

THE PROTECTION OF THE PUBLIC

Do you have any doubts about the services rendered by your notary?

ARE YOU WONDERING IF YOU HAVE ANY RECOURSE?

You think your notary has not fulfilled his or her professional obligations?

Consult the

**Chambre
des
notaires!**



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YOUR RECOURSE

The Chambre des notaires du Québec is a professional order whose mission is to **protect the public** as users of services rendered by notaries. To this end, the Order has put in place various mechanisms to ensure that the laws and regulations governing the profession are respected by all notaries.

As a client of a notary, you have at your disposal various forms of **recourse**, particularly in the following cases:

- + Your notary has charged fees or costs with which you disagree.
- + Your notary has failed in their professional obligations, as required by law.
- + Your notary has used money or property that you entrusted to them for purposes other than those agreed upon.
- + Your notary has committed a professional error or misconduct that has caused you harm.

The following explains what you can do, depending on your situation.

FEE DISPUTES

Notaries must inform the client in advance of the approximate cost of their services. They should avoid setting their fees without knowing all the details necessary to establish them. If notaries think they will exceed the estimated cost, they must inform the client as soon as possible. If a notary does not advise you of the approximate cost of services, do not hesitate to contact them for information.

After providing you with professional services, your notary must send you a statement of fees. This document specifies the nature of the services rendered and the total fees and all other expenses related to your case.

In case of disagreement on the amounts involved, you are advised to **contact your notary** to discuss the issue. The notary will explain in detail the reasons behind the fees and expenses requested.

Request for Conciliation

If the disagreement is not resolved, you can then turn to **conciliation**. This is a **simple negotiation** process, overseen by a Conciliator of Accounts. This person's will act as an impartial intermediary and communicate with the notary and yourself to try to resolve this dispute.

To take advantage of this **free service**, you must file a fee dispute request with the Conciliator at the Chambre des notaires within 45 days after receiving the statement of fees.

Request for Arbitration

Despite goodwill on all sides, conciliation may not lead to an agreement. In this case, you will receive a conciliation report by mail and then you will have **30 days** to submit a **request for arbitration**.

The request form and information about the arbitration process will be attached to the conciliation report.

After hearing your arguments and those of your notary, the arbitration board will make a **decision** about the amount you will have to pay.

Most of the inquiries received by the Chambre relating to questions about a notary's services are resolved after discussions with the notary or with the assistance of a resource person from the Chambre.

If the notary is found guilty of a breach of ethics, the Disciplinary Board may impose a fine or remove his or her licence to practise either temporarily or permanently.

DID YOU KNOW?



BREACH OF ETHICS

Notaries must at all times comply with their **professional obligations** as set out in the laws and regulations governing the practice of their profession. For example, notaries must:

- + Act with dignity and integrity and advise you objectively.
- + Answer your questions and requests within a reasonable amount of time, and advise you if they cannot do so.
- + Avoid any situations that would place them in a conflict of interest.
- + Prepare all documents as required by law.

Information and Request for an Investigation

If you believe your notary is not fulfilling his or her professional obligations, first contact the notary to discuss the situation. If you still have doubts about the notary's ethical conduct, do not hesitate to contact the **Office of the Syndic** of the Chambre des notaires before submitting a request for an investigation.

If the situation requires it, you can then submit a **request for an investigation** to the syndic to verify your notary's conduct. The request form is available on the website of the Chambre des notaires and the investigation service is free.

*The mandate of the **Syndic** of the Chambre des notaires includes evaluating any request for an investigation into the conduct of a notary.*

Conciliation

If they deem it to be necessary, the syndic may propose **conciliation** between you and your notary in order to try to resolve the dispute amicably.

Syndic's Decision

In the absence of conciliation, the syndic will decide **whether or not to file a complaint against the notary before the Disciplinary Board**. This decision will be communicated to you in writing.

Review Committee

If the syndic decides not to file a disciplinary complaint, you may request an opinion from the Review Committee within thirty (30) days after receiving the syndic's decision.

Complaint before the Disciplinary Board

You may also file a complaint directly with the Disciplinary Board. You will have to prove that the notary has committed the alleged offence and you may have to pay certain costs.

*The **Disciplinary Board** is a tribunal that is independent of the Chambre des notaires. This tribunal determines whether or not the notary is guilty of the alleged offence. In rendering its decision, the Board evaluates the evidence supporting the allegation and the notary's defence.*

CLAIM FOR AN INAPPROPRIATE USE OF FUNDS

Any money you pay to your notary for professional services must be used only in accordance with the law and for the purposes you have indicated to the notary.

Despite the stringent control measures currently in place, it may happen that a notary uses the money for inappropriate purposes.

Request for Compensation

If your notary has used the money for purposes other than those stipulated, you may submit a **request for compensation** to the Chambre des notaires.

You must do so **within one year after becoming aware** of the improper use of funds. Consult the Chambre des notaires to find out more about other conditions.

PROFESSIONAL MISCONDUCT OR ERROR

Notaries are liable for the services they provide to their clients. Thus, notaries are required by law to carry **liability insurance** to cover damages due to misconduct and errors that they may make in practising their profession.

Claim Application

If your notary commits a **misconduct or error** in practising the profession, and this causes you direct harm, you must serve notice to the notary to remedy the situation and, as the case may be, to pay compensation for the damages. The notary who receives notice of a claim is required to send it to the Professional Liability Insurance Fund of the Chambre des notaires du Québec. This body analyzes the claim and informs the notary's client of its position. If the client's claim is justified, the insurer handles the negotiations and pays the notary's client compensation that is commensurate with the damages. In the event that the insurer refuses to act on your claim, and if you do not agree with their position, you still have the option of taking legal action against the notary or against the Professional Liability Insurance Fund, or even against both parties simultaneously. The court will then decide on the dispute and if your claim is upheld by the court, the Professional Liability Insurance Fund will compensate you for the amount of the claim.

Usually, you must file your claim within a period of **three years** from the time the misconduct or error occurred.

*The system of recourse for professional misconduct or errors is aimed at **compensating the client**. It differs from the recourse for breach of ethics, which aims instead to impose a **disciplinary sanction against the notary**. These two actions can, however, be initiated at the same time.*

WHO TO CONTACT?

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Website: www.cnq.org

+ **Conciliator of Accounts**
Telephone: ext. 5922

+ **Office of the Syndic**
Telephone: ext. 5913
Fax: 514-879-1589

+ **Disciplinary Board**
Telephone: ext. 5228
Email: discipline@cnq.org

+ **Committee Secretary for the Compensation Fund**
Telephone: ext. 5444
Email: indemnisation@cnq.org

PROFESSIONAL LIABILITY INSURANCE FUND OF THE CHAMBRE DES NOTAIRES DU QUÉBEC

500-1200 McGill College Avenue
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For more information, visit our Website!

www.cnq.org