

DISCIPLINE DIGEST

The Society of Notaries Public of British Columbia

May 2014

Notary 003

The member provided services to his client GAE that are not within the limits of services permitted in the lawful practice of a notary public in that he “notarized” a demand to the office of the Chief Justice of the Supreme Court of British Columbia for payment of approximately \$242 million dollars regarding various lawyers, law firms, banking institutions and others in favour of an entity referred to as S Estate.

Background:

By way of Agreed Statement of Facts and Admission:

1. The Member acted for GAE in April 2013 by signing a “Notary Acknowledgement” with respect to a “Declared Notice” for the Estate.
2. The Member did not prepare the Notice.
3. The Notice was addressed to the Office of the Chief Justice of the Supreme Court of British Columbia and demanded “damages” incurred by the “parties” in the amount of \$242 Million against various parties including financial institutions, individuals and lawyers.
4. The Member admitted that he did not direct his mind to the purpose or form of the “Declaration” and accepted his client’s explanation that he was executor of a US estate and required the declaration for that purpose, despite the Declaration being addressed to the Supreme Court of British Columbia and demanding payments from Canadian individuals, lawyers, lenders and corporate entities and which appeared to refer to a BC registered strata lot in a registered strata plan.
5. The Member said he believed he was providing a notarial service as contemplated in Section 18 of the *Notaries Act* and that he did not have a duty or obligation to look at the form of the document or direct his mind as to whether it was valid or vexatious.

Admission:

The Member agreed with the Society that:

6. Members should employ great care and be meticulous and conscientious in the swearing and preparation of documents. Members should take reasonable steps to protect against fraud, misrepresentation or unethical practices, all of which is set out in Principle 3 of the Society’s ethical principles for professional conduct.
7. In hindsight, the Member agrees that the Declaration as written and submitted to him for notarization has no apparent valid purpose and that by notarizing the document the Member may have inadvertently provided it with a measure of credibility and/or authenticity it would not otherwise have had or been entitled to have.

Findings

The panel was satisfied that the allegations from the Notice of Hearing that were admitted by the Member were made out.

This is not an issue of negligence. The document in question is not a document, like a certified copy, that required a notary's services. It appears to be a demand and likely a contentious one. The Member should have been able to discern that without difficulty and where members are asked to participate in making demand, they should refer their client to an appropriate professional.

The Board reviewed Madam Justice Ker's discussion of a similar document in *R. v. Petrie* 2012 BCSC 2010. The course of her judgment it is made clear by Her Ladyship how these documents can be a substantial nuisance.

The Board notes that Notaries have in the past been advised on many occasions that they not to involve themselves with documents that do not require a notary's expertise.

Penalty

After reviewing the issue of liability, the panel considered a joint recommendation on penalty. The Board orders that the member be reprimanded and pay \$500 toward costs of the proceeding, as suggested by the member and the Society.

Pursuant to policy, these findings are published without identifying the particular member.