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# The Notary's Responsibility for The Position of Fictitious Instrumental Witnesses in Authentic Deeds from The Perspective of The Notary Position Act

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**Abstract.** An authentic deed is a written document created by a public official, such as a notary, which holds perfect and binding evidentiary power under Indonesian law. This deed ensures legal certainty through formal, material, and external proof in accordance with the provisions of the Notary Law (UUJN), including the requirement for actual instrumental witnesses. However, the inclusion of fictitious instrumental witnesses can undermine the deed's validity, transforming it into a private deed and potentially leading to its legal annulment. Such violations not only damage public trust and the professionalism of the notary but also expose the notary to administrative sanctions, civil liability, and criminal charges of forgery. This study explores the implications of such violations on the notarial profession and the broader legal framework. The research aims to highlight the importance of integrity and professionalism within the notarial profession to maintain the validity and legal certainty of authentic deeds. The findings emphasize the critical role of notaries in upholding legal standards and the consequences of malpractice, suggesting the need for stricter oversight and accountability mechanisms to preserve public trust and the legal efficacy of authentic deeds.

**Keywords:** Authentic deed, notary, fictitious instrumental witnesses, evidentiary power, legal certainty, UUJN, deed annulment, legal liability, forgery, notary professionalism.

## INTRODUCTION

Humans, as social beings, require interaction with others throughout life—starting from the family, continuing through education, and into the workplace. According to Article 1 paragraph (3) of the 1945 Constitution, "The State of Indonesia is a State of Law," meaning all aspects of life must comply with applicable laws. In society, interactions often lead to agreements between parties (Adjie, 2011; Budiono, 2011, 2013).

Human actions can have legal consequences or not. One such action with legal consequences is a *covenant* or *agreement*. Agreements are regulated in Book III of the *Civil Code on Engagements*. Article 1313 defines an agreement as an act where one or more parties bind themselves to others. Agreements may be written or oral, with written forms including private deeds and notarial deeds (Harris & Helena, 2017; Mukti Fajar & Achmad, 2010; Salim, 2021).

A notarial deed is needed as the strongest form of civil evidence, prepared by a public official authorized by law. According to Article 1 point 1 of Law No. 2 of 2014 on Notary Position (*UUJN*), a Notary is a public official authorized to create authentic deeds and perform other duties under this or other laws (Fitria, 2021). The Notary Law, first enacted in 2004 as Law No. 30 of 2004 and amended by Law No. 2 of 2014, is the sole regulation governing the notarial profession in Indonesia.

The Notary profession is well known in Indonesia, as many legal actions require a Notary to ensure their validity. These actions are often formalized in a notarial deed, which holds perfect evidentiary power, making it stronger than a private (underhand) deed. Notaries, as public officials authorized to make authentic deeds, must act according to the law and uphold professional ethics, including integrity, honesty, and professionalism. Violating these ethics can lead to legal and administrative sanctions, damaging the credibility of the notary profession.

Notaries must perform their duties professionally and in line with the Notary Code of Ethics issued by the Indonesian Notary Association in 2015. Public trust is essential in this profession. Ethics guides moral behavior in society. According to Article 16(1)(a) of the *UUJN* and Article 3 of the Code of Ethics, notaries must act honestly, independently, impartially, thoroughly, and responsibly, upholding the law and their professional oath.

Notaries, as stated in Article 1 point 1 and Article 15(1) of the *UUJN*, have the authority to create authentic deeds and bear responsibility for their actions. They serve as law enforcers in a broad sense by ensuring legal certainty, order, and protection through these deeds. Notarial deeds are divided into two types: *partij* deeds, based on parties' statements, and *relaas* deeds, which record events witnessed directly by the notary.

Article 38(1) of the *UUJN* states that an authentic deed consists of three parts: the head, body, and closing. The head contains the notary's statement of legal facts, while the closing guarantees the truth of the date, time, and place where the deed is read and signed. Any false information in the closing may indicate the notary provided incorrect data.

Notary authority to make authentic deeds is regulated by the *UUJN* and is not absolute (Chandra & Purwanto, 2024; Hilmi afami & Dewi, 2024). Notaries must ensure deeds meet

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formal and material requirements, verify parties' identities, confirm the presence of witnesses, and follow proper formats. They must also act prudently to avoid future legal issues (Iriantoro, 2022).

A notary only makes a deed upon the parties' request. Besides written evidence, witness testimony can support legal arguments. According to Article 40(1) of the *UUJN*, at least two witnesses must be present during the deed-reading, unless otherwise stated by law. Article 40(2) sets the conditions witnesses must meet: at least 18 (eighteen) years old or previously married, capable of performing legal acts, understanding the language used in the deed, able to affix signatures and initials, and without a marital or blood relationship to the Notary or the parties up to the third degree.

In a deed, the identity and authority of witnesses must be expressly stated, in accordance with Article 40(4) of the *UUJN*. Witnesses in a notary deed are limited to instrumental witnesses required by law, usually at least two but can be more if needed. Their role is to sign and confirm the deed's truth and legal formalities. Instrumental witnesses are typically the notary's employees. Article 44(1) mandates the deed be signed by witnesses and the notary after reading; otherwise, per Article 44(5), the deed only holds the evidentiary power of a private document.

Witnesses in a notary deed are crucial for its validity, proving the deed was made and signed before a notary (Utarid, 2023). Their presence is not just administrative but has significant legal impact. If witnesses are absent or do not meet *UUJN* Article 40 requirements, the deed's validity is compromised (Subagiyo et al., 2022; Thamrin, 2011).

Notaries must follow the *UUJN* and Notary Code of Ethics in their duties, but some still commit violations. For example, such violations are noted in Supreme Court Decision No. 1266 K/Pdt/2022, related to earlier High Court and District Court decisions. In the case, the Defendant, a Notary, made a lease agreement deed for the Plaintiff, the tenant. The Plaintiff and witnesses requested the Notary to draft a shophouse lease agreement, which was recorded in Deed No. 5 dated April 4, 2019 (Benuf & Azhar, 2020; Sjaifurrachman & Adjie, 2011).

During the deed signing, 10 people attended, including the Plaintiff, attorneys, witnesses, the tenant's assistant, notary employees, and the Notary (Defendant). The deed was signed by witnesses, one notary employee, and the Notary. Later, the Plaintiff objected because a notary employee named Ikbal Solin Hutahaeen, listed as a witness, was unknown and reportedly absent during signing (Nanda, 2016). The Plaintiff requested the Defendant to correct the deed regarding witness Ikbal, but the Defendant refused and advised filing a lawsuit.

The Plaintiff sued the notary as co-defendant in Rantauprapat District Court on May 28, 2019, but the case was dismissed. During the trial, witness Ikbal testified he was unaware his name was used and was not a notary employee but helping his parents. The Plaintiff then filed a new lawsuit with the notary as the sole Defendant. In Decision No. 26/Pdt.G/2020/PN Rap, the Plaintiff asked the court to declare Deed No. 5 dated April 4, 2019, null and void due to falsehoods about witness Ikbal Solin Hutahaeen and alleged *UUJN* violations by the Defendant.

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The Defendant rejected this, arguing that a procedural witness differs from a deed witness, who only serves as an instrument. The judges found that the lease agreement met all validity conditions under Article 1320 of the *Civil Code*, which sets the requirements for a valid agreement: agreement of the parties, capacity to contract, a specific subject matter, and a lawful cause. The first two conditions are subjective, while the last two are objective. If the first two are unmet, the agreement can be cancelled; if the last two are unmet, it is null and void.

The panel ruled that although the lease agreement met Article 1320's validity requirements, the issue with witness Ikbal Solin Nasution did not justify canceling Deed No. 5. The court rejected the Plaintiff's claims and the Defendant's objections. Dissatisfied, the Plaintiff appealed, but the High Court upheld the original decision in Case No. 564/Pdt/2020/PT MDN. The Plaintiff appealed to the Supreme Court to annul Deed No. 5 and overturn the lower courts' decisions. However, the Supreme Court upheld the Medan High Court's ruling, stating there was no legal misapplication.

The Supreme Court emphasized that the lease agreement was made before a notary and met the validity conditions under Article 1320 of the *Civil Code*. The absence of witness Solin Hutahean did not invalidate the agreement, as it fulfilled both subjective and objective legal requirements. Thus, the Supreme Court rejected the Plaintiff's appeal.

The case shows judges focused on the *Civil Code* but overlooked *UUJN* rules on notary deed witnesses. Notaries, as responsible public officials, must uphold integrity. Stronger supervision and enforcement of ethics are needed to prevent misuse of fictitious witnesses and maintain public trust in notaries as civil law enforcers. If similar violations of Notary obligations and ethics are ignored, more breaches may occur, undermining public trust in Notaries as honest, fair, and impartial officials.

Previous studies have examined the role of notaries in ensuring deed legality and the consequences of procedural errors. For instance, Sembiring & Situmorang (2022) emphasize that valid witnesses are crucial for maintaining deed authenticity. Similarly, Harahap (2021) discusses the legal impact of fictitious witnesses, stressing adherence to notarial protocols. The novelty of this research lies in its focus on the notary's responsibility regarding fictitious instrumental witnesses in authentic deeds.

This study evaluates the legal and ethical implications of such violations and provides recommendations to enhance the notarial profession's integrity. The benefits include a deeper understanding of notaries' responsibilities under the *UUJN*, legal insights for preventing similar violations, strengthened enforcement of notary ethics to maintain public trust, and contributions to legal frameworks improving notarial practices and public confidence.

## **METHOD**

This study employs normative legal research to examine legal rules and doctrines relevant to notarial practices in Indonesia. The methodology focuses on analyzing positive law through secondary data sources including the Civil Code, Notary Position Law (No. 2/2014), Notary Code of Ethics, and Supreme Court Decision No. 1266 K/Pdt/2022. The research

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combines literature studies of legal materials with interviews of practitioners to address the identified legal problems.

The approach centers on legal and case analysis methods, particularly examining statutes and court decisions related to notarial duties and ethics. Data collection emphasizes authoritative legal texts and supporting academic literature, processed through qualitative analysis. The study applies deductive reasoning to draw conclusions from general legal principles to specific cases of notarial practice.

By focusing on the application of existing regulations to contemporary notarial issues, this research aims to contribute to legal certainty in notarial practice. The combination of document analysis and practitioner insights provides both theoretical and practical perspectives on maintaining professional standards. The findings seek to inform improvements in notarial ethics and the enforcement of legal requirements for authentic deeds.

## **RESULTS AND DISCUSSION**

### **Results of Research on Notary Responsibility for the Making of Authentic Deeds in Review from the Perspective of the Notary Office Law**

A notary is a legal professional with an essential role in ensuring administrative order in civil law, particularly in the creation of authentic deeds. According to Article 1 number 1 of the UUJN, a notary is a public official authorized to make authentic deeds and carry out other duties as stipulated by the UUJN or other laws. In performing this function, the notary records legal acts to ensure legal certainty and the validity of deeds. This authority includes not only drafting deeds but also verifying the legal capacity of the parties involved and ensuring the presence of qualified witnesses. In Indonesia, notaries are appointed and dismissed by the Minister of Law and Human Rights after fulfilling the requirements outlined in Article 3 of the UUJN. Indonesian citizen.

1. Fear God Almighty.
2. Be at least 27 (twenty-seven) years old.
3. Physically and mentally healthy as stated by a health certificate from a doctor and psychiatrist.
4. With a Bachelor of Law degree and a graduate of the Bachelor of Law level.
5. Have undergone an internship as a notary employee for a minimum of 24 (twenty-four) consecutive months at the notary's office on their own initiative or on the recommendation of the Notary Organization after passing the second strata of notary.
6. Not having the status of a civil servant, state official, advocate, or not currently holding any other position that is prohibited by law to be concurrently with the office of notary.
7. Have never been sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a criminal act that is threatened with a prison sentence of 5 (five) years or more.

The appointment of a notary by the Minister grants legal authority to act as a public official, serving as an extension of the government in civil matters. In Civil Law systems, notaries

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assist in various legal functions and must take an oath before assuming office, as mandated by Article 4 paragraph (2) of the UUJN. This oath reflects a commitment to perform duties responsibly, both legally and morally, as a personal accountability before God.

"I swear/promise:

That I will obey and be loyal to the State of the Republic of Indonesia, Pancasila and the Constitution of the Republic of Indonesia in 1945, the Law on the Office of Notary and other laws and regulations.

That I will carry out my position with trust, honesty, thoroughness, independence, and impartiality.

That I will maintain my attitude, conduct, and will carry out my obligations in accordance with my professional code of ethics, honor, dignity, and responsibility as a Notary.

That I will keep secret the contents of the deed and information obtained in the exercise of my position.

That I am to be appointed to this office, either directly or indirectly, under any name or pretext, never and will never give or promise anything to anyone."

The main authority of a notary is to make authentic deeds, as stipulated in Article 1 of the UUJN, which grants the notary the status of a public official. This gives legal validity to the deeds made, in accordance with Article 1868 of the Civil Code. As public officials, notaries can be compared to other officials like civil registry officers or court clerks, though notaries possess broader authority to create various civil deeds, provided they do not violate the law or public order. According to the theory of attribution explained in Chapter 2, a notary's authority originates directly from statutory provisions, particularly Article 15 of the UUJN.

- (1) The notary is authorized to make an authentic Deed regarding all deeds, agreements and stipulations required by laws and regulations and/or required by the interested party to be stated in the authentic Deed, guarantee the certainty of the date of making the deed, keep the deed, provide grosse, copy and quotation of the deed, all of which as long as the deed is made is not assigned or excluded to other officials or other persons determined by law.
- (2) In addition to the authority as referred to in paragraph (1), the Notary is also authorized to:
  - a. Authenticate signatures and establish the certainty of the date of the letter under hand by registering in a special book.
  - b. Booking the letter under hand by registering in a special book.
  - c. Make a copy of the original letter under hand in the form of a copy containing the description as written and described in the letter concerned.
  - d. Verify the compatibility of the photocopy with the original letter.
  - e. Provide legal counseling in connection with the making of the Deed.
  - f. Make an Act relating to land, or
  - g. Making an auction minutes deed.
- (3) In addition to the authority as referred to in paragraph (1) and paragraph (2), Notaries have other powers regulated in laws and regulations.

Notaries hold substantive authority to make authentic deeds and must uphold legal

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obligations as stipulated in Article 16 of the UUJN, including acting honestly, independently, and ensuring the presence of at least two witnesses during deed signing (Adjie, 2023; Safara & Sudiro, 2024; Wardantik & Prawesthi, 2023). Failure to comply results in the deed being downgraded to a deed under hand. Notaries bear full responsibility—ethically, administratively, and legally—if their actions cause harm or violate procedures. Legal certainty, as emphasized by Gustav Radbruch, requires that notarial deeds be formally and materially correct. Interview findings with Kiki Hertanto, S.H., Sp.N., underscore that the presence of qualified instrumental witnesses is a vital requirement for the deed's authenticity. Fictitious witnesses—those listed without actual presence—can lead to administrative, civil, or even criminal liability under Article 264 of the Criminal Code. Notaries may be sanctioned by supervisory councils or face dismissal if proven negligent. The interviewee recommends stronger regulatory sanctions to prevent such violations and emphasizes that upholding witness requirements is crucial to maintaining the integrity and legal certainty of notarial deeds.

### **Notary's Responsibility for the Position of Instrumental Witnesses in the Making of Authentic Deeds**

In notarial practice, an authentic deed follows a standard structure as regulated in the UUJN, which serves not only as a set of rules and sanctions but also as a guideline for notaries in carrying out their authority. According to Article 38 of the UUJN, the deed comprises three main parts: the head, body, and closing. The head includes the title of the deed, deed number, time and date, the notary's full name and residence, and the phrase "in the presence of my witnesses, the Notary, known and will be mentioned at the end of this deed," which affirms the notary's responsibility for the truth of the stated information. Any inconsistency may be deemed as providing false information (Li et al., 2024). The body contains the substantive will or agreement of the parties, as further detailed in Article 38 paragraph (3).

1. Title of the Act.
2. Deed Number.
3. Hours, days, dates, months and years.
4. The full name and place of residence of the notary.

The head of the deed, as regulated in Article 38 paragraph (2) of the UUJN, contains essential information such as the title, deed number, date and time, notary's full name and residence, along with the statement "in the presence of my witnesses, the Notary, known and will be mentioned at the end of this deed." This section reflects the notary's guarantee of the truth of the stated facts, and any discrepancy may be considered as providing false information. The body of the deed, as outlined in Article 38 paragraph (3), details the substance of the parties' will or agreement, forming the core of the legal act documented in the deed.

1. Full name, place and date of birth, nationality, occupation, position, residence of the applicants, and/or the person they represent.
2. Description of the position of the acting face.
3. The content of the deed is the will and desire of the interested party.
4. Full name, place and date of birth, as well as occupation, position, position, and residence

of each identifying witness.

Before presenting the main content, a notarial deed generally begins with a premise that outlines the background or reasons behind the agreement, helping clarify the purpose of the deed. The final or closing part of the deed, like the head, contains elements essential to its authenticity. As stipulated in Article 38 paragraph (4) of the UUJN, the closing section includes details such as the reading of the deed to the parties, confirmation of their understanding and agreement, signatures of the parties, witnesses, and the notary, thus ensuring the deed's formal validity.

1. Description of the reading of the deed as referred to in Article 16 paragraph (1) letter m or Article 16 paragraph 7.
2. Description of the signing and place of signing or translation of the deed, if any.
3. The full name, place and date of birth, occupation, position, position, and residence of each witness to the deed.
4. A description of the absence of changes that occurred in the making of the deed or a description of the changes that can be in the form of additions, strikeouts, or replacements and the number of changes.

Like the beginning of the deed, the closing section also contains a notary's statement that guarantees the deed's validity in accordance with the UUJN. The presence of witnesses is not merely procedural but is a crucial element ensuring the authenticity of the deed. In line with Article 16 paragraph (1) letter m and Article 38 paragraph (4) of the UUJN, the notary must read the deed before at least two witnesses. Furthermore, Article 40 paragraph (1) affirms that the authentic deed must be signed by the notary, the appearers, and the witnesses, while Article 40 paragraph (2) outlines specific requirements that instrumental witnesses must fulfill to validate the deed's authenticity.

- a. Most rendang are 18 (eighteen) years old or previously married.
- b. Capable of doing legal acts.
- c. Understand the language used in the deed.
- d. Can be signed and paraphrased.
- e. Not having a marital relationship or blood relationship in a straight line up or down without restriction of degrees and lines to the side up to the third degree with the notary or the parties.

From a criminal law perspective, a witness must provide firsthand information about a legal event, as defined in Article 1 number 26 of the Criminal Procedure Code, aligning with UUJN provisions that require witnesses to personally hear, see, and experience the event, making their presence essential for the authenticity of notarial deeds. Witnesses are crucial not only as evidence in trials but also to uphold the validity and integrity of legal documents; fictitious witnesses violate administrative rules, professional ethics, and may lead to criminal liability. In civil law, witnesses prove the existence and validity of legal acts, especially when written evidence is lacking, with their testimony vital for confirming the formal correctness of authentic deeds. The UUJN mandates that instrumental witnesses be genuinely present during

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deed execution, ensuring legal certainty and evidentiary strength; falsifying witness presence undermines these guarantees and may invalidate the deed or reduce it to a simple private document. Notaries bear moral, professional, and legal responsibilities for the deeds they prepare, and under the theory of legal responsibility, as explained by Hans Kelsen, violations of legal norms—including including fictitious witnesses—can lead to civil, administrative, and criminal sanctions if harm results from negligence or intentional acts. For instance, in the Rantauprapat District Court case No. 26/Pdt.G/2020/PN Rap, Notary Elis Syahputra included a fictitious witness in a lease agreement deed, leading to legal disputes and highlighting the serious consequences of violating witness authenticity requirements under the UUJN and civil law.

Yamin then took the next step, namely:

1. Submit a Memorandum of Objection to the Chairman of the Rantauprapat District Court and the Chairman of the Indonesian Notary Association (INI) Labuhanbatu Branch.
2. Reported Notary Elis Syahputra to the Police, with STTLP No. 290/Yan 2.5/III/2020 on March 16, 2020, for allegedly including the name of a false witness (Ikbal) in the deed.
3. The plaintiff filed a new lawsuit in Case No. 26/Pdt.G/2020/PN Rap, with the demand that the lease-tenant deed be declared null and void, because it did not meet the requirements for the authenticity of the deed.

The lawsuit arose when the deed included the name of a witness, Ikbal Solin Hutahaeen, who the plaintiff claimed was not present and unknown to the parties, violating Article 1868 of the Civil Code and Article 16 paragraph (1) letter m of Law No. 30 of 2004 on Notary Office as amended. The plaintiff argued the deed lost its authenticity and should be nullified, seeking compensation and fines for non-compliance. Prior efforts included objections to court and the Indonesian Notary Association (INI), and a police report for alleged falsification. In practice, instrumental witnesses are often notary office employees but need not be, as long as they meet UUJN requirements. Negligence in listing witnesses can occur, and notaries must bear administrative, civil, and criminal liabilities if they include fictitious witnesses, violating UUJN Articles 16 and 44, which undermines professional integrity. INI oversees ethical conduct through the Notary Honorary Council but cannot impose sanctions, while external supervision is by the Notary Supervisory Council appointed by the Minister of Law and Human Rights under Article 67 of the UUJN.

- a. The government is 3 (three) people.
- b. Notary organization as many as 3 (three) people.
- c. Experts or academics as many as 3 (three) people.

The Notary Supervisory Council operates at three levels: Regional Supervisory Council (MPD), Provincial Supervisory Council (MPW), and Central Supervisory Council (MPP), with the primary role of guiding and supervising notary duties, including handling reports of alleged administrative violations by notaries. Each level has distinct authorities as stipulated in the UUJN, with MPD's authority specifically outlined in Article 70 of the UUJN.

- a. Holding a hearing to examine the alleged violation of the notary code of ethics or violation of the implementation of the notary office.

- b. Conduct periodic inspections of the notary protocol 1 (one) time in 1 (one year or whenever deemed necessary).
- c. Granting leave for up to 6 (six) months.
- d. Appoint a substitute notary by paying attention to the elements of the notary concerned.
- e. Determine the place where the notary protocol is stored which at the time of handover of the notary protocol is 25 (twenty-five) years old or more.
- f. Appointing a notary who will act as a temporary holder of the notary protocol who is appointed as a state official as referred to in article 11 paragraph (4) of the UUJN.
- g. Receiving reports from the public regarding alleged violations of the notary code of ethics or violations of the provisions in this law.
- h. Make and submit reports as referred to in letters a, b, c, d, e, f and g to MPW.

In addition to this authority, the MPD is also obliged to make an inspection report and submit it to the local MPW, with a copy to the notary concerned, notary organization, and MPP. MPD is also obliged to examine public reports to the notary and submit the results of the audit to the MPW within 30 (thirty) days with a copy to the reporting party, the notary concerned, MPP and notary organizations. Both of these things are in accordance with the provisions of article 71 of the UUJN.

The authority of the MPW based on Article 73 of the UUJN is:

- a. Hold a hearing to examine and make decisions on community reports that can be submitted through the MPD.
- b. Summoning the reported notary to conduct an examination of the report as referred to in letter a.
- c. Granting leave permission for more than 6 (six) months to 1 (one) year.
- d. Examine and decide on the decision of the MPD that rejects leave submitted by the reporting notary.
- e. Sanction both verbal and written warnings.
- f. Proposing the sanction of notaries to MPP in the form of:
  - 1) Temporary suspension of 3 (three) months to 6 (six) months.
  - 2) Disrespectful dismissal.

MPP is obliged to convey decisions related to its authority mentioned above to the notary concerned with a copy to MPP, and notary organizations. After holding a hearing, if the notary files an appeal, the MPW is required to submit the appeal to the MPP against the imposition of sanctions and refusal of leave.

MPP has different authority from MPD or MPW, based on Article 77 of the UUJN MPP is empowered:

- a. Organize hearings to examine and take decisions at the appeal level against the imposition of sanctions and refusal of leave.
  - b. Summoning the reported notary to conduct an examination as referred to in letter a.
  - c. Imposing sanctions of temporary dismissal.
  - d. Proposing sanctions in the form of disrespectful dismissal to the Minister.
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The Notary Supervisory Council (MPP) is required to report its decisions to the Minister, relevant MPW and MPD, and the notary organization. If the public reports alleged administrative violations such as fictitious instrumental witnesses in authentic deeds, the MPD conducts initial investigations and may escalate moderate or severe cases to the MPW, which can further delegate serious cases to the MPP for final administrative sanctions. This tiered supervision follows procedures outlined in Ministerial Regulation No. 15/2020, involving written reports, case registration, hearings, summonses, and appeals, ensuring fair and thorough examinations. Notaries who intentionally include fictitious witnesses violate Article 16(1)(m), Article 44 of the UUJN, and the Notary Code of Ethics, damaging professional integrity and potentially facing administrative sanctions (warnings, suspensions, dismissal), civil liability under Articles 1868 and 1365 of the Civil Code for causing harm, and criminal liability under Article 264 of the Criminal Code for forgery. While notaries are public officials, they remain subject to criminal law and may face prosecution with prior approval from supervisory bodies.

### **Legal implications for Notary deeds containing fictitious instrumental witnesses in the perspective of the Notary Office Law**

An authentic deed is a written legal document made by a public official, such as a notary, that holds perfect and binding evidentiary power under Indonesian law (Article 1868 Civil Code), ensuring legal certainty by documenting facts accurately with the presence of real instrumental witnesses as required by UUJN. The deed's evidentiary strength covers formal, material, and external proof, protecting the rights of the parties involved and third parties. However, if a notary includes fictitious instrumental witnesses—persons listed but not actually present during the deed's signing—this undermines the deed's authenticity, reducing its evidentiary value to that of a private document and potentially causing it to be legally canceled. Such actions violate professional and legal obligations, breach public trust, and may expose the notary to administrative sanctions, civil liability for damages under Article 1365 Civil Code, and criminal charges for forgery under Article 264 Criminal Code. Therefore, the integrity and professionalism of the notary are crucial in maintaining the deed's validity, preventing disputes, and upholding legal certainty, as deeds with false information threaten the protection and clarity guaranteed by law and can lead to serious legal consequences including cancellation of the deed and liability for the notary.

### **CONCLUSION**

This study concludes that notaries bear significant legal responsibility for ensuring authentic deeds comply with Articles 40 and 44 of the Notary Law (UUJN), particularly regarding the proper inclusion of qualified instrumental witnesses, as the use of fictitious or unqualified witnesses violates legal and ethical standards, diminishing the deed's evidentiary value to that of a private document and exposing notaries to administrative, civil, and ethical sanctions. While Supreme Court Decision No. 1266 K/Pdt/2022 ruled that such violations don't invalidate agreements under the Civil Code, they still constitute formal breaches that undermine both the deed's validity and the profession's integrity. Future research should

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examine the long-term effects of these violations on public trust, evaluate current regulations' effectiveness in preventing misconduct, assess the role of professional education in ethical compliance, and analyze their financial and legal consequences for affected parties.

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