Avoiding Fancied Obstacles

INTERVIEW WITH HUGH NATIONS

By Brenda Stone

One pitfall that novice notaries may encounter is what Hugh Nations, guest contributor to this issue of The Notary Digest, cleverly refers to as “fancied obstacles to completing legitimate notarizations.” In other words, Nations suggests that on occasion, in their eagerness to learn to do things well, notaries may develop ideas about what is or is not lawful and assert those ideas without realizing that their assertions have no legal foundation.

Hugh Nations, notary signing agent and retired attorney, cautions that notaries have a duty to be absolutely certain about what is and is not allowable under notary law. It is negligent for notaries to make statements about laws based on personal interpretations that they have long-considered to be correct, but have no foundation in law. He says, “It should be foremost in a notary’s mind that his or her goal should be to assist a client with his or her legitimate aims, not to place fancied obstacles in the way.”

Hugh Nations

“It should be foremost in a notary’s mind that his or her goal should be to assist a client with his or her legitimate aims, not to place fancied obstacles in the way.”

Nations explains, “During an exchange between a notary and his or her signer, it is the notary’s job to facilitate the wishes of the client when at all possible. It should be a notary’s goal to complete every legitimate notarization request presented to him or her and to do so in the most efficacious manner possible.” Nations suggests to notary colleagues that they be careful not to insert themselves as the most prominent figures in transactions. “Like it or not, notaries are the servants in this exchange; it is what we signed on for. We make things possible for our clients; we must do it without putting ourselves into the position of highest importance.” Nations’s adherence to his own advice likely contributes to his thriving mobile notary and signing agent business and his popularity with borrowers.

Legal Requirements vs. Personal Preferences

Nations recommends that notaries become familiar with the term “satisfactory evidence,” the guiding principle for identifying clients as set forth in most states’ laws. He says, “It is critical to remember that notaries must be unbiased from the moment that they meet with clients. Obviously, notaries must review proper ID documents for all clients, but notaries should make a conscious decision to presume that the signer is being honest about his or her identity.

A notary’s task is to identify the signer; he or she must not make it a priority to attempt to detect that the signer is being dishonest or fraudulent without evidence. The evidence that a notary may cite as proof of dishonesty must be that which, by the standards of ‘satisfactory evidence,’ would cause reasonable people to believe that a signer is not who he or she says that he or she is.”

Continued on Page 2
Avoiding Fancied Obstacles. Continued from Page 1

He goes on to say, “As notaries familiarize themselves with the concept of ‘satisfactory evidence’ as it applies to identifying signers, they may see that some of the requirements that they had once believed were necessary were actually based on personal preferences and not what is required by his or her laws.”

Examples of Common Fancied Obstacles

Below are three examples of common obstacles that the AAN has identified as having little or no legal basis, but which have been reported to cause some notaries to halt a notarization or loan document signing appointment.

Documents dated in the future.

Some notaries refuse to notarize documents that are dated for a date in the future because they say that documents dated in the future do not exist. Lenders and lawyers often date documents with a future date for a specific reason. Do not change the date.

The best practice is to make note of that date in one’s journal citing it as the date of the document. The notary should proceed with the notarization by dating the notary certificate accurately.

More on ID/less on documents.

Many notaries have come to believe that their states’ laws contain a “more not less” rule. No rule exists in any state’s laws. This is a fancied obstacle based on the idea that it is adequate if a citizen’s ID has more of the citizen’s name on it than the document he or she is to sign, but inadequate if the ID has less of the citizen’s name on it than the document does. For instance, if the document says “Janet Myers Smith” and the ID says “Janet M. Smith,” then a misinformed notary would deem the ID insufficient because it has less of the name than the document does.

Being a witness and notary.

Notaries have expressed to the AAN that if they are notarizing a document that requires two witnesses, it is illegal for them to both act as one of the witnesses and notarize the document, as well.

That is not always true. This situation occurs most often for notaries during loan signings. Some states require that two witnesses sign the security instruments; loan signing instructions from title companies often direct that only one additional impartial witness is required and that the notary may sign on one of the two witness signature lines as one of the requisite witnesses.

Notaries who encounter this often say, “That would be illegal! I can’t be a witness because I cannot notarize my own signature!”

Before stopping the notarization of the document, the notary should check to see if the certificate attached to the document refers to the names of the witnesses. If the certificate does not refer to them, the notary may be able to both notarize the document and apply his or her signature as a witness to the document unless his or her state specifically says that he or she may not. Two states that disallow this are Louisiana and North Carolina. There may be others, but most notary laws make no comment on this.

Our sources indicate that the official word on this issue from state offices that have been consulted range from “It is not a problem” to “It is not necessarily the best practice, but our state laws do not specifically prohibit it.” It is likely that title companies have made sure that there is not a problem with this action if they give notary signing agents instructions to perform it.

The AAN’s best practice instructions are that if any notary is unsure about this, he or she should contact his or her notary administrator’s office and ask if it is acceptable to sign as a witness on a document as long as the notary certificate does not refer to the names of the witnesses. There are times when execution of a document can be critical to a client. Notaries should be certain of how to proceed.

Meet Hugh Nations

Readers may wonder who Hugh Nations is and why they should give credence to his views on “fancied obstacles.”

The American Association of Notaries (AAN) solicited Hugh Nations for his contribution for this quarter’s Notary Digest because he has a unique background and skill set from which our readers will benefit.

Nations stays current on notary laws, industry standards, and has memberships with notary associations that have allowed him to develop relationships with notaries nationwide.

He has studied law in both Texas and Georgia and practiced law in Georgia. He has been a notary signing agent in Austin, Texas for over ten years. Obviously, Hugh Nations is not the only lawyer who performs notary work; however, few lawyers have focused almost exclusively on mobile notary and notary signing agent work for the length of time that Nations has. He retired in 2002 and, since then, has enjoyed building his business and focusing on issues that affect his notary work and service to clients.

If you asked Nations if he was a notary law expert, he would probably avoid the question and use his wit to redirect your attention. However, the AAN and notaries across the U.S. who have become familiar with him recognize that Hugh Nations has practical views on notary procedures that are tempered with a decade of experience and are not based solely on what one may learn from law books.

One very notable characteristic about Hugh Nations is that, in spite of his education and impressive background, he still seeks opportunities to learn from the experiences of other notaries. To learn more about Hugh and his business, Signing Agents of Austin, or to schedule him for a loan signing, visit his website, HisHughness.com.

Hugh, thank you for your important contribution to this article. Your points are excellent and we hope that you will become a regular guest contributor!

Do you have questions for Hugh about this article? Would you like to send us your comments? Please write us at info@usnotaries.com.
Suspended Because of Notary Journal Errors

This quarter, The Notary Digest begins a series of articles that describe difficult or unique situations that actual notaries have encountered while performing notary duties. Each contributor will receive a complimentary one-year membership to the AAN. We will keep all stories confidential. Consult the end of this article for details about how to participate.

The brave lady who agreed to be first and to share her situation in this quarter’s true notary story is “Belinda.” Belinda asked that neither her name nor her state be revealed. When we interviewed her, she summarized her situation like this, “I had been a notary for nearly ten years when I was approached by a group to handle documents for them. Let me just say that this group was not the type that I would belong to—they had strange and extreme views about local, state, and federal government. However, notaries do not reject notarizations based on personal beliefs and the work that I was requested to do did not seem like a problem, so I did it. I notarized many documents for this group and they were ultimately mailed by certified mail to more than ten government offices. When one particular state agency received its packet, its officials responded with forcefulness and much of the force was directed at me because I was the notary.” Belinda went on to explain, “Perhaps the government agency perceived me to be involved on a personal level with this group. At any rate, they asked me for copies of my journal pages that related to these notary acts and, of course, I sent them. The pages were scrutinized by the notary public administrative office of my state and they found fault with my journal. Officials said that I had used cursive handwriting rather than printing the information in my journal and I was also cited for a few places where I had not charged a fee, but had not put down a zero. Because of these issues, my commission was suspended for six months.”

When asked if she had advice about her experience for readers, Belinda said that she would recommend that notaries avoid notary acts such as notary protests or notarizing documents in which non-attorney citizens create documents for the purpose of avoiding paying debts or taxes. This is especially true when their reasons for not making payments on taxes or debts include unusual, if not bizarre, accusations against local, state, or federal government entities or officials. When those types of situations arise, notaries should make notes in their journals about being contacted and by whom, if they know, and they should cite exactly why they refused to notarize the documents presented. Belinda also said that she would advise her notary colleagues to pull out their state notary laws or notary handbooks and review the requirements for maintaining a notary journal. “Strictly adhere to those rules,” said she.

Belinda’s final tip for readers: “I encourage other notaries to share similar stories. I had no idea that this could happen to me. I’m a careful and honest notary, but I got caught in a bad situation with the wrong people.”

Belinda, we truly appreciate your contribution to this issue of The Notary Digest.

We want to hear your true stories! Have you had your commission revoked? Or have you received a letter from your notary public administrator’s office advising you that you are under investigation? We hope that others will be willing to share similar experiences. Write us at info@usnotaries.com. Put “Attn: True Notary Story Editor” in the subject line. Include your first name, email, and phone number; briefly state that you would like to share a true story. Our editor will contact you. Your name will be held in strictest confidence and we will not divulge any identifying information about you. If your story is selected for one of our newsletters, you will receive a complimentary year’s membership to the AAN.

Technology Picks

The electronic age was supposed to give us more time and less work, but it seems like the opposite has occurred! These websites may give you electronic solutions to common time-devouring issues.

**Mail Letters from your Computer**

Do you need to write a letter, but don’t have a stamp and envelope? Or maybe your printer eats envelopes and you don’t have time to deal with it? Writing a letter to a client, non-paying client, or your mom has never been easier.

- **Mail a Letter** [http://www.mailaletter.com/FAQs.aspx](http://www.mailaletter.com/FAQs.aspx)
- **PCPostman** [http://pcpostman.biz](http://pcpostman.biz)
- **Postal Shout** [http://www.postalshout.com](http://www.postalshout.com)

**Send Unique Greeting Cards to Clients**

For a few dollars, send clients personalized greeting cards that they will notice. This site has a stockpile of customizable cards for all business and personal occasions. (Warning: Once you get started, it may be hard to stop!)

- **Moon Pig** [http://moonpig.com](http://moonpig.com)

**Cash for Smart Phones and Other Gadgets**

Is there a shelf in your office full of gadgets that you’ve replaced with newer models? Sure, you’ve been meaning to donate them to charity, but now you can sell the gadget painlessly and send the cash later. Save yourself a trip! Check out these sites if you want to get quick money for charities, your college kid, or to pay down a credit card.

- **Gazelle** [http://gazelle.com](http://gazelle.com)
- **Buy Back World** [http://www.buybackworld.com](http://www.buybackworld.com)
- **Spam Beater**

Need a way to sign up with a site temporarily, but don’t want to receive spam forever after? Maybe this site can help.

- **10 Minute Email** [http://10MinuteMail.com](http://10MinuteMail.com)

**Remotely Fix a Computer**

Do you groan when the phone rings on the weekend? Are your parents, aunts, cousins, and grandparents calling you every Sunday afternoon begging you to “quickly” help them figure out a computer problem?

If you can’t tell them no, ignore the pleading emails, and mute the rings of repetitious phone calls, you may be able to handle these family computer problems faster using an app in Google Chrome. If the link below does not work, the beta remote tool can be located by doing a quick search on Google.com.

- **Google Chrome Remote Beta** [http://tinyurl.com/chrome-remote](http://tinyurl.com/chrome-remote)

**Perk Up Your Website**

Are you trying to rebrand your business? Do you need something to freshen up the look of your website? The logos and other items produced by the sites below can spice up the look of your website. Save time and create it from your own desktop.

- **Create Funny Logo** [http://createfunnylogo.com/](http://createfunnylogo.com/)
- **Logo Ease** [http://logoease.com](http://logoease.com)
- **Site Pal Virtual Hosts** [http://sitepal.com](http://sitepal.com)
Criminal Use of Apostilles

Apostilles are issued by a notary’s state authenticating office. The legal effect of an apostille is to certify only the authenticity of the signature of the notary public who signed the document to which the apostille will be attached.

An apostille does not imply that the document is correct; however, apostilles look quite official. That is why criminals occasionally attempt to use them to scam unsuspecting victims.

For instance, in 2010, three men who were sentenced in federal court in Kansas City, Mo. for using fake diplomatic identity documents and license plates had also incorporated the use of apostilles into their crimes. The foundation of their scam was to encourage citizens to become “sovereign citizens” so that they would not be required to drive the speed limit, pay back debts, or to pay taxes. The three men charged others between $450 and $2,000 for their assistance with upgrading them to sovereign status.

Furthermore, according to an article on FBI.gov, “The defendants falsely told their customers that the return of an apostille on a notarized document made it legally binding and provided proof that the state reviewed and found legitimate the individual’s claim of status as a sovereign citizen, thus providing him with diplomatic immunity. In reality, an apostille in no way legitimizes, or legalizes, the contents of a document, but simply certifies the legitimacy of a notary stamp on a document. By issuing an apostille, the state is certifying that the submitted document (the Act of State) was notarized and stamped by a notary. The apostille number was then used on the fraudulent identification cards.”

To read the entire article, visit this link: [http://tinyurl.com/fbi-con](http://tinyurl.com/fbi-con)

Legitimate Purposes for Apostilles

An apostille verifies that an actual notary from the United States notarized a document. Apostilles are only valid outside of the U.S. Reasons that people need apostilles are to:

- Apply for marriage certificates in foreign countries.
- Transact business overseas.
- Submit professional or scholarly credentials to recipients in foreign countries.
- Transmit medical records to foreign countries.

How Apostilles are Obtained

The steps that are usually taken to obtain an apostille are:

- A citizen requests notarization services from a notary.
- The citizen submits the correct forms and the notarized document to his or her state with an apostille request and the applicable fees.
- The state office verifies the notary’s signature on the document, attaches an apostille to it, and returns it to the citizen.
- The citizen sends the document with its apostille to the country and recipients that require it.

Scams Involving Apostilles

Apostilles issued in the U.S. are intended for use outside of the U.S. If you become aware of a similar type of scam, contact the authentications office of your state.

(Please note that under certain circumstances, an apostille may also be referred to as a “Certificate of Authentication.” For the purpose of this article, the term “apostille” was used exclusively.)

Members Only Website

Sign up today at [http://members.usnotaries.net/](http://members.usnotaries.net/)

To take advantage of all of our benefits, contact us toll-free today at 1-800-721-2663 or visit us online at [http://members.usnotaries.net/](http://members.usnotaries.net/)

Members’ benefits include:

- E-notary record book: access anytime, anywhere 24/7
- 5% discounted supplies for members
- Membership point rewards for purchases
- Research center for laws and FAQs
- Archives of past issues of AAN newsletters
- Calendar of events with email notification reminder – automatic personal reminder of membership expiration dates and commission expiration dates
- Free listing in our Notary and Signing Agent locator

The American Association of Notaries seeks to provide timely articles for notaries to assist them with information and ideas on managing their business and enhancing their notary education. However, the information in our articles is never meant to be legal or tax preparation advice. Please consult the tax professional or attorney of your choice for such important issues. As always, we would appreciate hearing from you. Please feel free to email us at info@usnotaries.com.