



KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA



January 3, 2011

[REDACTED]
Phoenix, AZ 85033

Re: Notary Stephanie G. Abcede, Complainant [REDACTED]

Dear Mr. [REDACTED]

Pursuant to A.R.S. § 41-331(A), the Attorney General's Office ("AGO") has investigated the complaint brought against Notary, Stephanie G. Abcede ("Notary"), by [REDACTED] ("Complainant"). The Complainant alleged that the Notary improperly notarized an Assignment of Deed of Trust, a Substitution of Trustee, and a Notice of Trustee.

A. The Notary Failed to Comply with the Investigation and the Personal Knowledge Exemption Does Not Apply.

Notaries are required to respond to an AGO investigation about their notarial services. A.R.S. §§ 41-313(4), 41-330(A)(4) & 41-331. They must also maintain a journal and produce a copy if requested. A.R.S. §§ 41-313(B)(1), 41-319(A) & 41-330(A)(4). When a notary has "personal knowledge" of a signer, the notary may retain a paper or electronic copy of the notarized document in lieu of recording the notarial act in his or her journal. A.R.S. § 41-319(B). The notary must then provide the requestor with a copy of that "retained document." Id.

The Notary in this instance responded in writing and provided a copy of her notary journal for one of the documents requested: The Notice of Trustee's Sale (TS No. T10-[REDACTED]-AZ) notarized July 8, 2010. The Notary's response letter states that her "log lists documents by the customer TS No." She then goes on to say that she "highlighted the number." However, the entry she highlighted for the AGO was pertaining to TS No. T10-[REDACTED]-AZ, which does not correspond to the TS No. T10-[REDACTED]-AZ that appears on the documents from the complaint.

Additionally, the Notary did not provide a copy of her journal entry for the other two documents requested: The Assignment of Deed of Trust notarized July 5, 2010 (TS No. T10-[REDACTED]-AZ); and Substitution of Trustee notarized July 5, 2010 (TS No. T10-[REDACTED]-AZ). While the Notary did provide a photocopy of each document in question as well as (2) additional documents she notarized that are not referenced in the complaint: a Notice of Trustee Sale notarized July 5, 2010 (TS No. T10-[REDACTED]-AZ), and a Cancellation of Notice of Trustee's Sale notarized July 8, 2010 (TS No. T10-[REDACTED]-AZ), the personal knowledge exemption does not apply because the Notary did not claim that she had "personal knowledge" of the signer's. Therefore, the copies of the documents provided are not sufficient evidence that the Notary properly identified the Signer's under the personal knowledge exemption, and she was required to create a journal entry for the notarization of the two documents. A.R.S. §§ 41-319(A) & (B).

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2. Failure to keep a journal in accordance with A.R.S. § 41-319. A.R.S. §§ 41-313(B)(1), 41-319&41-330(A)(4).
3. Failure to properly identify the signer prior to performing an acknowledgement. A.R.S. § 41-319(A)(4).
4. Execution of a statement known to be false. A.R.S. 41-330(A)(10).
5. Failure to discharge fully and faithfully the duties of a notary public. A.R.S. § 41-330(A)(4)& 41-331(B).

The Notary's suspension is effective immediately and shall remain in effect until June 3, 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 3, 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's database will reflect a lifted suspension as of the suspension expiration 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 suspension, including any training mandated as part of the suspension. If the notary fails to comply with any terms of the suspension, the notary's commission will be revoked. The Secretary's database will be updated to reflect the revocation took effect retroactively on the date of this suspension letter.

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.

cerely,

Holly Textor, Notary Unit

Supervisor

Business Division

Cc: Attorney General's Office, Notary
File

1700 W. Washington Street, 7th Floor
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The AGO requested a copy of the journal entry for "the notarization date shown on the Assignment of Deed of Trust and the Substitution of Trustee (July 5, 2010) and for the notarization date of the Notice of Trustee's Sale (July 8, 2010). The journal entry provided, however, was an incomplete response to the AGO's investigation because it did not include the information for the documents in question on the dates in question. The Notary has failed to comply with the AGO's request for information, evidence of her failure to fully and faithfully discharge her duties and responsibilities as a notary public, providing grounds for suspension or revocation. A.R.S. §§ 41-313(B)(4), 41-330(A)(4), 41-331(B).

B. The Notary Does Not Keep a Proper Journal

A notary public must maintain a journal entry for each notarial act. A.R.S. § 41-319(A). Each journal entry 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 satisfactory evidence used to identify the signer; (5) the specific identity information of the signer; and (6) the fee, if any, charged for the notarization. A.R.S. § 41-319. 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).

The two (2) documents notarized on July 5 bear a signature for "Lisa Markham"; however, the July 5 journal entry highlighted as the correct corresponding journal entry by the Notary in her response, does not contain, among other things, a signature for "Lisa Markham" as would be required for that particular notarization. The Notary handwrote "Lisa" at the top of the first signature column, and then drew a vertical line down through the remaining boxes on the page. Assumedly this represents the name Lisa in each box the line goes through. In the column to the right of the first signature column, there is a handwritten notation of the name "Sharon" despite the fact that documents notarized on July 5 do not include a signature for a "Sharon". Therefore, the Notary made a note of the name "Sharon" in the July 5th entry, without actually having it pertain to the notarization. The Notice of Trustee's Sale notarized July 8 includes the signature for "SHARON SAMS.", and the corresponding journal entry contains the handwritten name "Sharon". Because the Notary did not claim the personal knowledge exemption she was required to obtain satisfactory evidence of identity in her journal.

Thus, if the July 5 journal entry is the correct entry for all three (3) documents referenced in the complaint, then the "TS" number on the documents is recorded incorrectly in the Notary's journal and the Notice of Trustee's Sale notarized on July 8 is incorrectly dated either on the document, or in the notary's journal. So the notary has executed a statement known to be false, as well as documented the notarization incorrectly in her journal. The Notary has failed to meet the standards of the law, and could face suspension or revocation for failing to fully and faithfully discharge the duties and responsibilities as a notary public. A.R.S. § 41-330(A)(4).

Contrarily, if the July 8 entry is the correct entry for the Notice of Trustee Sale (TS No. T10-██████-AZ), then the Assignment of Deed of Trust and the Substitution of Trustee notarized on July 5 were not documented in the journal, and the Notary has failed to keep a journal of all

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notarial acts, or has failed to provide the copy of the area of her journal where those other two documents were recorded in accordance with A.R.S. § 41-319. A.R.S. § 41-313(B)(1).

None of the journal entries provided include the signer's signature, address, or how they were identified. Additionally, the Notary's journal does not contain a column for the fee charged if any. The Notary has failed to keep a journal in accordance with A.R.S. § 41-319 providing grounds for suspension or revocation. A.R.S. §§ 41-313(B)(1), 41-319 & 41-330(A)(4).

C. The Notary Improperly Performed the Acknowledgement.

To perform an "acknowledgment" properly, a notary must (1) identify the signer and (2) put the ID information in 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. Although not presently a requirement, when each document was notarized, its notarial certificate was also supposed to note a handwritten expiration date of the Notary's commission. A.R.S. § 41-313(B); Notary Public Reference Manual (2009) pg 14 sidebar; "Notarial certificates."

For the acknowledgment of each of document referenced in the complaint, the Notary has not shown that she identified the signer ("Lisa Markham" for July 5; "Sharon Sams" for July 8) or recorded the signer's ID information in her journal, and she has not shown that the signer was with her for the notarization. Each of the three (3) documents referenced in the complaint does not include the Notary's commission- expiration date other than within the Notary's affixed stamp. Therefore in failing to obtain satisfactory evidence of identity the Notary has executed a statement known to be false, and could face suspension or revocation for failing to fully and faithfully discharge the duties and responsibilities as a notary public. A.R.S. §§ 41-313(B)(1), 41-313(8X4), 41-319, 41-330(A)(4), & 41-331(8).

D. 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 a period of 180 days effective immediately. The suspension of the Notary's commission is based on the following violations of Arizona notary law:

1. Failure to provide a complete response to the AGO's investigation. A.R.S. § 41-313(B)(4)&41-331(B).