

SECOND DIVISION

[A.C. No. 10134, November 26, 2014]

**PHILIPPINE ASSOCIATION OF COURT EMPLOYEES (PACE),
REPRESENTED BY ITS PRESIDENT, ATTY. VIRGINIA C. RAFAEL,
COMPLAINANT, VS. ATTY. EDNA M. ALIBUTDAN-DIAZ,
RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This resolves the complaint for suspension or disbarment filed by the Philippine Association of Court Employees (*PACE*) through its president, Atty. Virginia C. Rafael (*Atty. Rafael*), on July 17, 2008 against Atty. Edna M. Alibutdan-Diaz (*Atty. Diaz*), former National Treasurer of *PACE*, before the Integrated Bar of the Philippines (*IBP*).^[1]

PACE, the umbrella association of 1st and 2nd level court employees in the Judiciary held its 11th National Convention/Seminar in Davao City from October 6 to 8, 2005. As then National Treasurer of *PACE*, Atty. Diaz was entrusted with all the money matters of *PACE*.

The complainant alleged that the liquidation for the 11th *PACE* national convention was submitted by Atty. Diaz only on March 29, 2007, during the 12th *PACE* national convention in Iloilo City^[2]; that during the 12th convention, an election of officers was conducted and Atty. Diaz ran for the position of National Treasurer, but she was not elected; that on the last day of the convention or on March 31, 2007, the outgoing Board of Directors, including Atty. Diaz, passed and approved Resolution No. 1-2007 appropriating the amount of P30,000.00 as term-end bonus for each *PACE* official qualified thereto; that Atty. Diaz did not submit a liquidation report for the 12th convention; that there was no turn over of monies belonging to the association as a matter of procedure despite a letter of demand, dated June 20, 2007 sent to Atty. Diaz;^[3] and that the new set of *PACE* officers issued Board Resolution No. 00-07 directing past president, Rosita D. Amizola; and past treasurer, Atty. Diaz, to explain why they failed to liquidate the finances of *PACE* for the Davao and Iloilo conventions.^[4]

In her defense, Atty. Diaz countered that she had filed the Statement of Liquidation for the 11th national convention in Davao in less than a week after the said convention; that it was duly audited by the national auditor, Letecia Agbayani; that the net proceeds of that convention was "fully accounted, liquidated and entirely deposited to *PACE* accounts;"^[5] that she also filed the Statement of Liquidation for the 12th national convention on May 22, 2007; that the report, together with the cash, checks and original receipts, were received by Rosita Amisola and witnessed

by former PACE officers;^[6] that she denied running for re-election as PACE national treasurer during the Iloilo convention as she had already filed her certificate of candidacy for Board Member of the First District of Ipil, Zamboanga Sibugay;^[7] that the approval of the P30,000.00 term-end bonus did not rest with her solely, rather, it was approved by the previous board of directors; and that she never sponsored the bonus, as it was initiated by Aliven Maderaza and seconded by Atty. Lourdes Garcia and Sarah Ampong.

On her part, Atty. Garcia averred that she was not privy to the disbursement of the said term-end bonus.^[8]

Initially, the case was assigned to IBP Commissioner Elpidio G. Soriano. After an exchange of pleadings, the mandatory conference was held. Afterwards, the protagonists were directed to submit their respective position papers. Thereafter, the case was re-assigned to IBP Commissioner Victor C. Fernandez (*Commissioner Fernandez*).^[9]

The lone issue here is whether or not Atty. Diaz violated Chapter 1, Canon 1, Rule 1.01 of the Code of Professional Responsibility (*CPR*), which reads:

"A lawyer should not engage in an unlawful, dishonest, immoral or deceitful conduct."

In his Report and Recommendation, dated June 28, 2010, Commissioner Fernandez recommended the dismissal of the case against Atty. Diaz for lack of merit. Atty. Diaz offered documentary evidence to show that she was able to submit the liquidation reports for the two aforementioned conventions of PACE. He also took note that Atty. Rafael herself acknowledged the liquidation report made by Atty. Diaz with respect to the Davao City convention.^[10] As to the sufficiency and completeness of these reports, this would be better resolved through an audit rather than in disbarment proceedings. Besides, Commissioner Fernandez did not consider the position of Atty. Diaz as national treasurer of PACE to have any connection with her being as a lawyer. Thus, according to him, she should be sanctioned in accordance with the by-laws of PACE instead of a disbarment case.^[11]

As regards the accusation that Atty. Diaz ran for re-election in the PACE elections even though she was no longer connected with the Judiciary and therefore disqualified, Commissioner Fernandez opined that the best evidence, which was the "certificate of candidacy," was never offered,^[12] and that Atty. Diaz, being a lawyer, knew that her bid for re-election would be a useless exercise since she would not be able to assume office if she won.^[13]

Finally, Commissioner Fernandez believed Atty. Diaz's assertion that she never sponsored the appropriation of the P30,000.00 term-end bonus and that the approval of Resolution No. 1-2007 was a collegial action among the Board of Directors. Again, Commissioner Fernandez was of the view that her participation in the passage of the questioned board resolution was not connected to her being a lawyer.^[14]