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SECOND DIVISION

[A.C. No. 11774. March 21, 2018]
(Formerly CBD Case No. 14-4186)

READY FORM INCORPORATED, *complainant, vs.* **ATTY. EGMEDIO J. CASTILLON, JR.,** *respondent.*

SYLLABUS

LEGAL ETHICS; ATTORNEYS; CODE OF PROFESSIONAL RESPONSIBILITY; RULES 1.01, 1.02, AND 1.03 OF CANON 1 THEREOF ARE NOT VIOLATED BY A LAWYER WHO USED A PUBLICLY-AVAILABLE DOCUMENT TO SUPPORT ALLEGATIONS IN A PLEADING SIGNED BY HIM; CASE AT BAR.— Ready Form's central issue against Atty. Castillon is that he allegedly violated the law, particularly the NIRC, when he supposedly attached a copy of its ITR for 2006 when he filed the Petition for Blacklisting. A perusal of the records will reveal, however, that what Atty. Castillon attached in the Petition for Blacklisting is Ready Form's audited financial statement for the year 2006 and not the latter's ITR. x x x Clearly, therefore, the complainant wants this Court to penalize the respondent for using a publicly-available document to support allegations in a pleading signed by him. This, the Court refuses to do. x x x The Court takes judicial notice of the fact that audited financial statements submitted by corporations, as required by Section 141 of the Corporation Code, are made available to the public by the SEC. Hence, the Court fails to see how Atty. Castillon violated any law when he attached a copy of Ready Form's audited financial statements in the Petition for Blacklisting he filed with the NPO. x x x All told, the Court finds that the evidence adduced is wholly insufficient to support the allegations against Atty. Castillon. As such, the Court fails to see how Atty. Castillon had violated Rules 1.01, 1.02, and 1.03 of Canon 1 of the Code of Professional Responsibility. Hence, the Court affirms the IBP's recommendation to dismiss the Complaint.

APPEARANCES OF COUNSEL

Ramoncito C. Mison for complainant.

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D E C I S I O N

CAGUIOA, *J.*:

Before this Court is an administrative complaint[1] filed with the Commission on Bar Discipline of the Integrated Bar of the Philippines (CBD-IBP) by Complainant Ready Form, Inc. (Ready Form) against Respondent Atty. Egmedio J. Castillon, Jr. (Atty. Castillon), for his alleged violation of Rules 1.01, 1.02, and 1.03 of Canon 1 of the Code of Professional Responsibility when he allegedly used Ready Form's Income Tax Return (ITR) in filing a Petition for Suspension and Blacklisting[2] (Petition for Blacklisting) against Ready Form before the National Printing Office (NPO).

The Factual Antecedents

Ready Form was one of the companies who participated in a public bidding conducted by the NPO on October 17, 2008. Thereafter, the NPO Bids and Awards Committee (NPO-BAC) required all bidders to re-submit their eligibility documents, which includes the bidders' past ITRs and financial documents stamp received by the Bureau of Internal Revenue (BIR).[3] After reviewing these submissions, the NPO-BAC imposed a suspension of one (1) year against Ready Form effective from December 22, 2008 to December 21, 2009[4] due to the supposed misrepresentation and misdeclaration it committed when it submitted alleged false ITRs and financial statements for the calendar year 2007.

Subsequently, on September 18, 2009, Eastland Printink Corporation (Eastland) filed a Petition for Blacklisting with the NPO against Ready Form, wherein Eastland alleged that Ready Form had committed other violations, such as (1)

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[1] *Rollo*, pp. 2-26.

[2] *Id*. at 46-52.

[3] *Id*. at 5.

[4] *Id*. at 6.

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misrepresentation, when it also filed with the NPO false ITRs for the year 2006, (2) unlawfully soliciting printing jobs and services from various local government offices or agencies, and (3) undermining the authority and jurisdiction of the NPO by disseminating letters which suggested that the NPO no longer has exclusive jurisdiction over printing services.[5] As Eastland's counsel, Atty. Castillon signed the Petition on behalf of his client.

The NPO then asked both parties to file position papers in relation to the Petition for Blacklisting. Eastland filed a position paper[6] which stated that:

> The figures declared by respondent in its financial statement submitted to the Securities and Exchange Commission indicate that (*sic*) a total net sale of ₱78,639,134.73, but respondent net sales with NPO alone yielded ₱80,063.932, (*sic*) or a discrepancy of ₱1,424,797.27. The figures speak for themselves where false statements and/or information were clearly resorted to by the respondent. These documents are material for eligibility requirements which bespeak of respondent's deliberate act of misrepresentation.
>
> The respondent has intentionally and consciously falsified its Financial Statement and Income Tax Return for 2006 by stating and declaring the reduced and wrong amount of annual net sales to gainfully reduce payment of taxes due the government.
>
> It has been a pattern of respondent in reporting the reduced and incorrect net sales for two (2) years in a row. It did in 2006 and 2007. In fact, it was duly reflected in its 2006 and 2007 falsified Financial Statements submitted before the Securities and Exchange Commission.[7]

On December 1, 2009, the NPO issued a Resolution[8] suspending and blacklisting Ready Form for a period of five (5) years after finding, among others, that:

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[5] *Id*. at 47-49.

[6] *Id*. at 53-64.

[7] *Id*. at 59.

[8] *Id*. at 80-89.

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Respondent (*sic*) 2006 Financial Statement contains false information; hence, it is a falsified document. As part of its eligibility requirements, respondent submitted to NPO its 2006 Financial Statement (earlier submitted to the Securities and Exchange Commission in compliance with its reportorial requirements) which contains false information. Evidently, the same is (*sic*) fictitious, false and falsified document.

Respondent intentionally reported the reduced amount of its net sales for 2006 in its Financial Statement by declaring only **Seventy Eight Million Six Hundred Thirty Nine Thousand One Hundred Thirty Four and Seventy Three Centavos (₱78,639,134.73)**. However, its net sales alone in NPO reached **Eighty Million Sixty Three Thousand Nine Hundred Thirty Two and Twenty Nine Centavos (₱80,063,932.29)**. The under declaration was not only conscious and deliberate but also it was purposely done by respondent two (2) years in a row solely intended to evade payment of correct taxes due to government.

Its (*sic*) worth recalling that in 2007, respondent also under declared its nets (*sic*) sales by stating in its 2007 Financial Statement the amount of **Seventy Four Million Three Hundred Seventy Seven Thousand Five Hundred Ninety Three Pesos and Twenty Three Centavos (₱74,377,593.23)**. But in truth and in fact, its net sales for NPO alone hit **One Hundred Seven Million Three Hundred One Thousand Twelve Pesos and Ninety Four Centavos (₱107,301,012.94)**. In fact, the respondent was suspended for one (1) year from 22 December 2008 up to 22 December 2009 for that reason. An appeal was filed by respondent to the Office of the Press Secretary. However, the appeal was dismissed and the imposition of administrative sanction of one (1) year was affirmed. The same has already become final and executory since respondent neither filed a motion for reconsideration nor a Petition for Review to the Court of Appeals timely filed.[9] (Emphasis and underscoring in the original)

On April 4, 2014, Ready Form filed a Complaint-Affidavit (Complaint) before the CBD-IBP praying that Atty. Castillon be disbarred due to allegedly violating Rules 1.01, 1.02, and 1.03 of Canon 1 of the Code of Professional Responsibility, alleging as a ground therefor Atty. Castillon's supposed unlawful

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[9] *Id*. at 84-85.

use of Ready Form's ITRs. Complainant alleges that this is in violation of Sections 4 and 278 of Republic Act No. 8424,[10] otherwise known as the National Internal Revenue Code (NIRC), which state that:

> **SEC. 4.** ***Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.*** - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.
>
> The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.
>
> x x x x x x x x x
>
> **SEC. 278.** ***Procuring Unlawful Divulgence of Trade Secrets.*** - Any person who causes or procures an officer or employee of the Bureau of Internal Revenue to divulge any confidential information regarding the business, income or inheritance of any taxpayer, knowledge of which was acquired by him in the discharge of his official duties, and which it is unlawful for him to reveal, and any person who publishes or prints in any manner whatever, not provided by law, any income, profit, loss or expenditure appearing in any income tax return, shall be punished by a fine of not more than Two thousand pesos (₱2,000), or suffer imprisonment of not less than six (6) months nor more than five (5) years, or both. (Emphasis and italics in the original)

Complainant further alleges that Atty. Castillon's supposed act was in violation of Section 30.1 of the Implementing Rules and Regulations of Republic Act No. 9184[11] or the Government Procurement Reform Act which mandates that the Bids and Awards Committee concerned shall use a non-discretionary

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[10] *Id*. at 9.

[11] *Id*. at 8.

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"pass/fail" criterion in determining the eligibility of bidding documents submitted to it. The said section states that:

> 30.1. The BAC shall open the first bid envelopes in public to determine each bidder's compliance with the documents required to be submitted for eligibility and for the technical requirements, as prescribed in this IRR. For this purpose, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a non- discretionary "pass/fail" criterion, as stated in the Instructions to Bidders. If a bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as "failed." Otherwise, the BAC shall rate the said first bid envelope as "passed."

During the mandatory conference of the case before the CBD-IBP, the parties agreed to limit the issue on whether or not Atty. Castillon's act of attaching Ready Form's audited financial statements in the Petition for Blacklisting he filed with the NPO constitutes a violation of Sections 4 and 238 of the NIRC.[12] Consequently, the answer to the said question also determines whether Atty. Castillon violated Rules 1.01, 1.02, and 1.03 of Canon 1 of the Code of Professional Responsibility.

Atty. Castillon, in his position paper submitted to the CBD-IBP, stressed that what was submitted in support of the Petition for Blacklisting with the NPO was Ready Form's audited financial statements which were acquired from the Securities and Exchange Commission (SEC). Atty. Castillon categorically denied that he acquired, much less attached, an ITR of complainant Ready Form.[13]

After due proceedings, Commissioner Maria Editha A. Go-Biñas (Commissioner Go-Biñas) rendered a Report and Recommendation[14]

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[12] *Id*. at 184-185.

[13] *Id*. at 206-207.

[14] *Id*. at 224-227.

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on July 21, 2016, absolving Atty. Castillon from the charges filed by Ready Form. Commissioner Go-Biñas found that Ready Form's claims were unfounded, as there is no proof that Atty. Castillon procured Ready Form's ITR, or that he used it in the Petition for Blacklisting. The dispositive portion of Commissioner Go-Biñas' Report and Recommendation reads as follows:

> **WHEREFORE**, IN VIEW OF THE FOREGOING, it is most respectfully recommended that the instant case be dismissed for utter lack of merit.[15]

On September 23, 2016, the IBP Board of Governors passed a Resolution adopting the findings of fact and recommendation of Commissioner Go-Biñas and resolved to dismiss the complaint, thus:

> *RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner dismissing the complaint.*[16]

The Court's Ruling

After a judicious examination of the records and submission of the parties, the Court finds no compelling reason to diverge from the factual findings of Commissioner Go-Biñas as adopted by IBP Board of Governors.

Ready Form's central issue against Atty. Castillon is that he allegedly violated the law, particularly the NIRC, when he supposedly attached a copy of its ITR for 2006 when he filed the Petition for Blacklisting. A perusal of the records will reveal, however, that what Atty. Castillon attached in the Petition for Blacklisting is Ready Form's audited financial statement for the year 2006 and not the latter's ITR. Ready Form harps on the fact that the following paragraphs, which mentions Ready Form's ITR, were in the Petition for Blacklisting signed by Atty. Castillon:[17]

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[15] *Id*. at 227.

[16] *Id*. at 222.

[17] *Id*. at 59.

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4. The aforecited suspension was brought about by the misrepresentation and misdeclaration committed by herein respondent on its Income Tax Return and Financial Statement and other documents submitted before this Office covering the period 2007;

5. Previous to the said violation, respondent had committed acts of similar nature in their Income Tax Returns and Financial Statements and other documents submitted before this office covering the year 2006, among other things, which underscores a deliberate scheme of submitting false declarations. A photocopy of the 2006 Financial Statement is hereto attached and marked as Annexes "B" and made integral part hereof.[18]

Ready Form repeatedly made an issue out of the fact that its ITR was mentioned in the Petition for Blacklisting, and later on in the Position Paper filed by Eastland, both signed by Atty. Castillon. They did not, however, offer proof to substantiate its claims that its ITR was attached to the Petition for Blacklisting despite the clear and express statement therein that only its audited financial statement, which is available to the public through the SEC, was attached thereto. During the mandatory conference, it was clear that only an audited financial statement was attached by Atty. Castillon. Ready Form only wants the IBP, and consequently this Court, to hold that Atty. Castillon used confidential information by doing such act:

ATTY. MISON [counsel for Ready Form]:

> This is Annex "G" to the complaint. Also paragraph 5 if I may mention, previous to this a photocopy of the 2006 Financial Statement is hereto attached and marked as Annex "B" so that is admitted?

ATTY. CASTILLON:

> That Financial Statement no ITR as mentioned previously.

ATTY. MISON:

> But the premise of the paragraph it made mentioned (*sic*) of that.

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[18] *Id*. at 47.

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ATTY. CASTILLON:

There is that phrase, Your Honor, but meaning attaching ITR there really was none, Your Honor.

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COMM. BINAS:

If any of these pleadings that you have there and the cases, I'm sure you have the files, right?

ATTY. MISON:

Yes.

COMM. BINAS:

Did you notice any attachment about the ITR as submitted by the respondent? Because I'm sure it should have been an annexed (*sic*) there or .....

ATTY. MISON:

Well, Your Honor, if the Commission should take somehow judicial notice that the financial statement is attached to the ITR, the ITR merely contains the summary, the total amount but the details of the total amount appearing in the Income Tax Return, they are all reflected in the Financial Statement. Meaning, the Financial Statements contains the details while the ITR itself is just a summary. So, you cannot say, o (*sic*) I just filed the financial statement I did not file the ITR. But all the information appearing on the Financial Statement necessarily appears in the ITR.

x x x x x x x x x

COMM. BINAS:

So, as of now the complainant is pounding on the fact that there was this use of confidential data.

ATTY. MISON:

Yes, Your Honor.

COMM. BINAS:

That is the meat of the complaint.

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ATTY. MISON:

> Yes, Your Honor. Violation and not only that, Section 4, Your Honor, where no person has the power to interpret even to make allegations that base (*sic*) on financial statements falsified, they have usurp (*sic*) the power exclusively vested to the BIR and the Court of Tax Appeals, Section 4 of R.A. 8424 and Section 278 of R.A. 8424.

COMM. BINAS:

> So, insofar as the complainant is concerned the act of using the confidential tax data emanated from the fact that he submitted the financial statement.

ATTY. MISON:

> Yes, Your Honor. And we contend, Your Honor, that the financial statement contains a more detailed figures vis-a-vis the income tax return.[19]

Clearly, therefore, the complainant wants this Court to penalize the respondent for using a publicly-available document to support allegations in a pleading signed by him. This, the Court refuses to do.

The Court takes judicial notice[20] of the fact that audited financial statements submitted by corporations, as required by Section 141 of the Corporation Code, are made available to the public by the SEC. Hence, the Court fails to see how Atty. Castillon violated any law when he attached a copy of Ready Form's audited financial statements in the Petition for Blacklisting he filed with the NPO.

Thus, the Court agrees with Commissioner Go-Biñas when she correctly said:

> He who alleges should prove his case in a very clear and convincing manner.

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[19] TSN, October 14,2014, pp. 7-13, *id*. at 164-170.

[20] RULES OF COURT, Rule 129, Sec. 1.

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An individual should not be allowed to claim **relief just because a lawyer is aiding or was hired by an opponent**. To do so would create more injustice and lead to an even more erroneous practice.

"While courts will not hesitate to mete out proper disciplinary punishment upon lawyers who fail to live up to their sworn duties, they will on the other hand, protect them from the unjust accusations of dissatisfied litigants. The success of a lawyer in his profession depends most entirely on his reputation. Anything which will harm his good name is to be deplored. **Private persons and particularly disgruntled opponents, may not, therefore, be permitted to use the courts as vehicles through which to vent their rancor on members of the Bar**" (Santos vs. Dichoso, Adm. Case No. 1825, August 22, 1978).[21] (Emphasis in the original)

All told, the Court finds that the evidence adduced is wholly insufficient to support the allegations against Atty. Castillon. As such, the Court fails to see how Atty. Castillon had violated Rules 1.01, 1.02, and 1.03 of Canon 1 of the Code of Professional Responsibility. Hence, the Court affirms the IBP's recommendation to dismiss the Complaint.

WHEREFORE, premises considered, the Complaint filed by Ready Form, Inc. against Atty. Egmedio J. Castillon, Jr. is hereby **DISMISSED** for lack of merit.

SO ORDERED.

Carpio[*] (*Chairperson*), *Peralta, Perlas-Bernabe*, and *Reyes, Jr., JJ.*, concur.

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[21] *Rollo*, pp. 226-227.

[*] Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.