

LEGAL CONSEQUENCES FOR A NOTARY PUBLIC WITH DOUBLE PROFESSIONS AS A RECTOR OF A PRIVATE UNIVERSITY BASED ON LAW ON OFFICE OF NOTARY PUBLIC

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Abstract: This research discusses juridical consequences for a notary with double professions as a rector of a private university according to Law on office of notary public. The purpose of this research is to explore and analyze the juridical consequences and sanctions for a notary with double professions as a rector or lecturer of a private university according to Law on office of notary public and code of ethics. This is normative legal research. This research shows that Article 17 Letter f of UUJN explicitly mentions the prohibition for a notary to has double professions as a manager or an employee of a State-owned Enterprise, a Municipally-owned Corporation, ora private company. A notary public who becomes a rector or lecturer at a private university is not assumed to violate the provision of Article 17 letter f UUJN. However, a notary with double professions can get administrative sanction in the form of a written warning, temporary layoff, honorably or dishonorably discharge.

Keywords: Doubling for a notary; Rector of Private University

Abstrak: Penelitian ini membahas mengenai konsekuensi yuridis bagi notaris yang merangkap jabatan sebagai pimpinan perguruan tinggi swasta menurut undang-undang jabatan notaris. Penelitian ini bertujuan untuk mengkaji dan menganalisis mengenai konsekuensi yuridis serta penerapan sanksi bagi notaris yang merangkap jabatan sebagai pimpinan atau dosen diperguruan tinggi swasta menurut undang-undang jabatan notaris dan kode etik. Jenis Penelitian ini ialah penelitian yuridis normatif. Hasil Penelitian menunjukkan bahwa dalam Pasal 17 huruf f UUJN secara eksplisit disebutkan bahwa adanya larangan bagi pengemban profesi Notaris untuk merangkap jabatan sebagai pemimpin atau pegawai BUMN, BUMD atau badan usaha swasta. Seseorang yang mengemban jabatan Notaris menjadi pimpinan dan dosen pada Perguruan Tinggi Swasta tidak melanggar ketentuan Pasal 17 huruf f UUJN. Serta terkait notaris yang melakukan rangkap jabatan dapat dikenakan sanksi administratif berupa peringatan tertulis, pemberhentian sementara, pemberhentian dengan hormat atau tidak hormat.

Kata Kunci: Rangkap Jabatan Notaris, Pimpinan Perguruan Tinggi Swasta.

INTRODUCTION

According to UUJN-P (Law on Office of Notary Public), in accomplishing duties, a notary public must follow and obey every regulation

in Law Number 02 Year 2014 Concerning Notary Public (UUJN-P). Chapter III Article 15, 16, and 17 Law on office of notary public, regulates a notary public's authorities, duties, and prohibitions. Every notary public must be

and obey the regulation controlling the notary public, which is UUJN-P and code of notary ethics.¹ Code of notary ethics is an entire moral rule created by the Indonesian Notary Association which must be obeyed by all members of the association and every notary public, including every notary public temporary official, substitute notary public, and special substitute notary public.² Code of notary ethics consists of all responsibilities, prohibitions, and exceptions for a notary public in accomplishing the duties. A notary can obtain sanction if he or she is proven to violate the regulations in the code of notary ethics.³

Article 17 letter (f) of UUJN-P has mentioned explicitly that a notary public is prohibited to have double professions and doing a job that violates the religious norm, morality, or appropriateness which affects the honor and dignity of a notary public.⁴ If the notary public violates the regulations, the sanctions mentioned in UUJN-P and Article 6 of the notary ethical code will be in the form of a verbal warning, written warning, *schorsing*, or temporary layoff, *onzzetting*, or honorably discharge to dishonorably discharge.⁵ A notary public is prohibited to have double professions, so if the notary violates this regulation, it will affect its notarial deed.⁶ Based on Article 3 ethical code of the Indonesian Notary

Association (*Ikatan Notaris Indonesia*), a notary public is required to have morality, attitude, and good personality; respect and uphold the dignity of a position as a notary public. A notary public also must accomplish the duties that must be obeyed and completed but not limited to the regulations in law on office of notary public.⁷

Article 9 of UUJN-P mentions that a notary who violates the regulations can get sanctions from the Notary Supervisory Board based on the report by the Notary Regional Supervisory Board following the report by people in society related to violations of notary ethical codes or regulations in UUJN-P. Then, the Supervisory Board can propose to the Notary Supervisory Council for giving temporary layoff or dishonorably discharge. Despite this provision is included in the Laws and code of ethics that prohibits a notary public to have double professions, there are some notaries with double professions such as rector and employee in private company in Indonesia as mentioned in Article 17 letter (f) of UUJN-P. Based on regulations in Article 60 Verse 3 Law Number 12 Year 2012 Concerning Higher Education, private universities are established by a legal entity such as a foundation. This research is started from the existence of notaries with double professions as rectors or lecturers of

¹ Faradina, *Persaingan Tidak Sehat Antar Rekan Notaris Sebagai Dampak Dari Penetapan Tarif Jasa Notaris Dibawah Standar Ditinjau Dari Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris Dan Kode Etik Notaris*, Unpublished Thesis, Jakarta: Universitas Indonesia, 2011, p. 1

² Setiawan, *Notaris Yang Melakukan Rangkap Jabatan Sebagai Dosen*, *Jurnal Dialogia Iuridica*, Vol. 9 Number 2 2018.

³ Ayuningtyas, *Sanksi Terhadap Notaris Dalam Melanggar Kode Etik*, *Repertorium: Jurnal Ilmiah Hukum Kenotariatan*, Vol. 9. Number 2, 2020.

⁴ Aristyani, *Notaris Yang Merangkap Jabatan Legal Officer Sebagai Pegawai Perusahaan*, Unpublished Thesis,

Magister Universitas Airlangga, 2018.

⁵ Umanailo, *Implikasi Hukum Penyalahgunaan Jabatan Notaris Terhadap Jabatan Pejabat Pembuat Akta Tanah*. Unpublished Thesis, Magister Kenotariatan, Universitas Narotama Surabaya, 2016

⁶ Oktavia, *Kedudukan Akta Dan Akibat Hukum Terhadap Notaris Yang Melakukan Rangkap Jabatan*, *Jurnal Ilmu Hukum Kenotariatan*, Vol. 3, Nomor 1, 2019.

⁷ Widyalastari, *Akibat Hukum Notaris Merangkap Jabatan Sebagai Arbiter Ditinjau Dari Undang-Undang Nomor 2 Tahun 2014 Tentang Jabatan Notaris*. *Jurnal Akta*, Vol. 4, Number 4, 2017.

private universities in the form of foundation. As an example, Notary A has double professions as a lecturer in a private university, and Notary B has double professions as a rector in a private university. Notary A and B maybe able to have double professions since the notary office is still open during the notaries working hours as a rector and a lecturer in the private university, and they do not on furlough as notaries during their status as lecturer or rector of the private university.

This research is different from previous research, such as research conducted by Santy Gozaly and Jeffrey Tanugraha. Santy Gozaly researched notaries with double professions based on Law Number 30 Year 2004 concerning Office of Notary Public and Law Number 30 Year 1999 concerning Arbitration and Alternative Dispute Resolution. The research discussed whether it was allowed that a notary to have profession as an arbiter and how its implementation, problems caused by the double professions.

In line with previous juridical problems, the research problem appropriate to this research is, "What are the juridical or legal consequences for a notary public with double professions as a rector or a lecturer in a private university based on Law on Office of Notary Public and code of notary ethics? The purpose of this research is to explore and analyze the juridical consequences for a notary with double professions. The urgent of this research is the fact that having double professions for notary public as a rector or a lecturer in a private university has created pros and cons from others, even

from academics, practitioners, and other related parties. Therefore, it is principal to find the reason behind the double professions as a rector or lecturer of a private university.

Jeffrey Tanugraha researched the law impact of the notarial deed from a notary with double professions as a government official, and the relationship between the prohibition to have double professions as a government official and its accomplishment for the duties and authorities as a notary.⁸ Recent research is different because the focus is on the discussion of a notary's double professions as a rector or lecturer of a private university based on the law on office of notary public.

METHOD

This is normative legal research for library research, which means it analyzes the normative legal materials.⁹ The approaches for this research are the statute approach and conceptual approach. The legal materials are from secondary data or library research. The legal materials are divided into primary law material¹⁰ (Law Number 2 Year 2014, code of ethics, and other laws), secondary law material (books, journals, seminars), and tertiary law material (law dictionaries and papers). The technique of data collection is documentation, which are documents from various relevant references.

RESULTS AND DISCUSSION

The legal profession is a profession that sticks and applies to a law career in the government sector of a country. A notary public is elected by the authority based on laws, not from personal

⁸ Tanugraha, *Akibat Hukum Bagi Notaris Yang Merangkap Jabatan Sebagai Pejabat Negara*, Unpublished Thesis, Magister degree of Legal Studies Universitas DR. Soetomo, Jawa Timur, 2017.

⁹ Nasution, *Metode Penelitian Ilmu Hukum*, (Bandung: Mandar Maju, 2008), p. 97.

¹⁰ Soemitro, *Metodologi Penelitian Hukum Dan Jurimetri*, (Jakarta: Ghalia Indonesia, 1990), p. 53.

interest but for a country.¹¹ Therefore, to establish a good legal instrument or profession, that its regulations in line with reality, will need good cooperation between legal institutions and legal educations.

In performing its authority, a notary public must follow the regulations in Article

15 of UUJN-P. Furthermore, a notary public generally must obey other regulations related to the notarial deed in its authority. UUJN-P does not only regulate the duties but also the prohibitions on the profession of a notary public.¹² One example of prohibition for a notary public is to have double professions. This prohibition is mentioned in Article 3 letter (g) of UUJN-P. It says that a notary public is not a civil servant, government official, advocate, or other professions that are prohibited by laws. The prohibitions for notary publics are also regulated in Article 17 of UUJN as mentioned in the following:

- a. performing their position as a notary public outside their office area;
- b. leaving their office for 7 (seven) consecutive days without any acceptable reason;
- c. doubling as a civil servant;
- d. doubling as a government official;
- e. doubling as an advocate;
- f. doubling as a manager or an employee of the State-owned Enterprise, Municipally-owned Corporation, or private company;
- g. doubling as a Land Deed Official outside his/her office area and /or Class II Auction Officer outside their notary position;
- h. doubling as a substitute notary; or

- i. perform another job in contravention of religious, ethical, or appropriate norms that can influence the honor and dignity of the Notary Publics.

UUJN-P strictly set the prohibitions of having double professions for a notary public, so the supervision for the Notaries is very essential to help them accomplish their duties under regulations. However, in universities, especially for some law colleges and private universities that have law faculty or graduate and postgraduate program, a lot of practitioners in law like notary publics, advocates, judges, or other legal practitioners who are eligible to share their knowledge for academics, as such as being lecturers in public or private universities. They are expected to give a contribution as lecturers by providing a well-balanced approach and understanding between law theory and practice in reality, like between *das sollen* and *das sein*.

Double professions are performed by legal professionals and practitioners who also have status as notary publics. There is a hesitancy whether working as a notary and a rector or lecturer is assumed as double professions. This hesitancy brings pros and cons which resulted in legal uncertainty. The provisions related to a notary with double professions as a rector and lecturer are not found in Law on Office of Notary Public, Law Number 14 Year 2005 concerning Teachers and Lecturers, and other regulations. Nevertheless, it is not that simple. There is a question of whether the limitation, conflict of interest, and legal vacuum exist. The existence of notaries as part of law implementation as proven through notarial deeds to give legal certainty to the society who use the notarial services.¹³ Consequently, notary publics

¹¹ Sjaifurrachman, *Aspek Pertanggungjawaban Notaris Dalam Pembuatan Akta*, (Bandung: Mandar Maju, 2011), p. 10.

¹² Ministry of National Education, *Kamus Besar Bahasa Indonesia*, (Jakarta: Balai Pustaka), p.567.

¹³ Budiono, *Kumpulan Tulisan Hukum Perdata Di Bidang*

must be neutral during performing their duties without taking sides.

In reality, there are a lot of notary publics with double professions as a rector or lecturer at an educational institution like private universities. The prohibition on doubling for a notary public as a rector or a lecturer related to the specialization that requires a notary public to be professional by concentrating on merely one profession as a notary public. Furthermore, the prohibition can avoid conflict of interest

and help the notary public to consistently be neutral and independent. The prohibition is also because of the natures of the notary's job which are independent, individualist, bossless, trustworthy, and virtuous. Also, this profession has fewer laws and regulations, so in the field, it tends to meet various offenses.

The notary publics with double professions as rectors of private universities or lecturers in law faculty are different. Lecturers from the notarial profession are needed by the universities for establishing the real atmosphere of the notarial profession in academics. A notary public with double professions can invite some questions from sociology and law perspectives. A lecturer is a professional educator who has the responsibility to develop, transform, and share knowledge, technologies, and arts through education, research, and community service. A lecturer is required to have an academic qualification, competence, educator certification, and physical and mental health. The minimum academic qualification is a magister degree for

teaching diploma or bachelor degree, and doctorate for teaching graduate or postgraduate.¹⁴

A lecturer has a duty to teach and guide the students for obtaining their relevant competencies and has a responsibility to develop the sciences and knowledge through research regularly. Whereas, the notarial profession is a profession based on trust. A notary public is not allowed to act on behalf of one side.¹⁵ It will guarantee integrity and social trust in using notarial services.

Human attitudes are done consciously and unconsciously in three dimensions. They are science, skills, and desire.¹⁶ Based on an interview conducted with a notary public, the reason for doubling as a lecturer of public and private universities was the requirements for graduate students of notary program to be taught by lecturers who have a doctorate and notarial profession of land deed official. It helped the students to learn directly from the practitioners before being the real notary publics. The interviewee also mentioned that the more public universities (PTN) and private universities (PTS) having master's degrees in notary programs, the more practitioners for education, and the more competition among the candidate of notary publics in the future.

The requirements and limitations of being a lecturer have been regulated in Laws Number 14 Year 2005 on Teachers and Lecturers. Article 1 explains that a lecturer is a professional educator and researcher who has the responsibility to share, develop, researching the sciences and knowledge. In chapter V (five) Law Number 14 Year 2005 on teachers and lectures, Article 45 explains academic

Kenotariatan, Second Book, (Bandung: Citra Aditya Bakti, 2013), p. 220

¹⁴ Supriadi, *Komunikasi Pembelajaran*, (Bandung: Remaja Rosdakarya, 2012), p.9.

¹⁵ Adjie, *Hukum Notaris Indonesia, Tafsir Tematik Terhadap UU No. 30 Tahun 2004 Tentang Jabatan Notaris*,

First Edition, (Bandung: Refika Aditama, 2008), p. 87.

¹⁶ Budiono, *Kumpulan Tulisan Hukum Perdata Di Bidang Kenotariatan*, Third Book, First Edition, (Bandung: Citra Aditya Bakti, 2015), p.145.

qualifications, competence, educator certification, and others. Through Law Number 14 Year 2005 on Teachers and Lecturers, a profession as a lecturer is also linked to Law Number 12 Year 2012 on Higher Education (*Dikti*), in which Article 18 Verse (3) mentioned that “The bachelor’s degree program must have lecturers with minimum academic qualifications of graduates from a master’s program or equivalent.”

UUJN-P has regulated the rights and duties also prohibitions for a notary public as a public official. Article 1 and Article 15 of UUJN have emphasized that the main responsibility of a notary public is to make authentic deeds.¹⁷ Furthermore, a notary public also gives legal advice to whom it may concern. In giving legal advice, a notary public can accomplish it in several ways, in the office or outside the office, and educational institutions like magister degree of notary program for a place to give the legal advice. Another notary public to be interviewed also said that a notary who was also a lecturer in a master of notary program was a social worker. Hence, doubling as a lecturer in a notary program has a spiritual value to share knowledge and experiences as a notary, give the heart and thought between working in the office and teaching in the campus, and also sacrifice the time. A campus is a place for the notary public official to fill the spiritual needs by giving charity as part of the notarial services. Moreover, the notary with double professions as the lecturer is usually more motivated to learn. There is an open opportunity for the notary to conduct research, publish scientific papers, and give constructive criticism and suggestions for legal education especially in the common law. Third, the notary who also works as the lecturer will be more upgrade and update, because the reality in life is also

dynamics and changeable. The sciences will be changed and developed, so it will impact to learning and teaching process in education.

1. Notaries with Double Professions as Rectors of Private Universities Doubling as a

rector of a private university, a notary public should have extra time, so he/she must be able to manage the time wisely to give notarial services in the common law. It is different if the notary doubling as the lecturer, managing the working time will be more flexible. If it is referred to regulation in Article 17 verse (1) letter i of UUJN, which mentions “A notary public shall be prohibited from performing another job in contravention of religious, ethical, or appropriateness norms that can influence the honor and dignity of office of the notary public,” the work as a rector is not against the regulation.

Related to the establishment of a private university, it can be done by a foundation. Article 1 verse 1 of Law Number 16 Year 2001 on Foundations defines a foundation as a statutory body consisting of separated assets for achieving objectives in social, religious, and humanitarian fields. As the result, to achieve social objectives a formal education is established through the existence of higher education. The explanation about the foundation as a non-profit organization is emphasized in Article 3 verse (1) which amended to Law Number 28 Year 2004 on Amendment to Law Number 16 Year 2001 on Foundations, which mentions that a foundation cannot be used as a directly profitable business, but must through other business entities in which the foundation keeps its assets. Moreover, the explanation of Article 60 Law Number 12 year 2012 on Higher

¹⁷ Hendra, Tanggung Jawab Notaris Terhadap Akta Otentik Yang Penghadapnya

Mempergunakan Identitas Palsu di Kota Pekan Baru, *Jurnal Ilmu Hukum*, Volume III, No.1, p. 9

Education implicitly mentions that private higher education can only be established by a non-profit legal entity. A non-profit legal entity in Article 60 Law Number 12 year 2012 on Higher Education refers to the activities accomplished by the entity are not subjected to get profit, so all residual income must be given to the university to improve the capacity or the education quality. Therefore, the establishment of a university cannot be done by any profitable entity such as the State-owned Enterprise, the Municipally-owned Corporation, or the private company. It is a logical consequence for the foundation due to its status as a non-profit entity, but it is still allowed to keep its assets to an entity following the law regulations.

The profession as a notary public needs public trust. Consequently, this profession must be supervised to ensure that the notarial services can be implemented following the applicable law for avoiding fraudulence. The objective of this supervision is to protect all rights, authorities, and duties in notary publics following the applicable laws, ethics, and morals for maintaining legal protection and legal certainty in the common law. The supervision is done through Notary Supervisory Council following the laws as regulations and guides.¹⁸ To maximize the function of the notary public, the function of the Indonesian Notary Association (INI), Notary Supervisory Council, Notary Public Honorary Council, and Higher Education as an institution providing a notary program should also be improved. The objectives of INI as an association for notary publics in

Indonesia are to affirm the truth and justice and maintain the nobility and dignity of the notarial profession as the excellent public official as part of service to God Almighty, to Nation and Country for reaching legal certainty, unity, and welfare of its members.

A.A. Andi Prajitno has strictly mentioned that besides doubling as an educator, a notary public may also have other professions as a land deed official (PPAT), a Class II Auction Officer, and a Mediator which mentioned in Article 1 verse (6) of PERMA No. 01/2008.¹⁹ Moreover, it is also strictly mentioned that doubling as a lecturer is allowed if it is not as a civil servant (Article 17 letter c UUJN-P). If it is constructed into a contrario argument from Article 17 letter i of UUJN-P, a notary public may also have another job that is not in contravention of religious, ethical, or appropriateness norms that can influence the honor and dignity of the office of the notary public.

1. Sanctions for Notary Publics with Double Professions

Indonesia as a legal state based on Pancasila and the 1945 Constitution guarantees certainty, law and order, and legal protection for every citizen. Friedrich Julius Stahl characterizes the state of law concept into four main elements: (1) recognition and protection of human rights; (2) the country is based on trias politica; (3) the governance follows rule of law (*wetmatigheid van bestuur*); and (4) the existence of administrative court to handle government's infractions (*onrechtmatige overheidsdaad*).²⁰ The notary public is merely a human when completing the duties can make mistakes or infractions. Legal sanctions can be defined as media

¹⁸ Winarno, *Analisis Yuridis Terhadap Notaris Yang Merangkap Jabatan Sebagai Ketua Program Studi Kenotariatan Program Magister Di Perguruan Tinggi Swasta*, Unpublished Tesis, Magister degree of Notary Program Universitas Islam Indonesia, Yogyakarta, 2019.

¹⁹ Prajitno, *Pengetahuan Praktis Tentang Apa Dan Siapa Notaris Di Indonesia*, (Surabaya: Putra Media

Nusantara, 2010), p.78.

²⁰ Rahayu, Peran Dan Fungsi Notaris Dalam Pembuatan Kontrak Bagi Hasil Minyak Dan Gas Bumi Di Indonesia, *Jurnal Hukum & Pembangunan*, Vol. 50 Number. 1, 2020.

to protect people's interests and physics (soul, property, liberty, body) by giving punishments as the sanctions for the infractions.²¹ The notary publics' prohibitions when accomplishing their duties and responsibilities are guided in Article 17 UUJN-P on office of notary public. If the notary publics violate a prohibition, the notary publics will get a sanction as regulated in Article 17 verse 2 UUJN-P which mentions:

The notary publics who disobey the regulations mentioned in verse (1) will get one of the following sanctions:

- a. written warning;
- b. temporary layoff;
- c. honorably discharge; or
- d. dishonorably discharge

If a notary is proven to commit an infraction to the duties and prohibitions as regulated in Article 16 and 17 of UUJN-P, the sanction in the form of civil sanction, administrative sanction, sanction for violating the code of ethics, or even criminal sanction will be given.²² Administrative sanctions are sanctions caused by the relationship between the government and the citizens (through authorized institutions). Without a judge as a mediator, the sanctions can be directly given by the government.²³ Civil sanctions are usually given to the infractions of private laws, which regulate the relationship among individuals' interests.²⁴ On the other hand, sanctions for violating code of ethics can be given to the notary publics who breach the notary ethical codes. The sanctions are

given by the Notary Public Honorary Council. Last, criminal sanctions are sanctions for doing crimes that can endanger legal interest.²⁵

UUJN-P classifies administrative sanctions into four types of sanctions. Those four sanctions are written warning, temporary layoff, honorably discharge, and dishonorably discharge. Those sanctions can only be given if the notary publics are proven to violate a regulation in Article 7 verse (1), Article 16 verse (1) letter a to letter l, Article 16 verse (13), Article 17 verse (1), Article 19 verse (2), Article 32 verse (1, 2, and 3), Article 37 verse (1), or Article 54 verse (1) of UUJN-P.

Civil sanctions are given to the notary public due to the infractions on some articles in UUJN-P which cause degradation of an authentic deed to a private deed. Then, it will be a reason for the parties who suffer by such breach to demand compensation, fee, and interest to the notary publics.²⁶ Civil sanctions are usually given to an infraction on the common law. This infraction is related to the regulations in Article 16 verse (1) letter m, verse (7) and (8), Article 41 which pointed to Article 38, Article 39 and Article 40, Article 44 verse (1) to (4), Article 48 verse (1) and (2), Article 49 verse (1) and (2), Article 50 verse (1) to (4), and Article 51 verse (2) which caused a deed to be recognized as a private deed and became a reason for the suffering parties to prosecute the notary public.

Law on office of notary public has regulated in detail about the authentic deed making, its prohibitions, its duties notary public, and its sanctions if it is proven to

²¹ Tirtaamidjaya, *Pokok-Pokok Hukum Pidana*, (Jakarta: Fasco, 1995), p. 15. Tirtaamidjaya, *Pokok-Pokok Hukum Pidana*, (Jakarta: Fasco, 1995), p. 15.

²² A.R, *Perlindungan Hukum Terhadap Notaris (Indikator Tugas-Tugas Jabatan Notaris Yang Berimplikasi Perbuatan Pidana)*, (Jakarta: Softmedia, 2011), pp. 9-10.

²³ Rimmelink, *Hukum Pidana, Komentaris Atas Pasal-Pasal Terpenting Dari Kitab Undang-Undang Hukum Belanda Dan Padanannya Dalam Kitab Undang-Undang Hukum Pidana Indonesia*, (Jakarta: Gramedia Pustaka

Utama, 2003), p. 15.

²⁴ Soekanto, *Sendi-Sendi Ilmu Hukum Dan Tata Hukum*, (Bandung: Citra Aditya Bakti, 1993), p. 63.

²⁵ Chazawi, *Pelajaran Hukum Pidana 1*, (Jakarta: Raja Grafindo Persada, 2011), p. 81.

²⁶ Subekti, *Hukum Pembuktian*, (Jakarta: Pradnya Paramita, 2008), p. 27.

commit the infractions on code of ethics. The notary who deliberately breaches the code of ethics will get sanctions. This regulation can be found in Article 16 verse 1 letter a of UUJN-P which mentions, "In performing the office, a notary public shall be obligated to act honestly, accurately, independently, non-unilaterally, and maintain the interests of the relevant parties in any legal action." As a public official, a notary public must be independent. The prohibition for doubling is related to the principle of independence and professionalism. The independence for a notary public is possible even if a notarial profession is assigned by the minister, but the notary public is not the minister's subordinate. Moreover, a notary public does not get the salary from the country, so it is obvious that the notary public can be independent and free from the authority of the executive, legislative, or judicative. Professionalism for a notary public is related to the concept of public trust for the notarial profession. This profession is trusted by the country to give notarial services to society. Consequently, when performing the job, the notary public needs good concentration, energy, and mind to maximize the services for the society.

A notary public is necessary to know and understand the code of ethics which regulates the actions recognized as the infractions to the code of ethics and what sanctions for committing the infractions.²⁷ In the code of ethics, some duties and prohibitions are obligated for all members of the association and everyone with the notarial profession in the office or in daily life. The legal consequences for a notary public who violates the code of ethics have been mentioned in the code of ethics in UUJN-P.

Based on Article 3 on the ethical code

of the Indonesian Notary Association (I.N.I), a notary public must have good morale, attitude, and characteristics. A notary public must respect and uphold the honor and dignity of the notarial profession, protect and defend the honor of the association, be honest, be independent, be non-unilateral, full of responsibility, develop the knowledge not limited to knowledge on law and notarization, and prioritize the service to the society and the country. In Article 3, it is mentioned that a notary public is obligated to have honor and dignity which can help society or the prospective clients without considering their social status. Giving a sanction for the notary public who commits an infraction should consider these characteristics such as the action is prohibited by law, there is a loss caused by the action, and the action should be against the law either formal or material. Article 13 mentions that:

"Without decreasing the regulations of the procedures to give sanctions in stages, for the members who violate the Law No. 30 year 2004 on Office of Notary Public and are convicted to be guilty based on judgment with permanent legal force, The central committee is obligated to give temporary dismissal as the members of the association and to submit a proposal for dismissal to the congress."

Sanctions for violating the regulations by the notary publics are completed in accordance with UUJN-P which means in accomplishing their duties and responsibilities, the notary publics are demanded to be responsible for themselves, clients or society, and also for the God. The regulations in Article 16 and 17 of UUJN-P obviously mention the duties and prohibitions for the notary public. If a regulation is disobeyed, there will be a sanction for the notary public. It is not only for the notarial profession, but also for other

²⁷ Mardiansyah, Kewenangan Majelis Kehormatan Notaris Pada Proses Penyelidikan Suatu Perkara Tindak Pidana Yang Melibatkan

Notaris, Repertorium: *Jurnal Ilmiah Hukum Kenotariatan*, Volume 9, No. 1 (2020), pp. 48– 58.

professions. All professions have strict regulations for the sake of the organization or the community.

CONCLUSION

A notary public in accomplishing the duties and profession must obey the UUJN (Law on office of notary public) and the notary ethical codes. A notary public who teaches as a lecturer in a private university is still acceptable by law and ethical code of Indonesian Notary Association as long as the university is established by a legal foundation not by State-owned Enterprise, Municipally-owned Corporation, or private company. The notary public is not allowed to have profession as a civil servant lecturer. Furthermore, Article 17 letter f of UUJN explicitly mentions the prohibition for a notary public to have double professions as a manager or an employee of a State-owned Enterprise, a Municipally-owned Corporation, or a private company, because of the conflict of interest. It is suggested that a notary public to complete the duties and responsibility must follow the oath of office. However, the sanctions for double professions are still weak.

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