



**KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA**



April 13, 2011

Re: Notary Susan Hill, Complainant Danielle Owens

Dear Ms. Owens:

Pursuant to A.R.S. § 41-331(A), the Attorney General's Office ("AGO") has investigated the complaint brought against Notary, Susan Hill ("Notary"), by Danielle Owens ("Complainant"). The Complainant alleged that the Notary notarized documents even though the signer was not in the Notary's presence; that the Notary did not affix her seal properly on each document; and that the Notary failed to complete blank lines in the notarial certificate of each document. The documents in question are a Deed of Trust ("Page 15 of 15") and a Deed of Trust with Assignment of Rents ("Page 5 of 5"), each notarized on August 24, 2006.

The investigation into the complaint made against the Notary does not purport to conduct an exhaustive legal analysis on whether the Deed/(s) is/(are) valid, or whether the complainant is obligated by the Deed. These disputes should be resolved before the proper tribunal. The Secretary of State ("Secretary") does not have the authority to assess whether any signature(s) on the document(s) were forged or to settle any legal disputes regarding the document(s). The Secretary only has authority to determine if under the notary statutes, the Notary fully and faithfully discharged the duties of a notary public, and properly notarized the document(s).

A. The Notary Responded Properly to the Investigation.

Notaries are required to respond to an AGO investigation about their notarial services. A.R.S. §§ 41-331(B) & 41-313(B)(4). They must also maintain a journal and produce a copy if the Attorney General or a member of the public requests it. A.R.S. § 41-313(B)(1), 41-319(A)&(F).

Here, the Notary mailed to the AGO an originally signed written response, a copy of her notary journal as requested, and a copy of the documents in question. She also hand-delivered the same written response, also originally signed, with copies of the same documents previously mailed. By responding to the investigation in writing, addressing the allegations, and providing a copy of her notary journal for the notarization in question, the Notary has met the standards of the law in this instance.

B. The Notary Failed to Record Requisite Journal Information.

1700 W. Washington Street, 7th Floor
Phoenix, Arizona 85007-2888
Telephone (602) 542-4285 Fax (602) 542-4366
www.azsos.gov

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Notaries are required to maintain a journal and produce a copy if the Attorney General or a member of the public requests it. A.R.S. § 41-313(B)(1), 41-319(A)&(F). A notary public must maintain a journal entry for each notarial act, (A.R.S. § 41-319(A)) and their journal must contain the following: (1) the date of the notarial act; (2) the document description or type of notarial act; (3) the printed name of the signer as well as his or her address and signature; (4) the type of evidence for the signer's identity; (5) the specific identity information of the signer; and (6) the fee, if any, charged for the notarization. A.R.S. § 41-319.

Additionally, when a Notary accepts an identification document that meets requirements set forth in A.R.S. § 41-311(11)(a)(b), they must record a description of the identification document including but not limited to; (a) a description of the identification document, (b) its serial or identification number, and (c) its issuance or expiration date. A.R.S. §§ 41-313(B)(1), 41-319(A)(5).

In this instance, the Notary's journal entry in question is number thirteen (13). For "TYPE OF DOCUMENT" the word "Loan" is written, however, the fact that two (2) documents were notarized is not specified in the entry. For the "DETAIL IDENTIFICATION OF INDIVIDUAL" it shows "CADL 62006333" and does not specify the issuance or expiration date of the identification. We note that for each of the other seventeen (17) journal entries provided the issuance or expiration dates of the identification cards accepted are also missing. In failing to record requisite ID information, in compliance with A.R.S. § 41-319, the Notary has failed to keep a journal in accord with A.R.S. § 41-319 which is a failure to fully and faithfully discharge the duties of a notary public. A.R.S. §§ 41-313(B)(1) & 41-319. The Notary provides grounds for suspension or revocation. A.R.S. §§ 41-313(B)(1), 41-319 and 41-330(A)(4).

C. The Notary Has Shown the Signer Appeared Before Her and Performed the Acknowledgments Properly.

Every notarized document must include a notarial certificate stating the facts attested to by the notary and include the Notary's signature and seal. A.R.S. § 41-311(1) & (8); *Arizona Notary Public Reference Manual ("Manual"), pg 14 sidebar, "Notarial Certificates."* The notarial certificate must contain either a jurat (A.R.S. § 41-311(6)) or an acknowledgment (A.R.S. § 41-311(1)) that bears appropriate language (*Manual pp. 20-23*). Additionally, it must include the venue (A.R.S. § 33-501 *et seq*; *Manual, pg 14 and 17*) and per A.R.S. § 41-313(B)(3), the Notary is to "authenticate with the official seal all official acts on every certificate or acknowledgment signed and sealed by the notary." A Notary may face suspension or revocation if they notarize a document containing no notarial certificate. A.R.S. § 41-330(A)(12). They may also face suspension or revocation if they fail to complete the jurat or acknowledgement when their signature and seal are affixed. A.R.S. § 41-330(A)(8).

Further, to perform an "acknowledgment" properly, a notary must (1) identify the signer and (2) put the ID information in his or her notary journal; and the signer must (3) be present with the notary when the notary affixes the notary stamp and signature to the document. A.R.S. § 41-311(1) and 41-319.

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The Notary's journal entry contains what appears to be the printed name and signature of the signer and the signer's California driver license number; and each document includes the Notary's typed name in the acknowledgment statement and a signature for the signer above the notarial certificate. In her response letter, the Notary defended, "Ms. Owens [the signer] did sign these documents in my presence" (2 ¶ #1). Further, she contended that "[t]he notary acknowledgment (certificate?) is complete" (2nd ¶ #3). Each document in question contains several blank lines above the notarial certificate, and the Notary did not state anything in her response letter about the blank lines. The notarial certificate for the acknowledgment of each document in this case is complete and the Notary recorded the entry in her journal. Therefore, the Notary has shown that the signer appeared before her and performed the acknowledgments properly.

D. The Notary Affixed Her Official Seal to Each Document.

A notary is required to affix a rubber stamp seal to every document he or she notarizes; the notary may use an embossed seal only in conjunction with a proper notary stamp. *Manual, pg 8 sidebar, "Embossers."* The stamp must show the words "Notary Public," the notary's commissioned name, the county of commissioning, the commission-expiration date, and the state seal. *A.R.S. § 41-313(B) and 41-321(B); Manual, pg 8 "Receipt of Commission Certificate."*

The complaint form in this instance claimed that the Notary's "Seal was not affixed and/or the word seal was not written in place of seal" ("Page 2 of 2" #2). The Notary's stamp is affixed in the notarial certificate, and each stamp contains the requisite information. The Notary wrote, "The seal is included in my notary stamp...no other 'seal' is required" (2nd ¶ #2). The Notary has met the standards of the law by affixing her signature and official seal to each document.

E. Conclusion.

The Secretary possesses special knowledge and expertise in interpreting the notary statutes and believes that the definitions, requirements (i.e. oath & bond) and duties outlined in A.R.S. § 41-311 through A.R.S. § 41-332 are standards with which each notary must comply.

The Secretary believes that in addition to the specific offenses outlined by the Arizona legislature which would warrant action against a notary's commission, in cases where there is substantial evidence that the notary's actions fail to meet the standards described in the notary statutes, the Secretary has grounds to refuse, revoke or suspend a notary's commission for "failure to discharge fully and faithfully any of the duties or responsibilities required of a notary public." A.R.S. § 41-330(A)(4).

Therefore, the Secretary of State has determined to suspend the Notary's commission for 60 days effective immediately. The suspension of the Notary's commission is based on the following violations of Arizona notary law:

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1. The Notary failed to keep a journal in accordance with A.R.S § 41-319 as required by A.R.S. § 41-313(B)(1).
2. Failure to discharge fully and faithfully the duties of a notary public. A.R.S. 41-330(A)(4).

The Notary's suspension is effective immediately and shall remain in effect until June 13, 2011. **In addition to serving the suspension, the Notary will be required to attend a free notary workshop sponsored by the Secretary of State** on or before June 13, 2011. To sign up for the workshop online the Notary may visit our website at www.azsos.gov or contact our office. Before the Secretary of State will reinstate the notary public commission, proof of attendance must be provided by fax or mail to:

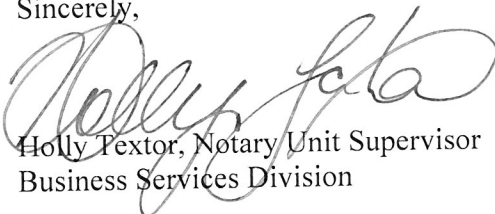
Office of the Arizona Secretary of State
Attn: Notary Complaints
1700 W. Washington St.
Phoenix, Arizona 85007
Fax: 602-542-4366

After the Notary has complied with the terms outlined above, the Secretary will lift the suspension, effective the suspension end date. At that time, the Notary may resume their duties as an Arizona notary public. In the event the notary's commission expires during the course of the suspension, it is the notary's responsibility to reapply. If the renewal is accepted, the notary will be reinstated following the completion of the terms of the suspension, including any training mandated as part of the terms of the suspension. If the notary fails to comply with any terms of the suspension, the Secretary reserves the right to revoke the notary's commission, effective the suspension end date.

The Notary has a right to request an evidentiary hearing pursuant to A.R.S. § 41-1092.03 by filing a written notice of appeal with the Office of the Arizona Secretary of State within thirty (30) days of receipt of this notice. If the Notary request an evidentiary hearing as referenced above, **he or she may also request an informal settlement conference pursuant to A.R.S. § 41-1092.06.** If a hearing is not requested within the time provided by the statute, the decision will stand.

If you have any concerns regarding this issue, you may contact Yolanda Morales directly at 602-542-6315.

Sincerely,



Holly Tector, Notary Unit Supervisor
Business Services Division

Cc: Attorney General's Office
Notary File