

Kapisanan Ng Mga Brodkaster Ng Pilipinas  
6<sup>th</sup> Floor, LTA Building, 118 Perea Street  
Legaspi Village, Makati City

IN THE MATTER OF THE INVESTIGATION OF THE  
BROADCAST MEDIA COVERAGE OF THE  
AUGUST 23, 2010 HOSTAFE-TAKING INCIDENT  
AT RIZAL PARK, MANILA.

CASE NO. 2010-04-09

ERWIN TULFO, DJ STA. ANA, and ASSOCIATED  
BROADCASTING COMPANY (ABC CH. 5),  
Respondents.

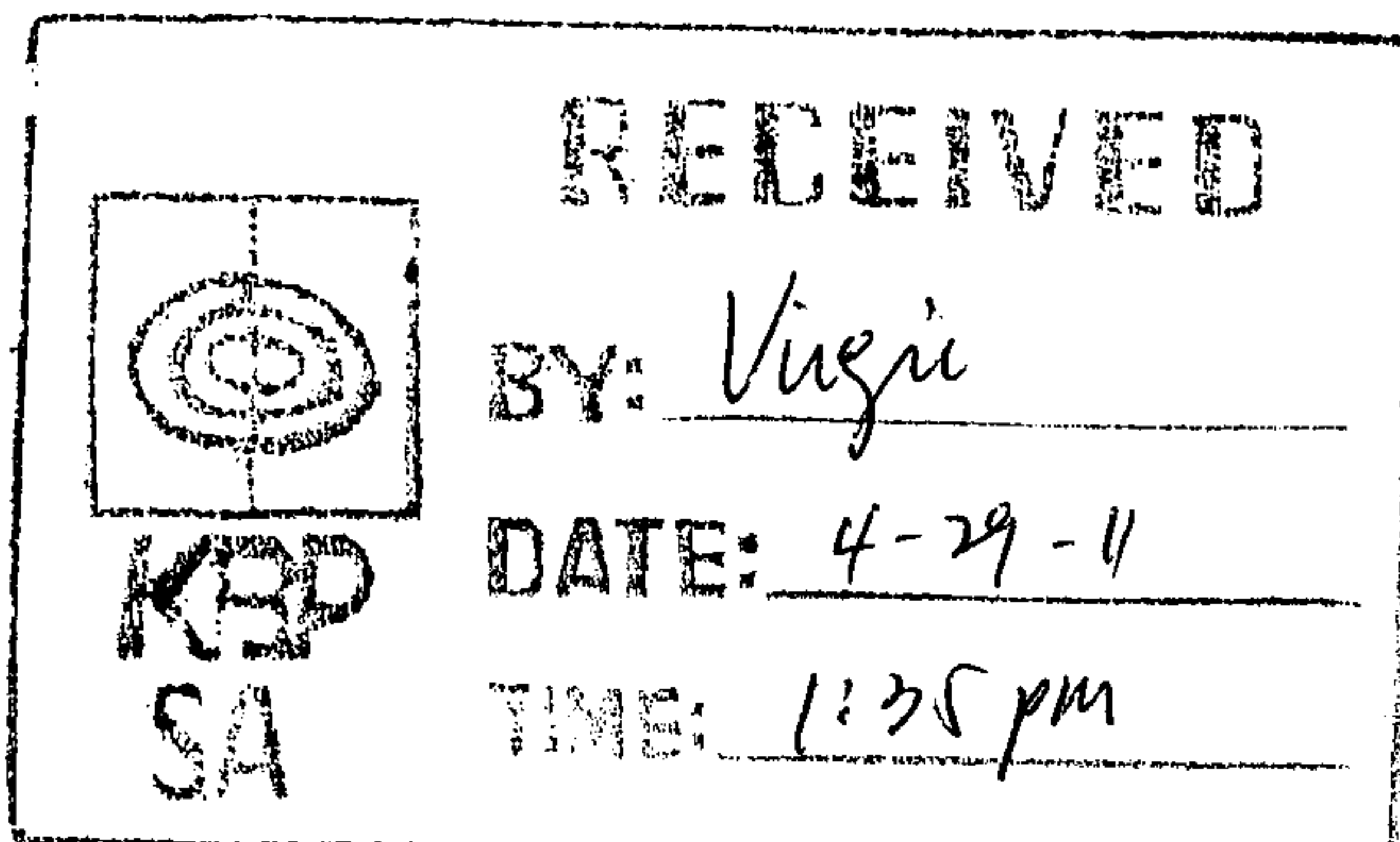
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**COMPLIANCE**

Respondents, through their undersigned representative, respectfully remit the attached BDO Check No. 0000597 dated 28 April 2011 in the amount of THIRTY THOUSAND PESOS (Php30,000.00) as full payment and settlement of the fine imposed on Respondents.

In view thereof, Respondents respectfully request that said payment be considered as full compliance with the Order dated 12 April 2011, which Respondents received on 14 April 2011, requiring Respondents to settle the fine within ten (10) working days from 14 April 2011, or until 02 May 2011.

Submitted this 29<sup>th</sup> day of April 2011.



*Paner-Montiel*  
**SABRINA KATE D. PANER-MONTIEL**  
Counsel for Respondents

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Makati City

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THE BROADCAST MEDIA COVERAGE OF THE  
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**O R D E R**

Brought before the KBP Board of Trustees is an Appeal Memorandum requesting for a reversal of the penalty of censure and fine in the amount of Thirty Thousand Pesos (P 30,000.00) imposed on respondent ABC-5 for violation of Article 6 (Crime and Crisis Situations), Sec. 4.

The Appeal was referred by the Board to a Special Appeals Committee composed of four (4) members of the Board. In summary, respondent's counsel argues that the Company exercised self-restraint in its broadcast coverage of a legitimate news story and even withheld specific points to show willingness to obey KBP rules and practice responsible journalism. However, after due deliberation, the Committee reported to the Board its findings and find no basis to reverse the decision rendered.

In view of the above, the appeal of respondent is denied and the decision of the KBP-SA is affirmed. Respondent is given ten (10) working days to settle the fine. All fines left unpaid within the ten (10) working day period shall be subject to a penalty charge of one point five (1.5%) per cent per month starting from the day following the expiry of said period until fully paid.

SO ORDERED. Makati City, April 12, 2011.

Certified by :

  
JOSELITO G. YABUT  
Corporate Secretary

cc: Ms. Diana C. Gozum, SA Chairperson

Kapisanan Ng Mga Brodkaster Ng Pilipinas  
BOARD OF DIRECTORS  
6<sup>th</sup> Floor, LTA Building, 118 Perea Street  
Legaspi Village, Makati City



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BY: Nezi

DATE: FEB 03 2011

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IN THE MATTER OF THE INVESTIGATION OF  
THE BROADCAST MEDIA COVERAGE OF THE  
AUGUST 23, 2010 HOSTAGE-TAKING  
INCIDENT AT RIZAL PARK, MANILA.

SA CASE NO. 2010-04-09

ERWIN TULFO, D.J. STA. ANA, ASSOCIATED  
BROADCASTING COMPANY,

*Respondents.*

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## APPEAL MEMORANDUM

Respondents, through their undersigned representative, respectfully submit this Appeal Memorandum to the KBP Board of Directors and state that:

1. On 14 January 2011, Respondents received the Decision of the KBP Standards Authority in the above-captioned case. The Decision gave Respondents ten (10) working days to appeal; otherwise the Decision shall become final and executory.
2. On the deadline to appeal (28 January 2011), Respondents submitted their Appeal Memorandum to the KBP, but due to oversight, addressed the same to the KBP Standards Authority instead of the KBP Board of Directors.
3. This Appeal is now being submitted anew to the KBP, this time to the Board of Directors.

### GROUNDS FOR APPEAL

#### FIRST GROUND

- I. THE KBP SA COMMITTED ERROR WHEN IT RULED THAT "IT IS NOT REQUIRED FOR THE HOSTAGE-TAKER TO HAVE ACTUALLY RECEIVED THE INFORMATION...IT IS ENOUGH THAT THE HOSTAGE-TAKER COULD HAVE ACCESSED THE SAME BY SIMPLY SWITCHING THE CHANNEL..."

THE ABOVE RULING RESTS ON PRESUMPTIONS. RESPONDENTS SHOULD NOT BE PENALIZED FOR THINGS THAT THEY ARE PRESUMED TO HAVE DONE. PENALTY SHOULD ISSUE ONLY AFTER A PERSON HAS BEEN PROVEN TO HAVE COMMITTED A VIOLATION.

The rule alleged to have been violated by Respondents is Article 6 Section 4 of the Broadcast Code, which states:

*"The coverage of crime or crisis situations shall not provide vital information or offer comfort or support to the perpetrators."*



Respondents' only goal that eventful day was to perform their job, that is, to inform the public of a highly newsworthy event of which the authorities *did not* order a news blackout. If by Respondents' act of broadcasting they have also inadvertently given some information to the perpetrator---a speculation which has never been proven--- Respondents should not be penalized for it.

Just to illustrate: suppose a salesman calls his supplier on the telephone in order to relay some urgent and sensitive data about the company/business, and suppose the company's suppliers alone are entitled to such data, but via accidental cross-line a stranger happens to eavesdrop on the conversation and uses the information to publicly criticize or ridicule the company, would it be fair for the company to penalize the salesman? The reasonable answer is *no*, because the salesman was relaying information to his intended recipient via the fastest means of communication that he knew and thought was secure.

By analogy, Respondents should not be penalized for performing their job as broadcasters which necessarily required imparting news and information. Respondents' intended recipient was not the hostage-taker but innocent civilians who had a right to know about the crisis, for their own protection.

Granting just for the sake of argument that inadvertent delivery of information to the perpetrator is punishable under Article 6 Section 4, Respondents submit that when the framers of the KBP Rules constructed the phrase "*The coverage of crime or crisis situations shall not provide vital information or offer comfort or support to the perpetrators,*" they could not have been thinking about a presumed delivery of vital information, but a proven delivery of vital information.

Among others, the following have not been proven in the various investigations of the August 23 hostage crisis, including this investigation by the KBP SA:

- (a) That the hostage-taker was tuned in to the Respondent's channel at any time during the crisis;
- (b) That the Respondents spurred the hostage-taker on in his unlawful actions.
- (c) That the hostage-taker turned lethal in his final moments due to cues or information gleaned from the Respondents' coverage of the crisis;

In fact, the findings of virtually all investigations point elsewhere (not to Respondents) as the immediate cause of the three critical points listed above.

On August 23, 2010, as the hostage crisis unravelled at the Quirino Grandstand, Respondents were first and foremost broadcasters. They did their work the best method they knew how, and this method is one marked by public service and information. Peace and security is the police authorities' lookout. If police had prohibited Respondents from covering and broadcasting any of the incidents that the KBP Standards Authority now say had "*provided vital information*" to the hostage-taker that day, then Respondents, being law-abiding persons, would have obeyed without question.

For lack of police intervention in the media's coverage of the hostage crisis, Respondents were forced to make their own assessment of the situation. After evaluating the position of the hijacked bus as well as the police and crowd movements, Respondents judiciously decided that no further harm could be done if they covered and aired the event.

Virtually all news organizations, including Respondents, were there that eventful day to cover the *hijacking of a bus*. Again, due to lack of directives from the police, practically none of the reporters present had any inkling that a SWAT assault was going to be conducted. At some point, SWAT teams simply started running to the hijacked bus and as such, were plainly visible from the vantage point of the various news teams that were covering the hijacking.

In other words, newsmen were suddenly confronted with fast-breaking news and had no more time to react, especially given the lack of directive from police authorities to put into effect a news black-out.

#### SECOND GROUND

- II. THE KBP SA COMMITTED ERROR WHEN IT RULED THAT RESPONDENTS' COVERAGE OF THE HOSTAGE CRISIS *"MADE IT POSSIBLE FOR THE HOSTAGE-TAKER, IF HE HAD WANTED TO, TO PRE-EMPT, NEUTRALIZE, OR THWART THE ACTIONS OF THE POLICE."*

THE FACT IS IT WAS THE AGONIZINGLY SLOW ACTION OF THE POLICE THAT GAVE THE HOSTAGE-TAKER MORE THAN ENOUGH TIME TO ASSESS THE DANGER TO HIMSELF AND TO DECIDE ON PRE-EMPTIVE ACTION.

As discussed in Respondents' Memorandum, the police/SWAT committed the following tactical errors, with tragic consequences:

- (a) SWAT made no attempt to conduct a surprise stealth approach. They simply ran to the bus in plain view, with everyone of them coming from the same direction instead of surrounding the bus to confuse the perpetrator;
- (b) SWAT's efforts to breach the bus door and windows were noisy and extremely slow;
- (c) The assault took about an hour. The element of surprise was lost;
- (d) SWAT's slowness, lack of equipment, and lack of competence were painfully obvious. If it was obvious to civilian onlookers, it was no doubt even more obvious to a former police officer such as the perpetrator.

It was this palpable lack of equipment and training on the part of the police/SWAT, and not Respondent's coverage of the event, that made the police vulnerable to pre-emptive action by the perpetrator.

In the aftermath of the hostage crisis, investigations ensued because the crisis ended badly. But it was not Respondents' job to make sure that it was resolved successfully; it was the police authorities who failed to perform their mandate.

#### THIRD GROUND

- III. THE KBP SA COMMITTED ERROR WHEN IT RULED THAT *"WHAT IS PENALIZED BY THE SUBJECT CODE PROVISION IS THE BROADCAST OF VITAL INFORMATION IN THE CONTEXT OF THE...INCIDENT AND THE OPPORTUNITY FOR ANY PERSON, PARTICULARLY THE HOSTAGE-TAKER, TO ACCESS SUCH INFORMATION."*

THE VERY WORDS OF THE SUBJECT PROVISION NEGATE THE ABOVE CONCLUSION. "PROVIDING VITAL INFORMATION" OR "OFFERING COMFORT OR SUPPORT" CONNOTE



DELIBERATE ACTION TO GIVE SOME KIND OF ADVANTAGE TO THE PERPETRATOR; SOMETHING THAT THE RESPONDENTS DID NOT DO.

As argued by Respondents' counsel during the hearing of this case, the background of this provision has to do with military tactics conducted in hidden locations; secret tactics which a network that is sympathetic to the enemy might broadcast for the purpose of providing vital information about the military's movements and position.

With due respect, the KBP SA's Decision did not address several significant points raised by the Respondents in their Memorandum, such as the following:

- (a) Respondents refrained from airing live the commotion involving police authorities and the hostage-taker's brother, an incident that drove the hostage-taker into a killing spree;
- (b) Respondents denied Mr. Erwin Tulfo permission to board the hijacked bus;
- (c) Respondents refrained from conducting live interviews of the hostage-taker or any of his relatives.

The above-enumerated incidents show Respondents good faith willingness to obey KBP Rules and to practice responsible journalism. Furthermore, said incidents show that there was absolutely no intention on the Respondents part to provide vital information to the perpetrator, since in fact they withheld the above-enumerated information--- "vital" or not---from said perpetrator as well as from the public in general.

#### FOURTH GROUND

IV. THE KBP SA COMMITTED ERROR IN ORDERING THE RESPONDENT TO PAY A P30,000 FINE PLUS CENSURE, THE SAME PENALTY HANDED DOWN TO RMN AND ABS-CBN.

EVEN ASSUMING THAT RESPONDENTS COMMITTED THE VIOLATION ALLEGED, RESPONDENTS ARE THE LEAST CULPABLE, AND THEREFORE DO NOT DESERVE THE FULL EXTENT OF THE PENALTY HANDED DOWN BY THE KBP SA.

As stated above, the findings of virtually all investigations point elsewhere (not to Respondents) as the immediate cause of the critical stages or the escalation of violence in the subject hostage crisis. Thus, Respondents, do not deserve the penalties meted out (if they even deserve to be penalized at all).

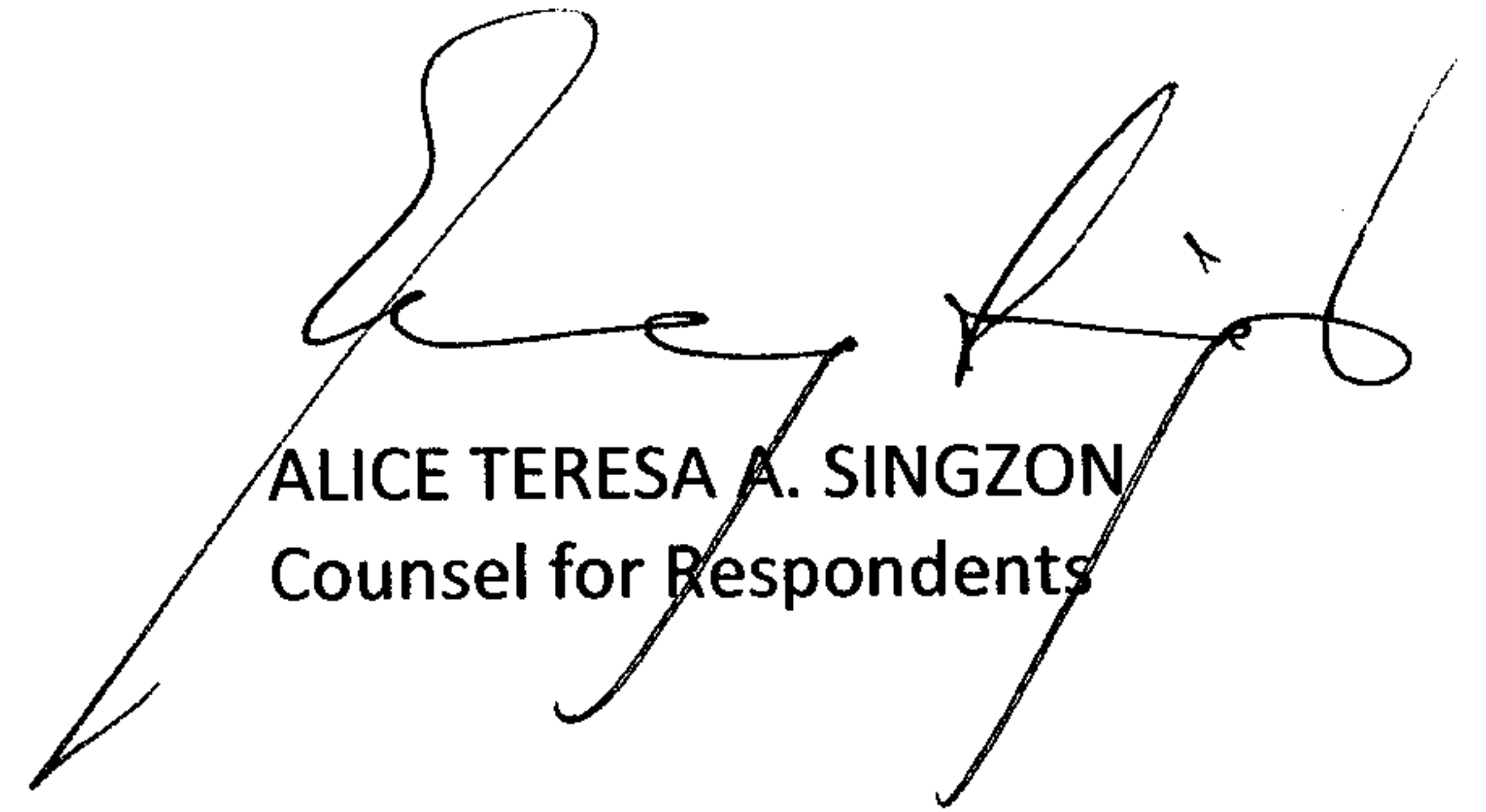
In page twenty-one of the Decision, the KBP SA discussed its *"inability to officially inquire into the coverage of the hostage-taking incident by GMA 7 (and to impose sanctions if warranted)..."* It is indeed the height of iniquity that rule-abiding members of the KBP such as Respondents and other member-networks are the ones that are being burdened with sanctions, such as the penalties now being imposed on them, while networks that reject the KBP such as GMA 7 get away unscathed no matter what it does.

With due respect, the KBP was formed to help and support its members and not to give undue advantage to non-members.

WHEREFORE, in view of all the above, Respondents respectfully ask the KBP Board of Directors to:

1. Admit and consider this Appeal;
2. Nullify and set aside the Decision of the KBP Standards Authority dated 15 December 2010;
3. Issue a new decision declaring the Respondents to be without fault and dismissing the charges against them.

Submitted on 2 February 2011.



ALICE TERESA A. SINGZON  
Counsel for Respondents