

REPUBLIC OF THE PHILIPPINES  
**HOUSE OF REPRESENTATIVES**  
QUEZON CITY

**Reps. GILBERTO C. TEODORO, JR. and  
FELIX WILLIAM B. FUENTEBELLA,**  
Complainants,

- versus -

Case No. \_\_\_\_\_

(For: Impeachment)

CHIEF JUSTICE HILARIO G. DAVIDE, JR.,  
Respondent.

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**COMPLAINT FOR IMPEACHMENT**

COMPLAINANTS GILBERTO C. TEODORO, JR. and FELIX  
WILLIAM B. FUENTEBELLA, respectfully state:

**PREFATORY**

Section 2, Article XI of Constitution provides for the process of impeachment of a select group of public officers. The purpose of the impeachment process defined in the Constitution can be summed up in the following manner:

Acknowledging the possibility of men in public office betraying their trust to the prejudice of the people, the Constitution provides for a special process of removal known as impeachment. Impeachment has been defined as a method of national inquest into the conduct of public men. Corwin describes it as 'the most formidable weapon in the arsenal of democracy.' Less dramatically viewed, it is an extraordinary means of removal exercised by the legislature over a selected number of officials, the purpose being to ensure the highest care in their indictment and conviction and the imposition of special penalties in the case of a finding of guilt, taking into account the degree or nature of

the offense committed and the high status of the wrongdoers. (Cruz, Philippine Political Law, 1999 Ed., pages 313-314).

**To guard against the selection or retention of unfit presidents and vice-presidents, the Constitution provides for periodic elections.** Frequent and regular elections mean that if the American people are unhappy with the job that these officers are doing, or disapprove of their behavior generally, they may turn them out of office... **But what about judges who engage in odious behavior, but who ostensibly hold their offices for life?** To provide a means for removing civil officers who abuse their power in office, **the impeachment process was devised as a grave remedy of last resort.** (Van Tassel and Finkelman, Impeachable Offenses – A Documentary History from 1787 to the Present, Congressional Quarterly, Inc., 1999, at page 3)

The Judiciary Development Fund (JDF) is a multi-billion-peso fund, which is administered by the Chief Justice of the Supreme Court, who has sole authority to authorize and approve disbursements from the Fund. The Judiciary Development Fund is intended principally to provide the members and personnel of the Judiciary with an additional cost of living allowance. Its principal beneficiaries are, therefore, the approximately 25,000 court employees, whose JDF allowances form a significant part of their take home pay. A smaller portion of the Fund is to provide first and second level courts, which suffer from a severe lack of equipment and manpower, with additional office equipment and facilities.

Yet, as of the end of calendar year 2002, more than ₱500 Million required by law to be paid as additional cost of living allowance to the members and personnel of the Judiciary had not been paid. The Judiciary Development Fund was used to purchase luxury cars, worth millions of pesos, for members and officials of the Supreme Court; the Fund was used to purchase ₱5,568,630.00 worth of curtains, and ₱8,125,445.00 worth of “loose furniture,” for the Supreme Court’s

Session Hall. More than ₱34 Million out of the Judiciary Development Fund was spent for the construction of vacation homes in Baguio City for the use of Supreme Court Justices, their families and chosen friends, at a time when the average capital outlay for infrastructure of state colleges and universities under the General Appropriations Act is only ₱1 Million.

The acts committed by Chief Justice Hilario G. Davide, Jr., as alleged in this Complaint, are grave. The amounts involved are staggering. This complaint invokes the power of Congress to impeach Justices of the Supreme Court, under the principle of checks and balances that underlies our system of government. This Complaint seeks to hold Chief Justice Hilario G. Davide, Jr., as administrator of the Judiciary Development Fund, responsible for culpable violations of the Constitution, various counts of transgressions against the Anti Graft and Corrupt Practices Act, multiple acts of malfeasance and abundant breach of public trust and thoughtless extravagance, in the disbursement and use of the Judiciary Development Fund.

**A.**

**THE PARTIES**

1. Complainant GILBERTO C. TEODORO, JR. is a Filipino citizen, of legal age, married and with address at Rm. 218, 2nd Floor, North Wing, House of Representatives Complex, Batasan Road, Diliman, Quezon City. Complainant Teodoro is, at the time of the filing of this Complaint, an incumbent member of the House of Representatives, representing the First District of Tarlac. Complainant FELIX WILLIAM B. FUENTEBELLA is a Filipino citizen, of legal age, single and with address at Rm. 201, 2nd Floor, North Wing, House of Representatives Complex, Batasan Road, Diliman, Quezon City. Complainant Fuentebella is, at the time of the filing of this Complaint, an incumbent member of the House of Representatives, representing the Third District of Camarines Sur.

2. Respondent HILARIO G. DAVIDE, JR. is the incumbent Chief Justice of the Supreme Court. He was appointed Chief Justice of the Supreme Court on November 30, 1998. He is a Filipino citizen, of legal age, married and with office address at the Supreme Court, Padre Faura Street, Manila where may be served with summons and other legal process.

3. As the Chief Justice of the Supreme Court, respondent "may be removed from office, on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust" (Section 2, Article XI, Constitution). Under Section 11, Article VIII of the Constitution which provides:

Sec. 11. The Members of the Supreme Court and judges of lower courts shall hold office **during good behavior** until they reach the age of seventy years or become incapacitated to discharge the duties of their office. The Supreme Court *en banc* shall have the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon. (Emphasis supplied).

Respondent may continue to hold his office as a Member and Chief Justice of the Supreme Court only "during good behavior". Any act on the part of respondent contrary to "good behavior" is likewise a ground for the removal of respondent from office.

## **B.**

### **GENESIS OF THE JUDICIARY DEVELOPMENT FUND**

4. On July 18, 1984, President Ferdinand E. Marcos, in the exercise of his legislative powers under the 1973 Constitution, issued Presidential Decree No. 1949 establishing the Judiciary Development Fund (JDF). Section 1 of Presidential Decree No. 1949 provides:

"SECTION 1. There is hereby established a Judiciary Development Fund, hereinafter referred to as the

Fund, for the benefit of the members and personnel of the Judiciary to help ensure and guarantee the independence of the Judiciary as mandated by the Constitution and public policy and required by the impartial administration of justice. The Fund shall be derived from, among others, the increase in the legal fees prescribed in the amendments to Rule 141 of the Rules of Court to be promulgated by the Supreme Court of the Philippines. The Fund shall be used to augment the allowances of the members and personnel of the Judiciary and to finance the acquisition, maintenance and repair of office equipment and facilities; **Provided, That at least eighty percent (80%) of the Fund shall be used for cost of living allowances, and not more than twenty percent (20%) of the said Fund shall be used for office equipment and facilities of the Courts located where the legal fees are collected;** Provided, further, That said allowances of the members and personnel of the Judiciary shall be distributed in proportion of their basic salaries; and, Provided, finally, That bigger allowances may be granted to those receiving a basic salary of less than P1,000.00 a month.” (Emphasis supplied)

5. The decree explicitly provided that the Judiciary Development Fund was to be derived from "the increase in the legal fees prescribed in the amendments to Rule 141 of the Rules of Court to be promulgated by the Supreme Court".<sup>1</sup> This endowment was premised on what was stated in the third whereas clause: "The judiciary, in the discharge of its functions and duties, can generate its own funds and resources ....." Subsequently, however, the Supreme Court adopted A.M. No. 99-8-01 SC providing for additional sources of the Judiciary Development Fund, relying on this same whereas clause, rather than on explicit statutory authority. At present, more than seventy percent (70%) of the legal fees paid to the Supreme Court and all other lower courts form part of the Judiciary Development Fund.

6. Under Section 1 of Presidential Decree No. 1949 quoted above, the Judiciary Development Fund is to be used for the following purposes:

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<sup>1</sup> P.D. 1949, Section 1.

(a) At least eighty percent (80%) of the Fund shall be used for cost of living allowances of the members and personnel of the Judiciary; and

(b) Not more than twenty percent (20%) of the said Fund shall be used for the acquisition, maintenance and repair of office equipment and facilities of the Courts located where the legal fees are collected.

Presidential Decree No. 1949 does not authorize the disbursement or use of the Judiciary Development Fund for purposes other than those enumerated above.

7. Section 2 of Presidential Decree No. 1949 provides, as follows:

“SECTION 2. The Chief Justice of the Supreme Court shall administer and allocate the Fund and shall have the sole exclusive power and duty to approve the authorize disbursements and expenditures of the Fund in accordance with the guidelines set in this Decree and its implementing rules and regulations.”

Thus, during his incumbency as Chief Justice of the Supreme Court, respondent has "sole exclusive power and duty to approve the authorize disbursements and expenditures of the Fund". Section 3 of Presidential Decree No. 1949 states, however, that "[t]he Commission on Audit through the Auditor of the Supreme Court or his duly authorized representative shall quarterly audit the receipts, revenues, uses, disbursements and expenditures of the Fund".

8. During calendar years 2000, 2001 and 2002, the total collections (including interest and other income) of the Judiciary Development Fund were, as follows:

<u>Calendar Year</u>	<u>Amount of Collections</u>
2000	₱1,067,564,852.36

2001	1,523,305,376.93
2002	<u>1,314,467,707.13</u>
TOTAL	<u>₱3,905,337,936.42</u>

9. The bulk of the collections of the Judiciary Development Fund for the aforesaid periods were collected by the Regional Trial Courts, which collected the total amount of ₱3,439,505,836.89, for the years 2000, 2001 and 2002 broken down, as follows:

<u>Calendar Year</u>	<u>Amount of Collections</u>
2000	₱ 962,112,886.18
2001	1,329,999,391.90
2002	<u>1,147,393,558.81</u>
TOTAL	<u>₱3,439,505,836.89</u>

10. Sometime in June, 2002, employees of the Judiciary stationed in Naga City and its environs, which forms part of the congressional district which complainant Fuentebella represents, held a series of dialogues with complainant Fuentebella. The Court employees brought to complainant Fuentebella's attention the dwindling JDF cost of living allowances that they were receiving.

11. Acting on the aforesaid complaint of the court employees, complainant Fuentebella sponsored, and the House of Representatives adopted on July 22, 2002, House Resolution No. 460 which directed the Committee on Justice of the House of Representatives "to conduct an investigation, in aid of legislation, on the manner of disbursements and expenditures by the Chief Justice of the Supreme Court of the Judiciary Development Fund."

12. In the course of the hearings conducted by the Committee on Justice pursuant to House Resolution No. 460, various documents and reports were submitted to the Committee, including the following:

(a) Letter dated September 4, 2003 of Dominador T. Tersol, Director IV of the Commission on Audit addressed to the Honorable Marcelino C. Libanan, Chairman of the Committee on Justice (Annex "A", hereof), submitting therewith the Audited Financial Statements on the Judiciary Development Fund for calendar years 2000, 2001 and 2002, with the following attachments:

(i) Balance Sheet as of December 31, 2002 (Annex "A-1", hereof);

(ii) Balance Sheet as of December 31, 2001 (Annex "A-2", hereof);

(iii) Balance Sheet as of December 31, 2000 (Annex "A-3", hereof);

(iv) Statement of Income and Expenses for the Year ended December 31, 2002 (Annex "A-4", hereof);

(v) Statement of Trust Liability Account as of December 31, 2001 (Annex "A-5", hereof);

(vi) Statement of Trust Liability Account as of December 31, 2000 (Annex "A-6", hereof);

(vii) Statement of Cash Flows for the Fiscal Year Ended December 31, 2002 (Annex "A-7", hereof);

(viii) Comments and Observations (Annex "A-8, hereof).

(b) Letter dated September 8, 2003 of Cecilia E. Caga-anan, Supervising Auditor, Office of the Auditor, Supreme Court addressed to complainant Fuentebella (Annex "B", hereof), with the following attachments:

(i) Judiciary Development Fund, Data on Requested Infrastructure Projects as of December 31, 2002 (Annex "B-1", hereof);

(ii) Judiciary Development Fund, Statement of Income and Expenses for the Fiscal Year Ended December 31, 2002 (Annex "B-2", hereof); and



(iii) Judiciary Development Fund, Motor Vehicles (Annex "B-3", hereof).

(c) Letter dated September 17, 2003 of Cecilia E. Caga-anan, Supervising Auditor, Office of the Auditor, Supreme Court addressed to complainant Fuentebella, (Annex "C", hereof) with the following attachments:

(i) "Judiciary Development Fund, List of Property, Plant & Equipment (Reclassified Accounts) Acquired From January to December, 2000 (Annex "C-1", hereof);

(ii) "Judiciary Development Fund, List of Property, Plant & Equipment (Reclassified Accounts) Acquired From January to December, 2001 (Annex "C-2", hereof);

(iii) "Judiciary Development Fund, SC-CA Multi-Purpose Building" (Annex "C-3", hereof).

(d) Certification dated September 12, 2003, executed by Leo L. Ulanday, Chief, Cash Division of the Court of Appeals, attesting to the amount of Judiciary Development Fund collections of the Court of Appeals for the years 2000, 2001 and 2002 (Annex "D", hereof)

Other documents, relating to the Judiciary Development Fund remittances/collections, were also submitted to the complainant. (Copies of said documents are hereto appended as Annexes "E" to "E-19".)

## **C.**

### **RESPONDENT'S ACTS CONSTITUTING IMPEACHABLE OFFENSES**

#### **i. VIOLATIONS OF THE ANTI GRAFT AND CORRUPT PRACTICES ACT**

**And**

**ii- BETRAYAL OF PUBLIC TRUST**

In so far as applicable, complainants replead by reference all of the foregoing allegations in so far as these are pertinent to the following causes of action.

**Unlawful Underpayment of Cost of living Allowance of Members And Personnel of the Judiciary.**

13. As earlier stated, Section 1 of Presidential Decree No. 1949 requires that "at least eighty percent (80%) of the [Judiciary Development] Fund shall be used for cost of living allowances" of members and personnel of the Judiciary.

14. As of January 1, 2000, the Judiciary Development Fund had a beginning balance of ₱676,915,468.65 and total collections in CY 2000 (inclusive of interest and other income) of ₱1,057,564,852.36, or a total balance of ₱1,744,480,321.01 (See Statement of Trust Liability Account as of December 31, 2000, Annex "A-6", hereof). As required by Section 1 of Presidential Decree No. 1949, at least 80% of such amount (or ₱1,395,584,256.80) should have been disbursed by respondent for the cost of living allowance of the members and personnel of the Judiciary. Yet, only ₱1,380,098,904.80 was actually disbursed for that purpose, leaving a deficiency of ₱15,485,352.00, which should have been paid to the members and personnel of the Judiciary as additional cost of living allowance, but was not so paid (Ibid.)

15. As of January 1, 2001, the Judiciary Development Fund had a beginning balance of ₱275,777,697.07 and total collections in CY 2001 (inclusive of interest and other income) of ₱1,523,305,376.93 or a total

balance of ₱1,799,083,074.00 (See Statement of Trust Liability Account as of December 31, 2001, Annex "A-5", hereof). As required by Section 1 of PD 1949, at least 80% of such amount (or ₱1,439,266,459.20) should have been disbursed by respondent for the cost of living allowance of the members and personnel of the Judiciary. Yet, only ₱1,156,777,508.53. was actually disbursed for that purpose, leaving a deficiency of ₱282,488,950.67, which should have been paid to the members and personnel of the Judiciary as additional cost of living allowance, but was not so paid (Ibid).

16. As of December 31, 2001, the Judiciary Development Fund had an ending balance of ₱545,928,301.23 (See Statement of Trust Liability Account as of December 31, 2001 Annex "A-5"), hereof. CY 2002 total collections of the Judiciary Development Fund (inclusive of interest and other income) was ₱1,314,467,707.13. (See Statement of Income and Expenses for the Year ended December 31, 2002, Annex "A-4", hereof). Thus, for CY 2002, the Judiciary Development Fund had a balance of ₱1,860,396,008.36. As required by Section 1 of PD 1949, at least 80% of such amount (or ₱1,488,316,806.68) should have been disbursed by respondent for the cost of living allowance of the members and personnel of the Judiciary. Yet, only ₱960,449,613.78 was actually used for that purpose, leaving a deficiency of ₱527,867,192.90, which should have been paid to the members and personnel of the Judiciary as additional cost of living allowance, but was not so paid. The amount ₱960,449,613.78 authorized by respondent to be disbursed for the cost of living allowance of the members and personnel of the Judiciary in CY 2002 likewise falls short of eighty percent (80%) of actual collections of the Judiciary Development Fund for CY 2002. On the basis of actual collections of the Judiciary Development Fund in CY 2002 (inclusive of interest and other income) of ₱1,314,467,707.13, at least ₱1,051,574,165.70 should have been paid as cost of living allowance of the members and personnel of the Judiciary during that period.

17. The foregoing acts of respondent of not disbursing or authorizing the disbursement of the entire eighty percent (80%) of the collections of the Judiciary Development Fund for the payment of additional cost of living allowance of the members and personnel of the Judiciary has caused undue injury to them. In failing to do so, respondent acted with evident bad faith and/or gross inexcusable negligence. Such acts are punishable under Sections 3(e) and (h) of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019, as amended) and as will be shown later is a betrayal of the public trust, and are contrary to the "good behavior" required of members of the Judiciary, for which respondent should be impeached.

**Unlawful disbursement of JDF funds  
for Infrastructure Projects of the  
Supreme Court.**

18. During calendar years 2000, 2001 and 2002, Judiciary Development Fund collections of the Supreme Court was less than ₱20,000,000.00. While complainant endeavored to secure data on the exact amount of such collections from the Supreme Court's Chief Accountant, such data has not been provided.

19. In 2001 and 2002, respondent authorized the disbursement of the amount of ₱64,169,810.00 out of the Judiciary Development Fund for the renovation of the Session Hall in the main building of the Supreme Court along Padre Faura Street, Manila (See letter dated September 8, 2003 of Cecilia E. Caga-anan, Supervising Auditor, Office of the Auditor, Supreme Court addressed to complainant [Annex "B", hereof] and Judiciary Development Fund, Data on Requested Infrastructure Projects as of December 31, 2002 [Annex "B-1", hereof]). Included in this amount are the ₱5,568,630.00 worth of curtains and draperies and ₱8,125,455.00 worth of "loose furniture" mentioned in the Prefatory portion of this Complaint.

20. During the same period, respondent authorized the disbursement of the amount of ₱34,679,491.80 out of the Judiciary Development Fund for the construction of new cottages and the renovation of existing cottages located in the Supreme Court Compound in Baguio City (See letter dated September 8, 2003 of Cecilia E. Cagapan, Supervising Auditor, Office of the Auditor, Supreme Court addressed to complainant [Annex "B", hereof] and Judiciary Development Fund, Data on Requested Infrastructure Projects as of December 31, 2002 [Annex "B-1", hereof]).

21. Likewise during the same period, respondent authorized the disbursement of ₱99,884,746.87 for the construction of the Supreme Court-Court of Appeals Multi-Purpose Hall located behind the Supreme Court main building in Manila. (See Letter dated September 17, 2003 of Cecilia E. Cagapan, Supervising Auditor, Office of the Auditor, Supreme Court addressed to complainant Fuentesbella, Annex "C", hereof and "Judiciary Development Fund, SC-CA Multi-Purpose Building", Annex "C-3", hereof ).

22. The above-mentioned disbursements are unlawful. They are not authorized to be made under Section 1 of Presidential Decree No. 1949. Even assuming that the aforesaid infrastructure projects can be considered as acquisition, maintenance and repair of office equipment and facilities, said amounts far exceeded the total Judiciary Development Fund collections of the Supreme Court and were not spent for office equipment and facilities "of the Courts located where the legal fees are collected" as required by Section 1 of Presidential Decree No. 1949.

23. Each of the above disbursements of the Judiciary Development Fund is a crime punishable under Article 220 of the Revised Penal Code which punishes "Illegal use of public funds or property", and constitutes an act of graft and corruption and betrayal of the public trust, and is contrary to the "good behavior" required of members of the Judiciary for which respondent should be impeached.

**Unlawful disbursements of JDF funds  
 For the Acquisition of Motor Vehicles.**

24. During calendar years 2000, 2001 and 2002, respondent authorized the disbursement of a total of ₱30,955,000.00 in JDF funds for the purchase of the following motor vehicles (See Judiciary Development Fund, Motor Vehicles, Annex "B-3", hereof) for the use of Justices of the Supreme Court, Supreme Court officials and Supreme Court personnel:

<u>Date Purchased</u>	<u>Description</u>	<u>Amount</u>
March 22, 2000	Two (2) units shuttle service	₱5,200,000.00
	One (1) unit Nissan Cefiro	1,500,000.00
	One (1) unit Toyota Camry	1,380,000.00
May 9, 2001	One (1) unit Toyota Camry	₱1,365,000.00
May 17, 2001	One (1) unit Mitsubishi L300 Versa Van	₱ 680,000.00
August 1, 2001	One (1) unit Mitsubishi L300 Versa Van	₱ 680,000.00
January 1, 2002 ₱4,285,000.00	One (1) unit shuttle bus	
February 28, 2002	Four (4) units Toyota Hi-Ace Super Gandia	₱4,632,000.00
March 31, 2002	One (1) unit Hino Bus	₱4,285,000.00
April 30, 2002	Three (3) units Toyota Hi-Ace Super Gandia	₱3,474,000.00
May 31, 2002	Three (3) units Toyota Hi-Ace Super Gandia	<u>₱3,474,000.00</u>
	<b>TOTAL</b>	<b>₱30,955,000.00</b>

25. None of the above disbursements of the Judiciary Development Fund for the acquisition of motor vehicles is authorized under Section 1 of Presidential Decree No. 1949. Each of the above disbursements is a crime punishable under Article 220 of the Revised Penal Code which punishes "Illegal use of public funds or property", and

constitutes an act of graft and corruption and betrayal of the public trust, and is contrary to the "good behavior" required of members of the Judiciary, for which respondent should be impeached.

**Unlawful disbursement of JDF funds  
as subsidy for the Court of Appeals  
Printing Press.**

26. During calendar years 2000, 2001 and 2002, the total Judiciary Development Fund collections of the Court of Appeals was only ₱12,856,513.67 (See Certification issued by Leo L. Ulanday, Chief of the Cash Division of the Court of Appeals, Annex "D" hereof), broken down as follows:

<u>Calendar Year</u>	<u>Amount</u>
2000	₱ 3,537,672.46
2001	3,560,100.28
2002	<u>5,758,740.93</u>
TOTAL	₱12,856,513.67

27. In total disregard of the requirement under Section 1 of Presidential Decree No. 1949 that "not more than twenty percent (20%) of the said Fund shall be used for office equipment and facilities of the Courts located where the legal fees are collected", respondent, in calendar year 2000, authorized the disbursement of ₱5,000,000.00 in JDF funds as "Subsidy of the Supreme Court for the Printing Press of the Court of Appeals". This amount of ₱5,000,000.00 is more than the ₱3,537,672.46 total JDF collections of the Court of Appeals in calendar year 2000.

28. The disbursement of ₱5,000,000.00 in JDF funds is not authorized under Section 1 of Presidential Decree No. 1949. It is a crime punishable under Article 220 of the Revised Penal Code which punishes "Illegal use of public funds or property", and constitutes an act of graft

and corruption and betrayal of the public trust, and is contrary to the “good behavior” required of members of the Judiciary, for which respondent should be impeached.

**The order of Chief Justice Davide ordering Court personnel not to cooperate and surrender documents sought by the Committee on Justice and by Congressman Felix William Fuentebella is a violation of Section 3 (a) of RA 3019.**

29. Respondent Chief Justice Davide, in response to the requests and inquiries made by complainant Fuentebella, ordered Court personnel to defy the inquiries made by the expediency of denying cooperation. The resolution in A.M. No. 03-9-05-SC, promulgated on 23 September 2003, is quoted *ad verbatim*:

“Acting on the Letter dated 8 September 2003 of Mrs. Corazon M. Ordonez, Chief, FMBO, regarding the letter dated 3 September 2003 of the Committee on Justice of the House of Representatives and the letter dated 27 August 2003 of the Hon. Representative Felix William Fuentebella for the submission of the documents/papers indicated in the letter of the latter, the Court resolved to direct Mrs. Ordonez (a) **not to submit anymore the records** which have already been transmitted to the Commission on Audit and (b) **obtain prior clearance from the Court for the other records**”.

(A copy of the resolution in A.M. No. 03-9-05-SC is hereto appended as Annex “F”, hereof).

30. Emboldened by the resolution, a memorandum was issued by Court Administrator Presbitario J. Velasco Jr., when he issued a memorandum addressed to all clerks of courts and other court



personnel, advising them **NOT TO COMPLY** with the request from complainant Fuentebella or the Committee on Justice of the House of Representatives. Says the Memorandum of October 2, 2003:

“This refers to the letter of Atty. Jennifer H. dela Cruz-Buendia, Clerk of Court and Ex-Officio Sheriff RTC Manila, concerning the letter of Hon. Representative Felix William B. Fuentebella requesting her to provide him a Remittance Report of the Judiciary Development Fund for fiscal year 2002-2003.

You are hereby directed not to comply with such request in the event that you will, receive similar letters from Hon. Fuentebella for the Committee on Justice of the House of Representatives regarding records/documents connected with or relating to JDF without prior clearance from the Court. The resolution of the Court en banc of 23 September 2003 in A.M. No. 03-9-05-SC, a copy of which is hereto attached, equally applies to other officials of the Judiciary.

For your information and guidance”.

(A copy of the Memorandum of Court Administrator Presbitero J. Velasco, Jr., dated 02 October 2003, is hereto appended as Annex “G”, hereof.)

31. In unequivocal terms, it is crystal clear that Respondent Davide did not only violate par. (a), Section 3 of the Anti Graft and Corrupt Practices Act, he abundantly betrayed public trust by refusing to be accountable for the funds which Congress, under the Constitution, has a clear right to inquire into. Parenthetically, the fiscal autonomy of the judiciary, as ordained under Section 3 of Article 8 of the Constitution, does not exempt the judiciary from the budgetary process of submitting and justifying its budget.<sup>2</sup>

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<sup>2</sup> I RECORD 454-455.

**The letter of Chief Justice Davide to Speaker Jose De Venecia soliciting his assistance with regard to the Congressional Inquiry in aid of legislation is a betrayal of public trust and also is against Section 3 (a) of the Anti Graft and Corrupt Practices Act.**

32. On 30 September 2003, respondent Chief Justice Davide wrote a letter to Speaker Jose C. De Venecia, seeking his intervention on the above stated inquiry, made by the Committee on Justice and Complainant Fuentebella. In a nutshell, respondent Davide wanted the Speaker to personally intercede and halt the investigation, which is capsulized in the “conclusion” portion of the letter, which, due to its significance, is reproduced hereunder:

“The use of the unexpended portion of the 20% of the JDF for equipment and facilities for the assailed construction or projects can, undoubtedly, be justified by this augmentation authority of the Chief Justice.

To conclude, the inquiry into the Fund, especially with its confirmed purpose of making it a basis for a second impeachment complaint against the Chief Justice, as well as the manner the investigation is being conducted, constitutes (a) violation of the rules and jurisprudence on investigation in aid of legislation; (b) an open breach of the doctrine of separation of powers; (c) a violation of the fiscal autonomy of the Judiciary; and (d) an assault on the independence of the Judiciary. This unprecedented inquiry may be the beginning violation of the fiscal autonomy of the Judiciary; and (d) an assault on the independence of the Judiciary. This unprecedented inquiry may be the beginning of the destruction of our democratic institutions especially the Judiciary, which is the last bulwark of democracy and the sentinel of the rule of law.

I trust that the House of Representatives under your leadership will never allow itself to be a part of any plot or scheme to destroy our democratic institutions.

For the sake of our country and our people and for our democracy, I appeal to the highest sense of responsibility and duty of the Members of Congress.

I pray that you take up this matter with the Committee on Justice and with Members of the House of Representatives.”

(A copy of the letter of respondent, Chief Justice HILARIO A. DAVIDE, dated 30 September 2003, addressed to Speaker JOSE C. DE VENECIA, is hereto appended as Annex “H”, hereof.)

33. The act of respondent Chief Justice in soliciting help from the Speaker of the House to intercede on matters pertaining exclusively to the Committee on Justice is a flagrant violation of RA 3019, and definitely an example of how the public trust is betrayed. One of the great themes of the Constitution is that a public office is a public trust. It declared as a state policy that “(t)he State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.” It ordained that “(p)ublic officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice and lead modest lives.”<sup>3</sup>

**Respondent Davide’s betrayal of the public trust is made palpable by the intimidating remarks hurled by his subaltern during the congressional hearing conducted.**

34. The awesome display of power is illustrated by the high handed words of respondent’s representative in Congress when in answering the inquiries from the members of the Committee on Justice, adverted to the powers of the Supreme Court which maybe used in retaliation to the

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<sup>3</sup> Estrada v. Desierto, 353 SCRA 523 <2001>.

investigation being held by the legislative body. The threat of Court Administrator Presbitero J. Velasco, Jr. reads:

“Velasco:

“Your Honor, the reason why I asked to be acknowledged is because I want to point out the fact that based on the statement of the representative of the court employees, his thrust, his objective in filing the opposition is because he wants to find out if the Judiciary Development Fund will suffice to be the source of adjustments for the justices, judges and court personnel. That’s the reason why I made a statement preliminary that the thrust or objective for this exercise is to find out the manner of disbursements and expenditures by the Chief Justice – that’s the reason why I made statement.

Now, I’m glad that Congressman Albano made a statement that there should be interdepartmental courtesy, Your Honor. The Supreme Court has asked the Chief Attorney to make position on this issue. However, we agreed to be present in today’s hearing just so as to clear any doubt in the mind of those who are interested on this matter as to the facts pertaining to the matter at issue. **However, I would also like to voice out the position that there may be a possibility, Your Honor, that in the future, some employees of the House of Representatives may question the disbursements and expenditures of the House and the case may be filed with the courts, and under our judicial power, we have the right to determine whether a particular branch of government has abused its discretion and which can be tantamount to lack or excess of jurisdiction. So we just want to point out the situation, Your Honor, so that the Committee may be made aware of possible suit in the future also and the Supreme Court, of course, has the judicial power under the Constitution.”**

Baterina:

“Of course, the members of the Committee, being members of the bar, are aware of the strong judiciary that they can declare a disbursement or whatever, a matter brought before the Supreme Court, unconstitutional, or void, or illegal. But sir, Justice Velasco, this is a Committee hearing on whether the amount is enough for the committee to report to plenary that there may be need to augment that

particular fund so that the other personnel can be put in equal footing with those at the other departments of government. This is only in aid of legislation. We are not talking about the acts of Congress being decaled unconstitutional. Of course, we fear the power of the Supreme Court. Of course, we are also aware that the Supreme Court can do a lot of things. In fact, if we're going into that threat, there's another function of the House of Representatives but this we do not want to exercise. This is not to find out whether you have disbursed the money in the manner envisioned under the law on audit. **We're trying to find out this being the season for budget making if we can augment that particular fund, sir. So lest you...lest the distinguished Justice think that this is a witch-hunt, I assure the distinguished Justice that I would be the first to defend the Supreme Court. This is budget deliberation time and, of course, if that fund is not enough, then we can augment it during the budget deliberation, during the budget making, sir. But please don't come over and say that you have other powers, you have big powers to declare our acts unconstitutional. That we recognize. We are lawyers here, sir. Thank you.**

(A copy of the transcript of stenographic notes of the proceedings of the Committee on Justice on 12 August 2003 is hereto appended as Annex "I", hereof.)

35. Someone who holds office also holds the public's trust and an officeholder who violates that trust effectively loses the confidence of the people and consequently must forfeit the privilege of holding office<sup>4</sup>.

### **iii- Culpable Violation of the Constitution**

**Respondent Davide's sole arrogation of a judicial power, which, on its face, is a rendition of an advisory**

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<sup>4</sup> Bestor on Impeachment, citing Story, Commentaries, 810, 278, 788, 256 commenting that the penalties for impeachment were designed to secure the public against political injuries. And Justice Story defined the latter as "such kind of misdeeds as peculiarly injure the commonwealth by the abuse of high offices of trust".

**opinion, is a flagrant violation of the principle of judicial review.**

36. Complainants replead by reference all the foregoing relevant asseverations;

37. Respondent Chief Justice Hilario G. Davide Jr., in justifying the expenditures of the JDF, resorted to statutory construction on a matter calling for a simple application of the statute. In his letter to Speaker Jose De Venecia, the Respondent stated:

“First. The Court has always adhered, as it continues to adhere, to the guideline provided by P.D. 1949 on fund utilization percentages. Its spends each component of the JDF within the percentage allocation provided by law such that the 80% intended for personnel allowances is maintained and not sacrificed in favor of expenditures for office equipment and facilities. But in keeping itself within the limits of the fund utilization percentages and in implementing the law, the Court has to resort to statutory construction to avoid a strict interpretation of the provision that “20% of the said Fund shall be used for office equipment and facilities of the Courts located where the legal fees are collected” that will result in unequal, inequitable and unfair distribution of the JDF.”<sup>5</sup>

X X X

“To ensure a fair, equal, equitable distribution of the JDF, the Court has deemed it fir to construe the law in such a way that the distribution of the 20% component of the total national collection of the JDF shall be in accordance with the needs of the courts in particular areas for office equipment and facilities, with those in urgent need thereof prioritised in the program of disbursements so that, as much as possible, all courts could avail of up-to-date equipment and at least basic facilities that are needed in the administration of justice but which cannot be purchased and obtained if the meager appropriations therefore were to be solely relied upon.”<sup>6</sup>

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<sup>5</sup> Annex “H” at p. 7.

<sup>6</sup> Id., at p. 8.

38. The Respondent, while referring to the “Court” as the very interpreter of Presidential Decree No. 1949, miserably failed to identify the particular case which triggered the exercise of judicial power. The advisory opinion of respondent Davide cannot be equated as an exercise of judicial power. As adequately discussed by Justice Cardozo<sup>7</sup>: **“The function of the courts is to determine controversies between litigants. They do not give advisory opinions. The giving of such opinions is not the exercise of the judicial function. xxxx.”** The disquisition of Chief Justice Fernando<sup>8</sup>, is equally revealing:

“Moreover I would assume that those of us entrusted with judicial responsibility could not be unaware that we may be laying ourselves open to the charge of presumptuousness. Considering that the exercise of judicial authority does not embrace the alien role of a presidential adviser, an indictment of officiousness may be hard to repel. It is indefinitely worse if the advice thus gratuitously offered is ignored or disregarded. The loss of judicial prestige may be incalculable. Thereafter, there may be less than full respect for court decisions. It would impair the confidence in its ability to live up to its trust not only on the part of the immediate parties to the litigation but of the general public as well. Even if the teaching of decided cases both here and in the Philippines is not as clear therefore, there should be, to say the least, the utmost reluctance on the part of any court to arrogate for itself such a prerogative, the exercise of which is fraught with possibilities of such undesirable character.

39. By arrogating unto himself the exercise of judicial power, Respondent, Chief Justice HILARIO G. DAVIDE, JR., transgressed the long-standing rule in constitutional law, that the power of judicial review requires an actual case, calling for the exercise of thereof. He has no authority to pass upon issues through advisory opinions and neither can he resolve hypothetical or feigned constitutional problems.<sup>9</sup> Without doubt, the Respondent committed a culpable violation of the Constitution.

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<sup>7</sup> In re Workmen’s Compensation Fund, 119 NE 1027.

<sup>8</sup> Director of Prisons vs. Ang Cho Kio, 33 SCRA 494 <1970>.

<sup>9</sup> Muskrat v. United States, 219 U.S. 348, 362.

## CONCLUSION

In sum, therefore, complainants seek the impeachment of the respondent on grounds of graft and corruption, betrayal of the public trust, culpable violation of the Constitution and for failure to maintain good behavior while in office, such as, but not limited to, the following acts or omissions of respondent:

Underpayment of cost of living allowance	₱527,867,192.90
Use of JDF Funds for renovation of the Supreme Court Session Hall	64,169,810.00
Use of JDF Funds for construction and/or Renovation of Baguio vacation homes	34,679,491.80
Use of JDF Funds for the Construction of the SC-CA Multi-Purpose Building	99,884,746.87
Use of JDF Funds for the acquisition of Luxury Cars and other vehicles	30,955,000.00
Use of JDF Funds as subsidy for the Court of Appeals printing press	<u>5,000,000.00</u>
<b>TOTAL</b>	<b>₱762,556,241.57</b>

The amount of **₱762,556,241.57** may only be a fraction of the JDF funds withheld by respondent from the members and personnel of the Judiciary or disbursed by respondent for unlawful uses. There may be other transactions even more scandalous and unconscionable. Complainants' continuing efforts to obtain more information on other transactions involving JDF funds have been frustrated by respondent and other officials of the Supreme Court.

In a letter to complainant Fuentebella dated October 1, 2003 (Annex "E", hereof), respondent stated, as follows:



X X X            X X X            X X X            X X X

“The manner in which this investigation on the JDF is being conducted, as expressed in detail by the Chief Justice in his letter to the Honorable Speaker, violates the rules on investigation in aid of legislation, breaches the doctrine of separation of powers, infringes on the Court’s fiscal autonomy, and is a direct assault on the independence of the Judiciary. The Chief Justice will not allow any of these to happen for these are among the prescriptions for the downfall of our democratic institutions. The damage likely to be caused thereby would be irreparable.

“Thus, the Chief Justice regrets that he cannot comply with your letters and, conformably with the Resolutions of the Court *En Banc* in A.M. No. 03-9-05 SC and A.M. No. 03-9-09 SC, copies of which are hereto attached, other officials of the Judiciary will not be allowed to submit any report or document related to the JDF without prior clearance from the Court.”

One may wonder why, on September 23, 2003, the Supreme Court *En Banc* issued a Resolution (Annex “F”, hereof) directing the Chief of the Financial Management and Budget Office of the Supreme Court not to submit to the Committee on Justice any records pertaining to the Judiciary Development Fund without “prior clearance from the Court”. Is it because they and their families are the principal beneficiaries of the luxury cars and other vehicles purchased through the unlawful disbursement of JDF funds? Is it because they relish using vacation homes in the Supreme Court compound in Baguio City constructed through the illegal use of JDF funds? Is it because they enjoy using the ₱8.1 Million worth of “loose furniture” in the Supreme Court’s Session Hall?

The doctrine of separation of powers, which underlies our system of government, rests upon the system of checks and balances under which one political branch checks on the excesses and abuses of another. The power of impeachment is part of this system of checks and balances. The power to impeach is granted by the Constitution to the House of Representatives, which has the duty to impeach a member of the Supreme Court, or any other impeachable officer, upon his commission of an impeachable act. Each of the acts of the respondent

Chief Justice Hilario G. Davide, Jr. described in Part C of this Complaint constitutes an impeachable offense, for which he must be held responsible. The House of Representatives cannot shirk this duty, and respondent Chief Justice Hilario G. Davide, Jr. cannot be allowed to hide behind the cloak of judicial independence and fiscal autonomy.

**PRAYER**

WHEREFORE, it is respectfully prayed that, after due proceedings in accordance with the Rules of the House of Representatives on Impeachment Cases, respondent Chief Justice Hilario G. Davide, Jr. be impeached and that Articles of Impeachment in regard to respondent's impeachable acts and such other related offenses be forwarded to the Senate of the Philippines for trial.

Complainants further pray for such other relief as may be just or equitable in the premises.

Quezon City, October \_\_\_\_, 2003.

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- And -

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