Supreme Court E-Library

that commission of a similar infraction will be dealt with more severely. Resolution No. XX-2011-246 dated November 19, 2011 of the Integrated Bar of the Philippines is **SET ASIDE.** A.C. No. 4549 is **DISMISSED** without prejudice.

Let a copy of this Resolution be entered in the personal records of respondent as a member of the Bar, and copies furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Carpio (Chairperson), Brion, Perez, and *Perlas-Bernabe, JJ.,* concur.

SECOND DIVISION

[A.C. No. 5044. December 2, 2013]

FELIPE C. DAGALA, *complainant, vs.* **ATTY. JOSE C. QUESADA, JR. and ATTY. AMADO T. ADQUILEN,**[*] *respondents.*

SYLLABUS

1. LEGAL ETHICS; CODE OF PROFESSIONAL RESPONSIBILITY; THE RELATIONSHIP BETWEEN A LAWYER AND HIS CLIENT IS ONE IMBUED WITH UTMOST TRUST AND CONFIDENCE; SUSTAINED.— The Court has repeatedly emphasized that the relationship between a lawyer and his client is one imbued with utmost trust and confidence. In this regard, clients are led to expect

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[*] Passed away on June 22, 2008 as shown in the certificate at Death; see *rollo*, pp. 277-278.

Supreme Court E-Library

that lawyers would be ever-mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs. For his part, the lawyer is required to maintain at all times a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether he accepts it for a fee or for free. He is likewise expected to act with honesty in all his dealings, especially with the courts. These principles are embodied in Rule 1.01 of Canon 1, Rule 10.01 of Canon 10, Canon 17 and Rule 18.03 of Canon 18 of the Code.

2. ID.; ID.; A RETAINED COUNSEL IS EXPECTED TO SERVE THE CLIENT WITH COMPETENCE AND DILIGENCE AND NOT TO SIT IDLY BY AND LEAVE THE RIGHTS OF HIS CLIENT IN A STATE OF UNCERTAINTY; VIOLATION IN CASE AT BAR.— It bears stressing that a retained counsel is expected to serve the client with competence and diligence and not to sit idly by and leave the rights of his client in a state of uncertainty. To this end, he is oblige to attend scheduled hearings or conferences, prepare and file the required pleadings, prosecute the handled cases with reasonable dispatch, and urge their termination without waiting for the client or the court to prod him or her to do so. Atty. Quesada's failure to attend the scheduled conference hearings, despite due notice and without any proper justification, exhibits his inexcusable lack of care and diligence in managing his client's cause in violation of Canon 17 and Rule 18.03, Canon 18 of the Code. Moreover, Atty. Quesada acted with less candor and good faith in the proceedings before the IBP-CBD when he denied the existence of any lawyer-client relationship between him and complainant, and claimed that the labor case was handled by another lawyer, despite his previous admission before the Court of having accepted complainant's case. x x x While the IBP-CBD is not a court, the proceedings therein are nonetheless part of a judicial proceeding, a disciplinary action being in reality an investigation by the Court into the misconduct of its officers or an examination into his character. Besides, Atty. Quesada failed to rebut the allegation that complainant's corresponding failure to appear during the mandatory conference hearings in NLRC Case No. RAB-I-11-1123-94 was upon his counsel's advice. Under the premises, it is therefore reasonable to conclude that Atty. Quesada had indulged in deliberate

Supreme Court E-Library

falsehood, contrary to the prescriptions under Rule 1.01, Canon 1 and Rule 10.01, Canon 10 of the Code.

3. **ID.; ID.; VIOLATION THEREOF; THE APPROPRIATE PENALTY ON AN ERRANT LAWYER DEPENDS ON THE EXERCISE OF SOUND DISCRETION BASED ON THE SURROUNDING FACTS; APPLICATION IN CASE AT BAR.—** The appropriate penalty on an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts. In *Conlu v. Aredonia, Jr.*, a lawyer was suspended from the practice of law for a period of one (1) year for inexcusable negligence that resulted in the dismissal of complainant's appeal and for misrepresentations committed before the CA, in violation of Rule 1.01, Canon 1, Rule 10.01, Canon 10 and Rule 18.03, Canon 18 of the Code. In the cases of *Cheng v. Atty. Agravante* and *Perea v. Atty. Almadro*, respondent-lawyers were similarly punished for their negligence in the discharge of their duties to their client and for misrepresentation committed before the Court, in violation of Rule 10.01, Canon 10 and Rule 18.03, Canon 18 of the Code. Hence, consistent with existing jurisprudence, the Court adopts the penalty recommended by the IBP and accordingly suspends Atty. Quesada for a period of one (1) year.

4. **ID.; ID.; ID.; LIABILITIES OF THE PARTIES WHICH ARE PURELY CIVIL IN NATURE SHOULD BE THRESHED OUT IN A PROPER PROCEEDING OF SUCH NATURE AND NOT DURING ADMINISTRATIVE-DISCIPLINARY PROCEEDINGS; CASE AT BAR.—** The Court must, however, clarify that the foregoing resolution should not include a directive to return the amount of ₱74,000.00 as ordered by the IBP in its November 19, 2011 Resolution which represents the settlement initially offered by Capitol in the dismissed labor case. The return of the said amount partakes the nature of a purely civil liability which should not be dealt with during an administrative-disciplinary proceeding such as this case. In *Tria-Samonte v. Obias*, the Court recently illumined that disciplinary proceedings against lawyers are only confined to the issue of whether or not the respondent-lawyer is still fit to be allowed to continue as a member of the Bar and that the only concern is his administrative liability. Thus, matters which have no intrinsic link to the lawyer's professional engagement, such as the liabilities of the parties which are purely civil in

Supreme Court E-Library

nature, should be threshed out in a proper proceeding of such nature, and not during administrative-disciplinary proceedings, as in this case.

R E S O L U T I O N

PERLAS-BERNABE, *J.*:

For the Court's resolution is an administrative complaint[1] filed by complainant Felipe C. Dagala (complainant) against respondents Atty. Jose C. Quesada, Jr. (Atty. Quesada) and Atty. Amado T. Adquilen (Atty. Adquilen), charging them for gross negligence in handling his labor complaints.

The Facts

On November 8, 1994, complainant, assisted by Atty. Quesada, filed before the National Labor Relations Commission (NLRC), Regional Arbitration Branch No. I, San Fernando City, La Union (NLRC-RAB) a Complaint[2] for illegal dismissal, overtime pay, separation pay, damages and attorney's fees against Capitol Allied Trading & Transport (Capitol), and its owner and General Manager, Lourdes Gutierrez, as well as its Personnel Manager, Joseph G. De Jesus, docketed as NLRC Case No. RAB-I-11-1123-94. The said case was, however, dismissed without prejudice, through an Order[3] dated December 13, 1994 (December 13, 1994 Order), for failure of complainant and Atty. Quesada to appear during the two (2) scheduled mandatory conference hearings despite due notice.

Thereafter, complainant engaged the services of Atty. Adquilen, a former Labor Arbiter (LA) of the NLRC-RAB, who re-filed his labor case, re-docketed as NLRC Case No. RAB-I-10-1091-95 (LU).[4] Similarly, the case was dismissed without prejudice

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[1] *Id*. at 1-12.

[2] *Id*. at 13.

[3] *Id*. at 14-15. Penned by Executive Labor Arbiter Norma C. Olegario.

[4] *Id*. at 18.

Supreme Court E-Library

on June 28, 1996, this time due to the parties' failure to submit their respective position papers.[5]

Complainant and Atty. Adquilen re-filed the case for a third time on August 27, 1996, docketed as NLRC Case No. RAB-I-08-1191-96 (LU).[6] During its pendency, the representative of Capitol purportedly offered the amount of ₱74,000.00 as settlement of complainant's claim, conditioned on the submission of the latter's position paper.[7] Atty. Adquilen, however, failed to submit one, resulting in the dismissal of the complaint "for lack of interest and failure to prosecute" as stated in an Order[8] dated February 27, 1997 (February 27, 1997 Order). Atty. Adquilen and complainant received notice of the said order on March 11, 1997 and March 24, 1997,[9] respectively.

On July 11, 1997, complainant – this time assisted by Atty. Imelda L. Picar (Atty. Picar) – filed a motion for reconsideration[10] from the February 27, 1997 Order, which was treated as an appeal and transmitted to the NLRC-National Capital Region (NLRC-NCR).[11] However, the NLRC-NCR dismissed the same in a Resolution[12] dated June 17, 1998 for having been filed out of time, adding that the negligence of counsel binds the client.[13]

Due to the foregoing, Atty. Picar sent separate letters[14] dated November 18, 1998 to respondents, informing them that

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[5] *Id*. at 58.

[6] *Id*. at 19.

[7] *Id*. at 5.

[8] *Id*. at 58-59. Penned by Labor Arbiter Irenarco R. Rimando.

[9] *Id*. at 20.

[10] *Id*. at 42-57.

[11] *Id*. at 20. See Order dated July 15, 1997.

[12] *Id*. at 61-64. Penned by Commissioner Alberto R. Quimpo, with Presiding Commissioner Rogelio I. Rayala and Commissioner Vicente S.E. Veloso (now Associate Justice of the Court of Appeals), concurring.

[13] *Id*. at 63.

[14] *Id*. at 68 and 70.

Supreme Court E-Library

complainant is in the process of pursuing administrative cases against them before the Court. Nevertheless, as complainant remains open to the possibility of settlement, respondents were invited to discuss the matter at Atty. Picar's office. Only Atty. Quesada responded to the said letter and subsequently, through a Memorandum of Agreement[15] dated December 5, 1998 (December 5, 1998 MoA), undertook to compensate the damages sustained by complainant in consideration of the non-filing of an administrative complaint against him. Atty. Quesada, however, reneged on his promise, thus prompting complainant to proceed with the present complaint.[16]

In a Resolution[17] dated June 21, 1999, the Court directed respondents to comment on the Complaint within ten (10) days from notice. However, despite notices[18] and the extension granted,[19] Atty. Adquilen failed to comply with the directive and the subsequent show-cause resolutions.[20] Accordingly, a fine in the amount of ₱500.00 was imposed[21] against him, which he duly paid on September 19, 2005.[22]

On the other hand, Atty. Quesada, in his Comment,[23] admitted having accepted and filed the initial labor case for complainant. He, however, explained that he was unable to file the required position paper due to complainant's failure to furnish him with the employment records and other relevant documents. He also claimed that when he was informed of the dismissal of the case

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[15] *Id*. at 72-73.

[16] *Id*. at 9-10.

[17] *Id*. at 129.

[18] *Id*. at 129 and 181-182, dorsal portion.

[19] See Resolution dated November 7, 2005; *id*. at 193.

[20] See Resolutions dated December 6, 2000 and February 11, 2004; *id*. at 171 and 182.

[21] See Resolution dated June 27, 2005; *id*. at 183.

[22] Evidenced by Official Receipt No. 1866259 A; *id*. at 189.

[23] *Id*. at 130-133.

Supreme Court E-Library

without prejudice, he advised complainant to re-file the case with the assistance of another lawyer as he had to attend to his duties as Chairman of the Laban ng Demokratikong Pilipino for the Second District of La Union Province.[24] Anent the December 5, 1998 MoA, Atty. Quesada alleged that he was merely prevailed upon to sign the same for fear of losing his means of livelihood and license to practice law, and that he had no intention of reneging on his promise to pay. Nonetheless, despite earnest efforts, he still failed to come up with the agreed-upon amount.[25]

In a Resolution[26] dated March 27, 2006, the Court resolved to refer the instant administrative case to the Integrated Bar of the Philippines (IBP) for evaluation, report and recommendation or decision.

The Proceedings Before the IBP

The IBP Commission on Bar Discipline (IBP-CBD) set the case for mandatory conference on August 25, 2006 and required the parties to submit their respective briefs.[27] Complainant was duly represented[28] by his counsel at the hearing,[29] while respondents filed separate motions to reset, only to subsequently waive their respective appearances. Atty. Adquilen attributed the waiver to his medical condition;[30] on the other hand, in a complete turnaround, Atty. Quesada denied the existence of any lawyer-client relationship between him and complainant.[31]

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[24] *Id*. at 130-131.

[25] *Id*. at 132.

[26] *Id*. at 194.

[27] See Notice of Mandatory Conference dated June 13, 2006; *id*. at 197.

[28] See Special Power of Attorney dated August 24, 2006; *id*. at 202-203.

[29] See Minutes of the Hearing; *id*. at 204.

[30] See Manifestation dated September 19, 2006; *id*. at 213.

[31] See Compliance with Waiver of Appearance; *id*. at 215-218.

Supreme Court E-Library

On March 25, 2009, Investigating IBP Commissioner Pedro A. Magpayo, Jr. issued a Report and Recommendation,[32] finding that respondents were grossly negligent in handling complainant's case in violation of Rule 18.03, Canon 18 of the Code of Professional Responsibility (Code). As such, he recommended that each of them be suspended from the practice of law for a period of one (1) year. Moreover, Atty. Quesada was directed to comply with his undertaking under the December 5, 1998 MoA to pay the amount of ₱68,000.00, with legal interest from January 20, 1999 until fully settled; while Atty. Adquilen was ordered to pay the amount of ₱6,000.00, representing the difference between the ₱74,000.00 settlement offered by Capitol and the above-stated settlement amount, with legal interest from date of notice of the order of dismissal on March 25, 1997[33] until fully paid.

The IBP Board of Governors adopted and approved the afore-stated report and recommendation in Resolution No. XX-2011-262 dated November 19, 2011 (November 19, 2011 Resolution), finding the same to be fully supported by the evidence on record and the applicable laws and rules. Consequently, it directed respondents to pay complainant the total amount of ₱74,000.00 within thirty (30) days from notice.[34]

In a Resolution[35] dated September 12, 2012, the Court noted the Notice[36] of the IBP's November 19, 2011 Resolution, and thereafter sent notices to the parties as well as the IBP-CBD, the Office of the Bar Confidant and the Public Information Office. However, the notice sent to Atty. Adquilen was returned unserved with the notation "Return to Sender, Deceased."[37] Thus, in the Resolutions dated February 20, 2013[38] and June

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[32] *Id*. at 250-258.

[33] *Id*. at 258. Should be March 24, 1997 (*id*. at 20).

[34] *Id*. at 249.

[35] *Id*. at 259-260.

[36] *Id*. at 249.

[37] *Id*. at 263.

[38] *Id*. at 270.

Supreme Court E-Library

10, 2013,[39] the IBP was required to furnish the Court with the death certificate of Atty. Adquilen.

On August 30, 2013, the IBP filed its compliance,[40] attaching therewith the Certificate of Death[41] of Atty. Adquilen which indicates that the latter passed away on June 22, 2008 due to cardiac arrhythmia. In view of Atty. Adquilen's death prior to the promulgation of this Decision,[42] the Court, bearing in mind the punitive nature of administrative liabilities,[43] hereby dismisses the case against him. Hence, what is left for resolution is the complaint against Atty. Quesada.

The Issue Before the Court

The essential issue in this case is whether or not Atty. Quesada should be held administratively liable for gross negligence in handling complainant's labor case.

The Court's Ruling

The Court concurs with and affirms the findings of the IBP anent Atty. Quesada's administrative liability, but deems it proper to delete the recommended order for the return of the amount of ₱74,000.00.

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[39] *Id*. at 274.

[40] See Letter dated August 29, 2013; *id*. at 276.

[41] *Id*. at 277-278.

[42] *Bayaca v. Ramos*, A.M. No. MTJ-07-1676, January 29, 2009, 577 SCRA 93, 107.

[43] In *Re: Application for Retirement/Gratuity Benefits under R.A. No. 910*, 575 Phil. 267, 271 (2008), citing *Bote v. Judge Eduardo*, 491 Phil. 198, 204 (2005), the Court stated:

> The Court does not agree with the OCA Legal Office and the OCA. The dismissal of the administrative case against Judge Butacan by reason of his demise is in accordance with *Bote v. Judge Eduardo* where the Court held that in view of the death of Judge Escudero, for humanitarian reasons, **it is inappropriate to impose any administrative liability of a punitive nature**; and declared the administrative complaint against the respondent Judge, dismissed, closed and terminated. (Emphasis supplied; citations omitted)

Supreme Court E-Library

The Court has repeatedly emphasized that the relationship between a lawyer and his client is one imbued with utmost trust and confidence. In this regard, clients are led to expect that lawyers would be ever-mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs. For his part, the lawyer is required to maintain at all times a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether he accepts it for a fee or for free.[44] He is likewise expected to act with honesty in all his dealings, especially with the courts.[45] These principles are embodied in Rule 1.01 of Canon 1, Rule 10.01 of Canon 10, Canon 17 and Rule 18.03 of Canon 18 of the Code which respectively read as follows:

CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCEDURES.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

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CANON 10 – A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01 – A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice.

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CANON 17 – A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST AND CONFIDENCE REPOSED IN HIM.

CANON 18 – A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.

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[44] *Pitcher v. Gagate*, A.C. No. 9532, October 8, 2013.

[45] *Sonic Steel Industries, Inc. v. Chua*, A.C. No. 6942, July 1, 2013.

Supreme Court E-Library

> Rule 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

In the present case, the Court finds Atty. Quesada to have violated the foregoing Rules and Canons.

Primarily, Atty, Quesada failed to exercise the required diligence in handling complainant's case by his failure to justify his absence on the two (2) mandatory conference hearings in NLRC Case No. RAB-I-11-1123-94 despite due notice, which thus resulted in its dismissal. It bears stressing that a retained counsel is expected to serve the client with competence and diligence and not to sit idly by and leave the rights of his client in a state of uncertainty. To this end, he is oblige to attend scheduled hearings or conferences, prepare and file the required pleadings, prosecute the handled cases with reasonable dispatch, and urge their termination without waiting for the client or the court to prod him or her to do so.[46] Atty. Quesada's failure to attend the scheduled conference hearings, despite due notice and without any proper justification, exhibits his inexcusable lack of care and diligence in managing his client's cause in violation of Canon 17 and Rule 18.03, Canon 18 of the Code.

Moreover, Atty. Quesada acted with less candor and good faith in the proceedings before the IBP-CBD when he denied the existence of any lawyer-client relationship between him and complainant, and claimed that the labor case was handled by another lawyer,[47] despite his previous admission[48] before the Court of having accepted complainant's case. To add, a perusal of the complaint[49] dated November 8, 1994 in NLRC Case No. RAB-I-11-1123-94 reveals that Atty. Quesada signed the same

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[46] *Conlu v. Aredonia, Jr.*, A.C. No. 4955, September 12, 2011, 657 SCRA 367, 374.

[47] *Rollo*, p. 215.

[48] *Id*. at 130.

[49] *Id*. at 13.

Supreme Court E-Library

as counsel for complainant.[50] While the IBP-CBD is not a court, the proceedings therein are nonetheless part of a judicial proceeding, a disciplinary action being in reality an investigation by the Court into the misconduct of its officers or an examination into his character.[51] Besides, Atty. Quesada failed to rebut the allegation that complainant's corresponding failure to appear during the mandatory conference hearings in NLRC Case No. RAB-I-11-1123-94 was upon his counsel's advice.[52] Under the premises, it is therefore reasonable to conclude that Atty. Quesada had indulged in deliberate falsehood, contrary to the prescriptions under Rule 1.01, Canon 1 and Rule 10.01, Canon 10 of the Code.[53]

The appropriate penalty on an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.[54] In *Conlu v. Aredonia, Jr.*,[55] a lawyer was suspended from the practice of law for a period of one (1) year for inexcusable negligence that resulted in the dismissal of complainant's appeal and for misrepresentations committed before the CA, in violation of Rule 1.01, Canon 1, Rule 10.01, Canon 10 and Rule 18.03, Canon 18 of the Code. In the cases of *Cheng v. Atty. Agravante*[56] and *Perea v. Atty. Almadro*,[57] respondent-lawyers were similarly punished for their negligence in the discharge of their duties to their client and for misrepresentation committed before the Court, in violation of Rule 10.01, Canon 10 and Rule 18.03, Canon 18 of the Code. Hence, consistent with existing jurisprudence, the Court adopts the penalty recommended by the IBP and accordingly suspends Atty. Quesada for a period of one (1) year.

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[50] *Id*.

[51] *Sambajon v. Atty. Suing*, 534 Phil. 84, 101 (2006).

[52] *Rollo*, p. 2.

[53] *Conlu v. Aredonia, Jr.*, *supra* note 46, at 375.

[54] *Anastacio-Briones v. Atty. Zapanta*, 537 Phil. 218, 224 (2006).

[55] *Supra* note 46.

[56] 469 Phil. 869 (2004).

[57] 447 Phil. 434 (2003).

Supreme Court E-Library

The Court must, however, clarify that the foregoing resolution should not include a directive to return the amount of ₱74,000.00 as ordered by the IBP in its November 19, 2011 Resolution which represents the settlement initially offered by Capitol in the dismissed labor case. The return of the said amount partakes the nature of a purely civil liability which should not be dealt with during an administrative-disciplinary proceeding such as this case. In *Tria-Samonte v. Obias*,[58] the Court recently illumined that disciplinary proceedings against lawyers are only confined to the issue of whether or not the respondent-lawyer is still fit to be allowed to continue as a member of the Bar and that the only concern is his administrative liability. Thus, matters which have no intrinsic link to the lawyer's professional engagement, such as the liabilities of the parties which are purely civil in nature, should be threshed out in a proper proceeding of such nature, and not during administrative-disciplinary proceedings, as in this case.

WHEREFORE, respondent Atty. Jose C. Quesada, Jr. is found **GUILTY** of violating Rule 1.01 of Canon 1, Rule 10.01 of Canon 10, Canon 17, and Rule 18.03 of Canon 18 of the Code of Professional Responsibility, and is accordingly **SUSPENDED** from the practice of law for one (1) year, effective upon his receipt of this Decision, with a stern warning that a repetition of the same or similar acts will be dealt with more severely.

On the other hand, the administrative complaint against respondent Atty. Amado T. Adquilen is hereby **DISMISSED** in view of his supervening death.

Let a copy of this Resolution be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all the courts.

SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Perez, JJ.,* concur.

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[58] As noted in this case, "[a]n example of a liability which has an intrinsic link to the professional engagement would be a lawyer's acceptance fees." (A.C. No. 4945, October 8, 2013.)