Republic of the Philippines
Supreme Court
Manila

EN BANC

ATTY. FRANCIS V. GUSTILO, **Complainant,**	**A.C. No. 12318** **(Formerly CBD Case No. 16-4972)**
	Present:
	BERSAMIN, *C.J.*, CARPIO, PERALTA, PERLAS-BERNABE, LEONEN, CAGUIOA, REYES, JR., A., GESMUNDO, *REYES, JR., J., HERNANDO, CARANDANG, LAZARO-JAVIER, INTING, and, ZALAMEDA, *JJ.*
-versus-	
ATTY. ESTEFANO H. DE LA CRUZ, **Respondent.**	Promulgated: October 15, 2019

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D E C I S I O N

PER CURIAM:

This administrative case stems from the complaint-affidavit filed by Atty. Francis V. Gustilo (complainant) in the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) seeking to disbar Atty.

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* On leave.

Estefano H. De La Cruz (respondent) for his non-compliance with the requirements of the Mandatory Continuing Legal Education (MCLE) program, and for knowingly using a false MCLE compliance number in his pleadings.[1]

Antecedents

The respective versions of the parties as summarized by the CBD-IBP are as follows:

STATEMENT OF THE COMPLAINT:

Complainant alleges that Respondent is the lawyer for Spouses Melchor and Malyn Macian, who were the respondents in an ejectment case filed by Complainant's clients. During the trial of the case before the Metropolitan Trial Court in Makati, Respondent allegedly used a non-existent MCLE Compliance number (IV-001565). On appeal of the ejectment case, Respondent allegedly used again a fictitious MCLE Compliance number when he filed a Memorandum of Appeal.

Further, Complainant alleges that the Respondent used MCLE Compliance IV Number 001565 and that, in reality, Respondent used the number assigned to Atty. Ariel Osabel Labra who was issued MCLE Compliance No. 0015654.

To prove the charge, Complainant attached a Certification from the MCLE Office certifying that ATTY. ESTEFANO HILVANO DELA CRUZ has no compliance/exemption for the Second Compliance, Third Compliance Period, Fourth Compliance Period, and Fifth Compliance Period. He also attached copies of the pages (showing Respondent's MCLE Compliance number as 001565) of a Manifestation and Compliance and Memorandum on Appeal. Lastly, Complainant attached a copy of a Manifestation and Motion filed by Respondent where Respondent indicated his MCLE Number as 001565.

x x x x

RESPONDENT'S DEFENSES:

x x x x

Respondent [claimed] that he is possibly exempted from the MCLE requirements. He explains that Section 5 of B.M. No. 850, October 2, 2001, cites the following as exempted from the MCLE requirement: a. The Executive - x xx Chief State IBP Investigating Commissioner, and Assistant Secretaries of the Department of Justice; x xx f. Local Government - Governors and mayor [x] x x" because he served as Assistant City IBP Investigating Commission of the Office of the City IBP Investigating Commissioner for Makati City, National Prosecution Service

[1] *Rollo*, pp. 2-5.

of the Department of Justice and retired from government service on July 18, 2015, he may file a request for exemption from compliance.[2]

IBP's Report and Recommendation

In his Report and Recommendation,[3] the Investigating Commissioner of the CBD found that the respondent had falsely indicated a non-existent MCLE compliance number on more than one occasion when he filed his pleadings in the ejectment case, thereby committing an evident violation of Canon 1, Canon 7, and Canon 10 of the *Code of Professional Responsibility*; and recommended his suspension from the practice of law for one year.[4]

The Investigating Commissioner observed that not only did the respondent not disclose the required MCLE information in his pleadings but he also knowingly violated the MCLE requirements by not attending the second to fifth compliance periods, and by indicating a false MCLE compliance number to make it appear that he had been MCLE compliant.[5]

On December 7, 2017, the IBP Board of Governors adopted and approved the Investigating Commissioner's Report and Recommendation.[6]

Issue

Is the respondent guilty of violating Canon 1, Canon 7 and Canon 10 of the *Code of Professional Responsibility* when he: (1) used a non-existent MCLE compliance number in the pleadings that he filed; and (2) failed to submit proof of his compliance for the second, third, fourth and fifth compliance periods?

Ruling of the Court

The Court affirms the findings of the Investigating Commissioner of the CBD as adopted and approved by the IBP Board of Governors, but modifies the recommended penalty.

Bar Matter No. 1922 (entitled *Re: Recommendation of the Mandatory Continuing Legal Education (MCLE) Board to Indicate in All Pleadings Filed with the Courts the Counsel's MCLE Certificate of Compliance and Certificate of Exemption*), as amended on January 14, 2014, expressly directs

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2 Id. at 139-140.
3 Id. at 138-142.
4 Id. at 142.
5 Id.
6 Id. at 136.

attorneys to indicate their MCLE certificate of compliance or certificate of exemption in all the pleadings they file in the courts. The requirement ensures that the practice of the law profession is reserved only for those who have complied with the recognized mechanism for "keep[ing] abreast with law and jurisprudence, maintain[ing] the ethics of the profession, and enhanc[ing] the standards of the practice of law."[7] "This requirement is not a mere frivolity," according to *Intestate Estate of Jose Uy v. Maghari III*:[8]

> x x x To willfully disregard it is, thus, to willfully disregard mechanisms put in place to facilitate integrity, competence, and credibility in legal practice; it is to betray apathy for the ideals of the legal profession and demonstrates how one is wanting of the standards for admission to and continuing inclusion in the bar. Worse, to not only willfully disregard them but to feign compliance only, in truth, to make a mockery of them reveals a dire, wretched, and utter lack of respect for the profession that one brandishes.[9]

Under the circumstances, the Investigating Commissioner correctly found the respondent to have acted in manifest bad faith, dishonesty, and deceit.[10] The respondent had willfully contravened the requirement under B.M. No. 1922 by concealing his non-compliance with the use of the fictitious MCLE compliance number in his pleadings in the ejectment case. He had not also met the MCLE requirements corresponding to the second, third, fourth and fifth compliance periods. His actuations were designed to mislead the courts, his client and his colleagues in the profession, as well as all other persons who might have trusted in his representation of his compliance.[11]

We note that the respondent did not refute the charge against him.[12] Instead, he misrepresented that he would be seeking his exemption from the requirement based on his having served as Assistant City IBP Investigating Commissioner for Makati City, his having worked in the National Prosecution Service of the Department of Justice, and his having retired from government service on July 18, 2015. At best, his misrepresentations were another occasion for him to mislead, for he did not thereby show any honest effort to explain or to justify his non-compliance and concealment of his deficient status in the MCLE program. To be sure, he did not present any certificate or other acceptable proof to substantiate his proposed exemption.

The respondent was definitely guilty of violating Canon 1, Canon 7 and Canon 10 of the *Code of Professional Responsibility*, which state:

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7 Section 1, Rule 1, Bar Matter No. 850 (2001).
8 A.C. No. 10525, September 1, 2015, 768 SCRA 384, 402.
9 Id.
10 *Mapalad, Sr. v. Echanez,* A.C. No. 10911, June 6, 2017, 826 SCRA 57, 63.
11 *Intestate Estate of Jose Uy v. Maghari III,* A.C. No. 10525, September 1, 2015, 768 SCRA 384, 409.
12 *Rollo,* p. 142.

> CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.
>
> CANON 7 — A lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the integrated bar.
>
> CANON 10 — A lawyer owes candor, fairness and good faith to the court.

Pursuant to B.M. No. 1922, as amended, any attorney who fails to indicate in the pleadings filed in court the MCLE certificate of compliance or certificate of exemption may be subject to appropriate penalty and disciplinary action, like a fine of ₱2,000.00 for the first offense, ₱3,000.00 for the second offense, and ₱4,000.00 for the third offense; and, in addition to the fine, he may be listed as a delinquent member of the Integrated Bar, pursuant to Section 2, Rule 13 of B.M. No. 850 and its implementing rules and regulations; and he shall be discharged from the case and the client/s shall be allowed to secure the services of a new attorney with the concomitant right to demand the return of fees already paid to the noncompliant attorney.

The severity of the penalty imposed on non-compliant attorneys depends on the circumstances obtaining in the case. In *Arnado v. Adaza*,[13] the respondent attorney was suspended from the practice of law for a period of six months for non-compliance with the MCLE requirements for the first, second, third, and fourth compliance periods. In the cited ruling in *Intestate Estate of Jose Uy v. Maghari III*,[14] the penalty was suspension from the practice of law for two years for deliberately using a false IBP official receipt number, professional tax receipt number, Roll of Attorneys number, and MCLE compliance, and for using another lawyer's details seven times. In *Mapalad, Sr. v. Echanez*,[15] the attorney was disbarred for using a false MCLE compliance number in his pleadings, and for disobeying legal orders, taking into consideration that he had already been sanctioned twice in other cases.

Herein, the IBP Board of Governors recommended the respondent's suspension from the practice of law for one year. Yet, the recommendation was incompatible with the grossness of the respondent's actuations which amounted to dishonesty and deception. He had thereby committed not only a brazen disregard of the clear requirements of B.M. No. 1922 but also deceived the trial court, his client, and the general public, including his professional colleagues, on his status of good standing in the Integrated Bar.

Taking all the circumstances herein into account, the Court declares that the proper penalty to be imposed on the respondent is disbarment, to

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13 A.C. No. 9834, August 26, 2015, 768 SCRA 172.
14 Supra, note 11.
15 Supra, note 10.

take effect upon notice of this decision. This extreme penalty is fully called for in view of the serious affront that the respondent displayed towards the Supreme Court no less in disregarding the objectives of the MCLE program adopted under B.M. No. 1922, and of the cavalier foisting of his concealment on the courts, his clients and the public in general, including his colleagues in the Integrated Bar. Disbarment is in accord with Section 27, Rule 38 of the *Rules of Court*, which provides:

> SEC. 27. *Disbarment or suspension of attorneys by Supreme Court; grounds therefor.* — A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court **for any deceit, malpractice, or other gross misconduct in such office, x x x or for any violation of the oath** which he is required to take before admission to practice. x x x (Bold underscoring supplied for emphasis)

The actuations of the respondent deserved to be severely punished in order to foster respect towards the Supreme Court, and to enhance fealty to the Rule of Law. He made himself totally unworthy of the title of attorney and of the privilege and standing of a member of the law profession in this country. We should be intolerant of his kind, for we have no place for individuals like him who openly abuse the privilege of membership in the law profession for all the devious and dubious reasons. Although they may escape notice at times, we must keep on reminding him and all others similarly disposed that the time for reckoning may be long in coming at times but it will be decisive and unforgiving when it does. This, because all members of the Philippine Bar shall remain as such only when they genuinely and sincerely value good conduct and ethical behavior. As we noted in *Barrios v. Martinez*:[16]

> Of all classes and professions, the lawyer is most sacredly bound to uphold the laws. He is their sworn servant; and for him, of all men in the world, to repudiate and override the laws, to trample them underfoot and to ignore the very bands of society, argues recreancy to his position and office and sets a pernicious example to the insubordinate and dangerous elements of the body politic.

WHEREFORE, the Court **FINDS** and **DECLARES** respondent **ATTY. ESTEFANO H. DE LA CRUZ** to have violated Canon 1, Canon 7, and Canon 10 of the *Code of Professional Responsibility* through his unlawful, dishonest, and deceitful conduct; **DISBARS** him effective upon receipt of this decision; and **ORDERS** his name to be stricken off the Roll of Attorneys.

Let a copy of this decision be attached to the respondent's personal records in the Office of the Bar Confidant.

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[16] A.C. No. 4585, November 12, 2004, 442 SCRA 324, 341.

Furnish a copy of this decision to the Integrated Bar of the Philippines for its information and guidance; and the Office of the Court Administrator for dissemination to all courts of the Philippines.

SO ORDERED.

LUCAS P. BERSAMIN
Chief Justice

ANTONIO T. CARPIO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

(On Leave)
JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court