

REPLY-AFFIDAVIT

I, **SIXTO S. BRILLANTES, JR.**, Filipino, of legal age, widower, resident of Parañaque City and the current *ad interim* Chairman of the Commission on Elections ("**COMELEC**") after first being duly sworn, depose and state the following:

1. "**DON'T TOUCH ME!**" (*pg. 5 of Dir. Ferdinand T. Rafanan's September 14, 2011 Affidavit*) – were indeed the very words Dir. Rafanan when he learned of the Commission *en banc's* plan to reshuffle senior officials of the COMELEC. Those were also the last words I remember he uttered when he last saw me at my office. **Only now that I realized, that those words were not "PLEAS", but rather a veiled "THREAT" from Dir. Rafanan.** True to his threat, come his lies, falsehoods, fabrications – all constituting his perjured affidavits – maliciously schemed and plotted to block my confirmation. In response let me narrate the following truths and undistorted facts –

A. ON THE ISSUE OF VIOLATION OF SECTION 3(A) OF REPUBLIC ACT NO. 3019, OTHERWISE KNOWN AS THE ANTI-GRAFT AND CORRUPT PRACTICES ACT

2. I confirm that I did go to Mataas na Kahoy, Batangas on **July 23, 2011** to attend the team building activity of the Law Department upon the persistent invitation of Dir. Ferdinand T. Rafanan ("**Dir. Rafanan**"). There is utterly no truth, however, to his claim that I disclosed/discussed with him on that occasion the decision in OMB-C-A-10-0301-G (*Field Investigation Office vs. Alarkon et al.*) which he claims I already have advance knowledge of, a copy of said decision is hereto attached as **ANNEX "A"**.

3. To further show the falsity of his claims, I attached the affidavits of Atty. Maria Norina Casingal (**ANNEX "B"**) and Atty. Jubil Surmieda (**ANNEX "C"**) who were my company during my short visit to Mataas na Kahoy, to attest that no conversation took place between me and Dir. Rafanan regarding the decision in OMB-C-A-10-0301-G.

4. In fact, the earliest news I have of the case was when I sat next to then Acting Ombudsman Orlando Casimiro during the July 25, 2011 State of the Nation Address ("SONA") at the *Batasang Pambansa*, where he mentioned to me in passing – among the many subjects that we were discussing – that he recalled the pendency of some cases involving certain COMELEC employees, one of which is the ballot secrecy folder case. No specifications, however, were given by Ombudsman Casimiro and no details were mentioned.

5. I also DENY his MALICIOUS insinuation that I bargained to lower the penalty imposed to the respondents in OMB-C-A-10-0301-G Atty. Maria Lea Robles Alarkon, Atty. Allen Francis Bravo Abaya and Mr. Antonio Serrano Santella (respondents, for brevity) from one (1) year suspension (which he claimed was originally imposed) to six (6) months. Had Director Rafanan cared to read the decision of the Ombudsman in OMB-C-A-10-0301-G imposing a penalty of six (6) months, he should have noticed that the decision was signed as early as July 10, 2011 and the same could have been prepared much earlier, thus I could **not** have bargained for it when I only learned about the pendency of certain COMELEC cases before the Ombudsman in my short discussion with acting Ombudsman Casimiro on July 25, 2011.

6. I also deny his perjured allegation that I instructed him on August 24, 2011 to "talk to the spokesman of the Ombudsman to **absolve** them, or **lower** [their] penalty", which according to him is not only illegal, but a criminal act. This is **UTTERLY FALSE**, and a **DELIBERATE** and **MALICIOUS TWISTING OF FACTS**.

7. I must highlight the fact that the August 24, 2011 conversation referred to by Dir. Rafanan was a **PUBLIC** and a **RECORDED** Commission *en banc* meeting, **WHICH VERY IMPORTANT FACT, HE DELIBERATELY DID NOT DISCLOSE IN HIS PERJURED AFFIDAVIT**. That meeting, in fact, was attended by the seven (7) members of the *en banc* and by twelve (12) to fifteen (15) people who are mostly staff of the COMELEC Secretary. The audio of the entire session was also recorded as part of our procedure – which fact of recording is **KNOWN** to Dir. Rafanan and which fact **HE**

SHOULD HAVE KNOWN considering that the cassette recorder was placed in front of him.

8. First, it is not only **INCONCEIVABLE**, but utterly **NONSENSICAL** for a person to commit or propose to commit a crime in public especially when he is a lawyer, and worse to commit the same against the very person of Dir. Rafanan – whose soaring ego, attention-seeking persona and notorious self-proclaimed righteousness everyone in the COMELEC knew and surely heard of.

9. Second, the **OFFICIAL TRANSCRIPT OF THE AUGUST 24, 2011 EN BANC MEETING CAN SPEAK FOR THEMSELVES**. Attached herewith as **ANNEX "D"**, is the pertinent portion of the official transcript of the proceedings for your ready reference. The audio recording is available at the Office of the COMELEC Secretary, and may be accessed upon prior request.

10. The full reading of the transcript would reveal the real context of the conversation between myself and Dir. Rafanan, as well as with the rest of the members of the *en banc*. The official transcript will unequivocally reveal that there was **no instruction on my part for him to "talk to the spokesman of the Ombudsman to absolve them, or lower [their] penalty"**.

11. As can be read in the official transcript, I only expressed my intent to **"help"** the respondents who were suspended which I believe are not guilty – which fact was not only confirmed by the Ombudsman's decision, but a fact which Dir. Rafanan himself admitted to me in one of his visits in my office or in one of my visits to his office at the COMELEC Law Department – and whom, according to him, he included in the case merely to **"force"** them to **"name names"** and **"point to the higher officials involved"**. When I mentioned I wanted to **"help"** the respondents, my real intention was only to provide assistance in clarifying whether the service of six (6) months preventive suspension may be credited to the imposed penalty of six (6) months suspension or to assist them in their motion for reconsideration or appeal.

12. With this, I quote the portion of the *en banc* session which Dir. Rafanan claimed I persuaded, induced or influenced him to perform an act constituting a violation of pertinent rules and regulations:

“Chairman Brillantes, Jr. Sino ang nagtatanong, ako tinanong na ‘ko, if it’s an order of the Ombudsman ok,...ganoon lang ka-sim-ple, kung sinabing suspendihin iyung tatlo, sususpendihin namin, may kaibigan ka ba sa Ombudsman, are you related to the Chief of Staff?

Dir. Rafanan Ashriman(?) Rafanan Sir? I only heard of his name Sir, I haven’t met him, I do not know him

Chairman Brillantes, Jr. Ah, you are not related to him,

Dir. Rafanan I do not know Sir because he is also Rafanan, but we haven’t met

Chairman Brillantes, Jr. Baka kamaganak mo, I personally (sic) want to help our own people I want to help our people that were found guilty

Dir. Rafanan Sir nagtataka nga ako bakit ba tayo hindi magtutulongan, it really,”

Later in the conversation, I continued:

Chairman Brillantes, Jr. Wala namang masama, ang sinasabi ko, kasi palaging masama ang nasa isip mo eh, ang sinasabi ko you investigated the secrecy, you have some participation in fact I sow (sic) you already in court baka kako makatulong ka for the reconsideration, maski na ikaw din ang nagsabing mukhang may kasalanan itong mga ito, something like that diba,

meron kang report.

Dir. Rafanan

Yes Sir, the investigation report

Chairman Brillantes, Jr.

And to look at, you must have....several appeals which can probably assist this people in a motion for reconsideration with the Ombudsman or iyung appeal at the Court of Appeals, ayaw mo bang tulungan sila? Dahil pangit ba tingnan dahil ikaw ang parang nag-rekomenda?

13. It is clear from the transcript that I simply asked Dir. Rafanan if he "*might*" be able to assist/help ("*baka kako pwede makatulong*") in the filing of the respondent's motion for reconsideration or their appeal at the Court of Appeals, and **NEVER** to absolve the respondents, or lower their penalty as what Dir. Rafanan imagined.

14. **THERE IS NOTHING ILLEGAL, IMMORAL OR UNETHICAL IN AVAILING THE LEGAL REMEDIES WHICH THE LAW ITSELF ALLOWS** – motions for reconsideration or appeals are allowed under Administrative Order No. 07 or the RULES OF PROCEDURE OF THE OFFICE OF THE OMBUDSMAN. Being recognized legal remedies, Section 3 (a) of Republic Act No. 3019 has clearly no application which speaks of "**violation of rules and regulations**" to wit:

"(a) Persuading, inducing or influencing another public officer to perform **an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter**, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense."

15. I also admit that I sent a letter to the office of the Ombudsman dated August 25, 2011 where I inquired about the possible crediting of the service of six-month preventive suspension to the penalty imposed to the respondents (**ANNEX "E"**).

16. Contrary to Dir. Rafanan's claims, there is nothing illegal with my formal query regarding the implementation of the respondent's penalty. **IN MAKING SUCH INQUIRY, MY CONCERN IS NOT THE ABSOLUTION OF THE GUILT OF THE RESPONDENTS, BUT RATHER THE PROPER IMPLEMENTATION OF THE PENALTY IMPOSED BY THE OMBUDSMAN – OF WHICH I AM ORDERED TO IMPLEMENT.** This is a legitimate administrative concern – and this is not illegal, criminal or by any standard unethical as Dir. Rafanan once again imagined.

17. In fact, my query did not hinder the implementation of the Ombudsman's order to suspend. On August 26, 2011, I already issued an order of suspension suspending the respondents effective August 31, 2011 – **even before the Ombudsman replied to my query on September 5, 2011.** In support, hereof, I am attaching my pertinent letters to Ombudsman Carpio-Morales, to wit:

- a. Letter of the affiant dated August 26, 2011 reporting compliance to the Ombudsman Decision in OMB-C-A-10-0301-G and reporting suspension of the respondents effective August 31, 2011 (August 29 and 30, 2011 being non-working holidays) [**ANNEX "F"**];
- b. Letter of the Honorable Ombudsman dated September 5, 2011 replying to the affiant's August 25, 2011 query, reiterating the rule in *Quimbo vs. Gervacio* (G.R. No. 155620, August 9, 2005) which disallows crediting of preventive suspension to the actual penalty of suspension (**ANNEX "G"**);
- c. Letter of the affiant dated September 8, 2011 acknowledging receipt on the same day of the Ombudsman's reply on our clarificatory letter (**ANNEX "H"**).

Handwritten signature

18. To shed light on all these issues, I have formally requested the Office of the Ombudsman to conduct an investigation on Dir. Rafanan's allegations. A copy of the said formal request dated September 19, 2011 is attached herein as **ANNEX "I"**.

B. ON THE ISSUE OF DELAYED DELIVERIES DURING THE 2010 BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS

19. With regard his comment on the Fact Finding Committee Report on the delay of the deliveries of election supplies and paraphernalia during October 25, 2010 Barangay elections (hereinafter referred to as "delay"), let me respond as follows:

20. I DENY the allegation of Dir. Rafanan that I do not want to know the truth about the said delay. I do not recall the exact date in May 2011 when I talked to Dir. Rafanan about the delay in 2010 Barangay elections issue. However, I remember that we discussed in my office his lengthy comment on the Fact Finding Committee Report.

21. Per Resolution No. 9150 (February 28, 2011), attached herein as **ANNEX "J"**, the Commission *en banc* required Dir. Rafanan to comment on the Fact Finding Committee Report on **ONE SPECIFIC MATTER**, that is, the delayed convening of the Bids and Awards Committee (BAC) during the 2010 Barangay elections. However, Dir. Rafanan submitted a forty six (46) page Comment dated April 30, 2011, attached herein as **ANNEX "K"**, assailing and attacking the Commission *en banc* and blaming the latter for the delay when it authorized the extension of the registration of voters.

22. While I did tell him that I find his comment to be quite lengthy, it was on the premise that it was really unnecessary since he was simply being asked to comment on a specific portion of the Fact Finding Committee Report where there is reference to him and to the BAC. I also told him that it is totally unnecessary for him to put the blame and malign the *en banc* in his Comment. I do not recall however, having asked

him to make his comment brief and concise and to re-file it. Neither did I ask nor insinuate that it be withdrawn.

23. Moreover, assuming *arguendo* that the extension of registration was illegal, Dir. Rafanan, as the head of the Law Department then, should have given notice of such illegality to the Commission *en banc* as soon as the questioned Resolution extending the registration was promulgated. **However, he negligently, if not, deliberately failed to do so and Dir. Rafanan kept quiet all the time until he was asked by the *en banc* to comment raising belatedly the issue of illegality of the extension of registration.**

24. I would like to state that the unique personality of Dir. Rafanan was reflective of the lengthy and superfluous comment that he prepared. The salient feature of which is where he puts the principal blame for the delay in the delivery of election paraphernalia to the Commission *en banc* where **I was at that time not yet a member.**

25. It is clear therefore, that I had no working knowledge of the said delayed deliveries save what was narrated to me by Dir. Rafanan when I was still outside the Commission on Elections. I remember that he was strongly asserting the fact that the then Commissioners caused the problems that resulted in the late delivery of election paraphernalia.

26. **WITH ALL THIS, TO SAY THAT I AM NOT INTERESTED IN DETERMINING THE TRUTH IS FARTHEST FROM WHAT IS THE REAL TRUTH.** In fact, when the Fact Finding Committee Report dated January 14, 2011 was submitted to the Commission *en banc*, it was the consensus among the members that the Fact Finding Committee Report be independently scrutinized and reviewed by me since I was not in the Commission as yet when the delayed delivery issue transpired.

27. To this day, our final recommendation has not yet been completed because of the voluminous records that I and my staff are reviewing. I am, nonetheless, prioritizing the same so that it can be immediately submitted to the Commission *en banc* for final approval and on the basis of *en banc*'s final Resolution on the matter, **I hope that the truth will come out.**

28. **ONE BIZARRE OBSERVATION WHICH I WOULD LIKE TO HIGHLIGHT** – on June 8, 2011, when I appeared before the Commission on Appointments for my confirmation, Dir. Rafanan was all the time there at my back and every time I passed by him, he kept on repeating, “*Sir, andito ako para matulungan kang ma-confirm at dala ko mga abogado ko para suportahan ka.*” **IF HE THINKS THAT I AM “NOT INTERESTED TO KNOW THE TRUTH” AND FINDS IT OBJECTIONABLE, THEN DIR. RAFANAN SHOULD EXPLAIN WHY DURING MY JUNE 8, 2011 CONFIRMATION HEARING HE WENT OUT OF HIS WAY TO SHOW HIS SUPPORT TO MY CONFIRMATION.**

29. **IT IS, THEREFORE, MOST UNFAIR AND DISHONEST ASSERTION ON THE PART OF DIR. RAFANAN TO DECLARE UNDER OATH THAT IN MAY 2011, I DID NOT WANT TO KNOW THE TRUTH.** In fact, instead of declaring such falsity during my June 8, 2011 confirmation hearing, he was there at my back lending his total and absolute support for my confirmation. **There can be no other obvious cause for his very sudden change of heart but the fact that he was “TOUCHED” by the Commission *en banc* – MAKING GOOD OF HIS THREAT.**

C. ON THE ISSUE OF “CORRUPTING” THE COMMISSION’S OFFICIALS AND EMPLOYEES

30. **At the onset, WHILE DIR. RAFANAN’S STATEMENTS AND ALLEGATIONS ARE TRUE AND FACTUAL AS TO THE DATES YET THEY ARE DISTORTED AND TOTALLY UNTRUE AS TO THE OCCURRENCES AND CIRCUMSTANCES THAT TRANSPIRED.**

31. As a brief background, the Commission *en banc* as early as June 2011 has been planning to adopt and implement the reshuffling of senior officials both in the main and field offices. When he heard the *en banc*’s plan, he told me not to “touch” him. Despite his disagreement, after consultation with the senior officials, the Commission *en banc* **unanimously** approved the August 02, 2011 Resolution reshuffling a number of officials including Dir. Rafanan. This extremely disturbed and annoyed Dir. Rafanan which prompted him to visit me on August 09, 2011 where we talked for five (5) straight hours both in the conference and in my room. We discussed nothing

except the Resolution of August 02, 2011, attached herein as **ANNEX "L"** where he categorically expressed his opposition to his reassignment.

32. However, from his statements, he made it appear that I am having a monologue for **five (5) hours** – 1:00 p.m. to 6:00 p.m., save for his few statements and responses like looking at the clock and hearing "**STRANGE**" things from me. *Ilang oras kami naguusap di siya nagsasalita? Sa kadalasan niyang lumabas sa press, kapanipaniwala ba sa mga tao na hindi man lang siya nagsalita?*

33. The truth however is that during our conversation, he kept on attacking and conveying negative information about his co-workers in the Commission and insisting they be reshuffled instead of him. Contrary to the claim of Dir. Rafanan that I was bribing high ranking officials and employees of the Commission, it was Director Rafanan himself who told me that "**The Commissioners, lawyers of the Law Department and people in the COMELEC were accepting bribes from politicians and several others.**"

34. Director Rafanan has been projecting himself as the whistle blower of anomalies and irregularities transpiring in the Commission and pinpointing to almost all the members of the Commission as grafters engaged in illegal transactions. From his statements, he now reversed the situation by deliberately and falsely portraying me as a whistle blower. *Siya ang madalas magkuwento sa akin tungkol sa mga katiwaliaang nagaganap sa loob ng Komisyon, bakit ako na ngayon ang pinalalabas niyang sumbungero? At bakit sa kanya pa?*

D. ON THE ISSUE OF "BULLYING" AND "COMPROMISING" CASES

I. ON JUNE 15, 2011 MEETING:

35. I want to put on record that the June 15, 2011 meeting was made upon the prior individual and collective requests of several Law Department lawyers who came to my office verbally expressing their individual issues against Dir. Rafanan such as: (a) his alarming dispute with his deputy, Dir. Demesa which affects the department; (b) his poor

management of the Law Department; (c) his numerous unresolved cases pending before the Law Department; (d) his frequent non-attendance which leaves his regular functions in the Law Department hanging; (e) the ubiquitous presence of his wife in his office and the latter's unlimited and unrestricted access to the confidential records and documents of the department; (f) his giving undue favor for lawyers whom he personally recruited over other lawyers of the department; and, (g) authorizing "outsiders" or non-COMELEC lawyers to perform official functions and duties in the department including unauthorized access to official records and documents. **AS CHAIRMAN OF THE COMELEC, IT IS MY LAWFUL DUTY TO INTERVENE ON THESE MATTERS WHICH IN MY HONEST OPINION AFFECT THE EFFECTIVE AND EFFICIENT PERFORMANCE OF DUTIES OF THE EMPLOYEES IN THE COMMISSION.**

36. It is totally untrue that I was prodding all the lawyers against him and likewise it is an absolute falsehood that I was gathering all the lawyers to rebel against him. The truth of the matter, as can be attested to by all the lawyers present during the meeting, is that almost all the lawyers except those whose appointment he recommended, had several complaints against him, matters that were discussed openly and in the presence of Dir. Demesa. The June 15, 2011 and the proposed July 22, 2011 meetings were supposed to pacify or reduce the tension involving Dir. Rafanan, Dir. Demesa and their lawyers, but the way Dir. Rafanan narrated the incident, it would appear that I was not trying to mediate but was trying to pin him down as against all the other law department lawyers. **THIS IS AN ABSOLUTE LIE** when all I ever wanted was to pacify their escalating differences.

37. Again, my purpose for the said meeting is to assist the Law Department to settle their ongoing problems regarding disruption of work due to the unsettled dispute between Dir. Rafanan and Dir. Demesa. As a matter of fact, I even scheduled a meeting on July 22, 2011 to check if there were already improvements. Before the June 15, 2011 meeting ended, Dir. Rafanan even offered to kiss Dir. Demesa in my presence, whether jokingly or not. Such actuations would clearly manifest that I was not forcing him to settle.

38. The memorandum he has sent me dated June 28, 2011, attached herein as **ANNEX "M"**, is a concrete evidence

of having a personality problem. After having been placed on the spot with his lawyers, he came to me with the said memorandum defending himself and enumerating matters which were **NOT** even discussed during the June 15, 2011 meeting. In response, I issued to him a handwritten note dated June 29, 2011 hereto attached as **ANNEX "N"**.

II. COMPROMISE WITH DEMESA:

39. The claim of Dir. Rafanan that I am forcing him to settle with Dir. Demesa is totally incorrect. I admit that I discussed with Dir. Rafanan the case of Dir. Demesa. I would like to reiterate, however, that the Commission *en banc*, in a unanimous decision has long dismissed Dir. Rafanan's complaint against Dir. Demesa **even before** I became a member of the Commission. When Dir. Rafanan filed his Motion for Reconsideration, he was, in truth and in fact, seeking for my help to convince the Commissioners to grant the reconsideration and rule in his favor. However, I told him that it would be very difficult, if not, impossible to reverse a unanimous ruling of the Commission *en banc*. **I WAS NOT ASKING HIM TO COMPROMISE**. I was simply asking him to accept the fact that it would be impossible to reverse the ruling. It would be most improbable to reverse it and therefore he has to be practical. *Paano mo naman babaguhin ang botong 6-0 ng mga Commissioners lalo pa kung inaaway mo sila sa motion for reconsideration mo?*

III. PERSONALITY ISSUE:

40. The statements of Dir. Rafanan in his Affidavit of September 14, 2011 clearly manifest his **INCONSISTENT, ERRATIC** and **EVER-CHANGING "STRANGE" PERSONALITY**. *Paano ko siyang binu-bully at sinusumbangan sa parehas na pagkakataon noong August 09, 2011?* Likewise, his continuing insistence that he should not be "touched" is a reflection of his misplaced authoritativeness and perceived self-righteousness despite his being a mere subordinate. Odd as it may seem, still Dir. Rafanan, without hesitation and courtesy, told me, and I quote, **"DON'T TOUCH ME"**. **THIS, TO ME, IS AN EXTREME AND HIGHEST FORM OF ARROGANCE**.

41. The truth is when I told Dir. Rafanan that he has a "personality issue", it was never meant as an attack against his

person but rather a sincere and truthful observation of a father to his "own" son. I wanted to impress upon him that his "personality issue" will not help him in his professional growth and development. All we discussed were matters which affect his professional character, that is, his attitude and behavior towards his work and most importantly, towards his colleagues. While Dir. Rafanan kept on insisting that his personality is and was never an issue, on the other hand, was insistent in saying that the issues involved are not purely legal but involves the interlocking of various factors, his disturbing and "strange" personality issue being at the forefront.

42. Despite having received reports that Dir. Rafanan has been using social networking sites such as Facebook to publicize his unfounded sentiments and unsubstantiated attacks against my person, I kept my silence and composure. *Ito pa ba ang pangbu-bully? Or was he the one bullying me?*

E. ON THE ISSUE OF FAVORING EMPLOYEES INVOLVED IN THE BALLOT SECRECY FOLDER SCAM

43. There is also no truth that I favored those respondents allegedly involved in the P690 million secrecy folder case. While he deceptively portrayed that the personnel movements in the COMELEC were specifically aimed at him, I must apprise the Honorable Commission that the reshuffling implemented by the Commission *en banc* – **not me alone** – was Commission-wide affecting not only the Law Department, but many key positions in the main and in the field offices. Moreover, such reshuffling was originally intended only for **THREE (3) MONTHS**, and not permanently.

44. There is also no truth that Dir. Allen Abaya performed his functions as Director IV of the Law Department, the truth is – Dir. Allen Abaya, the Director III of the Election Contest and Adjudication Department (ECAD), was reassigned to the Law Department in replacement of Dir. Josilyn Demesa who was originally the Law Department's Director III, who in turn went to the ECAD.

45. Also, his position remained unfilled with Commissioner Rene Sarmiento acting as the *Commissioner-in-Charge* (CIC) of the Law Department in his stead – which Dir. Rafanan, **WITH ALL TEMERITY AND CONTEMPT**, publicly

criticized the good Commissioner Sarmiento's act as "demeaning" or "lowering" on his part.

46. There is also no truth that Atty. Maria Norina Casingal was "*promoted*". This is an utter deception. A promotion involves an appointment, and Atty. Casingal was not appointed but merely designated as acting **Director III** vice Atty. Allen Abaya, and not even **Director IV**. **FOR DIRECTOR RAFANAN TO STATE ALL THESE LIES AND FALSEHOODS UNDER OATH EITHER BARES HIS GROSS IGNORANCE OF THE LAW, OR HIS IMPRUDENCE OR DESPERATION TO THE POINT OF EVEN COMMITTING PERJURY.**

F. ON THE ISSUE OF CONFLICT OF INTEREST

47. The issue of "*conflict of interest as an election lawyer*" was raised and/or brought up by various media practitioners **as early as January 17, 2011** when I was appointed by the President as Chairman of the COMELEC, hence a recurring and familiar issue to the public which includes Director Rafanan. Note should be taken on the fact that from January 17, 2011 until before Director Rafanan's Affidavit was filed before the Commission on Appointments on September 14, 2011 (**AFTER EIGHT (8) LONG MONTHS**), Director Rafanan **never** did, in any instance, raised the issue of conflict of interest against me. In fact he was all very supportive of me.

48. It was not until Dir. Rafanan was temporarily reassigned by the Commission *en banc* to the Joint DOJ-COMELEC Investigation Committee from the Law Department through COMELEC *en banc* Resolution No. 9267 (promulgated on 02 August 2011) did his attitude towards me changed. A copy of Resolution No. 9267 is herein attached as **ANNEX "O"**;

49. He started blaming me for EVERYTHING that has happened when I was not yet even a member of the COMELEC. **He blames me for the Barangay Delay which occurred on October 2010. He blames me for dismissal of the case he filed against Dir. Josilyn Demesa. He blames me for the Ballot Secrecy Folder Investigation which I had no participation. He blames me for everything stated in his "14 September 2011 Affidavit" when LONG BEFORE THAT, HE HAS ALL PRAISES FOR ME. IN FACT, HE EVEN GAVE ME "TOTAL" SUPPORT ON MY PREVIOUS CONFIRMATION**

HEARINGS. This is how inconsistent and strange and weird Dir. Rafanan is and all the more affirms his personality issues.

G. ON THE ISSUE OF THE ALLEGED ILLEGAL REMOVAL FROM THE LAW DEPARTMENT

50. **"DON'T TOUCH ME ...YOU SHOULD HELP ME; I SUPPORTED YOU IN YOUR CONFIRMATION DURING THE LAST CONFIRMATION HEARING"** – these were the very statements of Dir. Rafanan in his September 14, 2011 sworn Affidavit.

51. First and foremost, I can only assume that as of June 8, 2011, he was very supportive of my confirmation because I had not done anything wrong as far as he is concerned.

52. Come September 14, 2011, in a subsequent confirmation proceeding, Dir. Rafanan comes out with a statement under oath alleging and narrating incidents that allegedly occurred as early as May 2011. **An alleged incident which he never divulged until the Commission En banc reshuffled him from the Law Department and not until the Commission en banc "touched" him and actually transferred him to another department which based on his actions during the entire month of August 2011 he most obviously resent.** As in fact on several occasions, he pleaded that I should not replace him at the Law Department and that I should fight it out with the other Commissioners that he be returned to the Law Department.

53. His repeated assertions that I should not touch him at the Law Department are true. In fact, what appears to be the main reason why he is now opposing my confirmation as against his previous show of support is his temporary reshuffle from the Law Department to the Joint DOJ-COMELEC Committee and now to the Planning Department.

54. I recalled that before Dir. Rafanan was reshuffled to the DOJ-COMELEC Preliminary Investigation Committee, he was constantly asking me for help and advice so that he would not be temporarily reshuffled. As a matter of fact, I advised him to talk to the Commissioners. I know for a fact that he heeded my advice when Commissioners Lim and Lagman informed me

that Director Rafanan approached them and pleaded for their support for him not to be reshuffled. Apparently, when the resolution came out, he was not able to convince anybody because the voting was unanimous that he be temporarily reassigned from the Law Department and be assigned full time to the DOJ-COMELEC Committee. In the same manner, Director Demesa was reshuffled to the ECAD and Atty. Allen Abaya was reshuffled to the Law Department as Director III. Note should be taken on the fact that when Director Abaya was reshuffled to the Law Department as Director III to temporarily replace Director Demesa and not to replace Director Rafanan as alleged by him, no decision yet by the Ombudsman regarding Director Abaya's suspension was promulgated.

55. The alleged illegality of his removal from the Law Department is a demonstration of how the distorted mind of Dir. Rafanan works. He puts the blame on me for all the **acts of the Commission *En banc*** which acts, I would like to emphasize, were reached through thorough deliberation and consultation among the members. In the first place, he was not illegally removed. He was merely temporarily reassigned to another department, a prerogative which is undeniably within the authority of the Commission *en banc*. But, despite unfounded allegations of illegality, records would show that he voluntarily and unreluctantly accepted his transfer which would show his contradicting stance on the issue.


56. Clearly, here comes a person who is very fond of talking about illegalities when he does not appear to understand the meaning of what is illegal. He alleged something as illegal but he surprisingly accepted the same, albeit with unsubstantiated and unsolicited comments on the side.

57. It must be emphasized, however, that when Director Rafanan was transferred to the Planning Department on September 06, 2011, only **six (6) documents** were officially turned over to Director Esmeralda Ladra, *Director IV, Law Department* and Atty. Maria Norina Casingal, *Acting Director III, Law Department* which documents were officially transmitted to the Joint DOJ-COMELEC Committee through Atty. Michael Villaret.

58. As a matter of fact, based on the "*Report on the Status of Cases Pending before the Law Department and Turn-Over of Cases of Atty. Ferdinand T. Rafanan*" dated September

19, 2011, attached herein as **ANNEX "P"**, as of 16 August 2011 (when Director Ferdinand T. Rafanan was reassigned to the Joint DOJ-COMELEC Committee) **A TOTAL OF EIGHTY TWO (82) CASES INVESTIGATED AND RESOLVED BY LAW DEPARTMENT LAWYERS AND RECOMMENDATIONS FROM FIELD OFFICES WERE NOT ACTED UPON AND REVIEWED BY HIM**, much less, were not forwarded to the Office of the Comelec Secretary contrary to Minute Resolution 99-1180 and Comelec Resolution No. 8425. Some of these 82 cases were pending as early as September 2010. It was only upon the assumption of Comm. Sarmiento as Commissioner in Charge of the Law Department and Abaya as deputy that all the eighty-two (82) cases were immediately transmitted to the Commission *en banc* through the Commission Secretary as evidenced by several memoranda hereto attached as **ANNEX "Q"**.

59. The most important inquiry is his true **MOTIVE**. IS IT REALLY PUBLIC GOOD AS WHAT HE PORTRAYS IN PUBLIC OR HIS CRUSADE FOR TRUTH? **OR IS IT SIMPLY FOR PERSONAL AND SELFISH AGENDA?** We do not have to go further than taking notice of the timing of his opposition and by simply reading his sworn affidavit to know the truth. If he finds me laden with imperfections, full of objections and conflict of interest, then why openly indorse and support me before. **IS IT NOT THAT TO CONSENT AND TO PROMOTE IS TO AGREE?** This madness is all brought by only one thing – WHEN I REFUSE TO HEED HIS WARNING NOT TO "TOUCH" HIM. **IS THIS HIS CRUSADE FOR TRUTH? OR A REPRISAL?**

 All these **FALSEHOODS, FABRICATIONS** and **CONCOCTED LIES** of Dir. Rafanan not only reveals his **ARROGANCE, INSOLENC**E and **VINDICTIVE CHARACTER**, but **UNMASKS HIS TRUE VILE CHARACTER**.

59. All things considered, it is respectfully prayed that the malicious and perjured September 14, 2011 Affidavit of Dir. Rafanan be disregarded and expunged from the records of the proceedings of the Honorable Commission on Appointments.

In witness whereof, I have hereunto set my hand this 4th day of October 2011 at Palacio del Gobernador, Intramuros, Manila.


SIXTO S. BRILLANTES, JR.
Affiant

Subscribed and sworn to before me this 4th of October 2011 at Manila, Philippines, affiant personally known to me to be the same person who executed the foregoing affidavit exhibiting to me his Philippine Passport no. XX3044359 valid until February 17, 2014 issued by the Department of Foreign Affairs Manila on February 18, 2009.

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NOTARY PUBLIC


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