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Considering that this is respondent's first infraction, disbarment as sought by the complaint is deemed to be too severe. Under the present circumstances, we find that a suspension from the practice of law for three years is warranted.

WHEREFORE, Atty. Danilo de la Torre is found *GUILTY* of violation of Rule 15.03 of the Code of Professional Responsibility for representing conflicting interests. He is *SUSPENDED* for *THREE YEARS* from the practice of law, effective upon his receipt of this Decision. He is *WARNED* that a repetition of the same or similar acts will be dealt with more severely.

Let copies of this Decision be entered in the record of respondent and served on the IBP, as well as on the Court Administrator who shall circulate it to all courts for their information and guidance.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and *Garcia, JJ.*, concur.

FIRST DIVISION

[A.C. No. 7023. March 30, 2006]

BUN SIONG YAO, *complainant, vs.* **ATTY. LEONARDO A. AURELIO,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; CODE OF PROFESSIONAL RESPONSIBILITY; LAWYER-CLIENT RELATIONSHIP; ELUCIDATED.— It

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is essential to note that the relationship between an attorney and his client is a fiduciary one. Canon 17 of the Code of Professional Responsibility provides that a lawyer owes fidelity to the cause of his client and shall be mindful of the trust and confidence reposed on him. The long-established rule is that an attorney is not permitted to disclose communications made to him in his professional character by a client, unless the latter consents. This obligation to preserve the confidences and secrets of a client arises at the inception of their relationship. The protection given to the client is perpetual and does not cease with the termination of the litigation, nor is it affected by the party's ceasing to employ the attorney and retaining another, or by any other change of relation between them. It even survives the death of the client. Lawyers must conduct themselves, especially in their dealings with their clients and the public at large, with honesty and integrity in a manner beyond reproach. Lawyers cannot be allowed to exploit their profession for the purpose of exacting vengeance or as a tool for instigating hostility against any person—most especially against a client or former client.

2. **ID.; ID.; ID.; VIOLATED WHEN LAWYER UTILIZED AGAINST HIS CLIENT INFORMATION OBTAINED FROM THE LATTER.**— Respondent's act of filing multiple suits on similar causes of action in different venues constitutes forum-shopping, as correctly found by the investigating commissioner. This highlights his motives rather than his cause of action. Respondent took advantage of his being a lawyer in order to get back at the complainant. In doing so, he has inevitably utilized information he has obtained from his dealings with complainant and complainant's companies for his own end. In sum, we find that respondent's actuations amount to a breach of his duty to uphold good faith and fairness, sufficient to warrant the imposition of disciplinary sanction against him.

APPEARANCES OF COUNSEL

Teresita Gandionco Oledan for complainant.

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DECISION

YNARES-SANTIAGO, *J.*:

On November 11, 2004, a complaint-affidavit[1] was filed against Atty. Leonardo A. Aurelio by Bun Siong Yao before the Integrated Bar of the Philippines (IBP) seeking for his disbarment for alleged violations of the Code of Professional Responsibility.

The complainant alleged that since 1987 he retained the services of respondent as his personal lawyer; that respondent is a stockholder and the retained counsel of Solar Farms & Livelihood Corporation and Solar Textile Finishing Corporation of which complainant is a majority stockholder; that complainant purchased several parcels of land using his personal funds but were registered in the name of the corporations upon the advice of respondent; that respondent, who was also the brother-in-law of complainant's wife, had in 1999 a disagreement with the latter and thereafter respondent demanded the return of his investment in the corporations but when complainant refused to pay, he filed eight charges for estafa and falsification of commercial documents against the complainant and his wife and the other officers of the corporation; that respondent also filed a complaint against complainant for alleged non-compliance with the reportorial requirements of the Securities and Exchange Commission (SEC) with the Office of the City Prosecutor of Mandaluyong City and another complaint with the Office of the City Prosecutor of Malabon City for alleged violation of Section 75 of the Corporation Code; that respondent also filed a similar complaint before the Office of the City Prosecutor of San Jose Del Monte, Bulacan.

Complainant alleged that the series of suits filed against him and his wife is a form of harassment and constitutes an abuse of the confidential information which respondent obtained by virtue of his employment as counsel. Complainant argued that

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[1] *Rollo*, pp. 1-10.

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respondent is guilty of representing conflicting interests when he filed several suits not only against the complainant and the other officers of the corporation, but also against the two corporations of which he is both a stockholder and retained counsel.

Respondent claimed that he handled several labor cases in behalf of Solar Textile Finishing Corporation; that the funds used to purchase several parcels of land were not the personal funds of complainant but pertain to Solar Farms & Livelihood Corporation; that since 1999 he was no longer the counsel for complainant or Solar Textile Finishing Corporation; that he never used any confidential information in pursuing the criminal cases he filed but only used those information which he obtained by virtue of his being a stockholder.

He further alleged that his requests for copies of the financial statements were ignored by the complainant and his wife hence he was constrained to file criminal complaints for estafa thru concealment of documents; that when he was furnished copies of the financial statements, he discovered that several parcels of land were not included in the balance sheet of the corporations; that the financial statements indicated that the corporations suffered losses when in fact it paid cash dividends to its stockholders, hence, he filed additional complaints for falsification of commercial documents and violation of reportorial requirements of the SEC.

On July 19, 2005, the Investigating Commissioner[2] submitted a Report and Recommendation[3] finding that from 1987 up to 1999, respondent had been the personal lawyer of the complainant and incorporator and counsel of Solar Farms & Livelihood Corporation. However, in 1999 complainant discontinued availing of the services of respondent in view of the admission of his (complainant's) son to the bar; he also discontinued paying dividends to respondent and even concealed

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[2] Lydia A. Navarro.

[3] *Rollo*, pp. 187-195.

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from him the corporations' financial statements which compelled the respondent to file the multiple criminal and civil cases in the exercise of his rights as a stockholder.

The investigating commissioner further noted that respondent is guilty of forum shopping when he filed identical charges against the complainant before the Office of the City Prosecutor of Malabon City and in the Office of the City Prosecutor of San Jose del Monte, Bulacan. It was also observed that respondent was remiss in his duty as counsel and incorporator of both corporations for failing to advise the officers of the corporation, which he was incidentally a member of the Board of Directors, to comply with the reportorial requirements of the SEC and the Bureau of Internal Revenue. Instead, he filed cases against his clients, thereby representing conflicting interests.

The investigating commissioner recommended that respondent be suspended from the practice of law for a period of six months[4] which was adopted and approved by the IBP Board of Governors.

We agree with the findings and recommendation of the IBP.

We find that the professional relationship between the complainant and the respondent is more extensive than his protestations that he only handled isolated labor cases for the complainant's corporations. Aside from being the brother-in-law of complainant's wife, it appears that even before the inception of the companies, respondent was already providing legal services to the complainant, thus:

COMM. NAVARRO:

> Was there a formal designation or you where only called upon to do so?

ATTY. AURELIO:

> *Well, I understand in order to show to the employees that they have labor lawyer and at that time I went to the office at least half day every week but that was cut short. And so when there are cases that crop-up involving labor then they called me up.*

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[4] *Id.* at 195.

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ATTY. OLEDAN:

Will counsel deny that he was the personal lawyer of the complainant long before he joined the company?

ATTY. AURELIO:

Yes, with respect to the boundary dispute between his land and his neighbor but the subject matter of all the cases I filed they all revolved around the Financial Statement of the 2 corporations. I never devolves any information with respect to labor cases and the MERALCO case with respect to boundary dispute, nothing I used.

ATTY. OLEDAN:

Was he not also the lawyer at that time of complainant when he incorporated the second corporation in 1992?

ATTY. AURELIO:

Well, I was the one submitted the corporate papers and I think after that I have nothing to do with the SEC requirements regarding this corporation. Just to submit the incorporation papers to the SEC and anyway they have already done that before. They have already created or established the first corporation way back before the second corporation started and there was no instance where I dealt with the Financial Statement of the corporation with respect to its filing with the SEC.

ATTY. OLEDAN:

My only question is whether he incorporated and therefore was aware of the corporate matters involving Solar Farms?

ATTY. AURELIO:

As a stockholder I'm aware.

ATTY. OLEDAN:

As a lawyer?

ATTY. AURELIO:

Well, as a stockholder I'm aware.

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ATTY. OLEDAN:

You are not the one who filed....

ATTY. AURELIO:

I was the one who filed the corporate paper but that's all the participation I had with respect to the requirement of the SEC with respect to the corporation.

COMM. NAVARRO:

So, you acted as legal counsel of the corporation even before the initial stage of the incorporation?

ATTY. AURELIO:

There are two (2) corporations involving in this case, Your Honor, and the first was I think Solar Textile and this was....

COMM. NAVARRO:

You were already the legal counsel?

ATTY. AURELIO:

No, this was created before I became a stockholder.

COMM. NAVARRO:

Who was then the legal counsel before of Solar?

MR. YAO:

Siya pa rin pero hindi pa siya stockholder.

ATTY. OLEDAN:

Because, Your Honor, he happens to be the brother-in-law of the wife of the complainant and he is the husband of the wife of her sister so that's why he was... (inaudible)... other legal matters even before the corporation that was formed and he became also a stockholder and in fact he charge the corporation certain amounts for professional service rendered it is part of the Resolution of the Office of the City Prosecutor of Malabon as annex to the complaint so he cannot say that he only presented, that he only filed the papers at SEC and aside from that when the corporation, the Solar Farms was already formed and the property which he is now questioning was purchased by complainant. He was the one who negotiated with the buyer, he was always with the complainant and precisely acted as complainant's personal lawyer. The truth of the matter he is questioning the boundary and in fact

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> complainant had survey conducted in said parcel of land which he bought with the assistance and legal advice of respondent and in fact complainant gave him only a copy of that survey. Him alone. And he used this particular copy to insists that this property allegedly belong to the corporation when in truth and in fact he was fully aware that it was the complainant's personal funds that were used to pay for the whole area and this was supported by the stockholders who admitted that they were aware that the parcel of land which he claims does not appear in the Financial Statement of the corporation was purchased by the complainant subject to reimbursement by the Board and should the corporation finally have sufficient fund to cover the payment advance by complainant then the property will be transferred to the corporation. All of these facts he was privy to it, Your Honor, so he cannot say that and he is also a stockholder but the fact is, prior to the incorporation and during the negotiation he was the personal counsel of the complainant.[5]

It appears that the parties' relationship was not just professional, but they are also related by affinity. The disagreement between complainant's wife and the respondent affected their professional relationship. Complainant's refusal to disclose certain financial records prompted respondent to retaliate by filing several suits.

It is essential to note that the relationship between an attorney and his client is a fiduciary one.[6] Canon 17 of the Code of Professional Responsibility provides that a lawyer owes fidelity to the cause of his client and shall be mindful of the trust and confidence reposed on him. The long-established rule is that an attorney is not permitted to disclose communications made to him in his professional character by a client, unless the latter consents. This obligation to preserve the confidences and secrets of a client arises at the inception of their relationship. The protection given to the client is perpetual and does not cease

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[5] *Id.* at 159-168.

[6] *Sumaoang v. Judge, Regional Trial Court of Guimba, Nueve Ecija, Br. 31*, G.R. No. 78173, October 26, 1992, 215 SCRA 136, 143.

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with the termination of the litigation, nor is it affected by the party's ceasing to employ the attorney and retaining another, or by any other change of relation between them. It even survives the death of the client.[7]

Notwithstanding the veracity of his allegations, respondent's act of filing multiple suits on similar causes of action in different venues constitutes forum-shopping, as correctly found by the investigating commissioner. This highlights his motives rather than his cause of action. Respondent took advantage of his being a lawyer in order to get back at the complainant. In doing so, he has inevitably utilized information he has obtained from his dealings with complainant and complainant's companies for his own end.

Lawyers must conduct themselves, especially in their dealings with their clients and the public at large, with honesty and integrity in a manner beyond reproach.[8] Lawyers cannot be allowed to exploit their profession for the purpose of exacting vengeance or as a tool for instigating hostility against any person—most especially against a client or former client. As we stated in *Marcelo v. Javier, Sr.*:[9]

> A lawyer shall at all times uphold the integrity and dignity of the legal profession. The trust and confidence necessarily reposed by clients require in the attorney a high standard and appreciation of his duty to his clients, his profession, the courts and the public. The bar should maintain a high standard of legal proficiency as well as of honesty and fair dealing. Generally speaking, a lawyer can do honor to the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients. *To this end, nothing should be done by any member of the legal fraternity which might tend to lessen in any degree the confidence of the public in the fidelity, honesty and integrity of the profession.*[10] (Italics supplied)

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[7] *Genato v. Silapan*, 453 Phil. 910, 917 (2003).

[8] *De Guzman v. De Dios*, A.C. No. 4943, January 26, 2001, 350 SCRA 320, 324.

[9] A.C. No. 3248, September 18, 1992, 214 SCRA 1.

[10] *Id.* at 12-13.

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In sum, we find that respondent's actuations amount to a breach of his duty to uphold good faith and fairness, sufficient to warrant the imposition of disciplinary sanction against him.

WHEREFORE, respondent Atty. Leonardo A. Aurelio is ordered *SUSPENDED* from the practice of law for a period of SIX (6) MONTHS effective upon receipt of this Decision. Let a copy of this Decision be furnished the Office of the Bar Confidant and the Integrated Bar of the Philippines. The Court Administrator is directed to circulate this order of suspension to all courts in the country.

SO ORDERED.

Panganiban, C.J. (Chairperson), Austria-Martinez, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.

EN BANC

[A.M. No. 06-2-43-MTC. March 30, 2006]

RE: FINANCIAL AUDIT ON THE BOOKS OF ACCOUNT OF MS. LAURA D. DELANTAR, CLERK OF COURT, MTC, LEYTE, LEYTE.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; REQUIRED DECORUM.**— Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives. Those charged with the dispensation of justice, from the justices and judges to the lowliest clerks, should be circumscribed with the heavy burden of responsibility. Not only must their conduct at all times be