

Republic of the Philippines)
) S.S.

COMPLAINT-AFFIDAVIT

We, **GLOBAL UNION**, location of [REDACTED],
[REDACTED], having been duly sworn in accordance with law, hereby depose and state that:

1. We are a trade union set up to help workers all over the world. We are expected to be a group of people of integrity and must not be suspected of being involved in any wrongdoing.

1.1. We have been a location of [REDACTED] since 2017.

2. We are filing this complaint against the **NIKI HARADA**, the Chairman of the Association of Labor Unions in Japan, and **SHINGO YAMADA**, the former Executive Director of the Association of Labor Unions in Japan, for the crime of Libel under Section 4(c)(4) of Republic Act No. 10175, also known as the Cybercrime Prevention Act of 2012, in relation to Article 355 of the Revised Penal Code, as amended.

1.1. **NIKI HARADA** ("HARADA") and **SHINGO YAMADA** ("YAMADA") may be served with subpoena and other processes at the Association of Labor Unions in Japan, Zip 170-0005, Tokyo Roudou 5F (Koukyo Ippan Rousou nai), 2-33-10, Minami Otsuka, Toshima-ku, Tokyo, Japan.

1.2. **HARADA** is the Chairman of Tokyo Koumu Koukyo Ippan Roudou Kumiai Seinen Ippan Shibu, the Association of Labor Unions in Japan.

1.3. **YAMADA** is the former Executive Director of Tokyo Koumu Koukyo Ippan Roudou Kumiai Seinen Ippan Shibu, the Association of Labor Unions in Japan. **YAMADA** was the

Executive Director of the Association when the libelous statements against Our funder, **A("A")** were made.

2. Sometime in 2016, A, the Partners Dining Co., Ltd., in the collective bargaining with its employees. The employees were represented by Tokyo Koumu Koukyo Ippan Roudou Kumiai Seinen Ippan Shibu, the Association of Labor Unions in Japan. As earlier stated, HARADA was the Association's Chairman, and YAMADA was then its Executive Director. Both HARADA and YAMADA were actively involved in the negotiations.

3. The negotiations were not pleasant and did not end in an amicable manner.

4. Because of the results of the negotiations, in May 2018, HARADA and YAMADA authored and posted on Rodojoho Website libelous statements against A. The post may be accessed through the following URL or link: http://www.rodojoho.org/archives_bkno/2018/969.html

5. Screenshot of the post is attached as **Annex "A"** and made an integral part hereof.

5. The article posted on the Rodojoho Website was authored by YAMADA in Japanese but I had the article translated in English. The official translation in English is attached as **Annex "B"** and made an integral part hereof.

6. Said post contained statements that A, during the negotiations:

- 6.1. Misrepresented of A's identity as Partners Dining Co., Ltd.'s Human Resource Officer;
- 6.2. With malicious intent, made up charges against a former employee of Partners Dining Co., Ltd.'s Shibuya Branch;
- 6.3. Was negotiating in bad faith with the Union during the collective bargaining in February 2017 by giving

unreasonable timelines to the Union for the submission of their responses; and

6.4. Asked the employees to undress and demonstrate in front A how they change into costumes before their shifts.

7. As of present, said post is still available in the Rodojoho Website. Even we and A's officials have seen the posts.

7.1. One of these business associates who saw the posts is [REDACTED].

8. The articles prepared and posted by HARADA and YAMADA led the reader to believe that A was unethical because A made false representations, made false accusations against employees, acted dishonestly in negotiations and was sexually perverted.

9. The contents of the posts are false, have no factual basis and are intended to destroy or damage us and A as a UNION.

10. For the foregoing reasons, We are filing this complaint for the crime of Libel under Section 4(c)(4) of Republic Act No. 10175, also known as the Cybercrime Prevention Act of 2012, in relation to Article 355 of the Revised Penal Code, as amended, against the (author/s).

11. Under **Article 353 of the Revised Penal Code**, “[a] libel is public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.”

12. For an imputation to be libelous under Article 353 of the Revised Penal Code, the following elements must be present:

- 12.1. It must be defamatory;
- 12.2. It must be malicious;

- 12.3. It must be given publicity; and
12.4. The victim must be identifiable.¹

13. All the elements of Libel are present in this case.

14. *First*, the posts are defamatory because they contain malicious imputations of the crime, or an act or omission, condition, status, or circumstance which tends to dishonor or discredit, or put us and A in contempt.

15. According to the case of ***Manila Bulletin Publishing Corporation vs. Victor A. Domingo***²:

“An allegation is considered defamatory if it ascribes to a person the commission of a crime, the possession of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance which tends to dishonor or discredit or put him in contempt, or which tends to blacken the memory of one who is dead. In determining whether a statement is defamatory, the words used are to be construed in their entirety and should be taken in their plain, natural, and ordinary meaning as they would naturally be understood by persons reading them, unless it appears that they were used and understood in another sense. Moreover, a charge is sufficient if the words are calculated to induce the hearers to suppose and understand that the person or persons against whom they were uttered were guilty of certain offenses or are sufficient to impeach the honesty, virtue or reputation or to hold the person or persons up to public ridicule.”

¹ Manila Bulletin Publishing Corporation vs. Victor A. Domingo, G.R. No. 170341, 05 July 2017.

² G.R. No. 170341, 05 July 2017.

16. In the present case, HARADA and YAMADA said that A committed the following unlawful acts:

16.1. Misrepresentation of A's identity as Partners Dining Co., Ltd.'s Human Resource Officer;

16.2. With malicious intent, made up charges against a former employee of Partners Dining Co., Ltd.'s Shibuya Branch;

16.3. Negotiated in bad faith with the Union during the collective bargaining in February 2017 by giving unreasonable timelines to the Union for the submission of their responses; and

16.4. Asked the employees to undress and demonstrate in front A how they change into costumes before their shifts.

17. In the present case, HARADA and YAMADA made it appear that A is a sexually perverse person and a sexual harasses when they said that A asked the employees to undress in front of me.

18. *Second*, the element of malice is also present in this case.

19. Malice connotes ill will or spite and speaks not in response to duty but merely to injure the reputation of the person defamed, and implies an intention to do ulterior and unjustifiable harm.³

20. According to **Article 354 of the Revised Penal Code**, every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

20.1. A private communication made by any person to another in the performance of any legal, moral or social duty; and

20.2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other

³ Mary Elizabeth Ty-Delgado vs. House of Representatives Electoral Tribunal, G.R. No. 219603, 26 January 2016.

official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

21. It is clear that the above exceptions find no application in this case. As such, the statements made in the posts are presumed to be malicious.

22. *Third*, the element of publication is also present. There is publication if the material is communicated to a third person. It is not required that the person defamed has read or heard about the libelous remark. What is material is that a third person has read or heard the libelous statement, for "a man's reputation is the estimate in which others hold him, not the good opinion which he has of himself"⁴.

22.1. In the present case, the libelous statements were posted by HARADA and YAMADA in Rodojoho Website.

23. *Finally*, the element of identifiability is also present. To satisfy the element of identifiability, it must be shown that at least a third person or a stranger was able to identify A as the object of the defamatory statement.⁵

24. The posts clearly referred to A by A's name. It is easy to determine that A is the person referred to in the posts.

25. Due to said public and malicious imputations, A has suffered and continue to suffer damage to A's reputation, A's reputation and A's past activities. The open and malicious defamation has also caused us and A serious anxiety and stress.

26. We are executing this Complaint-Affidavit to attest to the truth of the foregoing facts and for the prosecution of (author/s)

⁴ Manila Bulletin Publishing Corporation vs. Victor A. Domingo, G.R. No. 170341, 05 July 2017.

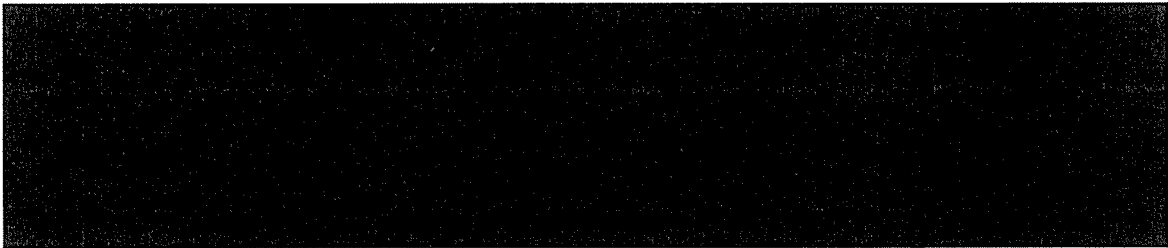
⁵ Manila Bulletin Publishing Corporation vs. Victor A. Domingo, G.R. No. 170341, 05 July 2017.

pursuant to Section 4(c)(4) of Republic Act No. 10175, also known as the Cybercrime Prevention Act of 2012, in relation to Article 355 of the Revised Penal Code, as amended.

To the truth of the foregoing, we have signed this Complaint-Affidavit on _____ in _____.

GLOBAL UNION

Affiant



Annex A

10:25



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