



## The Liability of Notaries as Class II Auction Officials for the Validity of Auction Documents in the Auction Process

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### Article Info

ISSN (online): 2583-6536

Volume: 05

Issue: 03

May-June 2026

Received: 08-03-2026

Accepted: 06-04-2026

Published: 04-05-2026

Page No: 82-88

### Abstract

The liability of a Notary acting as a Class II Auction Official regarding the validity of auction documents is essential, as it determines the extent of their responsibility and the depth of verification required to prevent potential legal disputes. This research aims to analyze: (1) the legal standing and authority of Notaries as Class II Auction Officials; (2) the forms of legal liability of Notaries as Class II Auction Officials for the validity of auction documents; and (3) the legal consequences for Notaries as Class II Auction Officials if proven negligent in ensuring the validity of auction documents. The research method employed is normative legal research, utilizing statutory and conceptual approaches. The data is analyzed qualitatively and descriptively. The results indicate that a Notary holds the status of a public official who may concurrently serve as a Class II Auction Official based on the Law on Notary Positions (UUJN) to conduct voluntary non-executory auctions and is authorized to draft the Auction Minutes (*Risalah Lelang*). Their liability encompasses formal and material aspects, limited to the principle of prudence in verifying the chain of legal events. Regarding legal consequences, if a Notary as a Class II Auction Official is proven negligent in ensuring document validity or intentionally commits forgery thereby causing the Auction Minutes to lose their authenticity they may be subject to civil, administrative, and criminal sanctions, as well as ethical code violations.

DOI: <https://doi.org/10.54660/IJL.2026.5.3.82-88>

**Keywords:** Notary Liability, Auction Official, Document Validity, Auction Minutes

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### 1. Introduction

Economic development and business dynamics in Indonesia have driven an increasing need for auction services as an efficient and transparent instrument for buying and selling transactions. To achieve this objective, the implementation of development must consistently prioritize harmony, alignment, and balance.

Historically, auctions were regulated by Dutch colonial law, specifically within the Civil Code (*Burgerlijk Wetboek*), which was subsequently adopted and adapted into Indonesian Law. Notaries became formally involved as auction officials through legislation such as Law Number 4 of 1996 concerning Mortgage Rights on Land and Land-Related Objects, which established auctions as the primary means for executing mortgage rights.

Within the Indonesian legal context, the auction process is a vital mechanism for settling legal obligations, particularly in cases of bankruptcy, mortgage execution, or the sale of state assets. Auctions aim to ensure the maximum value of the auctioned assets while protecting the rights of all related parties, including creditors, debtors, and potential buyers. For an auction to be deemed valid and free from future disputes, the process must be supported by a series of essential documents that meet legal validity requirements, both procedurally and substantively.

A Notary is a Public Official authorized to draw up authentic deeds and may concurrently serve as a Class II Auction Official. In the context of auctions, the appointment and role of Notaries as Class II Auction Officials are regulated under Minister of

Finance Regulation Number 122/PMK.06/2023 concerning Auction Implementation Guidelines. Since the duties performed by Notaries are essentially governmental functions, their work carries legal consequences; Notaries are entrusted with a portion of the State's power, granting their deeds authentic and executorial strength.<sup>[1]</sup>

As public officials (*openbaar ambtenaar*) authorized to produce authentic deeds, Notaries may be held liable for their actions concerning the creation of such deeds. The scope of a Notary's liability includes the material truth of the deeds they produce. Regarding the liability of Notaries as public officials concerning material truth, Nico distinguishes it into four points:<sup>[2]</sup>

1. Civil liability of the Notary regarding the material truth of the deeds produced;
2. Criminal liability of the Notary regarding the material truth of the deeds produced;
3. Liability of the Notary based on the Notary Position Regulations regarding material truth;
4. Liability of the Notary in performing their duties based on the Notary Code of Ethics.

An individual serving as an auction official must possess clear knowledge of the regulations to serve as an essential guideline, ensuring legal certainty for all parties and mitigating legal issues such as losses incurred by third parties due to negligence or the invalidity of auction documents. To prevent such occurrences, it is imperative to understand the standard procedures for verifying the validity of auction documents.

The liability of a Notary as an auction official for the validity of documents is crucial for the official, the related parties, and interested third parties. This liability concerns the extent of their responsibility and the depth of verification required to avoid or reduce disputes following the auction.

The fundamental legal issue in this research stems from legal uncertainty regarding the boundaries of a Notary's liability as a Class II Auction Official in verifying documents. In performing their functions, Notaries are often caught between administrative obligations and juridical expectations. On one hand, based on the Minister of Finance Regulation on Auction Guidelines, Notaries tend to rely on formal liability meaning they are deemed to have performed their duties correctly if they ensure the completeness of documents according to the regulatory checklist. On the other hand, judicial practice and jurisprudence often demand broader material liability, expecting Notaries to guarantee the substantive validity or truth of the contents submitted by the auction applicant. This demand aims to prevent legal defects in the Auction Minutes (*Risalah Lelang*), which constitute authentic deeds. The problem lies in the gap between this burden of liability and the Notary's actual authority. Normatively, Notaries lack the attributive authority to conduct deep investigations or inquiries, as law enforcement agencies do, to test the authenticity of a document (*warkah*). Based on this background, the author formulates three main problems: (1) What is the legal standing and authority of

Notaries as Class II Auction Officials in the auction process? (2) What are the forms of liability of Notaries as Class II Auction Officials for the validity of auction documents? and (3) What are the legal implications for Notaries as Class II Auction Officials if proven negligent in ensuring the validity of auction documents?

## 2. Research Method

The type of research used is Normative Legal Research. The normative juridical method is library-based legal research conducted by examining library materials or secondary data.<sup>[3]</sup>

The research approach must align with the type of research used to provide precise answers to the issues studied. The approaches used include:

**a) Statute Approach:** This approach is used to examine and analyze all laws and regulations related to the legal issues being handled.<sup>[4]</sup> It treats legislation as the primary guiding material.

**b) Conceptual Approach:** This provides a framework illustrating the relationship between the concepts to be researched and expert views regarding the issues discussed.<sup>[5]</sup>

In the process of collecting legal materials, the technique used is a literature study, conducted by reviewing scientific works, laws and regulations, books, journals, and other relevant materials. After the data is systematically organized, it is processed and analyzed using a qualitative-descriptive method, which involves formulating descriptions that provide significant explanations of the objects researched to draw conclusions.

Berikut adalah perbaikan dan terjemahan bagian Pembahasan (Discussion) artikel tersebut ke dalam bahasa Inggris akademik dengan struktur yang lebih mengalir dan pemilihan diksi hukum yang tepat.

## 3. Discussion

### 3.1. Legal Standing and Authority of Notaries as Class II Auction Officials in the Auction Process

Pursuant to Article 15 paragraph (2) point g of the Law on Notary Positions (UUJN), a Notary possesses the constitutional authority to draft Auction Minutes (*Risalah Lelang*). Given that Auction Minutes must be drawn up by a Public Official in their capacity as an Auction Official, there is a professional intersection where both Notaries and Auction Officials hold the status of Public Officials. However, the fundamental difference lies in the legitimizing institution: Notaries are appointed and dismissed by the Ministry of Law and Human Rights, whereas Auction Officials operate under the authority of the Ministry of Finance.

Furthermore, becoming a Notary requires a Master of Notarial Law (M.Kn) degree and the fulfillment of specific requirements followed by an appointment and oath by the government. Meanwhile, Auction Officials both Class I and Class II are also public officials who produce legal instruments in the form of Auction Minutes. These minutes

<sup>1</sup> Yuni Wahyu Nur'aini, "Juridical Review of Legal Violations Committed by Notaries Based on Article 48 of Law Number 30 of 2004 concerning Notary Positions," (Undergraduate Thesis: Faculty of Law, University of Indonesia, 2010), p. 1.

<sup>2</sup> Nico, *Liability of Notaries as Public Officials*, Center for Documentation and Studies of Business Law, Yogyakarta, 2003, p. 34.

<sup>3</sup> Soerjono Soekanto and Sri Mahmudji, *Normative Legal Research: A Brief Overview*, Jakarta: Raja Grafindo Persada, 2003, p. 13.

<sup>4</sup> Salim HS and Erlies Septiana Nurbani, *Application of Legal Theory in Thesis and Dissertation Theory*, Raja Grafindo, Jakarta, 2013, pp. 17-18.

<sup>5</sup> Amirudin and Zainal Asikin, *Introduction to Legal Research Methods*, Rajawali Pers, Jakarta, 2013, p. 47.

are equivalent to authentic deeds made by a Notary because, based on Article 1868 of the Indonesian Civil Code, they are drafted by a public official in a form prescribed by law.

The definition of an Auction Official is provided in Article 1 paragraph (14) of Minister of Finance Regulation (PMK) Number 122 of 2023 concerning Auction Implementation Guidelines, which defines an Auction Official as an individual authorized by law to conduct sales by auction. Article 7 paragraph (1) of the same regulation classifies Auction Officials as follows:

1. **Class I Auction Officials:** Authorized to conduct all types of auctions at the request of the Seller/Owner of the Goods.
2. **Class II Auction Officials:** Authorized to conduct Voluntary Non-Executory Auctions at the request of an Auction House or the Seller/Owner of the Goods.

Class II Auction Officials are stationed at the Office of the Class II Auction Official or an Auction House. They may only exercise their authority within their designated work area. Specifically, Class II Auction Officials stationed at an Auction House are appointed for a two-year term, which is renewable.

Notaries acting concurrently as Class II Auction Officials are appointed by the Minister of Finance in accordance with PMK Number 189/PMK.06/2017. The elucidation of Article 15 paragraph (2) point g of the UUJN clarifies that the appointment of a Notary as a Class II Auction Official is conducted by the minister overseeing financial affairs. However, Article 17 paragraph (1) point g of the UUJN strictly prohibits Notaries from holding concurrent positions as Land Deed Officials (PPAT) or Class II Auction Officials outside their designated domicile.

Legally, a Notary may hold a concurrent position as a Class II Auction Official due to the equivalent status of both roles as public officials authorized to issue authentic deeds. Beyond the nature of the office, the appointment is based on technical competence in the auction sector and geographical alignment of their jurisdiction. Consequently, auctions conducted by Notaries remain within legal boundaries and do not violate regulations regarding jurisdictional limitations.

In practice, the authority of Notaries to draft Auction Minutes under Article 15 of the UUJN is not immediate. As stipulated in the regulation's elucidation, a Notary must first undergo a formal appointment by the Minister of Finance. Therefore, when a Notary drafts Auction Minutes, they are acting in their concurrent capacity as a Class II Auction Official. According to Article 2 paragraph (3) of PMK 189/2017, the appointment process involves several stages:

- a) Selection;
- b) Internship/Practical work;
- c) Appointment; and
- d) Taking of the oath and inauguration.

This implies that a sworn Notary does not automatically become a Class II Auction Official. Although the UUJN provides the legal basis for Notaries to draft Auction Minutes, the administrative requirement for a separate appointment by the Ministry of Finance creates a practical barrier. It is rare to

find a Notary who can exercise this authority without having completed the specific certification and selection process required by the Ministry of Finance.

Beyond the UUJN, the authority for Notaries to serve as Class II Auction Officials is also found in Article 7 of the *Vendu Instructie* (State Gazette/Staatsblad). The appointment of Notaries to this role is driven by their profound understanding of how to translate legal facts into authentic deeds. As an authentic deed, the Auction Minute possesses strong evidentiary weight. Because the law views these two positions as equal in level, Notaries holding this dual mandate must maintain high integrity. Honesty and trustworthiness are not merely professional requirements but absolute prerequisites to safeguard the dignity of the public office.

The duties of an auction official include preparing the auction, conducting the public sale, and performing post-auction activities, such as drafting the Auction Minutes. While Notaries may hold concurrent positions, the UUJN strictly prohibits them from serving as civil servants, state officials, advocates, or leaders/employees of state-owned (BUMN) or regional-owned (BUMD) enterprises. They are also prohibited from acting as a PPAT or Class II Auction Official outside their domicile, or performing any work that contradicts religious norms, morality, or propriety that could tarnish the dignity of the Notary position.<sup>[6]</sup>

A Notary wishing to become an Auction Official must comply with the requirements of PMK 189/2017. Article 4 of this regulation states that candidates must:

- Hold at least a Bachelor's (S1) or Diploma IV (D4) degree, preferably in Law or Economics/Accounting.
- Have no criminal record.
- Not hold concurrent positions as a Civil Servant/Military/Police, State Official, Curator, Appraiser, or Advocate.
- Have never been dishonorably discharged as a Class II Auction Official.

In practice, this path is challenging because selection is not opened annually and depends on formation needs. It involves Academic Potential Tests, TOEFL, and internships. Thus, Notaries who serve as Class II Auction Officials are highly selected individuals with superior qualifications.

The scope of a Notary's authority as a Class II Auction Official is limited to Voluntary Non-Executory Auctions. This refers to public sales conducted outside of court rulings or stipulations, consisting of the sale of privately owned assets.<sup>[7]</sup> Non-executory auctions are categorized into:

1. **Mandatory Non-Executory Auctions:** Sales required by law to be conducted via auction.
2. **Voluntary Non-Executory Auctions:** Sales of assets belonging to private individuals or legal entities conducted voluntarily.<sup>[8]</sup>

In reality, voluntary auctions are underutilized due to a lack of public awareness. Auctions offer benefits such as fairness, speed, security, optimal pricing, and legal certainty.<sup>[9]</sup> Despite having different spheres of authority, the roles of Notary and Class II Auction Official are legally intertwined

<sup>6</sup> Mariam Darus Badruzaman, *Legal Issues of Security Rights in Business Law*, Citra Aditya Bakti, Bandung, 2000, p. 54.

<sup>7</sup> Apriyansyah Rio Abraham, "Legal Liability of Notaries in Drafting Auction Minutes for Bankrupt Company Assets," *Thesis*, Faculty of Law, Master of Notarial Law, Sriwijaya University, Palembang, 2021, p. 89.

<sup>8</sup> *Ibid.*

<sup>9</sup> Rachmadi Usman, *Auction Law*, Sinar Grafika, Jakarta, 2016, p. 1.

by their fundamental status as public officials who produce authentic written evidence with perfect evidentiary power (*volledig bewijskracht*).

The implementation of Article 15 paragraph (2) point g of the UUJN has led to two interpretations. The first view suggests that every Notary is automatically authorized to draft Auction Minutes by virtue of their appointment as a Notary. The second view argues that only Notaries who have been specifically inaugurated and designated as Class II Auction Officials by the Ministry of Finance possess such authority. To resolve this, a systematic interpretation is required. Article 35 of the Auction Regulations (*Vendu Reglement*) and Article 95 of PMK 122/2023 state that Auction Minutes must be made by an "Auction Official." This establishes that while the UUJN grants the authority, the actual execution is contingent upon the Notary being appointed as an Auction Official under the Ministry of Finance's regulations.

This creates a professional dilemma: Notaries are bound by the UUJN but, when acting as Class II Auction Officials, they must also comply with Auction Regulations and Ministry of Finance Guidelines. Although the UUJN sits higher in the hierarchy of laws, this issue is resolved by recognizing that the two roles, while both public officials, operate in different legal domains.

Ultimately, the positions of Notary and Class II Auction Official are not merged; the latter does not automatically attach to the former. In practice, when a Notary drafts an Auction Minute, they act as a Class II Auction Official, not as a Notary. This is supported by the principle of *Lex Specialis Derogat Legi Generalis* (special law overrides general law). When performing auction-related tasks, the Notary must prioritize the specific Auction Regulations and PMK over the general provisions of the UUJN.

### 3.2. Forms of Liability of Notaries as Class II Auction Officials for the Validity of Auction Documents

An Auction Official is mandatory required to understand the aforementioned documents that must be fulfilled by the auction applicant and participants to protect the interests and legal certainty of all parties.

The Theory of Legal Certainty serves as the fundamental basis for examining the liability of Notaries as Class II Auction Officials. In the context of auctions, legal certainty has dual interrelated dimensions. On one hand, it aims to guarantee protection for auction buyers that the Auction Minutes issued by the Notary are authentic deeds free from legal defects. This requires the Notary, in their capacity as an Auction Official, to conduct a meticulous verification of the validity of auction requirement documents. On the other hand, legal certainty must also apply to the Notary as a public official. Based on the principle of legality, an official can only be held liable within the limits of the authority granted by regulations. Therefore, ambiguity regarding the boundary between formal truth and material truth creates a situation of legal uncertainty for Notaries in performing their functions. Furthermore, the connection between legal certainty and liability is increasingly crucial when linked to the principle of liability based on fault. From a legal certainty perspective, an individual cannot be held liable without clear parameters of

error. Based on Article 1365 of the Indonesian Civil Code (*KUHPerdata*), the legal liability of a Notary as an Auction Official must be based on evidence of fault specifically, whether the Notary violated legal obligations or ignored the principle of prudence (*prudentia*) inherent to their office. The law must provide definite benchmarks for what constitutes "fault" in verifying auction documents.

Regarding document validity, applying liability based on fault requires a strict distinction between administrative errors and substantial errors. If a Notary has followed the Standard Operating Procedures (SOP) established in the Minister of Finance Regulations, yet a forged document is later discovered to have been submitted by the applicant, the Notary cannot be doctrinally held liable. This is because Notaries lack the investigative authority or forensic expertise to detect sophisticated forgeries committed by third parties. In practice, Notaries are required to apply principles of accuracy and prudence. Ideally, before drafting a deed, a Notary conducts a check and research on the formal requirements submitted by the appearers (*penghadap*). By deciding to draft an authentic deed, the Notary indirectly guarantees the correctness of the formal data provided. A Notary may face demands for the cancellation of Auction Minutes due to inaccuracies or negligence. Such negligence can cause losses to other parties, potentially involving the Notary in a tort (*perbuatan melawan hukum*), leading to criminal, civil, or administrative sanctions.<sup>[10]</sup>

The verification of the legality of the subject and object of the auction also relates to the legal requirements of an agreement under Article 1320 of the Civil Code:

1. **Consensual Agreement:** Per Article 1321, no consent is valid if given by mistake, or obtained through coercion or fraud. In auctions, agreement occurs once a winner is determined.
2. **Capacity to Contract:** Per Article 1330, minors and those under conservatorship lack legal capacity. The Notary must verify the maturity and legal authority of both the applicant and the potential buyer over the auctioned goods.
3. **A Specific Object:** The agreement must have a determinable object that is tradable and not intended for public use (e.g., public roads or government buildings).<sup>[11]</sup>
4. **A Lawful Cause:** The purpose of the agreement must not contradict the law, public order, or morality (Articles 1335–1337 of the Civil Code).<sup>[12]</sup>

A Notary as a Class II Auction Official, is responsible for checking the keterangan (descriptions) in the documents to ensure they are interconnected and consistent. However, they are generally not responsible for the material truth of the data such as whether the physical condition of the goods perfectly matches the document, unless there is gross negligence in detecting obvious material defects. Negligence in this regard can lead to lawsuits for tort, where the Auction Minutes may be annulled, and the Notary may be required to pay damages. Liability encompasses:

- **Civil Sanctions:** Payment of compensation for damages.

<sup>10</sup> Apriyansyah Rio Abraham, *Legal Liability of Notaries in Drafting Auction Minutes for Bankrupt Company Assets*, Thesis, (Palembang: Universitas Sriwijaya, 2021), pp. 130-131.

<sup>11</sup> Mariam Darus Badrulzaman, *Compilation of the Law of Obligations*, (Bandung: PT. Citra Aditya Bakti, 2001), pp. 79-80.

<sup>12</sup> *Ibid*, pp. 81-82.

- **Administrative Sanctions:** Warnings, suspensions, or permanent dismissal by the Oversight Board (*Majelis Pengawas*).
- **Ethical Sanctions:** Disciplinary actions by the Notary professional organization.
- **Criminal Sanctions:** Penalties imposed by a court if a crime is proven.

### 3.3. Legal Implications for Notaries Proven Negligent in Ensuring the Validity of Auction Documents

The procedure for a Notary to hold a concurrent position as a Class II Auction Official is strictly governed by Minister of Finance Regulation (PMK) No. 189/PMK.06/2017. When exercising this role, Notaries must comply with the Auction Regulations (*Vendu Reglement*), Auction Instructions (*Vendu Instructie*), and PMK No. 122/PMK.06/2023 concerning Auction Implementation Guidelines. In this capacity, a Notary may override the general provisions of the Law on Notary Positions (UUJN) under the legal principle of *Lex Specialis Derogat Legi Generalis* (special law overrides general law), specifically regarding auction matters. A Notary holding this dual role is required to remain professional and clearly distinguish between their duties as a Notary and their responsibilities as a Class II Auction Official, as these remain separate legal offices despite being held by the same individual. Furthermore, being a Notary does not automatically grant the authority of an Auction Official, and an Auction Official is not necessarily a Notary. A Notary is a public official appointed by the Minister of Law and Human Rights with the specific authority to draft authentic deeds that possess perfect evidentiary power (*volledig bewijskracht*). Although both are public officials whose roles can be held concurrently, their scopes of authority, duties, and liabilities differ. A Notary's conduct is governed by the UUJN and the Notary Code of Ethics. Conversely, a Class II Auction Official's duties are governed by the *Vendu Reglement*, *Vendu Instructie*, and relevant Minister of Finance Regulations.

Pursuant to Article 67 paragraph (5) of the UUJN, the supervision of Notaries covers both professional conduct and the implementation of their official duties. This oversight is conducted by the Notary Oversight Board (*Majelis Pengawas Notaris*), which comprises nine members representing the government (Ministry of Law and Human Rights), academics, and the Notary profession. This board operates at three levels: District (Regional), Provincial, and Central (National).

A Notary acting as a Class II Auction Official is authorized only to conduct Voluntary Non-Executory Auctions. These involve the public sale of assets outside of court orders or rulings, typically consisting of state-owned/controlled assets or privately owned property sold voluntarily.<sup>[13]</sup> Non-executory auctions are further divided into mandatory

(required by regulation) and voluntary (at the request of the owner).<sup>[14]</sup>

The legal implication of this concurrent role is that when a Notary acts as a Class II Auction Official, the legal product generated is the Auction Minutes (*Risalah Lelang*).<sup>[15]</sup> Since Law No. 2 of 2014 does not explicitly define "Auction Minutes," legal uncertainty often arises regarding its definition within the scope of a Notary's authority. Therefore, it is appropriate to apply the definition found in Article 1 point 34 of PMK No. 122/PMK.06/2023, which states that Auction Minutes are the official records of the auction process drafted by an Auction Official, serving as an authentic deed with perfect evidentiary power. The UUJN is notably limited in explaining the specific types of auctions a Notary may conduct.<sup>[16]</sup>

The authority to draft Auction Minutes is not inherent to the office of a Notary; it requires a formal appointment as a Class II Auction Official. Typically, an Auction Minute drafted by a Notary will include the Decree (*Surat Keputusan*) of their appointment as an official. As previously analyzed, the authenticity of the Auction Minute is derived from the fact that it is drafted by, or in the presence of, a competent public official.<sup>[17]</sup>

If Auction Minutes are drafted by an unauthorized individual, they lose their status as an authentic deed and are demoted to a private deed (*akta di bawah tangan*). This is in accordance with Article 1869 of the Indonesian Civil Code (*KUHPerdata*), which stipulates that a deed failing as an authentic instrument due to an official's incompetence or a defect in form still carries evidentiary weight as a private deed if signed by the parties.<sup>[18]</sup> Consequently, a Notary who is not specifically appointed as a Class II Auction Official cannot draft valid Auction Minutes; doing so would strip the document of its authenticity.

The duties, obligations, and prohibitions for Class II Auction Officials are detailed in Articles 35 to 37 of PMK No. 189/PMK.06/2017. These duties closely mirror those of a Notary, including the obligation to draft, store, and issue copies, excerpts, or *grosse* of the Auction Minutes.<sup>[19]</sup> This role is essentially a delegation of authority to assist Class I Auction Officials at the State Assets and Auction Service Office (KPKNL). As the leader of the auction process, the Class II Auction Official plays a central role in ensuring that the proceedings are accurately recorded in the minutes.<sup>[20]</sup>

Notaries are appointed by the state to serve the public interest. As public officials, they act as state organs providing essential services in creating authentic evidence for civil legal acts.<sup>[21]</sup> This is a significant burden, as Article 1 point 1 of the UUJN defines a Notary as a public official authorized to create authentic deeds and exercise other powers granted by law, including those found in the *Vendu Reglement*.

In practice, Notaries must strictly apply the principles of accuracy and prudence. Before drafting a deed, they must

<sup>13</sup> Apriyansyah Rio Abraham, *Legal Liability of Notaries in Drafting Auction Minutes for Bankrupt Company Assets*, Thesis, Master of Notarial Law, Faculty of Law, Sriwijaya University, Palembang.

2 of 2014," *Jurnal Hukum*, Vol. 01 No. 01, Faculty of Law, State University of Surabaya, 2015, p. 8.

<sup>14</sup> *Ibid*.

<sup>15</sup> Yudhana Hendra Pramapta, *Legal Implications of Notary Authority in Drafting Auction Minutes*, Thesis, Master of Notarial Law, Faculty of Law, Universitas Islam Indonesia, 2023, p. 125.

<sup>16</sup> *Ibid*, p. 125.

<sup>17</sup> Gian Reza Benedicta, "Juridical Analysis of Notary Authority to Draft Auction Minutes Under Law No.

<sup>18</sup> Gian Reza Benedicta, *Loc. Cit.*

<sup>19</sup> Apriyansyah Rio Abraham, *Op. Cit.*, pp. 120-121.

<sup>20</sup> *Ibid*, pp. 121-124.

<sup>21</sup> N.G. Yudara, "Notaries and Their Issues," Paper presented at the INI Congress, *Renvoi Magazine* No. 10.34.III, March 2006, p. 72.

verify the formal requirements provided by the appearers (*penghadap*). By issuing an authentic deed, the Notary indirectly warrants the formal data provided. Negligence in this verification process can lead to losses for third parties, potentially involving the Notary in a tort (*perbuatan melawan hukum*). In such cases, the Notary can be held liable through criminal, civil, or administrative sanctions.<sup>[22]</sup>

If errors occur in the Auction Minutes, the official is obligated to rectify the document to reflect the actual events and re-issue the copies.<sup>[23]</sup> It is imperative for the official to remain cautious, as the minutes are based on what the official directly saw, experienced, and felt during the bidding process.<sup>[24]</sup> Their responsibility is centered on the validity of auction documents to ensure legal certainty, particularly for the auction winner regarding the transfer of rights.

Notaries provide expert legal services to ensure documents are drafted according to correct legal procedures.<sup>[25]</sup> Their authority aims to provide legal certainty, protect the interests of parties, and maintain the integrity of the Indonesian legal system.<sup>[26]</sup> Errors committed by Notaries/Officials generally fall into two categories:<sup>[27]</sup>

1. **Administrative Errors:** Violations of procedures and administrative rules set by the UUJN or PMK (e.g., failure to record transactions or store documents correctly). Sanctions include warnings, fines, or temporary suspension.
2. **Criminal Errors:** Occur when negligence results in significant material loss or involves fraud and data manipulation (e.g., intentional forgery or assisting in illegal acts). Sanctions include imprisonment or criminal fines.

In summary, the liability of a Notary as a Class II Auction Official is a critical safeguard. Any lack of prudence or inaccuracy in verifying documents submitted by the parties can result in significant legal consequences, including the annulment of Auction Minutes and personal liability for damages.

#### 4. Conclusion

Based on the analysis and discussion provided in this study, the following conclusions are drawn:

1. **Legal Standing and Authority:** A Notary holds the legal status of a Public Official constitutionally authorized to draft authentic deeds, including Auction Minutes. However, this authority is not automatic. A Notary must undergo a formal appointment procedure by the Minister of Finance as a Class II Auction Official to conduct voluntary non-executory auctions. In exercising this dual role, the Notary acts as an administratively separate official yet remains equal in the authority to issue authentic legal instruments.
2. **Forms of Legal Liability:** The liability of a Notary acting as a Class II Auction Official is rooted in the principle of prudence and liability based on fault. The scope of this liability covers formal aspects, specifically

the verification of the completeness and the chain of legal events (documentary chain) underlying the auction. While the Notary is not liable for the material (physical) truth of the auctioned assets, they are obligated to ensure that the documents meet the legal requirements for a valid agreement as stipulated in Article 1320 of the Indonesian Civil Code.

3. **Legal Implications and Sanctions:** Negligence in verifying the validity of auction documents may result in the loss of the Auction Minutes' authenticity, reducing its evidentiary value to that of a private deed. Legally, a Notary may face multi-layered sanctions, ranging from civil liability (compensation for damages), administrative sanctions (warnings to revocation of license), and ethical code violations, to criminal sanctions if proven to have committed forgery or intentional involvement in a tort (*perbuatan melawan hukum*).

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<sup>24</sup> *Ibid.*

<sup>25</sup> Novira Maharani Sukma Anugrah Yustica & Ngadino, "The Role of Notary Professional Ethics as an Effort in Law Enforcement," *NOTARIUS* Vol. 13 No. 1 (2020).

<sup>26</sup> *Ibid.*

<sup>27</sup> I Gusti Paramaningrat Manuaba, *et al.*, "The Principle of Prudence for Notaries in Drafting Authentic Deeds," *Acta Comitatus* Vol. 1 (2018), p. 60.

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#### **How to Cite This Article**

Hikmawan RAP, Sudiarto, Wisudawan IGA. Liability of notaries as class II auction officials for the validity of auction documents in the auction process. *International Journal of Judicial Law*. 2026;5(3):82–88.  
doi:10.54660/IJL.2026.5.3.82-88.

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