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The Court is not against lawyers raising grievances against erring judges but the rules clearly provide for the proper venue and procedure for doing so, precisely because respect for the institution must always be maintained.

**WHEREFORE,** in view of the foregoing, Atty. Rogelio Z. Bagabuyo is found guilty of violating Rule 11.05, Canon 11 and Rule 13.02, Canon 13 of the Code of Professional Responsibility, and of violating the Lawyer's Oath, for which he is *SUSPENDED* from the practice of law for one (1) year effective upon finality of this Decision, with a *STERN WARNING* that the repetition of a similar offense shall be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant to be appended to respondent's personal record as an attorney, the Integrated Bar of the Philippines, the Department of Justice, and all courts in the country for their information and guidance.

No costs.

**SO ORDERED.**

*Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Tinga, Chico-Nazario, Garcia, Velasco, Jr., Nachura,* and *Reyes, JJ.,* concur.

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**EN BANC**

[A.C. No. 7418. October 9, 2007]

**ANDREA BALCE CELAJE,** *complainant, vs.* **ATTY. SANTIAGO C. SORIANO,** *respondent.*

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**SYLLABUS**

**1. LEGAL ETHICS; CODE OF PROFESSIONAL RESPONSIBILITY (CPR); DUTY OF LAWYER TO ACCOUNT FOR ALL MONEY RECEIVED FROM THE CLIENT AND TO DELIVER THE SAME UPON DEMAND, VIOLATED IN CASE AT BAR. —** The Code of Professional Responsibility (CPR), particularly Canon 16 thereof, mandates that a lawyer shall hold in trust all moneys and properties of his client that may come into his possession. He shall account for all money or property collected or received from his client and shall deliver the funds and property of his client when due or upon demand. As found by Commissioner Funa, it was established that respondent could not account for ₱5,800.00 which was part of the sum given by complainant to him for the purpose of filing an injunctive bond. Respondent admitted having received from complainant ₱17,800.00 on April 19, 2002 for the preliminary injunction and admitted to having a balance of ₱9,000.00 in his promissory note to the Manila Insurance Co., Inc. dated April 23, 2002, which was reduced to ₱5,800.00 by reason of an additional payment of ₱4,000.00, leaving an amount of ₱5,800.00 unaccounted for. The affidavit of the insurance agent, Valentina Ramos, dated December 8, 2005 also states that even up to said date, respondent had not yet paid the balance of ₱5,800.00. Respondent's failure to return the money to complainant upon demand gave rise to the presumption that he misappropriated it for his own use to the prejudice of, and in violation of the trust reposed in him by his client. It is a gross violation of general morality and of professional ethics and impairs public confidence in the legal profession which deserves punishment. As the Court has pronounced, when a lawyer receives money from the client for a particular purpose, the lawyer is bound to render an accounting to the client showing that the money was spent for a particular purpose. And if he does not use the money for the intended purpose, the lawyer must immediately return the money to his client.

**2. ID.; REQUIRED INTEGRITY AND GOOD MORAL CHARACTER OF MEMBERS OF THE BAR, HIGHLIGHTED. —** The Court has been exacting in its demand for integrity and good moral character of members of the Bar who are expected at all times to uphold the integrity and dignity

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of the legal profession and refrain from any act or omission which might lessen the trust and confidence reposed by the public in the fidelity, honesty, and integrity of the legal profession. Indeed, membership in the legal profession is a privilege. The attorney-client relationship is highly fiduciary in nature. As such, it requires utmost good faith, loyalty, fidelity and disinterestedness on the part of the lawyer.

**3. ID.; ATTORNEYS; CODE OF PROFESSIONAL RESPONSIBILITY (CPR); CANON 16; PROPER PENALTY IS TWO YEARS SUSPENSION FROM THE PRACTICE OF LAW. —** In *Small v. Banares* the respondent was suspended for two years for violating Canon 16 of the CPR, particularly for failing to file a case for which the amount of ₱80,000.00 was given him by his client, and for failing to return the said amount upon demand. Considering that similar circumstances are attendant in this case, the Court finds the Resolution of the IBP imposing on respondent a two-year suspension to be in order.

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

**AUSTRIA-MARTINEZ, *J.*:**

Before this Court is a disbarment case filed against Atty. Santiago C. Soriano (respondent) for gross misconduct.

In the Complaint dated June 1, 2005 filed before the Integrated Bar of the Philippines (IBP), Andrea Balce Celaje (complainant) alleged that respondent asked for money to be put up as an injunction bond, which complainant found out later, however, to be unnecessary as the application for the writ was denied by the trial court. Respondent also asked for money on several occasions allegedly to spend for or to be given to the judge handling their case, Judge Milagros Quijano, of the Regional Trial Court, Iriga City, Branch 36. When complainant approached Judge Quijano and asked whether what respondent was saying was true, Judge Quijano outrightly denied the allegations and advised her to file an administrative case against respondent.[1]

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[1] *Rollo,* pp. 4-8.

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In his Answer, respondent denied the charges against him and averred that the same were merely concocted by complainant to destroy his character. He also contended that it was complainant who boasted that she is a professional fixer in administrative agencies as well as in the judiciary; and that complainant promised to pay him large amounts of attorney's fees which complainant however did not keep.[2]

Both parties appeared in the Mandatory Conference and Hearing on January 18, 2006. Thereafter, the case was submitted for decision.[3]

In the Report and Recommendation dated January 24, 2006, IBP-Commission on Bar Discipline Commissioner Dennis A.B. Funa found respondent guilty of Gross Misconduct in his relations with his client and recommended that respondent be suspended for three years from the practice of law.[4]

In the Report, Commissioner Funa found that:

> During the hearing conducted, Complainant alleged that she has remitted to Respondent, on various dates, amounts of money totaling to **more or less ₱270,000.00**.
>
> According to Complainant the amounts given in several instances were all undocumented and not acknowledged in writing.
>
> However, for the alleged amount of ₱14,000.00 **intended for an injunction bond**, some documents in writing were made.
>
> x x x x x x x x x
>
> While the amounts remitted by Complainant to Respondent were never acknowledged in writing and were not documented, **due credence** must be given to Complainant's allegations especially over the amount of ₱14,800.00 intended for the injunction. Indeed, there is **no ill-motive at all on the part of Complainant to fabricate charges** against Respondent. Unfortunately, none of the ₱270,000.00 given by Complainant to Respondent was ever documented and

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[2] *Id*. at 18-20.

[3] *Id*. at 21, 31-32.

[4] *Id*. at 38-43.

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therefore accuracy of the amounts could not be established and substantiated.

What has been documented only pertains to the unpaid ₱5,800.00 intended for the injunction bond. However, it has been established that indeed an accumulated amount of ₱9,000.00 has been remitted by Respondent to Valentina Ramos and **only the unpaid ₱5,800.00 remains unaccounted for by the Respondent**.

During the hearing conducted, Complainant reiterated her accusations against the Respondent and expressed that she has been aggrieved and misled by Respondent. According to Complainant, this was made possible because **she was not aware of or knowledgeable on legal matters and practices**. Respondent has only offered denials to the charges. However, the circumstances gives credibility to herein Complainant in the absence of any evil motive on her part.

Accordingly, Respondent is clearly guilty of *misappropriating his client's funds* **in the amount of ₱5,800.00.** While other amounts may have been misappropriated, Complainant alleges ₱270,000.00, the exactness of the amounts could not be established.

Respondent is also guilty of **deceiving his client** and abusing his client's confidence **in requesting for several amounts of money on the pretense that he had to spend for and pay the trial judge**.

Respondent is hereby ORDERED to immediately deliver the unaccounted for amount of Five Thousand Eight Hundred Pesos (₱5,800.00) to Complainant, submitting a Compliance Report thereon.[5]

On September 8, 2006, the Board of Governors of the IBP passed a Resolution thus:

*RESOLVED to ADOPT and Approve, as it is hereby ADOPTED and APPROVED,* ***with modification****, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A-; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that Respondent is guilty of gross misconduct for misappropriating*

[5] *Id*. at 40-43.

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*his client's funds, Atty. Santiago C. Soriano is hereby* ***SUSPENDED*** *from the practice of law for two (2) years and likewise Ordered to immediately deliver that unaccounted amount of ₱5,800.00 to complainant.*[6]

The IBP transmitted the Notice of Resolution issued by the IBP Board of Governors as well as the records of the case, pursuant to Rule 139-B.[7] Then in compliance with the Court's Resolution dated February 20, 2007, the IBP through Director for Discipline Rogelio Vinluan informed the Court that per records of the IBP, no Motion for Reconsideration was filed by either party.

The Court agrees with the IBP Resolution.

The Code of Professional Responsibility (CPR), particularly Canon 16 thereof, mandates that a lawyer shall hold in trust all moneys and properties of his client that may come into his possession. He shall account for all money or property collected or received from his client[8] and shall deliver the funds and property of his client when due or upon demand.[9]

As found by Commissioner Funa, it was established that respondent could not account for ₱5,800.00 which was part of the sum given by complainant to him for the purpose of filing an injunctive bond. Respondent admitted having received from complainant ₱17,800.00 on April 19, 2002 for the preliminary injunction[10] and admitted to having a balance of ₱9,000.00 in his promissory note to the Manila Insurance Co., Inc. dated April 23, 2002, which was reduced to ₱5,800.00 by reason of an additional payment of ₱4,000.00,[11] leaving an amount of ₱5,800.00 unaccounted for. The affidavit of the insurance

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[6] *Id.* at 37.

[7] *Id.* at 35.

[8] Rule 16.01.

[9] Rule 16.03.

[10] Exh. "A", *Rollo*, p. 25.

[11] Exh. "B", *Rollo*, p. 26.

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agent, Valentina Ramos, dated December 8, 2005 also states that even up to said date, respondent had not yet paid the balance of ₱5,800.00.[12]

Respondent's failure to return the money to complainant upon demand gave rise to the presumption that he misappropriated it for his own use to the prejudice of, and in violation of the trust reposed in him by his client.[13] It is a gross violation of general morality and of professional ethics and impairs public confidence in the legal profession which deserves punishment.[14]

As the Court has pronounced, when a lawyer receives money from the client for a particular purpose, the lawyer is bound to render an accounting to the client showing that the money was spent for a particular purpose. And if he does not use the money for the intended purpose, the lawyer must immediately return the money to his client.[15]

The Court has been exacting in its demand for integrity and good moral character of members of the Bar who are expected at all times to uphold the integrity and dignity of the legal profession and refrain from any act or omission which might lessen the trust and confidence reposed by the public in the fidelity, honesty, and integrity of the legal profession. Indeed, membership in the legal profession is a privilege.[16] The attorney-client relationship is highly fiduciary in nature. As such, it

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[12] Exh. "D", *Rollo*, p. 28.

[13] *Almendarez, Jr. v. Langit,* A.C. No. 7057, July 25, 2006, 496 SCRA 402, 407; *Espiritu v. Ulep*, A.C. No. 5808, May 4, 2005, 458 SCRA 1, 9; *Aldovino v. Pujalte, Jr.* A.C. No. 5082, February 17, 2004, 423 SCRA 135, 140.

[14] *Almendarez, Jr. v. Langit, supra* note 13, at 407; *Espiritu v. Ulep, supra* note 13, at 9.

[15] *Small v. Banares*, A.C. No. 7021, February 21, 2007 citing *Meneses v. Macalino*, A.C. No. 6651, February 27, 2006, 483 SCRA 212; *Barnachea v. Quiocho*, 447 Phil. 67, 75 (2003).

[16] *Aldovino v. Pujalte, Jr., supra* note 13, at 140-141.

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requires utmost good faith, loyalty, fidelity and disinterestedness on the part of the lawyer.[17]

In *Small v. Banares*[18] the respondent was suspended for two years for violating Canon 16 of the CPR, particularly for failing to file a case for which the amount of ₱80,000.00 was given him by his client, and for failing to return the said amount upon demand. Considering that similar circumstances are attendant in this case, the Court finds the Resolution of the IBP imposing on respondent a two-year suspension to be in order.

**WHEREFORE,** respondent Atty. Santiago C. Soriano is found *GUILTY* of violating Canon 16 of the Code of Professional Responsibility and is hereby *SUSPENDED* from the practice of law for a period of two (2) years from notice, with a *STERN WARNING* that a repetition of the same or similar acts shall be dealt with more severely.

Respondent is further ordered to restitute to his clients through Andrea Balce Celaje, within 30 days from notice, the amount of ₱5,800.00. Respondent is directed to submit to the Court proof of payment within fifteen days from payment of the full amount.

Let copies of this Resolution be furnished all courts of the land, the Integrated Bar of the Philippines, as well as the Office of the Bar Confidant for their information and guidance, and let it be entered in respondent's record in this Court.

**SO ORDERED.**

*Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Nachura,* and *Reyes, JJ.,* concur.

*Velasco, Jr., J.,* on leave.

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[17] *Almendarez, Jr. v. Langit, supra* note 13, at 409; *Espiritu v. Ulep, supra* note 13, at 8.

[18] *Supra* note 15.