

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 72

IMPOSING THE PENALTY OF SUSPENSION FROM THE SERVICE FOR SIX (6) MONTHS WITHOUT PAY ON BONIFACIO G. BACANI, ASSISTANT CITY PROSECUTOR OF MANILA, DEPARTMENT OF JUSTICE

This refers to the administrative complaint against Assistant City Prosecutor Bonifacio G. Bacani of Manila for misconduct.

Records tend to show that sometime in November, 1994, Judy Emnas, a respondent in an illegal recruitment/estafa complaint, approached respondent prosecutor for assistance in the dismissal of the said complaint which was pending before then investigating prosecutor (now Judge) Ceasar Casanova. Respondent assured Emnas of his assistance for a consideration of P15,000.00 as grease money which Emnas allegedly gave in December, 1994. Emnas learned later that only the illegal recruitment complaint was dismissed, while the three (3) counts of estafa were filed in court. Again, Emnas approached respondent who told her that he would settle or fix the estafa cases but she (Emnas) has to give P12,000.00 for her bailbond, which was later reduced to P7,500.00. Not believing that the said amount was for her bailbond as no warrant for her arrest has as yet been issued, Emnas went to the National Bureau of Investigation (NBI) which planned and carried out respondent's entrapment on June 29, 1995 in his office where he was arrested after receiving the marked money bills of P7,500.00. Respondent prosecutor was formally charged with grave misconduct by the Department of Justice (DOJ) and placed under preventive suspension for one hundred eighty (180) days.

During the formal investigation, respondent branded the charge of Emnas as baseless. He claimed that Emnas approached him about her predicament that, while the illegal recruitment case was dismissed, she was nonetheless charged in court with three (3) counts of estafa. Continuing, respondent asked Emnas to prepare P36,000.00 for her bailbond since the recommended bail was P12,000.00 in each information. As Emnas could not produce P36,000.00 for her cash bond, he called up Gil San Juan of Eastern Assurance and Surety Company (EASCO) who informed him that P7,500.00 was needed for the premium of 20% of P36,000.00 plus documentary and notarial expenses. On June 29, 1995, Emnas returned to his office with the amount of P7,500.00. He then sought Tessie Gabriel Co, the "pianzador" who referred EASCO to him and wrote a note to Gil San Juan which reads:



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Mr. San Juan
EASCO
Leveriza, Malate, Manila

Bearer is entrusted with P7,500.00 for the bailbond of Judy Emnas in Criminal Cases No. 95-143359, 95-1433360 and 95-143361 for estafa.

Please acknowledge receipt.

SGD
B. G. BACANI

Respondent prosecutor maintained that while in the act of wrapping the P7,500.00 with his letter to EASCO, together with the three (3) informations for estafa, the NBI agents rushed inside the room and arrested him, and that Supervising NBI agent Ferdinand Lavin confiscated his letter together with the three (3) informations. Respondent prosecutor presented in evidence the copies of said letter and the three (3) informations, each bearing the handwritten note "certified true photocopy of the original on file with the NBI" signed by NBI agent Lavin.

Instead of presenting witnesses as she had promised to prove her claim that she gave respondent prosecutor P15,000.00 in December, 1994, Emnas submitted an affidavit of desistance, duly assisted by her counsel, which reads:

"x x x after a thorough deliberation and careful study, I came to a conclusion that the said cases arose out of misunderstanding and misappreciation of facts. x x x I feel that I am legally and morally bound to withdraw and desist from the complaint filed against Fiscal Bacani x x x therefore I hereby withdraw and desist the instant complaint."

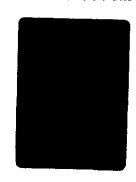
After the formal investigation, the Secretary of Justice found respondent prosecutor administratively liable for misconduct and recommended that he be meted the penalty of six (6) months suspension without pay, with a stern warning that a repetition of a similar infraction in the future shall be dealt with more severely.

I agree with the Secretary of Justice.

The credibility of Emnas may have been rendered doubtful by her failure to present, as promised, the corroborative testimony of her witnesses to prove that she gave P15,000.00 to respondent and by her subsequent desistance and withdrawal of her



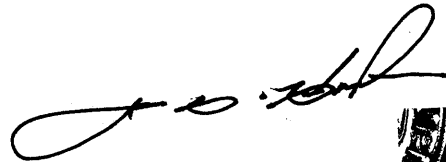
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complaint. Nonetheless, I find respondent's actuation in interceding in the procurement and posting of Emnas' bailbond relative to the latter's estafa cases highly irregular, improper, and suspicious. Such activity or practice which does not pertain to his regular functions as public prosecutor clearly shows that he was unmindful of the high degree of trust, honesty and integrity required of his position. His act of receiving the amount of P7,500.00, while perhaps not amounting, under the premises, to bribery, doubtless constitutes misconduct which warrants disciplinary penalty of six (6) months suspension from the service without pay.

WHEREFORE, premises considered, Assistant City Prosecutor Bonifacio G. Bacani of Manila is hereby found guilty for *MISCONDUCT*. Consequently, his suspension from office for six (6) months without pay is hereby imposed effective upon receipt of a copy of this Order, with a stern warning that a repetition of a similar infraction in the future shall be dealt with more severely.

Done in the City of Manila, this 18th day of JUNE, in the year of Our Lord, nineteen hundred and ninety nine.




By the President:



RONALDO B. ZAMORA
Executive Secretary



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