

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE LYLIHA AQUINO, REGIONAL COURT OF MANILA, BRANCH 24,
RESPONDENT.***A.M. No. RTJ-15-2413. September 25, 2018*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/249d03b72d9d/>**PER CURIAM:****I****FACTUAL ANTECEDENTS**

These cases arose from several news reports concerning a fixer in the Judiciary by the name of "Arlene" and an alleged controversy in the 2013 Philippine Judges Association (PJA) elections.

For his regular column *Blurbal Thrusts* in the *Daily Tribune*, Louie Logarta wrote an article for September 12, 2013 entitled, "CJ Sereno Should Probe High-Flying Court Fixer," in which he reported that a certain person named Arlene was a well-known fixer among judges of the Regional Trial Courts (RTCs) and Justices of the Court of Appeals. Arlene was characterized as a "high-flying influence peddler or fixer" with an impressive array of unassailable contacts listed in her "pink book"; and alleged as a close relative of a Filipino-Chinese flour importer who wielded influence over the Bureau of Customs and the Department of Agriculture. At one of the conventions of the RTC judges, Arlene was reported to have bragged about her considerable influence over the members of the Judiciary and her success rate in fixing cases pending before the courts. This was reinforced by the fact that Arlene paid for lavish affairs or parties for her "assets" in the Judiciary.

The name Arlene resurfaced in the article dated September 27, 2013 of Ramon Tulfo (Tulfo) entitled, "Godino v. Godino"[1] in his regular column *On Target* posted on the *Philippine Daily Inquirer* website. In his article, Tulfo referred to "Arlene L." who was widely known among employees and judges in Metro Manila courts and even Justices of the Court of Appeals. Arlene L. was known for her high connections in the Judiciary and her high-flying lifestyle. Tulfo explicitly described her as a "fixer" of high-profile cases in Metro Manila courts. Tulfo posted a version of the same article in Filipino, this time entitled, "Mr. Godino v. Mrs. Godino," [2] on the website of *Bandera* on September 28, 2013.

Jarius Bondoc (Bondoc), in his regular column *Gotcha* in *Philippine Star*, authored an article entitled, "Just call her Ma'am Arlene, the Judiciary's Napoles," published on October 17, 2013 about the existence of a certain "Ma'am Arlene," who allegedly wielded considerable influence in the Judiciary. Bondoc equated Ma'am Arlene to the notorious Janet Lim-Napoles (Napoles), the perpetrator of the Priority Development Assistance Fund scam. Bondoc narrated that this Ma'am Arlene sponsored birthday bashes, junkets abroad, and expensive gifts for appellate court Justices and trial court Judges; Ma'am Arlene's connections went beyond the courts and extended all the way to the Department of Justice and the Office of the Ombudsman; Ma'am Arlene was notorious as a fixer of cases, with investigators, prosecutors, and magistrates, mostly in Metro Manila; Ma'am Arlene always gets what she wants because "court bigwigs and key personnel are in her secret payroll"; Ma'am Arlene owned the

Judiciary just like Napoles owned Congress; and Ma'am Arlene was not a lawyer but she was lawyering inside chambers, for such dishonorable clients as a flour importer who allegedly brought in banned substances.

Court Administrator Jose Midas P. Marquez (Marquez) deduced that the write-ups regarding Ma'am Arlene resulted from the controversial 2013 PJA elections. The Office of the Court Administrator (OCA) received reports from several judges of intense campaigning for positions in the said election, and Ma'am Arlene allegedly supported one of the candidates therein.

Given the aforementioned circumstances, the OCA conducted an investigation into the reports on Ma'am Arlene. In a letter dated October 8, 2013, the OCA required the candidates vying for the position of President in the 2013 PJA elections to comment on said reports.

Then Presiding Justice Andres B. Reyes, Jr.[3] of the Court of Appeals conducted his own inquiry into the matter based on the allegations that a clerk in the Court of Appeals was one of the three women suspected to be Ma'am Arlene.

In the meantime, the Court en banc issued a Resolution dated October 17, 2013 in A.M. No. 13-10-07-SC,[4] creating an ad hoc committee to investigate Bondoc's report on Ma'am Arlene, thus:

In view of all these developments, the Court RESOLVED to CREATE an AD HOC INVESTIGATING COMMITTEE composed of Associate Justice Marvic Mario Victor F. Leonen as Chair, and retired Associate Justices Ma. Alicia Austria-Martinez and Romeo J. Callejo, Sr. as Members, to:

(a)

conduct an investigation into the above matter and coordinate with any and all relevant offices and agencies for such purpose;

(b)

access, receive, and evaluate information from any source; and

(c)

provide recommendations to the Supreme Court En Banc.

The Investigating Committee is vested with all necessary powers, including the power to designate its own resource persons, call upon witnesses to give testimony, and avail itself of whatever assistance the Court can provide to perform its functions.

The same Resolution mandated that "all other investigations shall cease."

The Ad Hoc Investigating Committee eventually submitted its undated report citing four RTC judges, namely, Judge Rommel O. Baybay (Baybay) of RTC-Makati, Branch 132; Judge Ralph S. Lee (Lee) of RTC-Quezon City, Branch 83; Judge Marino E. Rubia (Rubia) of RTC-Bifian, Laguna, Branch 24; and Judge Lyliha A. Aquino (Aquino) of RTC-Manila, Branch 24, all candidates in the 2013 PJA elections, for probable violations of the Guidelines on the Conduct of Elections of Judges' Associations and the New Code of Judicial Conduct, to wit:

Based on its investigation, there were findings of acts that might constitute violations of the rules of the Supreme Court in the conduct of the elections of the officers of the Philippine Judges Association (PJA), particularly this court's resolution on the Guidelines of the Conduct of Elections of Judges Association dated May 3, 2007. The acts were committed by the following:

- Judge Rommel Baybay, Regional Trial Court of Makati, Branch 132;

- Judge Ralph Lee, Regional Trial Court of Quezon City, Branch 83;
- Judge Marino Rubia, Regional Trial Court of Biñan, Laguna, Branch 24; and
- Judge Lyliha Aquino of the Regional Trial Court of Manila, Branch 24.
- Probable Violations of Supreme Court En Banc Resolution Prescribing Guideline in the Conduct of Elections of Judges' Association dated May 3, 2007.
- Section 4(a) on prohibited acts, such as provision of campaign materials other than flyers and curricula vitae

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Probable Violations of Judge Rubia

Judge Rubia provided campaign materials such as kits containing a collared t-shirt and a cap with the seal of the PJA. The collared t-shirts and cap had Judge Rubia's name sewn on them, and the position he was running for, which was Executive Vice President of the PJA, with the tagline "Unity=Strength." More than 200 kits were given away and distributed to Regional Trial Court judges throughout the country. As early as 2011, Judge Rubia had already been giving away caps and other campaign paraphernalia during golf tournaments.

The Rotary Club of Makati Southwest and several private donors allegedly bankrolled the purchase of campaign materials, including the caps, t-shirts, and kits.

Probable Violations of Judge Baybay

Judge Baybay provided cellular phones to be given away as raffle prizes in events where judges of the Regional Trial Courts were participants. The raffle prizes were allegedly given in order to promote Judge Baybay as a candidate for the presidency of the PJA.

Probable Violations of Judge Lee

Judge Lee provided cellular phones to be given away as raffle prizes for events where judges of the Regional Trial Court were participants. The raffle prizes were allegedly given in order to promote Judge Lee as a candidate for the presidency of the PJA.

A day after the PJA elections, Judge Lee distributed mugs to judges who participated in the elections. The mugs had his name printed on it, showing him as President of the PJA. Judge Lee bought these mugs prior to the election, and the budget came from the campaign funds.

- Section 4 (d) on prohibited acts, such as providing free transportation or free hotel accommodations to members of judges' associations

x x x x

Probable violations of Judge Rubia

During the 2013 PJA elections, Judge Rubia offered free hotel accommodations in the Heritage Hotel for certain judges. These offers took place in meetings within regional chapters of the PJA and through informal means such as verbal offers or social media.

Probable Violations of Judge Baybay

Judge Baybay offered discounted hotel rooms in the Pearl Manila, a hotel within the vicinity of the venue of The 2013 PJA Elections. These rooms were given for free or at a discounted rate allegedly as a means of securing votes in order to ensure his victory as a candidate for the presidency of the PJA. Judge Baybay also reserved rooms in Resorts World Manila for purposes of securing votes for the 2013 PJA Elections.

Probable Violations of Judge Lee

Judge Lee allegedly reserved 180 rooms of the Century Park Hotel in Manila for the accommodations of judges during the 2013 PJA Elections. When certain judges were about to pay for their rooms at the check-out counter, they were informed that the rooms were already paid for. Judge Lee facilitated the reservation of these rooms allegedly as a means of securing votes for the 2013 PJA Elections.

Probable violations of Judge Aquino

Judge Aquino booked the hotel rooms in Century Park Hotel, Judge Aquino is the incumbent Secretary-General of the PJA. During the 2013 elections, Judge Aquino was running for re-election for the same position. The accommodations booked by Judge Aquino were said to be paid for by only one person.

Judge Aquino also asked some judges why they were booked in other hotel rooms, when they could have availed of accommodations at the Century Park Hotel.

- Section 4(h) on prohibited acts, such as the use of court personnel in the distribution of campaign materials and paraphernalia

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Judge Rubia used the clerk of court of the Regional Trial Court of Dumaguete in the distribution of his campaign materials. During the 2013 PJA elections, Judge Rubia used certain employees of Biñan courts to serve as poll watchers. The court employees were stationed in the Century Park Hotel wearing vests bearing the words "Rotary Club."

- Probable Violations of the New Code of Judicial Conduct

All the enumerated probable violations of Judges Rubia, Lee and Baybay may amount to actions that violate the New Code of Judicial Conduct. However, the Committee found that Judge Aquino may have committed actions that are probable direct breaches of the New Code of Judicial Conduct.

Canon 1 on Independence, Section 4 of the New Code of Judicial Conduct x x x

x x x x

Canon 2 on Integrity, Sections 1 and 2 of the New Code of Judicial Conduct x x x

x x x x

Canon 4 on Propriety, Section 8 of the New Code of Judicial Conduct x x x

x x x x

Canon 6, Section 1 of the New Code of Judicial Conduct on Competence and Diligence x x x

x x x x

Judge Aquino may have used her affinity and personal ties with former Deputy Court Administrator Antonio Eugenio to enable her transfer to Branch 24 of the Regional Trial Court of Manila. Former Deputy Court Administrator Antonio Eugenio acceded to her request in view of Judge Aquino's position as Secretary General of the PJA from 2011 to 2013.

In addition, a car raffled off to Judge Lyliha Aquino during the 2009 elections of the PJA. However, the car was already registered in her name in 2008.[5]

On July 22, 2014, the Court en banc issued a Resolution referring A.M. No. 13-10-07-SC to the Court of Appeals

for further investigation. Pursuant to the directive in the said Supreme Court Resolution, the investigation of each of the above-named RTC judges was raffled separately to a Court of Appeals Associate Justice. The investigation of Judge Baybay was raffled to Court of Appeals Justice Ramon A. Garcia (Garcia); that of Judge Lee to Court of Appeals Justice Celia C. Librea-Leagogo (Leagogo); that of Judge Rubia to Court of Appeals Justice Romeo F. Barza (Barza); and that of Judge Aquino to Court of Appeals Justice Jose C. Reyes, Jr.[6] (Reyes).

The Court en banc, in its Resolution dated July 22, 2014 in A.M. No. 13-10-07-SC, further resolved to (a) immediately suspend its recognition of Judges Lee and Aquino as officers of the PJA; (b) defer action on the PJA pending the dialogue among the remaining PJA officers and Supreme Court Associate Justice Marvic Mario Victor F. Leonen; and (c) recall Judge Aquino's designation as Acting Presiding Judge of RTC-Manila, Branch 24 and order her to return to her station in RTC -Tuguegarao City, Cagayan, Branch 4.

The Court hereby proceeds to present the findings of the assigned Investigating Court of Appeals Justices and the ruling of the Court on the administrative liability or liabilities of each RTC judge.

II

INVESTIGATING COURT OF APPEALS JUSTICES' REPORTS AND RECOMMENDATIONS AND THE COURT'S RULING ON THE RTC JUDGES' ADMINISTRATIVE LIABILITIES

JUDGE AQUINO (A.M. No. RTJ-15-2413)

The election of PJA officers was held during the annual PJA Convention. Judge Aquino, Presiding Judge of RTC-Manila, Branch 24, was the PJA Secretary-General running for re-election in 2013. There were three major allegations against Judge Aquino: (1) booking for the accommodations of PJA members at Century Park Hotel for the 2013 PJA Convention, with said accommodations being paid for by only one person; (2) using her close personal ties to then Deputy Court Administrator (DCA) Antonio M. Eugenio, Jr. (Eugenio)[7] to effect her transfer from her original station at RTC-Tuguegarao City, Cagayan, Branch 4 (a Family Court) to RTC-Manila, Branch 24 (a Commercial Court), before which one of the cases of Ma'am Arlene was pending; and (3) winning a Chery car, sponsored by Ma'am Arlene, at a raffle held during the 2009 PJA Convention, but said car turned out to be already registered in Judge Aquino's name months before said raffle.

In her defense, Judge Aquino asserted that she did not commit any violation of the Guidelines on the Conduct of Elections of Judges' Associations and the New Code of Judicial Conduct. Judge Aquino claimed that she only booked rooms for the judges at the Century Park Hotel pursuant to her duties as PJA Secretary-General and with the express consent and knowledge of the PJA Board. She was tasked to scout and reserve rooms and a conference hall that could accommodate the 700 members of the PJA. Century Park Hotel was chosen for its availability and price and it was the hotel manager who advised her to book early as there might be other events at the hotel. Judge Aquino denied having a hand in the payment of the judges' room accommodations before, during, or after the event. The members who were billeted at Century Park Hotel paid for their room accommodations themselves as evidenced by the individual receipts issued to them. Judge Aquino emphasized that she made the bookings at the Century Park Hotel solely for the convenience and pursuant to the personal preferences of the PJA members, and were not intended to influence the PJA members to vote for her or her group. She reserved the rooms as had been the practice of past PJA Secretaries-General and working committee chairpersons, which should not be viewed with malice or bad faith.

Judge Aquino disavowed being close to DCA Eugenio and that she used their close relations to secure her transfer from the RTC in Tuguegarao City, Cagayan to the one in Manila. Since her family had been residing in Manila since 2007, Judge Aquino requested DCA Raul B. Villanueva (Villanueva) that she be allowed to perform her judicial functions in Tuguegarao City for 15 days of the month and in any court in Metro Manila for the remaining

days of the month. After she won as Secretary-General in 2011, Judge Aquino again requested DCA Villanueva that she be transferred to a court in Metro Manila, but without specifying any sala, so that she may be able to perform her duties as a PJA officer. Judge Aquino later made similar requests to DCA Eugenio, who was then in-charge of Region 2 (to which RTC-Tuguegarao City, Cagayan belonged), but the latter never made any commitment to her. Eventually, Administrative Order No. 53-2012 dated April 17, 2012 was signed and issued by then Chief Justice Renato C. Corona and Associate Justices Antonio T. Carpio and Presbitero J. Velasco, Jr. designating Judge Aquino as Acting Presiding Judge of RTC-Manila, Branch 24 in a full-time capacity. Judge Aquino explained that by the title of the case RII Builders v. Gerodias, et al. (RII Builders case), she had no idea who were included in the "et al." and that Ma'am Arlene, subsequently identified as Arlene Lerma, was among the defendants in the said case. Her only participation in the case was to implement the Writ of Execution already issued therein by DCA Eugenio, who was the former Presiding Judge of RTC-Manila, Branch 24.

As for the Chery car she won at the raffle held during the PJA Convention in October 2009, Judge Aquino refuted the allegation that the said car was already registered in her name as early as August 2008. She maintained that the first time she saw the Chery car was in October 2009 during the PJA Convention, when said car was displayed at the entrance of the hotel. Judge Aquino was not able to get the car right away on the night of the raffle as the papers were not yet ready. She received the car only in November 2009 at her residence, delivered by a representative of Chery Phils.

Judge Aquino claimed that she learned for the first time that the Chery car was already supposedly registered in her name in 2008 when she received the Resolution dated September 16, 2014 of Investigating Court of Appeals Justice Reyes directing her to file her comment on the matter. She went to the Land Transportation Office (LTO) in Makati City and found that there was an actual Sales Invoice dated August 8, 2008 for the Chery car in her name. She repudiated, under oath, the signature on the Sales Invoice. While her name appeared on the Sales Invoice, the address was wrong and the Taxpayer Identification Number (TIN) stated therein was her husband's. Also, on the date the Sales Invoice was issued, i.e., August 8, 2008, she was in Tuguegarao City, discharging her duties as Presiding Judge of RTC-Tuguegarao City, Cagayan, Branch 4.

Judge Aquino further pointed out that upon scrutiny, it could be observed that her name on the Sales Invoice was merely superimposed with the use of correction fluid. On the dorsal part of the Sales Invoice, it could be discerned that the original name thereon, which was erased, was "Golden Blue Metal Dragon" with address at E. Rodriguez Ave., Libis, Quezon City. There also appeared several other signatures on the face of the Sales Invoice which were not known to her. She did not issue any authorization in favor of any other person to receive the Chery car on her behalf. She never bought any Chery car in her entire life, and neither did she receive from any person or company a Chery car model 2008. It was just by mere luck that she won the car in the raffle at the PJA Convention in October 2009, which was conducted and drawn in the presence of all PJA members and guests.

Judge Aquino presented before Investigating Court of Appeals Justice Reyes the testimonies of the following witnesses: Judge Angelo C. Perez (Perez), Presiding Judge of RTC-Cabanatuan City, Branch 27 and PJA Director for Region 3; Judge Caridad V. Galvez, Presiding Judge of RTC-Dagupan City, Branch 43 and PJA Deputy Vice President for Finance; Judge Eugene C. Paras (Paras), Presiding Judge of RTC-Makati City, Branch 58, PJA Executive Vice-President, and designated Acting PJA President with the suspension of recognition of Judge Lee; Ms. Sherby Ann U. Gokian (Gokian), Senior Sales Account Manager of Century Park Hotel; Judge Kathrine A. Go, Executive Judge of RTC-San Carlos City, Negros Occidental, Presiding Judge of RTC-San Carlos City, Negros Occidental, Branch 59, and President of the Negros Occidental RTC Judges' Association; Judge Efren G. Santos, Presiding Judge of RTC-Naga City, Branch 22, President of PJA Camarines Sur Chapter, and previous PJA Regional Director for Region V; Judge Josefina E. Bacal, Presiding Judge of RTC-Malaybalay, Bukidnon,

Branch 10 and PJA Regional Director for Region 10 from 2011 to 2013; Judge Yolanda U. Dagandan (Dagandan), Presiding Judge of RTC-Leyte, Branch 15 and former PJA Regional Director for Region 8 in 2006 to 2007; Judge Pablo M. Agustin, Presiding Judge of RTC-Aparri, Cagayan, Branch 10; Judge Francisco S. Donato, Presiding Judge of RTC-Ballesteros, Cagayan; Judge Jezarene C. Aquino, Presiding Judge of RTC-Tuguegarao City, Cagayan, Branch 5; Judge Marivic A. Cacatian-Beltran, Presiding Judge of RTC-Tuguegarao City, Cagayan, Branch 3; Judge Vilma T. Pauig, Presiding Judge of Tuguegarao City, Cagayan, Branch 2; Judge Edmar P. Castillo, Sr., Presiding Judge of RTC-Tuao, Cagayan, Branch 11; and Judge Aquino herself.

Investigating Court of Appeals Justice Reyes likewise heard the testimonies of resource persons recommended by the Supreme Court, viz.: Retired DCA Eugenio, who served as Presiding Judge of RTC-Manila, Branch 24 from 2000 to 2012 and DCA from March 1, 2012 to November 1, 2012; Judge Cristina J. Sulit (Sulit), Presiding Judge of RTC-Makati City, Branch 140 and PJA Treasurer; DCA Thelma C. Bahia (Bahia); Judge Cynthia M. Florendo (Florendo), Presiding Judge of RTC-San Jose City, Nueva Ecija, Branch 39; Judge Maria Amifait S. Fider-Reyes (Fider-Reyes), Presiding Judge of RTC-San Fernando, Pampanga, Branch 42, Acting Judge of RTC-San Fernando, Pampanga, Branch 60, and Assisting Judge of RTC-Makati City, Branch 61; Judge Jose G. Paneda, Presiding Judge of RTC-Quezon City, Branch 220; and Judge Nelso A. Tribiana (Tribiana), Presiding Judge of RTC-Sto. Domingo, Nueva Ecija, Branch 37.

Investigating Court of Appeals Justice Reyes lastly summoned before him Aurea D. Cervantes, Acting Records Officer of LTO-Makati City; and Fe Juralbal, one of the cashiers of Century Park Hotel who issued receipts to the judges during the 2013 PJA Convention.

Ultimately, Investigating Court of Appeals Justice Reyes found Judge Aquino guilty of violating Canons 4 (Propriety),[8] 1 (Independence),[9] and 2 (Integrity)[10] of the the New Code of Judicial Conduct.

Reproduced below are the pertinent portions of Investigating Court of Appeals Justice Reyes' Report[11]:

On Booking Hotels

There is no question that Judge Aquino booked hotel rooms in Century for participating judges during the 2013 PJA convention. There are testimonies that she helped in booking accommodations in other conventions.

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The PJA Program for 2013 shows that indeed Judge Aquino was assigned to head the Registration Committee, as well as the Venue/Physical Arrangement, Convention Kits and Directory Committees.

The Minutes of the PJA Officers/Board of Directors' Meeting held on February 27, 2013 at Grand Caprice Hotel, Cagayan De Oro City also reflects that Judge Aquino was assigned to the Secretariat and the Venue committees for the 2013 PJA Convention. It was further stipulated that Judge Aquino will take care of hotel reservations.

In the Minutes of the PJA Officers/Board of Directors' Meeting held on May 29, 2013 at Ching Palace, Salinas Drive, Cebu it was further reflected that "the Secretariat will accept hotel arrangement but to the account of the judges concerned."

While there was testimony stating that a candidate offered to shoulder the hotel accommodations of participants, this pertained to Judge Baybay, and not to Judge Aquino or her team. Judge Dagandan in her testimony said that Judge Pitas asked her to join "them" because their hotel accommodations, plane fares and allowances will be shouldered. She later learned that the party referred to by Judge Pitas pertained to that of Judge Baybay.

Judge Tribiana also testified that when he was about to check-out from Century, the cashier told him that his

bill has already been paid for. While this suggests the possibility that a person or a group of persons paid for the accommodations of the judges billeted at Century, this by itself does not constitute sufficient evidence, strong enough to show that Judge Aquino or her team committed the acts prohibited by the Guidelines.

x x x x

Judges Florendo and Perez of Nueva Ecija, were also able to explain the reason why Judge Aquino asked the NE judges why they were billeted at Heritage and not at Century where they had earlier reservations.

That is, Judge Aquino was concerned that the PJA may have to pay for the rooms reserved for the NE judges but not used by them.

Still, the undersigned finds that Judge Aquino acted with impropriety booking the hotel accommodations of judges in the 2013 Convention.

Judge Aquino herself admitted that her act of booking hotel rooms for judges might be improper.

Q

Did it not occur to you that time that it may not be proper for you to be helping in the preparation or in booking of judges because you were running for re-election, did it not occur to you that it might be improper?

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It might be improper your Honor but the officers running are also incumbent officers your Honor, running for different positions only, so all of us have specific tasks in the convention and no other will do it your Honor as officers.

Judge Paras also related that while he was Secretary-General, he initially hesitated to book rooms in New World Hotel for the 2011 Convention. This is because, it was not part of their duties to book judges in hotels, but merely an accommodation for the members and in order to help those coming from the provinces.

Judge Aquino, instead of merely informing the judges about the contact numbers of the Secretariat and supervising the same, directed the judges on several occasions to coordinate with her, directly, their requests for hotel accommodations.

The letter Judge Aquino sent the judges dated June 19, 2013 informing them of the upcoming PJA Convention gave instructions to " [k]indly confirm attendance to [her] at CP#[xxx]" or thru the Secretariat .. "

In the meeting of the PJA Board of Directors held on February 27, 2013, Judge Aquino "reminded the judges present to inform their co-judges in their area to have hotel reservations coursed through her. " While in the Meeting held on May 29, 2013, Judge Aquino announced that she will be " accepting personally those who want to course their hotel accommodation through her."

Judge Florendo even commented that respondent judge took pains in reaching each and every one of them by sending text messages with regard to room reservations.

As one running for re-election as Secretary-General, her act of booking hotel reservations for the participants gave her undue advantage against the opponent's as the judges who benefited from her action would not only know her but would feel some degree of indebtedness to her. As admitted by her witness, Judge Efren Santos, the help extended by Judge Aquino in reserving hotel rooms influenced his vote for Secretary-General. Adding only that he voted for her not just for such favor but for other reasons as well.

The Undersigned notes that the judges see this as a practice among Secretaries-General.

Such practice or perception no matter how widely held by judges however should not diminish the high expectations on judges, whose conduct must not only be beyond reproach, but also perceived to be so. The fact that it has been the practice will not make an act that is improper proper.

As a judge whose conduct is subject to constant scrutiny, Judge Aquino should have avoided committing acts that might be perceived as inappropriate, undue or unfair. Here, her personal and overly eager interest in the accommodations of judges gave rise to suspicion that she or her team were herding judges at Century to vote for their slate.

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On Judge Aquino's Transfer to Manila

From the testimonies of Former DCA Eugenio and incumbent DC Bahia, it appears that there are no strict guidelines observed in granting requests of judges for transfer of assignment to other stations.

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While they also consider the case load of the requesting judge and whether he or she has a pending administrative case these factors seem not to be absolute or restrictive.

In the case of Judge Aquino, she said that she asked to be transferred to Manila because of her position as Secretary General and because of her family. At the time of her transfer however, her case load was 438 and her station at Tuguegarao was a Family Court, while the one she was transferred to was a Commercial Court.

DCA Eugenio called a case load of 400-plus as "reasonable" while DCA Bahia said it was "manageable."

But even DCA Bahia could not deny her initial surprise when Judge Aquino was to be designated at Branch 24, Manila which is a Commercial Court, when she is a Family Court judge in Tuguegarao. DCA Bahia merely explained that she acceded as it was the Court Administrator himself who asked for Judge Aquino's transfer. DCA Bahia also thought that it would benefit Judge Aquino to be exposed to other cases.

What invites suspicion however was that Judge Aquino was designated at RTC Branch 24 Manila, the same branch previously presided by DCA Eugenio and where cases involving Arlene Lerma were pending.

DCA Eugenio admitted knowing Arlene Lerma since 2008. Since then, Arlene has been going to PJA Conventions bringing raffle prizes. He also knows that Arlene is one of the defendants in a case in his sala.

In 2011, while judge of Branch 24, Eugenio decided a case in favor of the defendants, which included Arlene. He ruled against RII Builders and made it liable to pay millions in damages which may impoverish the Romeros.

When Judge Aquino was assigned to Branch 24, Arlene Lerma's case was still pending.

Judge Aquino meanwhile averred that when she was designated as Acting Presiding Judge of Branch 24 Manila in a full time capacity, she did not know that it was a Commercial Court and that it was previously presided by DCA Eugenio. She also claimed that she did not know that Arlene was a defendant in her sala since Arlene did not appear in her court. Judge Aquino admitted seeing Arlene however in PJA conventions.

Judge Aquino maintains that she has no close ties with DCA Eugenio and that her relationship with him is purely professional. This may be so. But she also testified that as early as 2007, she already occupied an appointive position at the PJA. The President at the time was DCA Eugenio.

It was also DCA Eugenio himself, who personally picked Judge Aquino's name from a tambol in 2009 when the grand prize was the Chery vehicle. The vehicle which DCA Eugenio believed was donated by Vice-Mayor

Moreno. It is of record however that Lerma has been the one bringing prizes at PJA conventions.

The circumstances surrounding Branch 24 - DCA Eugenio - Judge Aquino - and - Arlene Lerma are just riddled with too many coincidences that would raise red flags in the mind of any reasonable observer.

The undersigned however could not fault Judge Aquino for accepting her designation to Branch 24, as she requested to be detailed, not specifically in that sala, but anywhere in Metro Manila. There was no proof that she specifically asked to be assigned at Branch 24.

Still, the fact that she was appointed to a Commercial Court should have alerted Judge Aquino and placed her on guard to possible situations where parties may be perceived to have undue influence or inappropriate connections with her.

x x x x

Upon her transfer to Branch 24, it is expected that she would conduct an inventory of the cases assigned to her sala. A mere instruction to her branch clerk of court to give her a list of all the parties in the cases pending in her sala would have alerted her that Arlene was a named party in her court. Had Judge Aquino been astute and keen in keeping the integrity and appearance of integrity of her office, she would have seen that Arlene was a defendant in cases involving millions of pesos, the same Arlene whom she knows to have been bringing gifts to the PJA, of which she is an officer.

When Judge Aquino was designated to Branch 24 in 2012, she was already a Secretary-General of the PJA, an active member who admitted to have known Arlene since 2008. Judge Aquino claimed however that she learned that Arlene was bringing raffle prizes, for Vice-Mayor Moreno, only in 2011. Even so, this was before her designation to Branch 24 Manila.

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Judge Aquino tries to explain that her involvement in the case of Arlene Lerma was only in granting the Motion for Implementation of the Writ of Execution that was previously issued by Judge Eugenio.

Be that as it may, it would have been more prudent if Judge Aquino avoided ruling on a motion where Arlene was a party because their social relationship could reasonably tend to raise suspicion that it was a n element in the determination of Arlene's case. This may erode the trust of litigants in the judge's impartiality and eventually undermine the people's faith in the administration of justice. Judges must not only render just, correct and impartial decisions but should do so in such a manner as to be free from any suspicion as to the judge's fairness, impartiality and integrity.

In the alternative, Judge Aquino could have avoided socializing with Arlene or having any association with her, in view of the cases in her court where Arlene is personally interested.

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While Judge Aquino may not have acted in bad faith in accepting her detail to Branch 24 Manila and in failing to inhibit herself in cases involving Arlene Lerma, it also cannot be denied that she lacked circumspection required of her stature as a magistrate of the courts. For her failure to avoid the air of suspicion and appearance of impropriety in the proceedings in her sala, Judge Aquino failed to live up to the demand and degree of propriety required of her by the New Code of Judicial Conduct. For this, it is recommended that she be admonished and sternly warned that a repetition of the same or similar acts would be dealt with more severely.

On the Raffled Car

x x x x

During Judge Aquino's testimony on October 27, 2014, she said that when she asked Judge Eugenio who was the donor of the car she won in 2009, Judge Eugenio said that it came from the PJA.

x x x x

DCA Eugenio testified however that to his knowledge, the Chery vehicle was donated by Vice-Mayor Moreno.

x x x x

When asked if it is possible that it is Arlene Lerma who is the one actually donating and not Vice-Mayor Moreno, DCA Eugenio answered that it is for Moreno to answer.

x x x x

Whether it was actually Arlene Lerma or Vice-Mayor Moreno who donated the Chery vehicle which Judge Aquino won in 2009, what is clear is that it did not come from the PJA.

Many judges who testified before the Undersigned said that the most memorable raffle for them was when the Chery vehicle was the grand prize.

Needless to state, that raffle was not ordinary. Again, it should have alerted Judge Aquino to be more careful and scrupulously suspecting lest the integrity of her robe be put into question.

Even her husband asked the representative of the car dealer if they were supposed to pay donor's tax since it is a "winning". The Aquinos merely relied however on the assurances of the car dealer who said that "they will take care of everything."

Judge Aquino should not have used the same degree of laxity that she would observe in dealing with first hand vehicles that her family would buy from car dealers. In such cases, they pay out of their own pockets the price of the vehicle.

Here, Judge Aquino did not buy the car. She "won" it in a raffle, albeit during a PJA convention.

Judge Aquino would have us believe that as a judge from the province, she had no idea where the raffle prizes come from.

It was established however that as early as 2008 or 2009, Arlene has been in charge of raffles, that she gives instructions on how the gifts should be brought, where to place them, and; that she was working with Vice-Mayor Moreno. Arlene was also always present every time there was a convention, including conventions of the PWJA.

Judge Paras testified that he heard about Arlene assisting the PJA in 2008, when he started being active in the association. Even then, he had questions in his mind why Arlene was in the conventions, as it was improper that Arlene was helping in bringing raffle prizes.

Even DCA Eugenio admitted that he knew Arlene since 2008 and that from such time, she was bringing raffle prizes at conventions in behalf of Moreno.

Judge Aquino also said that since 2007, she has been an officer of the PJA, in an appointive position while DCA Eugenio was PJA President. She was a Business Manager before becoming a Secretary General in 2011.

In 2008, she saw Arlene in the Davao convention. They even sat at the same table, with Arlene sitting beside the wife of Moreno.

Considering all these circumstances, the Investigating Justice finds it hard to believe that Judge Aquino did not know or at least had an inkling that the raffled car came from Lerma or Moreno. Any reasonable magistrate would wonder and ask why Lerma is present in events organized for judges.

If Judge Paras learned, through from hearsay reports, that Lerma was bringing raffle prizes in conventions during Judge Eugenio's presidency, it is not farfetched that Aquino would have heard the same.

Arlene's presence in the PJA events, coupled with the unusual nature of the raffle in 2009 - the prize being a car and the first and only time that such item was raffled off in PJA- should have alerted Judge Aquino and placed her on guard as to the possible source of the prize.

Had she been thorough and strict in ensuring that the papers of the vehicle were in order, then she would have seen that the Vehicle Sales Invoice submitted by the Chery representative to the LTO had been erased with the use of a correction fluid and dated August 8, 2008. She would have seen that the vehicle did not come from PJA. She would have known that the vehicle may have come from either Vice-Mayor Moreno or Arlene Lerma, which in either case, would compromise her position as a member of the judiciary. (Citations omitted.)

Based on the foregoing, Investigating Court of Appeals Justice Reyes recommended as follows:

In view of the facts gathered and applicable rules and jurisprudence, the Undersigned respectfully recommends:

- That Judge Lyliha A. Aquino be WARNED to be circumspect in the performance of her duties as Secretary-General of the PJA, to avoid any appearance of impropriety and appearance that she is taking undue advantage of her incumbency.
- That Judge Lyliha A. Aquino be ADMONISHED for failing to inhibit herself in cases involving Arlene Lerma and avoid suspicion and appearance of impropriety by reason of their social relations. Judge Aquino should also be STERNLY WARNED that a repetition of the same or similar acts would be dealt with more severely.
- That Judge Lyliha A. Aquino be FINED in the amount of TWENTY THOUSAND PESOS (P20,000.00) for accepting a Chery car in the 2009 PJA Raffle. She should also be STERNLY WARNED that a repetition of the same or similar acts would be dealt with more severely. It is further recommended that Judge Aquino be ordered to return the Chery vehicle she won in the said raffle, for proper disposition.

It is further recommended:

- That the PJA Officers/Board of Directors be STERNLY REMINDED of Canon 1, Section 5 of the New Code and avoid soliciting favors, gifts, donations and the like, from local officials, which will cast suspicion on the integrity, independence and propriety of members of the judiciary.
- That a FORMAL INVESTIGATION be conducted on possible violations committed by Former Deputy Court Administrator Antonio Eugenio of the New Code of Judicial Conduct.[12]

While the Court takes into account Investigating Court of Appeals Justice Reyes' report and recommendations, it appreciates some of the factual background and evidence differently and arrives at a disparate conclusion as to whether or not Judge Aquino is guilty of any administrative infraction.

It has been established that Judge Aquino, as head of the Secretariat as well as the registration and venue committees, was tasked to look for the best venue for the 2013 PJA Convention, which might very well include scouting for and recommending convenient and economical accommodations for participating members. However, Investigating Court of Appeals Justice Reyes observed that Judge Aquino did more than just provide

PJA members with the contact details of the PJA Secretariat and the Century Park Hotel reservation staff and coordinate the booking of the accommodations of interested PJA members at the said hotel. Judge Aquino encouraged PJA members to book their accommodations through her and even personally made the bookings for the participating PJA members.

On the other hand, it also appears that it had been the practice of previous PJA Secretaries-General to book accommodations for PJA members who attend the yearly conventions of the association. In addition, PJA members who appeared as witnesses before Investigating Court of Appeals Justice Reyes testified that they paid for their accommodations at the Century Park Hotel which were booked for them by Judge Aquino and several of them were reimbursed by their respective local government units.

Section 4 (d) of the Guidelines on the Conduct of Elections of Judges' Associations provides:

Sec. 4. Prohibited acts and practices relative to elections. - Judges' associations and their members, whether singly or collectively and whether or not a candidate for any elective office in the association, shall refrain, directly or indirectly, in any form or manner, by himself or through another person, from the following acts and practices relative to elections:

x x x x

d.

Providing or giving, free of charge, transportation through any mode and accommodations, regardless of category, at hotels, motels or other lodging places to any member for the purpose. of inducing or influencing the said member to withhold his vote, or to vote for or against a candidate at elections to be conducted[.] (Emphasis supplied.)

Strictly, Judge Aquino did not violate the aforequoted provision as she did not provide or give free accommodations to the PJA members. There is no sufficient evidence to refute Judge Aquino's good faith especially considering that the booking of accommodations for PJA members was long practiced by PJA Secretaries-General. Extending help or assistance to the PJA members in booking their hotel accommodations at the annual convention - which basically involved confirming said members' room reservations at the hotel and at times, relaying the members' payment that were coursed through her to the hotel - is far different from paying for their room accommodations herself. While PJA members might have felt gratitude for the convenience of booking their hotel accommodations through Judge Aquino, it could not have induced the same sense of indebtedness or exerted equal weight of influence as compared to having their hotel accommodations totally paid for. In fact, no witness who appeared before Investigating Court of Appeals Justice Reyes stated that they were actually induced or influenced to vote for Judge Aquino as PJA Secretary-General solely because the latter booked their hotel accommodations for the 2013 PJA Convention.

Even so, considering that she was then running for re-election as PJA Secretary-General, it would have done well for Judge Aquino to have been more circumspect in her actions and limited her assistance to providing the necessary information to the PJA members on the available hotel accommodations. Despite it being the practice of past PJA Secretaries-General, Judge Aquino was expected to have sufficient discretion and discernment to reevaluate, as needed, the propriety and/or extent of the assistance to be extended to PJA members for the booking of their accommodations for the 2013 Convention and election especially considering that Judge Aquino was a candidate herself in the said election. As this case has demonstrated, Judge Aquino's booking of hotel accommodations for the PJA members, although done in good faith or with the best intentions, could be easily misconstrued and politicized during the period of election of PJA officers to be intended to further Judge Aquino's candidacy. Under the aforesaid circumstances, Judge Aquino deserves to be admonished.

Canon 4 of the New Code of Judicial Conduct states that "[p]ropriety and the appearance of propriety are essential to the performance of all the activities of a judge[.]" and Section 1 thereof explicitly mandates that "[j]udges shall avoid impropriety and the appearance of impropriety in all of their activities." A judge is the visible representation of the law and of justice. A judge must comport himself/herself in a manner that his/her conduct must be free of a whiff of impropriety, not only with respect to the performance of his/her official duties but also as to his/her behavior outside his/her sala and as a private individual. A judge's character must be able to withstand the most searching public scrutiny because the ethical principles and sense of propriety of a judge are essential to the preservation of the people's faith in the judicial system.[13]

The Court, however, finds no basis for holding Judge Aquino administratively liable for not inhibiting herself from the RII Builders case.

It was Judge Eugenio, then still the Presiding Judge of R TC- Manila, Branch 24, who decided the RII Builders case in 2011 against plaintiff RII Builders and ordered the latter to pay millions in damages to the defendants,. who included Arlene Lerma. Judge Eugenio also eventually issued the Writ of Execution in the case. In 2012, Judge Eugenio was appointed DCA and Judge Aquino was designated as the Acting Presiding Judge of RTC-Manila, Branch 24. Judge Aquino merely issued an Order granting the defendants' Motion for Implementation of the Writ of Execution in the RII Builders case.

Section 1, Rule 137 of the Rules of Court enumerates the circumstances when a judge is mandatorily disqualified and when a judge may voluntarily inhibit from a case. Said rule is recited in full below:

Sec. 1. Disqualification of Judges. - No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

None of the circumstances for the mandatory disqualification applies to Judge Aquino in the RII Builders case. The next question is whether Judge Aquino should have voluntarily inhibited herself from the said case wherein Arlene Lerma was one of the parties.

The Court answers in the negative.

The following lengthy disquisition of the Court in *Philippine Commercial International Bank v. Dy Hong Pi*[14] is relevant to this case:

Under the first paragraph of Section 1, Rule 137 of the Rules of Court, a judge or judicial officer shall be mandatorily disqualified to sit in any case in which:

(a)

he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise; or

(b)

he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of civil law; or

(c)

he has been executor, administrator, guardian, trustee or counsel; or

(d)

he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

Paragraph two of the same provision meanwhile provides for the rule on voluntary inhibition and states: "[a] judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above." That discretion is a matter of conscience and is addressed primarily to the judge's sense of fairness and justice. We have elucidated on this point in *Pimentel v. Salanga*, as follows:

A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstances reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. A salutary norm is that he reflect on the probability that a losing party might nurture at the back of his mind the thought that the judge had unmeritoriously tilted the scales of justice against him. That passion on the part of a judge may be generated because of serious charges of misconduct against him by a suitor or his counsel, is not altogether remote. He is a man, subject to the frailties of other men. He should, therefore, exercise great care and caution before making up his mind to act in or withdraw from a suit where that party or counsel is involved. He could in good grace inhibit himself where that case could be heard by another judge and where no appreciable prejudice would be occasioned to others involved therein. On the result of his decision to sit or not to sit may depend to a great extent the all-important confidence in the impartiality of the judiciary. If after reflection he should resolve to voluntarily desist from sitting in a case where his motives or fairness might be seriously impugned, his action is to be interpreted as giving meaning and substance to the second paragraph of Section 1, Rule 137. He serves the cause of the law who forestalls miscarriage of justice.

The present case not being covered by the rule on mandatory inhibition, the issue thus turns on whether Judge Napoleon Inoturan should have voluntarily inhibited himself.

At the outset, we underscore that while a party has the right to seek the inhibition or disqualification of a judge who does not appear to be wholly free, disinterested, impartial and independent in handling the case, this right must be weighed with the duty of a judge to decide cases without fear of repression. Respondents consequently have no vested right to the issuance of an Order granting the motion to inhibit, given its discretionary nature.

However, the second paragraph of Rule 137, Section 1 does not give judges unfettered discretion to decide whether to desist from hearing a case. The inhibition must be for just and valid causes, and in this regard, we have noted that the mere imputation of bias or partiality is not enough ground for inhibition, especially when the charge is without basis. This Court has to be shown acts or conduct clearly indicative of arbitrariness or prejudice before it can brand them with the stigma of bias or partiality. Moreover, extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to palpable error which may be inferred from the decision or order itself. The only exception to the rule is when the error is so gross and patent as to produce an ineluctable inference of bad faith or malice.

We do not find any abuse of discretion by the trial court in denying respondents' motion to inhibit. Our pronouncement in *Webb, et al. v. People of the Philippines, et al.* is apropos:

A perusal of the records will reveal that petitioners failed to adduce any extrinsic evidence to prove that respondent judge was motivated by malice or bad faith in issuing the assailed rulings. Petitioners simply lean

on the alleged series of adverse rulings of the respondent judge which they characterized as palpable errors. This is not enough. We note that respondent judge's rulings resolving the various motions filed by petitioners were all made after considering the arguments raised by all the parties. x x x.

x x x x

We hasten to stress that a party aggrieved by erroneous interlocutory rulings in the course of a trial is not without remedy. The range of remedy is provided in our Rules of Court and we need not make an elongated discourse on the subject. But certainly, the remedy for erroneous rulings, absent any extrinsic evidence of malice or bad faith, is not the outright disqualification of the judge. For there is yet to come a judge with the omniscience to issue rulings that are always infallible.

The courts will close shop if we disqualify judges who err for we all err. (Emphasis supplied, citations omitted.)

There is an absolute dearth of evidence herein of Judge Aquino's bias, partiality, malice, or bad faith, which would have called for her voluntary inhibition in the RII Builders case. As of the time of this investigation, Judge Aquino's involvement in the case was only to grant the Motion for Implementation of the Writ of Execution that had been previously issued by Judge Eugenio. While it was shown that Judge Aquino knew Arlene Lerma personally; that Judge Aquino interacted with Arlene Lerma at several social events; and that Judge Aquino, as PJA officer, would have known that Arlene Lerma had been donating raffle prizes for the annual PJA conventions, these alone are insufficient reasons for Judge Aquino's voluntary inhibition from the RII Builders case. There was no proof of the closeness of the relations between Judge Aquino and Arlene Lerma which would have weighed on the former's judgment and discretion in the case. The prizes were donated by Arlene Lerma to the PJA to be raffled to any of its participating members at the annual conventions and were not personally and directly given to Judge Aquino. There is no allegation or argument herein that Judge Aquino's grant of the Motion for Implementation of the Writ of Execution was in any way palpably wrong, arbitrary, baseless, or rendered in grave abuse of discretion or with extrinsic malice or bad faith.

Even the purported "coincidences" in Judge Aquino's designation as Presiding Judge of RTC-Manila, Branch 24, vice DCA Eugenio, cannot be taken against Judge Aquino. Any suspicion that Judge Aquino purposely sought out her transfer and designation to DCA Eugenio's previous court, before which Arlene Lerma's case was still pending, is belied by a careful consideration of the circumstances surrounding Judge Aquino's transfer and designation as Presiding Judge of RTC-Manila, Branch 24. Judge Aquino's request for transfer from RTC-Tuguegarao City, Cagayan, Branch 4 was coursed through the proper authorities. Judge Aquino requested for transfer to any court in Metro Manila, and she did not specifically mention RTC-Manila, Branch 24. Judge Aquino's designation as Acting Presiding Judge of RTC-Manila, Branch 24 was officially approved under Administrative Order No. 53-2012 dated April 17, 2012, signed by the Chief Justice and the two most senior Associate Justices of the Supreme Court. Both DCA Eugenio and DCA Bahia attested before Investigating Court of Appeals Justice Reyes that there were no existing guidelines for requests for transfer of judges to other stations. Thus, Judge Aquino's transfer from an RTC designated as a Family Court in Tuguegarao City, Cagayan to an RTC designated as a Commercial Court in Manila was not evidently irregular, the two courts being of the same level and there being no existing rule or guidelines against such a transfer.

Unjustified assumptions and mere misgivings that the judge acted with prejudice, passion, pride, and pettiness in the performance of his/her functions cannot overcome the presumption that the judge decided on the merits of a case with an unclouded vision of its facts.^[15] Mere imputation of bias or partiality is not enough ground for inhibition. There must be extrinsic evidence of malice or bad faith on the judge's part. Moreover, the evidence must be clear and convincing to overcome the presumption that a judge will undertake his/her noble role to

dispense justice according to law and evidence without fear or favor. Because voluntary inhibition is discretionary, Judge Aquino would have been in the best position to determine whether or not there was a need for her to inhibit from the RII Builders case, and her decision to continue to act on the case should be respected.[16]

Simply put, there is no basis for the Court to take any administrative action against Judge Aquino for her non-inhibition in the RII Builders case.

Similarly, Judge Aquino cannot be faulted for accepting the Chery car she won at the raffle during the 2009 PJA Convention.

The Chery car was the grand raffle prize at the PJA Convention in October 2009. It was still unclear whether it was sponsored by then Manila Vice Mayor Francisco Moreno Domagoso, more popularly known as Isko Moreno (Moreno); or by Arlene Lerma; or by Vice Mayor Moreno, through Arlene Lerma. Then Judge Eugenio picked Judge Aquino's name by luck from a tamboli containing 600 or more names of PJA members present at the convention. There was no proof at all of any irregularity in the raffle of the Chery car at the 2009 PJA Convention, which was conducted in the presence of the raffle committee and all the participating members and guests of PJA. While there are legitimate questions as to the propriety of the PJA soliciting and/or accepting raffle prizes from public officers and private persons for its conventions, these are for the association to address. Individual PJA officers or members could not be administratively sanctioned simply for joining the raffle and receiving their prizes.

Even the irregularities in the papers of the Chery car cannot be attributed to Judge Aquino. Judge Aquino could not have transacted with the Chery car dealer in Metro Manila and she could not have been issued the Vehicle Sales Invoice for the Chery car on August 8, 2008 as evidence proved that she was then discharging her duties as Presiding Judge of RTC-Tuguegarao City, Cagayan, Branch 4 on the very same date. It would seem that the Vehicle Sales Invoice dated August 8, 2008 was issued in the name of the initial buyer of the Chery car, i.e., Golden Blue Metal Dragon with address at E. Rodriguez Ave., Libis, Quezon City. After Judge Aquino won the Chery car at the raffle, the name and address of Golden Blue Metal Dragon on the Vehicle Sales Invoice was erased using correction fluid and Judge Aquino's name was superimposed on the same. Indeed, Judge Aquino might have been negligent to some degree in not ascertaining that all the papers for the Chery car were consistent and in order before she accepted the same, but it did not have any professional implication for her and it certainly was not tantamount to any administrative offense.

JUDGE LEE (A.M. No. RTJ-15-2414)

In compliance with the directive of Investigating Court of Appeals Justice Leagogo, Judge Lee filed on September 23, 2014 his Comment, attaching to the same his Judicial Affidavit and those of his witnesses, viz.: Judge Ma. Theresa V. Mendoza-Arcega[17] (Arcega), Executive Judge of RTC-Malolos City, Bulacan, Presiding Judge of RTC-Malolos City, Bulacan, Branch 17, and Vice-President of the Philippine Women Judges' Association (PWJA); Judge Luisito G. Cortez (Cortez), Presiding Judge of RTC-Quezon City, Branch 84 and President of the Quezon City Regional Trial Court Judges' Association; retired RTC Judge Franklin J. Demonteverde (Demonteverde) who served as PJA President in 2011-2013; Gokian; Reginald C. Dela Paz (Dela Paz), Judge Lee's personal driver; and Rudy Macapagal (Macapagal), owner of RM Advertising Company.

Judge Lee challenged the report of the Ad Hoc Investigating Committee citing him for possible violations of the Guidelines on the Conduct of Elections of Judges' Associations and the New Code of Judicial Conduct. Judge Lee pointed out that the Summary of Findings of the Ad Hoc Investigating Committee as quoted in Investigating Court of Appeals Justice Leagogo's Resolution dated September 12, 2014 failed to provide details on the circumstances surrounding the improprieties which he allegedly committed. The allegations against him were

stated as matters of fact sans any evidentiary support.

Judge Lee averred that he did not give out cellular phones as raffle prizes; it was not clear at which events the RTC judges were present and the cellular phones from Judge Lee were supposedly given out as raffle prizes; there was no statement of the condition under which the cellular phones were given that would have supported the impression that he used them to advertise his bid for the PJA presidency in the 2013 elections; and the testimonies of Judges Cortez, Demonte Verde, and Arcega would disprove the allegation that he raffled away cellular phones to RTC judges in any event between October 2012 to October 2013 to promote his PJA presidency.

Judge Lee though did not deny giving out mugs with his image and name a day after his proclamation as PJA President, but he took except on to the malicious assertion that he used campaign funds to purchase the said mugs. As Macapagal's Judicial Affidavit would show, Judge Lee confirmed his orders for the mugs and commissioned the printing of his image and name thereon only after he had been proclaimed PJA President on October 9, 2013. Judge Lee paid P30,000.00 from his own pocket for the 700 mugs. Judge Lee claimed that he gave away the mugs with no other intention than to share his elation over winning as President in the 2013 PJA elections and to serve as a token for his colleagues to remember him by. Judge Lee also referred to Dela Paz's Judicial Affidavit which stated that the mugs were distributed to those in attendance at the Ballroom of Century Park Hotel, Manila only after Judge Lee's proclamation as PJA President, which was after the election and not during the campaign period as would qualify the mugs as campaign propaganda.

According to Judge Lee, the accusation that he booked 180 rooms for his colleagues attending the 2013 PJA elections was equally bereft of any evidentiary support. Judge Lee denied facilitating the reservation of hotel rooms for any of the judges who participated in the 2013 PJA elections, much less paying for 180 hotel rooms in exchange for votes. Judge Lee submitted the Judicial Affidavit of Gokian, then the Senior Sales Account Manager of Century Park Hotel, Manila, who handled the account of the PJA Convention and election of officers in October 2013.

Investigating Court of Appeals Justice Leagogo set the case for hearings for presentation of oral and documentary evidence. Judge Lee himself, Judge Arcega, Judge Cortez, Judge Demonte Verde, Gokian, Dela Paz, and Macapagal appeared as witnesses for Judge Lee. Pursuant to the subpoenas issued to them by Investigating Court of Appeals Justice Leagogo, Court Administrator Marquez; Judge Josefina E. Siscar (Siscar), Presiding Judge of RTC-Manila, Branch 55; Judge Felix P. Reyes (Reyes), Presiding Judge of RTC-Marikina City, Branch 272; Judge Fider-Reyes; Judge Baybay; Judge Florendo; and Judge Tribiana also testified during the investigation.

Investigating Court of Appeals Justice Leagogo submitted her Report and Recommendations on November 19, 2014.

Investigating Court of Appeals Justice Leagogo first addressed the possible violations of the Guidelines on the Conduct of Elections of Judges' Associations and the New Code of Judicial Conduct committed by Judge Lee as stated in the report of the Ad Hoc Investigating Committee. Investigating Court of Appeals Justice Leagogo's findings are as follows:

Based on the further investigation conducted as required under SC En Banc Resolution dated 22 July 2014, the Investigating Justice found no evidence to sustain the aforesaid probable violations of Judge Lee concerning the cellular phones and mugs under Section 4(a).

In EJ Arcega's Judicial Affidavit, she stated in AS thereof that there was no occasion in the PWJA and Bulacan RTCJ wherein Judge Lee provided raffle prizes, particularly cellular phones, in their events or activities. She further testified that: Judge Lee did not distribute any cellular phone or raffle prizes and has not given out any prize from March 2013 up to October 2013 in any affair of the judges of the RTC of Malolos, Bulacan.

In Judge Cortez' Judicial Affidavit, he stated in A6 thereof that there was no occasion wherein Judge Lee provided or gave out raffle items particularly cellular phones to some or to all their events in Quezon City. He further testified that Judge Lee has not given any gift or prize in any of their meetings or parties nor did Judge Lee distribute cellular phones.

In Judge Demonte Verde's Judicial Affidavit, he stated in AS thereof that there was no occasion wherein Judge Lee provided raffle prizes particularly cellular phones in all the events, meetings and conventions. He further testified that Judge Lee has not donated any gift, cellular phones, or anything in kind in connection with conventions or RTC activities in Bacolod.

In Judge Lee's Affidavit, he stated in A4 thereof that he did not provide mobile phones as prizes in any of the events participated in by his colleagues and him prior to the 2013 PJA elections.

Judge Reyes, one of Judge Lee's rival for the presidency of the 2013 PJA elections, also testified that he has not heard that Judge Lee distributed cellular phones in any of the affairs of the PJA such as convention or election, or during campaign sorties; and he is the President of the RTCJA of Marikina City and Judge Lee never distributed or gave any prize or raffle during their parties.

Judge Tribiana also testified that he has never heard of Judge Lee donating raffle prizes in any of their activities. Judge Siscar likewise testified that she could not think of any instance when Judge Lee provided cell phones as raffle prizes to RTC judges in any of the parties or affairs of RTC Manila.

With respect to the charge that Judge Lee distributed mugs to the judges with the printed words "From: Judge Ralph S. Lee, President, PJA"; the Investigating Justice finds no violation of Section 4(a) of SC En Banc Resolution dated 03 May 2007 as the mugs were distributed on 10 October 2013, or the day after the 09 October 2013 PJA elections when Judge Lee was already proclaimed PJA President. Hence, the said mugs cannot be considered as election campaign materials designed to induce the judges to vote for him as President. In fact, as clearly shown on the said mugs; the word used was "From" and not "For."

x x x x

As pointed out by Judge Lee in his Memorandum: It is impossible that a token given by him as an elected officer after the elections could possibly contribute to his campaign or be treated as an incentive for voters to support his candidacy; the mugs were given out as a token for his colleagues to remember him by; and the mugs could not by any measure qualify as campaign propaganda since they were distributed after the elections, and not during the campaign.

x x x x

Based on further investigation conducted, the Investigating Justice found no substantial evidence that would support the aforesaid probable violation regarding the hotel room reservations for the judges allegedly made by Judge Lee.

In administrative proceedings, the quantum of proof required to establish a respondent's malfeasance is not proof beyond reasonable doubt but substantial evidence, i.e., that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion x x x.

From the testimonies of the witnesses, what appears on record is that it was Judge Aquino who reserved 100 rooms at the Century Park Hotel, Manila for judges who would attend the PJA Convention and Elections from 08 to 10 October 2013. There was no testimony given during the further investigation that it was Judge Lee who reserved the hotel rooms for judges or that he facilitated or paid for the hotel accommodations of the judges as a means of securing their votes.

x x x x

Hence, the Investigating Justice finds that there is no substantial evidence of Judge Lee's probable violation under Section 4(d) of the Supreme Court En Banc Resolution dated 03 May 2007, as well as Section 4 of Canon 1, Sections 1 and 2 of Canon 2, Section 8 of Canon 4, and Section 1 of Canon 6 of the New Code of Judicial Conduct, as stated in the Summary of Findings of the Investigating Committee.[18] (Citations omitted.

Nonetheless, Investigating Court of Appeals Justice Leagogo particularly described several circumstances which rendered suspicious how some of the hotel accommodations of judges were paid for and gave the impression that -said accommodations were paid in advance for the judges, to wit:

A. A perusal of the photocopies of the 229 official receipts issued by the Century Park Hotel to the judges who attended the 2013 PJA Conventions and Elections, which were submitted by Gokian, the Sales Manager of the hotel, shows that all were dated 08 October 2013, which is highly unusual since the said date was the first day of the Convention, and not the date when the judges checked out from the hotel. When the receipts were summarized and computed, the total payment reflected in the said receipts submitted by Gokian is P1,219,751.07;

B. Judge Lee denied the charge that he paid for any of the . hotel room accommodations of the judges. The first time Judge Lee testified on 03 October 2014, he stated that: he checked in on 07 October 2014 at 12:00 o'clock noon and checked out before noon of 10 October 2013, when he checked out, he paid on the last day of his stay at Century Park Hotel on 10 October 2013; judges paid before noon of 10 October 2013; there was a long line and the receipts were written in front of them and were given to them on the last day. When he testified on rebuttal on 24 October 2014, there was a variance in his story as he stated that: it was his wife who paid for him; his wife was with him during the last day of the convention; when he checked out, he surrendered the key, but because of the long line, they had to wait for their receipts; and he and his wife were together when they paid. Despite his testimony to the effect that he and the judges paid before noon of 10 October 2013, the photocopies of the official receipts issued to the judges by the Century Park Hotel as submitted by Gokian shows that the same were all issued on the same date, 08 October 2013, which is the first day of the Convention, including OR No. A118215 issued to Judge Lee in the amount of P16,500.00 but not on the date when they checked out from the hotel on 10 October 2013.

C. Even EJ Arcega, who was one of the witnesses presented by Judge Lee, testified that: she does not know if she was included in the 100 rooms reserved by Judge Aquino; she never called up Century Park Hotel; she checked in the day before the elections and stayed at the hotel for two (2) nights; she paid around P5,000.00 per night or P10,000.00 for two (2) nights with her roommate Judge Cita Clemente of Malolos, Bulacan; they paid in cash; and they were issued an official receipt and a copy of that receipt was returned to the provincial capitol for liquidation. It could be gleaned from OR No. A117932 dated 08 October 2013 issued to EJ Arcega that the receipt was issued to her on the day that she checked in on 08 October 2013, which was the day before the elections on 09 October 2013, and not on the day when she checked out on 10 October 2013, after staying at the hotel for two (2) nights.

D. With respect to Judge Cortez, another witness of Judge Lee, he testified that: he checked in at the Century Park Hotel together with the other judges of Quezon City; he coursed through the reservation of the judges to Judge Aquino; and only 2 or 3 judges made their own personal reservations, while about 37 judges were reserved by Judge Aquino, through his request as Director of PJA Quezon City. Judge Cortez was likewise issued OR No. A117576 on 08 October 2013, which was the start of the 2013 PJA Convention and Elections, and not when he checked out.

E. In contrast, when the three (3) photocopies of the receipts (OR Nos. A118231, A118235 and A118236) issued to PJA, which were submitted by Gokian, were shown to Judge Lee by the Investigating Justice, he agreed that the payment made by the PJA to the Century Park Hotel were all dated 10 October 2013 (which was the last day of the PJA Convention); and he agreed with the observation of the Investigating Justice that all the photocopies of the alleged receipt of the judges submitted by Gokian were dated 08 October 2013, which

was the date when the judges checked in but not the date when they checked out.

F. The out-of-the-ordinary date of issuance of official receipts by Century Park Hotel to judges at the start of the PJA Convention when they checked in and not on the date when the judges checked out raises a red flag that someone else might have paid in advance for the hotel room accommodations of judges, as reflected in the photocopies of the official receipts submitted by Gokian to the Investigating Justice, which are uniformly dated 08 October 2013, when the judges checked in at the Century Park Hotel. It should be pointed out that with respect to OR No. A118259 issued to Judge Baybay, one of the 2013 PJA presidential contenders who checked in at the Century Park Hotel and paid in cash, his receipt was not dated on the date when he checked in.

G. It bears serious note that the photocopies of the official receipts issued to Judges Eugene Paras, Jaime Santiago, Jose Paneda, Racquelen Vasquez, Georgina Hidalgo, Danilo Cruz, Sylvia Paderanga, Angelo Perez, Divina Gracia Pelino, Evelyn Nery and Lily Laquindanum -who all belong to the Team Lee-Paras also show that their receipts were dated 08 October 2013. When the Investigating Justice showed Judge Lee the receipts of the aforesaid Judges under his slate, he confirmed that their receipts were all dated 08 October 2013, and not when they checked out from the Century Park Hotel.

H. Oddly enough, Judges Efren G. Santos, Lyliha A. Aquino and Cristina J. Sulit, who were part of Judge Lee's team and who were also booked at the Century Park Hotel, were not included in the photocopies of official receipts submitted by Gokian. The Investigating Justice also especially finds it peculiar that Judges Sulit and Aquino's official receipts for their hotel room accommodations at Century Park Hotel were not among those submitted by Gokian since Judge Sulit is the PJA Treasurer, while Judge Aquino is the PJA Secretary General, the event organizer and the one who reserved 100 rooms at the Century Park Hotel, Manila for Judges who would attend the 2013 PJA Convention and Elections. Judge Lee even testified that Judge Aquino was billeted at the Century Park Hotel during the convention. A subpoena duces tecum and ad testificandum was issued to Gokian but she failed to submit the duplicate copies of all the receipts that she submitted to the Investigating Justice even when she testified for the second time on 13 October 2014.

I. Judge Reyes testified that he heard other judges talking about candidates reserving hotel rooms for judges to accommodate them, especially those coming from the provinces.

J. EJ Florendo testified that Judge Perez, the President of PJA Nueva Ecija, who ran for Vice President for Special Projects, also told them (Nueva Ecija judges) that they may have two (2) reserved rooms at the Century Park Hotel for them to use as dressing room because they were supposed to render a special number in the convention; she does not know who paid for the said reserved rooms allotted for the Nueva Ecija judges; and they were not able to use the rooms as they were unable to present their number due to lack of practice.

K. Judge Siscar testified that during the convention, she heard from other judges that Lerma paid for the hotel accommodations of certain judges during the convention and elections, but she has no personal knowledge of the same, and it was talked about by the judges that Lerma paid for the airfare, registration fee and hotel accommodation of judges which she did in favor and in support of Judge Lee; but she never heard anybody acknowledging that he/she was one of the recipients thereof.

L. Judge Siscar also testified that during the 2013 PWJA Convention in Tacloban, Lerma approached her when she was inside the convention; at that time, she (Siscar) was with Judge Emy Geluz; Lerma approached them and addressed the two of them maybe because she (Lerma) thought that both of them were running for elections; Lerma approached her (Siscar) and said "Pwede ba akong makiusap sa inyong dalawa?" She told them, "Huwag na daw po kaming tumakbo sa ticket ni Rommel Baybay "Pwede daw syang maglambing at makiusap sa amin na huwag na kaming tumakbo," and she told Lerma, "Bakit ngayon mo lang sinabi? I already gave my word. I (am) already committed. So I cannot withdraw anymore."

Why would Lerma ask Judge Siscar to withdraw her candidacy at the 2013 PJA Convention under the team of Judge Baybay? It bears note, at this juncture, that among the four (4) candidates for the 2013 PJA presidency,

Judge Baybay was the closest opponent of Judge Lee, judging from the results of the elections, as shown in the PJA Elections Final Tally Sheet. Moreover, former DCA Eugenio was closely identified with Lerma, and it was testified to by Judge Siscar (as Lerma was even at the retirement party of DCA Eugenio at the Century Park Hotel) that DCA Eugenio campaigned for Judge Lee. DCA Eugenio served for two terms as President of PJA (now PJA President-Emeritus) followed by Judge Demonteverde, then Judge Lee and the three of them belonged to the same group, as testified to by Judge Lee himself. As further testified to by Judge Lee, Judge Baybay's candidacy was openly supported by the opposing Sigma Rho block of now Justice Romeo F. Barza, who served as PJA President before DCA Eugenio. There also appears to be "bad blood" between DCA Eugenio and Judge Baybay. During a PJA board meeting in April 2013, presided by Judge Demonteverde, at the house of Judge Paras, Judge Baybay, as member of the PJA wanted to attend the same; however, at the moment DCA Eugenio saw Judge Baybay at the meeting, DCA Eugenio threw the financial report of Judge Sulit to Judge Baybay and a very angry DCA Eugenio shouted "Yan bat Yan ba ang hinahanap mo!"

M. Judge Tribiana's testimony is the most telling. He divulged that he checked in at Century Park Hotel at the start of the convention on 08 October 2013, and checked out at 12:00 o'clock on 10 October 2013. He categorically testified that he was not required to pay for his hotel room accommodation, although he was issued an official receipt (OR No. A117914). He wondered why he was not required to pay and he asked the hotel personnel who issued the receipt but they did not tell him why. His inquiry was, "Oh, why do I not have to pay" and the reply was "It's okay, sir" to which he retorted "But I need a receipt." Surprisingly, Judge Tribiana was given a receipt and yet, per his candid testimony, he did not pay. When asked by the Investigating Justice who sponsored his room accommodation, he testified that he no longer asked the hotel personnel because he was then eager to go home. He also does not know who reserved for him at the Century Park Hotel. Upon further inquiry, he narrated that when he arrived in the afternoon at the Century Park Hotel, he was informed by Judge Montero that he has an accommodation at the said hotel. He just saw Judge Montero, by chance, at the lobby of Century Park Hotel and Judge Montero told him, "I saw your name in the list." When probed further, he testified that he does not know the aforesaid "list" and that according to Judge Montero, if he (Tribiana) registers there, he would be accommodated because his name was included in the list. He likewise testified that he already told the Investigating Committee of the Supreme Court about his free hotel accommodation at the Century Park Hotel and the Committee even took the original copy of his official receipt.

When confronted about the said "list", Judge Lee testified that: he had no knowledge of the list of judges that was mentioned by Judge Tribiana because it was Judge Aquino who might have possibly prepared a list; and he denied knowledge of who were the judges included in the list prepared by Judge Aquino, in connection with the room bookings or reservations since he has not seen the list.

N. Although Gokian, who was one of Judge Lee's witnesses, testified that it is not true that somebody paid for the judges' hotel rooms for the convention, other than the judges themselves, her testimony cannot be relied upon. Gokian admitted that: she was not at the check-out counter when the judges were checking out and she does not know for fact that another person or some other persons paid for the hotel accommodations of judges; it was not her role to issue receipts; at the time of check in, she was not at the check-in counter; and she was not one of those who issued the receipts. Moreover, although Gokian testified that insofar as her knowledge is concerned, Lerma did not make any reservation for hotel room accommodations of judges, she flip-flopped and also testified that she does not know whether Lerma paid for any rooms or other expenses of the judges during the convention and election.[19] (Citations omitted.)

Investigating Court of Appeals Justice Leagogo further listed other possible administrative offenses committed by Judge Lee, thus:

1. Judge Lee violated Section 4(a) of the Supreme Court En Banc Resolution dated 03 May 2007. Several judges testified that they received the 2013 desk calendar and they saw the poster and tarpaulin (5 feet 3 inches by 2 feet 3 inches) of Judge Lee that violate Section 4(a) of the SC En Banc Resolution dated May 3, 2007

which categorically prohibits the preparation, use and distribution by candidates of other election campaign materials like posters, streamers, banners or prohibited propaganda matters. A calendar, poster and tarpaulin are not the same as a curriculum vitae, bio-data or flyer which are the only allowed election campaign materials under Section 4(a).

x x x x

2. It further appears that Judge Lee might have violated Section 5 of the Supreme Court En Banc Resolution dated 03 May 2007 [prohibition against the intervention by officials of the court and the Office of the Court Administrator] x x x

x x x x

Per the letter of inhibition dated 27 August 2014 of Justice Isaias P. Dicdican, the latter voluntarily inhibited himself from conducting the investigation of Judge Lee on the ground that - "x x x the said judge approached me sometime in September of last year and requested me to help him relative to his candidacy as President of the [PJA]. He requested me to campaign for him among the RTC judges in the Visayas whom I knew. xxx". However, when Judge Lee was queried on the matter by the Investigating Justice, he denied the same x x x.

When Court Administrator Marquez was asked, he testified that although he was not aware of any express rule prohibiting justices of the Court of Appeals to campaign for any of the judges, he thinks that they should inhibit themselves from being partial in favor of any particular PJA candidate. Court Administrator Marquez also thinks that a Justice of the Court of Appeals falls under Section 5 of the SC En Banc Resolution dated 03 May 2007.[20] (Citations omitted.)

As for the connection between Judge Lee and Arlene Lerma, Investigating Court of Appeals Justice Leagogo wrote the following observations:

The Investigating Justice finds the presence of Arlene Lerma in the judiciary disturbing. In the course of the further investigation conducted, several judges testified that Lerma, who is not a judge, is frequently seen attending events, meetings, conventions, elections, and parties of judges. It appears that she has a strong clout over judges. Lerma is supposedly connected with Manila Vice Mayor Isko Moreno.

x x x x

The Investigating Justice tried to unearth if there is any direct link between Judge Lee and Lerma but no evidence was found. Judge Lee testified that Lerma did not sponsor any of their activities or sorties. Justice Fider-Reyes also testified that she never saw Lerma with Judge Lee. Judge Siscar also testified that: she does not know if Judge Lee has any connection with Lerma or if he is being supported by Lerma in the 2013 convention and election; and she has not heard that Judge Lee was financially assisted by Lerma in any of his activities in PJA.

However, there are morsels of information from the judges and from Court Administrator Marquez, whose testimonies, after analysis, are quite revealing. The further investigation conducted showed that Judge Lee has friendly ties with now retired DCA Eugenio and Judge Demonteverde, who are both closely associated with Lerma. Judge Lee himself testified that DCA Eugenio and Judge Demonteverde, who are both former Presidents of the PJA, and he, belonged to the same group. Judge Demonteverde also testified that he and Judge Lee are very close friends. Judge Lee also testified that DCA Eugenio is his friend.

x x x x

What appears to the Investigating Justice, based on the testimonies she heard from the judges during the further investigation is that retired DCA Eugenio, who was a two-term PJA President and now PJA President-Emeritus, was the one who brought Lerma to the judges, more particularly in the PJA, and whose

presence in the conventions, meetings and events is perturbing. Furthermore, the presence of Lerma in the PWJA conventions, meetings and events is, to say the least, disquieting. However, whatever personal advantage or favors Lerma has curried from her propinquity and/or friendship with the judges, to the detriment of the administration of justice, were not established in the course of further investigation of Judge Lee in the above-captioned case.[21]

Investigating Court of Appeals Justice Leagogo's recommendations in the end read:

As discussed under the Evaluation (pages 56-61), the Investigating Justice found no evidence (cellular phones and mugs) and no substantial evidence (hotel room accommodations) that Judge Ralph S. Lee is guilty of probable violations under Section 4(a) and (d) of the Supreme Court Resolution dated 03 May 2007, as stated in the Summary of Findings of the Supreme Court's Investigating Committee created in A.M. No. 13-10-07-SC. However, while it was established in evidence that it was Judge Aquino who reserved 100 rooms at the Century Park Hotel for the accommodation of judges, the nagging suspicion as to how the same was paid is discussed on pages 61-66 hereof.

Nonetheless, it was also stated in the Evaluation that there were other possible violations (pages 66 to 75 hereof) under Sections 4(a) and 5 of the Supreme Court En Banc Resolution dated 03 May 2007, as quoted in OCA Circular Nos. 54-2007 and 120-2013 dated 21 May 2007 and dated 30 September 2013, respectively, committed by Judge Lee, which were uncovered by the Investigating Justice in the course of her further investigation.

These other possible violations were not included in Judge Lee's probable violations as enumerated in the Summary of Findings of the Supreme Court's Investigating Committee created in A.M. No. 13-10-07-SC. The said other possible violations were objected to by Judge Lee as "new matters or issues asked of and raised by the Investigating Justice which were not included in the Supreme Court Resolution dated July 22, 2014 and Court of Appeals Resolution dated September 12, 2014." At any rate, Judge Lee cannot complain of lack of due process as he was confronted with the same, and he even presented rebuttal evidence as shown in his 2[nd] Judicial Affidavit dated 23 October 2014 and testimony on 24 October 2014.

The other possible violations of Judge Lee (not found in the Summary of Findings of the Supreme Court's Investigating Committee) are, therefore, respectfully submitted for the consideration and disposition of the Supreme Court. The Investigating Justice refrains from making any recommendation on whether they constitute as serious administrative offense to be dealt with in accordance with Rule 140 of the Revised Rules of Court, as provided under Section 7 of the Supreme Court En Banc Resolution dated 03 May 2007 (Prescribing Guidelines on the Conduct of Election of Judge's Association). It bears emphasis that under the Supreme Court En Banc Resolution dated 22 July 2014 in A.M. No. 13-10-07-SC, what was referred for further investigation of Judge Lee, among other judges, was "x x x in relation to the findings of violations of our laws and rules in the conduct of elections of the Philippine Judge's Association officers." Said "findings of violations" are those probable violations found by the Supreme Court's Investigating Committee, and specifically enumerated in its Summary of Findings. To reiterate, the other possible violations found by the Investigating justice are not included in the said Summary of Findings.[22]

The Court agrees with the findings of Investigating Court of Appeals Justice Leagogo absolving Judge Lee of any administrative liability for (a) purportedly giving away cellular or mobile phones as raffle prizes, because there was no evidence at all to support such charge; (b) giving away mugs with his image and name, because said mugs were not distributed during the campaign period but only the day after the election and Judge Aquino's proclamation as the winning candidate for PJA President; and (c) reserving and paying for the hotel accommodations of the judges who attended the PJA Convention and election in 2013, because it was established that the reservations were made by Judge Aquino and not by Judge Lee and there was no proof that Judge Lee paid for any of the judges' hotel accommodations. The Court notes the suspicious circumstances surrounding the

payment of several judges' accommodations at Century Park Hotel for the 2013 PJA Convention, as recounted in detail by Investigating Court of Appeals Justice Leagogo in her Report, but the Court cannot act on mere suspicions. Administrative cases require that charges be supported by substantial evidence. Herein, there was nary evidence to link or attribute said suspicious circumstances to Judge Lee. Equally unsubstantiated by any proof was Judge Lee's connection or ties to Arlene Lerma. As Investigating Court of Appeals Justice Leagogo observed, it was DCA Eugenio who appeared to be familiar or friends with Arlene Lerma, the latter even attending the retirement party of the former. Although DCA Eugenio and Judge Lee were also close to one another and belonged to the same group in the PJA, it did not necessarily mean that Judge Lee had the same personal relations with Arlene Lerma as DCA Eugenio.

What is actually supported by substantial evidence on record is Judge Lee's violation of Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations, which provides:

Sec. 4. Prohibited acts and practices relative to elections. Judges' associations and their members, whether singly or collectively and whether or not a candidate for any elective office in the association, shall refrain, directly or indirectly, in any form or manner, by himself or through another person, from the following acts and practices relative to elections:

- Distributing and disseminating any election campaign material other than the curriculum vitae or the biodata of a candidate and flyers indicating the candidate's qualifications, plan of action, platform or other information on his vision and objectives for the association. No other election campaign material like posters, streamers, banners or other printed propaganda matters shall be prepared, used and distributed by candidates[.] (Emphasis supplied.)

Several witnesses, namely, Judge Arcega, Judge Fider-Reyes, Judge Baybay, Judge Siscar, Judge Reyes, Judge Cortez, and Court Administrator Marquez, testified during the hearings that they saw and/or received 2013 desk calendars, posters, and tarpaulins bearing the pictures, branch numbers, and positions of Judge Lee and the members of his team, and/or his team's slogan, "Team LEEdership for Progress."

The Court quotes with approval Investigating Court of Appeals Justice Leagogo's findings on the matter:

It bears serious note that when the aforesaid witnesses testified that they received or saw a calendar, poster or tarpaulin of Judge Lee, neither did Judge Lee nor his counsel raise any objection or manifest any correction as to the term used by the witnesses and by the Investigating Justice.

In his 2nd Judicial Affidavit on rebuttal, Judge Lee asserted that the aforesaid calendar, poster and tarpaulin are new matters or issues raised by the Investigating Justice.

It bears emphasis that during the hearing on 01 October 2014, when the Investigating Justice showed to Judge Lee's driver DelaPaz, the colored photograph of the calendar which came from the Supreme Court, Judge Lee manifested for the record that he is admitting the existence of the said calendar. At the end of the hearing on 01 October 2014, the Investigating Justice directed Judge Lee to bring all the materials that he distributed during the campaign such as the calendar, among other things. On the next hearing date on 03 October 2014, Judge Lee himself submitted to the Investigating Justice the calendar. Judge Lee also manifested that he started distributing the calendars as early as March 2013 when he decided to run. He further testified that: the calendar was distributed by each of the candidates or through executive judges or regional directors who were part of their team; Team Lee-Paras decided to contribute a minimum of Php10,000.00 each to defray the expenses for the calendars, flyers and other expenses in going around the country; his contribution for the calendars, and colored photocopying of the flyers and posters was Php20,000.00; the posters and colored flyers were printed in Sta. Mesa, Manila Printed Matter; they spent more or less Php40,000.00 for the calendars; and there were 1,000 calendars printed which were all distributed except for the one marked as Exhibit "4."

Dela Paz, Judge Lee's driver, also testified that: he distributed Judge Lee's calendars before the PJA Elections; a PJA staff (those who were seated at the secretariat or registration table of the PJA at the entrance of the Grand Ballroom of the Century Park Hotel) also told him to distribute the calendars; and in distributing the calendars, he was accompanied by two (2) male PJA staff.

According to Judge Lee, he and the other candidates were allowed to campaign and distribute campaign materials, such as the calendar, by Chancellor Azcuna. However, a scrutiny of the letter dated 17 June 2013 of Chancellor Adolfo S. Azcuna addressed to Judges Lilyha L. Abella-Aquino and Rommel O. Baybay does not show that Judge Lee and the other candidates were indeed allowed to distribute election campaign materials, such as the calendar. Said letter pertinently states that:

"Dear Your Honors:

This is in connection with your letters requesting for permission to allow the candidates of your respective parties to campaign among the Regional Trial Court Judges during seminars, training workshops and symposia conducted by the Philippine Judicial Academy.

x x x x

- Both parties are allowed to campaign during the following PHILJA trainings, programs and activities:

xxxx

- Both parties shall be given equal time to present their platforms and programs;

- Both parties are only allowed to campaign at the designated time, e.g. during socials or after the conduct of the training activity, or at such other time to be determined by the secretariat assigned in the particular program; and

- Gift-giving to participant-judges are prohibited. xxxx"

Moreover, it could be gleaned from the first paragraph of the aforementioned letter that what was requested by Judges Aquino and Baybay were only "to allow the candidates of (their) respective parties to campaign among the Regional Trial Court Judges during seminars, training workshops and symposia conducted by the Philippine Judicial Academy." (Underscoring supplied) In any event, contrary to the claim of Judge Lee, not even the PHILJA can authorize the distribution of prohibited election campaign materials in contravention of the Supreme Court En Banc Resolution dated 03 May 2007.

x x x x

With respect to the poster, it was Judge Lee's witness, Judge Cortez, who first mentioned about a "poster." When Judge Cortez was asked by the Investigating Justice as to what were the campaign materials distributed by Judge Lee or Team Lee in Quezon City, aside from bio-data and flyers, Judge Cortez answered "Well, I think we received flyers or posters." When asked further, Judge Cortez testified that the posters were "The same as what is depicted in the calendar, Ma'am."; and it was described by Judge Cortez as an enlarged version of the calendar and that the said poster was posted at the common bulletin board of the RTC of Makati City. Hence, the Investigating Justice was only alerted of the existence of the said posters in the course of the further investigation conducted, which was disclosed by Judge Lee's witness, Judge Cortez. The Investigating Justice cannot turn a blind eye as to what could possibly be a violation of Section 4(a) of the Supreme Court En Banc Resolution dated 03 May 2007, thus, she propounded further questions about the posters to Judge Cortez and the other witnesses. It was also due to this discovery that the Investigating Justice required Judge Lee to bring a copy of the poster mentioned by Judge Cortez and any other materials that he used when he campaigned for the 2013 PJA elections.

The existence of the posters can no longer be denied as it was Judge Lee himself who brought and submitted one

copy of the poster to the Investigating Justice on 03 October 2014. He also testified that: 1,000 copies of the posters were printed and distributed to various MTCs and RTCs all over the Philippines; some of the posters were sent to the provinces through LBC, or if the judges concerned were in Manila, they would get them from his office and bring the posters to their stations; and in his campaign sorties, he placed four [4] pieces of the posters at the back of (a vehicle's) windshield using a tape. Judge Lee also testified that he had a room at the Century Park Hotel where they placed the posters and some items for distribution.

x x x x

With respect to the tarpaulin, the same was only looked into by the Investigating Justice after Judge Lee testified that prior to the election day itself, he usually put the tarpaulins/banners wrapped at the back of a van or at the side of his moving Starex van. He further testified that: in the Visayas, instead of tarpaulins being attached to a vehicle, they bought a plastic stand where the tarpaulin could be mounted; after each campaign sortie, they rolled the said tarpaulin again and brought it to the next sortie such as in Mindanao; wherever they went, he brought the tarpaulins with him, mounted on a plastic stand, and the said tarpaulin is movable and detachable; in Metro Manila, the tarpaulins were tied on the van or vehicles; they produced more or less four (4) tarpaulins which are enlarged versions of Exhibit "7" for the two (2) cars; and they also have two (2) large tarpaulins mounted on a plastic stand for their campaign sorties in Visayas and Mindanao and they placed the same when they went around Southern Luzon going up north. On page 18 of his Memorandum, Judge Lee stated that the four (4) tarpaulins that he used were recycled and taken from venue to venue.

x x x x

In his 2nd Judicial Affidavit, Judge Lee reasoned out in A15 thereof that "We only used this movable tarpaulin in our quick trip to Iloilo and Aklan. We never hung this tarpaulin (2ft. x 4ft.). We thought of these paraphernalia or 'props' only to attain name recall, with no intention of violating guidelines on the use of poster or tarpaulins. But as can be observed, only photos, branch numbers and positions were reflected with no words 'vote for'. The same design and layout in the flyer was (sic) adopted and enlarged."

Regardless of his reasons for distributing calendars and using posters and tarpaulins as campaign election materials, Section 4(a) of the SC En Banc Resolution dated 03 May 2007 is clear that the only election campaign material that can be distributed and disseminated are the curriculum vitae or the biodata of the candidate and flyers indicating the candidate's qualifications, plan of action, platform or other information on his vision and objectives for the association. It was also expressly stated therein that no other campaign material like posters, streamers, banners or other printed propaganda matters shall be prepared, used and distributed by candidates.

x x x x

During the hearing on 20 October 2014, the Investigating Justice clarified from Judge Lee regarding the testimony of Judge Baybay that the 2013 PJA COMELEC allowed the use of tarpaulins, but subject to a certain size. Judge Lee answered that he authorized two (2) of his team members Judges Lyliha Aquino and Divina Pelino to attend the PJA COMELEC meeting and they reported to him that per agreement approved by the 2013 PJA COMELEC (composed of Justices Teresita Dy-Liacco Flores, Jane Aurora C. Lantion and Zenaida T. Galapate-Laguilles) the use of tarpaulins and streamers on the day and during the convention period was allowed. When asked to elucidate on the matter of whether the 2013 PJA COMELEC, more particularly Justices Flores, Lantion and Laguilles, were authorized by the Supreme Court to allow the use of tarpaulins and streamers for the PJA elections, Court Administrator Marquez testified that he is not aware of any authority granted by the Supreme Court to them neither were they authorized by the Office of the Court Administrator to allow the use of tarpaulins and streamers during the PJA Convention and Elections.

It bears to stress that, as aptly pointed out by Court Administrator Marquez, the 2013 PJA COMELEC comprising of Justices Flores, Lantion and Laguilles, does not have the authority to allow the use of such election campaign materials, like tarpaulins and streamers, which are prohibited under Section 4(a) of Supreme Court En Banc Resolution dated 03 May 2007.[23] (Citations omitted.)

It is irrelevant that Judge Lee's use and distribution of desk calendars, posters, and tarpaulins was not among the possible violations of the Guidelines on the Conduct of Elections of Judges' Associations and the New Code of Judicial Conduct committed by Judge Lee which were initially identified by the Ad Hoc Investigating Committee. Judge Lee's conduct in relation to the 2013 PJA elections was generally subject to further investigation by Investigating Court of Appeals Justice Leagogo. Judge Lee was well-aware that Investigating Court of Appeals Justice Leagogo was inquiring deeper into Judge Lee's use and distribution of the desk calendars, posters, and tarpaulins, which were mentioned for the first time by the witnesses during the hearings; and Judge Lee was undeniably afforded the opportunity to present evidence and argue against considering his use and distribution of such printed materials as an administrative infraction. Judge Lee cannot insist that he was denied due process. In administrative proceedings, technical rules of procedure and evidence are not strictly applied; administrative due process cannot be fully equated to due process in its strict judicial sense. The essence of administrative due process is simply an opportunity to be heard.[24]

Lastly, Section 5 of the Guidelines on the Conduct of Elections of Judges' Associations explicitly states that "[o]fficials of the courts under the Judiciary and the Office of the Court Administrator shall not, directly or indirectly, intervene in the elections of the judges' associations or engage in any partisan election activity." Judge Lee cannot be held liable for violation of said Section 5 for the prohibition therein does not apply to the candidate in the election, but pertains to officials of the courts and the OCA. Even if the Court was to assume that Judge Lee did approach Court of Appeals Justice Isaias P. Dicdican (Dicdican) for help in campaigning in Visayas, there was no showing that Judge Lee was able to prevail upon Court of Appeals Justice Dicdican and that Court of Appeals Justice Dicdican actually campaigned for Judge Lee for PJA President in the 2013 elections among the judges in Visayas.

JUDGE BAYBAY (A.M. No. RTJ-15-2415)

Investigating Court of Appeals Justice Garcia, in charge of the investigation of Judge Baybay, required the witnesses to submit judicial affidavits and appear personally during hearings, except for Court Administrator Marquez and DCA Villanueva, who averred that they had no personal knowledge of the probable violations of Judge Baybay.

Investigating Court of Appeals Justice Garcia summarized in his Report and Recommendation[25] the judicial affidavits and/or testimonies of the witnesses, including Judge Baybay himself, as follows:

In a Judicial Affidavit dated September 25, 2014, Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino stated that she attended the Annual Convention of the Philippine Women Judges Association (PWJA) held on March 6 to 8, 2013 at Palo, Leyte. She was surprised to see Judge Baybay there considering that the convention was exclusively for female judges and justices. Judge Baybay attended all three days of the convention. On the first day, he was seen during the opening program and again during the dinner which he spent going around the hall, talking to lady judges. He was also seen during the dinner socials on the second day of the convention. On the convention's last day, Judge Baybay approached Deputy Court Administrator Delorino and some lady judges from the Municipal Trial Courts of Leyte, who were conversing at the hotel lobby. One of the judges told Judge Baybay that they did not win any of the cellular phones that he had donated during the raffle, to which the latter replied that there was nothing he could do about that. Deputy Court Administrator Delorino was taken aback with the conversation considering that she knew that Judge

Baybay was running for president of the PJA and it was obvious to her that his presence and act of donating cellular phones for raffle were part of his campaign strategy.

During the hearing, Judge Baybay did not cross-examine Deputy Court Administrator Delorino. Upon clarificatory questioning by the Investigating Justice, Deputy Court Administrator Delorino expounded on her statement in her judicial affidavit that she received verbal reports of Judge Baybay sponsoring meals for local Regional Trial Court judges during his campaign sorties. Two or three months before the 2013 PJA elections, two judges reported to her that Judge Baybay visited them in Dumaguete with a Chinese-looking male named Edward Du of the Dumaguete Chinese Chamber of Commerce. The judges wondered what Mr. Du was doing with them during the lunch. Mr. Du stated that he was contacted by the Makati Chinese Chamber of Commerce to take care of the expenses for the lunch of Judge Baybay.

In a Judicial Affidavit dated September 26, 2014, Judge Yolanda Ubaldo-Dagandan narrated that she saw Judge Baybay attend the 2013 PWJA Convention in Palo, Leyte. Judge Baybay stood out during the convention because the other attendees of the event were exclusively females. Judge Baybay was also hopping from table to table, talking with female judges. During the convention, Judge Dagandan witnessed a raffle of cellular phones, and she had in fact won one. However, she did not know where the cellular phones came from. Sometime in September 2013, she was approached by Judge Crisologo Bitas of the Regional Trial Court, Branch 7, Tacloban City. Judge Bitas tried to convince her to vote for Judge Baybay as president in the 2013 PJA elections in exchange for free accommodations at The Pearl Manila Hotel and reimbursement of plane fare. Sometime in February 2013, she was travelling to Basey, Samar with Judge Evelyn Rifios-Lesigues to canvass giveaways for the PWJA Convention. Judge Lesigues handed her cellular phone to Judge Dagandan. When Judge Dagandan answered, Mr. Edison Chua introduced himself as a fraternity brother of Judge Rommel Baybay. Mr. Chua requested her to be the Region VIII point person or campaign manager in Region VIII of Judge Baybay as candidate for president of the PJA. In exchange, she will be given P50,000.00 to defray the expenses of the 2013 PWJA Convention. Judge Dagandan declined Mr. Chua's offer.

Upon clarificatory questioning by the Investigating Justice, Judge Dagandan claimed that Judge Bitas is the presiding judge of the Regional Trial Court, Branch 7, Tacloban City, wherein she is the assisting judge. One day, after their morning hearing, Judge Bitas approached the table she was occupying. He told her that if she votes for Judge Baybay, the latter would not only reimburse her plane ticket, he would also provide free accommodation at The Pearl Manila Hotel. She did not give him any categorical answer but simply listened to what he said.

On cross-examination, Judge Dagandan admitted that while she saw Judge Baybay during the 2013 PWJA Convention, it was only a few minutes before the hearing of the instant case on October 13, 2013 that the two of them first conversed and interacted.

In a Judicial Affidavit dated September 22, 2014, Judge Ma. Theresa V. Mendoza-Arcega recounted that sometime in January or February 2013, Judge Baybay went to her office in Malolos, Bulacan. They had the chance to talk about the forthcoming PWJA Convention which was to be held in March 2013. Judge Baybay offered to donate a refrigerator as a raffle prize of the event. However, considering the inconvenience of bringing a refrigerator unit in and out of Leyte where the 2013 PWJA Convention would be held, Judge Arcega suggested that Judge Baybay donate small items, such as cellular phones, to which the latter acceded. Thus, during the PWJA Convention, Judge Baybay handed five to six units of MyPhone or Cherry Mobile cellular phones to Judge Arcega. Before the raffle started, Judge Arcega simply placed the cellular phones on the table where the other raffie prizes were also displayed, without informing anyone of the donor/sponsor thereof. Judge Arcega further stated that she has no personal knowledge regarding Baybay's alleged offer of discounted hotel rooms in The Pearl Manila Hotel.

During the hearing, Judge Baybay opted not to cross-examine Judge Arcega. During the clarificatory questioning, Judge Arcega elucidated that she and Judge Baybay knew each other since 2003 when they were

both MTC Judges. The reason why Judge Baybay went to her office in Malolos, Bulacan sometime in January or February 2013 was to ask her if she wanted to run as a PJA officer under his ticket, which she declined. When their convention turned to the upcoming 2013 PWJA Convention, Judge Baybay volunteered to donate a refrigerator to be raffled during the event. The suggestion that he instead donate cellular phones came from her. Judge Baybay gave her around five cellular phones on the day of the raffle itself, which value she estimated was around P700.00 to P800.00 each.

In a Judicial Affidavit dated September 25, 2014, Judge Josefina E. Siscar narrated that she attended the 2013 PWJA Convention on March 6 to 8, 2013 where she witnessed a raffle that included cellular phones. She, however, has no knowledge as to who donated the said cellular phones. While she knew that certain judges stayed at The Pearl Manila Hotel during the 2013 PJA elections on October 8 to 10, 2013, she has no knowledge of any arrangement and simply assumed that they paid for their respective accommodations. She was not privy to the campaign strategies of Judge Baybay. During the hearing, Judge Baybay did not anymore propound questions to Judge Siscar. Upon clarificatory questioning, she recalled that there were more than six cellular phones that were raffled. The raffle prizes also included shawls that cost around P400.00 each, three to four perfumes worth P1,500.00 each; and eight to ten makeup kits branded L'Oreal, each valued at P600.00 to P700.00. The cellular phones were among the last items to be raffled and were considered as major prizes.

In a Judicial Affidavit dated September 22, 2014, Judge Cristina F. Javalera-Sulit stated that she has no personal knowledge with regard to the probable violations of Judge Baybay. On February 14, 2013, she received a tickler or a mini notebook. Its cover bears the phrase, "Say Hello to Baybay." It was a Valentine's Day gift from Judge Baybay. A month later, Judge Sulit learned that other judges who attended the 2013 PWJA Convention received the same tickler from Judge Baybay. On cross-examination, Judge Sulit admitted that the tickler she received was a mere Valentine's Day gift considering that it cannot sway votes towards Judge Baybay. Additionally, all the lady judges in Makati RTC received the same gift. The tickler cannot be considered prohibited campaign materials under A.M. no. 07-4-17-SC. When asked clarificatory questions, Judge Sulit described the tickler given out by Judge Baybay as around four to five inches in length and three to four inches in width. It has around 20 pages, bound together at the side with glue. Its cover was white, glossy, and harder than the pages inside. Judge Sulit estimated that the value of the tickler was approximately P30.00 given that it was personalized. Furthermore, Judge Sulit testified she is the incumbent treasurer of the PJA, a position she holds since 2011. As an officer of the PJA, she can confirm that in disseminating information about upcoming PJA conventions, it is standard operating procedure for the PJA secretary-general to attach the brochures and rates of hotels near the convention venue in order to give attending judges a choice of accommodations. The rates as appearing in the brochures are the hotel's normal rates. The PJA officers do not make any special arrangements or ask discounts from the hotels which brochures they attach to the program. She also cannot recall if the brochure of The Pearl Manila Hotel was attached to the invitation and program for the 2013 PJA elections.

In a Judicial Affidavit dated September 29, 2014, Atty. Paulo E. Campos, Jr., General Manager of The Pearl Manila Hotel, attested that Judge Baybay reserved 28 rooms at The Pearl Manila Hotel for the period of October 7 to 10, 2013. Considering the large booking, the group of Judge Baybay was given a twenty-five percent (25%) discount on the base rate of P3,500.00 per superior room, or the total amount of P2,635.00 per room for a single night.

In an Order dated October 13, 2014, Atty. Campos, Jr. was directed to submit a written report x x x

x x x x

In a Compliance dated October 17, 2014, Atty. Campos reported that of the 28 rooms booked by Judge Baybay, eight were booked for two nights; 16 were booked for three nights; while four were booked for four nights. All the bookings were superior rooms priced at P2,625.00 per night. While some judges checked-out individually or as a group, all rooms were paid for in cash and Official Receipts issued in the individual names

of the guests.

During the hearing on October 20, 2014, Atty. Campos added that he and Judge Baybay are fraternity brothers. Judge Baybay knew Atty. Campos ran The Pearl Manila Hotel considering that several meetings of their fraternity were held thereat. A month or two before the 2013 PJA elections, Judge Baybay approached Atty. Campos, asking if some judges could check-in at The Pearl Manila Hotel at a discounted rate. Considering that October was not a peak season for the hotel business, Atty. Campos agreed to give Judge Baybay's group a twenty-five percent (25%) discount on the superior room, or at the rate of P2,625.00 per night. Atty. Campos also pointed out that it is customary for the hotel to give discounts to large groups. During the cross-examination, Atty. Campos clarified that while it was Judge Baybay who approached and asked for a discount, the rooms were "sold" to the individual judges who registered and stayed therein. On clarificatory questions, Atty. Campos claimed that a superior room can accommodate two guests, but only a single name per room is required for registration. It was thus possible that two judges bunked together in a single room while only one registered. Atty. Campos would then be unable to provide the names of all judges who were actually billeted at the hotel. Moreover, he confirmed that Judge Baybay was among those who billeted himself at The Pearl Manila Hotel for the period of October 7 to 9, 2013.

Upon order of the Investigating Justice, Atty. Campos brought seven booklets of Official Receipts issued by The Pearl Manila Hotel for the period of September 25, 2013 to October 15, 2013. The booklets were labeled OR No. 4 all the way to OR No. 10, inclusive. Each booklet contains 50 duplicate copies of official receipts since the originals thereof have been given to the payees. The last page of each booklet is an Authority to Print from the Bureau of Internal Revenue (BIR), showing that each booklet was printed with permission from the said agency.

It must be noted that the transactions covered by booklet OR No. 8 started with receipts dated October 10, 2013 and ended on October 13, 2013. Booklet OR No.9 was a continuation of the previous booklet, with a transaction that was dated October 14, 2013 while the last seven ORs therein were all dated October 17, 2013. Booklet OR No. 10 is a continuation of the transactions from October 17, 2013, as shown by the first two receipts therein. However, there was an insertion thereafter of a receipt antedated October 7, 2013, or ten days prior. It was issued to Judge Lorenzo Balo for P-22,400.00 as payment for a banquet held in celebration of his birthday. The next 28 receipts that followed were likewise antedated and only issued on October 17, 2013 for the judges who checked-out on either October 10, 2013 or October 11, 2013. Thereafter, the next four ORs were once again dated October 17, 2013. Booklet OR No. 10 ended with a transaction dated October 19, 2013.

When the Investigating Justice asked Atty. Campos to explain the discrepancy in the sequence of the receipts in OR No. 10, Atty. Campos failed to immediately tender a reply. Instead, he requested to be given two days within which to investigate and to confer with the hotel's cashiers in order to reconcile the insertion of the ORs issued to the RTC judges.

In Compliance dated October 23, 2014, Atty. Campos admitted that the receipts issued to the judges who stayed at The Pearl Manila Hotel for the period of October 7 to 10, 2013 were antedated and issued only on October 17, 2013. This was necessitated by the overpayment made by Judge Balo during a banquet on October 11, 2013 for the amount of P59,428.00. Instead of refunding the excess payment at once, it was agreed that the banquet charges would be reviewed and reconciled first and the excess payment, if any, would just be credited to the final room charges for the judges from Mindanao. Atty. Campos, however, did not shed light on how much was the excess payment of Judge Balo, when it was discovered, or to whom the alleged excess payment was credited.

It must also be noted that the 28 ORs show that 34 judges actually checked-in at The Pearl Manila Hotel during the period in question. This is because while 22 receipts bore the name of only a single judge, the other six receipts were issued in the names of two judges.

x x x x

In a Judicial Affidavit dated September 22, 2014, Judge Evelyn P. Riños-Lesigues alleged that she has no personal knowledge regarding the probable violations of Judge Rommel Baybay. During the hearing, Judge Lesigues denied the version of Judge Dagandan that sometime in February 2013, Judge Lesigues handed her cellular phone to Judge Dagandan so that the latter may talk with Mr. Edison Chua. Judge Lesigues, in fact, denied travelling to Basey, Samar sometime in February 2013, much less travelling with Judge Dagandan, who was not in good terms with her.

In a Judicial Affidavit dated September 19, 2014, Mr. Edison Y. Chua disclaimed any knowledge of the probable violations of Judge Rommel Baybay. During the hearing, Judge Baybay did not conduct any cross-examination on Mr. Chua. When asked clarificatory questions by the Investigating Justice, Mr. Chua denied Judge Yolanda Ubaldo-Dagandan's statement that they talked via cellular phone wherein he offered P50,000.00 in exchange for Judge Dagandan acting as the Region VIII point person for Judge Baybay's election campaign. While he admitted that Judge Baybay is his fraternity brother, he denied helping him in the latter's bid for the PJA presidency.

In a Judicial Affidavit dated September 22, 2014, Judge Ralph S. Lee denied any knowledge regarding the probable violations of Judge Baybay in the conduct of the 2013 PJA elections except for receiving secondhand information that Judge Baybay donated cellular phones as raffle prizes in the 2013 PWJA Convention and offered free and/or discounted hotel rooms in order to promote his candidacy. He went on further to state that Judge Baybay circulated three letters, which Judge Lee described as poisonous, to RTC judges nationwide maligning the previous and present PJA administrations. The letters were followed by news items written by Louie Logarta of the The Daily Tribune and Jarius Bondoc of The Philippine Star, which articles eventually led to the investigations regarding an alleged fixer in the judiciary who goes by the name Ma'am Arlene.

During the cross-examination, Judge Lee clarified that the letters written by Judge Baybay were not addressed to him, but to the two previous PJA presidents as well as to all PJA members. What were addressed to Judge Lee were the letters that were mailed to the RTC judges nationwide containing newspaper clippings and blogs regarding him and Ma'am Arlene. Unfortunately, Judge Lee cannot say with certainty who mailed the same considering that some of the letters were posted from Marikina City while others were posted from Malabon City. On clarificatory questioning, Judge Lee stated that it has been the practice of the PJA national officers, specifically the secretary-general, to inform judges not only of the details of upcoming PJA conventions, but also of alternative hotels and accommodations. This is usually done by attaching hotel flyers or brochures with the rates to the invitation and program of the convention. The same procedure was adopted in the 2013 PJA elections wherein the secretary-general attached brochures for hotels within a five- kilometer radius from the venue of the said convention. Judge Lee, however, cannot say with certainty whether the brochure of The Pearl Manila Hotel was attached to the 2013 PJA elections invitation and program sent to the RTC judges nationwide.

In a Judicial Affidavit dated September 22, 2014, Judge Felix P. Reyes admitted that he has no personal knowledge on the probable violations of Judge Baybay in the conduct of the 2013 PJA elections, except for receiving reports that the latter donated cellular phones for raffle in an event attended by RTC judges and that the latter offered free hotel accommodations in exchange for votes. During the hearing, Judge Baybay did not cross-examine Judge Reyes.

While not included in the list of resource persons and/or possible witness, the Investigating Justice ordered Mr. Andrew Tan, Owner-Upper Management of Resorts World Manila, and/or his duly authorized representative in charge of hotel reservations and bookings, to submit a judicial affidavit relative to their comment and whatever personal knowledge they may have on the Investigating Committee's finding that Judge Baybay reserved rooms in Resorts World Manila for purposes of securing votes for the 2013 PJA elections. They were further directed to include in their judicial affidavits the number of judges who checked-in, if any; the rate per day; and the discounts availed of, if any, at their respective hotels for the period of October 7 to 10, 2013.

In a Judicial Affidavit dated September 19, 2014, Mr. Stephen James Reilly, in behalf of Mr. Andrew Tan, attested that he is the Chief Operating Officer of Travellers International Hotel Group, Inc., the owner of the three hotels that are currently operating within the premises of Resorts World Manila. Further, there is no booking under the name "Rommel Baybay" for the period of October 7 to 10, 2013. However, the hotels' computer database does not bear any salutation or title such as "Judge." Consequently, it cannot be ascertained if any judge checked in at the three hotels during the same time period.

In an Order dated September 26, 2014, Mr. Reilly was given an official list of RTC judges for his reference. In a Supplemental Judicial Affidavit dated October 2, 2014, Mr. Reilly attested that based on the records of the three hotels of Resorts World Manila, there were no bookings, reservations, or payments made under any of the names in the Official List of RTC Judges for the period of October 7 to 10, 2013. During the hearing, Mr. Reilly reaffirmed his declaration that based on the database of the three hotels attached to Resorts World Manila, none of the names enumerated in the Official List of RTC Judges was billeted thereat for the period of October 7 to 10, 2013.

For his defense, in two Judicial Affidavits dated October 9 and 14, 2014, Judge Rommel Baybay denied violating Section 4(a) of A.M. No. 07-4-17-SC. While he admitted that he donated cellular phones for raffle in the 2013 PWJA Convention, he maintained that the provision only prohibits the dissemination of election campaign materials in the form of printed propaganda such as posters, streamers, or banners. The cellular phones which he donated were the low-end brands which cost only about the price of a large cake, which was an appropriate donation for a joyous occasion. He also did not stay for the raffle; nor did he know if it was announced that the raffled phones came from him. He admitted that he attended the 2013 PWJA Convention in March of 2013 wherein he introduced himself to the judges. However, he pointed out that the PWJA Convention was attended not only by the RTC judges, but MTC judges as well, who are not voters in the PJA Elections. He did not discriminate between the two sets of judges. He was also careful not to ask anybody to vote for him.

Judge Rommel Baybay also admitted that he asked The Pearl Manila Hotel for discounted room rates, but he claimed that he did so for the benefit of all PJA members. He denied providing, free of charge, transportation or accommodations to hotels or lodging places for the purpose of inducing or influencing members to vote for him for the 2013 PJA elections, in violation of Section 4(d) of A.M. No. 07-4-17-SC.

On the witness stand, Judge Baybay admitted that he was present during the 2013 PWJA Convention to drop off his donation of five to six cellular phones. Since each phone costs only about P800.00 each, he opined that they were reasonable tokens given in the spirit of merrymaking. He did not attach any condition in donating the cellular phones, nor did he require that the judges be informed that he was the donor thereof. He also stated that he was embarrassed to attend the 2013 PWJA Convention because he did not pay the convention fee, so he simply gave the cellular phones for raffle and immediately left afterward. Judge Baybay also admitted that he booked a room at The Pearl Manila Hotel during the 2013 PJA elections but he did not use it because he was billeted at Century Park Hotel, the venue of the convention. He only felt obliged to get a room at The Pearl Manila Hotel because he was the one who asked for a discount from Atty. Campos. However, Judge Baybay insisted that the discount was given not by virtue of the occupants being judges, but because of the number of rooms booked. He also denied that he offered discounted hotel rooms in exchange for support in the 2013 PJA elections, much less offer free hotel accommodation, free registration fee, pocket money, and allowance. He also admitted giving ticklers with the phrase "Say Hello to Baybay" as Valentine's day gift to female Makati RTC judges and to some judges who attended the 2013 PWJA convention. Around 100 ticklers were given to him for free by the printer who made his election flyers. A similar tickler may be bought from bookstores for P12.75. It is inconceivable that the tickler could entice RTC judges to vote for him during the 2013 PJA elections.

Investigating Court of Appeals Justice Garcia concluded that there was sufficient, clear, and convincing evidence to adjudge Judge Baybay guilty of violating (1) Section 4 (a) of the Guidelines on the Conduct of Elections of

Judges' Associations in relation to his donation of cellular phones for raffle during the 2013 PWJA Convention; and (2) Section 4(d) of the same Guidelines in relation to the billeting of judges at The Pearl Manila Hotel for the period of October 8 to 10, 2013. For said violations, Investigating Court of Appeals Justice Garcia recommended that Judge Baybay be penalized with suspension of six months from office without salary and other benefits during the same period.

The Court fully adopts the following factual findings and legal conclusions of investigating Court of Appeals Justice Garcia on the violation of Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations by Judge Baybay:

The first issue to be discussed is Judge Baybay's violation of Section 4(a) of A.M. No. 07-4-17-SC which proscribes the distribution and dissemination of election campaign materials other than the candidates' biodata and flyers. x x x

x x x x

The donation of cellular phones by itself is not per se a violation of the guidelines on the conduct of elections for judges' associations. However, the incidents that surrounded the donation reveal that the intention of Judge Baybay in doing so was to further his presidential bid, in violation of Section 4(a) of A.M. No. 07-4-17-SC.

Moreover, Judge Baybay originally wanted to donate a refrigerator, a much more expensive and ostentatious item than cellular phones. Also, instead of simply handing off to any lady judge who would attend the convention, Judge Baybay opted to go to Palo, Leyte to personally deliver the donated items and he did so moments before the raffle itself. It cannot be denied that he was seen, and his presence noted, by the attendees of the event as he was the only male present. While the donors of the prizes raffled were not announced, there were some judges who knew that Judge Baybay donated cellular phones as his sole purpose for being in the venue was ostensibly to deliver the items. He also did not simply drop off the phones and left. He stayed during the program, table-hopping and introducing himself to the judges present. As a matter of fact, even if he, admittedly, had no business being in the 2013 PWJA Convention, he was seen during all three (3) days of the convention. Indubitably, Judge Baybay used the donation of the cellular phones for his campaign.

Additionally, the donated cellular phones were either branded MyPhone or Cherry Mobile, but the exact model and cost of each were not established. Judge Baybay described them as low-end models, costing around P800.00 each. Per the cellular phone brochures obtained by the Investigating Justice, the prices of cellular phones of the said brands range from P499.99 and may be as expensive as P12,999.00. Whatever their actual cost, the cellular phones were considered major prizes, and were among the last items to be raffled. These demonstrate that the donated cellular phones, even if they were the cheapest brand and model, were of value.

There is no merit in Judge Baybay's argument that the donation of cellular phones did not violate Section 4(a) of A.M. No. 07-4-17-SC because the provision only prohibits the use of printed propaganda such as posters, streamers, or banners. Suffice it to state that the provision, if read in its entirety, plainly and without interpretation, clearly limits the use of campaign materials to biodata and flyers. While the guidelines have expressly disallowed even mere posters which are less expensive per unit cost, what more with cellular phones which are undoubtedly many times more expensive. As such, the use and distribution of any other materials, such as cellular phones, would be proscribed. This is in keeping with the intention of the Supreme Court to keep the amount of campaigning and electioneering within reasonable limits.

In any case, Judge Baybay as a magistrate is expected not only to act with propriety, but to avoid even the appearance of impropriety in his campaign for the PJA presidency. He did not shed off his status as a judge simply because he was outside the courtroom. A judge of law must comport himself at all times in such manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public. Consequently, he should have known that his act of donating cellular phones for raffle during a time when he

was running for presidency for a judges' association, and then personally delivering the items to the venue let alone being the sole male present, would violate the guidelines on the conduct of elections of judges' associations.[26]

As for Section 4 (d) of the Guidelines on the Conduct of Elections of Judges' Associations, Investigating Court of Appeals Justice Garcia ruled that Judge Baybay. violated the same based on circumstantial evidence, viz.:

Judge Baybay violated Section 4(d) of A.M. No., 07-4-17-SC which prohibits providing or giving free of charge, accommodations at hotels to any member of the Judges' association for the purpose of inducing or influencing the said member to vote for a candidate at an election to be conducted. x x x

x x x x

When a judge offers free hotel rooms to other judges in exchange for votes in an election of officers for a judges' association, the only parties privy thereto are the sponsor and the beneficiaries. For obvious reasons, the judge who offered free accommodations would not divulge said prohibited practice. Neither could the judges who availed of this privilege be expected to expose his clandestine scheme as to do so would give the impression that they availed of the accommodation in exchange for their votes, not to mention the fear of exposing themselves to sanctions. It is also difficult for a colleague to testify against another colleague for the sake of camaraderie. This underhanded strategy can also be covered up where there is connivance between the sponsor and the hotel management. All that the latter has to do is to issue individual receipts to the beneficiaries. The difficulty in obtaining direct evidence, however, does not mean that the guilty party can get away with impunity. In such an instance, circumstantial evidence may be resorted to when to insist on direct testimony would ultimately lead to the unwarranted dismissal of a case.

Circumstantial evidence may be characterized as that evidence that proves a fact or series of facts from which the facts in issue may be established by inference. It has been held that circumstantial evidence is sufficient if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a fair and reasonable conclusion pointing to the guilt of the person charged.

Here, while there is no direct evidence to pin down Judge Baybay, the circumstances in this case, taken together, indubitably establish that he indeed offered free hotel rooms in his bid for the PJA presidency.

First, Judge Dagandan, in a Judicial Affidavit dated September 26, 2014 and on the witness stand, testified that Judge Crisologo Bitas approached her sometime before the 2013 PJA elections and told her that if she will vote for Judge Baybay as PJA president, she would get free hotel accommodation at The Pearl Manila Hotel. In fact, the record shows that Judge Bitas is among those who were billeted at The Pearl Manila Hotel from October 7 to 10, 2013.

Second, Judge Baybay admitted that he approached his fraternity brother Atty. Campos to ask for a discount at The Pearl Manila Hotel in favor of judges attending the 2013 PJA elections. Judge Baybay knew that Atty. Campos runs a hotel in Manila because several meetings of their fraternity were held there.

Third, Judge Baybay did not disseminate the information or coordinate with the PJA regarding the alleged discount offered by The Pearl Manila Hotel. Instead, the discount was extended only to the group of Judge Baybay. This belies Judge Baybay's claim that his purpose in negotiating for the discount was to benefit all the judges attending the elections. Had Judge Baybay informed the PJA secretary-general or the convention secretariat, a brochure of the hotel with the discounted rates should have been attached to the convention's invitation and program. However, Judge Baybay himself admitted that he could not recall if a brochure of The Pearl Manila Hotel was attached to the invitation for the 2013 PJA elections.

Fourth, it is clear that none of the judges who were billeted at The Pearl Manila Hotel actually paid for their hotel room accommodations upon their check-out on October 10 or 11, 2013. The best evidence of payment

should have been the receipts simultaneously issued therefor. However, it was only on October 17, 2013 that the individual receipts were issued but antedated October 10 or 11, 2013. This fact is demonstrated by the two receipts immediately before and the five receipts immediately after the ORs for the judges, which were all dated October 17, 2013 for payments made by other customers and guests of the hotel. In other words, the receipts for the judges were just inserted in between the October 17, 2013 transactions of the hotel.

Fifth, the attempt of Atty. Campos to explain the insertion and antedating of the ORs issued to judges is incredible. He claimed that the receipts were not immediately issued because the hotel still had to credit to the judges' room billings the overpayment made by Judge Balo during a banquet held on October 7, 2013 which was evidenced by a receipt for P59,428.00. However, this is unnatural and contrary to the normal course of business for it would have been much easier and less complicated to simply return the alleged overpayment to Judge Balo at the time of its discovery. Moreover, Atty. Campos only made sweeping generalizations and did not present any itemized billing to show the specific amount of excess payment. He was likewise silent with regard to the date when it was discovered, or to whom the alleged excess payment was credited. Worse, the alleged overpayment was contradicted by OR No. 92203 issued on October 17, 2013 but antedated October 11, 2013 evidencing that Judge Balo paid an additional P22,400.00 for a banquet.

Sixth, the insertion and antedating of the ORs for the judges issued on October 17, 2013 coincided with the Supreme Court Resolution dated October 17, 2013, resolving to docket the investigation regarding the allegations of a certain "fixer" in the judiciary who goes by the name "Ma'am Arlene" and her role in the allegations of corruption in the judiciary.

Seventh, it is highly inconceivable that all twenty-eight (28) rooms occupied by judges were paid in cash, without a single payment made through a credit card. This is at most odd and strange. During this modern day and age, it is common business practice to pay an account by way of a credit card for the obvious reasons of convenience and security, not to mention the promotional points earned therefrom. Even if some judges have to liquidate the financial assistance extended by their local government units, all they need is the official receipt for their expenses, and this official receipt is necessarily issued whether they pay in cash or by credit card.

The foregoing pieces of circumstantial evidence, when analyzed and taken together, definitely lead to no other conclusion than that Judge Baybay offered free hotel accommodations in exchange for votes in the 2013 PJA elections. To reiterate, direct evidence is not the sole basis from which a conclusion and finding of guilt may be drawn from. Instead, the rules on evidence allow courts to rely on circumstantial evidence to support its conclusion of guilt.[27]

For the Court, Judge Baybay violated Section 4(d) of the Guidelines on the Conduct of Elections of Judges' Associations when he offered room accommodations at The Pearl Manila with a 25% discount on the room rates to select judges who were attending the 2013 PJA Convention and voting at the election. Indeed, the Guidelines prohibit the candidate from providing "free room accommodations" to the judges, which in its plain or ordinary sense means that the room accommodations would have entirely been without charge; Yet, a 25% discount from the regular rate of the hotel room accommodation still constitutes a significant reduction of the amount payable by the judges who availed of the same, and in fact, the 25% discount can be deemed as a free portion of the room rate. In addition, as Investigating Court of Appeals Justice Garcia observed, Judge Baybay approached Atty. Campos, a fraternity brother and the General Manager of The Pearl Manila, to arrange the 25% discount on room accommodations at the said hotel; and that the discounted room accommodations were offered and enjoyed only by select judges identified with Judge Baybay's group and were not promoted through the PJA Secretariat for all judges attending the convention and election. These facts taken together reveal Judge Baybay's clear intention to personally extend to the judges the favor of discounted room accommodations at The Pearl Manila so he could secure said judges' vote in his favor as candidate for PJA President in the elections.

The Court though is not ready to jump to the conclusion that Judge Baybay entirely paid for the room accommodations of the judges who stayed at The Pearl Manila for the 2013 PJA election. The Court notes the dubious circumstances surrounding the payment of the judges' room accommodations (i.e., the antedated receipts, off-setting of Judge Balo's overpayment for a banquet, cash payments for all 28 rooms, and the timing of the preparation of the antedated receipts), similar to the suspicious circumstances observed by Investigating Court of Appeals Justice Leagogo in her report on Judge Lee. As in Judge Lee's case, the Court similarly rules herein that in the absence of substantial evidence to link or attribute the questionable circumstances to Judge Baybay, then there is no basis for the Court to hold Judge Baybay administratively accountable for the same.

At the root of the irregularity in the payment of the judges' accommodations at The Pearl Manila was the alleged overpayment by Judge Balo for a banquet, which was merely offset against the payments due from the judges for their room accommodations. However, the connection or relationship between Judge Baybay and Judge Balo was not established. Judge Balo was not subpoenaed as a witness during the investigation so that he could be questioned on his purported overpayment to The Pearl Manila. Also, none of the judges who availed of the discounted room accommodations at The Pearl Manila and were issued antedated receipts were accorded the chance to explain their payments for the said accommodations. The Court reiterates that it cannot make a ruling largely based on suspicions and inferences.

JUDGE RUBIA (A.M. No. RTJ-15-2416)

Judge Rubia was the Presiding Judge of RTC-Biñan, Laguna, Branch 24, when he ran as a candidate for Executive Vice-President of the PJA in the 2013 PJA elections. While the reports on Ma'am Arlene were pending investigation, Judge Rubia was dismissed from the service on June 10, 2014 for gross misconduct and conduct unbecoming a judge as he violated Canons 2, 3, and 4 of the New Code of Judicial Conduct in relation to three cases pending before his sala.[28]

By Investigating Court of Appeals Justice Barza 's determination, there was sufficient evidence that Judge Rubia violated Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations. Investigating Court of Appeals Justice Barza wrote in his Report on Investigation and Recommendation[29] that:

From the totality of the evidence adduced and after a judicious evaluation and scrutiny thereof, the undersigned investigating justice has come up with a finding that the respondent judge committed a violation of OCA Circular No. 54-2007 or the Guidelines on the Conduct of Election of Judges' Associations.

For the violation pertaining to Section 4(a) on prohibited acts, on prohibition on distributing or disseminating campaign materials other than flyers and curricula vitae, the undersigned investigating justice finds the evidence submitted by the witnesses to have substantially proven the infraction of respondent Judge Rubia. The investigating justice had been provided with copies of photographs of the said campaign kit, which contained 1) a cap bearing the patch of the seal of the PJA in front, and on the back side of which was embroidered the phrase "UNITY = STRENGTH Judge Mar E. Rubia for EVP", and the inside flap thereof also bearing the embroidered phrase "Judge Mar E. Rubia for EVP"; and 2) collared shirt with the patch of the seal of the PJA on the upper left portion of the front shirt, with the phrase "UNITY= STRENGTH Judge Mar E. Rubia for EVP" embroidered on the right sleeve thereof. Judge Rubia distributed these prior to the PJA election and during the PJA convention.

The Judicial Affidavits submitted to the undersigned investigating Justice of Judges Reyes and Nolasco, in compliance with the investigating justice's order dated 16 September 2014, alleged that "giveaways" consisting of a small bag, cap and t-shirt bearing Judge Rubia's name and printed materials were received by their respective courts during the campaign period preceding the October 2013 PJA Election.

The existence of the said kit as well as the allegation that the same had been distributed before the election and

during the PJA convention was confirmed by DCA Delorino, Judges Reyes, Nolasco and Florendo during the hearing on 21 October 2014.

Judge Reyes admitted having received, through her staff in the RTC in the City of San Fernando, Pampanga, on September 5, 2013, "giveaways" consisting of a T-shirt, cap and printed materials from Judge Rubia. She also received the same giveaways in her court in Manila. Without giving much importance to the said giveaways, Judge Reyes gave the said giveaways away to whoever was interested. Having received the same, however, gave her the impression that the kit and all its contents were campaign materials. She voted in the PJA elections held in October 2013, where Judge Rubia lost.

Judge Nolasco also admitted having received on October 2013 the same items, one of which bore Judge Rubia's name. She turned over these items to the SC Investigating Committee on January 23, 2014, when she was invited to be a resource person regarding the 2013 PJA Elections, particularly the alleged involvement of a certain "Ma'am Arlene" as well as the election protest of Judge Rubia who ran for Executive Vice-President of the PJA, but lost.

As for the allegation that free hotel accommodation was provided by Judge Rubia to the judges at the convention, Judge Nolasco confirmed that she had been informed that the same was being provided by Judge Rubia, but she politely declined the offer.

Judge Florendo also complied with the above order of the investigating justice and submitted her Judicial Affidavit stating therein that she was given flyers and calendar of Judge Rubia by Heritage Hotel Personnel at the said hotel when she checked in for the PJA Convention in October 2013. Her hotel accommodation was paid by the Provincial Government of Nueva Ecija.

In her Judicial Affidavit, DCA Delorino, as directed by the SC Investigating Committee, obtained three (3) sets of the said campaign kits distributed by Judge Rubia to members of the PJA in his bid in the said elections. These were personally obtained from courts in Pasay City, Dumaguete City and Malolos City, and had them presented to the SC investigating committee. She was also able to secure a letter from Judge Rubia addressed to the Clerk of Court, RTC Dumaguete City, Negros Occidental, requesting that the campaign kits which Judge Rubia sent by mail, be distributed to all the judges thereat.

During the hearing on 21 October 2014, DCA Delorino also submitted to the investigating justice, a letter dated 17 September 2013 addressed to Judge Evelyn G. Nery, RTC-Branch 19, Cagayan De Oro City, Misamis Oriental, wherein respondent Judge Rubia stated that he is sending a kit (containing a cap, t-shirt, letter and endorsement from the Rotary Club of Makati Southwest) to Judge Nery, which the latter might opt to bring and use during the 2013 PJA Convention.

As can be gleaned from the evidence thus gathered, Judge Rubia committed a violation of the Election Guidelines by intentionally distributing or disseminating campaign materials other than flyers and curricula vitae to the PJA electorate in the 2013 PJA Elections. There is no arguing that the said kit and all its contents exceeded the campaign materials allowed to be distributed as set forth in the Election Guidelines.

Corollarily, and in agreement with the Summary of Findings of the SC Investigating Committee, the said actions of Judge Rubia amount to a violation of the New Code of Judicial Conduct, x x x

x x x x

Although the above violation of Judge Rubia does not pertain to the performance of his official functions, it is mandated that his conduct shall be above reproach in all activities. A judge's private life cannot be dissociated from his public life and it is, thus, important that his behavior both on and off the bench be free from any appearance of impropriety. As has been held, a judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also his everyday life should be beyond reproach.

x x x x

Judge Rubia's actions, however, exceeded or violated the parameters set forth in the above Election Guidelines, quite-telling of his blatant disregard of the rules of the very association of which he aspired to lead.

x x x x

Anent Section 4 (d) on prohibited acts, such as providing free transportation or free hotel accommodations to members of judges' association, and Section 4(h) on prohibited acts, such as the use of court personnel in the distribution of campaign materials and paraphernalia, the undersigned finds the evidence gathered and presented as insufficient to prove that Justice Rubia violated the same.

Investigating Court of Appeals Justice Barza considered Judge Rubia's violation of Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations his gross misconduct, punishable by dismissal from service. However, since Judge Rubia was already dismissed from service, Investigating Court of Appeals Justice Barza recommended instead that Judge Rubia be ordered to pay a fine of more than P20,000.00 but not exceeding P40,000.00.

As Investigating Court of Appeals Justice Barza found, substantial evidence supports the charge that Judge Rubia violated Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations by distributing campaign materials other than his curriculum vitae or biodata and acceptable flyers. It is undisputed that Judge Rubia distributed to different RTCs around the country campaign kits, each consisting of a small bag; a cap and a t-shirt bearing the seal of the PJA, Judge Barza's name and the position he was running for, i.e., "for EVP," and his campaign slogan of "UNITY= STRENGTH"; and printed materials, including a letter of endorsement from the Rotary Club.

III

PENALTIES IMPOSED

The rulings of the Court on the charges against the four judges are summarized as follows:

- (a) Judge Aquino failed to maintain the appearance of propriety in booking room accommodations for judges for the 2013 PJA Convention and election even when she was running for re-election as PJA Secretary-General;
- (b) Judge Lee is guilty of violating Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations for his use and distribution of prohibited campaign materials such as desk calendars, posters, and tarpaulins;
- (c) Judge Baybay is guilty of violating Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations for giving away cellphones as raffle prizes at the 2013 PWJA Convention during the campaign period which were deemed prohibited campaign materials, as well as Section 4 (d) of the same Guidelines for providing hotel room accommodations with 25% discount to select judges during the 2013 PJA Convention and election; and
- (d) Judge Rubia is guilty of violating Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations for distributing prohibited campaign materials, particularly, campaign kits consisting of a bag, cap, t-shirt, and printed materials.

The Guidelines on the Conduct of Elections of Judges' Associations itself provides, under Section 7 thereof, for the liability for noncompliance with any of its provisions, thus:

Sec. 7. Liability for Non-compliance with the Guidelines.- Failure by any member of the judges' association to observe or comply with the provisions of this Resolution shall constitute a serious administrative offense and

shall be dealt with in accordance with Rule 140 of the Revised Rules of Court. Court officials and personnel who violate provisions of the Resolution shall be administratively liable and proceeded against in conformity with existing Supreme Court and Civil Service rules and regulations. (Emphasis supplied.)

Rule 140 of the Rules of Court classifies administrative charges as serious, less serious, or light and enumerates the appropriate sanctions for each. For serious charge or offense, Section 11 of Rule 140 prescribes the following sanctions:

Sec. 11. Sanctions. - A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
3. A fine of more than P20,000:00 but not exceeding P40,000.00.

When the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered as aggravating circumstances.[30]

Given the foregoing, the Court deems it appropriate to impose upon Judge Lee and Judge Rubia the penalty of a fine in the amount of P21,000.00 each for their respective violations of Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations; and upon Judge Baybay the penalty of a fine in the amount of P30,000.00 for his violations of Sections 4(a) and 4(d) of the same Guidelines.

IV

FINAL WORDS

With this Decision, the Court hopes to impress upon the judges the strict standards of conduct of their office. Section 1, Canon 4 of the New Code of Judicial Conduct enjoins judges to "avoid impropriety and the appearance of impropriety in all of their activities." A judge's behavior, not only while in the performance of official duties but also outside the court, must be beyond reproach.[31] While all judges are required to hold themselves to the strictest standards of conduct, it is only reasonable to expect more of those who seek elective office in judges' associations as they can best lead by example.

The events surrounding the 2013 PJA elections were indeed unfortunate and disappointing, but hopefully, these will no longer be repeated in the future with the faithful adherence by judges not just to the plain language, but also to the spirit of the Guidelines for the Conduct of Elections of Judges' Associations.

The Guidelines were approved by the Court in a Resolution dated May 3, 2007 in A.M. No. 07-17-17-SC in recognition that "aspects of the elections of judges' associations have the capacity to affect adversely the public perception of the judges' professional and personal behavior"; and that "there is need to structure the elections of these judges' associations along lines that would depoliticize this important activity and redirect efforts towards acceptable and non-partisan interests[.]" There was a need for the Guidelines to "ensure that the different judges' associations would prudently manage as well as undertake honest, simple, clean, transparent and orderly elections of their officers"; and "to keep the amount of campaigning and electioneering within reasonable limits and to assist in the maintenance of a spirit of collegiality and essential fairness in such elections[.]"

The Guidelines had been disseminated to the judges through OCA Circular No. 54-2007 dated May 21, 2007, and again through OCA Circular No. 120-13 dated September 30, 2013 with a reminder for the judges to strictly comply with the provisions thereof on the elections of officers of their respective judges' associations.

The Court also lauds the election reforms undertaken by the PJA, upon the advice of Court Administrator Marquez, among which is the holding of the election of its officers apart from its annual convention and the use of an automated voting system.[32] The PJA National Officers and Directors, in a meeting held in September 2015, issued a Board Resolution adopting the automated system of election and setting the election date to December 3, 2015, and had accordingly amended the By-Laws of the PJA.

The Court writes *finis* to these cases with the following reminder to judges from *In re: Solicitation of Donations* by Judge Benjamin H Virrey[33]:

A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges. A judge must avoid all impropriety and the appearance thereof. Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.

A magistrate must comport himself at all times in such a manner that his conduct, official and otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice. x x x The office of a judge exists for one solemn end - to promote justice and thus aid in securing the contentment and happiness of the people. A judge, so it has often been said, is like Caesar's wife, and like her, he must be above suspicion and beyond reproach. x x x. (Citations omitted.)

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In A.M. No. RTJ-15-2413 - OFFICE OF THE COURT ADMINISTRATOR v. JUDGE LYLIHA AQUINO, REGIONAL TRIAL COURT OF MANILA, BRANCH 24, Judge Lyliha A. Aquino is ADMONISHED to be more circumspect in her actions so as to maintain propriety and the appearance of propriety in her judicial as well as non-judicial activities;
2. In A.M. No. RTJ-15-2414 - OFFICE OF THE COURT ADMINISTRATOR v. JUDGE RALPH LEE, REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 83, Judge Ralph S. Lee is found GUILTY of violating Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations and is ORDERED to pay a FINE of Twenty-One Thousand Pesos (P21,000.00)
3. In A.M. No. RTJ-15-2415 - OFFICE OF THE COURT ADMINISTRATOR v. JUDGE ROMMEL BAYBAY, REGIONAL TRIAL COURT OF MAKATI CITY, BRANCH 132, Judge Rommel O. Baybay is found GUILTY of violating Sections 4(a) and 4(d) of the Guideline on the Conduct of Elections of Judges' Associations and ORDERED to pay a FINE of Thirty Thousand Pesos (P30,000.00); and
2. In A.M. No. RTJ-15-2416 - OFFICE OF THE COURT ADMINISTRATOR v. JUDGE MARINO RUBIA, REGIONAL TRIAL COURT OF Biñan, LAGUNA, BRANCH 24, Judge E. Rubia is found GUILTY of violating Section 4(a) of the Guidelines on the Conduct of Elections of Judges' Associations and is ORDERED to pay a FINE of Twenty-One Thousand Pesos (P21,000.00).

SO ORDERED.

Leonardo-De Castro, C.J., Carpio, Peralta, Bersamin, Del Castillo, Perlas-Bernabe, Leonen, Tijam, and Gesmundo, JJ., concur.

Jardeleza, J., on official leave.
Caguioa, J., on official business leave.
Reyes, J, Jr., J., no part.

[*] On official leave .

[**] On official business leave.

[***] On leave.

[****] No part.

[1] <https://newsinfo.inquirer.net/496619/godino-vs-godino>, last date visited September 24,2018.

[2] <https://bandera.inquirer.net/32339/mr-godino-vs-mrs-godino>, last date visited September 24, 2018.

[3] Now Associate Justice of this Court.

[4] Entitled, Re: Creation of an Investigating Committee re: the report of Mr. Jarius Bondoc of the Philippine Star that a certain "Ma'am Arlene" influences the Judiciary as well as investigators and prosecutors of the Department of Justice and the Office of the Ombudsman.

[5] CA rollo, pp. 8-13.

[6] Now Associate Justice of this Court.

[7] Retired on November 13, 2012.

[8] Specifically, Investigating CA Justice Reyes cited:

CANON 4

Propriety

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

Sec. 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

Sec. 2. As a subject of constant public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, judges shall conduct themselves in a way that is consistent with the dignity of the judicial office.

[9] Investigating CA Justice Reyes referred to the following provisions:

CANON 1

Independence

Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

x x x x

Sec. 4. Judges shall not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.

xxxx

Sec. 8. Judges shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.

[10] The particular provisions applied by Investigating CA Justice Reyes are as follows:

CANON2

Integrity

Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges.

Sec. 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

Sec. 2. The behaviour and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

Sec. 3. Judges should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may have become aware.

[11] Rollo of A.M. No. RTC-15-2413.

[12] Id.

[13] *Tuvillo v. Laron*, A.M. Nos. MTJ-1 0-1755 and MTJ-10-1756, October 18, 2016, citing *Re: Letter of Judge Augustus Diaz*, 560 Phil. 1, 4-5 (2007).

[14] 606 Phil. 615, 636-639 (2009).

[15] *Jimenez, Jr. v. People*, 743 Phil. 468,493 (2014).

[16] *Villamor, Jr. v. Manalastas*, 764 Phil. 456,475-476 (2015).

[17] Now Associate Justice of the Sandiganbayan.

[18] CA rollo, pp. 316-320.

[19] Id. at 320-325.

[20] Id. at 325-334.

[21] Id. at 334-339.

[22] Id. at 340-342.

[23] Id. at 326-332.

[24] *Avancena v. Liwanag*, 454 Phil. 20, 24 (2003).

[25] Rollo of A.M. No. RTJ-15-2415.

[26] Id.

[27] Id.

[28] *Sison-Barias v. Rubia*, 736 Phil. 81 (2014).

[29] Rollo of A.M. No. RTJ-15-2416.

[30] Section 50, Rule 10 of the Revised Rules on Administrative Cases in the Civil Service.

[31] *Beltran v. Rafer*, 504 Phil. 536, 541 (2005).

[32] "History of Philippine Judges Association," <https://www.pja.ph/about.php>, last date visited September 24, 2018.

[33] 279 Phil. 688, 694-695 (1991).

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