



Republic of the Philippines  
Supreme Court  
Office of the Court Administrator  
Manila

**OCA CIRCULAR NO.** 118-2003

**TO: THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHAR'IA DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURT IN CITIES, MUNICIPAL TRIAL COURT, MUNICIPAL CIRCUIT TRIAL COURTS, SHAR'IA CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC DEFENDER'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES**

**SUBJECT: SUSPENSION OF ATTY. JUAN B. CABREDO IV FOR ONE (1) YEAR**

For the information and guidance of all concerned, quoted hereunder is the decision of the Second Division of the Supreme Court in the Administrative Case No. 5831, entitled "CESAR A. ESPIRITU vs. ATTY. JUAN B. CABREDO IV" dated January 13, 2003, to wit:

This is an administrative complaint filed with the Integrated Bar of the Philippines (IBP) on May 8, 2001 by complainant Cesar A. Espiritu against Atty. Juan Cabredo IV, for failure to fulfill a fiduciary obligation to a client.

"x x x

The Code of Professional Responsibility provides:

**CANON 16 – A LAWYER SHALL HOLD IN TRUST ALL MONEYS AND PROPERTIES OF HIS CLIENT THAT MAY COME INTO HIS POSSESSION.**

**Rule 16.01 – A lawyer shall account for all money or property collected or received for or from the client;**

**Rule 16.02 – A lawyer shall keep the funds of each client separate and apart from his own and those of others kept by him.**

**Rule 16.03 – A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.**

The relationship between a lawyer and a client is highly fiduciary, it requires a high degree of fidelity and good faith.<sup>10</sup> Hence, in dealing with trust property, a lawyer should be very scrupulous. Money or other trust property of the client coming into the possession of the lawyer should be reported by the latter and accounted for promptly and should not, under any circumstances, be commingled with his own or be used by him.<sup>11</sup>

In this case, respondent claims that he did not know about the receipt by his secretary on the amount of P51,161.00 received from Esphar until he read the first demand letter of the company, which stated:

March 21, 2000

JUDGE JUAN CABREDO

Cubao, Quezon City

Dear Judge:

Due to your failure to make interbank deposit as what we have agreed upon yesterday, March 20, 2000, we are sending bearer, Mrs. MARITESS ALEJANDRINO, to collect the amount of P51,161.00 representing payment intended for BPI FAMILY BANK which was coursed through your office per your instruction.

We are hoping that you will not fail to return the money through bearer hereof. Her specimen signature is shown below for identification purposes.

Thank you.

Very truly yours.

ESPHAR MEDICAL CENTER, INC.

Specimen Signature of:

(signed)

MARITESS ALEJANDRINO

However, even after receiving this notice and two other demand letters, respondent never returned the money of complainant nor paid it to the bank. Indeed, it is improbable that respondent's secretary failed to inform complainant about the receipt of such a substantial sum of money. In failing to account for the money of his client, respondent violated not only the Code of Professional Responsibility but also his oath to conduct himself with all good fidelity to his clients<sup>12</sup>. Like judges, lawyers must not only be proper but they must also appear to be so. This way, the people's faith in the justice system would remain unshaken.<sup>13</sup>

<sup>10</sup> Angeles v. Uy, 330 SCRA 6 (2000)

<sup>11</sup> Marquez v. Meneses 321 SCRA 1 (1999), citing Canon 11 of the Canons of Professional Ethics.

<sup>12</sup> Rule 138, RULES OF COURT

<sup>13</sup> See Angeles v. Uy, 330 SCRA 6 (2000)

It appears that respondent, while now a practicing lawyer, was a former judge.<sup>14</sup> Thus, he should have known the ethical precepts guiding lawyers who handle money given to them in trust by their clients and the necessary consequences for violation thereof, Rule 138 of the Rules of Court provides:

Sec. 27. Disbarment or suspension of attorneys by Supreme Court, grounds therefore. – 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, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a wilful disobedience of any lawful order of a superior court, or for corruptly or wilfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (emphasis supplied)

From the evidence presented by complainant, which respondent failed to rebut, it is clear that the breach of trust committed by respondent amounted to deceit, as well as a violation of his oath, for which he should be penalized with either disbarment or suspension. While we agree with the findings of the investigating commissioner, we find the recommended penalty of suspension for three months to be too light. In *Reyes v. Maglaya*,<sup>15</sup> a lawyer was suspended for one year for failing to return P1,500.00 belonging to his client despite numerous demands. In *Castillo v. Taguines*,<sup>16</sup> a lawyer failed to deliver to his client P500.00, representing the monetary settlement of a civil suit despite demands. To make matters worse, he fooled the client by issuing a bouncing check. He was suspended for one year.

For his failure to account for P51,161.00 received from his client and to retribute it without any reason, respondent should be suspended for one year.

WHEREFORE, Atty. Juan Cabredo, IV, is hereby SUSPENDED for one (1) year and ORDERED to immediately return to Esphar Medical Center, Inc. the sum of P51,161.00, with WARNING that a repetition of the same or similar acts will be dealt with more severely. Let copies of the Decision be entered in his record as an attorney and be furnished the Integrated Bar of the Philippines (IBP) and all the courts in the country for their information and guidance.

**SO ORDERED.”**


<sup>14</sup> Annex H of Complaint, Rollo, pp. 27, 32-33. Complainant refers to respondent as “Judge Juan Cabredo IV” in a letter to the IBP Commission on Bar Discipline and in twodemand letters.

<sup>15</sup> 243 SCRA 214 (1995)

<sup>16</sup> 254 SCRA 554 (1996)

Respondent received a copy of the decision on February 4, 2003.

August 29, 2003.

A large, handwritten signature in black ink is written across the center of the page, starting from the top right and extending towards the bottom left. It appears to be a cursive or stylized signature.  
**PRESBITERO J. VESCO**      **CO, JR.**  
Court Administrator

TCB/vbc