



**THE FLORIDA SENATE  
COMMITTEE ON ETHICS AND ELECTIONS**

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April 22, 2014

The Honorable Don Gaetz  
President of the Senate  
409, The Capitol  
Tallahassee, FL 32399-1100

RE: Suspension of:  
PABON, Maria E.  
Notary Public

Dear President Gaetz:

The Committee on Ethics and Elections submits this final report on the matter of the suspension of Maria E. Pabon.

By Executive Order Number 13-295 filed with the Secretary of State on October 14, 2013, and pursuant to Article IV, section 7(a) of the Florida Constitution, the Honorable Rick Scott, Governor, suspended Maria E. Pabon as a Notary Public alleging that a complaint was filed against her which alleges that she committed notary misconduct by notarizing a document when the signer was not present, that she failed to complete a jurat or notarial certificate specifying the form of identification relied upon, and that she notarized a signature without satisfactory evidence of the signatory's identity in violation of ss. 117.107(9), 117.05(4)(f), and 117.05(5), Florida Statutes. The Executive Order also alleges that the Executive Office of the Governor attempted to contact her via mail on June 10, 2013, July 10, 2013, and July 31, 2013. Those letters required Ms. Pabon to provide a sworn, written response to the complaint. Ms. Pabon was also advised that she was required by the letter dated July 10, 2013, to update her address with the Department of State. The Executive Order alleges that she failed to do so in violation of s. 117.01(2), Florida Statutes. Ms. Pabon was also advised that she was required to cooperate with the investigation in the July 10, 2013, letter. The Executive Order alleges that she failed to cooperate with the investigation in violation of s. 117.01(4)(c), Florida Statutes. The Executive Order also alleges that the Governor's Office, via letter dated August 26, 2013, required Ms. Pabon's immediate resignation. According to the Executive Order, Ms. Pabon did not provide the required resignation.

Pursuant to Article IV, section 7(b), Fla. Const., the Committee on Ethics and Elections met and conducted a hearing to determine whether to remove or reinstate Ms. Pabon on April 7,

2014. The Governor was represented by Thomas "Bo" Winokur, Esq. Ms. Pabon, representing herself, appeared by telephone. The following are the Committee's findings of fact and conclusions of law pertaining to each of the allegations.

### **Summary of the Evidence Presented**

The Executive Order alleges that Ms. Pabon committed notary misconduct by notarizing a document when the signer was not present, by failing to complete a jurat or notarial certificate specifying the form of identification relied upon, and by notarizing a signature without satisfactory evidence of the signatory's identity in violation of ss. 117.107(9), 117.05(4)(f), and 117.05(5), Florida Statutes. The Executive Order alleges that she failed to update her address with the Department of State in violation of s. 117.01(2), Florida Statutes. Finally, the Executive Order alleges that she failed to cooperate with the investigation in violation of s. 117.01(4)(c), Florida Statutes.

At the hearing, Mr. Winokur presented the Notary Public Commission Application, Surety Bond, and the Notary Section Internet Complaint Form in which Mr. Miguel De Leon Olmeda alleges that Ms. Pabon notarized a Quit Claim Deed purporting to transfer his real property to his daughter and her husband. He further alleges that he never signed the deed and requests that Ms. Pabon be investigated for notarizing the deed without proper verification. Finally, he alleges that he did not go to Orlando during the year 2013. Mr. Winokur also presented a photocopy of the Quit Claim Deed indicating that Miguel De Leon, Grantor, conveyed the real property to Dalbi Ortiz. The Quit Claim Deed appears to have been signed by Miguel De Leon as Grantor, and was witnessed by Josue Vargas and Angel Fuentes. The Quit Claim deed was notarized by Maria E. Pabon. The jurat does not specify what identification method was used to identify Mr. De Leon. It does indicate that the document was signed in Ms. Pabon's presence.

Mr. Winokur also presented copies of letters dated June 10, 2013; July 10, 2013; July 31, 2013; August 26, 2013; and September 18, 2013. The letters dated June 10, 2013, and July 10, 2013, advise Ms. Pabon that a complaint was received and that she was required to submit a sworn written response to the allegations pursuant to s. 117.01(4)(c), Florida Statutes. The letter dated July 31, 2013, informs Ms. Pabon that she has failed to cooperate with the investigation as required by law and that she was required to immediately resign as a notary. The letter dated August 26, 2013, outlines the attempts to notify her of the complaint, require a response, and require her resignation. That letter also notifies her that, pursuant to s. 117.01(2), Florida Statutes, she is required to update her change in address within 60 days. Again, that letter demanded her resignation, demanded a response to the allegations in the complaint by Mr. Miguel De Leon Olmeda, and provided that failure to respond within a specified period would be grounds for suspension. The letter dated September 18, 2013, again outlines the steps taken by the Governor to notify Ms. Pabon and warns her that failure to respond within 15 days will result in disciplinary action, up to and including the suspension of her notary commission. In the

subject line of that letter, it includes, "Response Due By October 8, 2013." Mr. Winokur presented a return receipt from the U.S. Postal Service indicating that the letter dated September 18, 2013, was delivered to the correct address for Ms. Pabon on September 21, 2013.

Finally, Mr. Winokur presented the sworn written response from Maria E. Pabon dated October 2, 2013. In that response, Ms. Pabon states that her son, Josue Vargas, appeared at her house with Dalbi Ortiz. She states that she recognized Mr. Ortiz because he owns the garage shop where her son has worked for 5 years. They came with an older man that they said was Miguel De Leon, the father of Mr. Ortiz' ex-wife. Ms. Pabon states that she asked for his license, but he said that he left it in his vehicle and did not have it with him. According to Ms. Pabon, the three men arrived at her house in Mr. Ortiz' vehicle. She states, "I personally know Dalbi Ortiz and that this was satisfactory evidence that the person whose signature was to be notarized by me was who Dalbi Ortiz described him to be, his father-in-law Miguel De Leon." The Executive Office of the Governor stated that it did not receive correspondence until after the October 14, 2013, Executive Order suspending Ms. Pabon was entered. Mr. Winokur did not state when Ms. Pabon's letter dated October 2, 2013, was received. There is no stamp on that letter indicating when the Executive Office of the Governor received the letter.

Mr. Winokur did not provide any evidence as to whether the Quit Claim Deed was signed in the presence of Ms. Pabon. It appears that the Governor's only contentions concerning the notarization of the signature were that the jurat failed to specify the type of identification relied upon and that the person who signed the document was not Miguel De Leon Olmeda, the property owner.

Ms. Pabon, after being placed under oath, testified to the same facts that she laid out in her sworn written response to the complaint. Specifically, she testified that the person who identified himself as Miguel De Leon did not have his drivers license and that she relied upon the word of Mr. Dalbi Ortiz to establish that the person signing the document was Mr. De Leon. Ms. Pabon also testified that she did not receive any notices until she received the September 18, 2013, letter. Ms. Pabon testified that she responded to that letter. The only letter by Ms. Pabon that was entered into the record was the letter dated October 2, 2013. Ms. Pabon did not provide any evidence as to when she sent the letter or when it was received by the Executive Office of the Governor. The only additional evidence concerning delivery of her letter dated October 2, 2013, is a copy of the letter that appears to show that Ms. Pabon unsuccessfully attempted to fax the letter to the Executive Office of the Governor. Ms. Pabon also testified that her failure to update her address with the Department of State was because she was very busy and was working a lot of hours and did not remember or realize that she needed to do so.

**Findings of Fact and Conclusions of Law**

Article IV, section 7(a), Fla. Const., provides that the Governor may suspend a notary public for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony. Pursuant to Article IV, section 7(b), Florida Constitution, the Senate may remove or reinstate the suspended official.

The Florida Statutes further illuminate what constitutes malfeasance, misfeasance, or neglect of duty by a notary public. Specifically, section 117.01, Florida Statutes, in pertinent part provides:

(4) The Governor may suspend a notary public for any of the grounds provided in s. 7, Art. IV of the State Constitution. Grounds constituting malfeasance, misfeasance, or neglect of duty include, but are not limited to, the following:

...  
(c) Failure to cooperate or respond to an investigation by the Governor's office or the Department of State regarding a complaint.

...  
(g) Failure to report a change in business or home address or telephone number, or failure to submit documentation to request an amended commission after a lawful name change, within the specified period of time.

Based upon the evidence presented, the Committee finds the following:

Mr. Winokur presented no evidence contradicting the statement in the jurat that the document was signed in Ms. Pabon's presence. Therefore, the Committee on Ethics and Elections concludes that the allegation that Ms. Pabon notarized a signature when the signatory was not present was NOT PROVED.

The Committee on Ethics and Elections concludes that Ms. Pabon may be removed from office based on any or all of the following grounds:

1) FAILURE TO SPECIFY WHAT TYPE OF IDENTIFICATION WAS USED TO ESTABLISH THE SIGNER'S IDENTITY.

Ms. Pabon did not contest the authenticity of the Quit Claim Deed. The jurat on that document contains no statement about what type of identification was used to establish the signer's identity. The Committee finds that the allegation that Ms. Pabon failed to provide a properly completed jurat that detailed the type of identification used to establish the signer's identity WAS PROVED.

Based upon competent and substantial evidence, the Committee has found that Ms. Pabon did not specify in the jurat the type of identification used to establish the signer's identity as required in s. 117.05(4)(f), Florida Statutes. Under the facts of this case, the failure to specify the type of identification in the jurat constitutes misfeasance. Therefore, Ms. Pabon may be removed for failing to specify in the jurat the type of identification used to establish the signer's identity.

## 2) NOTARIZING A DOCUMENT WITHOUT SATISFACTORY EVIDENCE OF THE SIGNATORY'S IDENTITY.

Ms. Pabon admitted, in writing and in her testimony, that she did not view Mr. De Leon's identification. While Section 117.05(5), Florida Statutes, permits a person to rely upon an identification made by another person, those provisions require submission of a sworn written statement containing certain information. Ms. Pabon did not argue that she had such a sworn statement. Rather, she testified that she relied upon the identification made by Dalbi Ortiz. The allegation that Ms. Pabon notarized the Quit Claim Deed without satisfactory evidence of the signatory's identity WAS PROVED.

Based upon competent and substantial evidence, the Committee has found that Ms. Pabon notarized the Quit Claim Deed without satisfactory evidence of the signatory's identity as required by s. 117.05(5), Florida Statutes. Under the facts of this case, the failure to obtain satisfactory evidence of the signatory's identity constitutes neglect of duty. Therefore, Ms. Pabon may be removed for failing to obtain satisfactory evidence of the signatory's identity.

## 3) FAILURE TO UPDATE ADDRESS

Mr. Winokur introduced letters informing Ms. Pabon that she was required to update her address. At the hearing, Ms. Pabon testified that she did not update her address. The allegation that Ms. Pabon did not update her address with the Department of State as required by s. 117.01(2), Florida Statutes., WAS PROVED.

Based on competent and substantial evidence, the Committee has found that Ms. Pabon did not update her address as required by s. 117.01(2), Florida Statutes. Section 117.01(4)(g), Florida Statutes, provides that failure to update her address constitutes neglect of duty. Having found that Ms. Pabon did not update her address as required by law, and that such failure or refusal constitutes neglect of duty, the Senate may remove Ms. Pabon for failing to update her address as required by law.

## 4) REFUSAL TO COOPERATE WITH AN INVESTIGATION

The Executive Order alleged that Ms. Pabon failed or refused to cooperate with an investigation. Several letters were introduced, most of which were sent to the correct mailing address for Ms. Pabon, that require a response. The final letter indicated that if a response was not received by

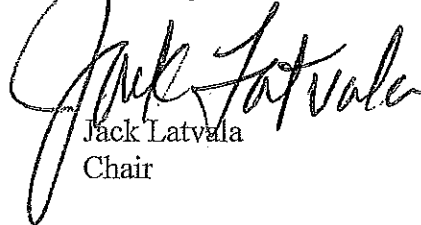
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October 8, 2013, Ms. Pabon would be suspended. Mr. Winokur stated that Ms. Pabon did not respond. The only evidence to the contrary offered was a sworn statement sent by Ms. Pabon dated October 2, 2013. Ms. Pabon introduced no evidence that that letter was successfully sent to the Executive Office of the Governor prior to October 2, 2013. The allegation that Ms. Pabon failed or refused to cooperate or respond to an investigation by the Executive office of the Governor, as required by s. 117.01(4)(c), Florida Statutes, WAS PROVED.

Based on competent and substantial evidence, the Committee has found that Ms. Pabon refused to cooperate or respond to an investigation by the Executive Office of the Governor. Section 117.01(4)(c), Florida Statutes, specifically provides that refusal to cooperate or respond to an investigation by the Governor's Office constitutes neglect of duty. Having found that Ms. Pabon failed or refused to cooperate or respond to the investigation being conducted by the Executive Office of the Governor, and that such failure or refusal constitutes neglect of duty, the Senate may remove Ms. Pabon for failing or refusing to cooperate with the investigation.

Based on the foregoing, the Committee on Ethics and Elections advises and recommends that this report be presented to the Florida Senate in open session and be published in full in the Journal. The Committee further recommends that the Florida Senate, pursuant to Article IV, section 7(b), Florida Constitution, section 112.45, Florida Statutes, and Senate Rule 12, MARIA E. PABON BE REMOVED FROM THE OFFICE OF NOTARY PUBLIC.

Sincerely,



Jack Latvala  
Chair