

EN BANC

[A.C. No. 6246 [Formerly CBD No. 00-730],
November 15, 2011]

**MARITES E. FREEMAN, COMPLAINANT, VS. ATTY. ZENAIDA P.
REYES, RESPONDENT.**

D E C I S I O N

PER CURIAM:

Before this Court is an administrative complaint, filed by complainant Marites E. Freeman, seeking the disbarment of respondent Atty. Zenaida P. Reyes, for gross dishonesty in obtaining money from her, without rendering proper legal services, and appropriating the proceeds of the insurance policies of her deceased husband. Complainant also seeks recovery of all the amounts she had given to respondent and the insurance proceeds, which was remitted to the latter, with prayer for payment of moral and exemplary damages.

In her sworn Complaint-Affidavit^[1] dated April 7, 2000, filed on May 10, 2000, complainant alleged that her husband Robert Keith Freeman, a British national, died in London on October 18, 1998. She and her son, Frank Lawrence applied for visas, to enable them to attend the wake and funeral, but their visa applications were denied. Complainant engaged the services of respondent who, in turn, assured her that she would help her secure the visas and obtain the death benefits and other insurance claims due her. Respondent told complainant that she had to personally go to London to facilitate the processing of the claims, and demanded that the latter bear all expenses for the trip. On December 4, 1998, she gave respondent the amount of P50,000.00. As acknowledgment for the receipt of P47,500.00 for service charge, tax, and one round trip ticket to London, respondent gave her a Cash/Check Voucher,^[2] issued by Broadway Travel, Inc., but on the right margin thereof, the notations in the amount of "P50,000.00" and the date "12-5-98" were written and duly initialled. On December 9, 1998, she acceded into giving respondent the amount of P20,000.00 for legal costs in securing the visas, as shown by the Temporary Receipt^[3] bearing said date, issued by Z.P. Reyes Law Office (respondent's law firm). On December 18, 1998, she went to see respondent to follow-up the visa applications, but the latter asked for the additional amount of P10,000.00 for travel expenses, per Temporary Receipt^[4] bearing said date, issued by respondent's law firm. After several phone calls inquiring about the status of the visa applications, respondent told her, "*Mahirap gapangin ang pagkuha ng visa, kasi blacklisted at banned ka sa Embassy.*" (It is difficult to railroad the process of securing visa, because you are blacklisted and banned by the Embassy). Sometime in February 1999, respondent told her that to lift the travel ban on her, she should shell out P18,000.00 as "*panlagay*" or "grease money" to bribe some staff of the British Embassy. After a week, respondent informed her that the ban was lifted, but the visas would be issued on a later date, as she had convinced the British Embassy to issue resident visas instead of tourist visas. Respondent told her that to expedite

the release of the resident visas, she should again give P20,000.00 and a bottle of wine, worth P5,000.00, as "grease money" to bribe the British Embassy personnel. After several weeks, respondent told her that the period for visa applications had lapsed, and that another amount of P18,000.00 was needed to reinstate the same. Later, respondent asked for P30,000.00 as legal costs, per Temporary Receipt,^[5] dated April 19, 1999, to be used for booking the former's flight to London, and P39,000.00 for legal costs, per Temporary Receipt^[6] dated May 13, 1999, to cover the expenses for the plane tickets. Both temporary receipts were issued by respondent's law firm.

Complainant said that despite repeated follow-ups with respondent, nothing came out. Instead, she received a picture of her husband's burial, sent by one Stanley Grist, a friend of the deceased. She later learned that respondent left for London alone, without informing her about it. Respondent explained that she needed to go to London to follow-up the insurance claims, and warned her not to communicate with Grist who allegedly pocketed the proceeds of her husband's insurance policy. She told respondent that she received a letter^[7] dated March 9, 1999 from one Martin Leigh, an Officer of H.M. Coroner's Court, London, informing her about the arrangements for the funeral and that her late husband was covered by three insurance policies, to wit: Nationwide Building Society (Account Number 0231/471 833 630), Lincoln Assurance Company (British National Life Policy No. PP/85/00137851), and Scottish Equitable PLC (Policy No. 2779512).^[8] Respondent offered to help and assured her that representations with the insurance companies had earlier been made, so that the latter would be receiving the insurance proceeds soon.

According to the complainant, respondent required her to affix her signature in a Special Power of Attorney (SPA),^[9] dated November 6, 1998 [first SPA], which would authorize the respondent to follow-up the insurance claims. However, she found out that the SPA [first SPA] she signed was not notarized, but another SPA,^[10] dated April 6, 1999, was notarized on April 30, 1999 [second SPA], and that her signature therein was forged. Later, she came across a similar copy of the SPA,^[11] dated April 6, 1999, also notarized on April 30, 1999 [third SPA], but this time, additionally bearing the signatures of two witnesses. She said that without her knowledge and consent, respondent used the third SPA, notarized on April 30, 1999, in her correspondence with the insurance companies in London.

Complainant discovered that in an undated letter,^[12] addressed to one Lynn O. Wilson of Scottish Equitable PLC (Policy No. 2779512), respondent made representations that her husband left no will and that she had no verified information as to the total value of her husband's estate and the existence of any property in London that would be subjected to Grant of Representation. Said letter requested that complainant be advised on the value for probate in the amount of £5231.35 and the procedure for its entitlement. Respondent added therein that "As to the matter of the installments due, as guaranteed by Mr. Freeman's policy, Mrs. Freeman requests that the remittance be sent directly to Account No. 0148-27377-7 Far East Bank, Diliman Branch, with business address at Malakas St. Barangay Central District, Quezon City, Philippines under the account name: Reyes/Mendiola, which serves as her temporary account until further notice."

Subsequently, in a letter^[13] dated July 29, 1999, addressed to one Andrea Ransom of Lincoln Financial Group (PP/8500137851), respondent, declaring that she is the "Counsel/Authorized Representative [of the complainant], per SPA dated April 20, 1999 [*should be* April 30, 1999]," replied that she had appended the documents required (*i.e.*, marriage certificate and birth certificate), in her previous letter,^[14] dated April 20, 1999, to the said insurance company; that pursuant to an SPA^[15] executed in her favor, all communications pertaining to complainant should be forwarded to her law firm; that she sought clarification on whether complainant is entitled to death benefits under the policy and, if so, the amount due and the requirements to be complied with; and that in the absence of a Grant of Probate (*i.e.*, the deceased having left no will), she "enclosed an alternative document [referring to the Extrajudicial Settlement^[16] dated June 1, 1999, notarized by respondent] in support of the claim of the surviving spouse (Mrs. Freeman) and their sole child (Frank Lawrence Freeman)." In the same letter, respondent reiterated that complainant "requests that any amount of monies due or benefits accruing, be directly deposited to Account No. 0148-27377-7 at Far East Bank, Diliman Branch, Malakas St., Quezon City, Philippines under Reyes/Mendiola, which serves as her temporary account until further notice."

Complainant declared that in November 1999, she made a demand upon the respondent to return her passport and the total amount of P200,000.00 which she gave for the processing of the visa applications. Not heeding her demand, respondent asked her to attend a meeting with the Consul of the British Embassy, purportedly to discuss about the visa applications, but she purposely did not show up as she got disgusted with the turn of events. On the supposed rescheduled appointment with the British Consul, respondent, instead, brought her to Airtech Travel and Tours, and introduced her to one Dr. Sonny Marquez, the travel agency's owner, who assured her that he would help her secure the visas within a week. Marquez made her sign an application for visa and demanded the amount of P3,000.00. After a week, she talked to one Marinez Patao, the office secretary of respondent's law firm, who advised her to ask respondent to return the total amount of P200,000.00.

In her Counter-Affidavit/Answer^[17] dated June 20, 2000, respondent countered that in 1998, complainant, accompanied by former Philippine Sports Commission (PSC) Commissioner Josefina Bauzon and another woman whose identity was not ascertained, sought legal advice regarding the inheritance of her deceased husband, a British national.^[18] She told complainant to submit proof of her marriage to the deceased, birth certificate of their son, and other documents to support her claim for the insurance proceeds. She averred that before she accepted the case, she explained to complainant that she would be charging the following amounts: acceptance fee of P50,000.00, P20,000.00 for initial expenses, and additional amount of P50,000.00 on a contingent basis. She said complainant agreed to these rates and, in fact, readily paid her the said amounts. With an SPA,^[19] dated April 6, 1999 and notarized on April 30, 1999 [second SPA], having been executed in her favor, she made preliminary communications with the insurance companies in London regarding complainant's claims. Having received communications from said insurance companies, she stated that complainant offered, which she accepted, to shoulder her plane ticket and the hotel accommodation, so that she can personally attend to the matter. She left for London in May 1999 and, upon her return, she

updated the complainant about the status of her claims.

As to the visa arrangements, respondent said that when she met with complainant, she asked her why she had not left for London, and the latter replied that her contacts with the embassy had duped her. She explained to complainant that she could refer her to a travel consultant who would handle the visa arrangements for a fee, to which the latter agreed. She stated that when complainant acceded to such arrangement, she accompanied her, in December 1999, to a travel consultant of Airtech Travel and Tours, who found out that complainant's previous visa applications had been denied four times, on the ground of falsity of information. Thereafter, complainant was able to secure a visa through the help of the travel consultant, who charged her a "professional fee" of P50,000.00. She added that she had no participation in the foregoing transactions, other than referring complainant to the said travel consultant.

With regard to the alleged falsified documents, respondent denied knowledge about the existence of the same, and declared that the SPA,^[20] dated April 6, 1999, which was notarized on April 30, 1999 [second SPA], was her basis for communications with the insurance companies in London. She stated that in her absence, complainant, through wily representations, was able to obtain the case folder from Leah Buama, her office secretary, and never returned the same, despite repeated demands. She said that she was unaware of the loss of the case folder as she then had no immediate need of it. She also said that her secretary failed to immediately report about the missing case folder prior to taking a leave of absence, so as to attend to the financial obligations brought about by her mother's lingering ailment and consequent death.^[21] Despite repeated requests, complainant failed to return the case folder and, thus, the law firm was prevented from pursuing the complainant's insurance claims. She maintained that through complainant's own criminal acts and machinations, her law office was prevented from effectively pursuing her claims. Between January to February 2000, she sent complainant a billing statement which indicated the expenses incurred^[22] by the law firm, as of July 1999; however, instead of settling the amount, the latter filed a malicious suit against her to evade payment of her obligations.

On January 19, 2001, complainant filed a Motion Submitting the Instant Case for Immediate Resolution with Comments on Respondent's Answer, alleging, among others, that upon seeing the letter^[23] dated March 9, 1999 of the Coroner's Court, respondent began to show interest and volunteered to arrange for the insurance claims; that no acceptance fee was agreed upon between the parties, as the amounts earlier mentioned represented the legal fees and expenses to be incurred attendant to the London trip; that the parties verbally agreed to a 20% contingent fee out of the total amount to be recovered; that she obtained the visas with the assistance of a travel consultant recommended by respondent; that upon return from abroad, respondent never informed her about the arrangements with the insurance companies in London that remittances would be made directly to the respondent's personal account at Far East Bank; that the reason why respondent went to London was primarily to attend the International Law Conference, not solely for her insurance claims, which explained why the receipt for the P50,000.00, which she gave, bore the letterhead of Broadway Travel, Inc. (in the amount of P47,500.00) and that she merely made a handwritten marginal note regarding the receipt of the amount of P50,000.00; that with the use of an SPA [referring to the

second SPA] in favor of the respondent, bearing her forged signature, the amount of £10,546.7 [*should be* £10,960.63],^[24] or approximately equivalent to P700,000.00, was remitted to the personal bank account of respondent, but the same was never turned over to her, nor was she ever informed about it; and that she clarified that she never executed any SPA that would authorize respondent to receive any money or check due her, but that the only SPA [first SPA] she executed was for the purpose of representing her in court proceedings.

Meanwhile, respondent filed a criminal complaint^[25] for malicious mischief, under Article 327 of the Revised Penal Code, against complainant and one Pacita Mamaril (a former client of respondent), for allegedly barging into the law office of the former and, with the use of a pair of scissors, cut-off the cords of two office computer keyboards and the line connections for the refrigerator, air conditioning unit, and electric fan, resulting in damage to office equipment in an estimated amount of P200,000.00. In the Resolution,^[26] dated July 31, 2000, the Assistant City Prosecutor of Quezon City recommended that the complaint be dismissed for insufficiency of evidence. The case was subsequently dismissed due to lack of evidence and for failure of respondent to appear during the preliminary investigation of the case.^[27]

Thereafter, complainant filed a criminal case for estafa, under Article 315, paragraph 2 (a) of the Revised Penal Code, against respondent, docketed as Criminal Case No. Q-02-108181, before the Regional Trial Court of Quezon City, Branch 83. On Motion for Reinvestigation by respondent, the City Prosecutor of Quezon City, in the Resolution^[28] dated October 21, 2002, recommended that the information, dated February 8, 2002, for estafa be withdrawn, and that the case be dismissed, for insufficiency of evidence. On November 6, 2002, the Assistant City Prosecutor filed a Motion to Withdraw Information.^[29] Consequently, in the Order^[30] dated November 27, 2002, the trial court granted the withdrawal of the information, and dismissed the case.

In the Report and Recommendation^[31] dated August 28, 2003, Investigating Commissioner Milagros V. San Juan of the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline found respondent to have betrayed the trust of complainant as her client, for being dishonest in her dealings and appropriating for herself the insurance proceeds intended for complainant. The Investigating Commissioner pointed out that despite receipt of the approximate amount of P200,000.00, respondent failed to secure the visas for complainant and her son, and that through deceitful means, she was able to appropriate for herself the proceeds of the insurance policies of complainant's husband. Accordingly, the Investigating Commissioner recommended that respondent be suspended from the practice of law for the maximum period allowed under the law, and that she be ordered to turn over to complainant the amounts she received from the London insurance companies.

On September 27, 2003, the IBP Board of Governors, in Resolution No. XVI-2003-166,^[32] adopted and approved the recommendation of the Investigating Commissioner, with modification that respondent be disbarred.

The Court agrees with the observation of the Investigating Commissioner that complainant had sufficiently substantiated the charge of gross dishonesty against