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SUPREME COURT
OF GUAM

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IN THE SUPREME COURT OF GUAM

IN RE:

CAROL FITCH BAULOS,

Respondent.

) Supreme Court Case No.: ADC06-003
) Ethics Complaint Nos. EC03-029 and
) EC03-034

JUDGMENT

This matter comes before the court upon a Submission and Request for Entry of Judgment After Consent to Discipline filed on October 6, 2006 by Petitioner Guam Bar Ethics Committee ("Ethics Committee") by and through Prosecuting Counsel Alberto E. Tolentino. The Ethics Committee seeks the entry of judgment against Respondent Carol Fitch Baulos in accordance with Rule 17(b)(1) of the Supreme Court of Guam Rules for the Discipline of Attorneys, in Ethics Complaint No. EC03-029 and Ethics Complaint No. EC03-034.

On September 1, 2006, the Respondent, with her counsel, Daniel S. Somerfleck, *Esq.*, appeared before the Ethics Committee and executed a Stipulated Admission of Fact and Consent to Discipline ("Stipulation"), which stipulated to the admission of facts sufficient to make out violations of certain provisions of the Guam Rules of Professional Conduct. This agreement was submitted to the Guam Bar Ethics Committee and the proposed disposition was accepted by the Committee. During an allocution of the Respondent by the Committee on September 1, 2006, the Respondent indicated that she understood the charges against her, that she understood the proposed disposition of the proceedings; that she understood that if the Stipulation was accepted she would be waiving her rights to a hearing before the Committee and review by the Supreme Court of Guam; and that she voluntarily entered into the Stipulation.

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1 **A. Stipulation**

2 Respondent admitted and stipulated as follows:

3 1. That the Respondent is an attorney admitted to the Bar of Guam and was
4 a resident of Guam during the time of the conduct alleged herein. As such, she is
5 subject to the jurisdiction of the Guam Bar Ethics Committee and of the Guam
6 Supreme Court pursuant to Rule 3 of the Rules of the Guam Bar Ethics Committee
7 Governing Discipline and Rule 1 of the Supreme Court of Guam Rules for the
8 Discipline of Attorneys, respectively.

9 2. That Respondent's conduct as alleged below occurred during a period
10 when the Guam Rules of Professional Conduct were in effect and applicable to the
11 Respondent's conduct as an attorney licensed to practice law within Guam.

12 3.

13 7. That as to Ethics Complaint No. EC03-029, Respondent agrees and
14 stipulates that on or about and between the period of November, 2002, and August,
15 2003, Respondent represented Anna B. Castro in a domestic matter, *Anna B.*
16 *Castro v. Glenn R. Cruz*, Domestic Case No. DM432-00, before the Child Support
17 Referee of the Superior Court of Guam, Linda L. Ingles.

18 8. That Glenn R. Cruz filed a motion for modification of child support on
19 November 12, 2002, and that an evidentiary hearing on the motion took place on
20 May 2, 2003.

21 9. That the matter was continued because Respondent had failed to forward
22 the trial exhibits to her client, Anna B. Castro, despite the fact that Ms. Castro was
23 telephonically testifying at the close of the hearing.

24 10. That the Referee specifically directed Respondent to provide her client
25 with all the exhibits admitted thus far so as to allow the testifying witness, the court
26 and counsel to have the same exhibits and the ability to refer to the exhibit numbers
27 during testimony and that the hearing was then continued to May 16, 2003.

28 11. That for a variety of reasons, the hearing was re-set several times and
 that on the scheduled hearing on July 18, 2003, Respondent informed the court that
 she had not received service of the notice of hearing. The court then re-set the
 matter for August 25, 2003.

 12. That at the August 25, 2003, hearing Respondent appeared in court and
 asserted that she was not aware that the evidentiary hearing was scheduled until she
 reviewed the court's daily calendar.

 13. That Respondent represented to the court that she was not served with
 the notice and that she was not prepared to proceed; however, when the court
 confronted Respondent with an affidavit of service of the notice of hearing and she
 then admitted that she had been served with the notice.

 14. That the court then ordered that the matter proceed to be heard; but
 Respondent stated that her client, who is off-island, did not have any of the
 exhibits. Respondent stated that she had an employee forward the exhibits to Ms.
 Castro; however, she could not confirm whether or not Ms. Castro received them.

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1 15. That at the suggestion of opposing counsel, the court recessed until 2:30
2 p.m. that afternoon so that Respondent could forward the exhibits to her client.
3 However, at the start of the 2:30 p.m. hearing, Respondent informed the court that
4 she had not been able to forward the documents to her client.

5

6 17. That as to Ethics Complaint No. EC03-034, Respondent agrees and
7 stipulates that on or about May 13, 2003, Respondent filed an entry of appearance
8 on behalf of Antonio M. Blas, and at all relevant times herein, Respondent was the
9 attorney of record for Antonio M. Blas in a matter before the Superior Court of
10 Guam, to wit: *Lourdes Blas v. Antonio Blas*, Domestic Case No. DM0734-93.

11 18. That on or about August 4, 1993, an uncontested divorce was obtained
12 by the parties and a Marital Property Settlement Agreement was filed which
13 required, *inter alia*, that Antonio Blas pay to his ex-wife a percentage of his
14 government of Guam pension representing her community interest in that fund; pay
15 to his ex-wife a sum certain as child support; and execute a deed to his ex-wife
16 representing his community interest in the marital residence.

17 19. That on or about April 3, 2003, Seaton Woodley, counsel for Lourdes
18 Blas, the plaintiff, filed a Notice of Motion and Motion to Determine Amount of
19 Arrears and for an Accounting and Award of Attorney Fees.

20 20. That at the date originally scheduled for the motion hearing, May 29,
21 2003, the court instructed Respondent to file a thorough opposition to plaintiff's
22 motion and the hearing on the motions was then re-set for July 3, 2003.

23 21. That on or about June 6, 2003, Respondent filed a two page opposition
24 to the motion to determine arrears and on July 29, 2003, Respondent filed a motion
25 on behalf of her client for the division of omitted community property.
26 Additionally, Respondent filed a declaration explaining the late submission of the
27 motion due to computer problems. The parties and the court agreed to continue the
28 hearing to September 25, 2003.

29 22. That on September 29, 2003, the date set for the hearing on the motions,
30 Respondent failed to appear.

31 23. That Mr. Woodley then requested that the court grant his motion to
32 determine amount of arrears and for accounting and award of attorney fees.
33 However, the court erroneously noted that no opposition to Mr. Woodley's motion
34 was made and therefore granted the motion which had sought the payment of at
35 least \$50,000.00 from Respondent's client.

36 24. That as of January 16, 2004, Respondent has neither sought to set aside
37 the court's order granting the plaintiff's motion to determine arrears nor has she
38 sought to have her client's motion for division of omitted community property
39 adjudicated by the court.

40 Stipulation, pp. 1-4 (ADC06-002, Oct. 6, 2006).

41 With regard to Ethics Complaint No. EC03-029, Respondent stipulates and agrees that her
42 conduct set forth in the Stipulation was a violation of several of the Guam Rules of Professional
43 Conduct, including Rule 1.1 which provides that a lawyer shall provide competent representation
44

1 to a client; Rule 1.3 which provides that a lawyer shall act with reasonable diligence and
2 promptness in representing a client; Rule 1.4 which states that a lawyer shall keep a client
3 reasonably informed about the status of a matter; Rule 3.2 which states that a lawyer shall make
4 reasonable efforts to expedite litigation consistent with the interests of the client; and Rule 8.4
5 which provides that it is professional misconduct for a lawyer to engage in conduct that is
6 prejudicial to the administration of justice.

7 With regard to Ethics Complaint No. EC03-034, Respondent stipulates and agrees that her
8 conduct as described above was a violation of two of the rules of the Guam Rules of Professional
9 Conduct; specifically, Rule 1.1 which provides that a lawyer shall provide competent
10 representation to a client, and Rule 1.3 which provides that a lawyer shall act with reasonable
11 diligence and promptness in representing a client.

12 **B. Judgment**

13 Having considered the Stipulation, and the terms of discipline and other provisions
14 contained therein, **IT IS HEREBY ORDERED, DECREED AND ADJUDGED** as follows:

15 1. That Respondent that Respondent shall be suspended from the practice of law for
16 not more than three (3) years¹;

17 2. That said suspension shall be deferred upon condition that Respondent accept
18 probationary status for a period of one (1) year during which she must be gainfully and
19 continuously employed and engaged in the active practice of law and that she shall comply with
20 the following conditions should she choose to perform legal services in Guam:

21 _____
22 ¹ The Judgment clarifies the Stipulated Admission of Facts and Consent to Discipline (“Stipulation”) executed
23 by the Ethics Committee and Respondent. The Stipulation provided for suspension “for three (3) years,” and stated that
24 if Respondent failed to comply with the probationary terms and conditions, she would “be immediately suspended from
the practice of law and may only be reinstated upon petition as provided under Rule 20(b) of the Supreme Court Rules
for the Discipline of Attorneys.” Stipulation, p. 6.

25 The Stipulation’s reference to Rule 20(b) requires clarification. Rule 20(b)(1) states that an attorney suspended
26 for a “specific period of time,” as was provided in the Stipulation, “shall be automatically reinstated at the expiration
of the period specified in the order of suspension.” The Stipulation submitted to this court, however, did not contemplate
27 automatic reinstatement; rather, it required reinstatement by petition. Therefore, the applicable rule here is Rule 20(b)(2),
which requires reinstatement by petition. Rule 20(b)(2), however, applies to “an attorney who has been suspended for
28 an indefinite period of time” – not to a suspension for a specific period, as provided in the Stipulation. The language
in the Judgment is in accordance with the provisions of Rule 20(b). It imposes suspension for an indefinite time of “not
more than three (3) years” (which correspondingly requires reinstatement by petition), rather than the specified period
of “three (3) years” contained in the Stipulation submitted to the court (which would have resulted in automatic
reinstatement).

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- a. that Respondent's work in Guam would be supervised by another lawyer,
- b. that Respondent provide quarterly reports from her mental health professional to the Guam Bar Ethics Committee that confirms that Respondent is under the care and treatment of the health professional and that Respondent is compliant and current with all treatment plans recommended for her or that if Respondent is not currently under the care of the mental health professional then confirmation from the health professional that Respondent is not in need of services;
- c. that Respondent consent to the Guam Bar Ethics Committee's contact with her employer, from time to time, to check on the status of and overall general quality of her legal employment.

3. That upon the successful completion of the period of probation and compliance with the terms and conditions thereof Respondent shall file with the Guam Bar Ethics Committee and the Supreme Court of Guam a statement of completion;


4. That Respondent shall provide a copy of this stipulation to all other jurisdictions in which she is authorized to practice law within ten (10) days of the filing of the stipulation with the Supreme Court.

5. That in the event that Respondent should fail to faithfully comply with the terms and conditions of the probationary period as outlined above then the Respondent that she will be immediately suspended from the practice of law and may only be reinstated upon petition as provided under Rule 20(b) of the Supreme Court of Guam's Rules for the Discipline of Attorneys and that she will comply with the provisions of Rule 18 of the Supreme Court of Guam Rules for the Discipline of Attorneys.

DATED this 18th day of September, 2007, *nunc pro tunc* to October 6, 2006.


 ELIZABETH BARRETT-ANDERSON
 Justice Pro tempore


 ROBERT J. TORRES, JR.
 Associate Justice


 PHILIP CARBULLIDO
 Chief Justice