

TRANSLATION

Beirut, 26/2/2002

Before the Civil Tribunal of First Instance at Beirut

Action For Forgery, Inexistence and Nullity

By Plaintiff: Dr. Muhamad Mugraby, Attorney at Law, Beirut.

Against Defendants:

1. The Bar Association at Beirut, ('BAB'), Palace of Justice, Beirut.
2. Mr. Joseph Shawool, who signs for BAB, in his purported capacity as "Chief of the Court of BAB", BAB, Palace of Justice, Beirut.
3. Attorney Maitre Raymond Chedid, President of BAB, Palace of Justice, Beirut.
4. Attorney Maitre Michel Lyan, former president of BAB, Palace of Justice, Beirut.
5. Attorney Maitre Mohamad Riad Shehab, BAB, Palace of Justice, Beirut.

Third Parties Joined to Hear the Judgment:

1. Attorney Colleague Maitre Nasrat Abou Khalil, Adonis St., Tamim Bldg., Ras Beirut.
2. Attorney Maitre Colleague Andre Chidiak, Adib Ishac St., Deir Na'meh Bldg., Ashrafia.
3. Attorney Colleague Maitre Mona Oufeish, Wife of Engineer Fadoul
4. Shwairi, Yousuf Sursok St., Kar'ah Bldg, Ashrafia.

I hereby submit the following.

Preface

This is not the first time, as it appears from this case, that an attempt is being made to violate my liberty and my civil and professional rights due to my activity in the defense of the rule of law, rights of defense, civil and constitutional rights, and my advocacy for integrity in the practice of law and the administration of justice. It may not be the last. All such attempts have so far failed because I am right to and for the support I received from my colleagues and friends, whether lawyers or not, and from national and international organizations and other honorable people. As an example, I attach herewith two statements of support: the first signed by individuals on 10/10/1994 and the other by organizations on 3/5/2000. Many other statements were issued in Lebanon and abroad.

Exhibits No. 1 and 1bis

PART ONE

Summary of the Facts

1. My colleague Attorney Michel Lyan was elected president of the Bar Association at Beirut ("BAB") in December of 1999. I had a normal amicable relationship with him like I have with other colleagues. He had visited me in my office more than once, either alone or in the company of another colleague, His Excellency Elias Hanna, who was running for president of BAB. Soon his attitude changed. He stated before witnesses that there are persons, whom he did not name, who were inciting him against me, I the plaintiff.
2. Throughout his tenure, former president Lyan behaved arbitrarily and unlawfully with me. He struck my name off the list of lawyers entitled to participate in the general meetings that took place in November 2000 and November 2001, arbitrarily and unlawfully, and despite the fact that I had paid my annual dues on time. He also deprived me of the benefit of medical insurance.

3. On November 19, 2001 former president Lyan filed a criminal complaint against me for and on behalf of BAB (defendant No. 1) requesting the public prosecutor to investigate and arrest me and before the proper authority convict me and to order me to pay damages and court fees, with BAB reserving the right to commence disciplinary proceedings against me. A copy of the said complaint is attached

Exhibit No. 2

4. Although the said complaint carried the date of November 14, 2001 on its front page and the date of 14/11/2001 on its second page, it was actually filed with the office of the public prosecutor at Beirut on 19/11/2001, as is evident from the official attestation that I attach. (**Exhibit No. 3**)

5. I was surprised, upon my return from a short trip abroad, that a news story about the complaint was published in the newspapers of Tuesday, November 20, 2001. On the morning of Wednesday the 21st I went to see the new president Chedid. I embraced him in congratulations then asked him if permission to prosecute me had been given to the public prosecutor. He denied any knowledge of the sort. Then Mr. Chedid told me that he was busy because the first meeting of the new council was just due to be held and would I come back to see him on Friday morning the 23rd at 9:00 AM. I went to see him as requested but no meeting was held as he was still busy receiving guests and he simply refused to hold the promised meeting. I had then to leave his office and send him the attached letter by fax.

Exhibit No. 4

6. After that, I made many inquiries inside BAB to find out if any request was actually made to obtain permission to prosecute me and whether any permission at all was given by the BAB council in that respect. All my efforts were unsuccessful and no one at BAB would tell me if any such request or permission existed.

7. On December 4, 2001, I sent Mr. Chedid a written request in which I asked him to:

"provide me with a conformed copy of the original decision and other decisions issued by the BAB council against me during November of

2001, if any, and, if no such decisions existed, to kindly provide me with an attestation to that effect."

I attach a copy of the said letter and its registration receipt at BAB.

Exhibits Nos. 5 & 6

8. On 10/12/2001 I repeated my request in a fax that I sent to Mr. Chedid, a copy of which is attached. I again sent the same fax on 14/12/2001 without receiving any response.

Exhibit No. 7

9. On 20/12/2001 I presented to the First Investigating Judge at Beirut, Mr. Hatem Madi, a memorandum of preliminary motions, to which I annexed copies of the above documents, affirming that I have not received from BAB any decision against me or a request for a permission to prosecute me. A copy thereof is attached.

Exhibit No. 8

10. On 21/12/2001 Mr. Salim Osta, representing Mr. Chedid by virtue of a private letter, came to Judge Madi's office and received a copy of my memo. I attach a copy of Page 4 of the judge's basic minutes of the case and Mr. Chedid's said letter.

Exhibits 9 & 10

11. Mr. Chedid did not answer any of my requests and did not respond to the aforementioned memo.

12. On 7/2/2002 Mr. Chedid issued a communiqué titled "Reminder to the Colleagues" in which he gave himself the exclusive right to engage in any discussion of the law organizing the legal profession and the guaranties of lawyers, and ordered all lawyers to refrain from participating in any such discussions or to discuss in the open any files in which they represent clients pursuant to their secrecy duty. A copy of the said communiqué is herewith attached.

Exhibit No. 11

13. On 11/2/2002 Judge Madi issued a decision indicting me under Articles 383 and 385 Penal Code, cross-referenced to Article 76 COLP, without having conducted any investigation. Yes there was no investigation of the BAB charges.

14. On 10/2/2002 defendant No. 2, acting in the name of defendant No. 1, in his alleged capacity as "chief of the court of the Bar Association", issued two papers titled "Notice", to which he attached two photocopies signed by the said defendant in his alleged capacity under the phrase "conformed copy":

- The First Copy: This contains the complete text of purported "Decision No. 1" under the signature of former president Lyan, defendant, in his capacity as president of BAB, referring me to the disciplinary council of BAB allegedly for hurting the reputation of BAB and violating Article 80 COLP and Article 91 of the internal bylaws due to a statement published on 12/6/2000 under the title of "Documents". On this copy appears the date of 12/10/2001.
- The Second Copy: This contains the text of alleged "Decision No. 3 signed by defendant former president Lyan in his capacity as president of BAB referring me to the disciplinary council and "reserving any new referral which could be required by other facts that may take place", for allegedly taking on the secretary of BAB and offending the council by accusing it of various matters that reflect on its honor in violation of Articles 10 and 80 COLP and Article 91 internal bylaws, by holding a press conference on 17/10/2001 the summary of which was published in *Assafir* newspaper on 18/10/2001, and for the statement purportedly issued by me on 17/10/2001 and distributed among lawyers.

I attach a copy of the said documents.

Exhibits No. 12, 13, 14, and 15

14. It can be ascertained from the complaint filed by former president Lyan with the public prosecutor's office at Beirut (after the case file had reached the Beirut penal court) that he attached thereto an alleged decision allegedly

issued on 2/11/2001 by the council of the defendant BAB which carries the signature of Colleague Maitre Mohamad Chehab, the secretary of BAB, and the date of November 14, 2001, which reads as follows:

“The president moved to resolve the prosecution of Attorney Muhamad Mugraby, for having offended BAB, its president and its council, in the press conference that he gave at his office on 17/10/2001, a summary of which was published in *Assafir* newspaper on 18/10/2001, and in *Alliwa* newspaper on 19/10/2001, and in the statement he issued dated 17/10/2001 under the title “BAB Council Committed a Grave Error by Permitting the Prosecution of Lawyer Izzat Shmaisani the Complaint Filed by Three Judges in the Matter of Assaad Shaitly”. The president stated that this was not the first time that Maitre Muhamad Mugraby took on BAB, its council and its president with slander and defamation. . .”

“President Michel Lyan then offered to the council the matter of filing a criminal complaint against Maitre Mugraby for slander and defamation against the president and the council of BAB and to consider this decision by the council as a permission to prosecute.”

“After deliberations, the council Decided to prosecute Maitre Muhamad Mugraby in criminal procedure for the crimes of slander and defamation of the president and the BAB council, and to give the permission to prosecute Maitre Muhamad Mugraby in this matter.”

“Decision issued on 2/11/2001

Conformed Copy,
Mohamed Chehab,
Secretary”

15. The term of office of former president Mr. Lyan ended on the date provided under Articles 35 COLP 41 for convening the annual general meeting of BAB, which is the first Sunday of November. In the year 2001 that date was November 4th, although the new president was not elected until November 18, 2001.

16. In early 2002 the new president Maitre Raymond Chedid appointed nine members for the disciplinary council in three panels, each consisting of two members and a president. The third parties are the members of the alleged “First Panel”.

17. Former president Mr. Lyan alleged the existence of the internal bylaws on 22/2/2001 and filed a copy thereof attached to his memorandum submitted to the civil tribunal of first instance at Beirut in action No. 243 together with an attestation by Secretary Maitre Mohamad Chehab dated 8/2/2001 asserting that I did not pay my annual dues for the year 2000 within the legal delay, that is before the first of May of that year. The said internal bylaws mostly contain articles that conflict with COLP, as we will go into in detail herein below, and was not properly made by the BAB council in a meeting duly held, and in which a quorum was present in accordance with Article 57 COLP. I attach herewith a copy of the memorandum of the former BAB president with its attachments, i.e. the alleged internal bylaws and the attestation by Maitre Chehab.

Exhibit No. 16

18. It appears that what motivated the defendants, including former president Lyan and others, in dealing with me in this way, is that I had filed on 7/4/2000 an information letter with the financial prosecutor, which I followed on 9/4/2000 with an addendum thereto. Instead of making an answer on the merits, the former president filed, on behalf of BAB, a memorandum in which he challenged the jurisdiction of the financial prosecutor, who accepted the challenge and Decided to shelf my aforementioned letter provisionally as can be established from the attached documents.

Exhibits No. 17, 18, 19, 20, and 21

19. The company mentioned in the information letter is owned by a very high level political figure.

PART TWO

In the Law

Section 1: The Action For Forgery

I. The Documents to be declared a Forgery and Places of Forgery Therein

1. The documents which we are petitioning the court to /12/lare as forgeries are mentioned hereinafter. They are forged in the places that are mentioned next to each of them.

(1) Document 1: The internal bylaws of BAB and the memorandum by defendant former president Lyan dated 22/2/2001 in action No. 234/2000 attached thereto.

The places of forgery therein are:

- Asserting in the memorandum by the defendant former president that the copy attached thereto is a conformed copy of the internal bylaws, which is not true.
- Asserting in the former president's memorandum that I had no right to participate in the general meeting held on 19/11/2000, which is not true.
- Describing the said document on the first page thereof as “the internal bylaws of the BAB”.
- The statement on Page 32 of the purported internal bylaws that they were adopted and ratified by virtue of the decision of the BAB council on 25/11/1996, which is not true.
- Asserting on page 6 thereof that purported Article 17 was amended by the decision issued on 25/7/1997, which is not true.
- Asserting on page 14 thereof that alleged Article 44 was amended by decisions dated 13/8/1997 and 24/9/1997, which is not true.
- Asserting on page 17 thereof that purported Article 56 was amended by a decision dated 31/1/1997, which is not true.
- Asserting on page 24 thereof that purported Article 94 was amended by the two decisions issued on 27/6/1997 and 1/7/1998, which is not true.

- Asserting on page 27 thereof that purported Article 113 thereof was amended by decision dated 27/6/14 at 797, which is not true.
- Asserting on Page 29 thereof that purported Article 122 was amended by a decision issued on 19/12/1997, which is not true.
- Asserting on Page 30 thereof that purported Article 123 was amended on 19/12/1997, which is not true.
- Asserting on Page 31 thereof that purported Article 126 was amended by the decision dated 21/2/1997, which is not true.
- Asserting on Page 1 attached thereto titled “amendment of Articles to 121 to 125 of the internal bylaws” that a decision in this respect was issued on 18/6/1999, which is not true.

(2) Document 2: The attestation issued on 8/2/2001 by Mr. Mohamed Chehab in his capacity as the BAB secretary, which asserts that I had no right to participate in the general meeting of BAB held on 19/11/2000 because my annual dues for the year 2000, were not paid, because it is untrue. The places of forgery therein are:

- The assertion that I had no right “to participate in the general meeting of BAB which was held on 29/11/2000”.
- The phrase “as they did not pay their annual dues for the 2000 within the legal period” in as much as it relates to me.

(3) Document 3: Copy of “Decision No. 1” allegedly issued on 12/10/2001 which carries a copy of signature of former president Lyan and stamped with the phrase “conformed copy” above the signature of second defendant Joseph Shawool in his capacity as “chief of court of BAB” as he alleges but without a date.

The places of forgery therein are:

- The date affixed in the bottom of the copy of the alleged decision which is 12/10/2001, as the copy of the alleged decision was made subsequent to the lapse of the former president’s term as we will show separately hereinafter.

- Asserting in the bottom thereof that it is a conformed copy under the signature of defendant 2 in his alleged capacity as “chief of the court of BAB”.
- The phrase therein that the statement addressed to “my lawyer colleagues and other Lebanese” under the title “Documents” contains a “degradation of the honor of BAB”. This is not true, not materially nor morally, as can be ascertained from the simplest reading of the “Documents” of which I attach copy.

Exhibit No. 22

- The phrase therein that the former president ascertained from the report of “palace of justice commissioner” dated 9/8/2000 that I abstained from appearing for interrogation although I was told by telephone and in writing and that I was duly "notified". In fact no such notification took place and former president Lyan personally, on August 7, 2000, signed the receipt for my letter dated July 17, 2000, in which I requested him to provide me with certain documents and to fix a new appointment for me at least 10 days after I shall have received the said documents. It is worth noting that the former president wrote in his own handwriting on the red card (postal receipt) that he considered that “the addressing of this letter was impolite and unlawful”. I attach a copy of my letter and the receipt for its delivery.

Exhibits No. 23 and 24

(4) Document 4: Copy of purported “Decision No. 3” allegedly issued on 2/11/2001 carrying a copy of the signature of former present Lyan and stamped as a conformed copy over the signature of second defendant Joseph Shawool his capacity as “chief of the court of BAB” as he alleges but without a date.

The places of forgery therein are:

- The date provided in the bottom of the alleged decision which is 2/11/2001, while in fact the alleged

- decision was authored subsequent to the lapse of the former president's term as I will show separately.
- The statement therein that I held a press conference and issued a statement on 17/10/2001 “taking on the secretary of BAB and BAB”, offending its council and accusing it of ‘matters which are untrue that touch on its honor’, and alleging that I failed to appear ‘before the member delegated by the president to interrogate and investigate’ me. Before?
 - The statement that “the lawyer is obligated to respect the authorities of the Association represented by the president and the Association Council in accordance with Article 91 of the internal bylaws”.
 - The statement therein that my letter to Maitre Salim Gharios contains “lies and insults”.
 - The statement therein that my conduct is not compatible with the honor of the profession and degrades its standing.
 - Asserting therein that it is a conformed copy with the signature of the second defendant in his alleged capacity as “chief of the court of BAB”.

(5&6) Documents Five and Six: Two papers each having the title of “notice” and carrying the signature of the second defendant in his alleged capacity as “chief of the court of BAB” and dated 12/2/2002.

The places of forgery therein are:

- The phrase therein that “The Disciplinary Council, first panel, Decided to give you a delay of 10 days to present your remarks, if required, and to summon you to a hearing...” This is untrue because no such decision exists.
- The phrase therein “for your violation of Articles 80 and 99 COLP and 91 internal bylaws” which is not true.

- The statement therein “chief of the court of BAB”, which is not true.

(7) Document 7: Copy of the decision allegedly adopted by the BAB council on 2/11/2001 to prosecute me in criminal procedure and to give permission for my prosecution, attached by the former president to his alleged criminal complaint. In this copy, the phrase “Council of the Bar Association at Beirut” does not appear at all; it does not carry any copy of any of the signatures of any of the members of the council.

The places of forgery therein are:

- The date of 2/11/2001. It was not authored on that date but much later.
- Asserting that it is a conformed copy of original, when in fact it has no original.
- The statement therein that I held a press conference and issued a statement on 17/10/2001.
- The statement therein that I offended BAB and its president and council. All this is not true.
- The assertion, explicitly or implicitly, that it is a decision properly and duly issued by the council of the Bar Association at Beirut.

II. Evidence of the Forgery of the Documents

A. The alleged internal bylaws and the decisions mentioned therein purportedly issued by the BAB council on: 25/11/1996 (adopting the alleged internal bylaws) and its alleged amendments on 31/1/1997 and 21/2/1997 and 27/6/1997 and 25/7/1997 and 13/8/1997 and 24/9/1997 and 19/12/1997 and 1/7/1998 and 18/6/1999.

- The purported internal bylaws are a forgery and so are the decisions allegedly issued by the BAB council, which are referenced in the text thereof. Following is the evidence:

One: All the above mentioned decisions, commencing with the decision purportedly issued on 25/11/1996, were not adopted by the BAB council in meetings duly and lawfully convened. Articles 56 and 57 COLP are clear cut in their following text:

“Article 56- Meetings of the council shall not be lawful unless held on the predefined dates or on such dates that are determined by the president.”

Which means that members of the council should receive invitations indicating the dates determined by the council or by the president, and enclosing the agenda of the meeting and copies of the documents that will be presented during the meeting.

“Article 57- Meetings of the council shall not be lawful unless attended by the absolute majority of its members.”

2. Under Article 42 COLP the council of BAB consists of 12 elected members, including the president, and permanent members, who are the former presidents. At the present time the permanent members are former presidents: Wajdi Mallat, Issam Karam, Issam Khouri, Marcel Sioufi, Raymond Eid, Samir Ail-Lama’, Michel Khattar, Shakib Kortbawi, Antoine Klimos. After the end of his term Michel Lyan became one of them. Consequently, the total number of the members of the BAB council at this time is 22 members, of whom 12 are elected and 10 are permanent.

3. For the meetings of the BAB council to be lawful and capable of making decisions, the following two legal conditions are required:

- That all the members of the council, including permanent members, are sent invitations together with the agenda and copies of the papers to be presented in the meeting.
- The existence of a quorum consisting of the absolute number of majority of the members of the council i.e. half plus one. As the present number of council members elected and permanent is 22, the absolute majority that constitutes a quorum would be 12 members.

4. Former president Lyan and some of his predecessors had the habit of not inviting former presidents and not counting them for the purpose of quorum.

5. All the aforementioned decisions, including the decision to adopt the internal bylaws, were not made in a lawful meeting to which all the elected and permanent members were invited, and where the quorum conditions required by Article 57 were met. For these reasons the internal bylaws are a forgery and so are all the purported decisions related to the adoption and amendment thereof.

6. In all events I hereby request an order directing defendant No. 1 to produce the original Journal of the internal bylaws carrying the signatures of all the members of the BAB council that adopted it, and the minutes of the meeting in which they were adopted, and evidence that invitations to this meeting were sent to all the elected and permanent members together with the agenda.

Two: The photocopy of the purported internal bylaws, relied upon by president Chedid and former president Lyan, and defendant No. 2, does not carry the correct date and does not have all the signatures of the BAB council members who were supposed to have adopted the same in accordance with Article 59 COLP which reads:

“Article 59- The Council of the Association shall be competent to manage its affairs and more particularly:

1. . . .

2. To adopt the internal bylaws of the Association and to amend the same and to adopt other regulations related to the Association...”

The original of the said photocopy of the internal bylaws does not exist and does not carry live signatures of the members of the BAB council.

Three: The internal bylaws licensed by law are administrative in nature and have the purpose of running the affairs of the Association, not the affairs of the legal profession, and cannot replace COLP or bind the lawyers as

lawyers. It is nothing but a collection of detailed rules for the internal conduct of the association's efforts.

8. The purported internal bylaws fall beyond the absolute power of the BAB council.

9. Article 59 is clear and candid in the use of the word “administration” and the phrase “administration of its affairs”, i.e. the affairs of the Association not the affairs of lawyers and not the affairs of the legal profession that are organized by law alone.

10. The BAB council and also the general meeting have no power to amend COLP or to add thereto under the veil of adopting internal bylaws.

11. I petitioned for a Declaration that the purported internal bylaws are a forgery also because, in fact, they are a legislation which is absolutely beyond the powers of the ‘council’ and the Association under the cover of internal bylaws.

12. In addition to the forgery of the purported internal bylaws, they are inexistent because they are legislative in nature, not administrative, and exceed the legal authority to adopt the same within the framework of the council's competence to administer the affairs of the defendant Association.

For example, here are the places of forgery in each of the articles thereof:

- Article 1- The provision that the internal bylaws determine the details of the application of COLP and the professional roll is a forgery and inexistent because it exceeds the authority granted in Article 59 COLP which is restricted to the administration of the association's affairs.
- Article 2 - Stating that the Bar Association is independent and has the discretion power to register lawyers is a forgery and inexistent for it exceeds the above mentioned authority, and violates the provisions of COLP that determine the conditions and procedures for registration and leaves no room for discretionary authority

- Article 3 - Stating that non-Lebanese lawyers have no right to have a consulting office within the jurisdiction of BAB, either individually or in association with a member of BAB, is a forgery and inexistent in that it is a legislation exceeding the jurisdiction and authority of BAB and a nullity.
- Article 4 - The statement that all lawyers should abide by the provisions of the internal bylaws and that any violation thereof, or any violation in the lawyers private life, subjects the lawyer to the penalty provided in article 99 COLP, is a forgery and inexistent because it constitutes an amendment of Article 99 that defines the obligations of lawyers as those provided in the law, i.e. in Articles 80 to 95 thereof.
- Article 5 - The statement obligating the lawyer to actually practice his profession in an office within the jurisdiction of the Association, is a forgery and inexistent because it constitutes an amendment of Article 84 of COLP. The same goes for the statement that a lawyer may not have an office within the jurisdiction of another Association or to be an associate in another office and the statement that a lawyer who is not registered with BAB may not have an office within the jurisdiction of BAB.
- Article 6 - Denying lawyers the right to form any body, association, or cooperative etc. subject to disciplinary prosecution is a forgery and inexistent because it violates the right of association guaranteed by the Lebanese Constitution and the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
- Article 7 - Providing location conditions for “the registration of law offices” is a forgery and inexistent because it violates COLP, which provides for the registration of the individual lawyers not their offices, and which does not provide any conditions as to area and equipment, and exceeds the aforementioned authority.

- Articles 8, 9 and 10 - They all have the same subject as Article 7 and are a forgery and inexistent for creating conditions and burdens which are not provided by COLP and exceed the abovementioned authority.
- Articles 12, 13, 14 and 15 - Providing for eight different rolls for lawyers is a forgery and inexistent because it violates the express provisions of COLP which requires two rolls only.
- Article 16 - Providing conditions for the suspension of an active lawyer and his re-registration is a forgery and inexistent as it exceeds the above mentioned authority.
- Article 17- The provision for suspending the practice of an active lawyer and the conditions for resuming his practice is a forgery because it exceeds the above mentioned authority.
- Articles 18 to 42 - These are related to apprenticeship and are a forgery and inexistent because they constitute a long and flagrant addition to COLP that exceeds the above mentioned authority and is null and void.
- Articles 43 and 44 - These clearly involve amendments of Article and 11 et. seq. of COLP and impose conditions which are not provided by the law. They are a forgery and inexistent and exceed the above mentioned authority.
- Articles 45 to 49 - These are related to the general meetings of lawyers and are a forgery and inexistent because they introduce new conditions which are not provided in the law, especially in delegating to the council the power to /12/ide the voting manner, which violates the clear provisions of Article 50 COLP and exceed the above mentioned authority.
- Article 56 - Placing conditions on the permission to a non-Lebanese lawyer to appear in a specific case is a forgery and inexistent because it constitutes an amendment of Article 115 COLP and exceeds the above mentioned authority and null and void.

- Article 57 - Granting the council's "bureau" the right to make "urgent and extraordinary decisions" is a forgery and inexistent for violation of COLP, and more particularly Articles 59 and 60 thereof.
- Article 59 - Delegating the powers and functions of the president during his absence to the secretary, with the right of signature, is a forgery and inexistent as it violates COLP and more particularly Article 52 thereof.
- Article 60 - Denying lawyers the right to review the records and documents of the Association without the written authority of the president is a forgery and inexistent, arbitrary, and in violation of general principles, and exceeds the above mentioned authority.
- Article 67 - Granting powers to the "palace of justice commissioner" which are not provided by the law is a forgery and inexistent and exceeds the above mentioned authority.
- Articles 68 to 71 - Related to the *Al-Adl Journal* is a forgery and inexistent because COLP does not provide for such a magazine and it is not within the functions of the president and the BAB council, exclusively provided under Articles 59 and 60 COLP, to publish journals.
- Articles 74 to 77- Related to lawyers' assistants and conditions to license them are a forgery and inexistent for the lack of such a provision in COLP and for exceeding the above mentioned authority.
- Articles 79 to 96 - Which establishes additional obligations on lawyers, exceeding those provided under COLP, are a forgery and inexistent. More particularly, Article 95, preventing a lawyer from wearing his robes when appearing in his personal cases, constitutes an invalid amendment of Article 95 COLP. Article 91 obligates a lawyer to show

respect to the BAB “authorities” and provide all information and explanations required of him, which is a violation of the constitution.

- Articles 97 to 104 - Placing conditions and limitations on partnerships of lawyers are a forgery and inexistent because they are not provided under Article 83 COLP and violate such article.
- Article 105 to 111 - Containing conditions and clauses relative to the disciplinary council which are not provided by the law, are a forgery and inexistent, particularly as to the following:
 - Article 106 provides the president with the power to charge one of the BAB council members to investigate the lawyer, and authorizes the investigator to hear witnesses, hold meetings and issue a report. This article is inexistent and a forgery as Article 102 COLP provides that the president, “personally or through his deputy” shall hear the lawyer.
 - The provision in Article 110, that decisions of the disciplinary council are executed immediately and that execution may not be suspended except by order of the court of appeal, is inexistent and a forgery and clearly violates the provisions of Article 108 COLP and the rules of civil procedure, and an attempt to legislate.
 - Paragraph 2 of Article 111 that requires the lawyer who was sentenced in disciplinary proceedings, at the end of the suspension period, to file a petition with the BAB council for a decision to permit him to resume his practice, is inexistent a forgery because it contradicts the former paragraph, the principle of legality, and the simplest of the general rules, and an attempt to legislate.

- Article 112 - Providing procedures to notify all papers, notices and judgments of the BAB council and disciplinary council is inexistent and a forgery because the authority under Article 116 COLP is limited to “papers of the Bar Association Council and its decisions and the judgments of the disciplinary council”.
- Articles 113 and 114 - Providing conditions for the transfer from the Bar Association at Tripoli, is inexistent and a forgery for violating COLP and because it is an attempt to legislate.
- Articles 115 and 116 - Providing for entering into “agreements and treaties” is inexistent and a forgery because COLP does not authorize it and because BAB is an association and not a sovereign state.
- Articles 117 to 120 - Providing the president with powers that are not provided under Article 60 COLP, are a forgery and inexistent.
- Article 126 - That creates a register of powers of attorney and obligates lawyers to register their powers therein, against the payment of exorbitant fees, is inexistent and a forgery, and is not authorized under COLP, and constitutes an attempt to legislate.

B. The attestation dated 8/2/2001 by defendant Maitre Mohamad Chehab

1- This attestation is a forgery because I paid my annual dues with the pension dues and the subscription to *Al-Adl Journal* by check in the amount of LL 600,000 to the order of BAB. I sent the check by registered mail after the BAB cashier Nuhad Abou Milhim, under instructions by former president Lyan, refused to receive the said amount from me. I always pay my annual dues by check.

2- I sent the said check by registered mail on 28/3/2000 to the BAB treasurer who received it personally and signed for it on 11/4/2000. Former president

Lyan admitted the receipt of the check in the memorandum which he filed in the lawsuit that followed, and said that he sent me a letter attesting to that, which he could not prove that I received. The check is still in the possession of defendant No. 1 that, arbitrarily, refused to cash it. I hereby attach:

- Copy of the said check.

Exhibit No. 25

- The receipt thereof dated 11/4/2000 signed by the treasurer.

Exhibit No. 26

- Copy of the attestation by the bank dated 2/11/2000 that the check was not presented or cashed.

Exhibit No. 27

- Letter by former president Lyan dated 18/4/2000 admitting the receipt of the said check.

Exhibit No. 28

3- Former president Lyan admitted in his memo dated 8/6/2000 (page 4) which he filed in action No. 514 before a judge in Beirut that the annual dues including one year subscription to *Al-Adl Journal* do not exceed LL 600,000, but that lawyers were required to pay a participation fee to establish a club, in conjunction with the payment of the annual dues, in order to facilitate matters for lawyers and accountancy. I attach copy of the said memorandum.

Exhibit No. 29

4- Although defendant No. 1 and defendant former president Lyan received the annual dues including the pension dues and the subscription to *Al-Adl*, BAB concluded that I had defaulted on payment and struck off my name from the list of voters in the general meeting that took place on 19/11/2000, and former president Lyan openly declared in the said meeting that I had no

right to attend the meeting because I had allegedly failed to pay my annual dues. I had paid my dues before he did.

5- It is therefore evident that the attestation issued by Maitre Chehab on 8/2/2001 is a forgery because it asserted the opposite of the truth.

C. Copies of decisions Nos. 1 and 3 allegedly issued by former president Lyan before his term expired as president of BAB

1. These two documents have no true date.
2. There are a number of proofs that the said two decisions were authored after the lapse of former president Lyan's term as president of BAB and the commencement of the term of the new president Chedid.

Proof 1: The contents of the alleged criminal complaint filed by former president Lyan on November 19, 2000 (i.e. after the expiration of his term of office). He does not at all mention any disciplinary proceedings. On the contrary, in the last line of his complaint, Mr. Lyan makes the following reservation:

“BAB reserves the right to take disciplinary action against him”.

Had the two alleged decisions existed at that time, the former president would have referred to them and would not have reserved the right to initiate disciplinary proceedings! Nevertheless, defendant No. 2, alleged in his notice, which is subject to forgery proceedings, that disciplinary prosecution was in progress further to the said decisions. Upon reviewing purported decision No. 3, which carries the date of 2/11/2001, which is a date former to the date of the alleged criminal complaint, it is clear that the subject of the decision and that of the criminal complaint are one and the same.

Proof 2: The content of the purported decision by the BAB council dated 2/11/2001, which is also subject to the forgery proceedings. It contains the following statement:

“The president also mentioned that this is not the first time that Mr. Muhamad Mugarby took on the Association and this council and its president with words of slander and defamation...”

He must have meant the flyer that carries the title “Documents” which is the subject of the purported “Decision No. 1”, which is subject to forgery proceedings, which carries the alleged date of 12/10/2001.

Had the two alleged decisions, which are subject to forgery proceedings, existed at the time, the former president would have certainly referenced them in the text of the purported decision by the BAB council dated 2/11/2001.

Proof 3: The statement titled “Documents” was actually published on 12/6/2000. Had the former president intended to hold me accountable therefor in disciplinary proceedings, he would have done that much earlier.

Proof 4: I was never notified of any of the purported decisions, which are subject to forgery proceedings, before the expiration of the term of the former president. They did not surface until long after the new president was elected. If they had existed and were properly issued on the alleged dates thereof, former president Lyan would not have hesitated to notify them to me immediately.

Proof 5: The lack of response by defendant No. 1 to my request dated 4/12/2001 addressed to the new president Chedid to provide me with copies of any decisions that may have been issued against me during /11/ember, if any, and, if not, then to provide me with an attestation that no such decisions existed. I sent that request to president Chedid and followed it by two reminders by fax on 11/12/2001 and 14/12/2001. Then Mr. Chedid received, through his representative Mr. Salim Osta, my preliminary memorandum dated 20/12/2001, which mentioned the said two letters and to which copies of the said letters were attached, without any comment by president Chedid or Mr. Osta in response thereto. Had the two purported decisions Nos. 1 and 3, which are subject to forgery proceedings, existed at the time, president Chedid would have provided me with copies thereof and his representative would have presented them to the first investigating judge Madi.

Proof 6: The surfacing of the copies of the documents, with are subject to disciplinary proceedings, after the prohibition statement by president Chedid dated 7/2/2002, simultaneously with the decision dated 11/2/2002, by First

Investigating Judge Madi, undeterred by my memoranda and motions, and without making any investigation; to the extent that he did not even hear Mr. Osta, as representative of president Chedid, and after he deprived me of my professional immunity, refused to do what was right, and committed gross errors for which I will file an independent action.

Proof 7: The purported decision by the BAB council dated 2/11/2001 has no precedent and does not carry the signatures of members of the BAB council. The purported decision was not adopted in a regular meeting in which quorum existed and after the subject was placed on the agenda and invitations were sent with the agenda to all members of the council in accordance with the law.

2. All these proofs and presumptions establish that the said documents are a forgery and that the copy of the said purported decisions, which are subject to the forgery proceedings, were falsely given a date earlier than the date when they were actually authored.

D- The two purported notices issued by defendant No. 2 in his alleged capacity as chief of the BAB court.

These two purported notices are a forgery on the following grounds:

Ground 1: The assertion therein that disciplinary proceedings had commenced against me, pursuant to the purported decisions Nos. 1 and 3, which are subject to forgery proceedings. (Please see above)

Ground 2: The signature of defendant No. 2 on them in his capacity as chief of the court of BAB, while there is no such thing called the “BAB court” and an inexistent court has no chief

Ground 3: The assertion therein that the purported disciplinary council had made a decision, which is absolutely untrue, and because the disciplinary council is inexistent.

Ground 4: Defendant No. 2 has no capacity to represent BAB, as Article 60 COLP makes the president the sole representative of the Association and he has the right to appoint representatives in the seats of the court circuits out of Beirut.

Ground 5: Defendant No. 2 has ordinarily used the title “chief of the BAB court” and issued papers and documents on behalf of defendant No. 1 with the knowledge and consent of former president Lyan and the BAB council.

6 - In fact the term “court” means an organ of the state or an official department such as the Court of Accounts and is not in private use.

7 - Upon review of COLP it is revealed that Article 34 COLP defines the organs of the association as three in number: the general meeting, the association council, and the president. Article 35 makes the general meeting the highest organ of lawyers. There is no provision for the “court”.

8 - Defendant No. 2 is not a lawyer and not a member of the general meeting or the council. Hence he has no standing to represent BAB or to issue any documents on its behalf, especially that he has no right to sign on behalf of BAB or to validate documents issued thereby.

9 - The aforementioned documents must be declared a forgery and the purported court and the chief of court at the defendant BAB must be declared inexistent. Defendant No. 2 must be declared without standing to represent BAB or to sign on its behalf. Consequently all the acts and proceedings undertaken by defendant No. 2 on behalf of defendant No. 1 with respect to me should be declared inexistent.

Section Two: The Violation of My Civil Rights and Preventing me from the Exrecise thereof

1. Article 329 Penal Code stipulates that any act that would impede a Lebanese from exercising his or her civil rights or duties shall be penalized by imprisonment from one month to one year, if coupled with threat and physical severity or any means of bodily or moral coercion. Article 330 adds that if any of the above acts are committed in the course of an arranged plan intended to be carried out on the whole national territory or at one or more specific locations therein, each criminal shall be penalized by temporary detention or deportation.

2- Chapter 2 of the Lebanese Constitution provides for the rights and duties of the Lebanese, foremost among which is the equality before the law, the equal enjoyment of civil and political rights (art. 7), the freedom of expression, verbally and in writing, and the freedom of association. All of these rights are among the civil rights guaranteed by the constitution.

3- These rights are also protected by the Universal Declaration of Human Rights, Articles 7, 19, and 20, and the International Covenant on Civil and Political Rights, Articles 19 and 22.

4- In addition to these civil rights and the safeguards therein that I am entitled to as a person and a citizen, COLP stipulates special safeguards for attorneys that constitute, in their turn, specific civil rights for attorneys to enable them to practice their profession in freedom and dignity, such as:

- A) The right to independent thinking and conscience, hence no attorney is obliged to comply with his client's instructions except to the extent of his conviction and compatibility with his conscience (Art. 3).
- B) The right to seek the fulfillment of the message of the justice, the expression of legal opinion and the defense of rights. (Art. 1).
- C) The right to be a member of the bar association, , by having an office within the territory assigned thereto and being registered on its roll. (Art. 4).
- D) The right of defense, as no attorney may be held to account for, or be prosecuted for libel, slander or defamation, by reason of his words or written pleadings, unless he exceeds the boundaries of the right of defense. (Art. 74).
- E) Immunity from preventive detention in actions for libel, slander or defamation brought against him, due his sayings or writings in the course of the practice of his profession. No judge of the court in which the incident occurred may take part in hearing such action.

- F) An attorney may not be interrogated for a crime imputed to him before notifying the matter to the president of the bar association (Article 74).
- G) An attorney may not be prosecuted for any act arising from practicing the profession or in its course, unless a decision is issued by the bar association council permitting such prosecution. The council alone may /12/ide whether the act arose from the profession or during its practice. The decision permitting or refusing prosecution, should be issued within one month from notifying the bar association president in writing of the occurrence of such act. (Art. 79).
- H) The council's decisions in this respect are subject to challenge before the court of appeal, within a ten-day-delay following notification. Two members of the bar council, named by the said council, shall join the panel of the said court. (Art. 79).
- I) In case of a disciplinary prosecution, members of the disciplinary council may be recused, in any of events provided in CCP for the recusal of judges. The competence to hear such recusal request and rule thereupon is vested in the bar council. (Art. 97).

5- Former president Lyan paid no notice to all these rights and safeguards when he filed his penal complaint, allegedly in the name of the Bar. The council and the new bar president supported this alleged complaint when attorney Salim Osta came to the office of judge Madi, carrying a written delegation of authority from president Chedid on behalf of the defendant BAB, to take sides against me before the said investigating judge.

6- The purported complaint alleged that the BAB council adopted, on 02/11/2001, a decision to sue me in penal procedure for the crimes of libel, slander, and defamation of the BAB president and council, giving its permission (in advance!) for my prosecution in this case.

7- The former president concluded his alleged complaint by taking the position of an individual plaintiff against me (without specifying the crime or quoting an article from the Penal Code), and asking for my arrest!

8- Page One of the former president's penal complaint contended as follows:

“For some time the defendant made it his business to make accusations and fabrications against BAB, of which he is a member, to its president as a person and to the members of its council, whether in his pleadings before courts, his lawsuits against BAB, or his press statements and conferences.

He formed an association named “Campaign for Judicial Integrity”, becoming active under the banner of which in derogation of the judiciary and its dignity, and in defaming BAB, its resident and council. After the press conference that he held at an earlier date at Hotel Alexander, from which he attacked the judiciary, and the bar council Decided that such act does not originate from his practice of the profession, or in the course thereof, defendant persisted in addressing false accusations and allegations against BAB”.

9- The complaint then turned to the press conference and the statement of 17/10/2001 in the name of the “Campaign for Judicial Integrity”, which has the same subject as the copy of purported decision No. 3 being challenged as a forged.

10- What is referred to in the alleged complaint as a press conference at Hotel Alexander, is, in fact, not a press conference but a large gathering of attorneys, more than a hundred of them, on 24/2/2000 that took place at the said hotel on the invitation of a number of lawyers, under the title of: “Bad Professional and Judiciary Conditions”. I herewith attach a copy of the said invitation.

Exhibit No. 30

11- At the said meeting, there were many interventions, and mine was entitled “The Crisis of Integrity”, a copy of which is herewith attached.

Exhibit No. 31

12- The activity at the Hotel Alexander meeting was launching pad for the founding of the “Campaign for Judicial Integrity”, a copy of its Declaration is herewith attached.

Exhibit No. 32

13- Among the members of the “Campaign” is colleague Attorney George Assaaf, a member of the BAB council, and I herewith attach a copy of his signed Declaration joining the Campaign.

Exhibit No. 33

14- Before he was elected as the new BAB president in November 2001, president Chedid visited my office, upon a former appointment, to meet with the leadership of the Campaign, and that was on Thursday November 8, 2001. An active discussion ensued of the Campaign’s activities and goals.

15- The Campaign for Judicial Integrity has hundreds of members and supporters. It carries out intensive activity to achieve its goals to uphold integrity in the judiciary and the legal profession. Moreover, I am personally active in expressing my opinion and the defense of human rights, public liberties, and everything that I believe to be right.

16- Former president Lyan, along with his supporters at BAB, ignored my specific civil rights stipulated in COLP, and violated the same without hesitation, especially the immunity against arrest, by petitioning for my arrest. Furthermore, he intentionally denied it to me and denied me the immunity against prosecution provided under Article 79, which he treated as follows:

17- He alleged in his complaint that the BAB council Decided to permit my prosecution in advance, without anyone asking the president for such permission, by virtue of the decision allegedly issued by the council on 2/11/2001. Neither former President Lyan nor defendant BAB notified me of the alleged decision to enable me to challenge it, pursuant to the right I have by law, which would lead to automatic stay of enforcement according to the jurisprudence of the court of appeal (Refer to my memorandum of preliminary motions submitted to Judge Madi, a copy of which was notified to Attorney Osta).

18- On 23/11/2001, when president Chedid abstained from meeting with me, despite the agreed appointment, where I was seeking to know whether there was a permission to prosecute me upon the complaint filed by former president Lyan on 19/11/2001, I presented to judge Madi a request for a true copy of the BAB council decision permitting my prosecution, if any, so that I may read it and take the appropriate position with respect thereto, which means exercising my rights! A copy of the said request is herewith attached.

Exhibit No. 34

19- I was told that the first investigating judge issued on 24/11/2001, a decision by virtue of which he dismissed my request considering that he is not, but BAB is, the relevant competent authority to provide it to me!

20- On Saturday 24/11/2001, I had to leave the country on a business trip. Upon my return, I applied on 04/12/2001, to president Chedid to give me a certified copy of any decision issued against me by the BAB council during the month of November if any, or else to deliver to me an attestation certifying the existence of none. Kindly refer to the said application and its registration receipt with BAB, hereinabove exhibited as Exhibits Nos. 5 and 6.

21- Despite asking second defendant Mr. Joseph Shawool (administrative official at BAB designated for issuing certified copies) repeatedly, he verbally denied knowledge of the existence of such a decision. Then he declared to me that the matter was in the hands of the secretary Maitre Mohamad Chehab. As I did not receive any response to my requests, I was compelled to address a letter by fax on 10/12/2001 to the new BAB president Chedid drawing his attention to the delay in responding to my request and reiterating it (a copy of which is herewith attached as exhibit No. 7), followed by another fax on 14 /12/ 2001.

22- It appeared as a result of all contacts made, and what I heard from some circles, that the intention of the defendant was to deny me notice of the said decision, in order to prevent me from exercising my legal right to challenge it by the means allowed by law (Art. 79), so that the public action can proceed against me pursuant to the complaint filed by the former president, which I will be unable to duly challenge. And how can I challenge a decision the date of which I do not know, I have no information about, and I can not even produce a certified copy of ?!

23- I learned from BAB circles (and from *Assafir* newspaper news stories) that former president Lyan and its past/present secretary consider that they have a personal interest in this matter, that it is all related to my having represented attorney Izzat Shmaisani in the penal action filed against her directly by the first president of the court of appeal in South Lebanon and his

colleagues, and to the challenge filed (by me on her behalf) to annul the decision allegedly issued by the BAB council permitting her prosecution in the said complaint, and to the then ongoing investigation by the Judicial Inspection Bureau of the said first president and his colleagues, in which the testimony of my client attorney Shmaisani was heard as a witness.

24- In fact, Judge Madi his decision to issue an indictment against me on the decision allegedly issued by the BAB council on 2/11/2001. He referred me to the penal judge for trial.

25- The content of the copy of purported decision No. 1 was based on the said statement that I published on 12 June 2000 entitled “Documents”, and the content of the copy of purported decision No. 2 was based on the statement of 17/10/2001 issued by the Campaign for Judicial Integrity.

26- When the BAB council sued me, it became no longer a neutral and disinterested authority to rule on the requests for the recusal disciplinary council members or appointing two members in the appeal court which will hear the challenge against the said council’s decisions, and I hence I am henceforth denied the above-mentioned safeguards provided by law to protect me as an attorney.

27- Thus, former president Lyan, with the former and/or subsequent participation of the defendant BAB, the new president Chedid, and the second defendant, with the support of all of them, and with the use of the BAB facilities and workers, has declared himself my enemy without any justification, and committed an aggravated assault in bad faith on my civil rights:

- As a human being and a citizen.
- As an attorney.

In a pre-arranged plan to prevent me, along with my colleagues in the Campaign for Judiciary Integrity, and prevent all other attorneys, from exercising the rights of opinion, speech, and associations, in addition to the above-mentioned special rights of attorneys, in violation of the public policy confirmed in decisive orders stipulated in the Constitution and the Universal Declaration of Human Rights, which calls for the application of the sanctions of Articles 329 and 330 Penal Code.

28- As all the deeds performed by the first defendant, or those carried out on its behalf by the second defendant, former president Lyan and/or the new one Chedid, are inexistent or absolutely null, which requires declaring the same inexistent and absolutely null for violating my civil rights which are guaranteed as hereinabove stated.

Section Three:

Inexistence of the Said Purported Decisions and Acts Due to the Abuse of Right, Arbitrariness and violation of Article 99 COLP

In the alternative, and if we assume for the sake of argument that the purported decisions by former president Lyan, referring me to the disciplinary council, prosecuting me in penal justice, and issuing a permission to prosecute me in advance, all being challenged as a forgery, are not a forgery, , i.e. if we assume the impossible, all the said decisions and other documents are inexistent for being arbitrary, in violation of the provisions of Article 99 COLP, and constitute an arbitrary abuse of right, as follows.

1. Unlike what some may imagine, the bar association is not a power but merely a professional association for attorneys registered on the lawyers' roll. The bar association council has no legal personality but is composed of individuals designated in Article 42 COLP as elected members and permanent members designated by law; the latter members are the former BAB presidents who were ignored by former president Lyan, who did not address any invitations to them to attend meetings, which constitutes a severe arbitrariness, and makes all the alleged council meetings convened held by former president Lyan, without inviting the said permanent members, inexistent.

2. Law has precisely organized bar association matters.

3. COLP includes a Title Four on: " The Discipline of Attorneys" of which Chapter Two has the heading: " Sanctions ".

4. Article 99 of the said chapter defines the violations that require sanction as follows:

- (1) Violating the duties of the profession specified in this code, which are stipulated under Articles 80 to 95 thereof.
- (2) Performing an act, within or outside the practice of the profession, that undermines the standing thereof.
- (3) Behaving in a way incompatible with the dignity of the profession.

5. This means that the violations stipulated under said Article 99 are all inclusive and relate to the legal profession, whether violations of the duties specified in this code, performing an act that undermines the profession, or behaving in a way incompatible with the dignity of the profession. This is in line with the legitimacy rule.

6. The text of Article 80 COLP is general in binding the attorney to observe, in all his deeds, the principles of honesty, straightforwardness, integrity and the duties imposed on him by this code and “ the regulations and traditions of the legal profession”. The reference to the regulations and traditions of the legal profession does not, and can never, mean the internal bylaws, but only what is traditionally and customarily observed in the practice of the profession over tens of years, which is not recorded. If it were, the law would have cited the text that contains it.

As to Purported Decision No. 1

7. The copy of purported decision No.1 states that the statement I published entitled “Documents” contained criticism of the BAB council, and a derogation of the dignity of BAB, and at another, its reputation, which violates, according to the author of the said copy, Article 80 COLP, and Article 91 of the purported internal bylaws, being challenged as a forgery.

8. Article 91 of the purported internal bylaws, being challenged as a forgery, imposes on the attorney the duty to “respect the bar association authorities,” in the plural, as if the bar association has at least three authorities. Even if BAB were an independent state with its own sovereignty, such a text is not acceptable. I have already pleaded that it is inexistent and null (refer to above).

9. Article 80 COLP is general, requiring the observance of the principles of honesty, straightforwardness, integrity, and the duties imposed by this code, and the regulations and traditions of the legal profession.

10. Those duties and principles do not include abstention from criticizing the bar council, or “respecting its alleged authorities”, or obeying its president! Former president Lyan pretended for himself and his council sovereignty and infallibility that no one claims in this day and age, even excellencies, majesties and religious leaders. Such criticism does not derogate from the dignity or reputation of BAB because it is an exercise of the freedom of opinion and expression guaranteed by the Lebanese Constitution, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

11. How could an attorney be bound by blind submission to his bar council or president, while Article 3 COLP directs him not to observe his own client’s instructions if conflicting with his conscience?

12. How could an attorney uphold the message of justice by expressing legal opinion, defending rights, and performing public service, if he is not entitled to criticize the acts of bar association’s president and council?

13. On examining the cited text (“Documents”), it is evident that it does not contain any criticism, except pointing out salient and explicit contradiction between the various BAB decisions, calling for integrity and the defense of the honor of the legal profession and that of the judiciary, and declaring that I will not stay silent with respect to any breach of integrity.

14. Hence former president Lyan has invented on his own a violation that is provided by law, and has no basis, which mandates a declaration of its inexistence and the inexistence of whatever may follow from such inexistence.

As to Purported Decision No. 3

15. The copy of purported decision No. 3, being challenged as a forgery, states that attorney Muhamad Mugarby, i.e. the plaintiff:

“Derogated the Secretary of the bar council and the bar council accusing it of matters which are not true and affect its dignity”,

in a press conference and a statement it attributed to me under the title: “BAB council committed a grave error by permitting to prosecution of Attorney”

16. The copy of the purported decision accuses me of violating Articles 10 and 80 COLP, and article 90 of the internal bylaws.

17. Article 91 internal bylaws has already been discussed. It is a forgery and inexistent.

18. Article 10 COLP sets forth the attorney’s oath (I was registered in the roll before the said law was issued!) “not to say or publish anything in violation of good morals, ethics or state security”. The case at hand does not include any pretense of violating good morals, ethics, or state security.

19. Article 80 is general and was earlier discussed. It does not carry anything of the sort mentioned in the text of the copy of purported decision No. 1, which is being challenged as a forgery.

20. The copy of the purported decisions challenged as a forgery mentioned that I had taken on Attorney Mohamad Chehab, secretary of the BAB council, without explaining what I took him on about, or how such taking on violated morals or ethics or negatively affected state security or the principles of honor, straightforwardness, and integrity. Certainly, there is nothing of the sort.

21. Attorney Mohamad Chehab is not the legal profession (and neither is the former BAB president Lyan, or the current president Chedid). The alleged taking on of attorney Chehab (which is incorrect) does not constitute a violation of Article 99 COLP. Former president Lyan would have invented on his own a violation without basis in law. Such a violation does not exist.

22. What is worth noting is that attorney Chehab did not submit any complaint to any authority about this “taking on” alleged by the president

and did not issue a statement to correct what was published. Had what was published been incorrect, he would have issued a correction statement!

23. The same applies to the alleged offending of the BAB council (an incorrect allegation). It does not constitute a violation. Had I accused the council, according to the alleged decision challenged for forgery, of falsehoods, why did it not take a public position denying and/or correcting the facts, especially that it affirms that all was published in newspapers and distributed to attorneys! No such alleged violation exists.

24. It is worth noting that none of the BAB Council members filed a complaint to any authority about the “offending” alleged in the decision being challenged as a forgery.

25. Former president Lyan protested in his alleged penal complaint, against comparing the role of BAB to that of the courts of inquisition founded by the Catholic Church. He is not entitled, however, to make this alleged comparison a violation under Article 99 COLP. Such a violation is inexistent.

26. The former BAB president, the present one, and BAB council members, including the secretary, are not the legal profession, and “taking on” any of them personally, or even “offending” him personally, is not a violation under Article 99 COLP.

27. It is regrettable and strange that the copy of decision No. 3 being challenged as a forgery, and purportedly issued by former president Lyan, includes the following:

“Whereas it is the duty of an attorney to respect the association’s authorities represented by the president and council..”

which means upgrading the president and the council to the level of authorities. I do not know what the third authority means as the word authorities might mean more than two, while Article 34 COLP stipulated the following:

“The organs of each of the two bar associations consist of the General Meeting, the association’s council and the president”.

28. That is, the law considers the association’s president as merely one of the association’s organs, and the association’s council as well, and not an authority!

29. For the sake of the integrity of this case, it is imperative to make a visit to the referenced statement and the correct and specific information included therein.

30. First of all, the statement does not bear my name nor my signature as it was issued by “the Campaign for Judicial Integrity” of which I am honored to be the chairman of the board.

31. The statement does not mention former president Lyan in any way! I do not know how he imagined that he was mentioned therein !

32. As for attorney Mohamad Chehab, the release stated the following:

- “On Thursday morning 11/10/2001, BAB’s Secretary Mr. Mohamad Chehab came to the palace of justice in Saida and delivered two permits, signed by him, for the prosecution of attorney Izzat Shmaisani, in the two complaints...”
- “On 13/10/2001, I lodged, on behalf of Maitre Shmaisani, the requisite challenges against the acts of attorney Chehab in the name of the BAB.”
- “In the matter of attorney Shmaisani, Mr. Mohamad Chehab signed a referral to the prosecutor general in the South, that he delivered to him by hand, in which he authorized prosecution in Shaitly’s complaint, without the prosecutor explicitly requesting this permission from the president of BAB, and in the absence of any crime or crime investigation, which provides an open cover for Shaitly’s calumnies.”
- “Attorney Chehab also signed a referral to the first investigating judge in the South that he also delivered to him by hand. This included the permission to prosecute in the complaint of the three judges, without

an explicit request addressed to the president of BAB by the authority with competence to prosecute, and in the absence of any crime or crime investigation, which constitutes an explicit partiality to the allegations included in that complaint.”

33. This is all what attorney Chehab was mentioned. It is true one hundred per cent. In evidence whereof, we enclose herewith:

A) Copy of the complaint filed by Shaitly against the colleague attorney Izzat Shmaisani in the crime of calumny, extortion and instigation, carrying, on the back of page one, the referral issued by the prosecutor general in the South Mr. Antoine Farhat to : “ The attention of BAB, to give your opinion concerning the lawsuit filed against the defendant attorney Izzat Shmaisani and your feedback”, in addition to the referral by “BAB” to the prosecutor general in the South signed by attorney Chehab in which he authorizes prosecution.

Exhibit No. 34

Upon reviewing this complaint and the allegations included therein, no crime of any kind appears. Hence it is evident that alleging the calumny crime (Art. 403 Penal Code) requires proof that the defendant has informed upon or pressed charges to a judicial authority or an authority which reports to the judicial authority, which did not take place and was not alleged by the plaintiff to have taken place!

B) Copy of the complaint filed by the three judges against colleague attorney Shmaisani, carrying, on the back of page one, the referral by the first investigating judge in the South to BAB, and that of the Bab signed by attorney Chehab and addressed to the investigating judge, which includes giving the permission to prosecute. Attached to this complaint is a copy of alleged secret investigation on another subject carried out on the orders of the prosecutor general in Saidon, Mr Jamil Bayram, which is unrelated to the complaining judges !

Exhibit No. 35

It appears on the face of the complaint that attorney Shmaisani has not committed any offence against the three judges. It would have been more appropriate for the BAB council not to issue this permission for the absence of any criminal act attributed to attorney Shmaisani. The investigating judge who referred it is not the prosecuting authority and he should have referred the documents to the prosecutor general in Saidaon , to be referred in turn to the prosecutor general in Beirut and then to the president of BAB in a written letter describing the criminal act and requesting the permission to prosecute. As for Mr Chehab personally delivering those two referrals to each of the prosecutor general and the first investigating judge in Saidaon , he never denied it, and if he does, we offer to prove this fact by all means of evidence including witnesses.

On the contrary, the subject of the complaint raises a priori a big issue related to the integrity of the judiciary, which was not taken into consideration by the BAB council, as its main concern, regrettably, was limited to the complaint against attorney Shmaisani and the necessity of delivering a permission to prosecute her.

34. As to the BAB council, it was referred to in the statement as follows:

- In the title:

“The Bar Association Council commits a grave error by permitting to prosecute attorney....”

- In the text:

“But the position of the Bar Association Council is deeply troubling. Its approval, if true, constitutes a grave error that could not be disregarded”.

- “It is regrettable that the Bar Association Council did not only commit the above-mentioned errors, but it also overlooked the judges’ attachments to their complaint which are secret investigation reports carried out on by prosecutor general Jamil Bayram for unknown reasons, and that the council did not question

the same,..... although it is the same council that strongly protested the publishing of an excerpt of the investigation with Dr. Toufic Hindi. Moreover the council was not quiver for the prompt appointment of a new attorney to file petitions for the release of Shaitly without first asking the permission of attorney Shmaisani or her knowledge of the matter. This new attorney justified his release request by saying that “the client is one of the richest men!”

- “It is also regrettable that the Bar Association Council did not wonder in this case about its main subject, which raises a big question mark, already acknowledged by the General Prosecution and the Judicial Investigating Bureau. It did not request the completion of the investigating on the basic subject that does not concern attorney Shmaisani except as a witness testifying to the truth, before processing any allegations against her. The council violated COLP provisions, specifically Articles 2, 74, and 79 thereof, while admitting that the act attributed to her arose from the practice of the legal profession. Had attorney Shmaisani been wanted for dealing with the Mossad, God forbid, her chances would have been greater for denial of the permission to prosecute request as occurred actually in a known case”.

- “There are many conditions for the recovery of democracy and rights in BAB, the first being the liberation of the BAB council from the domination of political parties and confessional groups, the amendment of its statutes in a way that ensures proper representation, equality, responsibility, and accountability, in addition to preventing it from going beyond its legitimate role, as it seems to the neutral observer that the BAB council acts as if it were a polit-bureau, active in issuing political statements exceeding its mandate, yet incapable of defending attorneys’, the rights and guarantees of litigants as well as judicial integrity.”

What is intended by the “known case” is the one involving the request for the prosecution of attorney Karim Pakradouni for the crime of visiting Israel many times and meeting with Mossad officers, for which the BAB council decided to deny permission to prosecute (published in the “Documents”). This decision was revoked by Beirut Court of Appeal a few days ago. Actually, I had expressed this viewpoint in an article published in *An Nahar*

newspaper in November 1995. At that time the former BAB president Lyan welcomed it enthusiastically and he personally made a large number of reprints thereof and distributed them with colleagues of his during the general meeting held that year. The subject of the political activity of the council does not mean much to me as an attorney and it does not concern attorneys at all. I would not comment on it except by saying that it exceeds the council's mandate and leads to wasting its activity in matters that are not related to the practice of the legal profession.

35. To prove the above we enclose:

- A) The complaint of Shaitly (Exhibit No. 34 above)
- B) The complaint of the three judges (Exhibit No. 35 above) and some attachments.
- C) The summons addressed by the Chief of the Judicial Inspection Bureau to attorney Shmaisani to testify.

Exhibit No. 36

- D) The indictment rendered in the prosecution of Assaad Shaitly.

Exhibit No. 37

- E) Excerpt from *Assafir* newspaper, issue of 19/1/2001, reporting the visit of the former BAB president Lyan with a delegation from BAB to the Syrian President Mr. Bashar El Assad in his palace in Damascus, which constitutes a political activity that is not related to BAB nor to the legal profession. President Assad received former BAB president Lyan and his colleagues not in their personal capacity but as president and members of the BAB council.

Exhibit No. 38

- F) Excerpt from *Al-Anwar* newspaper issue of 20/11/2000, titled "Victory of the (National) Bloc and Liberals' in the Elections of the Bar Association" which evidences the role of party politics in the elections of BAB and its structural organs.

Exhibit No. 39

G) Excerpt from *Ad-Diyar* newspaper issue of 20/11/2000, titled “Lyan Blasts the State.....Inclination of the Authorities To Set Limits to Liberties- Too Many Random Arrests...” reporting that winning elections was a “ Bar Association Victory and a Bar Association-Political Victory “. We quote:

“The statement of the president.... A war on the State of Corruption”. In a surprise, president Lyan made a statement striking war on the Lebanese State courageously speech and with explicit word....”.

Exhibit No. 40

H) Excerpt from *Alliwa*’ newspaper issue of 20/11/2000, titled: “Victory of the Political Parties’ Coalition at the Expense of Independents.”

It reported a list of the winners according to their political parties’ affiliation, such as saying that Maitre Gharios benefited from his sympathy to the Free Patriotic Current, and André Chidiac, was of the National Bloc, this party that has so far successfully fielded two BAB presidents...and he was also supported by Aounites, the National Liberals, the Phalange party, and the Future Current”.

Exhibit No. 41

I) Excerpt from *An-Nahar* newspaper issue of 20/11/2000, reporting a list of the candidates of the political parties’ and coalitions titled “Amal and Hezbollah”. We make the following quote:

“ Attorney Pierre Hanna, candidate of the Lebanese Forces, got the votes of the Phalange, independents, Socialist Progressive Party, Communist Party, some votes from the Aounists, the Liberals and the National Bloc”.

Exhibit No. 42

J) Excerpt from *Al-Bayrak* newspaper issue of 20/11/2000, reporting: “The Forces Current: Results Achieved Victory”, indicating that alliances were made under the roof of “national

consensus” and clear democracy, and that it is the first time this current participates in the elections in alliance with the National Liberal Party and the Free Aoun Current....

Exhibit No. 43

- K) Excerpt from *An-Anwar* newspaper dated 18/11/1996 titled “Coalition of the Opposition Sweeps the BAB Elections with the Victory of Hachem and Hamadeh....” which stated that opposition parties, including the Aoun Current, the Lebanese Forces, and the Phalange opposition, achieved victory for attorneys Hachem, Bou Eid and Labaki.

Exhibit No. 44

- L) Excerpt from *An-Nahar* newspaper issue of 10/11/2001 titled: “Eight days before Beirut Bar Association elections: Democratic Battle and Intense competition”, reporting a detailed exposé of the positions of political parties and movements relative to these elections with a list of the political parties’ candidates.

Exhibit No. 45

- M) Excerpt from *Al Kifah Al Arabi* newspaper issue of 24/2/2001 covering the dinner of BAB held in honor of the Speaker of the Parliament Nabih Berri at the Phoenicia Hotel, attended by ministers and deputies, during which Berri made a speech on the liberation and Shebaa farms’ occupation issue.

Exhibit No. 46

- N) Excerpt from *An-Nahar* newspaper issue of 19/11/2001, including an overview of the elections, the rallying by the opposition around the elected president, meaning the Free Patriotic Current, The Lebanese Forces, the Socialist Progressive Party, the Phalanges, the National Liberals, the Communist Party and the People’s Movement....

Exhibit No. 47

O) Excerpt from *An-Nahar* newspaper issue of 20/11/2002 titled: “Chedid: Record Number Because I am Independent “, in which he thanked those who voted for him from the Free Current, Amal Movement, Hezbollah Party, the Lebanese Forces, the two factions of the Phalange Party, the National Liberals, the Socialist Progressives and the National Syrians, and the entire Left-wing.

Exhibit No. 48

P) Excerpt from *Assafir* newspaper dated 19/11/2001 titled: “BAB Elections : Battle of Politics and the Confessional Profession...the Opposition Joins Forces and Wins, the Loyalists Maneuver and fail, Shiite Representation Scatters and Fades Away”, with a report on of the former Presidents (of Lebanon), ministers, deputies, leaders and officials of the political parties that participated in the elections.

Exhibit No. 49

Q) Excerpt from *An-Nahar* newspaper issue of 14/8/2001 with a report of the press conference held by former president Lyan with respect to the arrest of Dr. Toufic El Hindi who is not an attorney.

Exhibit No. 50

R) Excerpt from *An-Nahar* newspaper issue of 17/8/2001 titled “Attorneys of Beirut and Tripoli Condemn Arrests”, which reported the text of the joint statement by the councils of the bar associations at Beirut and Tripoli, which talks of the joining of ranks and call for preserving the independence, sovereignty and free democratic regime of the homeland.....

Exhibit No. 51

S) Excerpt from *An-Nahar* newspaper issue of 25/8/2001, reporting the meeting of a delegation from the Amal Movement with the BAB President, and the statement by the Committee for Attorneys’ Congregation requesting not to use the bar association position for political advantage.

Exhibit No. 52

T) Excerpt from *An-Nahar* newspaper issue of 10/8/2001, reporting the attorneys' strike all over Lebanon on the occasion of political arrests, in which former president Lyan opens the way to every person to express himself on the occasion, in the presence of political parties representatives and other politicians who met at the BAB offices in protest against the arrests of some members of the Lebanese Forces, the Free Patriotic Current, and the National Liberal Party. It also reported the statement issued by the BAB council calling on attorneys to stop working in protest against what happened.

Exhibit No. 53

Section Four:
Violation of the Rule That No One May Be Adversary And Arbiter At the Same Time

1. It is obvious that former president Lyan and the defendant BAB took a position against me as adversaries, whether implicitly or explicitly, since the Conference of Attorneys at Alexander Hotel on 24/2/2000. This inexplicable enmity was expressed several times as has been detailed in this pleading and there is no need to reiterate the same.
2. It is inconceivable that an adversary should constitute a disciplinary council to try his adversary, or to prosecute this latter before such council. Such acts breach the rule that a person may not be an adversary and an arbiter at the same time, violate the principle of good faith, and contravene good morals.
3. The disciplinary council is formed, according to Article 96 COLP, of two members from the BAB council and a president, all designated by the BAB president.
4. It is necessary to annul any disciplinary procedures against me, especially procedures specified in the alleged "two notifications" addressed to me by the second defendant, which are being challenged as forgery.

Section Five:
Usurpation of Legislative Power

1. Article 306 Penal Code sanctions anyone who usurps a political or civil authority, or a military command by at least seven years of imprisonment.
2. Adopting and enforcing the internal by-laws, being challenged as a forgery, constitute a usurpation of the national legislative power and a violation of public order.
3. Therefore it is necessary to declare the inexistence or their absolute nullity of the internal by-laws for this reason, too.

Section Six :
Slander and Defamation

1. The copies of the two alleged decisions Nos. 1 and 3, bearing copies of the signatures of former president Lyan and defendant Joseph Shawool, of the alleged notifications signed by this latter, and the copy of the alleged decision rendered by the BAB council on 02/11/2001, bearing copy of the signature of defendant attorney Mohamad Chehab, in addition to the penal complaint lodged by former president Lyan in the name of the defendant BAB, are full of slander and defamation vocabulary sanctioned by law and falling under Articles 582, 583, and 584 Penal Code.
2. The said documents were circulated among the defendants, members of the BAB council and BAB employees, clerks of court and bailiffs, the general prosecutor in Beirut Maamari and the investigating judge Madi, which fulfills the conditions of Article 209 Penal Code.
- 3- Hence it is necessary to declare the civil responsibility of the defendants for these criminal acts, jointly and severally, and to indemnify me therefore.

Section Seven:
The Inexistence of the Purported Disciplinary Council and the
Appointment of its Members by President Chedid

1. Article 96 COLP stipulates that the disciplinary council shall be presided upon by the BAB president or whomever this latter deputizes as president,

and shall have two members chosen thereby from the BAB council for a period of one year. One of the two members may, alternatively, be an attorney registered in the general roll for at least ten years.

2. President Chedid, following the steps of some former BAB presidents, however, appointed on 2/1/2002 to the disciplinary council three presidents and six members, divided into three panels as follows:

First panel:

Maitre Nasrat Abou Khalil, President

Maitre André Chidiac, member

Maitre Mona Afeich, member

Second panel:

Maitre Mohamad Amin Daouk, President

Maitre George Melki, member

Maitre Paul Azar, member

Third panel:

Maitre Issam Nassif, President

Maitre George Assaf, member

Maitre Jamil Husami, member

3- This explicit violation of the provisions of Article 96 COLP renders their designation null and void. Hence the Disciplinary Council is inexistent.

4. Hence it is necessary to issue a decision declaring the inexistence of the council and the appointment, by president Chedid, of the Disciplinary Council members who are named in this lawsuit as third parties, on this ground, and to notify such decision to each of them, after summoning them to hear the judgment only and not as original defendants in the action.

PART THREE

As to Damages

1. Whereas the acts of the defendants have caused me, as well as the attorneys' community in general, indescribable moral and material prejudice.

2. Though defendant president Chedid did not interfere in the subject of this lawsuit before being elected as BAB president, it is clear that, after his election, he supported all such acts and participated therein, so that the following saying applies to him: “if you do not know, it is a misfortune, but if you know, the misfortune becomes a catastrophe.”

3. The responsibility for damages and liability also falls on members of the BAB council who may be proven to have participated in the acts subject of this lawsuit, or aided the same in any way. I reserve the right to request to join them in the lawsuit as defendants, jointly and severally with the actual defendants.

4. I am in the course of estimating the damages due to me which exceed one million dollars.

5. I reserve my right to define the amount of damages due to me from the present and future defendants.

PART FOUR

The Necessity of Ordering an Urgent Measure to Prevent the Aggravation of Damages and Prejudice

1. The first, second and third defendants are pursuing the alleged disciplinary measures against me according to the documents being challenged as forged or inexistent, which I am requesting to be declared inexistent.

2. The alleged measures violate the law for they are based on, or are derived from, forged or inexistent documents and acts.

3. The pursuit of these alleged measures might lead to grave damages additional to the damage I have already suffered up the time of filing this lawsuit.

4. This matter arise from clear arbitrariness on the part of the defendants.

5. It is, therefore, necessary to order an urgent measure to prevent the aggravation of damages and prejudice, by directing the first, second and

third defendants to maintain the status quo, not to interfere in my practicing the profession, and to discontinue the alleged disciplinary proceedings against me until a final judgment is issued in the present action.

**Therefore,
And for what I might later plead,**

I request:

Firstly:

- 1- To register this action in the court registry.
- 2- To order an urgent measure in the deliberation room directing the first, second and third defendants to maintain the status quo, not to prejudice my legal and acquired rights in the practice of the legal profession without hindrance, or my registration on the general roll, and to suspend the alleged disciplinary proceedings until a final judgment is issued in this action.

Secondly:

- 1- To serve a copy of this action on each of the defendants so that they may reply hereto within the legal delay.
- 2- To serve a copy of this action on the third parties and to summon them not as defendants but only to hear the judgment in this action.

Thirdly:

To direct the first defendant, to produce:

- A) The originals of the decisions being challenged as forgery purportedly issued by its council together with the original of the minutes of the meetings in which they were purportedly adopted, the agendas and invitations addressed to the permanent and elected council members with respect thereto, and the receipts proving their delivery complete with the agendas.
- B) The originals of decisions Nos. 1 and 3 allegedly made by former BAB president Lyan.

All the foregoing in order to:

Fourthly: Declare that it is proven that the first defendant's internal by-laws, the above-mentioned decisions and alleged notifications addressed to me on 12/2/2000 by defendant Mr. Joseph Shawool, signing for the first defendant as Chief of its Court, are a forgery.

Fifthly: Alternatively, rule that all the above-mentioned acts and decisions issued against me by the first defendant, or the former BAB president Lyan, or the new president Chedid, or the second defendant in the name of the first defendant or on its behalf, disregard my public civil rights as a person, a citizen, and especially as an attorney, and constitute a grave violation of the same, and, hence, declare their inexistence and absolute nullity, and declare the inexistence of the alleged "BAB court" and "Internal by-laws", whether on the above mentioned grounds, or for the usurpation of the legislative power or violation of the rule that no one may be an adversary and an arbiter at the same time.

Sixthly: Declare the inexistence of the BAB Disciplinary Council and the alleged appointments made by president Chedid of the alleged nine members, including the third persons summoned to hear the judgment in this action, and the inexistence of past or present disciplinary proceedings against me, or else declaring their absolute nullity.

Seventhly: Hold the defendants, jointly and severally between them, responsible for civil liability for having committed the crimes of slander and defamation against me, and liable for the damages and indemnity suffered by me as a result, and confirm my right to be indemnified therefor.

Eighthly: Order the defendants to pay all taxes, court fees, and attorneys' honorariums, jointly and severally between them.

Reserving my right to claim from the defendants, jointly and severally, for the moral and material damage and prejudice inflicted on me resulting from the harmful acts being challenged as forgery, inexistent or absolutely null, as well as the slander and defamation crimes in addition to the other illegal above-mentioned acts, whether in the present lawsuit or in a separate action.

Without Prejudice,

Attorney-at-law,

Dr Muhamad Mugarby

- **Certified true copy of the pleading filed with the registry of the first instance court on 26/2/2002, No. 83/2002 in the action between attorney Muhamad Mugarby versus the Bar Association, Mr Joseph Shawool, president Raymond Chedid, former president Lyan, and attorney Mohamad Chehab.
(Signed and sealed by court clerk on February 26, 2002)**