

**IN RE: SUPREME COURT RESOLUTION DATED 28 APRIL 2003 IN G.R. NOS. 145817 AND 145822***A.C. No. 6332. April 17, 2012*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-6332/>**PER CURIAM:****Factual Background**

This administrative case originated when respondent Atty. Magdaleno M. Peña filed an Urgent Motion to Inhibit and to Resolve Respondent's Urgent Omnibus Motion dated 30 January 2003[1] (the subject Motion to Inhibit) in two consolidated petitions involving respondent that were pending before the Court.[2] This motion is directed against the then ponente of the consolidated petitions, Justice Antonio T. Carpio, and reads in part:

PRIVATE RESPONDENT MAGDALENO M. PEÑA, pro se, respectfully states:

1. Despite all the obstacles respondent has had to hurdle in his quest for justice against Urban Bank and its officials, he has remained steadfast in his belief that ultimately, he will be vindicated and the wrongdoers will get their just deserts [sic]. What respondent is about to relate however has, with all due respect, shaken his faith in the highest Court of the land. If an anomaly as atrocious as this can happen even in the august halls of the Supreme Court, one can only wonder if there is still any hope for our justice system.
2. Private respondent wishes to make clear that he is not making a sweeping accusation against all the members of this Honorable Court. He cannot however remain tight-lipped in the face of the overwhelming evidence that has come to his knowledge regarding the actuation of the ponente of this Honorable Division.
3. In the evening of 19 November 2002, private respondent received a call from the counsel for petitioners, Atty. Manuel R. Singson (through his cell phone number 09189137383) who very excitedly bragged that they had been able to secure an order from this Honorable Court suspending the redemption period and the consolidation of ownership over the Urban Bank properties sold during the execution sale. Private respondent was aghast because by then, more than two weeks had lapsed since the redemption period on the various properties had expired. At that juncture in fact, Certificates of Final Sale had already been issued to the purchasers of the properties. The only step that had to be accomplished was the ministerial act of issuance of new titles in favor of the purchasers.
4. Private respondent composed himself and tried to recall if there was any pending incident with this Honorable Court regarding the suspension of the redemption period but he could not remember any. In an effort to hide his discomfort, respondent teased Atty. Singson about bribing the ponente to get such an order. Much to his surprise, Atty. Singson did not even bother to deny and in fact explained that they obviously had to exert extra effort because they could not afford to lose the properties involved (consisting mainly of almost all the units in the Urban Bank Plaza in Makati City) as it might again cause the bank (now Export Industry Bank) to close down.
5. Since private respondent himself had not received a copy of the order that Atty. Singson was talking about, he asked Atty. Singson to fax him the "advance" copy that they had received. The faxed "advance" copy that Atty. Singson provided him bore the fax number and name of Atty. Singson's law office. A copy thereof is hereto attached as Annex "A".

6. Private respondent could not believe what he read. It appeared that a supposed Motion for Clarification was filed by petitioners through Atty. Singson dated 6 August 2002, but he was never furnished a copy thereof. He asked a messenger to immediately secure a copy of the motion and thereafter confirmed that he was not furnished a copy. His supposed copy as indicated in the last page of the motion was sent to the Abello Concepcion Regala and Cruz (ACCRA) Law Offices. ACCRA, however, was never respondent's counsel and was in fact the counsel of some of the petitioners. Respondent's copy, in other words, was sent to his opponents.

7. The Motion for Clarification was thus resolved without even giving respondent an opportunity to comment on the same. In contrast, respondent's Motion for Reconsideration of the Resolution dated 19 November 2001 had been pending for almost a year and yet petitioners' motions for extension to file comment thereon [were] being granted left and right.

8. In view of these circumstances, private respondent filed on 10 December 2002, an Urgent Omnibus Motion (to Expunge Motion for Clarification and Recall of the 13 November 2002 Resolution). He filed a Supplement to the said motion on 20 December 2002.

9. While private respondent was waiting for petitioners to respond to his motion, he received sometime last week two documents that confirmed his worst fears. The two documents indicate that this Honorable Court has not actually granted petitioners' Motion for Clarification. They indicate that the supposed 13 November 2002 Resolution of this Honorable Court which Atty. Singson had bragged about WAS A FALSIFIED DOCUMENT!

10. What private respondent anonymously received were two copies of the official Agenda of the First Division of this Honorable Court for 13 November 2002, the date when the questioned Resolution was supposedly issued. In both copies (apparently secured from the office of two different members of the Division, one of which is the copy of the ponente himself), it is clearly indicated that the members of the Division had agreed that petitioners' Motion for Clarification and Urgent Motion to Resolve were merely NOTED and NOT GRANTED contrary to what was stated in the 13 November 2002 Resolution. This makes the 13 November 2002 Resolution (at least the version that was released to the parties) a falsified document because it makes it appear that a Resolution was issued by the First Division granting petitioners' Motion for Clarification when in fact no such Resolution exists. The real Resolution arrived at by the First Division which can be gleaned from the Agenda merely NOTED said motion. Copies of the two Agenda are hereto attached as Annexes "B" and "C."

11. At this point, private respondent could not help but conclude that this anomaly was confirmatory of what Atty. Singson was bragging to him about. The clear and undeniable fact is the Honorable members of this Division agreed that petitioners' Motion for Clarification would only be NOTED but the ponente responsible for the 13 November 2002 Resolution misrepresented that the same was GRANTED.

12. Respondent is not just speculating here. He is CERTAIN that the ponente has a special interest in this case. Recently, he also found out that the ponente made a special request to bring this case along with him when he transferred from the Third Division to the First Division. Respondent has a copy of the Resolution of this Honorable Court granting such request (hereto attached as Annex "D"). Indeed, this circumstance, considered with all the foregoing circumstance, ineluctably demonstrates that a major anomaly has occurred here.

13. In view of these, private respondent is compelled to move for the inhibition of the ponente from this case. This matter should be thoroughly investigated and respondent is now carefully considering his legal options for redress. It has taken him seven years to seek vindication of his rights against petitioners, he is not about to relent at this point. In the meantime, he can longer expect a fair and impartial resolution of this case if the ponente does not inhibit himself.

14. This Honorable Court has time and again emphasized the importance of impartiality and the appearance of

impartiality on the part of judges and justices. The ponente will do well to heed such pronouncements.

15. Finally, it has now become incumbent upon this Honorable Court to clarify its real position on the 19 November 2001 Resolution. It is most respectfully submitted that in order to obviate any further confusion on the matter, respondent's Urgent Omnibus Motion dated 09 December 2002 (as well as the Supplement dated 19 November 2002) should be resolved and this Honorable Court should confirm that the stay order contained in the 19 November 2001 Resolution does not cover properties already sold on execution. xxx (Emphasis supplied; citations omitted.)

In support of his claims to inhibit the ponente, Atty. Peña attached to the subject Motion to Inhibit two copies of the official Agenda for 13 November 2002 of the First Division of this Court, which he claimed to have anonymously received through the mail.[3] He also attached a copy of the Court's internal Resolution regarding the transfer of the case from the Third Division to the First Division, upon the request of Justice Carpio, to establish the latter's alleged special interest in the case.[4]

In response, the Court issued a resolution on 17 February 2003 to require Atty. Peña and Atty. Manuel R. Singson, counsel of Urban Bank in the consolidated petitions, to appear before the Court on 03 March 2003 for an Executive Session.[5]

The reason for the required appearance of the two lawyers in the Executive Session is explained in the Court's Resolution dated 03 March 2003.[6] It states:

The executive session started at 10:20 a.m. Chief Justice Hilario G. Davide, Jr. formally opened the executive session and then requested Associate Justice Jose C. Vitug to act as chair. Justice Vitug stated that the executive session was called because the Court is perturbed by some statements made by respondent Atty. Magdaleno Peña involving strictly confidential matters which are purely internal to the Court and which the latter cites as grounds in his "Urgent Motion to Inhibit and to Resolve Respondent's Urgent Omnibus Motion."

Respondent/movant Atty. Magdaleno Peña and counsel for petitioner Atty. Manuel R. Singson attended the session.

The matters under inquiry were how respondent was able to obtain copies of the documents he used as annexes in his motion to inhibit, and whether the annexes are authentic.

The court also clarified that these matters were to be taken as entirely different and apart from the merits of the main case.

Justice Vitug called the attention of respondent to the three (3) annexes attached to the motion to inhibit, Annexes "B", "C" and "D," questioned how the latter was able to secure copies of such documents which are confidential to the Court and for the sole use of the Office of the Clerk of Court, First Division and the Justices concerned.

Annex "B" is alleged to be a photocopy of the supplemental agenda of the First Division for November 13, 2002 (pages 61-62), with an entry in handwriting reading "10 AC" on the left side and what appear to be marginal notes on the right side of both pages. Annex "C" is alleged to be a photocopy of the same supplemental agenda of the First Division for November 13, 2002, with marginal notes on the right side of pages 61-62. Annex "D" appears to be a photocopy of the resolution dated September 4, 2002 of the Third Division transferring the instant case to the First Division (an internal resolution).

Atty. Peña was made to understand that all his statements taken during this executive session were deemed under oath. Atty. Peña acceded thereto.

Atty. Peña was asked whether he knows any personnel of the Court who could possibly be the source. Atty.

Peña replied in the negative and added that he obtained those documents contained in the annexes through ordinary mail addressed at his residence in Pulupandan, Negros Occidental, sometime in the second or third week of January 2003; but failed to give the exact date of his receipt. He said Annexes “B” and “C” were contained in one envelope while Annex “D” was mailed in a separate envelope. He did not bring the envelopes but promised the Court he would do his best to locate them. On questions by the Chief Justice, Atty. Peña admitted that the envelopes may no longer be found. He was unable to respond to the observation of the Chief Justice that the Court would be in no position to know whether the envelopes he would later produce would be the same envelopes he allegedly received. Atty. Peña further admitted that his office did not stamp “Received” on the envelopes and the contents thereof; neither did he have them recorded in a log book.

When asked by the Chief Justice why he relied on those annexes as grounds for his motion to inhibit when the same were coursed only through ordinary mail under unusual circumstances and that respondent did not even bother to take note of the postal marks nor record the same in a log book, Atty. Peña answered that he was 100% certain that those documents are authentic and he assumed that they came from Manila because the Supreme Court is in Manila.

At this juncture, Atty. Peña was reminded that since he assured the authenticity of Annexes “B”, “C” and “D”, he should be willing to accept all the consequences if it turns out that there are no such copies in the Supreme Court or if said annexes turn out to be forged. Atty. Peña manifested that he was willing to accept the consequences.

When further asked by the Court whether he had seen the original that made him conclude that those photocopies are authentic, he replied in the negative, but he believed that they are official documents of the Court inasmuch as he also received a copy of another resolution issued by the Court when the same was faxed to him by Atty. Singson, counsel for petitioner.

Atty. Peña expressed his disappointment upon receiving the resolution because he was not even furnished with a copy of petitioner’s motion for clarification, which was resolved. He found out that his copy was addressed to Abello Concepcion Regala and Cruz Law Offices, which was never respondent’s counsel and was in fact the counsel of some of the petitioners.

He also expressed misgivings on the fact that the motion for clarification was acted upon even without comment from him, and he admitted that under said circumstances, he made imputation of bribery as a joke.

As to the statement of the Chief Justice making it of record that Justice Carpio and Justice Azcuna denied that Annex “B” is their copy of pp. 61 and 62 of the agenda, Justice Carpio also said that per verification, Annex “B” is not Justice Santiago’s copy. Thus, Justice Carpio added that Annex “B” does not belong to any of the Justices of the First Division. It was also pointed out that each of the Justices have their respective copies of the agenda and make their own notations thereon. The official actions of the Court are contained in the duly approved minutes and resolutions of the Court.

Meanwhile, Justice Vitug called the attention of both Atty. Peña and Atty. Singson to paragraphs 3 and 4 of respondent’s “Urgent Motion to Inhibit and to Resolve Respondent’s Urgent Omnibus Motion, which contain the following allegations: “(Atty. Singson) very excitedly bragged that they had been able to secure an order from this Honorable Court suspending the redemption period and the consolidation of ownership over the Urban Bank properties sold during the execution sale. Private respondent was aghast because by then, more than two weeks had lapsed since the redemption period on the various properties had expired. In an effort to hide his discomfort, respondent (Atty. Peña) teased Atty. Singson about bribing the ponente to get such an order. Much to his surprise, Atty. Singson did not even bother to deny and in fact explained that they obviously had to exert extra effort because they could not afford to lose the properties involved.”

For his part, Atty. Singson admitted that he faxed a copy of the resolution dated November 13, 2002 to Atty. Peña and expressed his belief that there was nothing wrong with it, as the resolution was officially released and

received by his office. He explained that his staff merely copied the parties in the resolution of February 13, 2002 when the motion for clarification was prepared. Hence, the respondent was inadvertently not sent a copy.

Atty. Singson further denied the allegations made in paragraphs 3 and 4 of the motion to inhibit, reasoning that all he said was about the suspension of the redemption period which was the subject of the motion for clarification. Atty. Singson branded as false the allegation of Atty. Peña that he, Atty. Singson, resorted to bribery in order that the suspension of the redemption period would be granted.

On questions by the Chief Justice, Atty. Peña admitted that he was only joking to Atty. Singson when on the cellular phone he intimated that Justice Carpio could have been bribed because he has a new Mercedes Benz. When pressed many times to answer categorically whether Atty. Singson told him that Justice Carpio was bribed, Atty. Peña could not make any candid or forthright answer. He was evasive.

After further deliberation whereby Atty. Peña consistently replied that his only source of the documents in the annexes is the regular mail, the Court Resolved to require Atty. Magdaleno Peña within fifteen (15) days from today to SHOW CAUSE why he should not be held in contempt and be subjected to disciplinary action as a lawyer if he will not be able to satisfactorily explain to Court why he made gratuitous allegations and imputations against the Court and some of its members that tend to cast doubt or aspersion on their integrity.

Atty. Manuel Singson was also required to submit within fifteen (15) days from today his response to the allegations of Atty. Peña, particularly those in paragraphs 3, 4 and 6 of respondent's motion to inhibit.

The Court excused Attys. Peña and Singson from the executive session at 11:35 a.m. and resumed its regular session on the agenda.

In connection with the pleadings filed in these cases, the Court Resolves to GRANT the motion by counsel for petitioner praying that intervenor-movant Unimega Properties' Holdings Corp. be directed to furnish aforesaid counsel with a copy of the motion for reconsideration and intervention and that they be granted an additional period of ten (10) days within which to file comment thereon and require said intervenor-movant to SUBMIT proof of such service within five (5) days from notice.

The manifestation and comment of petitioners in G.R. No. 145882, Benjamin de Leon, et al., on the motion for reconsideration with intervention by Unimega Property Holdings Corp. is NOTED. (Emphasis supplied)

**Atty. Peña duly submitted his Compliance with the Court's Order, where he stated that:[7]**

PRIVATE RESPONDENT MAGDALENO M. PEÑA, pro se, respectfully submits the following explanation in compliance with the Resolution of this Honorable Court dated 3 March 2003:

1. This Honorable Court in its 3 March 2003 Resolution required respondent to show cause why he should not be held in contempt and be subjected to disciplinary action as a result of the allegations he made in his "Urgent Motion to Inhibit and to Resolve Respondent's Urgent Omnibus Motion" dated 30 January 2003. As this Honorable Court stated during the 3 March 2003 hearing, the members of the Court were "perturbed" by some statements respondent made in the motion.
2. At the outset, respondent wishes to apologize for the distress his statements may have caused the members of this Honorable Court. While such distress may have been the unavoidable consequence of his motion to inhibit the ponente, it was certainly not his intended result.
3. In the course of the discussion during the 3 March 2003 hearing, it appeared that this Honorable Court was most concerned with how respondent was able to secure Annexes "B" and "C" of his motion (referring to the two copies of the Supplemental Agenda of the First Division for 13 November 2002) and why respondent used those documents as basis for his Urgent Motion to Inhibit.
4. Respondent had explained that he received the two annexes by ordinary mail at his residence in Brgy. Ubay,

Pulupandan, Negros Occidental sometime during the second week of January. The sender of the document was unknown to respondent because there was no return address. Despite efforts to locate the envelope in which these documents came, he was unable to do so.

5. Respondent has no record keeper or secretary at his residence. Since he is often in Manila on business, it is usually the househelp who gets to receive the mail. While he had given instructions to be very careful in the handling of documents which arrive by registered mail, the envelopes for Annexes “A” and “B” may have been misplaced or disposed by the househelp because it did not bear the stamp “registered mail.”

6. When respondent read the documents, he had absolutely no reason to doubt their authenticity. For why would anyone bother or go to the extent of manufacturing documents for the benefit of someone who does not even know him? The documents contained a detailed list of the incidents deliberated by this Honorable Court on 13 November 2002. Definitely, not just anyone could have access to such information. Moreover, respondent subsequently received another mail from apparently the same sender, this time containing a pink copy of this Honorable Court’s 4 September 2002 Resolution (Annex “D”, Urgent Motion to Inhibit) transferring this case from the Third Division to the First Division. The receipt of this last document somehow confirmed to respondent that whoever sent him the copies of the Supplemental Agenda really had access to the records of this Honorable Court.

7. Respondent wishes to reiterate that the main basis of his motion to inhibit was the information relayed to him by Atty. Singson during their telephone conversation on 19 November 2002. As stated in respondent’s Urgent Motion to Inhibit, while Atty. Singson did not categorically claim that they had bribed the ponente to secure the 13 November 2002 resolution, however, he made no denial when respondent, in order to obtain information, half-seriously remarked that this was the reason why the ponente had a brand new car. Atty. Singson retorted that obviously, they had to take extra-ordinary measures to prevent the consolidation of ownership of the properties sold as the bank may again close down. Indeed, one would normally be indignant upon being accused of bribery but Atty. Singson even chuckled and instead justified their “extra-ordinary” efforts.

8. Respondent very well knew that mere suspicion was not enough. An implied admission of bribery on the part of Atty. Singson, sans evidence, may not have been sufficient basis for a motion to inhibit. However, respondent did not have to look far for evidence. Atty. Singson in not denying the allegation of bribery is considered an admission by silence, under Section 32 of Rule 130 of the Rules of Court. Further, Atty. Singson faxed to him the “advance copy” of the 13 November 2002 Resolution. To respondent, that was solid evidence and in fact to this day, Atty. Singson fails to explain exactly when, from whom, and how he was able to secure said advance copy. The records of this Honorable Court disclosed that Atty. Singson’s official copy of the 13 November 2002 Resolution was sent to him by registered mail only on 20 November 2002 (a copy of the daily mailing report is hereto attached as Annex “A”). Why then was he able to fax a copy to respondent on 19 November 2002 or a day before the resolution was released for mailing?

9. Despite all these, respondent hesitated to file a motion to inhibit. He only finally decided to proceed when he received the copies of the Supplemental Agenda. To emphasize, the Supplemental Agenda merely confirmed what Atty. Singson had earlier told him. Contrary to the apparent impression of this Honorable Court, respondent’s motion is not primarily anchored on anonymously received documents but on the word of petitioner’s counsel himself. The copies of the Supplemental Agenda are merely corroborative (albeit extremely convincing) evidence.

10. Indeed, any conscientious lawyer who comes into possession of the information relayed by Atty. Singson and the copies of the Supplemental Agenda would bring them to the attention of this Honorable Court. In doing so, respondent was compelled by a sense of duty to inform this Honorable Court of any apparent irregularity that has come to his knowledge. It was not done out of spite but a deep sense of respect.

11. In all honesty, respondent had been advised by well-meaning friends to publicize the incident and take

legal action against the parties involved. Instead, respondent decided that a motion to inhibit before this Honorable Court was the most appropriate channel to ventilate his concerns. Respondent is not out to cast aspersions on anybody, most especially members of this Honorable Court. He had to file the Urgent Motion to Inhibit because he sincerely believed, and still firmly believes, that he could not get impartial justice if the ponente did not recuse himself.

12. Respondent sincerely regrets that documents considered confidential by this Honorable Court leaked out and assures this Honorable Court that he had absolutely no hand in securing them. Respondent just found himself in a position where he had to come out with those documents because his opponent was crude enough to brag that their “extra-ordinary” efforts to secure a stay order from a certain ponente had bore fruit. Respondent has devoted at least seven years of his life to this cause. He almost lost his life and was nearly driven to penury fighting this battle. Certainly, he cannot be expected to simply raise his hands in surrender.

13. At this point, respondent is just relieved that it was confirmed during the 3 March 2003 hearing that Annex “C” of his Urgent Motion to Inhibit is a faithful reproduction/“replica” of the relevant portions of the Supplemental Agenda (TSN dated 3 March 2003, pp. 72-73 and 81) on record with the first Division. With this, respondent rests his case. [8] (Emphasis supplied)

On the other hand, Atty. Singson, as part of his Compliance and Affidavit dated 28 July 2003,[9] categorically denied having bragged to Atty. Peña and that he did not employ “extra efforts” to obtain a favorable suspension order from the Court.[10]

After considering and evaluating the submissions made by the two lawyers, the Court ordered that a formal investigation be undertaken by the Office of the Bar Confidant (OBC) on the actions of Atty. Peña.[11] The Court’s Resolution dated 28 April 2003 in the consolidated petitions, which is the subject matter of this separate administrative case, reads:

On January 30, 2003, respondent Magdaleno M. Peña filed an Urgent Motion to Inhibit the ponente of the instant case. Respondent Peña attached to his Urgent Motion Annex “B”, a copy of pp. 61-62 of the First Division’s Agenda of 13 November 2002. Respondent Peña claimed that Annex “B” bears the recommended actions, in handwritten notations, of a member of the Court (First Division) on Item No. 175 of the Agenda. Item No. 175(f) refers to the Urgent Motion for Clarification filed by petitioner on 7 August 2002. The purported handwritten notation on Annex “B” for Item No. 175 (f) is “N”, or to simply note the motion. However, the Court issued a Resolution on 13 November 2002 granting the Urgent Motion for Clarification. In his Urgent Motion to Inhibit, respondent Peña claimed that the Resolution of 13 November 2002 was forged because the recommended and approved action of the Court was to simply note, and not to approve, the Urgent Motion for Clarification.

Thus, respondent Peña stated in his Urgent motion to Inhibit:

“9. While private respondent was waiting for petitioners to respond to his motion, he received sometime last week two documents that confirmed his worst fears. The two documents indicate that this Honorable Court had not actually granted petitioners’ Motion for Clarification. They indicate that the supposed 13 November 2002 Resolution of this Honorable Court which Atty. Singson had bragged about WAS A FALSIFIED DOCUMENT!

10. What private respondent anonymously received were two copies of the official Agenda of the First Division of this Honorable Court for 13 November 2002, the date when the questioned Resolution was supposedly issued. In both copies (apparently secured from the office of two different members of the Division, one of which is the copy of the ponente himself), it is clearly indicated that the members of the Division had agreed that petitioners’ Motion for Clarification and Urgent Motion to Resolve were merely NOTED and NOT GRANTED contrary to what was stated in the 13 November 2002 Resolution. This makes

the 13 November 2002 Resolution (at least the version that was released to the parties) a falsified document because it makes it appear that a Resolution was issued by the First Division granting petitioners' Motion for Clarification when in fact no such Resolution exists. The real Resolution arrived at by the First Division which can be gleaned from the Agenda merely NOTED said motion. Copies of the two Agenda are hereto attached as Annexes "B" and "C".

11. At this point, private respondent could not help but conclude that this anomaly was confirmatory of what Atty. Singson was bragging about. The clear and undeniable fact is the Honorable members of this Division agreed that petitioner's Motion for Clarification would only be NOTED but the ponente responsible for the 13 November 2002 Resolution misrepresented that the same was GRANTED."

On 3 March 2003, the Court called respondent Peña and Atty. Manuel Singson, counsel for petitioner Urban Bank, to a hearing to determine, among others, the authenticity of the annexes to respondent Peña's Urgent Motion to Inhibit, including Annex "B". In the hearing, respondent Peña affirmed the authenticity of the annexes and even manifested that he was willing to accept the consequences if the annexes, including Annex "B", turned out to be forgeries.

In the same hearing, the members of the Court (First Division) informed respondent Peña that the handwritten notations on Annex "B" did not belong to any of them. In particular, Justice Carpio, to whom the case was assigned and the apparent object of respondent Peña's Urgent Motion to Inhibit as the "ponente responsible for the 13 November 2002 Resolution," stated that his recommended action on Item No. 175(f) was "a & f, see RES," meaning on Items 175(a) and (f), see proposed resolution. In short, the handwritten notations on Annex "B", purportedly belonging to a member of the Court, were forgeries. For ready reference, attached as Annexes "1" and "2" to this Resolution are a copy of pp. 61-62 of Justice Carpio's 13 November 2002 Agenda, and a copy of Justice Carpio's recommended actions for the entire 13 November 2002 Agenda, respectively.

In the same hearing, the Court directed respondent Peña to show cause why he should not be held in contempt and subjected to disciplinary action for submitting the annexes to his Motion to Inhibit. In his Compliance dated 3 April 2003, respondent Peña did not give any explanation as to why he attached "B" to his Urgent Motion to Inhibit. In fact, in his Compliance, respondent Peña did not mention at all Annex "B". Respondent Peña, however, stated that he "just found himself in a position where he had to come out with those documents because his opponent was crude enough to brag that their 'extra-ordinary' efforts to secure a stay order from a certain ponente had bore fruit." In petitioner's Opposition to the Urgent Motion to Inhibit, Atty. Singson stated that he "categorically denied that he had bragged to PEÑA about the Resolution of this Honorable Court dated November 13, 2002 and that extra efforts have been exerted to obtain the same."

IN VIEW OF THE FOREGOING, the Court hereby DIRECTS the Office of the Bar Confidant to conduct a formal investigation of respondent Atty. Magdaleno M. Peña for submitting to the Court a falsified document, Annex "B", allegedly forming part of the confidential records of a member of the Court, in support of his Motion to Inhibit that same member of the Court. The Office of the Bar Confidant is directed to submit its findings, report and recommendation within 90 days from receipt of this Resolution.[12] (Emphasis supplied.)

During the proceedings with the OBC, Attys. Peña[13] and Singson[14] duly submitted their respective Affidavits.

While the administrative case was still pending, some of the other parties in the consolidated petitions – specifically, Benjamin L. de Leon, Delfin Gonzalez, Jr., and Eric L. Lee, (the De Leon Group), the petitioners in G.R. No. 145822 – manifested before the Court other malicious imputations allegedly made by Atty. Peña during the course of the proceedings in the said petitions. They moved that these be considered as sufficient and additional basis to cite him for contempt of court.[15] The Court likewise referred this matter to the OBC.[16]

In reply to the accusations leveled against him by the De Leon Group, respondent Peña denied having used abrasive, insulting and intemperate language in his pleadings; and argued that his statements therein were privileged and could not be used as a basis for liability.[17] He also accused Urban Bank and its directors and officers of violating the rule against forum shopping by dividing themselves into separate groups and filing three Petitions (G.R. Nos. 145817, 145818 and 145822) against the same Decision of the Court of Appeals with the same causes of actions and prayers for relief.[18]

The OBC thereafter conducted a hearing, wherein respondent Peña and Atty. Singson appeared and testified on matters that were the subject of the administrative cases.[19] Several hearings were also held with respect to the additional contempt charges raised by the De Leon Group. Thereafter, respondent Peña filed his Memorandum.[20]

The OBC submitted to the Court its Report on the instant administrative case and made recommendations on the matter (the OBC Report). As a matter of policy, this Court does not quote at length, nor even disclose the dispositive recommendation of the OBC in administrative investigations of members of the bar. However, Atty. Peña, despite the fact that the OBC Report is confidential and internal, has obtained, without authority, a copy thereof and has formally claimed that this Court should apply to him the non-penalty of an admonition against him, as recommended by the OBC.[21]

Furthermore, he has already voiced suspicion that the present ponente of the consolidated petitions[22] from which this separate administrative case arose, Justice Maria Lourdes P. A. Sereno, would exclude or suppress material evidence found in the OBC report from her ponencia in the parent case in alleged gratitude to the alleged help that Justice Carpio had given her by allegedly recommending her to the Supreme Court.[23] The specific allegation on the supposed loyalty by one Member of the Court to another, without any extrinsic factual basis to support it, is too undignified to warrant a response in this Decision. To allay his fears that Justice Sereno would participate in any undue attempt to suppress material evidence, the Court shall summarize and quote from the OBC Report the four charges of professional misconduct in connection with the instant administrative case.

On the first charge of gratuitous imputations against members of the Court, the OBC found that respondent Peña gave the impression that some anomaly or irregularity was committed by the Court's First Division in issuing the questioned 13 November 2002 Resolution. According to respondent, Justice Carpio, the then ponente of the consolidated petitions, purportedly changed the action of the First Division from simply "NOTING" the motion for clarification filed by Urban Bank to "GRANTING" it altogether. The OBC opines that although respondent Peña may appear to have been passionate in the subject Motion to Inhibit, the language he used is not to be considered as malicious imputations but mere expressions of concern based on what he discovered from the internal documents of the Court that he had secured.[24] Moreover, the OBC ruled that respondent did not make a direct accusation of bribery against Justice Carpio, and the former's remark about the latter having received a new Mercedes Benz was not made in the presence of the court, but was uttered in a private mobile phone conversation between him and Atty. Singson.[25] Respondent's profound apologies to the Court were also taken cognizance by the OBC, which suggests the imposition of a simple warning against any such future conduct.[26]

Further, the OBC recommended the dismissal of the second charge that respondent supposedly submitted falsified documents to this Court as annexes in the subject Motion to Inhibit, specifically Annex "B" which appears to be a photocopy of the agenda of the First Division on 13 November 2002 with some handwritten notes.[27] It reasoned that the submission of falsified documents partakes of the nature of a criminal act, where the required proof is guilt beyond reasonable doubt, but respondent Peña is not being charged with a criminal offense in the instant case. The OBC noted the statement of the Clerk of Court during the 03 March 2003 Executive Session that Annex "B" does not exist in the records.[28]

On the third charge for contempt against respondent filed by the De Leon Group and Atty. Rogelio Vinluan, their counsel, the OBC likewise suggests the dismissal of the same. To recall, respondent submitted pleadings in the consolidated petitions where he allegedly charged Atty. Vinluan of having used his influence over Justice Arturo B. Buena to gain a favorable resolution to the benefit of his clients.[29] The OBC suggests that respondent be acquitted of the charge of using abrasive and disrespectful language against Members of the Court and his fellow lawyers, but nevertheless recommends that respondent be advised to refrain from using unnecessary words or statements in the future.[30]

Finally, the OBC desisted from making a finding on the fourth charge of forum-shopping leveled by respondent Peña against Urban Bank and the individual bank directors. In his counter-suit, respondent accused the bank and its directors and officers of having violated the rule against forum-shopping by splitting into three distinct groups and filing three separate petitions to question the unfavorable decision of the Court of Appeals.[31] However, since not all the parties to the consolidated petitions participated in the hearings in the instant case, the OBC recommends that separate proceedings be conducted with respect to this counter-suit in order to afford Urban Bank and all of the concerned directors and officers, including their respective counsel, to defend themselves and present witnesses and/or evidence in support of their cause.[32]

Taking the foregoing in consideration, the OBC submitted the following recommendations for approval of this Court:

RECOMMENDATIONS:

WHEREFORE, in light of the foregoing premises, it is respectfully recommended the following:

A. On the charge of gratuitous allegations:

1. To DISMISS the charge on the ground that the statements in his Motion to Inhibit, etc., do not constitute malicious imputations as he was merely expressing his concern of what he has discovered based on the documents he has obtained. However, let this case serve as his FIRST WARNING, being an officer of the court, to be more cautious, restraint and circumspect with his dealings in the future with the Court and its Member.
2. To ADMONISH respondent for making such non-sense and unfounded joke against Honorable Justice Antonio T. Carpio the latter deserves due respect and courtesy from no less than the member of the bar. Likewise, Atty. Singson should also be ADVISED to be more cautious in his dealing with his opposing counsel to avoid misconception of facts.

B. On the charge of falsification:

1. To DISMISS the charge of submitting falsified documents on ground of lack of legal basis. A charge of submitting falsified documents partakes of the nature of criminal act under Art. 172 of the Revised penal Code, and the quantum of proof required to hold respondent guilty thereof is proof beyond reasonable doubt. This is to avoid conflicting findings in the criminal case. The administrative proceedings of the same act must await of the outcome in the criminal case of falsification of document.

C. On the contempt of court filed by private complainant:

1. To DISMISS the charge considering that the statements cited by Atty. Peña in his pleadings previously filed in related cases, while it may appear to be offending on the part of the complainant, but the same do not categorically contain disrespectful, abusive and abrasive language or intemperate words that may tend to discredit the name of the complainant. Respondent merely narrated the facts based of his own knowledge and discoveries which, to him, warranted to be brought to the attention of the court for its information and consideration. He must be ADVISED however, to refrain from using unnecessary words and statements which

may not be material in the resolution of the issued raised therein.

D. On the counter-charge of forum-shopping

1. To RE-DOCKET the counter-charge of forum shopping, as embodied in the Comment dated 22 August 2003 of Atty. Peña, as a separate administrative case against the petitioners and counsels in G.R. 145817, G.R. No. 145818 and G.R. No. 145822;
2. To FURNISH the petitioners and their counsel a copy of the said comment dated 22 August 2003 for their information.
3. To REQUIRE the petitioners and their counsel, SINGSON VALDEZ & ASSOCIATES, represented by ATTY. MANUEL R. SINGSON, ANGARA ABELLO CONCEPCION REALA & CRUZ represented by ATTY. ROGELIO A. VINLUAN, ATTY. STEPHEN GEORGE S. D. AQUINO and ATTY. HAZEL ROSE B. SEE to comment thereon within ten (10) days from receipt thereof.[33] (Emphasis supplied)

### ISSUES

In these administrative matters, the salient issues for the Court's consideration are limited to the following:

- (a) whether respondent Peña made gratuitous allegations and imputations against members of the Court;
- (b) whether he can be held administratively liable for submitting allegedly "falsified documents" consisting of internal documents of the court;
- (c) whether he can likewise be held administratively liable for the contempt charges leveled against him in the Manifestation and Motion filed by the De Leon Group; and
- (d) whether Urban Bank and the individual bank directors and officers are guilty of forum shopping.

### OUR RULING

A. First Charge: Malicious and Groundless Imputation of Bribery and Wrongdoing against a Member of the Court.

We do not adopt the recommendation of the OBC on this charge.

Respondent Peña is administratively liable for making gratuitous imputations of bribery and wrongdoing against a member of the Court, as seen in the text of the subject Motion to Inhibit, his statements during the 03 March 2003 Executive Session, and his unrelenting obstinacy in hurling effectively the same imputations in his subsequent pleadings. In moving for the inhibition of a Member of the Court in the manner he adopted, respondent Peña, as a lawyer, contravened the ethical standards of the legal profession.

As officers of the court, lawyers are duty-bound to observe and maintain the respect due to the courts and judicial officers.[34] They are to abstain from offensive or menacing language or behavior before the court[35] and must refrain from attributing to a judge motives that are not supported by the record or have no materiality to the case.[36]

While lawyers are entitled to present their case with vigor and courage, such enthusiasm does not justify the use of foul and abusive language.[37] Language abounds with countless possibilities for one to be emphatic but respectful, convincing but not derogatory, illuminating but not offensive.[38] A lawyer's language should be forceful but dignified, emphatic but respectful as befitting an advocate and in keeping with the dignity of the legal profession.[39]

In the subject Motion for Inhibition, respondent Peña insinuated that the then ponente of the case had been “bribed” by Atty. Singson, counsel of Urban Bank in the consolidated petitions, in light of the questioned 13 November 2002 Resolution, suspending the period of redemption of the levied properties pending appeal. The subject Motion to Inhibit reads in part:

4. Private respondent [Peña] composed himself and tried to recall if there was any pending incident with this Honorable Court regarding the suspension of the redemption period but he could not remember any. In an effort to hide his discomfort, respondent teased Atty. Singson about bribing the ponente to get such an order. Much to his surprise, Atty. Singson did not even bother to deny and in fact explained that they obviously had to exert extra effort because they could not afford to lose the properties involved (consisting mainly of almost all the units in the Urban Bank Plaza in Makati City) as it might cause the bank (now Export Industry Bank) to close down.[40] (Emphasis supplied.)

During the 03 March 2003 Executive Session by the First Division of this Court, respondent Peña explained that his reference to the bribe was merely a “joke” in the course of a telephone conversation between lawyers:

CHIEF JUSTICE DAVIDE:

Regarding that allegation made by Atty. Peña on [sic] when you made mention earlier of him saying about Justice Carpio?

ATTY. SINGSON:

Yes, Your Honor, he said “kaya pala may bagong Mercedes [sic] si Carpio, eh.”

CHIEF JUSTICE:

He said to you that?

ATTY. SINGSON:

Yes, that was what he was referring to when he said about bribery.

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ATTY. PEÑA:

First of all I would like to ... everything that he said, he told me that he got, they got a stay order, it is a stay order from the Supreme Court through Justice Carpio and then I gave that joke. That was just a joke really. He got a new Me[r]cedes [sic] Benz, you see, he was the one who told me they got a stay order from the Supreme Court through Justice Carpio, that was what happened ...

CHIEF JUSTICE:

You mean you made a joke?

ATTY. PEÑA:

You Honor?

CHIEF JUSTICE;

You made a joke after he told you supposedly that he got (interrupted)

ATTY. PEÑA:

He got a stay order from Justice Carpio.

CHIEF JUSTICE:

And you say that is the reason why he got a new Mercedes [sic] Benz, you made it as a joke?

ATTY. PEÑA:

Your Honor, that is a joke between lawyers.

CHIEF JUSTICE;

That is correct, you are making it as a joke?

ATTY. PEÑA:

Your Honor, I think, because how they got (interrupted)

CHIEF JUSTICE:

If it were a joke why did you allege in your motion that it was Atty. Singson who said that Justice Carpio was bribed or the ponente was bribed, is that also another joke?[41] (Emphasis supplied.)

Respondent Peña insinuated ill motives to the then ponente of the consolidated petitions with respect to the issuance of the 13 November 2003 Resolution. To respondent's mind and based on his interpretation of the two copies of the Agenda which he anonymously received, the First Division agreed only to simply note Urban Bank's Motion for Clarification. Nevertheless, the questioned Resolution, which Atty. Singson sent to him by facsimile, had instead granted the Motion. Hence, respondent Peña attributed the modification of the action of the First Division to simply "note" the Motion, one apparently unfavorable to respondent Peña, to Justice Carpio, who had supposedly received a Mercedes Benz for the supposedly altered resolution.

However, as pointed out by the Court in the Resolution dated 03 March 2003, each Justice has his own respective copy of the Agenda, where he can make his own handwritten notations on the action for each item and case, but "[t]he official actions of the Court are contained in the duly approved minutes and resolutions of the Court." [42] Hence, contrary to the insinuations made by respondent Peña, Justice Carpio had not altered the action of the First Division in granting Urban Bank's Motion for Clarification in the consolidated petitions, as in fact, this was the approved resolution agreed upon by the Justices then present. The ponente of the case had not recommended that the Motion for Clarification be simply noted, but in fact, had referred to a separate resolution, i.e., "a) & f) – See RES.," disposing of the said item (F) including item (A), which is the Motion to Inhibit Associate Justice Artemio Panganiban. In addition to the official minutes of the 13 November 2002 Session, [43] Justice Carpio submitted for the record his written recommendation on the agenda item involving the consolidated petitions, to prove that this was his recommendation, and the minutes confirm the approval of this recommendation. [44]

The Court, through a unanimous action of the then Members of the First Division, had indeed adopted the recommended and proposed resolution of Justice Carpio, as the then ponente, and granted the Motion for Clarification filed by Urban Bank. It is completely wrong for respondent Peña to claim that the action had been issued without any sufficient basis or evidence on record, and hence was done so with partiality. A mere adverse ruling of the court is not adequate to immediately justify the imputation of such bias or prejudice as to warrant inhibition of a Member of this Court, absent any verifiable proof of specific misconduct. Suspicions or insinuations of bribery involving a member of this Court, in exchange for a favorable resolution, are grave accusations. They cannot be treated lightly or be "jokingly" alleged by parties, much less by counsel in pleadings or motions. These suspicions or insinuations strike not only at the stature or reputation of the individual members of the Court, but at the integrity of its decisions as well. [45]

Respondent Peña attempts to draw a connection and direct correlation between Urban Bank's failure to furnish him a copy of its Motion for Clarification, purportedly denying him an opportunity to refute the allegations therein, and the supposedly corrupt means by which the unfavorable Resolution was thereby obtained. This is completely untenable and irresponsible. Had he simply confined the issue to an alleged deprivation of due process, then there would hardly be any controversy regarding his conduct as a lawyer and an officer of the Court. The purported lack of notice of the Motion for Clarification filed the bank in the consolidated petitions could have been raised as a valid concern for judicial resolution. Instead, respondent Peña insinuates ill motives on the part of Members of the Court imputing the failure of a private party to give him due notice to be, in effect, a failure of the Court. This merits the exercise of the Court's disciplinary powers over him as a member of the Bar. To allege that bribery has been committed by members of the judiciary, a complainant – especially, a lawyer – must go beyond mere suspicions, speculations, insinuations or even the plain silence of an opposing counsel.

Based on the two lawyers' disclosures during the 03 March 2003 Executive Session, respondent Peña appears to have been caught by surprise by his telephone conversation with Atty. Singson, who informed him of the suspension of the redemption period by the Court and its issuance of a Stay Order over the execution pending appeal. The astonishment of respondent would seem natural, since he was caught unawares of Urban Bank's Motion for Clarification, which was the subject matter of the 13 November 2002 Resolution. His supposed joke, which he himself initiated and made without provocation, was disdainful all the same, as it suggested that the bank had obtained the Order from this Court in exchange for an expensive luxury automobile.

Atty. Peña cannot be excused for uttering snide and accusatory remarks at the expense of the reputation and integrity of members of this Court, and for using those unsubstantiated claims as basis for the subject Motion for Inhibition. Instead of investigating the veracity of Atty. Singson's revelations, respondent read too much into the declarations and the purported silence of opposing counsel towards his joke. Respondent made unfounded imputations of impropriety to a specific Member of the Court. Such conduct does not befit a member of the legal profession and falls utterly short of giving respect to the Court and upholding its dignity.

Respondent Peña's defense that the allegation of bribery and collusion between Justice Carpio, Atty. Singson and the petitioners was a "joke" fails to convince, as in fact, he was deadly serious about the charges he raised. Respondent insisted that his alleged insinuation of ill motives was just a "joke" between two lawyers engaged in a private telephone conversation regarding the case. Although the courts and judicial officers are entitled to due respect, they are not immune to criticisms nor are they beyond the subject matter of free speech, especially in the context of a private conversation between two individuals. In this case, though, respondent himself was responsible for moving the private matter into the realm of public knowledge by citing that same "joke" in his own Motion for Inhibition filed before this Court. In general, courts will not act as overly sensitive censors of all private conversations of lawyers at all times, just to ensure obedience to the duty to afford proper respect and deference to the former. Nevertheless, this Court will not shy away from exercising its disciplinary powers whenever persons who impute bribery to judicial officers and bring such imputations themselves to the court's attention through their own pleadings or motions.

Contrary to his assertion that the accusation of bribery was only made in jest, respondent has never backed down since he first made the accusation in January 2003 and continually raises as an issue in the consolidated petitions how Justice Carpio purportedly changed the agreed action of the First Division when he issued the questioned 13 November 2002 Resolution, even after the Court in the 03 March 2003 Executive Session had precisely explained to him that no impropriety had attended the issuance of the said Resolution. In the Motions to Inhibit dated 21 January 2010<sup>[46]</sup> and 22 August 2011,<sup>[47]</sup> he repeatedly insists on the "anomalous/unusual circumstances" surrounding the issuance by Justice Carpio of the same questioned Resolution, which was allegedly contrary to

the handwritten notes made in the copies of the Agenda that he received. Respondent Peña most recently capitalized on the purported alteration or falsification supposedly committed by Justice Carpio by filing an ethics complaint against the latter, where he alleged that:

Sometime thereafter, respondent Peña received a copy of the Suppl [sic] Agenda – 1st Division of this Honorable Court with a notation in handwriting “10AC” on the left side and marginal notes on the right side. A perusal thereof, reveals that when this Honorable Court took up the matter of the Motion for Clarification of petitioner Urban Bank, this Honorable Court merely “N” or “Noted” the Motion for Clarification of petitioner Urban Bank and did not grant the same.

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Considering the foregoing (I was not furnished a copy of the Motion for Clarification, or required to comment by the Honorable Justice Carpio and opposing counsel, Atty. Singson, being able to secure an advance copy of the assailed 13 November 2002 Resolution), the matter brought out in the Executive Session and the admission made by Atty. Enriqueta Vidal and the Honorable Hilario Davide and the Honorable Justice Vitug with regard to his copy of the Suppl [sic] Agenda – 1[st] Division of this Honorable Court which was sent to respondent Peña was correct and that the Motion for Clarification was merely “N” or “NOTED”. However, the Honorable Justice Carpio issued a Resolution “Granting” the Motion for Clarification.

Therefore, the Honorable Justice Carpio issued the 13 November 2002 Resolution in an anomalous/falsified manner and in clear contravention of this Honorable Court’s Decision to merely “Note” the same. A clear judicial administrative violation.[48] (Emphasis supplied.)

Clearly, the bribery “joke” which respondent himself initiated has gotten the better of him. Respondent has convinced himself of the veracity of his own malicious insinuations by his own repetitious allegations in his subsequent pleadings.

The Court in the past refrained from imposing actual penalties in administrative cases in the presence of mitigating factors, such as the acknowledgment of the infraction and the feeling of remorse.[49] In this case, the “profound” apologies[50] offered by respondent Peña for his insinuations against Justice Carpio are insincere and hypocritical, as seen by his later actions. Although he expressed remorse for having caused the Court distress because of his statements,[51] he refuses to acknowledge any unethical conduct on his part for his unfounded accusations against the actions of Justice Carpio with respect to the questioned 13 November 2002 Resolution. Worse, he has persisted in attributing ill-motives against Justice Carpio, even after the latter had recused himself from the case since 2003.

This is not the first time that respondent resorted to initiating unfounded and vicious attacks against the integrity and impartiality of Members of this Court. Earlier in the proceedings of the consolidated petitions, respondent assailed how retired Justice Arturo B. Buena showed bias in favor of the De Leon Group, when the latter’s petition in G.R. No. 145822 was reinstated on a second motion for reconsideration:[52]

It has come to the attention and knowledge of herein respondent that petitioner’s counsel has been making statement to the effect that they could get a favorable resolution from the Supreme Court, on their second motion for reconsideration. In short, petitioners’ counsel is practically saying that they are sure to get the Supreme Court to entertain the second motion for reconsideration even if it violates the rules.[53]

1. The motion for voluntary inhibition is directed at Justice Buena because it was he who penned the challenged Resolution, which granted the second motion for reconsideration in violation of the Rules. It was he who crafted, drafted and finalized the said Resolution. It was he who tried to justify the violation of the Rules. It was from Justice Buena’s office that contents of the challenged Resolution was apparently “leaked” to the petitioners’ counsel long before its promulgation.[54]

What miracle did Atty. Vinluan perform and what phenomenon transpired? Why are herein petitioners “very special” in the eyes of Justice Buena?[55]

It is quite obvious that the partiality of Justice Buena has been affected by his relationship with Atty. Vinluan, as evidenced by the above-described facts and circumstances.[56]

Surprisingly, Justice Arturo B. Buena, the assigned ponente, reinstated the petition without any explanation whatsoever, and in gross violation of Sec. 4, Rule 56 of the 1997 Rules of Civil Procedure. This was highly irregular by itself. But what made reinstatement more suspicious was the fact that even before the release of the Resolution reinstating the petition in G. R. No. 145822, the counsel for petitioners, Atty. Rogelio Vinluan, was already boasting that he would be able to reinstate their petition. Obviously, even before the release of the Resolution in question, Atty. Vinluan already knew what Justice Buena’s resolution would be.[57] (Emphasis supplied.)

In no less than six motions,[58] he similarly accused former Chief Justice Artemio V. Panganiban of prejudice based on his affiliation with the Rotary Club, wherein some of the directors and officers of Urban Bank were also members. He even claimed that Justice Panganiban went to Urban Bank to meet with some of the directors and officers, who consulted him on the legal issues arising from criminal suits in relation to the facts of the main petitions, citing only an unnamed “reliable source”:

The friendship and close relationship of the three (Justice Panganiban and Urban Bank’s Arsenio ‘Archit’ Bartolome and Teodoro ‘Ted’ Borlongan) went beyond their being Rotarians. As a matter of fact, Justice Panganiban was seen a couple of times going to Urban Bank to see Archit and/or Ted, before the bank’s closure. Respondent has also discovered, through a reliable source, that Justice Panganiban was known to have been consulted, and his legal advice sought, by Borlongan and Bartolome, in connection with the above-entitled cases, while the same was still pending with the Court of Appeals and in connection with the four (4) criminal cases filed with the MTC [Municipal Trial Court] at Bago City by herein respondent against Borlongan, et al., for “introducing falsified documents in a judicial proceeding”. In the latter cases, it was even Justice Panganiban who furnished a copy of the SC Decision in Doris Ho vs. People (his own ponencia) to Bartolome and Borlongan, for the purpose of giving his friends a legal basis in questioning the issuance of the warrants of arrest against Borlongan and the rest of his co-accused in Criminal Case Nos. 6683 to 6686, MTC Bago City (now appealed to Supreme Court; see Footnote No. 1 below).[59] (Emphasis supplied.)

Lastly, respondent Peña raised the issue of “unmitigated partiality” against retired Justice Antonio Eduardo B. Nachura on the ground that the latter resolved a separate case involving related issues to the main petitions in favor of the opposing parties:

3. The Petitioners in G. R. No. 143591, entitled “Teodoro C. Borlongan, et al., v. Magdaleno M. Peña, et al”, are also the same petitioners in the above-entitled consolidated cases G. R. Nos. 145817 and 145822; and the respondents in the above-entitled consolidated case G. R. No. 162562. Under the circumstances, herein private respondent is ABSOLUTELY CERTAIN that the extreme bias and prejudice of Justice Nachura against him in G. R. No. 143591 would certainly be carried over to the above-entitled consolidated cases.[60] (Emphasis supplied.)

Not only has respondent Peña failed to show sincere remorse for his malicious insinuations of bribery and wrongdoing against Justice Carpio, he in fact continually availed of such unethical tactics in moving for the inhibition of eleven Justices of the Court.[61] Indeed, his pattern of behavior can no longer be seen as isolated incidents that the Court can pardon given certain mitigating circumstances. Respondent Peña has blatantly and consistently cast unfounded aspersions against judicial officers in utter disregard of his duties and responsibilities to the Court.

In *Estrada v. Sandiganbayan*,<sup>[62]</sup> the Court chose to indefinitely suspend Atty. Alan Pagua, when the latter imputed devious motives and questioned the impartiality of members of the Court, despite its earlier warnings:

The Supreme Court does not claim infallibility; it will not denounce criticism made by anyone against the Court for, if well-founded, can truly have constructive effects in the task of the Court, but it will not countenance any wrongdoing nor allow the erosion of our people's faith in the judicial system, let alone, by those who have been privileged by it to practice law in the Philippines.

Canon 11 of the Code of Professional Responsibility mandates that the lawyer should observe and maintain the respect due to the courts and judicial officers and, indeed, should insist on similar conduct by others. In liberally imputing sinister and devious motives and questioning the impartiality, integrity, and authority of the members of the Court, Atty. Pagua has only succeeded in seeking to impede, obstruct and pervert the dispensation of justice.

Respondent Peña's actions betray a similar disrespectful attitude towards the Court that cannot be countenanced especially for those privileged enough to practice law in the country. To be sure, Atty. Pagua has just been recently reinstated to the practice of law after showing sincere remorse and having renewed his belief and respect for the Court, almost eight years from the time the penalty was imposed. Thus, the Court orders respondent Peña be indefinitely suspended from the practice of law for his apparently irredeemable habit of repeatedly imputing unfounded motives and partiality against members of the Court.

#### B. Second Charge: Submission of Falsified Internal Court Documents.

We likewise reject the recommendation of the OBC with respect to the second charge.

It must be noted that the Court, in its Resolutions dated 03 March 2003 and 28 April 2003, expressed administrative concern over Atty. Peña's behavior on three points: (1) his submission of a falsified court document, (2) his access to Supreme Court documents that are highly restricted and confidential, and (3) his use of court documents (genuine or false) in his pleadings.

Respondent Peña submitted a falsified internal court document, Annex "B," had illegal access to confidential court documents, and made improper use of them in the proceedings before this Court. The Court directed the initial investigation by the OBC based on the charge that respondent Peña had submitted a falsified document to this Court.<sup>[63]</sup> The charge of falsification stems from his submission of an alleged copy of the Court's Agenda<sup>[64]</sup> (Annex "B") purportedly belonging to a member of the Division handling the case. The pertinent portion of the subject Motion to Inhibit reads:

10. What private respondent anonymously received were two copies of the Official Agenda of the First Division of this Honorable Court for 13 November 2002, the date when the questioned Resolution was supposedly issued. In both copies (apparently secured from the office of two different members of the Division, one of which is the copy of the ponente himself), it is clearly indicated that the members of the Division had allegedly agreed that petitioners' Motion for Clarification and Urgent Motion to Resolve were merely NOTED and NOT GRANTED contrary to what was stated in the 13 November 2002 Resolution (at least the version that was released to the parties) a falsified document because it makes it appear that a Resolution was issued by the First Division granting petitioners' Motion for Clarification when in fact no such Resolution exists. The real Resolution arrived at by the First Division which can be gleaned from the Agenda merely NOTED said motion. Copies of the two Agenda are hereto attached as Annexes "B" and "C".<sup>[65]</sup> (Emphasis supplied.)

During the 03 March 2003 Executive Session, respondent Peña expressed his absolute conviction that the document attached as Annex "B" was an exact copy of the Agenda of the then ponente of the case.<sup>[66]</sup> It was later discovered, however, that no such copy existed, either in the latter's records or in those of any other member

of the Division concerned:

CHIEF JUSTICE:

We make of record again that insofar as Annex B is concerned it was confirmed by the Office of the Clerk of Court of this Division that the original of that does not appear in the record, is not in the record and that nobody, none of the members of the division has a copy of, that copy of Annex B of your pleading does not come from anyone of the members of the division. That is the position of the Court now as explained earlier. Specifically Mr. Justice Carpio said that Annex B, specifically with that capital A. capital C preceded by 10 did not come from his office, was not based on the document in his office and that is also true to each of the members of this Division.[67] (Emphasis supplied.)

The falsification, subject of the instant administrative case, lies in the fact that respondent Peña submitted to the Court a document he was absolutely certain, at the time of such submission, was a copy of the Agenda of the then ponente. In supporting the subject Motion to Inhibit, respondent misled the Court by presenting a document that was not what he claimed it to be. Contrary to the assurances made in the same motion[68] he made allegations that were false and submitted documents that were not borne out by the records of this case. Instead of verifying the contents of Annex “B,” which came to him through dubious means, he unquestioningly accepted their genuineness and veracity. Despite the Court’s own explanation that Annex “B” does not exist, he continues to insist on its existence.

Candor and truthfulness are some of the qualities exacted and expected from members of the legal profession.[69] Thus, lawyers shall commit no falsehood, nor shall they mislead or allow the court to be misled by any artifice.[70] As disciples of truth, their lofty vocation is to correctly inform the court of the law and the facts of the case and to aid it in doing justice and arriving at correct conclusions.[71] Courts are entitled to expect only complete honesty from lawyers appearing and pleading before them.[72] In the instant case, the submission of a document purporting to be a copy of the Agenda of a member of this Court is an act of dishonesty that puts into doubt the ability of respondent to uphold his duty as a disciple of truth.

Respondent Peña would argue, however, that falsification – as a criminal act under the Revised Penal Code – was not judicially established during the proceedings of the OBC investigation and, thus, he cannot be held liable for falsification. The comparison of the present administrative and disciplinary proceedings with a criminal charge of falsification is misplaced.

The subject matter of administrative proceedings is confined to whether there is administrative liability for the submission of a falsified document – namely Annex “B,” which respondent Peña claims (albeit mistakenly) to be a genuine copy of the Agenda of the ponente. The issue, then, is whether he transgressed the ethical standards demanded of lawyers, by which they should be truthful in their dealings with and submissions to the Court. The investigation clearly does not include the determination of criminal liability, which demands a different modicum of proof with respect to the use of falsified documents. At this time, the Court makes no definitive pronouncement as to the guilt of respondent over his violation of the provisions of the Revised Penal Code regarding the use of falsified documents.

In brief, respondent led this Court to believe that what he submitted was a faithful reproduction of the ponente’s Agenda, just to support the subject Motion to Inhibit. The original of the purported copy was later found to have been inexistent in the court’s records. Regardless of whether or not Annex “B” was criminally falsified or forged is immaterial to the present disposition. What is now crucial is whether respondent was candid and truthful in claiming absolute certainty with respect to the genuineness and authenticity of his submissions.

The assertion of respondent Peña that the typewritten contents of Annexes “B” and “C” appear to be genuine and

accurate is unconvincing and cannot exonerate him from liability. Although Annex “C” was determined to be in the Court’s records,[73] the bare similarity of its typewritten contents with those of Annex “B” will not shield him from disciplinary action. Although the typewritten contents of the two Agendas appear identical, the handwritten notes located at the right-hand side are different. Respondent, in fact, claims that the handwritten notes come from two different members of the Division, one of them the then ponente of the case.

The subject Motion to Inhibit is anchored on the veracity of the handwritten remarks – not on the printed contents – which are allegedly contrary to the substance of the Court’s 13 November 2002 Resolution faxed to him by Atty. Singson. Respondent Peña cannot claim the genuineness of Annex “B” (which is not in the records), based on the apparent identity of its printed contents with those of Annex “C” (which is in the records). The handwritten notes are markedly different and, according to him, made by two different members of the Court. In his Motion to Inhibit, respondent failed to substantiate his assertion that Annex “B” and the notes made therein belonged to any member of this Court.

More importantly, the Court notes that respondent Peña has not explained, to the Court’s satisfaction, how he managed to obtain internal and confidential documents.

Respondent Peña would have the Court believe that he happened to obtain the two copies of the Agenda (Annexes “B” and “C”) and the internal Resolution (Annex “D”) in two separate envelopes anonymously sent via ordinary mail. He supposedly received them sometime during the second or the third week of January 2002 in his home-cum-office in Pulupandan, Negros Occidental.[74] He, however, failed to present the envelopes containing the documents, but explained that these may have already been thrown away, since he had no system of recording incoming communications in his home/office in the province. The Court is not persuaded by his account of the receipt of these restricted court documents.

The Agenda, the Court’s action thereon, as well as the Resolution (Annex “D”), are internal documents that are accessible only to court officers,[75] who are bound by strict confidentiality. For respondent Peña to have been able to secure originals or photocopies of the Court’s Agenda is disturbing because that ability implies a breach of the rules of strict confidentiality in the Court. Notably, the Agenda purportedly sent to him did not contain all the items for deliberation by the Court’s First Division for that day; the copies sent were limited to the incidents pertaining to his pending case. This circumstance can hardly be considered as random, since the exact item (Item No. 175) of concern for him – specifically, the Court’s action on Urban Bank’s Motion for Clarification –was what had been sent directly to his provincial home/office, and what he conveniently acquired thereby.

The Court finds it hard to believe that confidential court records just coincidentally and anonymously appeared in the provincial home/office of respondent Peña through ordinary mail. Also incredible is his explanation that the envelopes that contained the documents, and that could have led to the identification of their source were opportunely misplaced or thrown away, despite the grave importance he had ascribed to them. It is highly improbable that a personnel of the Court would breach the rules of strict confidentiality[76] to send to litigants or their counsel the Court’s Agenda, together with handwritten notes and the internal resolutions of the Court, without any prodding or consideration, and even at the risk of incurring grave criminal and administrative penalties.[77] Respondent Peña’s account of having lost the envelopes appears too convenient an excuse to assuage the Court’s skepticism towards this breach of confidentiality within its own halls.

Worse, respondent Peña flaunted his continued access – as recent as 2010 – to other internal and confidential records in the proceedings of this case. Despite the administrative proceedings leveled against him for having “illicitly” obtained the confidential Agenda of the Court’s First Division, he brazenly resorted again to such unethical behavior by surreptitiously acquiring no less than the confidential and still unreleased OBC Report on the

very administrative case of which he himself is the subject.

In his Motion to Vacate/Recall dated 20 February 2010,[78] respondent Peña prayed that the questioned 13 November 2002 Resolution be recalled on the ground that there was a mistake in its issuance based on the copies of the Agenda he had mysteriously received. In support of this motion, he casually cited and attached a photocopy of the confidential OBC Report.[79] This OBC Report has not been released to any party, and was then in fact still under deliberation by this Court. Curiously, the attached photocopy bears marks corresponding to the unreleased copy of the signed OBC Report, as it actually appears in the rollo of the administrative case.[80] Unfortunately, respondent did not explain in the said motion how he was able to obtain a copy thereof.

Regardless of the means employed by respondent, his acquisition of the OBC Report from the Court's own records already speaks of an appalling pattern of unethical behavior that the Court will no longer ignore. Even as he was the subject of an administrative case for obtaining confidential court records, he continued to have access to other internal documents of the Court. His actions have established that he is incorrigible and not likely to change. His continued obstinacy in disregarding ethical standards and ignoring the rule of confidentiality of court records deserves nothing less than the ultimate penalty of disbarment from the profession.

Moreover, in the subject Motion to Inhibit, respondent Peña even tried to bolster his claim that the then ponente of the case had a special interest in the case by attaching an internal resolution of the Court.[81] In the said Internal Resolution dated 04 September 2002, the two consolidated petitions (G.R. Nos. 145817 and 145822) were transferred from the Third Division to the First Division, where Justice Carpio was subsequently assigned.[82] How respondent Peña was again able to secure this internal document is another disturbing mystery in this case, especially since the resolution was sent by the Third Division Clerk of Court to the First Division Clerk of Court, the Raffle Committee and the Judicial Records Office only, and not to any of the parties. Similar to the copies of the Agenda of the First Division, respondent Peña again purportedly received this Internal Resolution by mail.[83] What is more alarming in this instance is that he received not just any photocopy of the Court's Resolution, but a pink copy itself, the very same material used for such internal resolutions in the Court's records. As he himself admitted, respondent Peña could not have gotten hold of the said internal Resolution, which was on its face declared an internal matter, without the assistance of a person who had access to the records of his case in the Court.

This claimed "major anomaly" of the transfer of the case, which is being decried by respondent in the subject Motion to Inhibit, stems from his gross misunderstanding of the internal rules of the Court.

Upon the reorganization of the members of various Divisions due to the retirement of other Justices, the cases already assigned to a Member-in-Charge are required to be transferred to the Division to which the Member-in-Charge moves.[84] Hence, in this case, Justice Carpio, similar to other members of the Court at that time, did not lose his case assignments but brought them with him when he transferred to the First Division. In fact, the transfers of the assigned cases to the new Division are made by request from the Member-in-Charge, because otherwise the rollo of the cases of which he is Member-in-Charge will be retained by a Division in which he is no longer a member. Thus, the transfer of the two consolidated petitions to the First Division that is being heavily criticized by respondent Peña was simple compliance with the established internal procedures of the Court, and not attributable to any undue interest or malicious intention on the part of the then ponente to retain the case for himself. Respondent had raised "irresponsible suspicions"[85] against the integrity of the ponente without any understanding of the Supreme Court's processes in the transfer of cases.

Respondent Peña had, in fact, previously used this deplorable tactic of obtaining internal court records to call for the inhibition of Justices of the Court. In previously moving for the inhibition of Justice Buena, he assailed how

supposedly the retired Justice violated the rules with respect to a second motion for reconsideration when the latter reinstated the Petition of the De Leon Group in G.R. No. 145822. Respondent attributed the special treatment extended by Justice Buena to his supposed association with the De Leon Group's counsel, Atty. Rogelio Vinluan of the ACCRA Law Office. To establish this special treatment, he attached a complete copy of the Minutes of the Division<sup>[86]</sup> composed of 58 pages and showing 77 cases dismissed by the Court due to failure to pay the required fees, which Justice Buena allegedly did not reinstate:

10. A review of the records of the Supreme Court will show that for the past several months alone, seventy-seven petitions were dismissed by the Supreme Court, mainly for failure to pay the required fees. Out of that number, NONE WERE REINSTATED upon the filing of a SECOND MOTION FOR RECONSIDERATION. If Justice Buena willingly disregarded the Rules by reinstating petitioners' petition (De Leon Group Petition in G. R. No. 145822) upon the filing of a second motion for reconsideration, then he should have reinstated also the aforesaid 77 cases in order to be fair. At the very least, he should now reinstate all of said 77 cases if only to show that he is not biased in favor of herein petitioners. He could not and will not do so, however, because those cases are not favored ones. Photocopies of the case titles and numbers, as well as the resolutions dismissing the aforesaid seventy-seven cases, consisting of 58 pages, are attached hereto collectively as Annex "A".<sup>[87]</sup>

Respondent Peña was able to attach to this motion for inhibition the portions of the Court's Minutes on 12 April 2000, 07 February 2001, 12 February 2001, 14 February 2001, 26 February 2001, 28 March 2001, 14 April 2001, 18 April 2001, 26 April 2001, 16 May 2001, 11 July 2001, 08 August 2001, 13 August 2001, 20 August 2001, 29 August 2001, 05 September 2001, 24 September 2001, 08 October 2001 and others which were undated. The attached Minutes pointed to specific cases which were dismissed for failure to pay the necessary fees, among others. It was unclear if the cases were specifically assigned to Justice Buena or if respondent Peña represented any of the parties therein.

Nevertheless, what stands out is that he obtained confidential Minutes of the Court pertaining to other cases, which specifically dismissed or denied petitions on the failure of the parties to pay necessary fees. This could not have just been mere coincidence again since it required some legal understanding and familiarity with the cases in order to be able to sift through and identify the kinds of cases, which were dismissed or denied on such grounds. Although the parties to these cases were notified and given copies of the Court's resolutions, what respondent Peña obtained were the actual copies of the Minutes that included other items in the Court's Agenda and that were not released to the public. Under the Court's own Internal Rules, only the Minutes pertinent to the parties are those that are distributed to the parties concerned.<sup>[88]</sup> Yet, respondent was able to attach wholesale Minutes of dozens of cases to his pleading.

Although the above confidential documents that were accessed by respondent – totaling 58 pages in all – are not the subject of the investigation of the administrative case, his previous receipt or acquisition of the minutes of the Court as early as 2000 confirm in no uncertain terms his access to internal records of the Court, not just of his case, but of other pending cases and that this access has continued as late as 2010. It seems rather ironic that respondent Peña would accuse his fellow lawyers of allegedly having an "inside track" to members of the Court, when he in turn, on record, had mysteriously easy access to confidential court documents. That internal documents of the Court (whether voluminous or in relation to his case or otherwise) would suddenly find themselves in the hands of respondent Peña through registered mail is too incredible for this Court to attribute any good faith on his part.

Even if the Court were to give some modicum of credence to the unlikely story of how respondent Peña came upon these internal documents, it looks with disapproval upon his actions with respect to those documents, which were supposedly sent to him anonymously. If indeed lawyers were sent official judicial records that are

confidential in nature and not easily accessible, the ethical recourse for them would be to make a candid and immediate disclosure of the matter to the court concerned for proper investigation, and not as proof to further the merits of their case. In fact, respondent himself acknowledged that reporting the “leaked out” documents was a duty he owed to the Court<sup>[89]</sup> – more so in this case, since the documents were sent anonymously and through dubious circumstances.

No issue would have arisen with respect to his continuing fitness to be a member of the legal profession, if he had simply reported his receipt of the “leaked” court documents, and nothing more. Yet, he not only failed to immediately disclose the suspicious circumstances of his having obtained confidential court records; he even had the tenacity to use the documents sent through suspicious means to support his request for inhibition. As a lawyer, he should have known better than to hinge his motions and pleadings on documents of questionable origins, without even verifying the authenticity of the contents by comparing them with sources of greater reliability and credibility.

If respondent Peña entertained doubts as to the veracity of the Division’s actions with respect to the pending incidents in his case, as allegedly embodied in the anonymous Agendas sent to him, then he should have simply checked the records to verify the genuineness of the questioned 13 November 2002 Resolution faxed to him by Atty. Singson. It is through officially released resolutions and decisions that parties and their counsel are informed of and guided by the Court’s actions on pending incidents, and not by the confidential and handwritten notes of the individual members of the Court. Respondent’s wholesale reliance on copies of the Agenda purported to be those of individual members of the Court and anonymously sent to him is grossly misplaced.

The Court has already explained that there was in fact no discrepancy between the agreed upon action of the Division and the questioned 13 November 2002 Resolution, contrary to the assertions of respondent Peña. He grounded the subject Motion to Inhibit on the fact that the anonymously sent copies of the Agenda indicate that the Motion for Clarification filed by Urban Bank should simply be noted,<sup>[90]</sup> but it was instead granted by the Court. The Court, however, made clear during the 03 March 2003 Executive Session, that there was nothing irregular about annotating the first item with “SEE RES” (See Resolution) and marking the rest of the incidents with “N” (Noted). In fact, these annotations conform with the recommended actions submitted by the ponente for that particular item.<sup>[91]</sup> The Resolution identified in the first item governs and contains the actual disposition of two of the incidents in the pending case.<sup>[92]</sup> To be sure, what governs as the final action of the Court en banc or in Division is the minutes of the proceedings,<sup>[93]</sup> which lists the dispositions of the items taken up during the session, reviewed by the members, and finally approved by the Chief Justice or the Division chairperson. Contrary to respondent’s suspicions, the action taken by the Division in its 13 November 2002 Session was accurately reflected in the questioned Resolution released by the Court.

Respondent Peña has no one else to blame but himself, since he “allegedly,” blindly and mistakenly relied on “anonymously sent” unverified photocopies of the Court’s Agenda, in order to support his call for the inhibition of a member of the Court. Neither can he rely on the alleged “bragging” of Atty. Singson – which the latter denies – to impute ill motive to judicial officers. Whether Atty. Singson actually exerted “extraordinary efforts” to secure the suspension Order or freely divulged it in their telephone conversation, respondent should have been more circumspect in making grave accusations of bribery (jokingly or not) without any extrinsic evidence or proof to back up his claim.

Respondent Peña is sanctioned for knowingly using confidential and internal court records and documents, which he suspiciously obtained in bolstering his case. His unbridled access to internal court documents has not been properly explained. The cavalier explanation of respondent Peña that this Court’s confidential documents would simply find themselves conveniently falling into respondent’s lap through registered mail and that the envelopes

containing them could no longer be traced is unworthy of belief. This gives the Court reason to infer that laws and its own internal rules have been violated over and over again by some court personnel, whom respondent Peña now aids and abets by feigning ignorance of how the internal documents could have reached him. It is not unreasonable to even conclude that criminal liabilities have been incurred in relation to the Revised Penal Code[94] and the Anti-Graft and Corrupt Practices Act, with Atty. Peña benefitting from the same.[95] Respondent's actions clearly merit no other penalty than disbarment.

This second penalty of disbarment is all the more justified by the earlier imposition of an indefinite suspension. If taken together, these two violations already speak of respondent Peña's inherent unworthiness to become a member of the Bar. Although an indefinite suspension opens up the possibility of future reinstatement after a clear showing of remorse and a change of ways (as in the case of Atty. Paguia), respondent has shown to be incorrigible and no longer deserves the compassion of the Court. Not only has respondent thumbed his nose on the integrity of the persons occupying the Bench by casting grave aspersions of bribery and wrongdoing, he has also showed disdain for the sanctity of court procedures and records by his haughty display of illegal access to internal Supreme Court documents.

C. Third Charge: Respondent Peña's insinuations of wrongdoing and collusion between members of the Court and another counsel.

Aside from attributing bribery to the ponente, respondent Pena's allegations of collusion between previous members of the Court and the counsel for the De Leon Group are unfounded and contravene the ethical duties of respondent to the Court and his fellow lawyers. His actions reveal a pattern of behavior that is disconcerting and administratively punishable.

However, considering the ultimate penalty of disbarment earlier imposed on respondent Peña, the Court no longer finds the need to squarely rule on the third charge, as any possible administrative liability on this matter would be a mere superfluity.

D. Fourth Charge: The charge of forum shopping is not the proper subject of the present allegations of administrative misconduct.

The counter-charge of forum shopping has been made by respondent Peña against petitioners and their respective counsel in his defense.[96] However, this is already beyond the scope of the subject matter of this administrative case. It will be recalled that he assailed the fact that Urban Bank, the De Leon Group, and the other group of bank officers filed three separate Petitions (G.R. Nos. 145817, 145818 and 145822, respectively) before the Court. They all questioned therein the rulings of the appellate court affirming the grant of execution pending appeal.

Considering that this claim is the subject of administrative penalties, and that other interested parties did not participate in the investigation conducted by the OBC herein, prudence and equity dictate that the Court reserve judgment for the meantime until the subject is fully ventilated and all parties are given an opportunity to argue their cases.

The charges of forum shopping are hereby dismissed without prejudice to the filing and/or hearing of separate administrative complaints[97] against petitioners Urban Bank, Corazon M. Bejasa, Arturo E. Manuel, Jr., P. Siervo H. Dizon, Delfin C. Gonzales, Jr., Benjamin L. de Leon and Eric L. Lee, and their respective counsel of record. Considering their deaths, petitioners Teodoro C. Borlongan and Ben T. Lim, Sr., can no longer be included in any future administrative action in relation to these matters. On the other hand, Ben Y. Lim, Jr., was mistakenly impleaded by respondent Peña and therefore, is not a real and direct party to the case.

## EPILOGUE

As parting words, the Court herein highlights the disorder caused by respondent Peña's actions in the administration of justice. In order to foreclose resort to such abhorrent practice or strategy in the future, the Court finds the need to educate the public and the Bar.

Lawyers shall conduct themselves with courtesy, fairness and candor towards their professional colleagues.[98] They shall not, in their professional dealings, use language that is abusive, offensive or otherwise improper.[99] Lawyers shall use dignified language in their pleadings despite the adversarial nature of our legal system.[100] The use of intemperate language and unkind ascriptions has no place in the dignity of a judicial forum.[101]

The Court cannot countenance the ease with which lawyers, in the hopes of strengthening their cause in a motion for inhibition, make grave and unfounded accusations of unethical conduct or even wrongdoing against other members of the legal profession. It is the duty of members of the Bar to abstain from all offensive personality and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justness of the cause with which they are charged.[102]

It has not escaped the Court's attention that respondent Peña has manifested a troubling history of praying for the inhibition of several members of this Court or for the re-raffle of the case to another Division, on the basis of groundless and unfounded accusations of partiality. A sampling of his predilection for seeking the inhibition of, so far, eleven Justices of this Court, in an apparent bid to shop for a sympathetic ear, includes the following:

- Peña's Motion to Inhibit (Re: Justice Artemio V. Panganiban) dated 12 January 2001;
- Urgent Motion to Inhibit (Re: Justice Arturo Buena) dated 20 August 2001;
- 3. Letter Complaint (Re: Justice Buena) dated 28 October 2001;
- Motion to Inhibit (Re: Justice Panganiban) dated 18 February 2002;
- Reply (Re: Justice Panganiban) dated 15 March 2001;
- Urgent Motion to Inhibit (re: ponente) dated 30 January 2003;
- Motion to Inhibit (Re: Justice Leonardo A. Quisumbing) dated 08 July 2004;
- Motion to Inhibit (Re: Justice Panganiban) dated 28 December 2004;
- Motion to Inhibit (Re: Justice Eduardo Antonio B. Nachura) dated 17 December 2007;
- Motion for Inhibition (Re: Justice Panganiban) dated 28 December 2004;
- Reiteratory Motion to Recuse dated 03 March 2006 (Re: Justice Panganiban);
- Motion to Inhibit (Re: Justice Nachura) dated 07 January 2008;
- Urgent Consolidated Motion to Reiterate Request for Inhibition (Re: Justice Antonio T. Carpio) dated 02 June 2008;
- Urgent Motion for Re-Raffle (Re: Justice Presbitero J. Velasco) dated 10 July 2008;
- Supplement to the Urgent Motion for Re-Raffle (Re: Justices Conchita Carpio Morales and Dante O. Tinga) dated 04 August 2008;
- Urgent Consolidated Motion for Re-Raffle (Re: Justices Carpio Morales, Tinga and Velasco) dated 14 August 2008;

- Urgent Consolidated Motion for Re-Raffle (Re: Justices Arturo D. Brion, Leonardo A. Quisumbing, Carpio Morales, Tinga, Velasco, Quisumbing) dated 28 August 2008;
- Motion to Inhibit (Re: Justice Carpio) dated 21 January 2010;
- Very Urgent Motion to Inhibit (Re: Justices Carpio Morales and Ma. Lourdes P. A. Sereno) dated 30 March 2011;
- Very Urgent Motion to Inhibit dated 22 August 2011 (Re: Justice Sereno); and
- Very Urgent Motion to Re-Raffle dated 01 September 2011 (Re: Justices Carpio, Jose Perez and Sereno).

The grounds for inhibition of the Justices in these motions of respondent ranged from flimsy and sparse relations between the parties and the members of the Court to wild accusations of partiality on mere conjectures and surmises. For example, respondent accused former Chief Justice Panganiban of bias based on his affiliation with the Rotary Club, in which the late Teodoro Borlongan, then President of Urban Bank, was likewise an officer.[103] He moved for the inhibition of Justice Sereno on the ground that she was “a close judicial ally” of Justice Carpio, and in turn, the latter, according to respondent, was antagonistic toward him during the Court’s 03 March 2003 Executive Session in this administrative case.[104]

Meanwhile, respondent recently sought to have the case re-raffled from the Court’s Third Division because Justice Jose Portugal Perez, a member thereof, was allegedly appointed to the Court through the endorsement of former Executive Secretary Eduardo Ermita, who was a close ally of the then Chairman Emeritus of Urban Bank, former President Fidel V. Ramos.[105] He similarly sought the inhibition of Justice Dante O. Tinga for his close professional and political ties with former President Ramos.[106] He likewise assailed the partiality of Justice Arturo D. Brion, considering he is a law school classmate and fraternity brother of Chief Justice Renato C. Corona, who was then Presidential Legal Counsel of former President Ramos. Thus, according to respondent Peña, “President Ramos, through Justice Corona, will most likely exercise his influence over the Honorable Justice Brion.”[107]

Curiously, in asking for the inhibition of Justice Nachura for his alleged partiality in favor of Urban Bank because of his decision in a related case[108] and his prior appointment as Undersecretary of Education during the Ramos presidency, respondent Peña impliedly prayed that his case be specifically retained in the Court’s Third Division.[109] Respondent’s peculiar request, which was not included in his other motions, gives the impression that in his quest to have Justice Nachura inhibit himself, respondent nonetheless did not want his case to be raffled out of the Third Division. If his only intention was to raise the possibility of bias against Justice Nachura alone, then it would not matter whether his case remained with the Third Division, with another member being designated to replace Justice Nachura, or raffled to another Division altogether. Respondent Peña’s odd prayer in his motion for inhibition bore signs of an intent to shop for a forum that he perceived to be friendly to him, except for one member.

In *Chin v. Court of Appeals*,[110] the Court warned against litigants’ contumacious practice in successively asking for the inhibition of judges, in order to shop for one who is more friendly and sympathetic to their cause:

We agree that judges have the duty of protecting the integrity of the judiciary as an institution worthy of public trust and confidence. But under the circumstances here, we also agree that unnecessary inhibition of judges in a case would open the floodgates to forum-shopping. More so, considering that Judge Magpale was not the first judge that TAN had asked to be inhibited on the same allegation of prejudgment. To allow successive inhibitions would justify petitioners’ apprehension about the practice of certain litigants shopping for a judge more friendly and sympathetic to their cause than previous ones.

As held in *Mateo, Jr. v. Hon. Villaluz*, the invitation for judges to disqualify themselves need not always be heeded. It is not always desirable that they should do so. It might amount in certain cases to their being recreant about their duties. It could also be an instrument whereby a party could inhibit a judge in the hope of getting another more amenable to his persuasion. (Emphasis supplied.)

The Court's warning in *Chin* applies squarely to the multiple and successive requests for inhibition and re-raffle filed by respondent Peña. Lest other litigants follow his lead, the Court condemns in no uncertain terms the practice of shopping for a justice, most especially in the highest tribunal of the land. This abhorrent practice is indeed one of the reasons why this administrative case has dragged on for years. Not only does it impute ill motive and disrepute to the members of the Court, but it likewise delays the administration of justice.

Oddly enough, respondent Peña has been less concerned about the inordinate delay in resolving the case than about making sure that the "wrong" or "unfriendly" Justices – in his perception – do not sit and rule on the issues. He has thrived on the protracted interruptions caused by his numerous motions for inhibition and re-raffle, resulting in the case languishing in this Court for years and clogging its dockets. Respondent stands out for this disorderly behavior and must be made an example so that litigants be reminded that they cannot bend or toy with the rules of procedure to favor their causes. Worse, respondent has thrown no less than the rules of basic courtesy in imputing sinister motives against members of the Court.

Based on the foregoing, the Court finds that respondent Peña has violated several canons of professional and ethical conduct expected from him as a lawyer and an officer of the court. His conduct, demeanor and language with respect to his cause of action – in this Court, no less – tend to undermine the integrity and reputation of the judiciary, as well as inflict unfounded accusations against fellow lawyers. Most disconcerting for this Court is his uncanny ability to obtain confidential and internal court records and to use them shamelessly in his pleadings in furtherance of his cause.

In addition, the Court cannot just make short shrift of his inclination towards casually moving for the inhibition of Justices of the Court based on unfounded claims, since he has not shown remorse or contrition for his ways. Atty. Peña has shown and displayed in these proceedings that he has fallen short of the ethical standards of the noble profession and must be sanctioned accordingly.

**PREMISES CONSIDERED**, for violating Canons 8, 10 and 11 of the Code of Professional Responsibility and for failing to give due respect to the Courts and his fellow lawyers, respondent Atty. Magdaleno M. Peña is hereby **DISBARRED** from the practice of law, effective upon his receipt of this Decision, and his name is **ORDERED STRICKEN** from the Roll of Attorneys.

Let a copy of this Decision be attached to respondent Peña's personal record in the Office of the Bar Confidant and other copies thereof be furnished the Integrated Bar of the Philippines.

The En Banc Clerk of Court is directed to **INVESTIGATE** how respondent was able to secure copies of the following: (a) copies of the Agenda dated 13 November 2002 of the Court's First Division, attached as Annexes "B" and "C" of respondent Peña's Urgent Motion to Inhibit and to Resolve Respondent's Urgent Omnibus Motion dated 30 January 2003; (b) the Internal Resolution dated 04 September 2002, attached as Annex "D" of the same motion; (c) the Report and Recommendation dated 11 December 2007, issued by the Office of the Bar Confidant, attached as Annex "5" of respondent Peña's Motion to Vacate/Recall dated 20 February 2010; and (d) the Minutes of the Court, consisting of 58-pages, attached as Annex "A" of the Reply (to Petitioners' Opposition to Motion to Urgent Motion to Inhibit) dated 31 October 2001 filed by respondent Peña. She is further required to **SUBMIT** such an investigation report with recommendations on the administrative and disciplinary liabilities, if any, of all court personnel possibly involved therein, as well as suggestions for protecting confidential and

internal court documents of pending cases within NINETY (90) DAYS from receipt of this Resolution.

**SO ORDERED.**

Corona, C.J., Carpio,[\*] Velasco, Jr.,[\*] Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, Sereno, Reyes, and Perlas-Bernabe, JJ., concur.

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[1] Rollo (Vol. 1), pp. 16-24.

[2] Urban Bank, Inc., v. Magdaleno M. Peña, G.R. No. 145817 and Delfin C. Gonzales, Jr., et al., v. Magdaleno M. Peña, G.R. No. 145822. A separate petition entitled Magdaleno M. Peña, v. Urban Bank, Inc., Teodoro Borlongan, Delfin C. Gonzalez, Jr., Benjamin L. de Leon, P. Siervo H. Dizon, Eric L. Lee, Ben T. Lim, Jr., Corazon Bejasa, and Arturo Manuel, Jr., and docketed as G.R. No. 162562, was later filed and consolidated with the two earlier petitions. (See Urban Bank v. Peña, G.R. No. 145817, 145822, 162562, 19 October 2011)

[3] Annexes “A,” “B” and “C,” of the Motion; rollo (Vol. 1), pp. 25-32.

[4] Annex “D,” of the Motion; id. at 33.

[5] “The manifestation of the Office of the Chief Legal counsel of PDIC with motion with leave of court praying that the Export and Industry Bank with office address at 36[th] Floor, Export and Industry Bank Plaza, Chino Roces Avenue corner Gil Puyat Avenue, Makati City be furnished with all the pleadings and other court processes vice the PDIC for reasons mentioned therein is NOTED and GRANTED.

Before acting on respondent Magdalena Pena’s ‘Urgent Motion to Inhibit and to Resolve Respondent’s Urgent Omnibus Motion’ dated January 30, 2003, the Court Resolves to direct Atty. Magdaleno M. Peña and Atty. Manuel R. Singson to APPEAR before this Court on Monday, March 3, 2003, at 10:00 a.m.

Let this resolution be served personally on aforesaid lawyers, if feasible.” (SC Resolution dated 17 February 2003; rollo [Vol. 1], pp. 34-35)

[6] SC Resolution dated 03 March 2003; id., pp. 38-43.

[7] Respondent Peña’s Compliance dated 03 April 2003; rollo (G.R. No. 145817), Vol. 2, pp. 1333-1340.

[8] Id. at 1333-1338.

[9] Rollo (Vol. 1), pp. 74-84.

[10] Petitioner Urban Bank’s Opposition (to Urgent Motion to Inhibit and to Resolve Respondent’s Urgent Omnibus Motion) dated 28 February 2003; rollo (Vol. 1), pp. 119-131.

[11] SC Resolution dated 28 April 2003, at 4; rollo (Vol. 1), p. 54.

[12] Rollo (Vol. 1), at 51-55.

[13] Respondent Peña’s Affidavit dated 27 June 2003; id., pp. 68-71.

[14] Atty. Singson’s Affidavit dated 28 July 2003; id., pp. 75-84.

[15] Petitioner De Leon Group’s Manifestation and Motion dated 14 May 2003; id., pp. 174-182.

[16] SC Resolution dated 09 June 2003; id., pp. 183-184; see also SC Resolution dated 19 January 2005, which allowed the OBC to proceed with the investigation of the contempt charge against respondent Peña; id., pp.

325-326.

[17] Respondent Peña's Comment dated 22 August 2003; id., pp. 196-220.

[18] Id.

[19] Office of the Bar Confidant TSN dated 10 August 2006; rollo (Vol. 3), pp. 714-774.

[20] Respondent Peña's Memorandum for the Respondent dated 03 November 2006; rollo (Vol. 2), pp. 363-379.

[21] Respondent Peña's Motion to Vacate/Recall dated 20 February 2010; rollo (G. R. No. 145822), Vol. 2, pp. 3286-3293.

[22] The three consolidated petitions in the main case include: (1) Urban Bank, Inc., v. Magdaleno M. Peña, G.R. No. 145817; (2) Delfin C. Gonzales, Jr., et al., v. Magdaleno M. Peña, G.R. No. 145822; and (3) Magdaleno M. Peña v. Urban Bank, Inc., et al., G.R. No. 162562.

[23] "... In fact, with all due respect, I believe the Honorable Justice Sereno will attempt to protect the Honorable Justice Carpio by perhaps separating the Admin Case No. 6332, thus separating the findings of the OBC regarding the Agendas, and thus protecting the Honorable Justice Carpio." (Respondent Peña's Letter dated 16 September 2011, p. 6, which is Annex "A" of his Supplement to the Very Urgent Motion for Re-Raffle dated 20 September 2011)

[24] "While respondent may appear to have been passionate and agitated in his language in his motion, the same may not be considered as malicious imputations as he is merely expressing concern of what he has discovered based on the documents he has obtained apparently from an anonymous sender and based on his own discoveries." (OBC Report dated 11 December 2007, p. 50; rollo [Vol. 4], p. 1706)

[25] "Nevertheless, it is worthy [to note] that in respondent's motion to inhibit, etc., the latter did not make a direct accusation of bribery against the ponente but merely narrated events, which in respondent's view, warranted the inhibition of the said ponente. The statements made by respondent in his conversation with Atty. Singson, particularly his remark about Justice Carpio having a new Mercedes Benz was not made in the presence of or so near a court nor in any public place or in a published material as to create any impression in the mind of the public or malign the integrity of any member of the Court. Rather it was part of a private conversation between respondent and Atty. Singson only." (OBC Report dated 11 December 2007, p. 51; rollo [Vol. 4], p. 1707)

[26] "In the highest interest of justice, let the apology and the begging of herein respondent touches the Court's indulgence and compassion and accord respondent the benefit of the doubt on his sincerity. However, let this benevolence of the Court serve, as his first warning, being an officer of the court, to be more cautious, restraint and circumspect with his dealing in the future with the Members of the Court and the Supreme Court." (OBC Report dated 11 December 2007, p. 52; rollo [Vol. 4], p. 1708)

[27] OBC Report dated 11 December 2007, p. 53; rollo (Vol. 4), p. 1709.

[28] "During the Executive Session on 3 March 2003, Hon. Justice Antonio T. Carpio categorically denied that Annex 'B' belong to him or any of the Members of the First Division. On the other hand, Hon. Justice Jose C. Vitug admitted that Annex 'C' might be his copy and the same is on the record of the case as confirmed by the Division Clerk of Court. The Clerk of Court, however, averred that there is no such Annex 'B' in the records and the notation '10 AC' as appearing in Annex 'B' is not present in Annex 'C'." (OBC Report dated 11 December 2007, p. 53; id., p. 1709)

[29] “During the investigation Atty. Vinluan appears. He identifies the affidavit he executed on 16 May 2003, in support of the manifestation and motion of private petitioners. He enumerates several pleadings of respondent in related cases imputing that he uses his influence over Justice Buena to gain favorable resolution of the case. He vehemently denies that imputations. According to him this unfounded accusation tends to discredit his long-standing name and hard-earned reputation before the Supreme Court and the legal profession.” (OBC Report dated 11 December 2007, p. 58; id., p. 1714)

[30] “The statements may not appear to be abrasive and disrespectful but it contains words that may offend the ego of the complainant, but prudence dictates that respondent as a lawyer, he must refrain from using unnecessary words and statements which may not be necessary in the resolution of the incidents raised therein.” (OBC Report dated 11 December 2007, p. 59; id., p. 1715)

[31] “Atty. Peña argues that petitioners and their counsel violated the rule against forum-shopping when they filed three separate petitions for certiorari questioning the decision of the Court of Appeals raising the same issues and reliefs before this Court.” (OBC Report dated 11 December 2007, p. 60; id., p. 1716)

[32] “Petitioners and their counsel should be given an opportunity to aptly defend himself to produce witness/es and/or evidence relative thereto and to be heard by himself or by counsel.” (OBC Report dated 11 December 2007, p. 61; id., p. 1717)

[33] OBC Report dated 11 December 2007, pp. 47-62; id., pp. 1703-1718.

[34] Code of Professional Responsibility, Canon 11.

[35] Code of Professional Responsibility, Canon 11, Rule 11.03.

[36] Code of Professional Responsibility, Canon 11, Rule 11.04.

[37] *Saberon v. Larong*, A.C. No. 6567, 16 April 2008, 551 SCRA 359, citing *Rubio v. Court of Appeals*, G.R. No. 84032, 29 August 1989, 177 SCRA 60, 63.

[38] Id., citing *Torres v. Javier*, A.C. No. 5910, 21 September 2005, 470 SCRA 408, 421; *Nuñez v. Astorga*, A.C. No. 6131, 28 February 2005, 452 SCRA 353, 364, citing *Hueysuwan-Florido v. Florido*, 465 Phil. 1, 7 (2004); *Cruz v. Cabrera*, A.C. No. 5737, October 25, 2004, 441 SCRA 211, 219.

[39] *Ng v. Alar*, A.C. No. 7252, 22 November 2006, 507 SCRA 465, citing *Hueysuwan-Florido v. Florido*, A.C. No. 5624, 20 January 2004, 420 SCRA 132, 136-137.

[40] Respondent Peña’s Urgent Motion to Inhibit and to Resolve Respondent’s Urgent Omnibus Motion dated 30 January 2006, at 2-3; rollo (Vol. 1), pp. 17-18.

[41] SC TSN dated 03 March 2002, at 55-58; rollo (Vol. 3), pp. 1052-1055.

[42] SC Resolution dated 03 March 2003, p. 3; rollo (Vol. 1), p. 40.

[43] Annex “1” of the SC Resolution dated 28 April 2003; id., pp. 8-9.

[44] Annex “2” of the SC Resolution dated 28 April 2003; id., pp. 10-15.

[45] “Mere suspicion that a judge is partial is not enough. There should be clear and convincing evidence to prove the charge of bias and partiality. Extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to the palpable error that may be inferred from the decision or order itself.” (*Sinnott v. Barte*, A. M. No. RTJ-99-1453, 14 December 2001, 423 Phil. 522)

[46] “2. With all due respect, it is important to note that one of the matters taken up or issues in A.C. No. 6332 was the issuance, by Justice Antonio T. Carpio, of a Resolution dated 13 November 2002 and the anomalous/unusual circumstances regarding the same for it being contrary to the Agenda of November 2002 of the First Division of this Honorable Court. Further, this incident was the subject of an executive hearing wherein the First Division interrogated respondent/petitioner Peña as to who in the Supreme Court supplied the questioned Agenda to him. During this executive hearing, the Honorable Justice Carpio was confrontational and hostile to respondent/petitioner Peña for exposing the questioned Agenda and raising issues therein.” (Respondent Peña’s Motion to Inhibit dated 20 January 2010, p. 2)

[47] “3. One of the matters taken up and/or issues in A.C. No. 6332 was the issuance, by Justice Antonio T. Carpio, of a Resolution dated 13 November 2002 and the anomalous/unusual circumstances regarding the same for it being contrary to the Agenda of November 2002 of the First Division of this Honorable Court. Further, this incident was the subject of an executive hearing wherein the First Division interrogated me as to who in the Supreme Court supplied me the questioned Agenda. During this executive hearing, the Honorable Justice Carpio was confrontational and hostile to me for exposing the questioned Agenda and raising issues therein.” (Respondent Peña’s Motion to Inhibit dated 22 August 2011, p. 2)

[48] Respondent Peña’s Letter dated 16 September 2011, p. 2-4, which is Annex “A” of his Supplement to the Very Urgent Motion for Re-Raffle dated 20 September 2011.

[49] In Re: Raquel D. J. Razon, et al., A. M. No. P-06-2243, 26 September 2006, 503 SCRA 52.

[50] “3. Once again, I wish to express my sincerest apologies to the members of the Honorable Court whom I may have offended by the use of the two copies of the Supplemental Agenda in my motion. It was never my intention to undermine the integrity of the Honorable Court or any of its members. If I had made remarks which gave the impression, I am certainly very sorry. My aim was only to get to the truth.” (Respondent Peña’s Affidavit dated 27 June 2003, p. 1; rollo [Vol. 1], p. 68)

[51] “2. At the outset, respondent wishes to apologize for the distress his statements may have caused the members of this Honorable Court. While such distress may have been the unavoidable consequence of his motion to inhibit the ponente, it was certainly not his intended result.” (Respondent Peña’s Compliance dated 03 April 2003; rollo [G.R. No. 145817], Vol. 2, pp. 1333-1340).

[52] Respondent Peña’s Reply (to Petitioners’ Opposition to Motion to Urgent Motion to Inhibit) dated 31 October 2001; rollo (Vol. 1), pp. 85-108.

[53] Respondent Peña’s Opposition (to Urgent Motion for Leave to Admit Urgent Motion for Reconsideration of the Resolution dated 14 February 2001 and 13 December 2000) dated 23 April 2001, at 4-5, rollo (Vol. 3), pp. 1116-1117.

[54] Respondent Peña’s Reply (to Petitioners’ Opposition to Motion to Urgent Motion to Inhibit) dated 31 October 2001, at 1; id., p. 1128.

[55] Id., at 14; id., p. 1141.

[56] Id.

[57] Respondent Peña’s Motion to Inhibit dated 18 February 2002, at 5; id., p. 1156.

[58] 1. Peña’s Motion to Inhibit (Re: Justice Artemio V. Panganiban) dated 12 January 2001; 2. Motion to Inhibit (Re: Justice Panganiban) dated 18 February 2002; 3. Reply (Re: Justice Panganiban) dated 15 March 2001; 4. Motion to Inhibit (Re: Justice Panganiban) dated 28 December 2004; 5. Motion for Inhibition (Re: Justice

Panganiban) dated 28 December 2004; and 6. Reiteratory Motion to Recuse dated 03 March 2006 (Re: Justice Panganiban).

[59] Respondent Peña's Motion to Inhibit dated 18 February 2002, pp. 2-3; rollo (G.R. No. 145817), Vol. 1, pp. 901-902.

[60] Respondent Peña's Motion to Inhibit dated 07 January 2008, p. 3; rollo (G.R. No. 145817), Vol. 3, p. 1953.

[61] "The Court is concerned with the repeated attempts of Atty. Peña throughout the entire course of these proceedings (whether through a direct motion to inhibit, administrative ethics complaint, or, indirectly, through a motion for re-raffle) to cause the inhibition of members of this Court. Eleven (11) Justices so far have all been asked by Atty. Peña to inhibit themselves. Atty. Peña's inclination to disqualify members of the Court, whom he perceives to be potentially adversarial to his cause, has certainly caused unwarranted and unnecessary delay in the resolution of the case." (SC Resolution dated 17 October 2011 in the consolidated petitions docketed as G.R. Nos. 145817, 145822 and 162562)

[62] G.R. Nos. 159486-88, 25 November 2003, 416 SCRA 465.

[63] Resolution dated 28 April 2003, at 4; rollo (Vol. 1), p. 6.

[64] "The Clerk of Court and the Division Clerks of Court shall ensure that all pleadings, communications, documents, and other papers duly filed in a case shall be reported in the Agenda for the consideration by the Court en banc or the Division. The Agenda items for each case shall adequately apprise the Court of relevant matters for its consideration." (Internal Rules of the Supreme Court [A. M. No. 10-4-20-SC, as amended], Rule 11, Sec. 1)

[65] Respondent Peña's Urgent Motion to Inhibit and to Resolve Respondent's Urgent Omnibus Motion dated 30 January 2003, at 4-5; rollo (Vol. 1), pp. 19-20.

[66] TSN dated 03 March 2002, pp. 38-44; rollo (Vol. 3), pp. 1036-1042.

[67] TSN dated 03 March 2002, pp. 98-99; id., pp. 1094-1095.

[68] In the verification portion of his Motion to Inhibit, respondent Peña under oath swore and stated that he had caused the preparation of the motion, and that all the allegations therein were true and correct, based on his knowledge as well as the records of the case. (Respondent Peña's Urgent Motion to Inhibit and to Resolve Respondent's Urgent Omnibus Motion dated 30 January 2003, at 7-8; rollo [Vol. 1], pp. 22-23)

[69] "A lawyer owes candor, fairness and good faith to the Court." (Code of Professional Responsibility, Canon 10)

[70] Code of Professional Responsibility, Rule 10.01.

[71] *Samala v. Valencia*, A. C. No. 5439, 22 January 2007, 512 SCRA 1, citing *Young v. Batuegas*, 451 Phil. 155 (2003).

[72] Id.

[73] TSN dated 03 March 2002, at 73; rollo (Vol. 3), pp. 1070.

[74] Respondent Peña's Urgent Motion to Inhibit and to Resolve Respondent's Urgent Omnibus Motion dated 30 January 2003, at 4-5; rollo (Vol. 1), pp. 19-20.

[75] "Court personnel shall not disclose to any unauthorized person any confidential information acquired by them while employed in the judiciary, whether such information came from authorized or unauthorized sources.

“Confidential information means information not yet made a matter of public record relating to pending cases, as well as information not yet made public concerning the work of any justice or judge relating to pending cases, including notes, drafts, research papers, internal discussions, internal memoranda, records of internal deliberations and similar papers.

“The notes, drafts, research papers, internal discussions, internal memoranda, records of internal deliberations and similar papers that a justice or judge uses in preparing a decision, resolution or order shall remain confidential even after the decision, resolution or order is made public.” (Code of Conduct for Court Personnel, AM No. 03-06-13-SC, Canon II, Sec. 1)

[76] “The Offices of the Clerk of Court and of the Division Clerks of Court are bound by strict confidentiality on the action or actions taken by the Court prior to the approval of the draft of the minutes of the court session release of the resolutions embodying the Court action or actions.” (Internal Rules of the Supreme Court, as amended, Rule 11, Sec. 5, par. 1)

[77] “11. I had no reason to doubt the documents’ authenticity simply because there was no reason for anyone to bother or go to the extent of manufacturing documents for the benefit of someone who does not even know him. The documents contained a detailed list of the incidents deliberated by this Honorable Court on 13 November 2002. Definitely, not just anyone could have access to such information.” (Respondent Peña’s Affidavit dated 27 June 2003, at 3; rollo [Vol. 1], p. 70)

[78] Respondent Peña’s Motion to Vacate/Recall dated 20 February 2010; rollo (G. R. No. 145822), Vol. 2, pp. 3286-3293.

[79] Annex “5” of respondent Peña’s Motion to Vacate/Recall dated 20 February 2010; rollo (G. R. No. 145822), Vol. 2, pp. 3305-3366.

[80] OBC Report dated 11 December 2007; rollo (Vol. 4), pp. 1657-1718.

[81] “12. Respondent is not just speculating here. He is CERTAIN that the ponente has a special interest in this case. Recently, he also found out that the ponente made a special request to bring this case along with him when he transferred from the Third Division to the First Division. Respondent has a copy of the Resolution of this Honorable Court granting such request (hereto attached as Annex ‘D’). Indeed this circumstance, considered with all the foregoing circumstances, ineluctably demonstrate that a major anomaly occurred here.” (Peña’s Urgent Motion to Inhibit and to Resolve Respondent’s Urgent Omnibus Motion dated 30 January 2003, pp. 5-6; rollo [Vol. 1], pp. 20-21)

[82] “Let this case be TRANSFERRED to the First Division, the same being assigned to a Member thereof. [Internal Matter]” (Rollo [Vol. 1], p. 33)

[83] “12. Moreover, I subsequently received another mail from apparently the same sender, this time containing a pink copy of this Honorable Court’s 4 September 2002 Resolution (annex ‘D’, Urgent Motion to Inhibit) transferring this case from the Third Division to the First Division. The receipt of this last document somehow confirmed to me that whoever sent the copies of the Supplemental Agenda really had access to the records of this Honorable Court.” (Peña’s Affidavit dated 27 June 2003, p. 3; rollo [Vol. 1], p. 70)

[84] “Effect of reorganization of Divisions on assigned cases. – In the reorganization of the membership of Divisions, cases already assigned to a Member-in-Charge shall be transferred to the Division to which the Member-in-Charge moves, subject to the rule on the resolution of motions for reconsideration under Section 7 of this Rule. The Member-in-Charge is the Member given the responsibility of overseeing the progress and

disposition of a case assigned by raffle.” (Internal Rules of the Supreme Court [A. M. No. 10-4-20-SC, as amended], Rule 2, Sec. 9)

[85] “In this regard, respondent made an irresponsible suspicion. As an internal policy of the Court, the case will automatically be transferred to the Division to which the ponente of the case is a Member thereof.” (OBC Report dated 11 December 2007, p. 50; rollo [Vol. 4], p. 1706)

[86] Annex “A” of Peña’s Reply (to Petitioners’ Opposition to Motion to Urgent Motion to Inhibit) dated 31 October 2001; rollo (G. R. No. 145822), Vol. 2, pp. 2776-2834.

[87] Peña’s Reply (to Petitioners’ Opposition to Motion to Urgent Motion to Inhibit) dated 31 October 2001, p. 6; rollo (Vol. 1), at 90.

[88] “xxx Excerpts of the minutes pertaining to a particular case quoted in a letter of the Clerk of Court or the Division Clerk of Court to the parties, and extended resolutions showing the actions of the court on the cases on the agenda shall be released to the parties only after the Chief Justice or the Division Chairperson has approved the minutes in writing. xxx” (Internal Rules of the Supreme Court, as amended, Rule 11, Sec. 4)

[89] “13. I sincerely regret that the documents considered confidential by the Honorable Supreme Court had leaked out but there was nothing I could do about it. Once these documents were sent to me, my duty was to bring them to [the] attention of the Court which, in its wisdom, would know best what to do with them.” (Respondent Peña’s Affidavit dated 27 June 2003, at 3; rollo [Vol. 1], pp. 70)

[90] “The term ‘noted’ means that the Court has merely taken cognizance of the existence of an act or declaration, without exercising a judicious deliberation or rendering a decision on the matter — it does not imply agreement or approval.” (Sebastian v. Bajar, A. C. No. 3731, 07 September 2007, 532 SCRA 435, citing Cojuangco, Jr. v. Palma, A.C. No. 2474, 30 June 2005, 462 SCRA 310, 321)

[91] Justice Carpio’s Agenda for 13 November 2002, Item 175 (a) & (f) as “See RES.”; rollo (Vol. 1), pp. 10-15.

[92] TSN dated 03 March 2002, at 77-83; rollo (Vol. 3), pp. 1073-1079.

[93] The Chief Justice or the Chairperson of the Division shall provide the Clerk of Court or the Division Clerk of Court the latter notes on the actions taken by the Court. The copy of the Agenda containing the handwritten notes of the Chief Justice or Division Chairperson shall serve as the basis for the preparation of the minutes of the session by the Office of the Clerk of Court or the Division Clerk of Court. Within three working days from the time the copy of the Agenda containing the handwritten actions of the Court is transmitted, the Clerk of Court or the Division Clerk of Court shall submit the draft of the minutes of the session for the approval by the Chief Justice or the Division Chairperson. (Internal Rules of the Court, as amended, Rule 11, Sec. 3 and 4)

[94] Revised Penal Code, Art. 229 (Revelation of Secrets).

[95] “Divulging valuable information of a confidential character, acquired by his office or by him on account of his official position to unauthorized persons, or releasing such information in advance of its authorized release date, xxx.” (Republic Act No. 3019, Sec. 3 [k])

[96] Respondent Peña’s Comment (with Motions to Explain and for Full Investigation) dated 22 August 2003; rollo (Vol. 1), pp. 196-220.

[97] Rules of Court, Rule 7, Sec. 5.

[98] Code of Professional Responsibility, Canon 8.

[99] Code of Professional Responsibility, Rule 8.01.

[100] Barandon v. Ferrer, A. C. No. 5768, 26 March 2010, 616 SCRA 529, citing Saberon v. Larong, A.C. No. 6567, 16 April 2008, 551 SCRA 359, 368.

[101] Id., citing De la Rosa v. Court of Appeals Justices, 454 Phil. 718, 727 (2003).

[102] Uy v. Depasucat, id., citing Surigao Mineral Reservation Board v. Cloribel, G.R. No. L-27072, 09 January 1970, 31 SCRA 1.

[103] Peña's Motion to Inhibit dated 18 February 2002; rollo (G. R. No. 145822), Vol. 2, pp. 2936-2945.

[104] Peña's Very Urgent Motion to Inhibit dated 30 March 2011; rollo (G. R. No. 145822), Vol. 3, pp. 3964-3971.

[105] Peña's Very Urgent Motion for Re-Raffle dated 01 September 2011; id., pp. 3972-3980.

[106] Peña's Supplement to the Urgent Motion for Re-raffle dated 04 August 2008; rollo (G. R. No. 162562). Vol. 2, pp. 1339-1344.

[107] Peña's Urgent Consolidated Motion for Re-Raffle dated 28 August 2008; id., pp. 1355-1362.

[108] Borlongan v. Peña, G. R. No. 143591, 23 November 2007, 538 SCRA 221.

[109] "However, herein private respondent-movant (Peña) would like to make it clear that he has full trust and confidence in the other members of the Third Division, Considering that only Associate Justice Nachura has exhibited extreme bias and prejudice against private respondent." (Peña's Motion to Inhibit dated 07 January 2008, p. 6; rollo [G. R. No. 162562], Vol. 2, p. 1278)

[110] G. R. No. 144618, 15 August 2003, 456 Phil. 440.

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