



2016 BAR EXAMINATIONS
LEGAL ETHICS

November 27, 2016

2:00 P.M. – 6:00 P.M.

INSTRUCTIONS

1. This Questionnaire contains seven (7) pages. Check the number of pages and make sure it has the correct number of pages and their proper numbers.

All the items have to be answered within *four (4) hours*. Since there are twenty (20) questions, you have 12 minutes to answer each question. **You may write on the Questionnaire for notes relating to the questions.**

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 on the *front* of every sheet in your Notebook. If not sufficient, then start with the back page of the first sheet and thereafter. Note well the allocated percentage points for each number, question, or sub-question. In your answers, use the numbering system in the questionnaire.

2. 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, apply the pertinent laws and jurisprudence, and arrive at a sound or logical conclusion. Always support your answer with the pertinent laws, rules, jurisprudence, and the facts.

A mere “Yes” or “No” answer without any corresponding explanation or discussion will not be given full credit. Thus, always *briefly* but fully explain your answers although the question does not expressly ask for an explanation. Do not re-write or repeat the question in your Notebook.

3. Make sure you do not write your *name* or any *extraneous note/s* or *distinctive marking/s* on your 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 exam Notebook is considered cheating and can disqualify you.

YOU CAN BRING HOME THE QUESTIONNAIRE.

JUSTICE PRESBITERO J. VELASCO, JR.

Chairman

2016 Bar Examinations

I

State the duties of a lawyer imposed by the Lawyer's Oath. (5%)

II

State at least five (5) instances where judges should disqualify themselves from participating in any proceedings where their impartiality might reasonably be questioned. (5%)

III

Differentiate "retaining lien" from "charging lien." (5%)

IV

[a] A sign was posted at the building where the law office of Atty. Redentor Walang-Talo is located. The sign reads:

Atty. Redentor A. Walang-Talo
Chairman, IBP Legal Aid Committee
Makati City IBP Chapter
Free conciliation, mediation and court representation
Suite 210, Galaxy Building, J. P. Rizal Street, Makati City

Does the posting constitute solicitation? (2.5%)

[b] Suppose the sign reads:

Atty. Redentor A. Walang-Talo
Attorney and Counselor-at-Law
General Practitioner
(Accepts *pro bono* cases pursuant to the IBP Legal Aid Program)

Does the posting constitute solicitation? (2.5%)

V

Constantino was accused of estafa by Hazel, the wife of Judge Andres, for misappropriating the ring she entrusted to him. Since Judge Andres was present when Hazel handed the ring to Constantino, he was compelled by his wife to testify as a witness for the prosecution in the criminal case. Did the judge commit any violation of the New Code of Judicial Conduct for the Philippine Judiciary? Explain. (5%)

VI

Andrew engaged the services of Atty. Juju under a contingent fee agreement to help him file a complaint for damages against his employer, Wilkon Shipping, Inc. Atty. Juju handled Andrew's case for two (2) years before the Labor Arbiter and the National Labor Relations Commission (NLRC), filing the necessary pleadings and attending several hearings. The complaint, however, was dismissed. To improve his chances, Andrew replaced Atty. Juju with Atty. Jen, who eventually succeeded in getting a favorable decision from the Court of Appeals, which became final. When Andrew's claims were satisfied by Wilkon, Atty. Juju filed a collection suit against him claiming that he (Atty. Juju) is entitled to attorney's fees for the services he rendered for two (2) years. Will the collection suit prosper? Explain. (5%)

VII

Apollo hired Atty. Dennis to file an action for damages. Since Apollo has no money, he entered into a contingent fee agreement where Atty. Dennis will shoulder all expenses of litigation and will not charge for legal services. In case of a favorable decision, Apollo agreed to transfer to his lawyer a lot in Cebu. Eventually, Apollo won the case. Atty. Dennis asked Apollo to execute the deed of sale, but the latter refused upon advice of a friend that the agreement is illegal. Due to threats of legal action by his lawyer, Apollo filed a complaint before the Supreme Court alleging that the agreement is a champertous contract. Rule on the legality of the agreement on contingent fee and the propriety of getting the property of Apollo. Explain. (5%)

VIII

Arthur hired Atty. Jojo to file a complaint for the collection of ₱500,000.00. He agreed to pay Atty. Jojo the amounts of ₱100,000.00 as acceptance fee and ₱100,000.00 as success fee. Arthur paid ₱50,000.00 as partial payment of the acceptance fee with the promise to pay the balance of ₱50,000.00 after presentation of Arthur's evidence. During the pre-trial, the defendant paid to Atty. Jojo the amount of ₱100,000.00 as partial payment of his debt. Considering that he has not yet been paid of the balance of his acceptance fee, Atty. Jojo applied ₱50,000.00 to the balance of the acceptance fee and the remaining ₱50,000.00 was deposited in his bank account for safekeeping. Despite the lapse of one (1) month, Arthur was not informed of the payment. Arthur sued Atty. Jojo for keeping the money and argues that the latter violated the rules under Canon 16 of the CPR that a lawyer shall hold in trust all monies of his client that may come into his possession. Atty. Jojo claims he has a lien on the monies paid to him by the defendant. Rule on the complaint and explain. (5%)

IX

Atty. Tristan filed a motion to disqualify Judge Robert from hearing a civil case on the ground that the latter was the classmate and fraternity brother of Atty. Mark, Atty. Tristan's opposing counsel. Judge Robert denied the motion on the ground that under Rule 3.12 of the Code of Judicial Conduct, he is not required to inhibit in all cases where his classmates and fraternity brothers are participating lawyers in cases before him. Is Judge Robert correct in denying the motion? (5%)

X

Atty. Harold wrote in the Philippine Star his view that the decision of the Supreme Court in a big land case is incorrect and should be re-examined. The decision is not yet final. Atty. Alfonso, the counsel for the winning party in that case, filed a complaint for disbarment against Atty. Harold for violation of the *sub judice* rule and Canon 11 of the CPR that a lawyer shall observe and maintain the respect due to the courts. Explain the *sub judice* rule and rule on the disbarment case. (5%)

XI

George, an American citizen doing business in the Philippines, bought a lot in Manila and secured the services of Atty. Henry for the execution of the required documents. Atty. Henry prepared a Deed of Sale of Land using the name of George's friend, Pete, as the buyer. In order to protect George's interests and ensure his free and undisturbed use of the property for an indefinite period of time, Atty. Henry also prepared a Counter Deed of Sale and Occupancy Agreement signed by Pete in favor of George. A competitor of George filed a complaint for disbarment against Atty. Henry on the ground that he violated the Constitution and the CPR. Rule on the complaint and explain. (5%)

XII

Jaybee engaged the services of Atty. Pete to defend him in a criminal case for murder. During trial, when the defense was presenting its evidence, Jaybee admitted to Atty. Pete that he killed the victim in the case. Atty. Pete withdrew from the case. Jaybee sued Atty. Pete for disbarment alleging that the latter violated Canon 15 of the CPR that "a lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his client" and Canon 17 of the CPR that "a lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him." Rule on the case and explain. (5%)

XIII

Atty. Dennis is the head of the Provincial DILG Office in Sultan Kudarat. In view of the lack of lawyers and notaries public in the province and because of numerous requests that the DILG provide a notary public, Atty. Dennis was constrained to apply for a commission from the RTC, which was granted. He was able to notarize thousands of documents and affidavits until Atty. Antonio, the only notary public in the province, charged Atty. Dennis with misconduct and violation of the CPR. Is the charge correct? Explain. (5%)

XIV

Sonia, who is engaged in the lending business, extended to Atty. Roberto a loan of ₱500,000.00 with interest of ₱25,000.00 to be paid not later than May 20, 2016. To secure the loan, Atty. Roberto signed a promissory note and issued a postdated check. Before the due date, Atty. Roberto requested Sonia to defer the deposit of the check. When Atty. Roberto still failed to pay, Sonia deposited the check which was dishonored. Atty. Roberto ignored the notice of dishonor and refused to pay.

- [a] Did Atty. Roberto commit any violation of the CPR? Explain. (2.5%)
- [b] Can he be held civilly liable to Sonia in an administrative case for suspension or disbarment? Explain. (2.5%)

XV

Atty. Alex entered into an agreement for his legal services with Johnny where it is provided that the latter will pay him ₱100,000.00 as acceptance fee and ₱100,000.00 upon submission of the case for decision. The court granted Johnny moral damages, exemplary damages and attorney's fees of ₱100,000.00. After execution of the judgment, Atty. Alex kept the ₱100,000.00 as his attorney's fees. Johnny sued Atty. Alex for violation of the CPR claiming that the attorney's fees awarded by the court belongs to him. Decide the case with reasons. (5%)

XVI

Pedro was accused of the crime of murder before the RTC and was found guilty of homicide. His counsel, Atty. Nestor, told him that he will file an appeal before the Court of Appeals (CA) because he believes that the claim of self-defense of Pedro will be given merit by the appellate court and that he will be acquitted. Pedro explains that he is amenable to the penalty imposed upon him. Despite the opposition of the accused, Atty. Nestor went on with the appeal. The CA decided that the conviction should be for murder in view of a qualifying circumstance. A petition with the High Court proved futile. Pedro hires you to file a disbarment suit against Atty. Nestor. What canon or rule of the CPR will you use as ground for the suit? Explain. (5%)

XVII

Jojo, a resident of Cavite, agreed to purchase the lot owned by Tristan, a resident of Bulacan. Atty. Agaton, Jojo's lawyer who is also a notary public, prepared the Deed of Sale and Jojo signed the document in Cavite. Atty. Agaton then went to Bulacan to get the signature of Tristan. Thereafter, Atty. Agaton went back to his office in Cavite where he notarized the Deed of Sale.

Is the notarization legal and valid? Explain. (5%)

XVIII

City Prosecutor Phillip prosecuted the criminal case for the murder of the city mayor against the accused Reynaldo, the losing mayoralty candidate. There was no private prosecutor and Phillip personally handled the prosecution of the case from arraignment up to the presentation of the evidence for the accused. Before the trial, Alfonso approached Phillip and confessed that he is the killer of the city mayor and not Reynaldo. When the case was called for trial, Phillip manifested before the court that Alfonso approached him and admitted that he killed the mayor and asked the court for whatever proper action it may take. The counsel for the accused took advantage of the presence of Alfonso, who was placed on the witness stand and elicited testimonial evidence. The court eventually acquitted Reynaldo. The heirs of the city mayor filed a disbarment case against Phillip on the ground that it is his duty to see to it that the criminal is convicted and punished. They believe Reynaldo is the real killer and Alfonso was only a fall guy and that Reynaldo could not have been acquitted were it not for the disclosure of Phillip. Phillip argues that the City Prosecutor is not for the offended party or the heirs of the victim but it is his main duty that "justice be done." Did Phillip commit any violation of the CPR? Explain. (5%)

XIX

St. Ivan's Hospital, Inc. (St. Ivan's) and Allied Construction Co. (Allied) separately retained the legal services of Tomas and Benedicto Law Offices. St. Ivan's engaged the services of Allied for the construction of a new building but failed to pay the contract price after the completion of the works. A complaint for sum of money was filed by Atty. Budoy, a former associate of Tomas and Benedicto Law Offices, on behalf of Allied against St. Ivan's. St. Ivan's lost the case and was held liable to Allied.

Thereafter, St. Ivan's filed a disbarment complaint against Atty. Budoy. It claimed that while Atty. Budoy has established his own law office, an arrangement was made whereby Tomas and Benedicto Law Offices assign cases for him to handle, and that it can be assumed that Tomas and Benedicto Law Offices collaborate with Atty. Budoy in the cases referred to him, creating a conflict of interest. Rule on the complaint with reasons. (5%).

XX

Atty. Gail was separated from her husband, Dino, for more than ten (10) years due to incompatibility. She fell in love with Mica who was also separated from her husband. She filed a petition for the declaration of nullity of her marriage with Dino, and also a petition for the declaration of nullity of the marriage of Mica with her husband. While the cases were pending, Atty. Gail and Mica lived in their respective residences but were often seen together in parties, events and in public places. Dino filed a disbarment complaint against Atty. Gail for immorality, alleging that Atty. Gail and Mica are lovers. Decide whether Atty. Gail should be sanctioned for immorality. (5%)

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