TEN EASY WAYS

TO LOSE YOUR NOTARY COMMISSION

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NOTARY DISCIPLINE

- The Department of State may *deny, refuse to renew, revoke, suspend, reprimand or impose a condition on a commission* as notary public for an act or omission which demonstrates that the individual lacks the honesty, integrity, competence or reliability to act as a notary public.
- 57 Pa.C.S. § 323 (relating to Sanctions)

AVOID PERSONAL APPEARANCE

- § 306. Personal appearance required.
- If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

IGNORE THE ID

- § 307. Identification of individual.

(a) Personal knowledge.--A notarial officer has personal knowledge of the identity of an individual appearing before the notarial officer if the individual is personally known to the notarial officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

IGNORE THE ID II

(b) Satisfactory evidence.--A notarial officer has satisfactory evidence of the identity of an individual appearing before the notarial officer if the notarial officer can identify the individual as set forth in any of the following paragraphs:

- (1) By means set forth in any of the following subparagraphs:
  - (i) A passport, driver's license or government-issued nondriver identification card, which is current and unexpired.
  - (ii) Another form of government identification issued to an individual, which:
    - (A) is current;
    - (B) contains the signature or a photograph of the individual; and
    - (C) is satisfactory to the notarial officer.
- (2) By a verification on oath or affirmation of a credible witness personally appearing before the notarial officer and personally known to the notarial officer.

(c) Discretion.--A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the notarial officer of the identity of the individual.

NEGLECT THE NOTARY JOURNAL

- § 319. Journal.

(a) Maintenance.--A notary public shall maintain a journal in which the notary public records *in chronological order all notarial acts that the notary public performs*.

(b) Format.--A journal may be created on a tangible medium or in an electronic format. A notary public may maintain a separate journal for tangible records and for electronic records. If the journal is maintained on a tangible medium, it shall be a bound register with numbered pages. If the journal is maintained in an electronic format, it shall be in a tamper-evident electronic format complying with the regulations of the department.

NEGLECT THE NOTARY JOURNAL II

(c) Entries.--An entry in a journal shall be made *contemporaneously with performance of the notarial act* and contain *all* of the following information:

- (1) The date and time of the notarial act.
- (2) A description of the record, if any, and type of notarial act.
- (3) The full name and address of each individual for whom the notarial act is performed.
- (4) If identity of the individual is based on personal knowledge, a statement to that effect.
- (5) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and any identification credential presented, including the date of issuance and expiration of an identification credential.
- (6) The fee charged by the notary public.

NEGLECT THE NOTARY JOURNAL III

(d) Loss or theft.--If a journal is lost or stolen, the notary public shall promptly notify the department on discovering that the journal is lost or stolen.

(e) Termination of office.--A notary public shall deliver the journal of the notary public to the office of the recorder of deeds in the county where the notary public last maintained an office within 30 days of:

- (1) expiration of the commission of the notary public, unless the notary public applies for a commission within that time period;
- (2) resignation of the commission of the notary public; or
- (3) revocation of the commission of the notary public.

(g) Death or incompetency.--On the death or adjudication of incompetency of a current or former notary public, the personal representative or guardian of the notary public or a person knowingly in possession of the journal of the notary public shall deliver it within 30 days to the office of the recorder of deeds in the county where the notary public last maintained an office.

NEGLECT THE NOTARY JOURNAL IV

(g.1) Certified copies.--A notary public shall give a certified copy of the journal to a person that applies for it.

(h) Protection.--

- (1) A journal and each public record of the notary public are exempt from execution.
- (2) A journal is the exclusive property of the notary public.
- (3) A journal may not be:
  - (i) used by any person other than the notary public; or
  - (ii) surrendered to an employer of the notary public upon termination of employment.

SKIP THE CERTIFICATE

- § 315. Certificate of notarial act.

(d) Effect.--By executing a certificate of a notarial act, a notarial officer certifies that the notarial officer has complied with the requirements and made the determinations specified in sections 304 (relating to authority to perform notarial act), 305 and 306.

(e) Prohibition.--A notarial officer may not affix the notarial officer's signature to or logically associate it with a certificate *until the notarial act has been performed.*

(f) Process.--

- (1) If a notarial act is performed regarding a tangible record, a certificate shall be part of or securely attached to the record.
- (2) If a notarial act is performed regarding an electronic record, the certificate shall be affixed to or logically associated with the electronic record.

SKIP THE CERTIFICATE II

- § 316. Short form certificates.
  - For an acknowledgment in an individual capacity
  - For an acknowledgment in a representative capacity
  - For an acknowledgment by an attorney at law pursuant to 42 Pa.C.S. § 327 (relating to oaths and acknowledgments)
  - For a verification on oath or affirmation
  - For witnessing or attesting a signature
  - For certifying a copy of a record
  - For certifying the transcript of a deposition

RENT OUT YOUR NOTARY STAMP/SEAL

- § 317. Official stamp.
  - (1) A notary public shall provide and keep an official seal, which shall be used to authenticate all the acts, instruments and attestations of the notary public. The seal must be a rubber stamp and must show clearly in the following order:
    - (i) The words "Commonwealth of Pennsylvania."
    - (ii) The words "Notary Seal."
    - (iii) The name as it appears on the commission of the notary public and the words "Notary Public."
    - (iv) The name of the county in which the notary public maintains an office.
    - (v) The date the notary public's commission expires.
    - (vi) Any other information required by the department.
  - (2) The seal must have a maximum height of one inch and width of three and one-half inches, with a plain border.
  - (3) The seal must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

RENT OUT YOUR NOTARY STAMP/SEAL II

- § 318. Stamping device.

(a) Security.--

- (1) *A notary public is responsible for the security of the stamping device of the notary public.* A notary public may not allow another individual to use the device to perform a notarial act.
- (2) On resignation of a notary public commission or on the expiration of the date set forth in the stamping device, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner which renders it unusable.
- (2.1) An individual whose notary public commission has been suspended or revoked shall surrender possession of the stamping device to the department.
- (3) On the death or adjudication of incompetency of a notary public, the personal representative or guardian of the notary public or any person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner which renders it unusable.

(b) Loss or theft.--If a stamping device is lost or stolen, the notary public or the personal representative or guardian of the notary public shall notify the department promptly upon discovering that the device is lost or stolen.

NOTARIZE WITHOUT A COMMISSION

- § 321. Appointment and commission as a notary public; qualifications; no immunity or benefit.

(d.2) Recording and filing.--

- (1) *Within 45 days after appointment and prior to entering into the duties of a notary public*, the bond, oath of office and commission must be recorded in the office of the recorder of deeds of the county in which the notary public maintains an office.
- (2) Upon reappointment, the bond, oath of office and commission must be recorded in the office of the recorder of deeds of the county in which the notary public maintains an office.
- (3) Within 90 days of recording under this subsection, a copy of the bond and oath of office must be filed with the department.

(e) Issuance.--On compliance with this section, the department shall issue to an applicant a commission as a notary public for a term of four years.

(f) Effect.--

- (1) A commission to act as a notary public authorizes a notary public to perform notarial acts. If a notary public fails to comply with subsection (d.1) or (d.2), the notary public's commission shall be *null and void*.

NOTARIZE WITHOUT A COMMISSION II

(d.1) Official signature.--

- (1) The official signature of each notary public shall be registered, for a fee of 50¢, in the "Notary Register" provided for that purpose in the prothonotary's office of the county where the notary public maintains an office within:
  - (i) 45 days after appointment or reappointment; and
  - (ii) 30 days after moving to a different county.
- (2) In a county of the second class, the official signature of each notary public shall be registered in the office of the clerk of courts within the time periods specified in paragraph (1).

IGNORE YOUR CUSTOMER'S CAPACITY

- § 308. Authority to refuse to perform notarial act.

(a) Specific refusal.--A notarial officer may refuse to perform a notarial act if the notarial officer is not satisfied that:

- (1) the individual executing the record is competent or has the capacity to execute the record;
- (2) the individual's signature is knowingly and voluntarily made;
- (3) the individual's signature on the record or statement substantially conforms to the signature on a form of identification used to determine the identity of the individual; or
- (4) the physical appearance of the individual signing the record or statement substantially conforms to the photograph on a form of identification used to determine the identity of the individual.

(b) General refusal.--A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

BE CONFLICTED

- § 304. Authority to perform notarial act.

(a) Permitted.--A notarial officer may perform a notarial act authorized by this chapter or by statutory provision other than this chapter.

(b) Prohibited.--

- (1) *A notarial officer may not perform a notarial act with respect to a record in which the notarial officer or the notarial officer's spouse has a direct or pecuniary interest.*
- (2) For the purpose of this subsection, none of the following shall constitute a direct or pecuniary interest:
  - (i) being a shareholder in a publicly traded company that is a party to the notarized transaction;
  - (ii) being an officer, director or employee of a company that is a party to the notarized transaction, unless the director, officer or employee personally benefits from the transaction other than as provided under subparagraph (iii); or
  - (iii) receiving a fee that is not contingent upon the completion of the notarized transaction.
- (3) A notarial act performed in violation of this subsection is *voidable*.

MISUNDERSTAND YOUR NOTARIAL PRACTICE

- § 302. Definitions.
- "Notarial act." An act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of this Commonwealth. The term includes:
  - (1) taking an acknowledgment;
  - (2) administering an oath or affirmation;
  - (3) taking a verification on oath or affirmation;
  - (4) witnessing or attesting a signature;
  - (5) certifying or attesting a copy or deposition; and
  - (6) noting a protest of a negotiable instrument.

MISUNDERSTAND YOUR NOTARIAL PRACTICE II

- § 302. Definitions
  - "Acknowledgment." A declaration by an individual before a notarial officer that:
    - (1) the individual has signed a record for the purpose stated in the record; and
    - (2) if the record is signed in a representative capacity, the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.
  - "Verification on oath or affirmation." A declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true. The term includes an affidavit.

FELONS AND FABRICATORS

- § 323. Sanctions

(a) Authority.--The department may deny, refuse to renew, revoke, suspend, reprimand or impose a condition on a commission as notary public for an act or omission which demonstrates that the individual lacks the honesty, integrity, competence or reliability to act as a notary public. Such acts or omissions include:

- (2) A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the department.
- (3) Conviction of or acceptance of Accelerated Rehabilitative Disposition by the applicant or notary public for a felony or an offense involving fraud, dishonesty or deceit.

QUESTIONS?

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