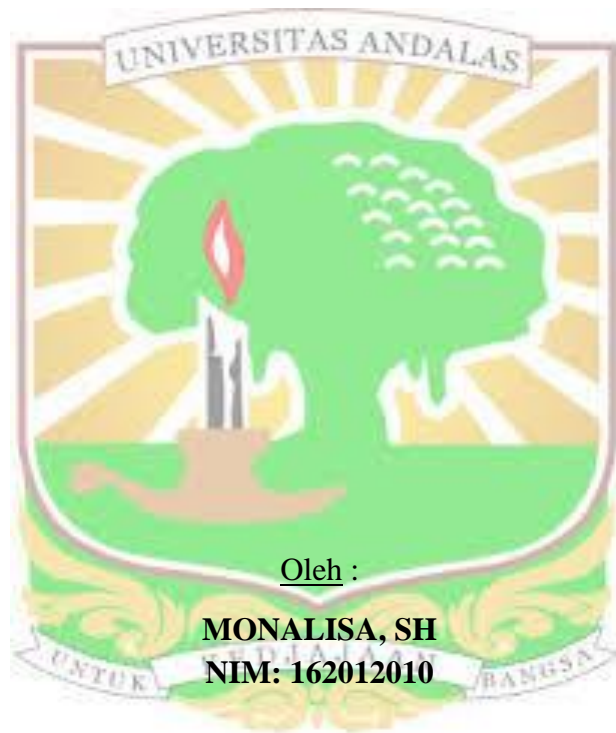


**PENYELESAIAN PELANGGARAN YANG DILAKUKAN OLEH
NOTARIS ATAS PENAHANAN SERTIPIKAT**

TESIS

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NIM: 162012010

**PRODI MAGISTER KENOTARIATAN
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“PENYELESAIAN PELANGGARAN YANG DILAKUKAN OLEH NOTARIS ATAS PENAHANAN SERTIPIKAT”

Monalisa. 1620122010. Program Studi Magister Kenotariatan Fakultas Hukum
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ABSTRAK

Pelanggaran kode etik artinya pelanggaran yang dilakukan oleh Notaris terhadap etika profesinya yang dibukukan atau peraturan-peraturan yang telah disusun secara tertulis dan mengikat serta wajib ditaati oleh segenap anggota profesidan dapat dikenakan sanksi bagi yang melanggar ketentuan tersebut. Penyelesaian pelanggaran kode etik dilaksanakan oleh Dewan Kehormatan Notaris dan berkoordinasi dengan Majelis Pengawas. Dalam pasal 4 angka 8 Kode Etik Notaris Indonesia, ada larangan etis bagi Notaris yaitu menahan dokumen-dokumen yang telah diserahkan. Salah satu contoh kasus Notaris HF dan EA yang melanggar ketentuan pasal tersebut, dalam hal ini Notaris tidak memberikan penyuluhan hukum. Berdasarkan hal tersebut, maka penulis merumuskan permasalahan yaitu: 1. Apakah penahanan sertipikat termasuk pelanggaran ?, 2. Bagaimana penyelesaian pelanggaran kode etik Notaris atas penahanan sertipikat ?, 3. Bagaimana penjatuhan sanksi terhadap Notaris yang melakukan pelanggaran kode etik atas penahanan sertipikat ?. Metode penelitian dalam penelitian ini adalah penelitian yuridis normatif. Berdasarkan dari hasil penelitian 1) Penahanan sertipikat termasuk pelanggaran, karena melanggar ketentuan Pasal 4 angka 8. Dalam hal ini Notaris sebelum membuat akta tidak memberikan penyuluhan hukum kepada para pihak, dan tidak membuat Perjanjian Pengikatan Jual Beli sebelum membuat Akta Jual Beli. Penyelesaian pelanggaran atas penahanan sertipikat diselesaikan dengan musyawarah. 3) penjatuhan sanksi yang diberikan oleh Dewan Kehormatan terhadap pelanggaran kode etik disesuaikan dengan kuantitas dan kualitas pelanggaran yang dilakukan yaitu sesuai dengan ketentuan Pasal 6 Kode Etik Notaris Indonesia.

Kata Kunci : Penyelesaian, Pelanggaran, Kode Etik Notaris.

COMPLETION OF NOTARY CODE OF ETHICS VIOLATION ON DETENTION CERTIFICATE

ABSTRACT

The Notary Code of Conduct Violation is the violation which committed by notary to its own codified code of conduct or regulations that has been well-codified and obligated to all notary professional members, and a punishment can be inflicted to those whom collide the code of conduct. To justify the violation, there is Honorary Council of Notary in charge, alongside with Supervisory Board to help. In the section (4) number 5 of Indonesian Notary Code of Conduct, there is a forbidden act to notary and that is to keep the handed documents in detention. One of the notary "H" whom violated that section, in this case, notary hadn't done the beginning engagement before composing the deed of trading. Therefore, the author concluded problems which are : 1. Is certificate detention considered as a violation? 2. How is the code of conduct violation justification mechanism to certificate detention by notary ? 3. How is the punishment to those notaries whom do the certificate detention ? The research method of this project is juridic-normative approach. Beside doing this project with theoretical and normative approach, it also uses secondary data which came from books and codified ordinances. According to the result of the research, 1) Certificate detention is considered as a violation because it violates section (4) number 8. In this case, the notary, before they make deeds, they didn't make some MOU/contract/engagement before which they should have made before, and that is an engagement of trading, which is important to make if there is something particular requirements to do first, but in this actual case, the notary have released the deed of trade first instead, whereas the buyer haven't full-paid the bill. The justification by the Honorary Council of Notary with mediation is to have a deliberation among the parties. 2) the judgment by Padang's supervisory board to the notary H who did the ethic violation which was the certificate retention is adjusted proportionally with the quality and quantity of the violation that has been committed, and the judgement is a codified warning and is already in accordance with the section 6 of the notary ethic code of Indonesia.

Keyword : Completion, Abuse, Notary Ethic Code