

EN BANC

[A.C. No. 5118 (A.C. CBD No. 97-485), September 09, 1999]

MARILOU SEBASTIAN, COMPLAINANT, VS. ATTY. DOROTHEO CALIS, RESPONDENT.

D E C I S I O N

PER CURIAM:

For unlawful, dishonest, immoral or deceitful conduct as well as violation of his oath as lawyer, respondent Atty. Dorotheo Calis faces disbarment.

The facts of this administrative case, as found by the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP),^[1] in its Report, are as follows:

Complainant (Marilou Sebastian) alleged that sometime in November, 1992, she was referred to the respondent who promised to process all necessary documents required for complainant's trip to the USA for a fee of One Hundred Fifty Thousand Pesos (P150,000.00).

On December 1, 1992 the complainant made a partial payment of the required fee in the amount of Twenty Thousand Pesos (P20,000.00), which was received by Ester Calis, wife of the respondent for which a receipt was issued.

From the period of January 1993 to May 1994 complainant had several conferences with the respondent regarding the processing of her travel documents. To facilitate the processing, respondent demanded an additional amount of Sixty Five Thousand Pesos (P65,000.00) and prevailed upon complainant to resign from her job as stenographer with the Commission on Human Rights.

On June 20, 1994, to expedite the processing of her travel documents complainant issued Planters Development Bank Check No. 12026524 in the amount of Sixty Five Thousand Pesos (P65,000.00) in favor of Atty. D. Calis who issued a receipt. After receipt of said amount, respondent furnished the complainant copies of Supplemental to U.S. Nonimmigrant Visa Application (Of. 156) and a list of questions which would be asked during interviews.

When complainant inquired about her passport, Atty. Calis informed the former that she will be assuming the name Lizette P. Ferrer married to Roberto Ferrer, employed as sales manager of Matiao Marketing, Inc. the complainant was furnished documents to support her assumed identity.

Realizing that she will be travelling with spurious documents, the complainant demanded the return of her money, however she was assured by respondent that there was nothing to worry about for he has been engaged in the business for quite sometime; with the promise that her money will be refunded if something goes wrong.

Weeks before her departure respondent demanded for the payment of the required fee which was paid by complainant, but the corresponding receipt was not given to her.

When complainant demanded for her passport, respondent assured the complainant that it will be given to her on her departure which was scheduled on September 6, 1994. On said date complainant was given her passport and visa issued in the name of Lizette P. Ferrer. Complainant left together with Jennyfer Belo and a certain Maribel who were also recruits of the respondent.

Upon arrival at the Singapore International Airport, complainant together with Jennyfer Belo and Maribel were apprehended by the Singapore Airport Officials for carrying spurious travel documents; Complainant contacted the respondent through overseas telephone call and informed him of by her predicament. From September 6 to 9, 1994, complainant was detained at Changi Prisons in Singapore.

On September 9, 1994 the complainant was deported back to the Philippines and respondent fetched her from the airport and brought her to his residence at 872-A Tres Marias Street, Sampaloc, Manila. Respondent took complainant's passport with a promise that he will secure new travel documents for complainant. Since complainant opted not to pursue with her travel, she demanded for the return of her money in the amount of One Hundred Fifty Thousand Pesos (P150,000.00).

On June 4, 1996, June 18 and July 5, 1996 respondent made partial refunds of P15,000.00; P6,000.00; and P5,000.00.

On December 19, 1996 the complainant through counsel, sent a demand letter to respondent for the refund of a remaining balance of One Hundred Fourteen Thousand Pesos (P114,000.00) which was ignored by the respondent.

Sometime in March 1997 the complainant went to see the respondent, however his wife informed her that the respondent was in Cebu attending to business matters.

In May 1997 the complainant again tried to see the respondent however she found out that the respondent had transferred to an unknown residence apparently with intentions to evade responsibility.

Attached to the complaint are the photocopies of receipts for the amount paid by complainant, applications for U.S.A. Visa, questions and answers asked during interviews; receipts acknowledging partial refunds of fees paid by the complainant together with demand letter for the remaining

balance of One Hundred Fourteen Thousand Pesos (P114,000.00); which was received by the respondent.^[2]

Despite several notices sent to the respondent requiring an answer to or comment on the complaint, there was no response. Respondent likewise failed to attend the scheduled hearings of the case. No appearance whatsoever was made by the respondent.^[3] As a result of the inexplicable failure, if not obdurate refusal of the respondent to comply with the orders of the Commission, the investigation against him proceeded *ex parte*.

On September 24, 1998, the Commission on Bar Discipline issued its Report on the case, finding that:

"It appears that the services of the respondent was engaged for the purpose of securing a visa for a U.S.A. travel of complainant. There was no mention of job placement or employment abroad, hence it is not correct to say that the respondent engaged in illegal recruitment.

The alleged proposal of the respondent to secure the U.S.A. visa for the complainant under an assumed name was accepted by the complainant which negates deceit on the part of the respondent. Noted likewise is the partial refunds made by the respondent of the fees paid by the complainant. However, the transfer of residence without a forwarding address indicates his attempt to escape responsibility.

In the light of the foregoing, we find that the respondent is guilty of gross misconduct for violating Canon 1 Rule 1.01 of the Code of Professional Responsibility which provides that a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

WHEREFORE, it is respectfully recommended that **ATTY. DOROTHEO CALIS** be **SUSPENDED** as a member of the bar until he fully refunds the fees paid to him by complainant and comply with the order of the Commission on Bar Discipline pursuant to Rule 139-B, Sec. 6 of the Rules of Court."^[4]

Pursuant to Section 12, Rule 139-B of the Rules of Court, this administrative case was elevated to the IBP Board of Governors for review. The Board in a Resolution^[5] dated December 4, 1998 resolved to adopt and approve with amendment the recommendation of the Commission. The Resolution of the Board states:

"RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution/Decisions as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, **with an amendment** that Respondent Atty. Dorotheo Calis be **DISBARRED** for having been found guilty of Gross Misconduct for engaging in unlawful, dishonest, immoral or deceitful conduct."

We are now called upon to evaluate, for final action, the IBP recommendation contained in its Resolution dated December 4, 1998, with its supporting report.