

**2013 BAR EXAMINATIONS****LEGAL ETHICS**

October 27, 2013

2:00 P.M. – 6:00 P.M.

**INSTRUCTIONS**

1. This Questionnaire contains SEVENTEEN (17) pages including these Instructions pages. Check the number of pages and the page numbers at the upper right hand corner of each page of this Questionnaire and make sure it has the correct number of pages and their proper numbers.

There are TEN (10) Essay Questions numbered I to X, and TWENTY (20) Multiple Choice Questions (MCQs) numbered I to XX, to be answered within *four (4) hours*.

The essay portion contains questions that are worth 80% of the whole examination, while the MCQ portion contains questions worth 20%.

2. Read each question very carefully and write your answers in your Bar Examination Notebook *in the same order the questions are posed*. Write your answers only at the *front*, not the back, page of every sheet in your Examination Notebook. Note well the allocated percentage points for each number, question, or sub-question. In your answers, use the numbering system in the questionnaire.

If the sheets provided in your Examination Notebook are not sufficient for your answers, use the back pages of every sheet of your Examination Notebook, starting at the back page of the first sheet and the back of the succeeding sheets thereafter.

3. Answer the Essay questions *legibly, clearly, and concisely*. Start each number on a separate page. An answer to a sub-question under the same number may be written continuously on the same page and the immediately succeeding pages until completed.

Your answer should demonstrate your ability to analyze the facts presented by the question, to select the material from the immaterial facts, and to discern the points upon which the question turns. It should show your knowledge and understanding of the pertinent principles and theories of law involved and their qualifications and limitations. It should demonstrate your

ability to apply the law to the given facts, and to reason logically in a lawyer-like manner to a sound conclusion from the given premises.

A mere “Yes” or “No” answer without any corresponding explanation or discussion will not be given any credit. Thus, always briefly but fully explain your answers although the question does not expressly ask for an explanation. At the same time, remember that a complete explanation does not require that you volunteer information or discuss legal doctrines that are not necessary or pertinent to the solution to the problem. You do not need to re-write or repeat the question in your Examination Notebook.

4. MCQs are to be answered by writing in your Examination Notebook the capital letter (A, B, C, D, or E) corresponding to your chosen answer. *The MCQ answers should begin in the page following the last page of your essay answers.*

There is only one correct answer to every MCQ; choose the BEST answer from among the offered choices. Note that some MCQs may need careful analysis both of the questions and the choices offered.

5. Make sure you do not write *your name* or any *extraneous note/s* or *distinctive marking/s* on your Examination Notebook that can serve as an identifying mark/s (such as names that are not in the given questions, prayers, or private notes to the Examiner).

Writing, leaving or making any distinguishing or identifying mark in the Examination Notebook is considered cheating and can disqualify you for the Bar examinations.

You can use the questionnaire for notes you may wish/need to write during the examination.

**HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE**

**J. ARTURO D. BRION**  
Chairman  
2013 Bar Examinations

## **ESSAY QUESTIONS**

### **I.**

Atty. Bravo represents Carlos Negar (an insurance agent for Dormir Insurance Co.) in a suit filed by insurance claimant Andy Limot who also sued Dormir Insurance. The insurance policy requires the insured/claimant to give a written notice to the insurance company or its agent within 60 days from the occurrence of the loss.

Limot testified during the trial that he had mailed the notice of the loss to the insurance agent, but admitted that he lost the registry receipt so that he did not have any documentary evidence of the fact of mailing and of the timeliness of the mailed notice. Dormir Insurance denied liability, contending that timely notice had not been given either to the company or its agent. Atty. Bravo's client, agent Negar, testified and confirmed that he never received any notice.

A few days after Negar testified, he admitted to Atty. Bravo that he had lied when he denied receipt of Limot's notice; he did receive the notice by mail but immediately shredded it to defeat Limot's claim.

**If you were Atty. Bravo, what would you do in light of your client's (Carlos Negar's) disclosure that he perjured himself when he testified? (8%)**

### **II.**

Atty. Serafin Roto is the Corporate Secretary of a construction corporation that has secured a multi-million infrastructure project from the government. In the course of his duties as corporate secretary, he learned from the company president that the corporation had resorted to bribery to secure the project and had falsified records to cut implementing costs after the award of the project.

The government filed a civil action to annul the infrastructure contract and has subpoenaed Atty. Roto to testify against the company president and the corporation regarding the bribery. Atty. Roto moved to quash the subpoena, asserting that lawyer-client privilege prevents him from testifying against the president and the corporation.

**Resolve the motion to quash. (8%)**

### III.

Miguel Jactar, a fourth year law student, drove his vehicle recklessly and hit the rear bumper of Simplicio Medroso's vehicle. Instead of stopping, Jactar accelerated and sped away. Medroso pursued Jactar and caught up with him at an intersection.

In their confrontation, Jactar dared Medroso to sue, bragged about his connections with the courts, and even uttered veiled threats against Medroso. During the police investigation that followed, Medroso learned that Jactar was reviewing for the Bar examinations.

**Under these facts, list and justify the potential objections that can be made against Jactar's admission to the practice of law. (8%)**

### IV.

Atty. Doblal represents Eva in a contract suit against Olga. He is also defending Marla in a substantially identical contract suit filed by Emma. In behalf of Eva, Atty. Doblal claims that the statute of limitations runs from the time of the breach of the contract. In the action against Marla, Atty. Doblal now argues the reverse position – *i.e.*, that the statute of limitation does not run until one year after discovery of the breach.

Both cases are assigned to Judge Elrey. Although not the sole issue in the two cases, the statute of limitations issue is critical in both.

**Is there an ethical/professional responsibility problem in this situation? If a problem exists, what are its implications or potential consequences? (8%)**

### V.

Atty. Repatriar, a law school classmate, approached you on your 25<sup>th</sup> Class Reunion, with questions on how he can resume the practice of law in the Philippines. He left the country in 1977 after two (2) years of initial law practice, and migrated to the United States where he was admitted to the practice of law in the State of New York. He asks that you give him a formal legal opinion on his query.

**Outline briefly the steps and the supporting legal reasons you would state in your legal opinion on what Atty. Repatriar should do to resume his Philippine practice. (8%)**

## VI.

An audit team from the Office of the Court Administrator found that Judge Contaminada committed serious infractions through the indiscriminate grant of petitions for annulment of marriage and legal separation. In one year, the judge granted 300 of such petitions when the average number of petitions of similar nature granted by an individual judge in his region was only 24 petitions per annum.

The audit revealed many different defects in the granted petitions: many petitions had not been verified; the required copies of some petitions were not furnished to the Office of the Solicitor General and the Office of the Provincial Prosecutor; docket fees had not been fully paid; the parties were not actual residents within the territorial jurisdiction of the court; and, in some cases, there was no record of the cross-examinations conducted by the public prosecutor or any documentary evidence marked and formally offered. All these, viewed in their totality, supported the improvident and indiscriminate grant that the OCA found.

If you were the counsel for Andy Malasuerte and other litigants whose marriages had been improperly and finally annulled, **discuss your options in administratively proceeding against Judge Contaminada, and state where and how you would exercise these options. (8%)**

## VII.

In an action to prevent the condominium developer from building beyond ten (10) floors, Judge Cerdo rendered judgment in favor of the defendant developer. The judgment became final after the plaintiffs failed to appeal on time. Judge Cerdo and Atty. Cocodrilo, counsel for the developer, thereafter separately purchased a condominium unit each from the developer.

**Did Judge Cerdo and Atty. Cocodrilo commit any act of impropriety or violate any law for which they should be held liable or sanctioned? (8%)**

## VIII.

The criminal case arising from the P10-Billion Peso pork barrel scandal was raffled to Sandiganbayan Justice Marciano Cobarde. Afraid that he would antagonize the parties, his political patrons and, ultimately, his judicial career, he decided to inhibit from participating in the case, giving “personal reasons” as his justification.

**If you were to question the inhibition of SB Justice Cobarde, on what legal basis, and where and how will you do this? (8%).**

## IX.

Atty. Hermano requested his fraternity brother, Judge Patron, to introduce him to Judge Apestado, before whom he has a case that had been pending for some time.

Judge Patron, a close friend of Judge Apestado, acceded to the request, telling the latter that Atty. Hermano is his fraternity “brod” and that Atty. Hermano simply wanted to ask for advice on how to expedite the resolution of his case. They met, as arranged, in the fine dining restaurant of a five-star hotel. Atty. Hermano hosted the dinner.

**Did Atty. Hermano, Judge Patron and Judge Apestado commit any ethical/administrative violation for which they can be held liable? (8%)**

## X.

As a new lawyer, Attorney Novato started with a practice limited to small claims cases, legal counseling, and notarization of documents. He put up a solo practice law office and was assisted by his wife who served as his secretary/helper. He used a makeshift hut in a vacant lot near the local courts and a local transport regulatory agency. With this strategic location, he enjoyed heavy patronage assisting walk-in clients in the preparation and filing of pleadings and in the preparation and notarization of contracts and documents. He had the foresight of investing in a good heavy duty copier machine that reproduces quality documents, and charges a reasonable fee for this service. He draws electric power from an extension wire connected to an adjoining small restaurant. He put up a shingle that reads: “Atty. Novato, Specialist in Small Claims, Fastest in Notarization; the Best and Cheapest in Copier Services.”

**Is Attorney Novato’s manner of carrying out his professional practice – *i.e.*, mixing business with the practice of law, announcing his activities *via* a shingle and locating his office as above-described – in keeping with appropriate ethical and professional practice? (8%)**

## MULTIPLE CHOICE QUESTIONS

**I.** Under the 2004 Rules of Notarial Practice, what may used to satisfy the requirement of “competent evidence of identity”? (1%)

- (A) Passport, Senior Citizen card, HMO card.
- (B) Police clearance, credit card, Professional Regulatory Commission ID.
- (C) Voter’s ID, NBI clearance, Driver’s license.
- (D) Ombudsman’s clearance, private office ID, PhilHealth card.
- (E) All of the above.

**II.** The following are duties of a lawyer but only one of these is expressly stated in the Lawyer’s Oath. Choose the express duty that the Oath contains. (1%)

- (A) To maintain a respectful attitude towards the courts.
- (B) To uphold the honor and dignity of the legal profession.
- (C) To act with courtesy, candor and fairness toward other lawyers.
- (D) To do no falsehood, nor consent to the doing of any in court.
- (E) To respect the courts and uphold the dignity of the profession.

**III.** Atty. Avaro has consistently failed to pay his annual IBP dues for several years. Demand letters have been sent to him and he has acknowledged receipt of these letters. However, all the IBP’s efforts proved futile. As a result, the IBP sent Atty. Avaro a notice that his name would be stricken off the Roll of Attorneys.

**Was the IBP’s action correct? (1%)**

- (A) No, because default in the payment of annual dues only warrants suspension of Integrated Bar members.
- (B) Yes, because non-payment of annual dues is an indicator of the lawyer’s moral fitness; refusal to pay is refusal to honor his obligation to the IBP.
- (C) No, because failure to pay affects a member’s capability to practise, but not his membership in the Bar.
- (D) Yes, because payment of membership dues and other lawful assessments are conditions *sine qua non* to the privilege of practising law and to the retention of his name in the Roll of Attorneys.
- (E) None of the above choices is correct.

**IV.** Ms. Seller and Mr. Buyer presented to a commissioned notary public a deed of sale for notarization. The notary public explained to them the transaction the deed embodies and asked them if they were freely entering the transaction. After the document was signed by all the parties, the notary public collected the notarial fee but did not issue any BIR-registered receipt.

**The notarization of the deed is \_\_\_\_\_. (1%)**

- (A) neither unlawful nor improper because he explained the basis for the computation of the notarial fee
- (B) unlawful because he did not issue a BIR-registered receipt and did not post in his office the complete schedule of chargeable notarial fees
- (C) proper because he is not required to issue receipts for notarial fees
- (D) improper because he did not ask Ms. Seller and Mr. Buyer if they needed a receipt
- (E) proper because any irregularity in the payment of the notarial fees does not affect the validity of the notarization made

**V.** In order to comply with the MCLE requirements, Atty. Ausente enrolled in a seminar given by an MCLE provider. Whenever he has court or other professional commitments, he would send his messenger or a member of his legal staff to register his attendance at the MCLE sessions so he could be credited with the required qualifying attendance. He would also ask them to secure the printed handouts and the lecturers' CDs, all of which he studied in his free time.

**Atty. Ausente should be \_\_\_\_\_. (1%)**

- (A) required to make up for his absence by attending lecture sessions in other MCLE providers
- (B) sanctioned because he circumvented or evaded full compliance with the MCLE requirements
- (C) excused because he attended to profession-related tasks, and fully studied the courses through the materials and CDs he secured
- (D) penalized by forfeiting all his earned MCLE units
- (E) excused because attendance by proxy is a widespread and tolerated MCLE practice

**VI.** Plaintiff Jun Ahorro filed a complaint for collection of sum of money before the Regional Trial Court of Manila. Because of the large amount of his claim, he had to pay a sizeable docket fee. He insisted on paying the docket fee and other fees in installments because staggered payment is allowed under Rule 141, as amended. The Office of the Clerk of Court (*OCC*) refused to accept the complaint unless he paid the full amount of the docket and other required fees.

**Plaintiff Jun Ahorro's position \_\_\_\_\_ (1%)**

- (A) is allowed because of the large amount of the docket fee
- (B) is justified because it is discretionary on the part of the OCC to accept staggered payment
- (C) is incorrect because the amendment on staggered payment has been suspended
- (D) is not allowed because the full payment of docket fee is jurisdictional
- (E) cannot be allowed because of its prejudicial impact on the judiciary's financial operations

**VII.** Atty. Anunciante is engaged in the practice of law and has a regular, live, weekly TV program where he gives advice to and answers questions from the audience and program viewers concerning U.S. immigration problems. Occasionally, advertisements inviting viewers to watch his TV program are shown outside his regular program schedule. Because of the popularity of his TV program, the number of his law practice clients increased tremendously.

**The TV program of Atty. Anunciante is \_\_\_\_\_. (1%)**

- (A) permissible because it is public service in nature
- (B) objectionable because the work involves indirect advertising or solicitation of business
- (C) improper because it gives him an unfair advantage over other lawyers
- (D) ethically allowable because it does not violate the traditional standards of the legal profession
- (E) None of the above.

**VIII.** Vito is a notorious gangster in the province who has been accused of raping and mercilessly killing a 16-year old girl. Sentiments run very strongly against him and the local Bar Association met and decided that no lawyer in the locality would represent him. Vito could not afford the services of an out-of-town counsel.

**Choose the most appropriate legal and ethical characterization of the decision of the local Bar Association. (1%)**

- (A) It is within its right to make, since lawyers may freely decide who to represent and who not to represent.
- (B) It is unethical; it constitutes a collective denial of Vito's right to the assistance of counsel.
- (C) It constitutes an anticipated act of contempt towards the court that may order any of the members of the association to represent the accused.
- (D) It must be concurred in by each member of the Bar Association to have any binding force.
- (E) It is unethical because the Bar Association already prejudged Vito.

**IX.** Graft Investigator Atty. Retirada served the Office of the Deputy Ombudsman for eight years before retiring from the service. While still a Graft Investigator, she investigated a government contract for office supplies where Mr. Sakim was the supplier. The transaction was supposedly overpriced. Atty. Retirada recommended that no charges be filed against the officials involved and the recommendation benefited Mr. Sakim as the supplier involved in the transaction.

After her retirement from the service, Atty. Retirada's services as counsel were engaged by Mr. Sakim as counsel to represent the Sakim family in a claim against the State arising from a family property that had been expropriated. Atty. Retirada now consults you about the ethical permissibility of accepting the engagement.

**What advice would you give Atty. Retirada? (1%)**

- (A) Having been in government service, she cannot now represent a party with a claim against the State.
- (B) Having once handled a case involving her prospective client, a conflict of interest would exist if she were to accept the engagement.
- (C) Representing the Sakim family would involve the unethical use of information she obtained while in government service.
- (D) There is no ethical objection to her acceptance of the engagement because the case is neither criminal nor administrative in character.
- (E) Acceptance of the engagement should be on condition that Atty. Retirada would withdraw if a conflict of interest situation arises.

**X.** Your client is the plaintiff in a civil case for damages arising from a car accident where he sustained serious physical injuries and damages amounting to P1 Million. The counsel for the defendant asks you to give him a proposed amount for purposes of settlement and you are aware that whatever amount you tell him would not readily be accepted and would probably be cut into half.

**What is your best legal and ethical course of action? (1%)**

- (A) Inflate your proposal to make allowances for a compromise.
- (B) Tell the defendant's counsel the correct amount of damages.
- (C) Offer him a reasonably low amount so that the case can immediately be settled.
- (D) Ask the defendant's counsel to first submit his negotiating figure.
- (E) Play hard-to-get and initially refuse all the defendant's initiatives to settle.

**XI.** Candido engaged the services of Atty. Lebron in a criminal case. In the course of their consultations, Candido admitted to Atty. Lebron that he committed the crime and in fact actively planned its commission. He stressed, however, that under no circumstance would he admit or confess to the murder charge he is facing and, in fact, would enter a plea of "not guilty" on arraignment.

**If Candido insists on his planned plea, Atty. Lebron should \_\_\_\_\_ . (1%)**

- (A) discontinue his representation; to continue would be unethical since he would then be aiding the accused in foisting a deliberate falsehood on the court
- (B) allow Candido to choose his course of action; Atty. Lebron's duty is to protect all his legal and statutory rights
- (C) convince Candido to plead guilty and withdraw from the case if Candido refuses to heed his advice
- (D) file a manifestation, if Candido pleads "not guilty," declaring to the court what he knows of the truth.
- (E) play matters by ear and wait for developments as Candido may still plead guilty.

**XII.** A Regional Trial Court issues a temporary restraining order (*TRO*) halting the demolition order issued by the City Mayor who has long loathed the cluster of shanties put up by informal settlers along the road leading to the city's commercial district. The *TRO*, however, carried conditions that must be in place before the threatened demolition can be fully halted.

The city legal officer advised the City Engineer's Office and the local PNP chief that the *TRO*'s conditions are not in place so that the demolition could proceed. The city filed a manifestation reflecting the city legal officer's position, while the informal settlers' counsel sought its own clarification and reconsideration from the court, which responded by decreeing that the conditions have been fulfilled. Despite this ruling, the city legal officer insisted that the conditions have not been fulfilled and thus gave the PNP clearance to aid the City Engineer's Office in proceeding with the demolition.

From the perspective of professional ethics, how would you characterize the city legal officer's actions? (1%)

- (A) It is unethical since he counseled civil servants to disregard a court order.
- (B) It is ethical, since he acted in accordance with his honest conviction after considering that the court's conditions have not been met.
- (C) It constitutes indirect contempt, but the lawyer cannot be disciplined because he acted out of his firm and honest conviction.
- (D) It is neither contemptuous nor unethical since he was performing his duties as city legal officer.
- (E) It is unethical since the City Legal Officer was simply blindly following the Mayor's wishes.

**XIII.** The mediator assigned to a civil case happens to be your law school classmate and he makes a doctrinal statement about the rights of the parties. You knew that the statement, although favorable to your client's case, is incorrect.

**The ethical move to make under the circumstances is to \_\_\_\_\_. (1%)**

- (A) correct the mediator and state the right doctrine
- (B) just keep quiet because the other counsel might learn about your relationship with the mediator
- (C) reveal your relationship with the mediator and ask the opposing counsel if he has any objections
- (D) request the Mediation Supervisor to immediately change the mediator
- (E) simply withdraw from the case because of the unfair advantage that you enjoy

**XIV.** Wanda finally became pregnant in the 10<sup>th</sup> year of her marriage to Horacio. As her pregnancy progressed, she started having difficulty breathing and was easily fatigued. The doctors diagnosed that she has a heart congestion problem due to a valve defect, and that her chances of carrying a baby to full term are slim. Wanda is scared and contemplates the possibility of abortion. She thus sought legal advice from Diana, a lawyer-friend and fellow church member, who has been informally advising her on legal matters.

**What is Diana's best ethical response? (1%)**

- (A) Beg off from giving any advice because it is a situation that is not purely legal.
- (B) Advise Wanda on the purely legal side of her problem and assure her that abortion is allowed by law if the pregnancy endangers the life of the mother.
- (C) Advise that it is a religious problem before it is a medical or legal one, and Wanda should consult and follow the advice of her religious confessor.
- (D) Advise Wanda that abortion, above everything else, is a moral problem and she should only have an abortion if it is an act she can live with.
- (E) Refrain from giving any kind of advice as abortion is a serious matter that cannot be resolved through informal consultations with friends and fellow church members.

**XV.** Based on the same facts as Question XIV, assume that Diana, aside from being a family friend of the couple, has been formally and informally acting as their lawyer in all their personal and family affairs. She has represented them in court in a case involving a car accident and in the purchase of their family home, for which they formally paid the attorney's fees that Diana billed.

In this instance, Wanda asked about her legal rights but did not formally ask for a written opinion from Diana. Horacio never had any input on the query as he was then away on an out-of-town trip for his office.

Diana advised Wanda that she is fully protected in law and her best course of action is to have an abortion while her pregnancy is not yet far advanced.

**Did Diana violate the prohibition against representing conflicting interests when she provided legal advice to Wanda without Horacio's knowledge? (1%)**

- (A) Yes. The decision of whether to have an abortion should be decided by both spouses; thus, Diana should not have provided legal advice in the absence of Horacio whose concerns and positions are unknown to her.
- (B) No. Diana did not give any formal advice that would constitute legal practice calling for the strict observance of the conflict of interest rules.
- (C) No. The decision on whether or not to have an abortion lies solely with Wanda; it is her body and health that is in issue.
- (D) No. Horacio and Wanda are married, any advice given to Wanda is deemed to have been given to Horacio as well.
- (E) No. Giving advice to Wanda is not necessarily acting against Horacio's interest; Diana was giving advice based on the couple's best interest.

**XVI.** ABLE Law Office has a retainer agreement with Santino, a businessman with shady connections, who has recently been charged with laundering money for an illegal drugs syndicate using Cable Co., Santino's holding company. The lawyers of ABLE Law Office assigned to handle Santino's account have been impleaded as co-defendants for incorporating and actively handling the affairs of Cable Co.

In its bid to strengthen its case against the defendants, the prosecution approached you (as the least guilty defendant who would qualify for a discharge as a state witness) and offers to make you a state witness.

**Can you accept, within the bounds of professional ethics, the prosecution's offer? (1%)**

- (A) No, as Santino's lawyer you are duty-bound to protect his interests, ably represent him in court, and not turn against him.
- (B) Yes, as an officer of the court, you have the duty to disclose to the court information crucial to the case.
- (C) No, the information you acquired involving the criminal case against Santino is covered by the privileged communications rule.
- (D) Yes, a lawyer may testify against his client provided he first severs the lawyer-client relationship.
- (E) Yes, the law of self-preservation is akin to the law of self-defense and stands higher than any obligation you may have with your client.

**XVII.** Under the same essential facts as the preceding Question XVI, assume that you have resigned from ABLE Law Office and that you were never impleaded as a co-defendant, but during your stay with the firm, you assisted in handling the Cobra Co. account, which is largely owned by Cable Co.

The prosecutor handling the case against Santino and the law firm asks you, as a former law firm member, if you can help strengthen the prosecution's case and hints that you, too, may be impleaded as a co-defendant if you do not cooperate.

**What is your best legal and ethical course of action? (1%)**

- (A) Offer to testify on what you know and provide evidence against the defendants in exchange for a guarantee of immunity from prosecution in the case.
- (B) Offer to provide evidence against Santino, but clarify that you cannot testify against Santino because of the privileged communications rule.
- (C) Decline to testify against the defendants and to provide evidence in the case as the attorney-client privilege lasts even beyond the termination of the relationship.
- (D) Decline to testify against the defendants as whatever information you acquired from Santino and Cable Co. in the course of the lawyer-client relationship is privileged.
- (E) Alert the law firm to the prosecution's offer so that they can prepare for the evidence within your knowledge that the prosecution may use.

**XVIII.** You are a lawyer working in the Public Assistance Office. Yolly, a key witness in the case (reckless imprudence resulting in homicide) you are handling, is indigent and illiterate. While Yolly is willing to testify in court, you worry that the judge might not be able to appreciate the impact of her testimony, as she has a difficult time answering English questions. You also worry that this might affect her credibility. Further, Yolly has indicated that she might not have the money to pay the fare to attend the trial. You are presenting her as a witness for the defense at the hearing next week.

**Which of the following is NOT a permissible act for you to do? (1%)**

- (A) Provide Yolly with money for fare to ensure her attendance in court.
- (B) Interview Yolly before trial, so that she will be more at ease when she testifies before the court.
- (C) Prepare a judicial affidavit of Yolly's testimony, which she will then verify before the court.
- (D) Provide her with sample questions that you might ask in the hearing tomorrow.
- (E) All the above are permissible.

**XIX.** You are a lawyer working at the Office of the Special Prosecutor and you are part of the team handling the case against former Senator Avido who is charged with plunder. Based on your assessment of the evidence that the complainant Linda submitted, you know that the case against former Senator Avido is weak, although you instinctively feel that he is guilty. You inform your friend Atty. Curioso (who works with the office of Senator Elmismo, a known political rival of Senator Avido) regarding your instinctive feeling about Senator Avido. Atty. Curioso springs a surprise by giving you a recording of the wiretapped conversation between Senator Avido and Napo, a private party co-accused, about the transaction complained of and how they would split the proceeds.

**What will you do under these circumstances? (1%)**

- (A) Disregard the wiretapped conversation as it is inadmissible and will not serve any useful purpose in the trial of the case.
- (B) Present the wiretapped conversation in court; although inadmissible, its introduction and the disclosure of its existence is a right that the public is entitled to.
- (C) Leak the wiretapped conversation to the media, to let the public know what really happened.
- (D) Submit the wiretapped conversation to the Senate which is in the best position to determine what to do with it.
- (E) Let Napo privately know, through 3<sup>rd</sup> parties, that you are aware of the existence of the taped conversation, with the hint that he can still hope for a lighter penalty if he would cooperate.

**XX.** Armin, holding a transfer certificate of title to a lot in downtown Calamba in the name of Bobby, shows you the title and claims that Bobby sold him the lot. He then asks you to draft a deed of sale covering the transaction. In reply to your query on where Bobby is, Armin explains that Bobby is currently out of the country but he (Armin) has his general power of attorney which he also shows to you. The power of attorney empowers Armin to do everything that Bobby can do with the Calamba lot, but you note that it does not specifically authorize Armin to sell the property. Armin also assures you that he wants the deed of sale drafted so he can send it to Bobby for his signature even while overseas.

**How will you act under the given circumstances? (1%)**

- (A) Agree to draft the deed of sale, subject to your usual 10% commission.
- (B) Refuse to draft the deed of sale, as Armin has not presented a special power of attorney that would support the deed that he is asking you to prepare.
- (C) Refuse to draft the deed of sale, as Bobby is not present to sign the deed of sale and verify that he is indeed selling his lot to Armin.
- (D) Agree to draft the deed of sale, since it is only a draft that Bobby still has to consider and sign.
- (E) Refuse to have anything to do with Armin's request because it is a potentially problematic situation given the price of lots in downtown Calamba.

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