DISCIPLINE DIGEST

The Society of Notaries Public of British Columbia

February 2011

MA NGUYEN
Commissioned: May 2007

The Notice of Inquiry dated August 27, 2010 sent to Mr. Nguyen by the Society alleged that in his capacity as a Notary Public he breached his oath of office and Section 28(1)(c) of the *Notaries Act* by executing a false jurat in an affidavit, which offends Principles 1 and 2 of the Principles for Ethical and Professional Conduct of the Society of Notaries Public of British Columbia.

The Panel met to review the evidence as submitted by the Society and the member.

Agreed Statement of Fact and Penalty

By way of agreement between the Member and the Society of Notaries Public, the panel received the agreed facts described herein.

1. Ma Nguyen (the "Member") travelled to Vietnam to attend a conference between November 20 and 24, 2009.

2. While in Vietnam, Mr. LTV and the Member attended a Vietnamese Overseas Conference. Mr. LTV met with the Member and asked him to prepare a Declaration attesting to his marital status in support of his forthcoming marriage to his fiancée, Ms. PTNH (his "wife").

3. Mr. LTV and the Member discussed the facts of the Declaration and the Member obtained and copied Mr. LTV's identification documents.

4. The Member returned to Vancouver on or about November 24th, 2009. While in Vancouver, the Member drafted the Declaration (the "Declaration") for Mr. LTV.

5. The Member returned to Vietnam on December 5th, 2009 for another scheduled meeting. The Member met with Mr. LTV at his home and Mr. LTV signed the Declaration. The Member did not date the Declaration nor did he attest Mr. LTV's signature at that time.

6. The Member returned to Vancouver on or about December 7, 2009 and prepared additional documents to accompany the Declaration to the Department of Foreign Affairs on behalf of Mr. LTV.

7. On December 14, 2009, the Member attested the Declaration and dated it December 14, 2009. The Member submitted the Declaration and other documents to the Department of Foreign Affairs on behalf of Mr. LTV.

8. Mr. LTV was not present in Vancouver on December 14, 2009 when the Member attested the Declaration and therefore the Declaration was not "Declared before [me] at the City of Vancouver, in the Province of British Columbia [this] 14th day of December, 2009".

Admissions

The Member admits that the attestation on the Declaration of Mr. LTV is false.

The Member admits that the attestation is a breach of his Oath of Office.

The Member admits that his attestation of the Declaration is contrary to Principles 1 and 2 of the Principles for Ethical and Professional Conduct of the Society of Notaries Public of British Columbia; and

The Member admits that making a false attestation is professional misconduct, a breach of Section 28(1) of the *Notaries Act*, is contrary to the best interests of the public and tends to harm the standing of the notarial profession.

Findings

On the basis of the admissions and facts presented, the panel is of the view that Mr. Nguyen breached the *Act* as described in the Notice of Inquiry.

The Society and the Member agree that a breach of a Notary's Oath of Office is a most serious offence. Notaries are granted the privilege of attesting documents to be relied on in Canada and in countries all around the world. Making a false attestation cannot and ought not to be condoned by the profession and is deserving of censure. Sworn documents would lose their value if the public and those relying on the attestation do not have the utmost confidence in the process of preparing such documents.

The panel understands that this breach was not done intentionally, but was an error on Mr. Nguyen's part owing to a lack of appreciation for the very strict requirements of the jurat. Had the panel not believed this to be the case, the panel's recommended penalty for Mr. Nguyen would be considerably harsher.

Penalty

As the member did not appear at the hearing, after deciding the issue of liability the Panel considered a recommendation on penalty to the Board, pursuant to s. 31 of the *Act*.

In keeping with the seriousness of this breach, albeit one done without intent to deceive, the panel recommends Mr. Nguyen be reprimanded, that he receive the maximum fine of $5,000 and that he be suspended for a period of two weeks.

Costs are waived.

The Member stands suspended for the period February 28, 2011 through and including March 11, 2011.