

Sean Harrington
P.O. Box #351855
Westminster, Colorado 80035

11 September 2007

Colorado Supreme Court
Attorney Regulation Advisory Committee
600 17th Street, Suite 200
Denver, CO 80202

RE: Atty. Reg. # 24060, Madeline Wilson (f/k/a “Madeline Hollis”)

On at least six (6) occasions (that I am personally aware of), the above-captioned attorney has asked her daughter, Jessica Frazier, to notarize Attorney Fee affidavits, which were used in my case (district court, Jefferson County, No. 99DR3717).

Under Section 12-55-110 (2), a notary public who has a disqualifying interest in a transaction may not legally perform any notarial act in connection with such transaction. For the purposes of the section, a notary public has a disqualifying interest in a transaction in connection with which notarial services are requested if he may receive directly, and as a proximate result of the notarization, any advantage, right, title, interest, cash, or property. Because she is the attorney's daughter and lived with her mother, shared expenses (combined household income) and/or had a formal or informal employer-employee relationship, the daughter was a direct beneficiary in the generation, authentication and collection of revenue, for which she became or intended to become a direct beneficiary. The Notary Public Code of Professional Responsibility requires a Notary to “decline to notarize the signature of a close relative or family member, particularly a spouse, parent, grandparent, sibling, son, daughter, or grandchild of the Notary, or a stepchild, stepsibling, stepparent, step grandparent or step grandchild of the Notary.”

The Assistant Director of for Licensing and Enforcement for the Colorado Secretary of State, agrees, finding that, “This matter is serious enough to warrant an action to revoke a notarial commission.” The memorandum from the Office of Secretary of State is attached hereto and marked as, “[Exhibit A](#).”

Because notaries do not seek out documents to notarize, it was the attorney, Madeline Wilson, who solicited her daughter’s notary services. As the attorney, Wilson knew or reasonably should have known that her request was suborning or inducing a violation of Colorado law.

cc: Dennis Huspeni, *THE COLORADO SPRINGS GAZETTE*

A copy of this document is available online at: http://www.KnowYourCOURTS.com/CARC/CARC_grievances.htm

“All members of the Bar of Colorado, having taken an oath to support the Constitution and laws of this state and of the United States, are charged with obedience to those laws at all times.”

Rule 251.1 (a). This *compulsory* language is a preface to the disciplinary rules and serves as a reminder that the laws and rules are more than suggestions and that compliance with the law by attorneys is mandatory at all times. Likewise, the obligation to enforce these disciplinary rules and the Rules of Professional Conduct attaches with the same urgency.

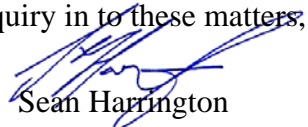
Under Rule 251.9, a complaint to the OARC regarding an attorney may be made by any person. *Id.* at subs. (a)(1). The duty of the OARC is to determine whether the, “allegation made against the attorney in question . . . if proved, would constitute grounds for discipline.” *Id.* at subs. (b)(2). Neither this Rule nor any other Rule requires a complainant to first obtain findings from a civil or criminal court and submit said findings to the OARC. The Rule does not require a complainant to prove his allegation by or through his complaint or to attach proofs to his complaint that the OARC would need to prove the allegation by a clear and convincing standard. Rather, if his allegation (alone) constitutes a RPC violation, it is the OARC’s obligation, under these Rules, to conduct an investigation to determine whether evidence may exist that (a) proves the allegation; and (b) meets the clear and convincing standard.

Rule 251.5 establishes that no fiduciary relationship between myself and the accused attorney is required. Moreover, although an attorney requesting a notary to unlawfully notarize a document is not enumerated in the Rules of Professional Conduct or in the disciplinary Rules 251.1 through 251.34, Rule 251.5 specifically provides that, “This enumeration of acts and omissions constituting grounds for discipline is not exclusive, and other acts or omissions amounting to unprofessional conduct may constitute grounds for discipline.”

RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants) assigns responsibility to a delegating lawyer for the conduct of a non-lawyer delegee. This includes situations where, “the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved,” as occurred here.

Finally, the “catch-all” Rule 8.4 prohibits conduct, “involving dishonesty, fraud, deceit or misrepresentation,” (*id.* at subs. (c)) or “adversely reflects on a lawyer's fitness to practice law.” *Id.* at subs. (h). Because Wilson knew or reasonably should have known that it was unlawful for her daughter to perform these notary services, Wilson proceeded with the knowledge that her daughter’s different last name would not raise suspicion (an act of deception).

Please open an inquiry in to these matters,


Sean Harrington

STATE OF COLORADO

Department of State

1700 Broadway
Suite 300
Denver, CO 80290



Mike Coffman

Secretary of State

Michael L. Shea

Director, Licensing & Enforcement Division

September 4, 2007

Sean Harrington
POB 351855
Westminster, CO 80035

Dear Mr. Harrington:

The Secretary of State's office is in receipt of your complaint against notary Jessica Frazier. Unfortunately, at this time the state is not able to open an investigation into this matter because Ms. Frazier is no longer a notary. For the state to proceed against Ms. Frazier, she must have standing as an active notary. Nonetheless, if Ms. Frazier chooses to renew her commission, we will pursue this matter at that time.

Notaries are not permitted to notarize documents in which they have a disqualifying interest. Pursuant to 12-55-110(2), C.R.S., "[a] notary public who has a disqualifying interest in a transaction may not legally perform any notarial act in connection with such transaction." According to this section, a person has a disqualifying interest if they "[m]ay receive directly, and as a proximate result of the notarization, any advantage, right, title, interest, cash, or property exceeding in value the sum of any fee properly received." 12-55-110(2)(a), C.R.S.

This matter is serious enough to warrant an action to revoke a notarial commission. Before revocation proceedings are instituted, however, the notary has an opportunity to present their views, arguments, and data to the Secretary of State in writing.

Sincerely,

A handwritten signature in blue ink that reads "Andrew Whitfield".

Andrew Whitfield
Assistant Director for Licensing and Enforcement

Exhibit A