

**MAJORITY REPORT OF
SUB-COMMITTEE NO.3
HOUSE CONCURRENT RESOLUTION 81
NOTARY STUDY COMMITTEE**

September 16, 2002

MONITORING AND ENFORCEMENT OF STANDARDS

1.0 Introduction

This sub-committee was appointed by chairperson Cynthia Cotten to return a report to the full committee recommending a method of monitoring and enforcement of standards as presumed under the task assigned to the Secretary of State under HCR 81.

In undertaking this mission, this sub-committee concerns itself not with the desirability of oversight and enforcement, but its feasibility, and works under the presumption, not totally hypothetical, though nearly so, that such standards already exist to be monitored and enforced.

We have not explored the question of whether new standards should be imposed, such as continuing education or a code of ethics, leaving that for the appropriate sub-committees, the full Notary Study Committee and, ultimately within this function, the Secretary of State. We concentrate instead on the current situation under our particular assignment, its weaknesses, and the feasibility of new monitoring and enforcement standards. We deem the question of whether new standards are to be imposed irrelevant to the task presented to us, and this report looks narrowly at feasibility of enforcement and monitoring.

2.0 Findings

Our review of monitoring and enforcement of standards with regard to non-attorney notaries public in Louisiana reveals that, with the exception of Orleans parish, regular monitoring and enforcement is almost non-existent.

Although the Secretary of State does admirable and necessary work in maintaining a notary data base, monitoring bond status of non-attorney notaries, listing them as inactive if bonds have expired, and license status of attorney-notaries, listing them as suspended or disbarred, if such is the case, that is the extent of their responsibility.

This is fine work as monitoring, but the Secretary of State has no enforcement authority at all, so the notary remains listed and his commission never suspended or revoked, regardless of compliance with the law. Consequently, the public remains at risk. According to the records of the Notary Division, of 63,581 Notaries Public as of January 10, 2002, the status of 25,071 is

unknown.

By way of contrast, there are no notaries of unknown status in Orleans parish. By virtue of La R.S. 35:325, et seq., current law, the Custodian of Notarial Archives has the duty and authority in Orleans Parish to maintain a list of notaries, collect an annual fee, require notaries to prove their residency, office addresses, solvency of bond or good standing to practice law each year, and to file a rule in Civil District Court for non-compliant notaries to show cause why their commissions should not be revoked therefor.

In each case the law provides a time period within which notaries may regularize their status and return to good standing.

Attached are the forms used for the annual enforcement process and a copy of the relevant statutes for your review.

3.0 Recommendations

We recommend that, regardless of whether new or increased standards and rules governing notaries are imposed, but certainly especially in that event, a system of enforcement must be implemented to encompass all notaries.

 We recommend that this be accomplished by expanding the authority of the Custodian of Notarial Archives to cover notaries of all parishes with regard to enforcement, since the office and apparatus is already set up and centralized and in operation.

By William L. Pratt, for the
Committee, with the concurrence
of John Shidler and Randall David

SECTION 10

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2002-10802

DIVISION " "

DOCKET NO. 5

- Entered rule docket
- Postcard mailed Date rec'd
- Service copies to sheriff
- Insufficient copies

STATE EX REL
WILLIAM L. PRATT
CUSTODIAN OF NOTARIAL RECORDS

IN RE:

RULE TO TEST SURETIES ON NOTARIAL BONDS
AND COMPEL STATEMENT AND PAYMENT OF ANNUAL FEES

ON MOTION OF WILLIAM L. PRATT, Custodian of Notarial Records in and for the Parish of Orleans, State of Louisiana, and on suggesting to the Court that pursuant to LA R.S. 35:326, 327 and 328 it is the duty of mover to institute proceedings by rule in this Court against all Notaries Public in and for the Parish of Orleans to test the surety or sureties on their official bonds, and compel each Notary Public to furnish the Custodian with a statement showing his/her office and resident address, the date of his/her bond and the surety or sureties thereon, and their addresses, and payment of the annual fee on or before September 1, 2002.

William L. Pratt
WILLIAM L. PRATT, 419113
Custodian of Notarial for Orleans Parish,
Room B-4, 421 Loyola Avenue
New Orleans, LA 70112
(504) 568-8577

ORDER

IT IS HEREBY ORDERED that each Notary show cause on the 5th day of November, 2002 at 9:30 (A.M. - P.M.) why the surety on his/her notarial bond should not be declared insolvent and not good for want of proper surety, and why he/she should not be ordered to file a new bond with good and solvent surety, according to law, within thirty (30) days from the rendition of judgment of this rule; and why he/she should not be ordered to furnish a statement showing his/her office and residence address; and why he/she should not be ordered to pay the Custodian the annual fee, and upon failure to comply with the requirements of law, to further show cause why his/her notarial commission should not be declared forfeited.

SIGNED AT NEW ORLEANS, LA this 10th day of July, 2002.

Carte Scott-Rodinson
Carte Scott-Rodinson
Notary Clerk, Division 12

PLEASE SERVE:

By Order of the Court



WILLIAM L. PRATT
CUSTODIAN OF
NOTARIAL RECORDS

Notarial Archives
PARISH OF ORLEANS - STATE OF LOUISIANA
ROOM B-4 CIVIL COURTS BLDG
New Orleans, La.
70112

TELEPHONE
(504) 566-8577
FAX #
(504) 566-8599

2002/2003 STATEMENT

Dear Notary Public:

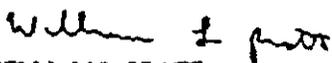
The annual notarial fee of \$20.00 is now payable for the year September 1, 2002 - August 31, 2003. Payments received after November 1 will be assessed a \$10.00 Late Fee.

All checks are payable to The Custodian of Notarial Records. Please attach payment to the Annual Statement and Notarial Bond Examination form and remit to:

Custodian of Notarial Archives
Room B-4, Civil Courts Building
421 Loyola Avenue
New Orleans, Louisiana 70112

This fee is due regardless of whether you received your commission between September 1, 2001 - August 31, 2002 and paid an annual fee at that time

Thank you,


WILLIAM L. PRATT
Custodian of Notarial Records
for the Parish of Orleans

**2002/2003 ANNUAL STATEMENT AND
NOTARIAL BOND EXAMINATION**

ANSWER THE FOLLOWING INTERROGATORIES and file with THE CUSTODIAN OF NOTARIAL RECORDS, 421 Loyola Ave. New Orleans, LA 70112, (568-8577 ext. 11) on or before date fixed for trial of the rule (the 17th day of NOVEMBER, 2002 at 9:30 o'clock A.M. P.M.).

TO BE TYPED OUT BY NOTARY:

1. Name of Notary _____
2. Office address _____ Phone# _____

3. Home address _____ Phone# _____

4. Date you received your notarial commission _____
5. Enclose the annual fee of \$20.00 payable to the Custodian of Notarial Records for the fiscal year 2002/2003. Payments received after November 1 will be assessed a \$10.00 Late Fee.

TO BE FILLED OUT BY PERSONAL SURETY (type or print):

1. Name in full _____
2. Home address _____
3. Do you own property within the State of Louisiana in your own name? _____ If so, state the following particulars:

NOTE: Only list property of sufficient value to cover the amount of bond over and above encumbrances.

LOCATIONS & DESCRIPTION	VALUE	ENCUMBRANCES

TO BE FILLED OUT BY BONDING COMPANY:

1. Name of Surety Corporation and place of corporation _____
2. Name and address of local agent _____
3. Has your surety corporation complied with the laws of the State of Louisiana, and is authorized to transact its appropriate business of surety in accordance with the laws of this state? _____
4. Has your surety corporation obtained Certificate of Authority from the Commissioner of Insurance for the State of Louisiana? _____ If so, give the date _____

**STATE OF LOUISIANA
PARISH OF ORLEANS**

The undersigned, being first duly sworn, say that the foregoing answers to interrogatories are true and correct.

Signature of Notary

Sworn to and subscribed before
me this _____ day of _____ 200_____

Notary Public

Signature of Surety

Sworn to and subscribed before
me this _____ day of _____ 200_____

Notary Public