

SECOND DIVISION

[A.C. NO. 4517, September 11, 2006]

**AQUILINO Q. PIMENTEL, JR., COMPLAINANT, VS. ATTYS.
VITALIANO C. FABROS AND PACIFICO S. PAAS, RESPONDENTS.**

DECISION

CORONA, J.:

A complaint for disbarment was filed against Attys. Vitaliano C. Fabros and Pacifico S. Paas by Senator Aquilino Q. Pimentel Jr. for "unlawful, dishonest, immoral or deceitful conduct" in relation to the discharge of their duties as chairman and vice-chairman, respectively, of the provincial board of canvassers, Province of Isabela (PBC-Isabela) in the 1995 elections.

Complainant alleged that:

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8. Among the duties of the [PBC-Isabela] was to canvass the results of the elections from the various municipalities and component cities of the Province of Isabela and submit the Provincial Certificate of Canvass to the Commission on Elections (COMELEC). This Provincial Certificate of Canvass was to be submitted to the COMELEC together with its supporting Statement of Votes per Municipality for the Province of Isabela, and as required by law, these documents were prepared under the control and supervision of the [PBC-Isabela] of which herein respondents are officials.
9. In fact, with respect to the Provincial Certificate of Canvass of Isabela, respondents were required to certify under oath that they duly canvassed the votes cast for each candidate for Senator in the election held on May 8, 1995. And with respect to the Statement of Votes per Municipality, they were required to certify that each entry made is true and correct.

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11. It would appear, however, that the Statement of Votes per Municipality (annex "B") prepared and certified to be true and correct by herein respondents was actually a fraudulent statement which had been altered and which contain false and untrue entries. By comparing the said statements with the Municipal/City Certificates of Canvass of some of the municipalities and component cities for the Province of Isabela, it is clearly apparent that in nine (9) municipalities and one (1) city of the said province, the votes of

candidates Enrile, Honasan and Mitra were padded and increased by some 27,755, 10,000 and 7,000, respectively....

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13. The anomalous, irregular and illegal padding of the votes in the Provincial Certificate of Canvass for the Province of Isabela cannot be attributed [to] mere computation or recording error, but was ostensibly the result of a premeditated scheme knowingly implemented by herein respondents.
14. **The respondents, chairman and vice chairman of the [PBC-Isabela], willfully, feloniously, unethically and in wanton and reckless regard of the duties and responsibilities reposed upon them by virtue of their official positions, signed the Provincial Certificate of Canvass (annex "A") and the Statement of Votes per Municipality (annex "B") for the Province of Isabela, well aware that the same contained false statements which has altered the results of the senatorial elections in said province. Their submission of these falsified documents to the COMELEC is an act constituting a gross violation of the Omnibus Election Code and existing penal laws, and a serious breach of public trust and of their oaths as duly licensed members of the Philippine Bar.**
15. For under section 27 of R.A. 6646 it is provided that any member of the board of canvasser who tampers, increases, or decreases the votes received by a candidate in any election shall be guilty of [an] election offense.
16. And, under provisions of the Code of Professional Responsibility, a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct. xxx xxx xxx.^[1] (Emphasis ours)

In his comment, respondent Fabros reproduced the counter-affidavit he filed with the COMELEC-Manila since the issues raised in the complaint were identical to those brought before the Commission. He denied committing any act which violated his oath as a lawyer. Specifically, he stated that: (1) he neither consented nor allowed any member of PBC-Isabela to increase the votes of Senators Enrile, Honasan and Mitra; (2) the canvassing was done in public view; (3) he faithfully read the votes as reflected in the municipal/city certificates of canvass, repeating the same twice or thrice and (4) the canvassing proceeded in an orderly manner after counsels and watchers were given the chance to examine the certificates of canvass.^[2]

Aside from substantially echoing the statements of Fabros, respondent Paas alleged that he was in no position to manipulate the figures since Fabros did the reading throughout the canvass, while he attended to maintaining the integrity of the envelopes containing the statement of votes. Both attributed to human fatigue or simple negligence any error in the figures since the board and its staff allegedly worked continuously to finish the canvassing within 72 hours as directed.^[3] Paas claimed that if there were figures in the certificates of canvass which did not match