



Republikang Pilipinas  
Kagawarannag Katarungan  
Tanggapannag Manananggol Pambayan  
PUBLIC ATTORNEY'S OFFICE

DOJ Agencies Building, NIA Road corner East Avenue  
1104 Diliman, Quezon City

Telephone Nos. 9299010/9299436; Fax Nos. 9276610/9262878

**Memorandum Circular No. 007**  
**Series of 2010**

**CODE OF CONDUCT FOR PUBLIC ATTORNEYS AND  
EMPLOYEES OF THE PUBLIC ATTORNEY'S OFFICE**

**Section 1. Purpose.** This Code of Conduct is issued to set forth, define and consolidate the policies and rules of conduct to be observed by Public Attorneys and other employees of the Office in providing legal assistance pursuant to the Public Attorney's Office mandate and in dealing with the public.

**Section 2. Coverage.** The Code of Conduct for Public Attorneys shall apply to all public attorneys performing their duties in providing legal assistance pursuant to the mandate of the Public Attorney's Office. On the other hand, the Code of Conduct for other employees shall apply to all those who hold a permanent or temporary appointment, including contractual, co-terminus and detailed employees as a guide in discharging their respective functions of assisting the Office in carrying out its mandate.

The provisions of this Code shall be suppletory to the existing laws, rules and regulations governing the conduct, responsibilities and accountabilities of public officials and employees.

**MISSION:** The Public Attorney's Office exists to provide the indigent litigants, the oppressed, marginalized and underprivileged members of the society free access to courts, judicial and quasi-judicial agencies, by rendering legal services, counseling and assistance in consonance with the Constitutional mandate that "free access to courts shall not be denied to any person by reason of poverty" in order to ensure the rule of law, truth and social justice as components of the country's sustainable development.

**VISION:** A government agency that is God-centered and dynamic bureaucracy that is responsive to the ever-growing legal needs of the indigents and oppressed led by highly competent, world-class, development-oriented, honest, dedicated and nationalistic leaders and lawyers.

### **Section 3. Core Values.**

Respect for the rule of law, human rights and dignity of human being

Commitment to public service

Public interest over and above personal interest

Honesty, integrity and competence

Courtesy, sincerity and candidness

Prompt and effective delivery of legal assistance

Non-discrimination as to creed, religion, politics, sexual orientation, marital status or age

Frugal use and responsible management of government resources

**Section 4. Declaration of Policies.** To promote a high standard of conduct and ethics in providing legal services to qualified individuals, all Public Attorneys and employees of this Office shall discharge their duties with utmost responsibility, integrity and competence.

**Section 5. Definition of Terms.** As used in this Code, the term:

a. “Office” refers to the Public Attorney’s Office;



### **Inadequate Representation, Philippine Case Study**

In a criminal case, the defendant’s attorney was ordered to file a brief. The brief he filed was only two pages long and inadequate in substance. The Supreme Court expunged the brief and ordered the attorney to show cause as to why he should not be held in contempt for filing an insufficient brief. The attorney blamed his secretary. The Court did not accept the excuse, finding that the attorney should not have made his secretary responsible for executing such an important task. The Court noted that if the attorney felt he was not being paid his proper fees and could no longer represent his client’s interests, he should have opted to withdraw.

Citing Canons 2 and 18 of the Code of Professional Responsibility and Rule of Court 138 Section 20, the Supreme Court suspended the attorney from the practice of law for five months and ordered him to pay a P3,000 fine.

*People vs. Almendral, G.R. No. 126025, December 4, 2000.*



### **Inadequate Representation, Philippine Case Study**

In a rape case, both the defendant and his counsel, a Public Attorney, failed to appear at a pre-hearing. A second Public Attorney appeared at a later hearing, but failed to cross-examine the prosecutor's primary witness and put little effort into examining the other witnesses. Neither attorney appeared at later hearings or made any effort to have the hearings postponed. The defendant was sentenced to death.

The Supreme Court found that the defendant's right to counsel was violated by the attorneys' failure to appear and lackluster performance. The Court noted that the right to counsel in the face of the death penalty was not diminished by defendant's failure to appear or the nature of his crimes. The Court remanded the case and admonished the attorneys and trial court judge.

*People v. Ferrer, G. R. No. 148821, July 18, 2003.*

b. "*Employee*" shall refer to all personnel, including public attorneys, holding a permanent or temporary appointment including contractual, co-terminus and those detailed from other government agencies;

c. "*Client*" shall refer to any person to whom the Office renders legal services/assistance;

d. "*Gift*" shall refer to a thing or a right to dispose gratuitously or any act of liberality in favor of another who accepts it, including a simulated sale or an ostensibly onerous disposition thereof from a person who has been a client of PAO;

e. "*Receiving any gift*" shall refer to the act of accepting, directly or indirectly, a gift from a client who is not a member of his family or relative;

f. "*Conflict of Interest*" shall refer to the Office's representation at the same time of inconsistent interest of two or more opposing parties in the same case/s;

g. "*OB Slips*" – refer to permits issued to the employees before leaving the Office on official business.

**Section 6. Norms of Conduct of Public Attorneys and Employees.** Every Public Attorney and employee shall observe the following standards of personal conduct in the discharge and execution of official duties:

#### **A. Standards of Personal Conduct:**

a. *Commitment to free legal services* – All public attorneys shall strictly adhere to their duty of providing free legal assistance and/or representation to indigent and qualified persons in civil, criminal administrative and quasi-judicial cases at all times.

**b. Professionalism–**

Public Attorneys shall perform and discharge their functions promptly and effectively in accordance with the lawyer's oath and their oath of office.

They shall be courteous, respectful and professional in their dealings toward their clients, members of the bar, the bench and the public.



**Improper Case Management , Philippine Example**

A Public Attorney representing a client convicted of theft prepared a draft petition for probation. He decided not to file the petition after learning that the client had a previous conviction, which rendered him ineligible for probation. After the timeframe for filing the petition had already passed, the client's relative asked the attorney for a copy of the draft petition, saying that she would discuss it with the judge. The attorney advised the relative that the client was ineligible for probation, and that the timeframe for filing the petition had expired. The relative continued to demand a copy of the petition, and the attorney finally gave it to her. The attorney asked the relative to let him know whether the judge would be willing to entertain it, so he could prepare a final copy.

The relative thereupon filed the draft petition with the court. The court denied the petition and questioned why it was filed late, and PAO conducted an investigation on the matter. The Chief Public Attorney strongly admonished the attorney both for allowing the relative to dictate the procedure of the case and for allowing the filing of a petition that was already out of time.

*EXEC (LRD) No. 08-23, Oct. 7, 2008.*

**c. Justness and sincerity–** Public Attorneys shall uphold the interest of their clients and shall be candid with them at all times; upholding the rule of law and what is fair, just and equitable under the circumstances.



**Zealous Representation, Philippine Case Study**

After failing to timely file an answer in a civil case, a defendant sought the assistance of a public attorney. The attorney filed a Manifestation seeking an extension of time to answer. In the Manifestation, she alleged that the plaintiff in the case had filed improper pleadings and harassed and maligned government officials. The plaintiff filed a complaint against the attorney alleging gross ignorance of the law and lack of professional competence.

PAO's investigation of the attorney determined that the attorney was acting in good faith to protect the interests of her client, and that her actions did not constitute gross ignorance of the law. The Chief Public Attorney issued an order affirming that the attorney was obliged to take remedial measures to address her client's failure to timely file an answer, but finding that the attorney should have filed a Motion to Admit instead of a Manifestation.

*EXEC (LRD) No. 02-118, Sep. 4, 2002.*

**d. Integrity and Moral Uprightness –**

Public Attorneys' integrity, morality and conduct shall be beyond reproach.

**e. Non-discrimination –**

Employees of the Office shall provide free legal service to litigants in accordance with existing rules and regulations without discrimination, directly or indirectly against any person on grounds of

race, color, ethnic or national origin, gender, marital status, sexual orientation, disability, age, political predilections or religion.



### **Over-Zealous Representation, American Case Study**

While representing a defendant at trial, an attorney had someone who was not the defendant sit in the defendant's place at the counsel table, with the intent of causing misidentification. The attorney was aware of the court custom that only the parties and those with the court's permission were allowed to sit at the counsel table.

The attorney's action created confusion and delay in the case, and the attorney was charged with contempt of court. The court hearing the case against the attorney found him to be in contempt of court and in violation of professional rules regarding trial conduct and candor to the court.

Upholding this ruling, the U.S. Ninth Circuit Court of Appeals noted that the duty to zealously represent a defendant allows an attorney to impeach or confuse a witness, even if the attorney believes the witness is telling the truth. The court explained that the line between zealous representation and actual obstruction is close, but the line is crossed when an attorney's conduct impedes the court's search for truth and results in delays.

*U. S. v. Thoreen, 653 F.2d 1332 (9th Cir. 1981).*

f. **Confidentiality** – Information obtained from and communications had with the clients are privileged and shall be kept confidential at all times even after termination of lawyer-client relationship; maintaining and respecting the fiduciary relations between lawyer and client all the time.



### **Exception to Duty of Confidentiality, American Case Study**

A crime suspect and his attorney discussed documents and emails that the prosecutor was seeking in the investigation against the suspect. Apparently based on this conversation (and without the attorney's knowledge), the suspect destroyed many of the documents and emails. The prosecutor subpoenaed the attorney to compel testimony regarding the conversation that preceded the document destruction. The suspect claimed the attorney-client confidentiality privilege.

The prosecutor argued that the crime-fraud exception to the attorney-client privilege should be applied. This exception allows the privilege to be overridden if the client used the attorney's services to further a continuing or future crime or fraud, and it applies even when an attorney is unaware that the client is engaged in or planning a crime.

The U.S. Third Circuit Court of Appeals found that the prosecutor supplied sufficient evidence to suggest that the suspect was engaged in the ongoing crime of obstruction of justice, and that the communication with the Attorney was in furtherance of the crime. The court thus upheld the subpoena of the attorney-client communications.

*In re Grand Jury Investigation, 445 F.3d 266 (3rd Cir. 2006) cert. denied, 127 S. Ct. 538 (2006).*

g. *Preparedness* – Public Attorneys shall appear for trial adequately prepared on the law and facts of the case, the evidence to be adduced and the order of preference. They shall be ready with the original documents for comparison with the duplicate or photocopy thereof; and shall file pleadings, memoranda and briefs on time.

h. *Simple living* – Public Attorneys shall lead modest lives avoiding ostentatious display of wealth in any manner.

i. *Responsibility and frugality* – Public Attorneys shall be the role model for others on how to be responsible and frugal in the management and use of government resources.

j. *Neutrality and Independence* – All employees shall maintain professional independence and shall not allow this to be compromised by undue influence.

k. *Unity in Information Dissemination*– To preserve the integrity of the office and to ensure the preservation of national security and interest involving PAO cases, Public Attorneys and employees shall refrain from conducting press conferences and media interviews without prior authority of the Chief Public Attorney or his duly authorized representative.

#### **B. Prohibited Acts/Practices:**

a. Public Attorneys shall refrain from encouraging or doing acts contrary to law, good morals, custom, public policy and public order; and shall avoid any act, utterances or circumstances that can cause intrigue and sow dissension and division in the Office.



#### **Failure to Follow Proper Filing Procedure, Philippine Example**

A Public Attorney working in a field office agreed to file a petition to the Supreme Court for certiorari on behalf of an indigent client, even though he was aware of the rule (under Memorandum Circular No. 18) requiring such appeals to be handled by PAO's Special and Appealed Cases Service (SACS). The attorney reasoned that the client was an elderly woman with limited finances and limited ability to travel to the SACS office in Quezon City, and that the time frame for filing was about to expire. The attorney prepared the petition without including the required original or certified copy of the lower court's ruling, and the petition was denied based on that technicality.

The Chief Public Attorney issued an order reprimanding the Public Attorney, noting that he had good intentions, but his failure to follow the proper procedure prejudiced his client.

*EXEC (LRD) No. 02-169, Oct. 8, 2002.*



### Unacceptable Office Conduct, Philippine Case Study

On several occasions, a Public Attorney who was frustrated with her job re-assignment threatened fellow employees with bodily harm. One of the threats took place during a PAO flag ceremony, when the attorney shouted at an administrative officer until other employees intervened. Employees were aware that the attorney was in possession of an office-issued pistol and were concerned for their safety.

The attorney was charged with Grave Misconduct and Being Notoriously Undesirable. After an administrative hearing within PAO, she was dismissed. She appealed to the Civil Service Commission, which found her liable only for simple misconduct, subject to a six-month suspension.

When PAO appealed the case to the Court of Appeals, the Public Attorney challenged PAO's standing to appeal. The court found that PAO, as the party responsible for the attorney's discipline and the safety of the office, had a right to appeal the case. The court also found that the attorney's threats, even if they had not led to actual violence, were sufficiently grave and inappropriate to constitute Grave Misconduct and Being Notoriously Undesirable. Thus, the court reinstated the dismissal.

*Public Attorney's Office v. Attorney X, CA-G.R. SP No. 117768, May 25, 2011.*

b. Public Attorneys are strictly prohibited from representing conflicting interests. They shall therefore refrain from accepting, assisting or representing the opposing party of any of the Office's clients which could prejudice the latter's interest. Thus, once there appears to be a conflict of interest or a risk thereof, public attorneys shall immediately inform the client about the said conflict and cease to act for and in his behalf; and, refer the latter to a law office or any of the organizations providing free legal service.



### Conflict of Interest between Former and Current Clients, Philippine Case Study

An attorney represented several tenants in a case brought by a landlord for non-payment of rent. In a later case regarding the same rental property, the attorney represented one of the tenants in pursuing a claim against another tenant.

In a disciplinary proceeding brought against the attorney, the Supreme Court observed that an attorney is forbidden from representing a new client against a former client when the subject matter of the present controversy is related, directly or indirectly, to the subject matter of the previous litigation in which he appeared for the former client. In considering whether the interests of two clients are inconsistent, the attorney must consider whether representing the new client would prevent "the full discharge of his duty of undivided fidelity and loyalty" to the former client, or "invite suspicion of unfaithfulness or double-dealing" in the performance of that duty. The Court held that the attorney violated Rule 15.03, Canon 15 of the Code of Professional Responsibility.

*Samala v. Valencia, A.C. No. 5439, January 22, 2007, 512 SCRA 1.*





### **Conflict of Interest between Co-Defendants, American Case Study**

An attorney represented three co-conspirators charged in the same conspiracy. Two pled guilty in the hopes of getting reduced sentences. They testified against the third co-conspirator, who pled not guilty and went to trial.

After being convicted, the third co-conspirator appealed on grounds that the attorney's conflict of interest in representing the three clients had adversely affected the trial.

The U.S. Fifth Circuit Court of Appeals found that the attorney was conflicted between vigorously cross-examining the first two co-conspirators, which could jeopardize their chances of obtaining reduced sentences, and not vigorously cross-examining them, which could jeopardize the third co-conspirator's case. Due to this conflict of interest, the court vacated the lower court's holding and remanded the case for determination as to whether the conflict adversely affected the third co-conspirator's representation.

*United States v. Infante, 404 F.3d 376 (5th Cir.2005).*

c. Public Attorneys shall be strictly prohibited from engaging in private law practice except in cases involving immediate members of their family; and, provided that a written authorization of the Chief Public Attorney is first obtained.



### **Improper Participation in Private Action, Philippine Case Study**

A Public Attorney was one of several heirs to a piece of land. He filed a land registration case on behalf of himself and other heirs. He continued to participate in the case after he left PAO and became a judge. One of the heirs not represented by the attorney filed a complaint against the attorney for improperly engaging in private practice while employed by PAO and while serving as a judge. The attorney argued that he did not need permission from PAO or from the Supreme Court to participate in the case, since he was a co-heir acting on behalf of himself and other heirs rather than serving as counsel.

The Supreme Court found that the attorney's letters, pleadings and numerous court appearance in defense of the co-heirs' rights amounted to the private practice of law. The Court cited the 1997 PAO Memorandum allowing PAO attorneys to represent family members only with the approval of either the Regional Director or the Chief Public Attorney, but found the memorandum inapplicable to the attorney since the actions took place prior to its issuance. The Court found that the attorney's representation during his judgeship without proper permission violated the Code of Judicial Conduct, the Revised Rules of Court, the Revised Civil Service Rules, and Code of Conduct and Ethical Standards for Public Officials and Employees. The attorney was ordered to pay a fine of P10,000.

*Ziga v. Arejola, A.M. No. MTJ-99-1203, June 10, 2003.*





### **Improper Participation in Private Action, Philippine Example**

An anonymous complainant accused a Public Attorney of handling several private cases without proper authority. In her defense, the Public Attorney asserted that each case fell under an exception to the private practice prohibition, was referred to her by a superior, or was something she had never worked on. An investigation of the complaint revealed that two members of the investigation committee had helped the anonymous complainant prepare the complaint. The Chief Public Attorney removed these officers from the committee but did not dismiss the complaint, as there was evidence that the Public Attorney had improperly provided assistance to clients who did not meet PAO's indigency requirements.

The Chief Public Attorney's resolution on the matter explained that the mere fact that a potential client was a student, friend, or relative did not mean that s/he was automatically entitled to PAO assistance. Even if a matter is referred to a Public Attorney by a superior, it is the attorney's responsibility to review the file and make sure that the client is eligible for PAO assistance. The resolution emphasized that the term "refer" means "a request to accommodate," which is still subject to the rules and regulations of the office.

The resolution admonished the attorney who was the subject of the anonymous complaint.

*PAO Resolution re Anonymous Letter-Complaint against Attorney X, Aug. 6, 2001.*

d. Public Attorneys shall not allow or assist a witness to lie or circumvent facts, and/or misrepresent himself.



### **Avoiding Client Perjury, American Case Study**

A criminal defendant charged with murder told his attorney that he would testify that he saw the victim with a gun, even though he knew the victim did not actually have a gun. The attorney advised the defendant that he would seek to withdraw from representation if the defendant insisted on giving false testimony. The defendant did not testify regarding the gun and was convicted. He petitioned for habeas corpus on grounds of ineffective counsel.

The U.S. Supreme Court held that the attorney's conduct was an acceptable professional response to the threatened client perjury, and that the defendant's right to effective counsel was not violated.

*Nix v. Whiteside, 475 U.S. 157 (1986).*

e. Public Attorneys shall not browbeat or harass a witness.

f. Public Attorneys shall not testify on behalf of their clients, except –

a. on formal matters such as, among others, mailing and authentication or custody of an instrument; and

b. on substantial matters where the testimony is crucial and indispensable in serving the ends of justice; in which event, the trial of the case shall be entrusted to another counsel during their testimony.



### **Improper Acceptance of Money, Philippine Example**

A client sought the assistance of a senior Public Attorney on behalf of her overseas brother, who wanted to obtain an annulment. The Public Attorney did not clearly agree to take the case, but agreed to safeguard the significant expenses the case would entail. The Public Attorney received several deposits to her bank account, totaling P93,000. No case was ever filed, as the client's brother never returned to the Philippines to pursue the case. After five years, the Public Attorney returned the money.

The Chief Public Attorney's resolution on the matter emphasized that the Public Attorney's receipt of the money was improper, even if she later returned it, and even if she did not intend to violate the law. The resolution also noted that, particularly as a senior government lawyer, the Public Attorney should have known to avoid any appearance of impropriety. The Public Attorney was suspended for six months and one day without pay.

*PAO Resolution re Attorney X, March 27, 2007.*

g. Public Attorneys and employees shall not take custody or possession of cash or valuable of a client or any valuable which is the object/subject of settlement. Should there be fees to be paid, the client shall be advised to make the payment directly to the cashier of the appropriate court or quasi-judicial body.



### **Improper Acceptance of Money, Philippine Case Study**

A client sought the assistance of a Public Attorney in filing civil and criminal actions, but she did not meet the indigency requirements for PAO services. The Public Attorney referred her to a private attorney, who declined to take the case because the client could not pay the requested fees. The client asked the Public Attorney to hold her money for safekeeping until she could come up with the rest of the money needed to pay the private attorney.

Two years later, the Public Attorney resigned from PAO and agreed to file the client's case. The attorney then lost contact with the client and kept the money without ever filing the case.

The Supreme Court found that the attorney's acceptance of money from the client created an attorney-client relationship between the two. The attorney violated the prohibition against government attorneys accepting private cases and receiving money from clients. The Court also noted that the attorney violated the lawyer's oath not to do any falsehood by telling the client he had filed the case when he had not. The attorney was also found to have violated Rule 1.01 and Canon 18, Rule 18.01 of the Code of Professional Responsibility. He was disbarred and ordered to return the client's money with interest.

*Ramos v. Imbang, A. C. No. 6788, August 23, 2007, 530 SCRA 759.*

h. Public Attorneys shall not coerce or pressure a client to plead guilty where it is not warranted by the facts and circumstances surrounding the case.



#### **Harassment of Witness and Improper Relationship with Client, American Case Study**

An attorney who was serving as *pro bono* counsel for a wife in a divorce proceeding began having a romantic relationship with her. He hired her to do bookkeeping for him, and did work out of her house. The attorney then conducted burdensome and legally irrelevant depositions of his client's husband and son that were designed to harass the husband.

The disciplinary office of the State of Colorado Supreme Court found that the attorney could not adequately represent the wife, as his relationship with her caused him to lose the objectivity and independent judgment needed to serve as her attorney. The office noted that the attorney's combative behavior toward the husband did not amount to zealous advocacy on behalf of his client. The office held that the attorney violated the professional rules prohibiting conduct that has no substantial purpose aside from harassment. The attorney was suspended from practice for a year.

*People v. Beecher, 224 P.3d 442 (Colo.O.P.D.J , 2009).*

i. Public Attorneys shall not appear in court where they are not assigned except upon prior approval of the Chief Public Attorney, Regional Public Attorney or the District Public Attorney.

j. Public Attorneys are strictly prohibited from soliciting or accepting gifts from any person in connection with the performance of their official duties; or enter into any transaction that would prejudice the interest of their clients or that of the Office.



#### **Improper Acceptance of Money and Case Management, Philippine Example**

When a client sought assistance for her son, a tenant in an eviction case, the District Public Attorney (DPA) requested P10,000. He told the client the money would go to the court staff. He did not inquire into the client's indigency status, nor did he record the case in the PAO log book. He then appeared in the case, even though it was not in his district. After appearing, he failed to take the appropriate actions in the case, and the son was evicted from his home. The client filed a complaint against DPA, and DPA was administratively charged with grave misconduct.

Following an investigation, DPA was found liable of grave misconduct on grounds that he violated the law with manifest intent to do so. The Chief Public Attorney's order regarding his liability noted that this was not the first time the attorney was found liable for misconduct. The attorney was dismissed from the service of PAO.

*EXEC (LRD) No. 04.058, Apr. 23, 2007.*

k. Public Attorneys shall not directly or indirectly be interested, financially or materially, in any property, right, privilege or transaction of the Office's clients.

l. Public Attorneys shall faithfully attend to their inquest duties and jail visitation as directed.

m. Public Attorneys are prohibited from representing and assisting persons not qualified for legal assistance subject to exceptions provided under PAO MC No. 18, Series of 2002 and Section 3 of RA 9406.



#### **Improper Representation, Philippine Example No. 1**

A litigant in an administrative board case sought the assistance of a Public Attorney. The litigant explained to the only person available to help her—a recently hired Public Attorney—that she was an unemployed widow whose only income came from the rent of her property. The litigant did not have sufficient documentation to show that she met the indigency requirements for PAO assistance. Relying only on the litigant's statements, the attorney took on the case.

Not only did the attorney fail to verify the litigant's income, he did not ascertain whether there would be a conflict associated with the representation. It turned out that PAO was already representing another litigant in the case. The attorney had to withdraw from representation.

The Chief Public Attorney found that the attorney had timely withdrawn from the representation. But the attorney was admonished to be more circumspect in representing clients to avoid the appearance of impropriety.

*EXEC(LRD) No. 01-073, Nov. 8, 2002.*



#### **Improper Representation, Philippine Example No. 2**

A landlord sought the assistance of a Public Attorney to eject her tenant. The landlord did not meet the indigency requirements for PAO representation. Intending to help the parties resolve their dispute amicably, the attorney sent the tenant settlement offers on behalf of the landlord.

The tenant filed a complaint with PAO regarding the attorney. In her order reprimanding the attorney, the Chief Public Attorney noted that PAO policy prohibits Public Attorneys from representing landlords in ejectment and collection suits. The attorney's letter-writing constituted representation, even if he did not enter a court appearance for the landlord. The order also pointed out that PAO does provide mediation services, but requests for these services must be referred to the District Public Attorney, and the party requesting the services must meet the PAO's indigency requirements.

*EXEC (LRD) No. 01-008, July 23, 2002.*



### **Improper Representation, Philippine Example No. 3**

A complaint was filed against a Public Attorney for handling various cases outside the scope of PAO's services without authorization. The attorney admitted to assisting with the cases, which included an adoption and several ejectment cases, as well as providing notarial services for deeds of sale. Many of the requests for his services came from walk-in clients, and the attorney, in his desire to assist the clients, had not required them to provide proof of their indigency. The attorney used his own belief/standard in determining which clients qualified for PAO assistance.

An investigation found that the attorney had improperly represented landlords and non-indigent clients, in violation of PAO policy. The investigation also found that the attorney notarized documents other than oaths and verifications of pleading, outside the authority of a Public Attorney. Attempting to avoid the ramifications of the investigation, the attorney exercised his option to retire early.

The Chief Public Attorney's order regarding the matter noted that PAO was established to level the playing field by providing services to qualified indigents, and that allowing each lawyer to interpret PAO policies in his own way would open the floodgates to abuse. The order suggested that if the attorney wanted the freedom to determine which cases to accept, he should enter private practice. The attorney was fined one month of his salary, which was deducted from his retirement benefits.

*Admin. Case No. LC-09, Mar. 11 2002.*



### **Improper Representation, Philippines Example No. 4**

A Public Attorney's relative asked for assistance with a case. Since the relative was not indigent and not in the attorney's district, the attorney requested permission from the Regional Public Attorney (RPA) to take the case. RPA did not act on the request, despite the attorney's follow-up efforts. The attorney felt compelled to represent his relative, even without authorization. Although he did not participate in the relative's court hearing, he signed a pleading as counsel for the relative. He reasoned that RPA must not have objected to the representation, since the request was never clearly denied.

The Chief Public Attorney's order on the matter noted that the term "appearance" includes filing any pleading for a litigant, in court or with an administrative body, and that the attorney had no basis for presuming permission to appear in the absence of specific permission from RPA. For this and for other unauthorized appearances, the attorney was strongly reprimanded.

*EXEC (LRD) No. 07-014, Dec. 17, 2007.*

n. Public Attorneys shall not unduly delay or cause the delay of the case and/or impede the execution of judgment.

o. Public Attorneys and employees shall not engage in rumor mongering, sowing intrigue and dissention against superiors or co-employees.



### **Unexcused Absence, Philippine Example**

Without obtaining authorization, a PAO employee left the office to finish her pregnancy and give birth in the United States. When she returned to the Philippines three months later, instead of reporting to work and completing the appropriate forms, she submitted an affidavit attesting to the reasons for her absence. The affidavit explained that there were complications associated with the birth, and she had experienced some health problems that prevented her from returning directly to work. Three more months passed without the employee returning to work or obtaining approval for her leave. The Chief Public Attorney determined that the employee violated the Civil Service Commission policies on obtaining leave, as well as a PAO order requiring her to report to work. Accordingly, the employee was dismissed from the service of PAO.

*EXEC (LRD) No. 02-207, Dec. 11, 2002.*

p. Public Attorneys and employees shall at all times during office hours be at their respective designated areas of work and shall not wander around idling and/or chatting with other persons on matters not covered by their official duties and responsibilities.

q. Public Attorneys and employees shall not be absent without filing an application for leave in accordance with CSC rules and regulations unless they have suffered illnesses which requires medical attention.

r. Public Attorneys and employees shall not engage in other analogous circumstances in violation of existing laws, rules and regulations.

**Section 7. Duties of Public Attorneys and Employees.** In the performance of their duties, all Public Attorneys and employees shall follow the provisions of the Citizen's Charter of the Office. In addition thereto, they are under obligation to observe the following:

a. Act promptly on letters and requests, and comply with the fifteen (15) day working period from receipt of such letter or request to respond to the same.

b. Submit performance reports. In the submission of the said reports, the following periods shall be observed:

1. For Monthly Reports – within the first three (3) days of the succeeding month;
2. For Performance Evaluation Reports – at the end of every semester, within fifteen (15) days from the start of the succeeding semester; and
3. For Year- End Reports and Inventory of Cases – within the first ten (10) days of the succeeding year.



### **Failure to Fulfill Administrative Duties, Philippine Example**

The Regional Public Attorney asked an employee to prepare the year-end report of pending cases, but the employee failed to do so. The employee explained that she did not know how to use the program required to produce the reports, that she could not find the information she needed in the computer, and that she could not read the handwriting in the logbook. She also claimed to be unaware of the deadline for the report.

The employee was administratively charged with simple neglect of her duties. The Chief Public Attorney's order regarding the matter noted that the employee was aware of her duties from the start, and should have familiarized herself with the program used for the year-end report. The employee's other excuses were determined to have no basis.

To avoid being suspended, the employee decided to retire. A fine was deducted from her terminal leave pay.

*EXEC (LRD) No. 06-023, Apr. 23, 2007.*

c. Process documents and papers expeditiously.



### **Improper Handling of Complaints, Philippine Example**

A complaint against a Public Attorney was addressed to a Regional Public Attorney (RPA). RPA resigned without taking action on the complaint, and the Public Attorney who was the subject of the complaint became the new RPA. The former RPA told a PAO administrative officer that she should forward the complaint to the Office of the Ombudsman. The Ombudsman, after receiving the complaint, forwarded it to the Chief Public Attorney.

An investigation was launched as to why the complaint had not been properly and timely handled. The Chief Public Attorney determined that the complaint should have been forwarded to her rather than to someone outside the agency, as the Chief Public Attorney has the primary responsibility for supervising PAO employees. The administrative officer was strongly admonished for not using the proper procedure to handle complaints.

*EXEC (LRD) No. 07-103, Feb. 18, 2008.*

d. Act immediately on the public's personal transactions. All Public Attorneys and employees must attend to any qualified person who wants to avail of the services of the Office and must act promptly and expeditiously.

e. Make documents accessible to the public. All public documents must be made accessible to, and readily available to the public, within reasonable working hours, except those covered by the confidentiality and privileged communication rules.



f. Faithfully attend jail visitations and inquest duties.

g. Secure permission or OB slips before leaving the office during office hours.

h. Observe, follow and uphold all laws, rules and regulations.

i. Observe, follow and uphold all office issuances, including but not limited to the *PAO Operations Manual*.



#### **Failure to Communicate and/or File Appeal a Criminal Case, American Case Study**

A defendant was convicted by a State of Kentucky court and sentenced to life in prison. His attorney decided that an appeal would be frivolous and told the defendant's sister that he was not going to file one. The attorney did not inform the defendant of the time frame for filing an appeal, and the time expired. The defendant petitioned for *habeas corpus*.

The U.S. Sixth Circuit Court of Appeals held that there was a constitutional right to counsel in appealing a criminal conviction. The court noted that if an attorney believes that an appeal is unwarranted, the attorney has the duty to inform the client in a timely manner so that the client can consult another attorney or call the matter to the attention of the court. The duty to promptly communicate with the client is particularly compelling when the client is incarcerated. The court allowed the defendant to appeal the decision to the appropriate state court in Kentucky.

*Boyd v. Cowan, 519 F.2d 182 (6th Cir. 1975).*

**Section 8. Duties of Public Attorneys.** Subject to existing rules and regulations, Public Attorneys shall assist or represent free of charge, indigent persons and other qualified clients in all civil, criminal, administrative and quasi-judicial cases. In addition thereto, Public Attorneys shall:



#### **Improper/Illegal Assistance, Philippine Case Study No. 1**

Policemen who were detained after being accused of murder escaped from jail and were tried in absentia. The attorney representing them was aware of their status as fugitives, but apparently made no effort to counsel them to surrender. The attorney stayed in contact with the accused and procured their signatures on court documents.

The Supreme Court noted that attorneys are prohibited from counseling or abetting activities aimed at defiance of the law, and that the attorney appeared to be aiding the accused avoid capture. The attorney was ordered to show cause as to why no disciplinary action should be taken against him for violation of Rule 1.02, Canon 1 of the Code of Professional Responsibility.

*People v. Landicho, G.R. No. 116600, July 3, 1996.*

a. Endeavor to maintain relationships with the legal profession and other agencies in the criminal justice system based on courteousness, mutual respect and professionalism.

b. Maintain and respect the fiduciary relationship which exists between lawyer and client. All Public Attorneys shall not misuse their position or information acquired in the course of their duties to further their interest or that of others.



### **Improper/Illegal Assistance, Philippine Case Study No. 2**

An attorney represented foreign defendants whose passports had been seized by public officials. The public officials offered to return the passports in exchange for a bribe. The attorney took a sum of money from his clients and, after setting aside some of the money for himself, gave the rest to one of the public officials in exchange for the passports. The attorney claimed that the money he took for himself was his attorney's fee.

A corruption case was later brought against the attorney and the public officials involved. The Supreme Court found that the attorney should have declined to participate in the bribe and reported the matter to the appropriate authorities in a manner that would not have violated the attorney-client privilege. The Court determined that the attorney had participated in a conspiracy and suppressed the evidence.

*Acejas and Hernandez v. People, G.R. Nos. 156643 and 156891, June 27, 2006.*

c. All Public Attorneys shall not refuse to advise, assist or represent a client because of the nature of the allegation of the client or because of the Public Attorneys' personal views.



### **Bias, Inadequate Representation, Philippine Case Study**

During the first day of trial for a rape case, the Public Attorney representing the accused asked the trial court for permission to withdraw on grounds that she was a "lady lawyer" and thus could not "give justice to the accused." The court appointed a male counsel who was not prepared to adequately represent the defendant. The new counsel moved for a continuance of the case but the court did not grant it, and counsel failed to appear at the next proceeding. The court appointed a third lawyer, who abandoned the case when it appeared that the second lawyer was going to reassume his duties.

The Supreme Court found that the defendant had been denied the right to a fair trial, as he did not have adequate counsel at each proceeding. The Court noted that the right to counsel is more than just having an attorney in the courtroom, propounding standard questions and objections. Rather, the attorney must be committed to the defendant's cause and act accordingly.

The Court remanded the case for a new trial and admonished the three defense attorneys for their lack of responsibility as officers of the court and members of the Bar.

*People v. Bermas, G.R. No. 120420, April 21, 1999.*

d. Appear for trial adequately prepared on the law and facts of their cases, the evidence they will adduce, and the order of its preference. They should also be ready with the original documents for comparison with duplicate or photocopies thereof.

e. Observe strictly the rule on forum shopping.

f. To file pleadings, memoranda or briefs on time.

g. Perform such other duties and responsibilities as may be assigned by their immediate superiors or as the circumstances may warrant in the interest of justice.



#### **Inadequate Representation Due to Case Overload, American Case Study**

An indigent defendant represented by a court-assigned attorney was on trial for various charges. Due to his large case load, the attorney spent little time preparing for the case, and the defendant was convicted of the charges.

The defendant appealed on grounds that he was inadequately represented. One of his arguments concerned the inadequacy of the system used by the local government to assign attorneys to indigent clients. The State of Arizona Supreme Court agreed with this argument, finding that the system did not take into account the time the attorney was expected to spend in representing each indigent client. The system so overworked attorneys that it violated defendants' rights to counsel and due process, as guaranteed by the Arizona and United States Constitutions. The system also resulted in violations of Arizona professional responsibility rules prohibiting attorneys from accepting employment that cannot adequately be performed.

*State v. Smith, 681 P.2d 1374 (Ariz.1984).*

**Section 9. Punctuality and attendance.** All Public Attorneys and employees shall be punctual in reporting to office. They shall faithfully observe the regular eight working hours as well as hours prescribed for inquest duties and custodial investigation assistance. Infractions of the same shall be administratively sanctioned in accordance with the CSC Resolutions stated hereunder:

a. CSC Resolution 10-1357. Policy on undertime

1. Any officer or employee who incurs undertime regardless of the number of minutes/hours, ten (10) times a month for at least two months in a semester shall be liable for simple misconduct and/or conduct prejudicial to the best interest of the service, as the case may be; and,
2. Any officer or employee who incurs undertime, regardless of the number of minutes/hours, ten (10) times a month for at least two consecutive months during the year shall be liable for simple misconduct and/or conduct prejudicial to the best interest of the service, as the case may be.



### Habitual Tardiness, Philippine Example

A Public Attorney was administratively charged with habitual tardiness for arriving late to work 25 times in two months. The attorney apologized for his tardiness and explained that he and his wife had to go in different directions to work each morning, and it was his responsibility to bring his children to school. He said—and his supervisor confirmed—that even though he arrived at work late, he managed to get all of his work done.

The Chief Public Attorney's order reprimanding the attorney noted that all employees must grapple with domestic obligations, traffic, etc., and that these are not excuses for habitual tardiness. The order emphasized the attorney's obligations to the public as a public servant, and suggested that he work additional hours if needed to get his work done.

*EXEC (LRD) No. 07-027, Nov. 9, 2007; see also EXEC (LRD) No.03-042, Oct. 14, 2003.*

b. CSC Resolution no. 10-1358. Policy on half-day absence

1. Any officer or employee who is absent in the morning is considered to be tardy and is subject to the provisions on habitual tardiness; and,

2. Any officer or employee who is absent in the afternoon is considered to have incurred undertime, subject to the provisions on undertime.

**Section 10. Sanctions.** Any violation of the provisions of this Code shall be dealt with in accordance with the applicable laws, jurisprudence and Civil Service Rules and Regulations.



### Unapproved Travel, Philippine Example

A Public Attorney applied for Forced and Special Leave to visit her mother. Just after submitting her application, she was invited by her elderly father-in-law to take a family vacation to Hong Kong during the time of her planned leave. She knew that she was supposed to apply for permission to travel abroad from the Chief Public Attorney, but she did not have time to apply for and obtain permission before the trip. Not wanting to disappoint her family and thinking that she might never have this opportunity again, she decided to go with her family to Hong Kong.

When PAO learned of the unapproved travel, the Public Attorney apologized and offered assurances that it would not happen again. The attorney was admonished for violating office policy.

*EXEC (LRD) No. 7-49, Aug. 6, 2007.*



### Failure to Allow a Client to Testify, American Case Study

A defendant and his attorney agreed that it would be better for the defendant's case if the defendant refrained from testifying during trial. The defendant changed his mind during the trial and sought to testify, but the attorney would not let him.

After being convicted, the defendant appealed, arguing that his attorney's refusal to let him testify amounted to ineffective counsel. The U.S. Fifth Circuit Court of Appeals found that it was defective performance for the attorney to deny the defendant his right to testify, although under the circumstances the error was not so serious as to deprive the defendant of a fair trial.

*U.S. v. Mullins, 315 F.3d 449, (5th Cir. 2002).*

### Section 11. Amendment.

The provisions of this Code may be amended or modified as may be deemed necessary and to conform to the prevailing laws, rules, regulations and conditions in the service.

**Section 12. *Employee's Undertaking.*** Each Public Attorney and employee shall be furnished a copy of this Code. Furthermore, each of the said employees shall sign a confirmation receipt indicating the date on which he received a copy of this Code of Conduct. Each of them shall acknowledge that he has read the provisions of this Code, undertake to abide by it at all times and keep abreast of any amendments to the same.

### Section 13. Repealing Clause.

The Code of Conduct shall be suppletory in character to the Public Attorney's Office (PAO) Operations Manual. All other issuances inconsistent hereto are likewise repealed, amended or modified accordingly.



### Proper Duties of a Public Attorney, Philippine Example

A litigant in a civil case sought the assistance of a Public Attorney. The attorney declined to assist her, on grounds that her family members/co-litigants were already represented by *de parte* counsel. Further, the attorney had previously notarized a deed of sale (relevant to the case) for the opposing litigants. The litigant filed a complaint with PAO against the attorney.

In her order addressing the complaint, the Chief Public Attorney noted that the attorney properly declined to assist the litigant, since Memorandum Circular No. 18 precluded representation of parties represented by *de parte* counsel. As for the deed of sale, the order noted that the notarial services of Public Attorneys are limited to the administration of oath and verification of pleadings for the purpose of providing legal services to the indigent. The attorney's notarization of a commercial document was beyond his authority.

*EXEC (LRD) No. 01-077, July 9, 2002.*

**Section 14. *Effectivity.*** – This Code shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Signed in Cebu City for Manila, Metro Manila on the 27<sup>th</sup> of August 2010.



**PERSIDA V. RUEDA-ACOSTA**  
Chief Public Attorney