

Kapisanan Ng Mga Brodkaster Ng Pilipinas
6/F LTA Building, 118 Perea St., Legaspi Village
Makati City

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

MICHAEL ROGAS, ERWIN TULFO, and RADIO
MINDANAO NETWORK, INC. (RMN-DZXL),

CASE NO. 2010-02-09

Respondents.

X ----- X

ORDER

Brought before the KBP Board of Trustees is a Memorandum on Appeal requesting for a reversal of the penalty of censure and fine in the amount of Thirty Thousand Pesos (P30,000.00) imposed on respondent Radio Mindanao Network; a reprimand and the sum of Fifteen Thousand Pesos (P15,000.00) on respondent Michael Rogas; and a reprimand and a fine in the amount of Ten Thousand Pesos (P10,000.00) on respondent Erwin Tulfo for violation of Article 6 (Crime and Crisis Situations), Sec. 1.

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 RMN and Rogas were performing their duty to bring and inform the public all sides and angles of the hostage taking event and did not interfere in the negotiations. After due deliberation, the Committee reported to the Board its findings and find no basis to reverse the decision rendered.

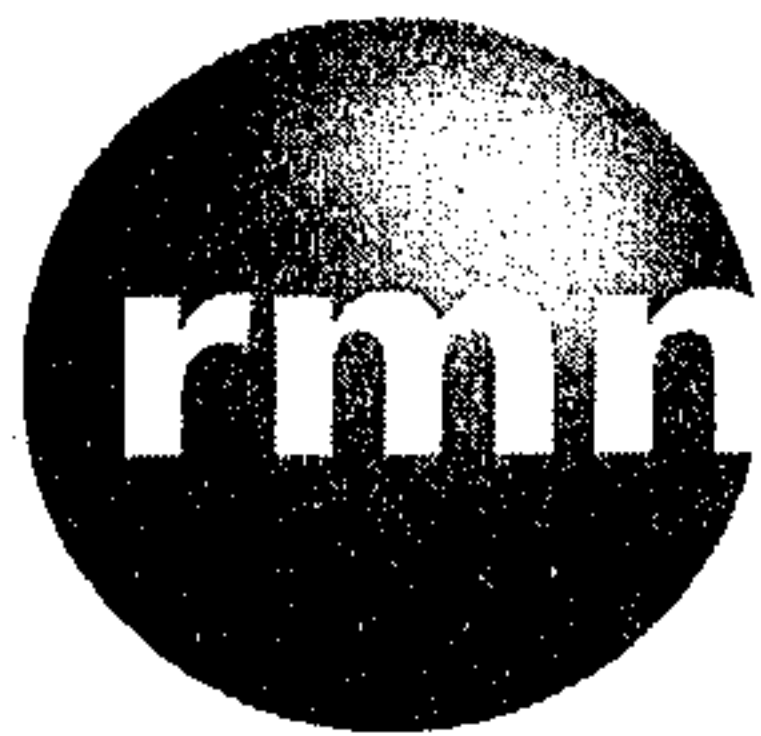
In view of the above, the appeal of respondents are denied and the decision of the KBP-SA is affirmed. Respondents are given ten (10) working days to settle the fine. All fines left unpaid within the ten (10) working day period shall be subject to a penalty charge of one point five (1.5%) per cent per month starting from the day following the expiry of said period until fully paid. If respondent Michael Rogas fails to pay the fine, the Enforcement Guidelines states that the station will answer for the broadcaster's fine. Furthermore, with regard to respondent Erwin Tulfo, the station where the offense was committed shall be jointly and severally liable with the individual offender, whether he be regular, temporary, casual, seasonal, talent, blocktimer or otherwise for fines which may be imposed on the latter. The station shall mandatorily pay the fine imposed on the individual in case the latter fails to pay the same within the prescribed period which fine shall be deemed an outstanding account of the station until fully paid.

SO ORDERED. Makati City, April 12, 2011.

Certified by :


JOSELITO G. YABUT
Corporate Secretary

cc: Ms. Diana C. Gozum, SA Chairperson



RMN NETWORKS™

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April 27, 2011

MR. JOSELITO G. YABUT

Corporate Secretary
KBP-Board of Trustees
6/F LTA Bldg., 118 Perea St., Legaspi Villagae
Makati City



RECEIVED

BY: Long
DATE: April 28, 2011
TIME: 10:30 AM

Dear Mr. Yabut:

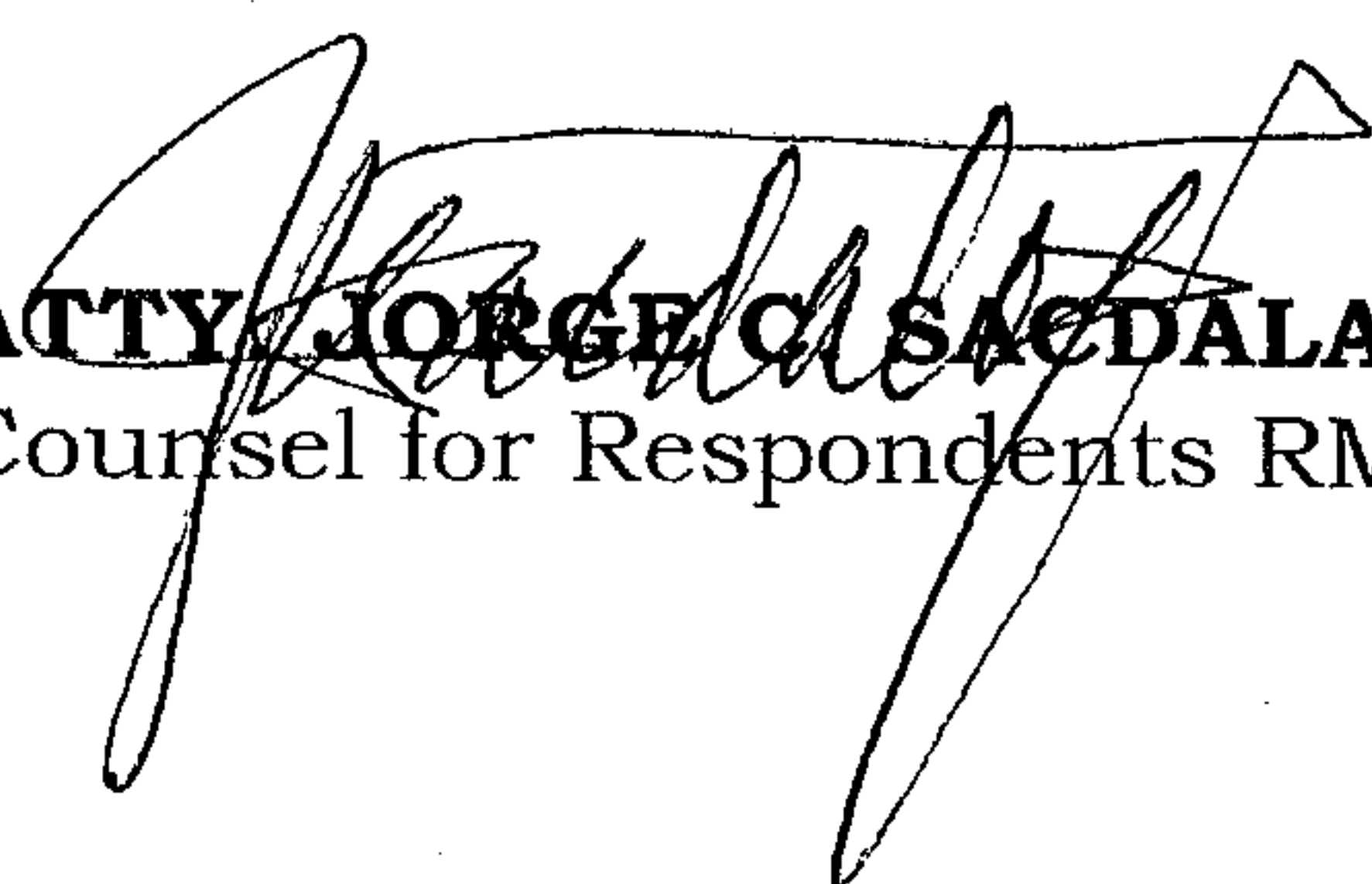
This pertains to the Order dated April 12, 2011 of this Honorable Board, affirming the decision of the Standards Authority imposing the penalties of censure and fine in the amount of P30,000.00 on respondent RMN, of reprimand and fine in the sum of P15,000.00 on respondent Michael Rogas, and of reprimand and fine in the sum of P10,000.00 on respondent Erwin Tulfo.

Respondent RMN and Rogas most respectfully seek the kind indulgence of this Honorable Board to reconsider its April 12, 2011 Order by deleting the penalties of censure and reprimand and thereby limiting their penalties to pay the fine. Paying the fines will be enough penalty for whatever acts or omissions respondents RMN and Rogas have committed. Moreover, respondents RMN and Rogas have learned their lessons from the tragic incident and have avowed to be more vigilant in performing their duties and responsibilities under the Broadcast Code.

Anent the penalties imposed on respondent Tulfo, respondent RMN would like to inform this Honorable Board that he is no longer connected with it, having resigned as one of its talents.

Hoping for your favorable action on the matters sought to be reconsidered.

Truly yours,


ATTY. JORGE C. SACDALAN
Counsel for Respondents RMN and Michael Rogas

**Kapisanan ng mga Brodkaster ng Pilipinas
BOARD OF DIRECTORS
6F, LTA Bldg., 118 Perea Street
Legaspi Village Makati City**

**IN THE MATTER OF THE
INVESTIGATION OF THE
BROADCAST MEDIA COVERAGE
OF THE AUGUST 23, 2010 HOSTAGE
TAKING INCIDENTS AT RIZAL PARK,
MANILA**

SA CASE NO. 2010-02-09

**MICHAEL ROGAS, ERWIN TULFO
and RADIO MINDANAO NETWORK,
INC. (RMN-DZXL),**

Respondents.

x ----- x



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BY: Vargi

DATE: 1-24-11

TIME: 3:15 pm

MEMORANDUM ON APPEAL

Respondents **Radio Mindanao Network, Inc. (RMN) and Michael Rogas**, through undersigned counsel and unto this Honorable Board of Directors, most respectfully submit this **Memorandum on Appeal**, to wit:

P R E F A T O R Y

In its **Decision dated December 15, 2010**, a copy of which was received on January 14, 2011, the Honorable Standards Authority En Banc found **respondents RMN and Michael Rogas** to have violated Section 1, Article 6, Part I of the Broadcast Code and imposed the penalties of censure and fine in the amount of P30,000.00 on respondent **RMN** and reprimand and fine of P15,000.00 on respondent **Rogas**.

Respondents **RMN and Rogas** invoke the kind indulgence of this Honorable Board to review, and thereafter to reverse and set aside the **December 15, 2010 Decision** of the Honorable Standard Authority En Banc.

As will be discussed hereunder, respondents **RMN and Rogas** have not violated Section 1, Article 6 of the Broadcast Code.

STATEMENT OF THE FACTS

Respondent **RMN** unites with the whole country as well as with international community in condemning Capt. Rolando Mendoza for perpetuating the August 23, 2010 hostage taking which led to the death of eight (8) foreigners.

On the onset, respondent **RMN** was fully aware that the coverage of the hostage taking event would have international implications, considering the hostages involved were foreigners.

Respondent **RMN-DZXL** reporters were at the scene covering the event that began at 10 am of August 23, 2010. But as the hours passed by, and when the hostage taker imposed a 3 pm deadline, the public needed to know the real situation especially the safety of the hostages inside the bus and the demands of the hostage taker became imperative.

Thus, before 6 pm and eight (8) hours after the first radio report have already lapsed, respondent **RMN** has decided and succeeded in getting in touch with the hostage taker and interviewed him on air and all of the conversations were duly recorded while they were being broadcast on air.

The decision of respondent **RMN** to conduct a live radio interview was in response to the media's responsibility and duty to inform the public of all sides of the hostage taking story, including that of Capt. Rolando Mendoza himself. For the record, it was not the first time that a hostage taker was interviewed live over the radio. Three (3) years ago, in the Ducut hostage taking incident, almost all radio and TV stations aired the hostage taking as it unfolded and even interviewed the hostage taker on air. In this latest hostage taking, with foreigners as the hostages, the demand for information on what was really going on inside the bus was more paramount consideration as eight (8) hours have already lapsed since the public received any news on what was happening inside the bus.

Respondent **RMN's** interview included conversations with Capt. Mendoza, the driver, Alberto Lubang, and one (1) of the female hostages, Yang Lee Wua, and the broadcast made was intermittent due to the constant loss of mobile phone signals.

That very same day, respondent **RMN** has its senior reporter, respondent **Rogas**, and a lawyer guest, Atty. Ed Araullo, as anchors inside the radio studio while anchorman and TV 5 correspondent Erwin Tulfo, together with the respondent **RMN** reporters were at the Quirino Grandstand area where the hostage event was taking place.

The recordings and transcripts of respondent **RMN** interview yielded the following valuable information:

- a. The hostage taker, Capt. Mendoza, the driver, and the hostages were safe at the time of the interview at around 6 pm;
- b. They were watching the developments taking place around the bus through a television inside the bus as the driver Alberto Lubang himself mentioned they were watching the coverage of GMA Channel 7;
- c. Capt. Mendoza had in fact possessed several lines of communication that day. While respondent **RMN** was interviewing him, he was talking to other persons through his other phones, including a landline, which was delivered earlier by the police;
- d. Capt. Mendoza revealed his loss of trust with the negotiators and his decision to cut off communications with them by rejecting their calls as well as those of his family members;
- e. Contrary to the earlier presumptions, respondent **RMN** was already interviewing Capt. Mendoza on air for several minutes before Manila Vice-Mayor Isko Moreno approached and delivered to Capt. Mendoza the letter from the Ombudsman. In fact, respondent **RMN** has previously aired the negotiations way before Capt. Mendoza read about the letter and expressed his personal disgust thereto, prompting Vice Mayor Moreno to assume that someone was provoking the anger of Capt. Mendoza, when in truth and in fact Capt. Mendoza was reading it on air in order for respondent **RMN DZXL** listeners to know the contents thereof;
- f. Respondent **RMN** interview has helped Capt. Mendoza to release his emotional disgust in spite of the very hostile situation he was in. In fact, during the course of the interview, Capt. Mendoza exhibited calmness when he revealed and explained his reasons for his actions to respondent **RMN** anchors;

g. Capt. Mendoza even allowed respondent **Rogas** to interview the driver, and later anchorman Erwin Tulfo who was in Quirino Grandstand near the MPD crisis command post, to interview one (1) of the hostage victims from Hongkong;

h. In the course of the interview with Capt. Mendoza, respondent **RMN-DZXL** staff inside newsroom tried many times to contact Gen. Magtibay and other MPD officers to duly inform them that respondent **RMN** has opened a communication line with Capt. Mendoza which they could use in their negotiations. One (1) respondent **RMN** field reports, Rod Vega even told MPD Colonel Nelson Yabut that Capt. Mendoza was live on air at respondent **RMN-DZXL** but he was ignored;

i. To verify the condition of the hostages and the driver, Erwin Tulfo even volunteered to take footages inside the bus with a TV5 cameraman. Mr. Tulfo was given permission by Capt. Mendoza on the condition that he would have to be handcuffed while inside the bus, with the assurance that he would be released later on. Mr. Tulfo then sought the permission of Gen. Magtibay, Col. Yebra and a certain Col. Bernal to enter the bus by informing them of Capt. Mendoza's conditions and that respondent **RMN-DZXL** has been interviewing Capt. Mendoza live on radio. Unfortunately, Mr. Tulfo's request was rejected by said police authorities. Thus, it is not true that the police authorities did not know that Capt., Mendoza was being interviewed live on radio as Mr. Tulfo duly informed them that respondent **RMN** has another useful line of communication to Capt. Mendoza which they could use for opening the negotiations once more, considering Capt. Mendoza has apparently lost trust in the negotiators;

j. On the ground, other members of the media as well as the police force were also aware that respondent **RMN** had direct communication with Captain Mendoza as Mr. Tulfo had interviewed a female Hongkong national while he was within the media's coverage area at the Quirino Grandstand;

k. The records and transcripts of respondent **RMN** interview would reveal that Capt. Mendoza's sudden emotional outburst was brought about by his witnessing thru the live television coverage of the arrest of his brother by the MPD policemen. Respondent **RMN** anchors in fact tried to pacify and calm him down over the phone. At the same time, on filed, Mr. Tulfo tried to convince the ground commanders not to arrest Capt. Mendoza's brother but his request was in vain as SPO4 Gregorio

Mendoza was forcibly taken inside the police car. Apparently, the ground commanders were not monitoring respondent **RMN-DZXL** despite being informed many times by respondent **RMN** people and despite the fact that Capt., Mendoza was already live on air for almost an hour. Had not the police authorities rejected the persistent calls of respondent **RMN** people, informing them that respondent **RMN** had Capt. Mendoza on line and that respondent **RMN** was willing to act as a bridge, the tragic shooting of the hostage victims would have been averted.

In the **Show Order and Notice of Hearing dated September 24, 2010**, the Honorable Standard Authority En Banc ordered respondents **RMN and Rogas** to explain in writing why no disciplinary sanctions should be imposed on them for allegedly violating Sections 1 and 3 of Article 6 of the Broadcast Code, and at the same time to attend the hearing set on October 20, 2010 at 10:00 am. Respondent **RMN and Rogas** attended the hearing set on October 20, 2010 and submitted their Position Papers. However in lieu of the Memorandum, respondents **RMN and Rogas** submitted a Manifestation, manifesting that they were adopting their Position Paper as their Memorandum. Thereafter, the Honorable Standards Authority En Banc rendered the now appealed Decision.

Hence, this appeal.

ISSUE

The main issue for resolution of this Honorable Board is: **WHETHER OR NOT RESPONDENTS RMN and ROGAS HAVE VIOLATED SECTION 1 OF ARTICLE 6 OF THE BROADCAST CODE.**

POSITION OF RESPONDENTS RMN AND ROGAS

Respondents **RMN and Rogas** maintain that they have not committed any act/s in violation of Section 1 of Article 6 of the Broadcast Code.

All of the actions of respondents during the tragic event were aired and duly recorded. Respondents have all of the transcripts to prove that they have nothing to hide to the public which they have vowed to serve and have done nothing in violation of the Broadcast Code. As far as respondents are concerned:

1. RESPONDENT **RMN** WAS JUST DOING ITS SWORN DUTY TO BRING AND INFORM THE PUBLIC ALL SIDES AND ANGLES OF THE HOSTAGE TAKING EVENT AS IT UNFOLD;
2. RESPONDENT **RMN** INTERVIEWED CAPTAIN MENDOZA ONLY AFTER EIGHT (8) HOURS HAVE LAPSED. PRINCIPALLY TO KNOW THE CONDITIONS OF THE HOSTAGES INSIDE THE BUS AND AT THE SAME TIME TO ALLOW HIM TO AIR HIS SIDE. RESPONDENT **RMN** WANTED TO GIVE HIM THE NECESSARY OPPORTUNITY TO AIR HIS GRIEVANCES IN ORDER TO PACIFY HIM AND THE SUBSEQUENT INTERVIEWS PRODUCED A CALMING EFFECT ON HIM UNTIL HIS SUDDEN EMOTIONAL OUTBURST CAUSED BY THE MPD'S ARREST OF HIS BROTHER. ALSO, THIS IS NOT THE FIRST TIME THAT A HOSTAGE TAKER HAS BEEN INTERVIEWED LIVE ON AIR OVER THE RADIO THREE (3) YEARS AGO. THE DUCUT HOSTAGE TAKING WAS AIRED LIVE OVER THE RADIO STATIONS AND TELEVISION NETWORKS;
3. RESPONDENT **RMN** DID NOT ENGAGE IN ANY NEGOTIATIONS BUT EVEN OFFERED TO LINK HIM BACK TO THE AUTHORITIES BY CALLING THE MPD, OMBUDSMAN AND PERSONALLY INFORMING THEM THAT RMN HAD THE HOSTAGE TAKER LIVE ON AIR;
4. RESPONDENT **RMN** DID NOT INTERFERE WITH THE NEGOTIATIONS SINCE CAPTAIN MENDOZA HAS SEVERAL AVAILABLE PHONELINES WHICH HE USED IN TALKING WITH OTHER PEOPLE OUTSIDE THE BUS WHEN RMN INTERVIEW WAS CUT-OFF ON THE AIR DUE TO CHOPPY MOBILE PHONE LINE, CAPT. MENDOZA ALWAYS ANSWERED THE RETURN CALLS;
5. RESPONDENT **RMN** WAS NOT A PRIVY AS TO HOW AND WHY CAPTAIN MENDOZA LOST HIS TRUST WITH THE NEGOTIATORS AND HIS REASONS FOR REJECTING THE CALLS FROM THE AUTHORITIES AND HIS RELATIVES;
6. RESPONDENT **RMN** WAS NOT IN CONTROL OF THE COVERAGE BEING HOWN AT THE TELEVISION INSIDE THE TOURST BUS WHERE HE WITNESSED THE MPD'S ARREST OF HIS BROTHER, WHICH CAUSED CAPTAIN MENDOZA TO GET INFURIATED;

7. RESPONDENT **RMN**'s INTERVIEW CLEARLY DID NOT CAUSE THE SUDDEN EMOTIONAL OUTBURST OF CAPTAIN MENDOZA ON THE CONTRARY, IT WOULD REMAIN AS PART OF THE HISTORY OF THE COUNTRY AS TESTIMONY AND WITNESS OF THE REAL NARRATIVE ACCOUNT OF THE FINAL MOMENT OF THIS TRAGIC HOSTAGE EVENT.

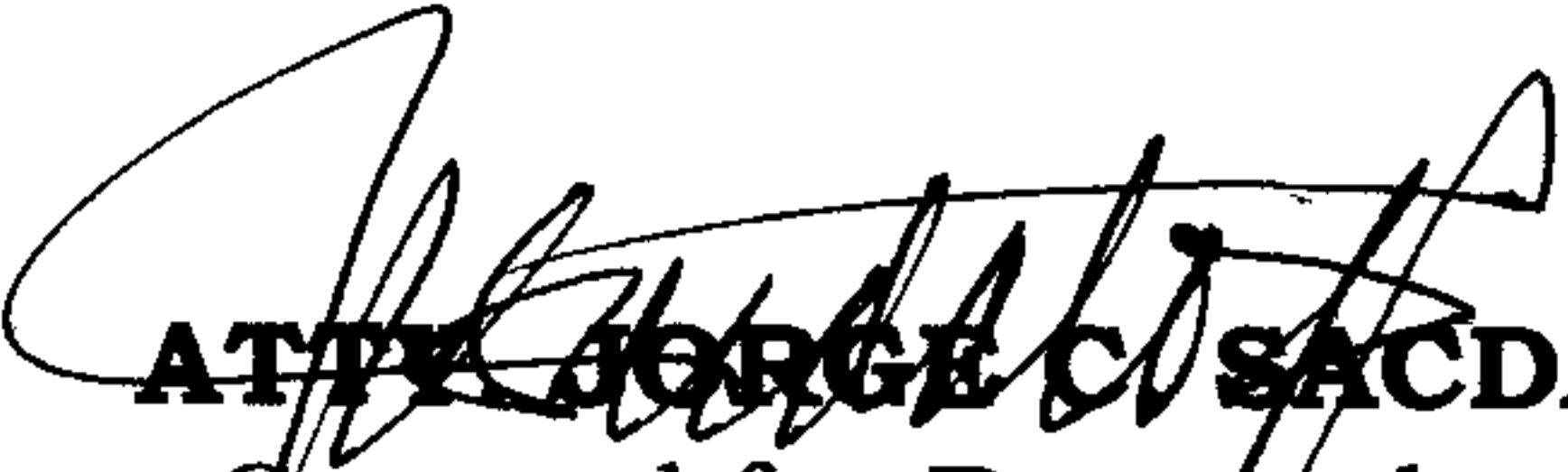
As succinctly established by substantial evidence which is contrary to the findings and conclusion of the Honorable Standards Authority En Banc, respondents **RMN and Rogas** have not violated Section 1, Article 6 of the Broadcast Code. In fact, respondents were fulfilling their sworn duty to serve the public. Respondents have not committed any act violative of the Broadcast Code in making and airing the live interview of Captain Mendoza. It is highly unfair and unreasonable to sanction respondents for performing their sworn duty to inform the public.

PRAYER

WHEREFORE, it is most respectfully prayed for that after due notice and hearing a decision be rendered reversing and setting aside the **December 15, 2010 Decision** of the Honorable Standards Authority En Banc and absolving respondents **Radio Mindanao Network, Inc. and Michael Rogas** of any administrative liability for the Broadcast media coverage of the August 23, 2010 hostage taking incident.

Other reliefs just and equitable under the premises are likewise prayed for.

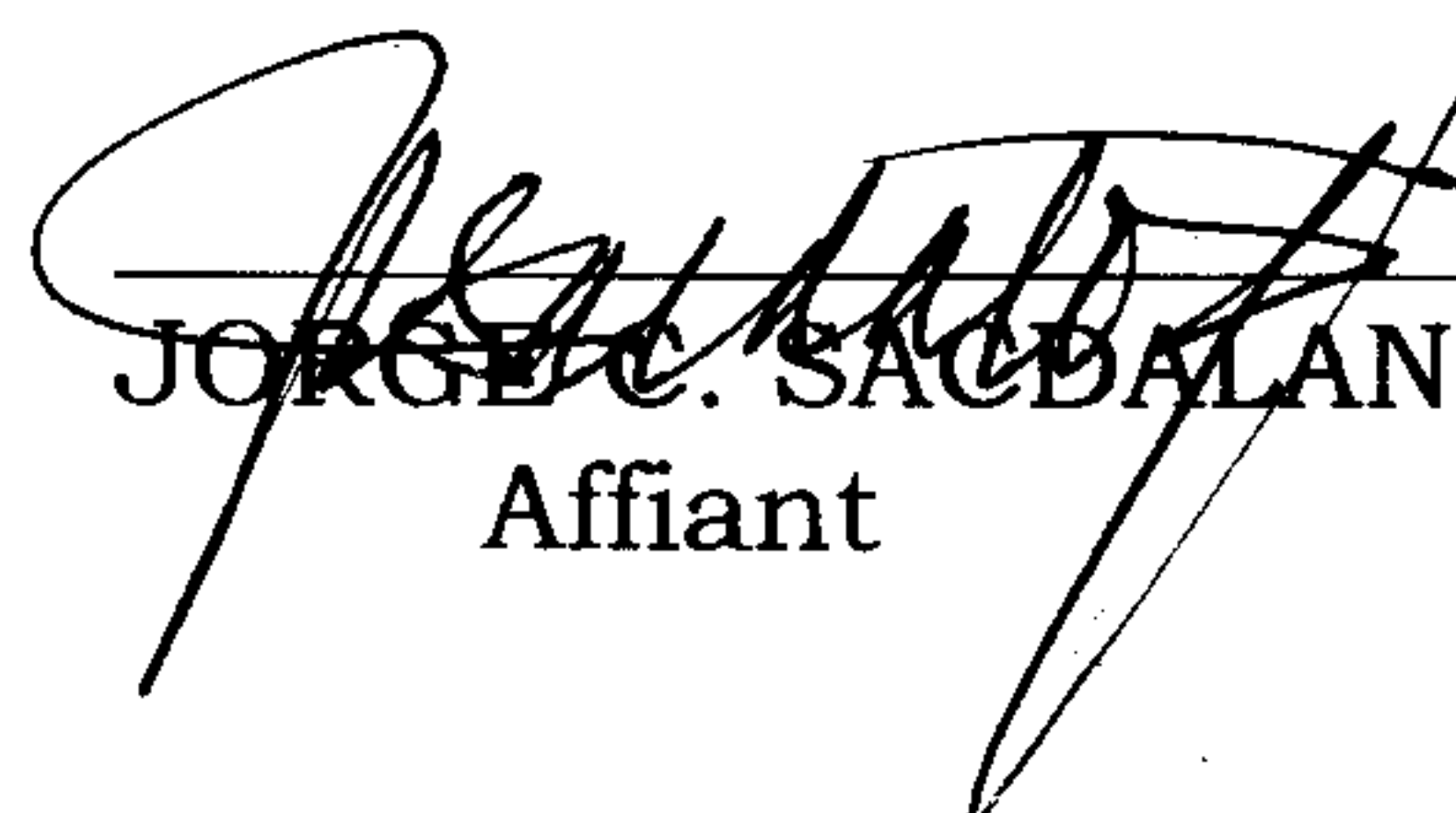
Makati City, January 24, 2011.


ATTY. JORGE C. SACDALAN
Counsel for Respondents
4th Floor State Condominium I Bldg.
Salcedo St., Legaspi Village, Makati City
PTR No. 7203429 / 01-06-09 / Mla
IBP No. 745895 / 01-06-09 / Mla
ROLL No. 40582

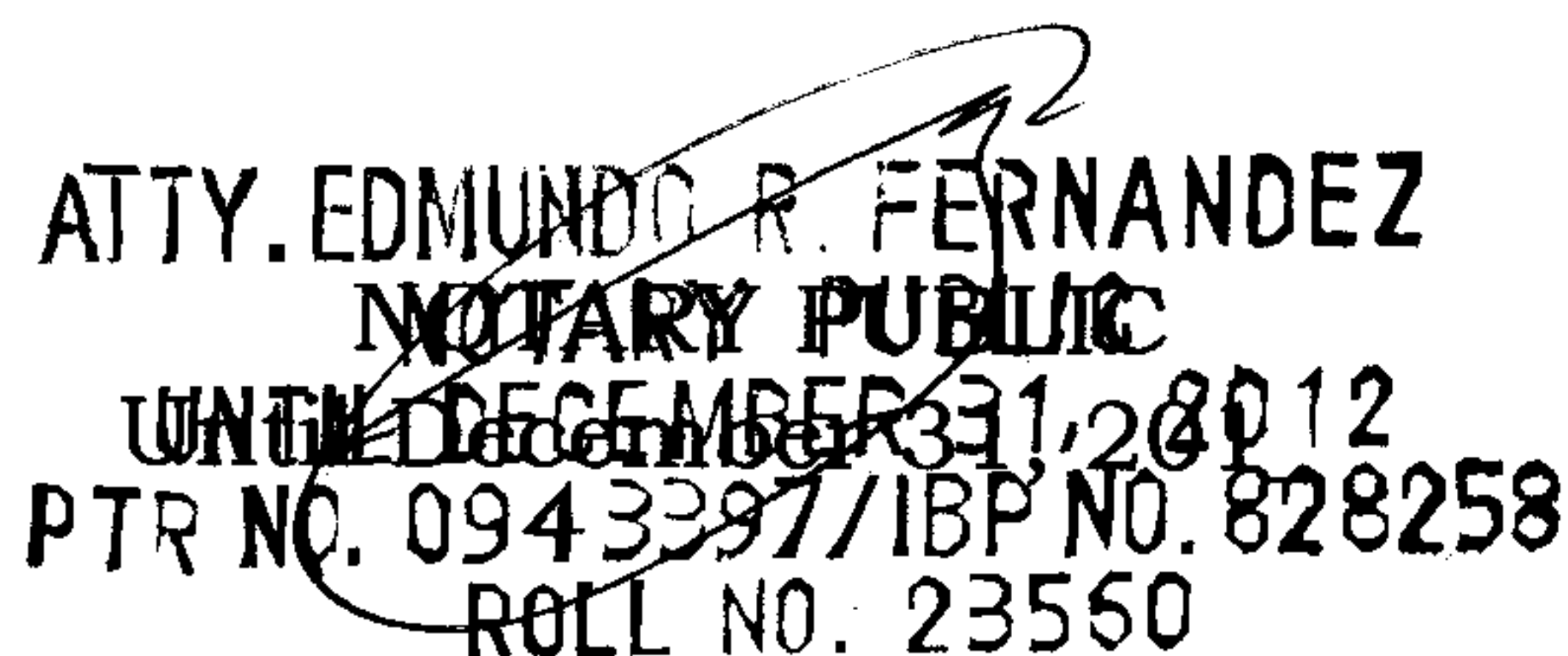
VERIFICATION/CERTIFICATION

I, JORGE C.SACDALAN, of legal age, Filipino and with office and postal address at 4th Floor State Condominium I Bldg., Salcedo St., Legaspi Village, Makati City, under oath, hereby depose and state that:

- 1.) I am the counsel of the respondents in the above-entitle case.
- 2.) I have caused the preparation of the foregoing Memorandum on Appeal.
- 3.) I have read and understood the contents therein and the same are true and correct to my knowledge and belief as well as records at hand.
- 4.) In compliance with SC Administrative Circular No. 09-94 and Revised Circular No. 28-91, I hereby certify that: a) I have not commenced any action or proceeding involving the same issues in any court or tribunal or quasi-judicial agency; b) To the best of my own personal knowledge, no such similar action or proceeding is pending therein; and c) If I should thereafter learn that the same or similar action or claim has been filed or is pending, I shall report the same within five (5) days therefrom to this Honorable Board.


JORGE C. SACDALAN
Affiant

SUBSCRIBED AND SWORN to before me this 24th day of January, 2011 in ~~Mandaluyong City~~ ~~Manila~~ affiant exhibited to me his SSS # 33-7690850-3.


ATTY. EDMUNDO R. FERNANDEZ
NOTARY PUBLIC
UNTIL DECEMBER 31, 2012
PTR NO. 0943397/IBP NO. 828258
ROLL NO. 23550

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