

The Juridical Review of the Consequences of Online & Offline Promotion of Notary Position Conducted by A Notary based on The Notary's Ethics Code

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Abstract.

This study aims to determine the consequences borne by notaries on notaries who promote positions online and offline based on the notary's code of ethics. The research method used is a normative juridical approach, (library research), which is a research approach that uses the main law, as well as reviewing several theoretical matters related to legal principles, legal doctrines, regulations and legal systems related to research. What is being discussed using secondary data includes principles, rules, norms, and legal rules contained in laws and regulations and other regulations. The result of this study is that violations of the code of ethics committed by notaries will provide consequences regulated in the notary code of ethics in the form of reprimands, warnings, temporary dismissals, respectful dismissals, and disrespectful dismissals decided by the Notary Honor Council established by the Indonesian Notary Association (INI).

Keywords: Code; Ethics; Notary; Promotion.

1. Introduction

Indonesia is a country that has large and promising property developments and business opportunities due to rapid developments every year.¹This development was accompanied by high public demand for property and there were supporting government regulations so that this could happen.² The rapid development of technology in Indonesia has become one of the factors in property development and business opportunities in Indonesia. Then the development of technology that is growing rapidly makes it easy for people to access all the information on the internet. With the relatively high public demand for property and business

¹Hidayat, R. W. (2014). Peluang Dan Tantangan Investasi Properti Di Indonesia. *Jurnal Mahasiswa Universitas Negeri Surabaya*, 2.

²Ibid

opportunities in Indonesia, the notary profession is an important profession and has a great chance to be sought after by the public.

Notary based on Act No. 30 of 2004 Article 1 point 1 is a public official authorized to make authentic deeds and other authorities as referred to in this Law. So based on these regulations a code of ethics is needed that regulates the limitations contained in the Notary profession

The position of a notary can be categorized as a public official. A public official is someone who is appointed and dismissed by the Government and is given the authority and obligation to serve the public in certain matters and to exercise a power that originates from the authority of the Government. In this position, it can be concluded that the position of a notary is a trait and characteristic that distinguishes it from other positions in society.³

Notaries as public officials in carrying out their duties have limitations as stipulated in the notary's code of ethics. The notary's code of ethics is a regulation that regulates limitations regarding the nature, will, opinion, or actions that can be concluded to be right or wrong and good or bad. In carrying out his work, a Notary also has a code of ethics that needs to be implemented while still holding office as a notary and must comply with the Law on Notary Position (UUJN).⁴ The notary's code of ethics functions to maintain the dignity of the notary profession and control the behavior of notaries in order to minimize abuse of authority possessed by the profession.⁵ In addition to the code of ethics, there are also prohibitions that make Notaries have to be more careful in carrying out their duties to serve the community.

A Notary is required to be independent, honest, and have a sense of responsibility in carrying out his work and be oriented to the interests of society, statutory provisions, ethics, and have good Indonesian speech so that a Notary must have a sense of professionalism and have good moral integrity.⁶ In addition, a notary is required to carry out his profession selflessly and especially for clients who cannot afford it, professional services in prioritizing the interests of clients who still refer to the interests or noble values as a critique norm that motivates attitudes and actions and has a spirit of solidarity with fellow colleagues in the

³Sugiharsiwi, P, (2016), *Masalah Hukum Penggunaan Media Elektronik Sebagai Sarana Promosi Jabatan Notaris Berdasarkan Undang-Undang Nomor 2 Tahun 2014 Tentang Jabatan Notaris dan Kode Etik Notaris*, Thesis, UNNISULA Repository, <http://repository.unissula.ac.id/7007/>, accessed on 03 December 2022

⁴Njoto, M. (2019). Sanksi Bagi Notaris Yang Mempromosikan Jabatannya Pada Sosial Media. *Jurnal Panorama Hukum*, 32.

⁵Tanya, Y. A. (2014). *Moralitas Hukum*. Yogyakarta: Genta Publisihing, p. 104.

⁶Supriadi. (2010). *Etika dan Tanggung Jawab Profesi di Indonesia*. Jakarta: Sinar Grafika.p. 108

profession so that in carrying out their profession they can guarantee the quality and quality improvement of notary positions.⁷

With advances in technology, there is easy access for Notaries, such as registering Limited Liability Companies (PT), Firms, *Commanditaire Venootschaap* (CV) which are all online through the Ministry of Law and Human Rights' online registration system called the Business Entity Administration System (SABU).⁸Because of this, the Notary's work becomes easier and more flexible in managing his administration.

Apart from the Notary's work in registering PT, CV, and Firms. The ease of accessing technology can be felt by the general public equally, especially in the position of a Notary who can take advantage of technological advances to promote himself through social media and create online applications on behalf of the Notary.⁹This is clearly not in accordance with the attitude of independence and honesty possessed by a Notary because it includes things that are prohibited by the code of ethics for the position of a Notary so that it is considered unethical to be carried out by a Notary.¹⁰

2. Research Methods

The method used in this study is a normative juridical approach, (library research), which is a research approach that uses the main law, as well as reviews several theoretical matters relating to legal principles, legal doctrine, regulations and the legal system related to research. What is being discussed using secondary data includes principles, rules, norms, and legal rules contained in laws and regulations and other regulations.¹¹

3. Result and Discussion

Notary profession as a public official is an official who is given trust and responsibility and is fully guided not only to legislation but to the notary code of ethics because without a code of ethics the dignity of the notary profession will

⁷Adi Prasetyo, G. (2017). Kewajiban Notaris Dalam Menjalankan Prinsip Tata Kelola Kantor Notaris Yang Baik dan Profesional (Good Corporate Public Notary) Menurut UU Nomor 30 Tahun 2004 Juncto UU Nomor 2 Tahun 2014 Tentang Jabatan Notaris. *Jurnal Akta UNNISULA*, p. 441

⁸Imanda, N. (2020). Perspektif Kode Etik Jabatan Notaris Terhadap Publikasi Dan Promosi Jabatan Notaris Melalui Aplikasi Android. *Jurnal Hukum Lembung Mangkurat*, 2

⁹Ibid. p.3

¹⁰Op Cit, Supriadi, p. 109

¹¹Muhammad, A. (2004), *Hukum dan Penelitian Hukum*, Bandung: Citra Aditya Bakti, p.134

be lost.¹² Notary profession is one of the professions whose work arrangements are regulated by law. Arrangements for notary work have been regulated in Act No. 30 of 2004 concerning the Position of Notary and Notary Code of Ethics without exception according to Article 2 of the notary code of ethics, it is explained that this code of ethics applies to all members of the notary profession and both in the exercise of office and in life.

According to Abdulkadir Muhammad, the notary's code of ethics consists of several scopes, namely:¹³

- a. Notary personality ethics as a public official/
- b. Professional ethics of job duties.
- c. Ethics of service to clients.
- d. The ethics of peer-to-peer notary relations.

With the arrangements in the notary's work listed in the UUJN and the notary's code of ethics. A notary can know the limitations contained in his work. Included in the promotion from the notary position itself.

Promotion of the position of a notary through online media such as the internet is clearly unethical for a notary to do because this is prohibited in the notary's code of ethics. Based on Article 4 paragraph 3 of the notary code of ethics, it is stated that it is prohibited to promote the position of a notary either alone or jointly by including his/her name and position using print/electronic media in the form of:

- a. Advertisement;
- b. Congratulations;
- c. Condolences;
- d. Thank-you note;
- e. Marketing activities;
- f. Sponsorship activities in the social, religious, and sports fields.

¹²Anshori, A. G. (2009). Lembaga Kenoktariatan Indonesia Perspektif Hukum dan Etika. *UII Press*, 48.p. 48

¹³Muhammad, A. (2004). *Etika Profesi Hukum*. Bandung: Citra Aditya Bakti, p. 32

With this arrangement, it can be said that if there is a notary who promotes through the media mentioned above, it can be said that he has violated the established code of ethics. Notary promotion carried out online is a violation of the notary's code of ethics so that there are consequences that must be borne by the notary. Based on Article 6 of the Notary Code of Ethics, it is regulated regarding the forms of sanctions that will be borne by the Notary in the form of:

- a. Rebuke;
- b. Warning;
- c. Temporary suspension of association membership;
- d. Honorable discharge from the association;
- e. Dishonorable discharge from the association;

Intense competition among fellow notary professions makes violations of the notary's code of ethics possible. This happens due to the increasing number of notaries in Indonesia so socialization regarding the notary's code of ethics is urgently needed to minimize the occurrence of repeated violations of the code of ethics.¹⁴

In terms of minimizing the existence of irregularities in the position of a notary, the Indonesian Notary Association (INI) created a supervisory institution called the Notary Honorary Council with the aim of supervising every notary when holding and carrying out his position as a public official not to violate or violate the Notary's Code of Ethics.¹⁵The duties of the Notary Honorary Council include coaching, guiding, supervising, improving, examining and making decisions on alleged internal violations of the provisions of the Notary's Code of Ethics and providing advice and opinions to the Notary Supervisory Council on alleged violations of the Notary's Code of Ethics and Position. The supervisory function of the Notary Supervisory Board as stipulated in Article 7 of the Notary Code of Ethics which regulates the implementation of supervision of the notary code of ethics, namely:

1. At the Regency/City level by Regional Managers and Regional Honorary Councils;

¹⁴Priyatnobodo, Y. (2017). Kode Etik Jabatan Notaris Di Kabupaten Purbalingga. *Jurnal Akta*, 334.

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Silvanus, V. (2021), Promosi Jabatan Notaris Melalui Media Instagram Sebagai Bentuk Pelanggaran Kode Etik Profesi, *Jurnal Kerta Semaya*, 2036

2. At the provincial level by the regional administrators and the regional honorary council;
3. At the National level by the Central Executive and the Central Honorary Council.

In addition, notaries also have several responsibilities in carrying out their profession. There are several types of notary liability, namely:¹⁶

- 1) The notary's responsibility for the material truth of the deed he made;
- 2) The notary's responsibility for the criminal truth of the material deed he made;
- 3) The responsibility of a notary based on the Law on Notary office for material truth in the deed he made;
- 4) The responsibility of a notary in carrying out the duties of a position is based on the notary's code of ethics.

With the existence of the above forms of accountability, it can be clearly seen that notaries who carry out promotions online have violated the existing code of ethics and are not responsible for the code of ethics.

The implementation of the application of the notary's code of ethics is considered very difficult because the rules contained in the code of ethics are not paid close attention to by the notaries, thus allowing violations of the code of ethics.¹⁷With this in mind, it is necessary to have the accuracy applied by the notary in order to minimize the occurrence of promotions for notary positions online.

4. Conclusion

Entering the era of globalization, the internet and social media are one of the results of technological developments that can be felt and used by the general public every day, such as promotions for notary positions through online media. Promotion of the position of a notary through online and offline media as stipulated in the notary's code of ethics is something that is prohibited because it is considered unethical to be done by a notary. If the notary is found to have committed a violation, there are sanctions that must be accepted by the notary.

¹⁶Djajaputra, R. S. (n.d.). Penegakan Hukum Terhadap Notaris Yang Mempromosikan Diri Melalui Media Sosial. *Jurnal Hukum Adigama*, p. 11

¹⁷Op Cit, Abdul Ghofir Anshori, p. 168

There is the role of the Indonesian Notary Association (INI) through a supervisory institution called the Notary Honorary Council with the aim of supervising every notary when holding and carrying out his position as a public official not to violate or violate the Notary Code of Ethics. The supervisory agency has a supervisory function and has a role in imposing sanctions in the form of warnings, warnings, temporary dismissals, honorable discharges, and dishonorable discharges. The application of the code of ethics needs to be socialized again in order to minimize the occurrence of violations of the code of ethics committed by notaries.

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