

REPUBLIC OF THE PHILIPPINES  
THE SUPREME COURT  
Manila

2008 FEB -1 PM 4: 13

**ROMULO L. NERI, in his  
capacity as Chairman of the  
Commission on Higher Education  
(CHED) and as former Director  
General of the National Economic &  
Development Authority (NEDA),  
Petitioner,**

-versus-

**G.R. No. 180643**

**SENATE COMMITTEE ON  
ACCOUNTABILITY OF PUBLIC  
OFFICERS & INVESTIGATIONS  
(BLUE RIBBON), SENATE  
COMMITTEE ON TRADE &  
COMMERCE, and SENATE  
COMMITTEE ON NATIONAL  
DEFENSE & SECURITY,  
Respondents.**

X-----X

**SUPPLEMENTAL PETITION FOR CERTIORARI  
(with URGENT application for TRO/preliminary injunction)**

Petitioner, by counsel, respectfully states:

1. On 30 January 2008, respondent Senate Committees caused the issuance of an order for the arrest of the petitioner for his failure to appear at the hearings of the Committees on 18 September 2007, 20 September 2007, 25 October 2007 and 20 November 2007. A certified true copy of this order

of arrest is attached to the original of this Supplemental Petition as Annex "A"; plain copies are attached to the other copies of this supplemental petition also as Annex "A".

2. Petitioner's non-appearance on 18 September 2007, 20 September 2007 and 25 October 2007 was because he was then out-of-town but he testified on 26 September 2007.

3. He begged off from attending the 20 November 2007 hearing because, as alleged in paragraph 4.03 of the basic Petition, "upon the order of the President invoking executive privilege."

4. Petitioner had, in obedience to respondents' Show Cause Order (Annex "A", Petition), personally explained his non-appearance at the hearing of 20 November 2007. (See Exhs. "D" and "D-1", Petition) This explanation should suffice to explain all his previous non-appearances.

5. On 30 January 2008, petitioner wrote respondents and Senate Committee Manny Villar asking them to reconsider, on the grounds therein stated, the issuance of their arrest order, Annex "A" hereof. Copy of this letter-request for consideration is attached hereto as Annex "B".

6. The order for the arrest of petitioner is a further grave abuse of discretion.

7. Petitioner did not commit any act of contempt of respondents. The subpoena (Annex "B", Petition) for him to attend the 20 November 2007 hearing, was duly answered by Executive Secretary Eduardo Ermita, invoking executive privilege for petitioner "by order of the President." (Annex "C", Petition). And, of course, petitioner himself explained why he did not appear at the 20 November 2007 hearing. (See Annexes "D" and "D-1")

8. Further, respondents' order for petitioner's arrest pre-empted this Court's action on the basic Petition and, with a touch of arrogance, disrespected this Court - a coordinate and co-equal branch of Government.

9. The gross arbitrariness of respondents' order of arrest is patent on its face. **This order of arrest elides, and side-steps, the President's invocation of executive privilege in behalf of petitioner.**

10. **Quite clearly, respondent Senate Committees would lord it over two co-equal branches of Government, to wit, the President and the Supreme Court.**

11. The arrest order, Annex "A" hereof, has another vice: it punishes for supposed contempt but the Rules of respondent Committees have not even been published.

## **Application for TRO and/or Preliminary Injunction**

12. Petitioner repleads by reference the foregoing allegations.

13. Petitioner has the right to the relief herein demanded, which relief consists, in part, in restraining respondent Committees from implementing their arrest order, Annex "A" hereof, during the pendency of these proceedings.

14. The enforcement of this order of arrest will definitely work injustice on petitioner.

15. Pursuant to the arrest order, the Senate Sergeant-at-Arms is now implementing this order with a view to arresting and detaining petitioner.

### **P R A Y E R**

WHEREFORE, petitioner respectfully prays that —

1. Immediately upon the filing this Supplemental Petition for Certiorari and on such terms as to bond or otherwise as this Court may

impose, this Court issue a Temporary Restraining Order or Writ of Preliminary Injunction enjoining respondents from enforcing their order for the arrest of petitioner.

2. After hearing on notice, this Court promulgate judgment annulling the arrest order, Annex "A" hereof.

Petitioner prays for costs of suit and for such further or other relief as may be deemed just or equitable.

Quezon City, for Manila, 01 February 2008.

**ANTONIO R. BAUTISTA & PARTNERS**

Counsel for Petitioner  
Bautista Law Building  
30 Eugenio Lopez St. (formerly Sgt. Albano St.)  
Diliman Quezon City

By:



**ANTONIO R. BAUTISTA**

Roll No. 14040

PTR No. 9767504A, 1-03-08, Quezon City

IBP No. 732530, 1-03-08, Pampanga

Tel. No. 928-15-11/928-15-12

Fax No. 924-16-69

Mobile No. 0917-825-28-24

E-mail address: [arb1o@compass.com](mailto:arb1o@compass.com)

VERIFICATION AND CERTIFICATION

OF NON-FORUM SHOPPING

REPUBLIC OF THE PHILIPPINES)  
QUEZON CITY ) S.S.

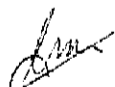
I, **ROMULO L. NERI**, of legal age, Filipino, single, with address, at 28 Palali Street, Sta. Mesa Heights, Quezon City, being first duly sworn, depose and say that:

1. I am the petitioner in the above-captioned case.
2. I caused the filing of the foregoing Supplemental Petition for Certiorari and all allegations of fact therein are true and correct to my personal knowledge.
3. I attest to the authenticity of Annexes "A" and "B" of the Supplemental Petition.
4. I certify that to my personal knowledge, I have not commenced any other action or proceeding nor is there any action or proceeding involving the same issues pending in the Supreme Court, Court of Appeals, or any other tribunal or agency wherein this supplemental petition and sworn certification contemplated herein have been filed, except for the basic petition in this very case.

  
**ROMULO L. NERI**  
 Affiant

SUBSCRIBED AND SWORN to before me in Quezon City, this \_\_\_\_\_ day of \_\_\_\_\_, affiant exhibiting to me his Diplomatic Passport No. DP007627, issued at Manila on 21 November 2007.

Doc. No. 409  
 Page No. 109  
 Book No. VII  
 Series of 708

  
 Atty. (Notary Public) ALBERTO  
 Commission No. 100-2007  
 Exp. Date 2008  
 PIR No. 100-2007

Copy Received:

**SENATE COMMITTEE ON ACCOUNTABILITY  
OF PUBLIC OFFICERS & INVESTIGATIONS  
(BLUE RIBBON)**

The Senate of the Philippines  
GSIS Financial Center,  
Roxas Boulevard  
Pasay City

**SENATE COMMITTEE ON TRADE &  
COMMERCE**

The Senate of the Philippines  
GSIS Financial Center,  
Roxas Boulevard  
Pasay City

**SENATE COMMITTEE ON NATIONAL  
DEFENSE & SECURITY**

The Senate of the Philippines  
GSIS Financial Center,  
Roxas Boulevard  
Pasay City

REPUBLIC OF THE PHILIPPINES  
CONGRESS OF THE PHILIPPINES  
SENATE  
PASAY CITY

ANNEX A  
DATE JAN 31 2008  
DEC 9 10 AM

COMMITTEES ON ACCOUNTABILITY OF PUBLIC OFFICERS AND  
INVESTIGATIONS (BLUE RIBBON); TRADE & COMMERCE; and  
NATIONAL DEFENSE & SECURITY

IN RE: P.S. Res. Nos. 127, 129, 136 &  
144; and Privilege Speeches of  
Senators Lacson and Santiago  
(all on the ZTE-NBN Project)

X-----X

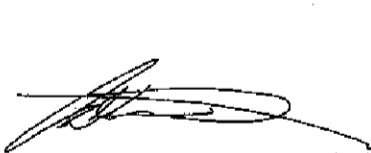
**ORDER**

For failure to appear and testify in the Committees's hearing on Tuesday, September 18, 2007; Thursday, September 20, 2007; Thursday, October 25, 2007 and Tuesday, November 20, 2007, despite personal notice and a Subpoenas Ad Testificandum sent to and received by him, which thereby delays, impedes and obstructs, as it has in fact delayed, impeded and obstructed the inquiry into the subject reported irregularities, AND for failure to explain satisfactorily why he should not be cited for contempt (Neri letter of 29 November 2007, herein attached) **ROMULO L. NERI** is hereby cited in contempt of this Committees and ordered arrested and detained in the Office of the Senate Sergeant-At-Arms until such time that he will appear and give his testimony.

The Sergeant-At-Arms is hereby directed to carry out and implement this Order and make a return hereof within twenty four (24) hours from its enforcement.

**SO ORDERED.**

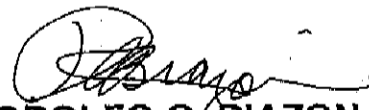
Issued this 30<sup>th</sup> day of January, 2008 at the City of Pasay.



**ALAN PETER S. CAYETANO**  
Chairman  
Committee on Accountability of Public  
Officers & Investigations (Blue  
Ribbon)



**MAR ROXAS**  
Chairman  
Committee on Trade &  
Commerce



**RODOLFO G. BIAZON**  
Committee  
Committee on National  
Defense & Security

BLUE RIBBON COMMITTEE  
CERTIFIED TRUE COPY

*Pia S. Cayetano*  
**PIA S. CAYETANO\*\***

**MIRIAM DEFENSOR SANTIAGO\***

**JUAN PONCE ENRILE\*\***

*[Signature]*  
**FRANCIS G. ESCUDERO\*\***

**RICHARD J. GORDON\*\***

**GREGORIO B. HONASAN\***

**JUAN MIGUEL F. ZUBIRI\***

**JOKER P. ARROYO\***

**RAMON B. REVILLA JR.\*\***

**MANUEL M. LAPID\*\***

*[Signature]*  
**BENIGNO C. AQUINO III\***

*[Signature]*  
**PANFILO M. LACSON\***

*[Signature]*  
**LOREN B. LEGARDA\***

*[Signature]*  
**M.A. MADRIGAL\*\***

**ANTONIO F. TRILLANES\***

**EDGARDO J. ANGARA\*\*\***

*[Signature]*  
**AQUILINO Q. PIMENTEL Jr.\*\*\***

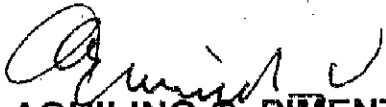
Approved:  
*[Signature]*  
**MANNY VILLAR**  
*Senate President*

- \* Member, Committees on Accountability of Public Officers & Investigations (Blue Ribbon) and National Defense & Security
- \*\* Member, Committees on Accountability of Public Officers & Investigations (Blue Ribbon), Trade & Commerce and National Defense & Security
- \*\*\* Member, Committee on National Defense & Security

**BLUE RIBBON COMMITTEE  
CERTIFIED TRUE COPY**

BY: *[Signature]* 1/21/08

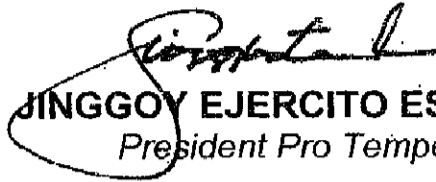
Ex Officio



**AQUILINO Q. PIMENTEL Jr.**  
*Minority Leader*



**FRANCIS "KIKO" N. PANGILINAN**  
*Majority Leader*



**JINGGOY EJERCITO ESTRADA**  
*President Pro Tempore*

**BLUE RIBBON COMMITTEE  
CERTIFIED TRUE COPY**

BY: Jeanette 1/31/08

ATTN: ATTY. PAVAN

**ANNEX B**



Republic of the Philippines  
OFFICE OF THE PRESIDENT  
COMMISSION ON HIGHER EDUCATION

OFFICE OF SEN. MAR ROXAS

RECEIVED

Date: IAN 30 2008

Time: 6:27 p.m.

By: Loise

Tel. #:

30 January 2008

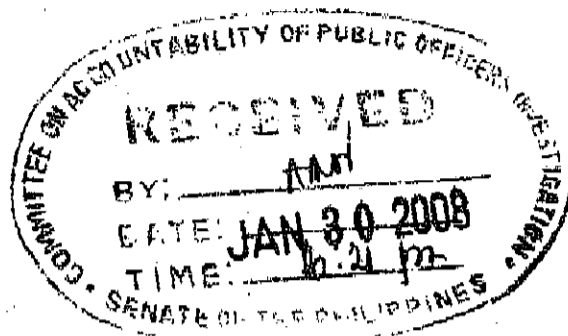
Hon. MANNY B. VILLAR  
Senate President  
Senate of the Philippines  
GSIS Headquarters Bldg.,  
Financial Center, Roxas Blvd., Pasay City

Hon. ALAN PETER S. CAYETANO  
Chairman  
Committee on Accountability and  
Public Officers & Investigations  
Senate of the Philippines

Hon. MANUEL A. ROXAS II  
Chairman  
Committee on Trade and Commerce  
Senate of the Philippines

Hon. RODOLFO G. BIAZON  
Chairman  
Committee on National Defense & Security  
Senate of the Philippines

Dear Honorable Senators:



Office of the Senate President  
MANNY VILLAR  
DATE / TIME: 1/30/08 6:27 p.m.  
RECEIVED BY: Ami  
TEL NOS. 552 6801 LOC 6508

OFFICE OF SEN. R. BIAZON  
SENATE  
DATE RECEIVED: 1/30/08  
TIME: 6:25 PM  
BY: [Signature]

It has come to my knowledge that during the hearing of the three Investigating Committees today, your Committees had issued a Resolution declaring me in contempt and ordering my arrest due to my failure to attend the hearing last November 20, 2007. In view thereof, I respectfully request that you immediately reconsider your said Resolution due to the following grounds:

- a. As stated in my letter dated November 29, 2007, "It was not my intention to snub the last Senate hearing. In fact, I have cooperated with the task of the Senate in its inquiry in aid of legislation as shown by my almost 11 hours stay during the hearing on 26 September 2007. During said hearing, I answered all the questions that were asked of me, save for those which I thought was covered by executive privilege, and which was confirmed by the Executive Secretary in his letter 15 November 2007. In good faith, after that exhaustive testimony, I thought that what remained were only the three questions where the Executive Secretary claimed executive privilege. Hence, his request that my presence be dispensed with."
- b. In the same letter, I also requested that should your esteemed Members of the said Investigating Committees desire to ask new matters which were not taken

up during the hearing of September 26, 2007, I should be furnished those questions in advance in order that I may be clarified and that I may be able to prepare myself adequately to answer them in accordance with the doctrine in Senate vs. Ermita. Despite my said reasonable and valid request, the Committees had not furnished me those questions in advance.

Clearly, I have not shown any contemptible conduct worthy of contempt and arrest by your committees.


What is more the propriety and validity of the Show Cause Order issued by your Committees (the basis of your Contempt and Arrest Orders) was already the subject of a Petition for Certiorari which I had already filed before the Supreme Court last December 7, 2007 and which petition was docketed as G.R. No. 180643. Copy of my said petition is hereto attached for your reference. While the Supreme Court had not yet issued a Temporary Restraining Order to restrain your Committees from enforcing your said Show Cause Order, at least, in the interest of affording due respect to an equal branch of government and allow the Supreme Court all the leeway to adjudicate on the validity and legality of the said order, your Committees should refrain from further effecting and furthering the said questioned Show Cause Order through the issuance of a declaration of contempt against me and a further order for my arrest.

Be that as it may, a reading of Section 18 of the Senate Supplementary Rules would show that the power of the Senate Committees to punish witnesses appearing before it is limited to direct contempt for acts committed while present before the said Committees. The Senate Committees have no power to cite witnesses for indirect contempt.

Thus, I humbly beseech you to reconsider your said Resolution declaring me in contempt and ordering my arrest for my said failure to appear during the hearing of your Committees last November 20, 2008.

With further assurance of my continued cooperation in your investigations.

Very truly yours,

  
ROMULO L. NERI  
Chairman