

## FIRST DIVISION

[ A.C. No. 6672, September 04, 2009 ]

**PEDRO L. LINSANGAN, COMPLAINANT, VS. ATTY. NICOMEDES  
TOLENTINO, RESPONDENT.**

### R E S O L U T I O N

**CORONA, J.:**

This is a complaint for disbarment<sup>[1]</sup> filed by Pedro Linsangan of the Linsangan Linsangan & Linsangan Law Office against Atty. Nicomedes Tolentino for solicitation of clients and encroachment of professional services.

Complainant alleged that respondent, with the help of paralegal Fe Marie Labiano, convinced his clients<sup>[2]</sup> to transfer legal representation. Respondent promised them financial assistance<sup>[3]</sup> and expeditious collection on their claims.<sup>[4]</sup> To induce them to hire his services, he persistently called them and sent them text messages.

To support his allegations, complainant presented the sworn affidavit<sup>[5]</sup> of James Gregorio attesting that Labiano tried to prevail upon him to sever his lawyer-client relations with complainant and utilize respondent's services instead, in exchange for a loan of P50,000. Complainant also attached "respondent's" calling card:<sup>[6]</sup>

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NICOMEDES TOLENTINO  
LAW OFFICE  
CONSULTANCY & MARITIME SERVICES  
***W/ FINANCIAL ASSISTANCE***

Fe Marie L. Labiano  
Paralegal

1st MIJI Mansion, 2nd Flr. Rm. M-01    Tel: 362-7820  
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SERVICES OFFERED:  
CONSULTATION AND ASSISTANCE  
TO OVERSEAS SEAMEN  
REPATRIATED DUE TO ACCIDENT,  
INJURY, ILLNESS, SICKNESS, DEATH

AND INSURANCE BENEFIT CLAIMS  
ABROAD.  
(emphasis supplied)

Hence, this complaint.

Respondent, in his defense, denied knowing Labiano and authorizing the printing and circulation of the said calling card.<sup>[7]</sup>

The complaint was referred to the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.<sup>[8]</sup>

Based on testimonial and documentary evidence, the CBD, in its report and recommendation,<sup>[9]</sup> found that respondent had encroached on the professional practice of complainant, violating Rule 8.02<sup>[10]</sup> and other canons<sup>[11]</sup> of the Code of Professional Responsibility (CPR). Moreover, he contravened the rule against soliciting cases for gain, personally or through paid agents or brokers as stated in Section 27, Rule 138<sup>[12]</sup> of the Rules of Court. Hence, the CBD recommended that respondent be reprimanded with a stern warning that any repetition would merit a heavier penalty.

We adopt the findings of the IBP on the unethical conduct of respondent but we modify the recommended penalty.

The complaint before us is rooted on the alleged intrusion by respondent into complainant's professional practice in violation of Rule 8.02 of the CPR. And the means employed by respondent in furtherance of the said misconduct themselves constituted distinct violations of ethical rules.

Canons of the CPR are rules of conduct all lawyers must adhere to, including the manner by which a lawyer's services are to be made known. Thus, Canon 3 of the CPR provides:

CANON 3 - A LAWYER IN MAKING KNOWN HIS LEGAL SERVICES SHALL  
USE ONLY TRUE, HONEST, FAIR, DIGNIFIED AND OBJECTIVE  
INFORMATION OR STATEMENT OF FACTS.

Time and time again, lawyers are reminded that the practice of law is a profession and not a business; lawyers should not advertise their talents as merchants advertise their wares.<sup>[13]</sup> To allow a lawyer to advertise his talent or skill is to commercialize the practice of law, degrade the profession in the public's estimation and impair its ability to efficiently render that high character of service to which every member of the bar is called.<sup>[14]</sup>

Rule 2.03 of the CPR provides:

RULE 2.03. A LAWYER SHALL NOT DO OR PERMIT TO BE DONE ANY ACT DESIGNED PRIMARILY TO SOLICIT LEGAL BUSINESS.

Hence, lawyers are prohibited from soliciting cases for the purpose of gain, either personally or through paid agents or brokers.<sup>[15]</sup> Such actuation constitutes malpractice, a ground for disbarment.<sup>[16]</sup>

Rule 2.03 should be read in connection with Rule 1.03 of the CPR which provides:

RULE 1.03. A LAWYER SHALL NOT, FOR ANY CORRUPT MOTIVE OR INTEREST, ENCOURAGE ANY SUIT OR PROCEEDING OR DELAY ANY MAN'S CAUSE.

This rule proscribes "ambulance chasing" (the solicitation of almost any kind of legal business by an attorney, personally or through an agent in order to gain employment)<sup>[17]</sup> as a measure to protect the community from barratry and champerty.<sup>[18]</sup>

Complainant presented substantial evidence<sup>[19]</sup> (consisting of the sworn statements of the very same persons coaxed by Labiano and referred to respondent's office) to prove that respondent indeed solicited legal business as well as profited from referrals' suits.

Although respondent initially denied knowing Labiano in his answer, he later admitted it during the mandatory hearing.

Through Labiano's actions, respondent's law practice was benefited. Hapless seamen were enticed to transfer representation on the strength of Labiano's word that respondent could produce a more favorable result.

Based on the foregoing, respondent clearly solicited employment violating Rule 2.03, and Rule 1.03 and Canon 3 of the CPR and Section 27, Rule 138 of the Rules of Court.

With regard to respondent's violation of Rule 8.02 of the CPR, settled is the rule that a lawyer should not steal another lawyer's client nor induce the latter to retain him by a promise of better service, good result or reduced fees for his services.<sup>[20]</sup> Again the Court notes that respondent never denied having these seafarers in his client list nor receiving benefits from Labiano's "referrals." Furthermore, he never denied Labiano's connection to his office.<sup>[21]</sup> Respondent committed an unethical, predatory overstep into another's legal practice. He cannot escape liability under Rule 8.02 of the CPR.

Moreover, by engaging in a money-lending venture with his clients as borrowers, respondent violated Rule 16.04:

Rule 16.04 - A lawyer shall not borrow money from his client unless the client's interests are fully protected by the nature of the case or by