



# Supreme Court of the Philippines Philippine Judicial Academy



## ***PHILJA Fax/Electronic Alerts***

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### Executive Assistant I: Improper solicitation

Section 2, Canon 1, of the Code of Conduct for Court Personnel provides that court personnel shall not solicit or accept any gift, favor or benefit based on any explicit or implicit understanding that such gift, favor or benefit shall influence their official actions; and Section 2 (e), Canon III of the same Code states that court personnel shall not solicit or accept any gift, loan, gratuity, discount, favor, hospitality, or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties. Such acts are strictly prohibited to avoid the perception that in exchange for certain favors, court personnel can be influenced to act in favor of a certain party or person.

Respondent solicited money from several bonding companies, an offense which merits a grave penalty.

For improper solicitation, respondent was dismissed from the service with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government including GOCC's. (Per Curiam, A. M. No. P-08-2510, April 24, 2009)

### Court Interpreter: Dishonesty and Grave Misconduct

In Caniola vs. Suerte (A.M. No. RTJ-04-1884, February 22, 2008), the Supreme Court defined dishonesty as the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray; while in Faeldines vs CSC (GR No. 143474, August 6, 2002, 386 SCRA 384, 388), the Court defined grave misconduct as a "flagrantly or shamefully wrong or improper conduct."

Respondent court interpreter committed the ultimate betrayal of her duty to uphold the dignity and authority of the judiciary when she arrogated unto herself judicial power which she does not possess, in order to extort money from a party-litigant. Her act of forging the presiding judge's signature constitutes a blatant disregard for the values of integrity, uprightness and honesty which are expected of all court personnel.

For the offenses of dishonesty and gross misconduct, respondent was fined P40,000.00. Parenthetically, respondent was dismissed from the service in a previous case. (A.M. No. P-07-2298, April 24, 2009)

### Court Legal Researcher: Dishonesty

As emphasized in Advincula vs. Dicen (GR No. 162403, May 16, 2005, 458 SCRA 696), the Personal Data Sheet (PDS) is an official document required of a government employee and official by the Civil Service Commission. It is the repository of all information about any government employee or official regarding his personal background, qualification and eligibility. Since truthful completion of the PDS is a requirement for employment in the judiciary, the importance of answering the same with candor need not be gainsaid. Concealment of any information in the PDS, therefore, warrants disciplinary action against the erring employee or official.

Respondent legal researcher made untruthful statements in her PDS when she failed to disclose her previous infractions in her previous office for which she was punished.

For dishonesty, respondent was suspended for six (6) months, and sternly warned that a repetition of similar offenses in the future will be dealt with more severely. (A.M. No. P-07-2366, April 16, 2009)

**Sheriff: Grave misconduct and dishonesty**

In Salazar, et. al., vs. Sheriff Barriga (A.M. No. P-05-2016, April 19, 2007), the Supreme Court distinguished simple misconduct from grave misconduct.

In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule must be manifest.

Respondent sheriff is guilty of grave misconduct when he used his position as sheriff for pecuniary gain when, in fact, he had no business getting involved in the processing of bail. He flagrantly disregarded established rules of procedure and law when he misrepresented that he could expedite complainant's application for bail.

For grave misconduct and dishonesty, respondent sheriff was dismissed from the service with forfeiture of all benefits except accrued leave credits, and disqualified from reemployment in the government service including GOCC's. **(A.M. No. P-07-2344, April 15, 2009)**

**Sheriff: Neglect of duty**

The officer charged with the difficult task of executing a judgment is the sheriff, hence, he must be circumspect and proper in his behavior. He must execute the directives of the court therein strictly in accordance with the letter thereof and without any deviation therefrom.

The six (6) writs of execution were received by respondent sheriff for implementation in 2001, but as shown by the Sheriff's Partial Reports which he submitted, he implemented the same after the lapse of two years. Worse, out of the six writs, he implemented only four with no sufficient and reasonable explanation for the non-implementation of the writs issued in the remaining two cases.

Respondent sheriff's long delay in the full implementation of the writs of execution assigned to him and his failure to make the appropriate and periodic reports on the writs as required by the Rules of Court show that he is inefficient and negligent in the performance of his official duties.

For neglect of duty, respondent sheriff was suspended for three (3) months from office. He was also sternly warned that a repetition of the same or similar acts will be dealt with more severely. **(A.M. No. P-05-1996, April 21, 2009)**

**Clerk of Court: Gross misconduct**

The Supreme Court in Fernandez vs. Gatan (A.M. No. P-03-1720, May 28, 2004, 420 SCRA 19), defined grave misconduct as a malevolent transgression of some established and definite rule of action – more particularly, unlawful behavior or gross negligence by the public officer or employee which threatens the very existence of the system of administration of justice. It manifests itself in corruption, clear intent to violate the law or flagrant disregard of established rules.

Respondent clerk of court was caught red-handed in a legitimate entrapment operation, demanding and receiving money from complainant in connection with the immediate release of the latter's common-law-husband from police custody and the dismissal of the criminal charges against him which were pending in court-respondent's official station.

For gross misconduct, respondent clerk of court was dismissed from the service with forfeiture of all benefits except accrued leave credits and with prejudice to re-employment in the government service including GOCC's. **(A.M. No. P-04-1830, June 4, 2009)**

**Sheriff: Grave misconduct, grave abuse of authority, and falsification of official document**

The conduct of a public auction sale of the property on execution is required under paragraphs (c) and (d) of Section 15, Rule 39 of the Rules of Civil Procedure quoted hereunder:

*Sec. 15. Notice of Sale of Property on Execution. - Before the sale of property on execution, notice thereof must be given as follows:*

*x x x x*

*(c) In case of real property, by posting for (20) days in the three (3) public places abovementioned, a similar notice particularly describing the property and stating*

where the property is to be sold, and if the assessed value of the property exceeds fifty thousand (P50,000.00) pesos, by publishing a copy of the notice once a week for two (2) consecutive weeks in one newspaper selected by raffle, whether in English, Filipino, or any major regional language published, edited and circulated or, in the absence thereof, having general circulation in the province or city;

(d) In all cases, written notice of the sale shall be given to the judgment obligor, at least three (3) days before the sale, except as provided in paragraph (a) hereof where notice shall be given at any time before the sale, in the same manner as personal service of pleadings and other papers as provided by Section 6 of Rule 13.

The notice shall specify the place, date and exact time of the sale which should not be earlier than nine o'clock in the morning and not later than two o'clock in the afternoon. **The place of the sale may be agreed upon by the parties. In the absence of such agreement, the sale of real property or personal property not capable of manual delivery shall be held in the office of the clerk of court of the Regional Trial Court or the Municipal Trial Court which issued the writ or which was designated by the appellate court. In the case of personal property capable of manual delivery, the sale shall be held in the place where the property is located.**

As found during the investigation conducted by the investigating judge, no public auction was conducted by respondent sheriff. Respondent was likewise liable for falsification of an official document when he falsified the Certificate of Sale and Minutes of Public Auction Sale; and abuse of authority when he disposed of the property by auction sale instead of levying the same as he was directed to do so in the order of the MTCC judge.

For grave misconduct, grave abuse of authority, and falsification of official document, respondent sheriff was dismissed from the service with forfeiture of all benefits except accrued leave credits and with prejudice to reemployment in the government service including GOCC's. **(A.M. No. P-08-2450, June 10, 2009)**

**Chancellor, Philippine Judicial Academy**  
Adolfo S. Azcuna

**Founding Chancellor Emeritus  
Philippine Judicial Academy**  
Ameurфина A. Melencio Herrera

**Head, Research, Publication and Linkages Office (RPLO)**  
Prof. Sedfrey M. Candelaria

**Editors**

Dean Eulogia M. Cueva

Atty. Orlando B. Cariño

**Staff**

Nennette G. Zaldivar

Rodrigo G. Javier

The *PHILJA Fax/Electronic Alerts* is issued monthly by the RPLO of the Philippine Judicial Academy with offices at the 3<sup>rd</sup> Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel. No. (02)552-9518; Telefax; (02)552-9621  
E-mail address: [research\\_philja@yahoo.com](mailto:research_philja@yahoo.com). For link to e-library: [www.supremecourt.gov.ph](http://www.supremecourt.gov.ph).

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