and Human Rights is obliged to cancel the sanction by deleting the Decision stating that the Notary was dishonorably dismissed, and the Notary has the right to obtain the restoration of his/her good name, rights, and reputation, and is entitled to requesting rehabilitation in the form of material and immaterial compensation.

Several notaries have been negligent in their profession and have been sanctioned by the Notary Supervisory Board. Some accepted these sanctions, but others have filed legal remedies, including appeals. Notary Muhammad Irsah, SH, Sp.N., is one

such notary who fought for his reputation after being dishonorably discharged by the Ministry of Law and Human Rights. He took legal action up to the Judicial Review level against the Minister of Law and Human Rights. Although ultimately rejected by the Supreme Court, the notary has at least fought and pursued legal remedies to restore his reputation.

4. Conclusion

If a Notary in carrying out his/her duties receives a sanction in the form of dishonorable dismissal based on the Decree of the Minister of Law and Human Rights upon the recommendation of the Central Supervisory Board, then there are only two options: to accept and submit all of his/her protocols to the next Notary or to take legal action to restore his/her good name for the decision that he/she feels has harmed him/her by the Minister of Law and Human Rights. If the Notary takes legal action, it can be through the State Administrative Court. The same thing happened to Notary MI, SH, Sp.N. who received a sanction in the form of dishonorable dismissal. For that reason, he/she took legal action by filing a lawsuit with the State Administrative Court and the Supreme Court. Therefore, notaries need to apply the principle of prudence in carrying out their profession, being more thorough and precise to avoid legal problems in the future. Furthermore, it is important for the public to be more cautious in entrusting notaries. Furthermore, it is crucial for law enforcement to review the laws and regulations for the protection of notaries so that the restoration of their good name can be immediately followed up if the notary is not proven guilty.

5. References

Journals:

- Ariawan I Gusti, Manuaba Ida, Parsa I Wayan, (2018). "Prinsip Kehati-hatian Notaris dalam Membuat Akta Autentik", *Acta Comitatus*, accessed on 12 November 2024, at 16.00 WIB.
- Hayati, (2018), Pelanggaran Kode Etik Notaris Terkait Persaingan Tidak Sehat Sesama Rekan Notaris Ditinjau Dari Peraturan Kode Etik Ikatan 108 Notaris Indonesia (I.N.I), *Mimbar Pendidikan Hukum*, Vol.3, (No.1), accessed on 20 November 2024, at 21.00 WIB.
- Santiaji, D, (2020), Peran Majelis Pengawas Terhadap Ketaatan Notaris Dalam Upaya Penegakan Kode Etik. *Aktualita*, Vol.3,(No.1). accessed on 18 May 2025, Pkl 17.00 WIB.
- Yuniati Sri & Wahyuningsih Endah S, (2017), Mekanisme Pemberian Sanksi Terhadap Notaris Yang Melakukan Pelanggaran Kode Etik Jabatan Notaris, *Jurnal Akta*. Vol.4. No.4,

Books:

- E.Y. Kanter, (2001), *Etika Profesi Hukum Sebuah Pendekatan Religius*, Jakarta :
Storia Grafika,
Habib Adjie, *“Keadilan Bagi Notaris, Upaya Hukum Notaris yang Diberhentikan
secara Tidak Hormat”*,
-----, (2011), *Majelis Pengawas Notaris Sebagai Pejabat Tata Usaha
Negara*, Bandung : PT. Refika Aditama