

# Notary Liability For Irregularities In The Deed Of Meeting Resolution Statement (Analysis Of The Engineering Results Of The Company's General Meeting Of Shareholders)

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## Keywords

Notary, PKPU,  
Homologation

**Abstract.** A notary is inseparable from him in making Minutes of Deeds. Minutes of the Deed is the original deed containing the signatures of the appearers, witnesses and notaries, which are kept as part of the notary's protocol. The minutes of the deed also include the number, date, and month of the year whose function is to guarantee certainty that the parties and appearers have met on that date, month, year and time. This study aims to obtain information and analyze laws and regulations regarding Notary Liability for Irregularities in the Deed of Statement of Meeting Resolutions: Engineering Analysis of the Results of the Company's General Meeting of Shareholders. By using the approach method in this study is a normative juridical approach. The formulation of the problem in this research is how is the validity of the Deed of Statement of Meeting Resolutions which becomes evidence in the Notary Deed? and What is the Notary's Responsibility for Irregularities in the Deed of Statement of Meeting Resolutions made based on engineered evidence? Deed of Statement of Meeting Resolutions, referred to as (PKR) is the result of the minutes of the General Meeting of Shareholders (GMS) made privately and then outlined in a Notary deed. This can be conveyed to the party from the Limited Liability Company concerned to be given directly through the GMS. The notary must pay attention in detail that the recipient of the power of attorney is an authorized representative of a Limited Liability Company (PT) and has expertise in making deeds. However, in practice and based on the reality in society, what is done by the Notary is still not in accordance with the procedures required by law or makes mistakes that result in losses for interested parties and the Notary himself. For Notaries. drag the Notary into something. Legal liability due to errors and carelessness, whether intentional or unintentional.

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## 1. INTRODUCTION

Notaries are authorised to make authentic deeds regarding all deeds, agreements and provisions required by laws and regulations. One is the minutes of the General Meeting of Shareholders (from now on referred to as the GMS). The role of notaries is very important in making authentic deeds in a company, be it in making a deed of statement of resolution of the general meeting of shareholders, a deed of statement of resolution outside the General Meeting of Shareholders or in making the Deed of Minutes of the General Meeting of Shareholders. The deed was made to have perfect evidentiary power and become a joint decision that binds all company shareholders.

Minutes of Meetings made without the presence of a Notary Public at the GMS are still allowed, based on Law Number 40 of 2007 concerning Limited Liability Companies (from now on referred to as UUPT). Article 90 states that the Minutes of Meeting must be made and signed by the chairman of the meeting and at least 1 (one) shareholder appointed from and by the participants of the GMS. The Minutes of the Meeting are made by the shareholders and outlined in an authentic deed made before a Notary, which then can be said to be a deed of statement of meeting resolution (PKR). A notary is a public official or public official, meaning that notaries are appointed and dismissed by the Government. Notaries are tasked with carrying out state duties to serve the public in certain matters. The deed made by the notary, namely the minuta deed (original deed), is a state document. With the legality of notaries appointed by the Minister, notaries indirectly participate in carrying out Government duties and participate in maintaining the authority of the Government through their role in making authentic deeds for people in need.

Considering authentic deeds as the strongest evidence and having an essential juridical value in every legal relationship when disputes occur in public life. Notaries as one of the law enforcers because notaries make written evidence that has evidentiary power. Legal experts argue that a notarial

deed can be accepted in court as absolute evidence of its contents, but even so, there can be denial with evidence to the contrary by witnesses, who can prove that what is explained by the notary in the deed is true, (Liliana Tedjosaputro, 2011), such as the preparation of the deed of statement of the Company's GMS.

Article 1 point 2 of Law of the Republic of Indonesia Number 40 of 2007 concerning Limited Liability Companies (from now on referred to as UUPJ) specifies that the company's organs consist of the GMS, Board of Directors and Board of Commissioners. These organs have their respective functions and duties, in accordance with the provisions of the Limited Liability Company Law, as well as the company's articles of association. Between the organs of the company with each other, have organic and functional relationships. The General Meeting of Shareholders or GMS is the company's organ that holds all authority not delegated to the Board of Directors and Commissioners. Within the limits stipulated by the PT Law and the Articles of Association, the GMS can obtain all information related to the company's interests from the Board of Directors and Commissioners. GMS consists of annual GMS and other GMS (Extraordinary GMS). Approval from all shareholders is an absolute requirement for the validity of the GMS resolution. Not a single person from the shareholders is allowed to disagree. (Munandir, Jonathan Adi Biran & Thohir Luth. 2017)

Generally, GMS must be held in a conventional form, where all shareholders are physically present and gathered. However, in practice, there are often difficulties in being able to gather shareholders together. GMS decisions are very necessary for a certain issue, for example the company will receive credit from the bank, and requires approval from all shareholders. However, GMS can be conducted through teleconference, video conference, or other electronic media means that allow all GMS participants to see and hear each other directly and participate in meetings. The procedure for conducting a GMS is to summon all shareholders to be present at a place, such as at the company's position or another place that does not conflict with the company's Articles of Association. Shareholders in practice are not allowed to gather in the same place due to differences in domicile between shareholders and the company's domicile. Many company shareholders are domiciled in different cities, cities, and countries, making it difficult to hold physical meetings. (Ellise T. Sulastini and Aditya Wahyu, 2011)

Each issued share has one voting right, unless the Company's articles of association specify otherwise. Shareholders, either alone or represented based on a power of attorney, are entitled to participate in the meeting and attend the GMS to exercise their voting rights per the number of shares they own. Members of the Board of Directors, members of the Board of Commissioners and employees of the Company are prohibited from acting as proxies of shareholders in terms of voting, but are only allowed in the case of determining the quorum of the GMS. GMS can be held if attended or represented by more than 1/2 (one half) of the total number of shares with voting rights unless the law and articles of association specify a larger quorum. If the first quorum of the GMS is not reached, the meeting must remain open and then closed by making minutes explaining that the first GMS cannot continue because the quorum is not reached and then a second GMS can be called. The call for the second GMS must be mentioned that the first GMS has been held and did not reach quorum. The second GMS is valid and can make decisions if at least 1/3 (one-third) of the total number of shares with voting rights are present or represented. If the quorum of the second GMS is not reached, the Company may request the chairperson of the district court whose jurisdiction includes the Company's seat upon the Company's request to establish a quorum for the third GMS.

The Deed of Minutes of the General Meeting of Shareholders is a document given by a notary and directed by shareholders which will then be poured into the form of a deed. Therefore, based on this, the notary is responsible for the correctness of the information provided by the notary itself. The Deed of Statement of Resolution of the General Meeting of Shareholders is a deed containing information on the meeting minutes under the hands and the parties present before the notary and then poured into a deed. Therefore, the notary is only responsible for conformity with the minutes of the meeting under the hands and statements of the parties present before the notary. So that the GMS with changes to the articles of association that are not made in the notarial deed or not attended by a notary, therefore the notary has a role to make a deed of statement of GMS decisions. In the case of the deed

of statement of resolution of the Meeting of Shareholders, the role of identifying the identity of the party present in facing it through the power of attorney given in the statement of meeting resolution under the previous hand. Furthermore, the notary will check the decision of the meeting under hand whether it is in accordance with applicable regulations. Based on the background described above, the author is interested in reviewing and analyzing and pouring it into a scientific paper in the form of a thesis with the title "Notary Accountability for Deviations from the Deed of Meeting Resolution Statement (Analysis of the Engineering Results of the Company's General Meeting of Shareholders)

## 2. METHODS

Legal research conducted in preparing this journal is carried out using normative juridical research methods. This method is carried out to produce arguments, theories or new concepts as prescriptions in solving the problem at hand. Therefore, choosing one or several research methods is closely related to formulating the problem, the object under study and the scientific tradition. Method is a process, principles and procedures for solving a problem. At the same time, research is a careful, diligent and thorough examination of a symptom to increase human knowledge. The research method can be interpreted as a process of principles and procedures to solve problems faced in conducting research. The type of data used in normative juridical research is secondary data consisting of three types, namely; Secondary data is private, secondary data is public, and secondary data in the legal field, the preparation of a tentative theoretical framework can be abandoned, but the preparation of a conceptual framework is necessary, so in compiling a conceptual framework, the formulation contained in laws and regulations is needed

## 3. RESULTS AND DISCUSSION

### **Validity of the Deed of Meeting Resolution Statement which is evidence in the Notarial Deed of Minuta Mechanism for the Implementation of the General Meeting of Shareholders**

Referring to the provisions of the Company's Articles of Association based on Law No. 40 of 2007 concerning Limited Liability Companies, GMS is grouped into two types: the Annual General Meeting of Shareholders and the Extraordinary General Meeting of Shareholders. The Annual General Meeting of Shareholders must be held once a year before the end of June, while the Extraordinary GMS may be held at any time by the board of directors through a written request submitted by: a. One or more shareholders, either individual or combined, representing at least 10% or more of the total voting shares and b. Board of Commissioners

The GMS must follow the provisions of the summons to shareholders within a period of no later than 14 days before the date the GMS is held and carried out by registered letter and by advertising in newspapers. Suppose the Board of Directors and Commissioners do not summon the GMS in accordance with the specified time. In that case, the request for the holding of the GMS can be made by applying the chairman of the district court whose jurisdiction is in the company's seat. Shareholders apply for permission to carry out the GMS summons themselves. The chief justice may reject this application if the shareholder cannot prove his reasons and requirements. If it is related to the theory of authority, in this case, the notary has formal power, namely the power obtained according to law, including also in pouring the results of the GMS into a deed called the deed of statement of meeting resolutions. If it is related to the theory of legal certainty, here the notary, in addition to making a notarial deed, is also responsible for providing information related to legal provisions in making the deed of statement of meeting resolution. So in this case the notary provides a guarantee of legal certainty that what the parties do is in accordance with applicable law.

### **General Meeting of Shareholders Physical, Electronic, Circular Resolution**

In general, the GMS is conducted with the aim of providing the Company's financial statements in the last year, to change the Company's AD (in changing status, aims and objectives, business fields, location/place, etc.), approving applications so that the Company can be declared bankrupt, appointing and dismissing members of the Board of Directors or the Board of Commissioners, approving the extension of the period of establishment of the Limited Liability Company, approving the merger, merger, takeover or separation, provide reports on activities carried

out by the Company and the impact of these activities, discuss reports on the implementation of the Company's environmental and social responsibilities, discuss problems that have arisen in the Company in the past year, shareholders discuss the possibility of an increase in salaries and benefits of employees, the Board of Directors, and the Board of Commissioners and provide reports on the supervision that has been carried out by the Board of Commissioners.

The strength of the GMS itself can be illustrated from its operationalization which concerns policies about the company's assets, the Board of Directors as the initiating organ must obtain GMS approval. This means that the GMS can approve or reject the Board of Directors' policy and violations against it fall into the ultra vires category (exceeding the limits of their authority), so that the Board of Directors can be held accountable. In other words, the GMS determines whether or not the Board of Directors' policy can be carried out further. Implementing the GMS electronically is an alternative to implementing the GMS other than being carried out physically. Holding GMS through electronic media as stipulated in Article 77 paragraph (1) of the Law: In addition to holding the GMS as referred to in Article 76, the GMS can also be conducted through teleconference, video conference, or other electronic media means that allow all GMS participants to see and hear each other directly and participate in meetings. For teleconference, organizing a General Meeting of Shareholders must make meeting minutes, approved, and signed in advance by all participants of the General Meeting of Shareholders, then the meeting may be held.

The provisions in Article 77 paragraph (1) stipulate that the GMS can be held using teleconference, video conference, or other electronic media facilities that allow all GMS participants to see and hear each other directly, encounter obstacles and cannot be applied properly to Public Companies that have a large number of shareholders and a wide geographical distribution of share ownership. Therefore, the decisions taken in the GMS conducted through the online meeting method are binding just like the GMS held directly face-to-face (physical). The explanation contained in Article 77 paragraph (4) of the Law states that the minutes of the GMS through teleconference media are required to be approved and signed by all GMS participants, the signing can be done through electronic signatures. This is based on article 11 paragraph (1) of Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions, where electronic signatures have legal force and legal consequences by meeting certain requirements. (Ani Ketut Supasti Dharmawan, et al, 2015)

In addition to the method of decision making through the GMS physically and electronically, it is also known as decision making outside the GMS, namely circular resolution. A circular GMS is a decision making outside the GMS. The decision-making mechanism outside the GMS is carried out by sending a written proposal that will be decided to all shareholders so that the proposal is approved in writing by all shareholders. The approval of all employers is an absolute condition of the validity of a circular decision. Article 91 of the Law explains this circular resolution's provisions: Shareholders can also take binding decisions outside the GMS provided that all shareholders with voting rights agree in writing by signing the relevant proposal. The binding decision here is a decision that has the same legal force as the GMS decision.

### **GMS Results in Minuta Notarial Deed**

In connection with the authority of Notaries to make Deed of Meeting Resolution Statement in accordance with Law Number 40 of 2007 concerning Limited Liability Companies and Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions, Notaries are one of the parties who have an important role in Limited Liability Company activities, especially related to the authority to make authentic Deeds. The authority of Notaries in Article 15 paragraph (1) of the Notary Position Law is in line with the provisions of Article 21 paragraph (4) of the Limited Liability Company Law that changes to the articles of association are contained or stated in the Notary Deed and paragraph (5) that changes to the articles of association that are not contained in the deed of minutes of meeting made by the Notary Public must be stated in the Notary Deed no later than 30 (thirty) days from the date of the resolution of the GMS. Changes to the articles of association of Limited Liability Companies are determined by the resolution of the GMS as stipulated in Article 19 paragraph (1) of the Limited Liability Company Law. Decisions and matters discussed and decided in

the GMS are recorded in a minutes based on Article 90 paragraph (1) of the Limited Liability Company Law does not have to be made by notarial deed. In other words, the minutes of the GMS can be made in the form of a deed under hand provided that the minutes of the GMS must be signed by the chairperson of the meeting and at least one shareholder appointed from and by the participants of the GMS.

If the Notary in carrying out his duties and position is proven to have committed a violation, he can be subject to sanctions, one of which is criminal sanctions. However, the Notary Office Law does not provide for criminal sanctions. So if there is a criminal violation against a Notary, criminal sanctions may be imposed contained in the Criminal Code, provided that the punishment of the Notary can be carried out with restrictions, namely: (Herlien Budiono, 2017) a. There is legal action from the Notary on the physical, formal and material aspects of the deed that is deliberate, full of awareness and conviction, and it is planned that the deed to be made before the Notary by the Notary together (agreed) the faces are used as a basis for committing a criminal act, b. There is a Notary legal action in making a deed before or by a Notary which when measured based on the Notary Department Law is not in accordance with the Notary Department Law, c. The Notary's action is also inappropriate according to the agency authorized to assess the actions of a Notary, in this case the Notary Supervisory Panel.

#### **Validity of Notary Deed as Authentic Deed**

The deed made before or by a Notary Public has the position of an authentic deed according to the form and procedures stipulated in the UUJN, this is in accordance with the opinion of Philipus M. Hadjon, that the requirements for an authentic deed are: a. In the form prescribed by law (standard form), b. It was made by and before the General Officer (Philipus M. Hadjon, 2021). In this case, Article 1868 BW is the source for the authenticity of the Notary deed and the basis for the legality of the existence of the Notary Deed, with the following conditions: a. The deed must be made by (door) or in the presence (ten overstaan), of a General Officer. Article 38 of the Law amending the UUJN which regulates the nature and form of the deed does not specify the nature. In article 1 point 7 of the Law on amendments to the UUJN specifies that a notarial deed is an authentic deed made before a Notary according to the form and procedures stipulated in the UUJN, and implicitly in article 58 paragraph (2) of the Law on amendments to the UUJN it is stated that the Notary Public must make a deed text and record all deeds made by or before a Notary, b. The deed must be drawn up in the form prescribed by law. After the birth of the Law on amendments to the UUJN the existence of a notary deed received confirmation because its form was determined by the Law, in this case it was specified in article 38 of the Law on amendments to the UUJN, c. The General Officer by or before whom the deed was made, shall have the authority to make the deed. Article 15 of the Law amending the UUJN has determined the authority of the Notary. This authority is a limitation: Notaries may not perform an act outside that authority.

#### **Legal Analysis of Notary Absence in the Results of the General Meeting of Shareholders**

The role of a Notary in the GMS is determined based on whether or not he is present at that time. GMS attended by a notary allows notaries to record all important events and atmospheres directly. The presence of a notary on the spot allows the Company to obtain better recording accuracy and a faster deed process. But it must be remembered, notaries cannot attend if the location of the GMS is outside its working area. Even if the Notary is not present at the General Meeting of Shareholders, the Notary can request important documents from the parties present at the meeting, then provide suggestions to prevent disputes between the parties in connection with the deed to be made. After the preparation of the Deed of Meeting Resolution regarding changes to the Company's Articles of Association, as well as in applying ratification of the Deed of Establishment of a Limited Liability Company to the Minister of Law and Human Rights of the Republic of Indonesia, as well as then an application for approval and reporting on changes to the Articles of Association of the Limited Liability Company, it is also carried out through the process of information technology services of the legal entity administration system electronically to the Minister by filling out format field, which must be preceded by the submission of the Company's name, and should also be registered in the Company Register.

The role of the Notary here is only to record or pour a legal act committed by the parties/faces into an authentic deed. Notaries here only make deeds according to what happened, what was experienced and seen from the parties/faces who adjusted the formal requirements for making an authentic deed and then poured it into an authentic deed. The Notary's responsibility in making the deed of the General Meeting of Shareholders where the Notary submits the deed under hand becomes an authentic deed, the Notary Deed can also contain a story of what happened because of the actions committed by the other party before the Notary, meaning that explained or told by the other party to the Notary in carrying out his office and for which purpose the other party deliberately came before the Notary in carrying out his office and gave information or do the act before a Notary, so that the Notary construes the information or deed in an authentic deed. So that the Notary is not responsible for the Deed of Meeting Resolution Statement made by him, because the contents of the Deed of Meeting Resolution Statement, based on the minutes of meeting under hand, and the content of the minutes of meeting are the responsibility of the participants present at the General Meeting of Shareholders. However, the Notary is only responsible for the form of the deed made by the Notary in the deed of Statement of Resolution of the General Meeting of Shareholders.

#### **Notary liability for irregularities in the deed of meeting resolution statement made based on fabricated evidence**

##### **a. Application of the principle of recognizing service users by notaries**

Applying the principle of recognizing users of Notary services in Knowing Notaries is a dilemma for notaries. Because according to Article 4 concerning the oath and promise of Notaries and Article 16 paragraph (1) letter (f) of the Notary Office Law, Notaries require Notaries to maintain the confidentiality of everything about the deed they make and all information obtained for making deeds in accordance with the oath of office unless the Law specifies otherwise. Because in this case, the Notary does not have the competence to recognize the face in detail, for example what his previous job is, whether he has held political office, where wealth comes from, unless the complainant has been publicly reported that the person concerned is under investigation for corruption, terrorism and narcotics crimes.

Notaries in carrying out a legal action must always act carefully so that before making a deed, they must examine all relevant facts in their consideration based on applicable legislation. Examining all the completeness and validity of evidence or documents shown to a notary and hearing statements or statements of the faces must be carried out as a basis for consideration to be stated in the deed. If the notary is not careful in checking important facts, it means that the notary is acting incarefully. In this case, if the Claimants have fulfilled all the formal requirements, it is sufficient for the Notary Public to perform the legal action desired by the Claimants. Notaries are not burdened to seek the truth materially, but when there are doubts and peculiarities of the documents that are required for the preparation of the deed of the complainant. Therefore, the notary should seek material truth over the facing document. In order to achieve the principle of prudence of Notaries in knowing the facers. If the documents have doubts and errors, the Notary Public should refuse to make the deed authentic. (Ridho Ilham, Elwi Danil, Yoserwa, 2020).

The forms of prudential principles that notaries should carry out in the process of making deeds are, recognizing the identity of the face, carefully verifying the data of the subject and object of the face, giving a grace period in working on the deed, acting carefully, carefully and meticulously in the process of working on the deed, fulfilling all the techniques required for making a deed and reporting if there is an indication of money laundering(money laundering) In transactions at a notary, forms of precautionary principles like this should be mandatory for the notary so that later the notary can prevent legal problems arising from the authentic deed he made in the future. (Ida Bagus Paramaningrat Manuaba, 2017). Notaries in carrying out their duties and positions in making the Deed of Statement of Resolution of the GMS Meeting, are not free from errors or mistakes either caused by unprofessional behavior or favoring one of the parties so that problems occur in the deed made. As a general official who is authorized to make the Deed of Statement of Resolution of the GMS Meeting, Notaries often act carelessly which

results in causing legal problems, both in the realm of criminal law and the realm of civil law, this is because the parties who make authentic deeds provide false documents or provide false information to notaries, causing legal problems with the authentic deeds they make.

One reason is that Notaries have known clients and users of these services for a long time, so cooperation occurs without prioritizing the principle of prudence, which can harm the Notary profession and result in legal problems. If the engineering of the Deed of Statement of GMS Meeting Resolution made by the Board of Directors has been known by the Notary, then the Notary can be blamed for it. On the other hand, Notaries can also be blamed because Notaries do not care about the *truth of* the GMS Minutes. Because, Notaries and service users have had mutually beneficial cooperation before, so Notaries do not care about the truth of the Minutes made in the Deed of Statement of Resolution of the GMS Meeting.

#### **b. Notary Responsibility for Deviation of Deed of Meeting Resolution Statement**

The notary profession is one of the existing legal professions and must uphold the values of the code of ethics in carrying out its position. A notary in carrying out his position as a public official is obliged to participate in enforcing the law in accordance with his profession. Contributing energy and mind to their duties must be done trustfully, honestly, thoroughly, independently and impartially. With the mandate that concerns the interests of other people/parties, the heavy responsibility lies with the notary.

Regarding the Notary's responsibility for deviations from the Deed of Meeting Resolution Statement in carrying out its authority and obligations, the theory of liability based on fault can be used Liability based on fault. In its application, the losses incurred are also adjusted whether the mistake made is a gross mistake or a minor mistake, where the light weight of a mistake has implications for the responsibility that must be borne. This theory is based on Articles 1365-1367 of the Civil Code. UUJN and Civil Code Articles 1365-1367 are philosophically, juridically, and sociologically acceptable because it is fair for the wronged person to compensate for the injured party. (H.R., Ridwan. 2006)

For example, sanctions in the form of a Deed of Meeting Resolution Statement that only has evidentiary power such as a deed under hand due to a notary's error or negligence are regulated in Article 16 paragraph (9) of Law Number 2 of 2014, Article 44 paragraph (5) of Law Number 2 of 2014, Article 49 paragraph (4) of Law Number 2 of 2014, Article 50 paragraph (5) of Law Number 2 of 2014, Article 51 paragraph (4) of Law Number 2 of 2014, and Article 52 paragraph (3) of Law Number 2 of 2014. Meanwhile, violations of the provisions of Article 16 paragraph (12) of Law Number 2 of 2014, Article 50 paragraph (5) of Law Number 2 of 2014, Article 51 paragraph (4) of Law Number 2 of 2014, and Article 52 paragraph (3) of Law Number 2 of 2014, give rise to the right for parties who suffer losses to claim reimbursement, compensation, and interest to a notary. The party harmed due to the violation or mistake can file a claim or claim for damages, costs, and interest to the notary concerned through the court. In this case, the Notary is only responsible for the form of the deed of "Meeting Decision Statement (PKR)" in formality while the validity of the material or content of the agreement and all the legal consequences it raises, the notary cannot be sued and held accountable by the parties, this is entirely the responsibility of the parties who make the agreement, the notary itself only plays a role in hearing, see and accept the wishes of the parties and then outlined in the form of a deed, as long as the will of the parties does not violate the general provisions in force. Therefore, a notary must seriously pay attention to legal provisions regarding the procedure for making a Deed of Meeting Decision Statement (PKR) to avoid legal problems in the future.

#### **c. Notary Liability in Civil**

Civil liability is liability based on liability based on fault which requires a proof of the fault. In this case civil liability is not necessarily responsible for wrongs committed by himself, can also bear the wrongs committed by others under his supervision. A notary who the client has trusted to make an authentic deed has the obligation to confidentiality the contents of the

deed and everything stated in the implementation of his position. (Arisaputra, Muhammad Ilham, 2012).

Suppose the notary in carrying out the duties of his office intentionally commits an act that harms one or both parties or the parties facing him in the act of a deed. It can be known that the notary's act is contrary to the law. In that case, the notary can be held liable based on the construction of the unlawful act. (Abdul Ghofur Anshori, 2012). Civil liability for material truth in the deed of Meeting Resolution Statement made before a notary even though basically the notary is not responsible and cannot be legally accounted for the material truth in the deed of Meeting Resolution Statement made before him, does not mean that the notary in carrying out the duties of his office can willingly and not sincerely in doing the creation of an authentic deed. The Deed of Meeting Resolution Statement regarding changes to the articles of association can be categorized as a notarial deed, but the contents are minutes of the meeting under hand.

The Deed of Meeting Resolution Statement has binding and perfect evidence, such as a Notary Deed, a deed of the party "Partij Deed". This is because what is written in the deed is proven to be true and considered true by the judge, as long as the untruth can be proven perfect, then the deed no longer requires an additional proof, while its contents can be said to have perfect proof if the parties recognize the signature in the minutes of meeting under the hand and is not disputed.

#### **d. Notary Criminal Responsibility**

In addition to reporting to the Regional Supervisory Board and suing civilly, the aggrieved party can report criminally. Although this is not specifically regulated in the UUJN and its amendments, the imposition of criminal sanctions is based on the provisions stipulated in laws and regulations containing criminal sanctions such as the KUHP. The formulation of the Criminal Code regarding criminal acts that are closely related to the notary profession are criminal acts related to forgery of letters (Article 263), secrets of office (Article 322 paragraph 1), and forgery committed by officials (Article 416).

There is a difference between evidence in criminal cases and civil cases, in criminal cases the main purpose is to seek material truth, the real truth, while in civil cases the main goal is to seek formal truth, in this case the judge must not cross the boundaries proposed by the litigants. The task of the judge in the formal truth-seeking process is limited to proving with a preponderance of evidence, while the criminal judge in the process of seeking material truth, the event must be proven to have occurred or known as beyond reasonable doubt. The stage of a criminal case is likely to be forced efforts made by law enforcement officials, which are related to evidence. Article 1 point 14 of the Criminal Code states that a suspect is a person who, because of his actions or circumstances, based on preliminary evidence, should be suspected of being the perpetrator of a criminal act. Meanwhile, according to the Implementation Guidelines of the Chief of Police of the Republic of Indonesia, "preliminary evidence" as referred to in Article 1 point 14 of the Criminal Code is based on one type of evidence and the existence of a police report that can be used to establish a person as a suspect. (Siswandi. 2017)

In this case, the evidence referred to here is stated in Article 184 of the Penal Code, including witness statements; Expert information; Letter; Instructions; and the Defendant's statement. As discussed in the previous chapter, the Deed of Meeting Decision Statement (PKR) can be classified as a "Deed Partij" made before a notary and at the same time is one type of evidence in the form of a letter. The letter is made on oath of office or reinforced by oath. Like notaries, who are officials authorized to make authentic deeds and other authorities, notaries are also valid to practice their profession after being appointed through an oath or promise according to their religion before the Minister or appointed official.

#### **e. Notary Responsibilities Administratively**

The responsibility of notary administration is that there must be a notary act that can be punished for actions that have violated the elements expressly regulated in Law Number 30 of 2004 concerning Notary Positions as amended by Law Number 2 of 2014. Regarding

administrative sanctions for Notaries who commit mistakes or violations, it can be seen in the UUJN that there are 5 (five) types of administrative sanctions, namely: a. verbal reprimand; b. written reprimand; c. suspension; d. honorable dismissal; e. dishonorable dismissal.

These sanctions apply in stages, the procedure for imposing administrative sanctions is carried out directly by the agency authorized to do so (Supervisory Council). if in the event of a violation committed by the Reported Person (Notary) or based on the results of an examination by the Regional Supervisory Panel, especially the Notary, is not independent in carrying out the functions of his position, the Reported Public (Notary) concerned is subject to written warning sanctions based on Article 5 paragraph (1) point b of the Regulation of the Minister of Law and Human Rights Number 61 of 2016 concerning Procedures for Imposing Administrative Sanctions on Notaries.

#### **f. Legal Effects of Deed of Statement of GMS Meeting Resolution that Does Not Meet the Requirements**

Errors in carrying out the profession can be caused by lack of knowledge (onvoldoende kennis), lack of experience (onvoldoende ervaring), or lack of understanding (onvoldoende inzicht). Similarly, notary errors in carrying out their duties and authorities are sometimes caused by the notary's lack of knowledge of the issues requested by the client, both from legal and other aspects. (Ghansham Anand, Agus Yudha Hernoko, 2016) A mistake committed by a notary in carrying out its duties and authority, may result in the Deed of Statement of GMS Meeting Resolution made by or before him, becoming null and void (*van rechtswege nietig*), voidable (*vernietigbaar*), or only having the power of proof as the deed under hand (*onderhands acte*), and may cause the notary to be obliged to bear compensation for it. The limitation of the impairment of the evidentiary power of Notary Deeds based on UUJN No. 2 of 2014 is regulated in article 16 paragraph (1), paragraph (7) and paragraph (8), article 41 which designates article 38, article 39, article 40, then article 44, article 48, article 49, article 50, article 51, article 52. Where violations of the articles mentioned above will result in the Deed of Statement of Resolution of the GMS Meeting only has the power of proof as a deed under hand.

#### **4. CONCLUSION**

That the validity of the deed of statement of meeting resolution which is evidence in the notarial deed of minuta is based on the provisions of Article 1868 BW, Article 15 of Law Number 1 of 2014 concerning the position of Notary and Article 21 Paragraph (4) concerning the Law which is the source for the authenticity of the Notary Deed. In the event that the signatory of the deed of statement of meeting resolution before the notary is the recipient of power of attorney and/or expressly appointed in the minutes of meeting under the hand submitted to the notary to make a deed of Statement of Meeting Resolution, the Notary is not responsible for the correctness of the contents of the Deed of Meeting Resolution Statement that has been made before a Notary, because the content of the Deed of Meeting Resolution Statement is everything that has been written based on the minutes Minutes of the Extraordinary General Meeting of Shareholders, so that the contents of the Deed of Meeting Resolution Statement are the responsibility of all parties present at the meeting. The implementation of the responsibilities of a Notary Public aims to create justice for society, because justice is inseparable from the law. That the notary's responsibility for irregularities in the deed of meeting resolution statement made based on fabricated evidence is that the Notary is only responsible for the form of the deed of "Meeting Decision Statement (PKR)" in formality only while the validity of the material or content of the agreement along with all the legal consequences it arises, the notary cannot be prosecuted and held accountable by the parties, this is entirely a matter The responsibility of the parties who make the agreement, the notary itself only plays a role in hearing, seeing and accepting the wishes of the parties and then stated in the form of a deed, as long as the will of the parties does not violate the general provisions in force. Although the PKR Deed is a *Partij deed* made based on the information of the face, in making the Notary PKR Deed, it is mandatory to pay attention to and check the conditions that must be met in accordance with the provisions of the law because it

will determine whether or not the GMS decision is valid. Thus, the notary's responsibility for the deed of Meeting Resolution Statement (PKR) based on negligence or unlawful acts in accordance with Article 1365 of the Civil Code and is limited to formal truth, while the truth of the contents of the deed is the responsibility of the parties or parties facing the Notary, because the Notary does not know and attend the GMS. Elements of errors committed, both civil errors in the form of unlawful acts (Article 1365 of the Civil Code), then criminal errors in the form of forgery of deeds (Articles 253, 266 of the Criminal Code (Criminal Code), office secrets (Article 322 of the Penal Code), forgeries committed by officials (Article 416 of the Indonesian Civil Code) can be held accountable both civilly, criminally, UUJN and codes of ethics. Notaries must be held accountable according to the weight of the mistakes they make if there are errors. Notaries can be held accountable and their actions include unlawful acts. Although notaries only accommodate the parties who face, it is not impossible that Notaries do not commit actions that violate legal provisions. Any act that results in harm to another person may be prosecuted in court.

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