

2009 BAR EXAMINATIONS

**LEGAL ETHICS AND PRACTICAL EXERCISES**

04 October 2009

2 P.M. – 5 P.M.

INSTRUCTIONS

This questionnaire is in TWO (2) PARTS: Part I with ten (10) questions (numbered I to X), contained in four (4) pages; and Part II with ten (10) questions (numbered XI-XX), contained in four (4) pages, for a total number of eight (8) pages.

Write your answers to Part I and Part II in the corresponding portions indicated in the booklet.

Begin your answer to each numbered question on a separate page; an answer to a subquestion under the same number may be written continuously on the same page and succeeding pages until completed.

Answer the questions directly and concisely. Do not repeat the questions. Write legibly.

HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE.

GOOD LUCK!

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**ANTONIO EDUARDO B. NACHURA**  
CHAIRPERSON  
2009 BAR EXAMINATIONS COMMITTEE

PLEASE CHECK THAT THIS SET CONTAINS NINE (9) PAGES (INCLUDING THIS PAGE).

WARNING: NOT FOR SALE OR UNAUTHORIZED USE

## PART I

### I

**TRUE or FALSE.** Answer TRUE if the statement is true, or FALSE if the statement is false. Explain your answer in not more than two (2) sentences. (5%)

[a] The *Bangalore Draft*, approved at a Roundtable Meeting of Chief Justices held at The Hague, is now the New Code of Judicial Conduct in the Philippines.

[b] An *attorney ad hoc* is a lawyer appointed by the court to represent an absentee defendant in a suit in which the appointment is made.

[c] A *charging lien*, as distinguished from a *retaining lien*, is an active lien which can be enforced by execution.

[d] A lawyer cannot refuse to divulge the name or identity of his client.

[e] A notary public is disqualified from performing a notarial act when the party to the document is a relative by affinity within the 4<sup>th</sup> civil degree.

### II

[a] What is the object of the bar examinations? Explain. (2%)

[b] What are the three (3) tests to determine conflict of interest for practicing lawyers? Explain each briefly. (3%)

### III

[a] May a party appear as his own counsel in a criminal or in a civil case? Explain. (3%)

[b] What is the student practice rule? (2%)

### IV

[a] In a case for homicide filed before the Regional Trial Court (RTC), Presiding Judge Quintero issued an order for the arrest of the accused, granted a motion for the reduction of bail, and set the date for the arraignment of the accused. Subsequently, Judge Quintero inhibited himself from the case, alleging that even before the case was raffled to his court, he already had personal knowledge of the circumstances surrounding the case. Is Judge Quintero's inhibition justified? Explain. (3%)

[b] After being diagnosed with *stress dermatitis*, Judge Rosalind, without seeking permission from the Supreme Court, refused to wear her robe during court proceedings. When her attention was called, she explained that whenever she wears her robe she is reminded of her heavy caseload, thus making her tense. This, in turn, triggers the outbreak of skin rashes. Is Judge Rosalind justified in not wearing her judicial robe? Explain. (3%)

### V

Cliff and Greta were law school sweethearts. Cliff became a lawyer, but Greta dropped out. One day, Cliff asked Greta to sign a marriage contract. The following day, Cliff showed Greta the document already signed by an alleged solemnizing officer and two witnesses. Cliff then told Greta that they were already married and Greta consented to go on a honeymoon. Thereafter, the couple cohabited and begot a child. Two years later, Cliff left Greta and married a Venezuelan beauty. Incensed, Greta filed a disbarment complaint against Cliff. Will the case prosper? Explain. (4%)

## VI

Atty. Sabungero obtained a notarial commission. One Sunday, while he was at the cockpit, a person approached him with an affidavit that needed to be notarized. Atty. Sabungero immediately pulled out from his pocket his small notarial seal, and notarized the document. Was the affidavit validly notarized? Explain. (3%)

## VII

Atty. Manuel is counsel for the defendant in a civil case pending before the RTC. After receiving the plaintiff's Pre-Trial Brief containing the list of witnesses, Atty. Manuel interviewed some of the witnesses for the plaintiff without the consent of plaintiff's counsel.

[a] Did Atty. Manuel violate any ethical standard for lawyers? Explain. (3%)

[b] Will your answer be the same if it was the plaintiff who was interviewed by Atty. Manuel without the consent of plaintiff's counsel? Explain. (2%)

## VIII

Court of Appeals (CA) Justice Juris was administratively charged with gross ignorance of the law for having issued an order "temporarily enjoining" the implementation of a writ of execution, and for having issued another order for the parties to "maintain the status quo" in the same case. Both orders are obviously without any legal basis and violate CA rules. In his defense, Justice Juris claims that the challenged orders were collegial acts of the CA Division to which he belonged. Thus, he posits that the charge should not be filed against him alone, but should include the two

other CA justices in the Division. Is the contention of Justice Juris tenable? Explain. (3%)

### **IX**

Alexander Sison, resident of 111 Libertad St., Sampaloc, Manila, engages your services as lawyer. He tells you that a certain Mr. Juan Jamero of 222 Juan Luna St., Tondo, Manila, owes him ₱1,000,000.00; that the debt is long overdue; and that, despite repeated demands, Jamero has failed to comply with his obligation. He also shows you a promissory note, executed on January 3, 2008, wherein Jamero promises to pay the amount of ₱1,000,000.00, with 12% interest per annum, within one (1) year from date of note. Sison agrees to pay you attorney's fees in the amount of ₱75,000.00, and a fee of ₱3,000.00 for every appearance in court.

As Sison's lawyer, prepare the complaint that you will file in court against Juan Jamero. (10%)

### **X**

Given the same facts in No. IX above, assume that summons had been served on Jamero, but no responsive pleading was filed within the reglementary period.

Prepare a motion to declare Jamero in default. (4%)

**\*\*\* END OF PART I \*\*\***

## PART II

### XI

**TRUE or FALSE.** Answer TRUE if the statement is true, or FALSE if the statement is false. Explain your answer in not more than two (2) sentences. (5%)

[a] The duty of a lawyer to his client is more paramount than his duty to the Court.

[b] It is ethical for a lawyer to advise his client to enter a plea of guilty in a criminal case if the lawyer is personally convinced that he cannot win the case for his client.

[c] There is no presumption of innocence or improbability of wrongdoing in an attorney's favor when he deals with his client concurrently as lawyer and as businessman.

[d] The satisfaction of a judgment debt does not, by itself, bar or extinguish the attorney's liens, except when there has been a waiver by the lawyer, as shown by his conduct or his passive omission.

[e] A companion or employee of the judge who lives in the judge's household is included in the definition of the "judge's family."

### XII

Write the complete text of the attorney's oath. (5%)

### XIII

Atty. Hyde, a bachelor, practices law in the Philippines. On long weekends, he dates beautiful actresses in Hong Kong.

Kristine, a neighbor in the Philippines, filed with the Supreme Court an administrative complaint against the lawyer because of sex videos uploaded through the internet showing Atty. Hyde's sordid dalliance with the actresses in Hong Kong.

In his answer, Atty. Hyde (1) questions the legal personality and interest of Kristine to institute the complaint and (2) insists that he is a bachelor and the sex videos relate to his private life which is outside public scrutiny and have nothing to do with his law practice.

Rule on the validity of Atty. Hyde's defenses. (5%)

#### **XIV**

Marlyn, a widow, engaged the services of Atty. Romanito in order to avert the foreclosure of several parcels of land mortgaged by her late husband to several creditors. Atty. Romanito advised the widow to execute in his favor deeds of sale over the properties, so that he could sell them and generate funds to pay her creditors. The widow agreed. Atty. Romanito did not sell the properties, but paid the mortgage creditors with his own funds, and had the land titles registered in his name. Atty. Romanito succeeds in averting the foreclosure. Is he administratively liable? Reasons. (3%)

#### **XV**

Atty. Wilmar represented Beatriz in a partition case among heirs, and won. When Wilmar demanded payment of attorney's fees, Beatriz refused to pay. Wilmar sued Beatriz for the unpaid attorney's fees and obtained a favorable judgment. Thereafter, Beatriz filed an administrative complaint against Wilmar claiming that he lied when he stated in his claim for attorney's fees that the subject of the partition case involved the entire estate of the deceased when, in fact, it covered only 50% thereof. Wilmar set up the defenses that (1) Beatriz filed the complaint only to delay the execution of the judgment ordering her to pay attorney's fees

and (2) Beatriz engaged in forum-shopping. Are the defenses of Atty. Wilmar tenable? Explain. (4%)

## **XVI**

Atty. Simeon persuaded Armando, Benigno and Ciriaco to invest in a business venture that later went bankrupt. Armando, Benigno and Ciriaco charged Atty. Simeon with estafa. Simultaneously, they filed an administrative complaint against the lawyer with the Supreme Court.

[a] If Simeon is convicted of estafa, will he be disbarred? Explain. (3%)

[b] If Simeon is acquitted of the estafa charge, will the disbarment complaint be dismissed? Explain. (3%)

## **XVII**

When Atty. Romualdo interviewed his client, Vicente, who is accused of murder, the latter confessed that he killed the victim in cold blood. Vicente also said that when he takes the witness stand, he will deny having done so. Is Atty. Romualdo obliged, under his oath as lawyer, to inform the judge that [a] his client is guilty and [b] his client will commit perjury on the witness stand? Explain. (4%)

## **XVIII**

On a Saturday, Atty. Paterno filed a petition for a writ of amparo with the Court of Appeals (CA). Impelled by the urgency for the issuance of the writ, Atty. Paterno persuaded his friend, CA Justice Johnny de la Cruz, to issue the writ of amparo and the notice of hearing without the signature of the two other Justices-members of the CA division. Are Atty. Paterno and Justice de la Cruz guilty of unethical conduct? Explain. (4%)

**XIX**

Romeo Hacendero wants to authorize Juanito Ahente to sell, on cash basis, for a price not lower than ₱500,000.00, a parcel of land, situated in Muñoz, Nueva Ecija, and covered by Transfer Certificate of Title No. 123456, in the Register of Deeds of Nueva Ecija. Prepare a Special Power of Attorney granting such authority. (4%)

**XX**

From the affidavits and the death certificate submitted during the preliminary investigation, the following facts are established: At 6:00 o'clock in the evening of September 13, 2009, at the corner of Dapitan and Dos Castillas Sts., Sampaloc, Manila, Edgar Bastonero, *alias* Bugoy, and Carlos Tirador, *alias* Pogi, accosted Johnny Escolar, a student, and demanded the latter's cellular phone and wrist watch. Because Johnny resisted, Bastonero pulled out a knife and stabbed Johnny several times in the chest, causing instantaneous death. Bastonero and Tirador then ran away. The affidavits were executed by William Tan and Henry Uy, classmates of Johnny, who witnessed the entire incident. The death certificate was issued by Dr. Jose Cabra who conducted the autopsy on Johnny.

As Assistant City Prosecutor in Manila, prepare the appropriate criminal information to be filed in court. (10%)

**\*\*\* END OF PART II \*\*\***

**RETURN THIS QUESTIONNAIRE**  
**WITH YOUR BOOKLET**