

INSTRUCTIONS

This questionnaire consists of eleven (11) questions contained in five (5) pages. Read each question very carefully. Answer legibly, clearly and concisely. Start each number on a separate page; an answer to a subquestion under the same number may be written continuously on the same page and on the immediately succeeding pages until completed. Do not repeat the question.

You will be given credit for your knowledge of legal doctrine and for the quality of your legal reasoning. A mere Yes or No answer without any corresponding discussion will not be given any credit.

HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE.

GOOD LUCK!!!

Signed **DANTE O. TINGA**
Chairperson
2008 Bar Examination Committee

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LEGAL ETHICS AND PRACTICAL EXERCISES

I

Christine was appointed counsel *de officio* for Zuma, who was accused of raping his own daughter. Zuma pleaded not guilty but thereafter privately admitted to Christine that he did commit the crime charged.

- a. In light of Zumas admission, what should Christine do? Explain. (3%)
- b. Can Christine disclose the admission of Zuma to the court? Why or why not? (2%)
- c. Can Christine withdraw as counsel of Zuma should he insist in going to trial? Explain. (3%)

II

In 1998, Acaramba, a telecommunications company, signed a retainer agreement with Bianca & Sophia Law Office (B & S) for the latters legal services for a fee of P2,000 a month. From 1998 to 2001, the only service actually performed by B & S for Acaramba was the review of a lease agreement and representation of Acaramba as a complainant in a bouncing checks case. Acaramba stopped paying retainer fees in 2002 and terminated its retainer agreement with B & S in 2005. In 2007, Temavous, another telecommunications company, requested B & S to act as its counsel in the following transactions: (a) the acquisition of Acaramba; and (b) the acquisition of Super-6, a company engaged in the power business.

In which transactions, if any, can Bianca & Sophia Law Office represent Temavous? Explain fully.

(7%)

III

Dumbledore, a noted professor of commercial law, wrote an article on the subject of letters of credit which was published in the *IBP Journal*.

- a. Assume he devoted a significant portion of the article to a commentary on how the Supreme Court should decide a pending case involving the application of the law on letters of credit. May he be sanctioned by the Supreme Court? Explain. (4%)
- b. Assume Dumbledore did not include any commentary on the case. Assume further after the Supreme Court decision on the case had attained finality, he wrote another *IBP Journal* article, dissecting the decision and explaining why the Supreme Court erred in all its conclusions. May he be sanctioned by the Supreme Court? Explain. (3%)

IV

Chester asked Laarni to handle his claim to a sizeable parcel of land in Quezon City against a well-known property developer on a contingent fee basis. Laarni asked for 15% of the land that may be recovered or 15% of whatever monetary settlement that may be received from the property developer as her only fee contingent upon securing a favorable final judgment or compromise settlement. Chester signed the contingent fee agreement.

- a. Assume the property developer settled the case after the case was decided by the Regional Trial Court in favor of Chester for P1 Billion. Chester refused to pay Laarni P150 Million on the ground that it is excessive. Is the refusal justified? Explain. (4%)
- b. Assume there was no settlement and the case eventually reached the Supreme Court which promulgated a decision in favor of Chester. This time Chester refused to convey to Laarni 15% of the litigated land as stipulated on the ground that the agreement violates Article 1491 of the Civil Code which prohibits lawyers from acquiring by purchase properties and rights which are the object of litigation in which they take part by reason of their profession. Is the refusal justified? Explain. (4%)

V

The vendor filed a case against the vendee for the annulment of the sale of a piece of land.

- a. Assume the vendee obtained a summary judgment against the vendor. Would the counsel for the defendant vendee be entitled to enforce a charging lien? Explain. (4%)
- b. Assume, through the excellent work of the vendees counsel at the pre-trial conference and his wise use of modes of discovery, the vendor was compelled to move for the dismissal of the complaint. In its order the court simply granted the motion. Would your answer be the same as in question (a)? Explain. (3%)

VI

Atty. Abigail filed administrative cases before the Supreme Court against Judge Luis. Thereafter, Atty. Abigail filed a Motion for Inhibition praying that Judge Luis inhibit himself from trying, hearing or in any manner acting on all cases, civil and criminal, in which Atty. Abigail is involved and handling.

Should Judge Luis inhibit himself as prayed for by Atty. Abigail? Explain fully. **(6%)**

VII

In need of legal services, Niko secured an appointment to meet with Atty. Henry of Henry & Meyer Law Offices. During the meeting, Niko divulged highly private information to Atty. Henry, believing that the lawyer would keep the confidentiality of the information. Subsequently, Niko was shocked when he learned that Atty. Henry had shared the confidential information with his law partner, Atty. Meyer, and their common friend, private practitioner Atty. Canonigo. When confronted, Atty. Henry replied that Niko never signed any confidentiality agreement, and that he shared the information with the two lawyers to secure affirmance of his legal opinion on Nikos problem. Did Atty. Henry violate any rule of ethics? Explain fully. **(7%)**

VIII

State, with a brief explanation, whether the lawyer concerned may be sanctioned for the conduct stated below.

- a. Filing a complaint that fails to state a cause of action, thereby resulting in the defendant succeeding in his motion to dismiss. **(3%)**
- b. A suspended lawyer working as an independent legal assistant to gather information and secure documents for other lawyers during the period of his suspension. **(3%)**
- c. A suspended lawyer allowing his non-lawyer staff to actively operate his law office and conduct business on behalf of clients during the period of suspension. **(3%)**
- d. Keeping money he collected as rental from his clients tenant and remitting it to the client when asked to do so. **(3%)**
- e. Refusing to return certain documents to the client pending payment of his attorneys fees. **(3%)**
- f. An unwed female lawyer carrying on a clandestine affair with her unwed male hairdresser. **(3%)**
- g. Not paying the annual IBP dues. **(3%)**

IX

State, with a brief explanation, whether the judge concerned may be sanctioned for the conduct stated below.

- a. Refusing to inhibit himself although one of the lawyers in the case is his second cousin. **(3%)**
- b. Deciding a case in accordance with a Supreme Court ruling but adding that he does not agree with the ruling. **(3%)**
- c. Dictating his decision in open court immediately after trial. **(3%)**

X

Ian Alba owns a house and lot at No. 9 West Aguila, Green Cross Subdivision, Quezon City, which he leased to Jun Miranda for a term of two years starting May 1, 2006, at a monthly rental of P50,000. Jun defaulted in the payments of his rentals for six (6) months, from January 1, 2007 to June 30, 2007.

- a. Prepare a demand letter as lawyer of Ian Alba addressed to Jun Miranda preparatory to filing an ejectment case. **(3%)**
- b. Assume Jun Miranda did not heed your demand letter. Draft a complaint for ejectment. (Omit verification and affidavit of non-forum shopping). **(9%)**

XI

Draft a complete deed of donation of a piece of land in accordance with the form prescribed by the Civil Code. **(8%)**

NOTHING FOLLOWS.