

EN BANC

[A.M. No. 2008-12-SC (Formerly A.M. No. 08-7-4-SC), April 24, 2009]

**IN RE: IMPROPER SOLICITATION OF COURT EMPLOYEES -
ROLANDO H. HERNANDEZ, EXECUTIVE ASSISTANT I, LEGAL
OFFICE, OFFICE OF THE COURT ADMINISTRATOR.**

[A.M. NO. P-08-2510]

**D E C I S I O N OFFICE OF THE COURT ADMINISTRATOR,
COMPLAINANT, VS. SHEELA R. NOBLEZA, COURT
STENOGRAPHER, METROPOLITAN TRIAL COURT, BRANCH 23,
MANILA, RESPONDENT.**

JOINT RESOLUTION

PER CURIAM:

In Administrative Matter No. 2008-12-SC, the Legal Office, Office of the Court Administrator (OCA), as the nominal complainant, charged Rolando H. Hernandez, Executive Assistant I, Legal Office, OCA, for dishonesty through improper solicitations from bonding companies accredited by the Court, and unauthorized use of an improvised letterhead of the Court, herein reproduced verbatim, as follows:

**SUPREME COURT
Padre Faura, Taft Avenue
Manila**

Sir/Madam:

The Court Stenographic Reporters Association of the Philippines (COSTRAPHIL) will hold its 5th National Convention on May 5 to 7, 2008 at the Quezon Convention Center, Lucena City as per OCA CIRCULAR NO. 122A-2007 signed by ZENAIDA N. ELEPAÑO, Court Administrator, Supreme Court of the Philippines. This affair aims to bolster the moral and promote unity and camaraderie among court stenographers and to work side by side with the authorities in the judiciary and the City Government towards a competent, effective and honest service to the public.

To realize this goal, may we request for solicitation from your good office to pave our way with this service to the public.

Thank you very much.

Very truly yours,

RUDY HERNANDEZ
Office of the Court Administrator
Documentation Division^[1]

In Administrative Matter No. P-08-2510, the OCA charged Sheela R. Nobleza, Court Stenographer, Metropolitan Trial Court, Branch 23, Manila for the same offense as the solicitations were made in her behalf.

Per *En Banc* Resolution dated November 18, 2008, the Court, upon recommendation of the Court Administrator, referred these administrative matters to the Complaints and Investigation Division, Office of Administrative Services of the Court (OAS-SC) for investigation, report and recommendation.

On March 5, 2009, the OAS-SC submitted its Report and Recommendation, portions of which read:

Evaluation

We agree with the Legal Office's initial investigation and findings. Our own investigation also elicits substantial evidence to support the charges of respondents' alleged improper solicitations and unauthorized use of the Court's letterhead. After a review of the records of the case particularly the sworn statements and testimonies of the parties, this Office is convinced that improper and illegal acts are committed by the respondents who conspired with each other in unduly soliciting money from different bonding and surety companies accredited by the Court.

At the outset, a closer look at the functions of the Legal Office, OCA discloses that through its Docketed and Clearance Division, it handles, among others, the monitoring and collection of forfeited surety bonds, and issues certifications to insurance companies engaged in the bonding business.^[2] Notably, the personnel of the said division where respondent Hernandez is presently assigned is susceptible to some personal interaction with people transacting business with the said office such as bonding companies and employees of the lower courts.

Both respondents admitted that on different dates and occasions, they personally went together and brought solicitation letters to the offices of bonding companies and actually solicited money. It was established that in perpetrating the improper and unauthorized solicitation, two (2) sets of solicitation letters were used. So that the letters would appear to be official and authorized for the said purpose, respondents devised an idea of using an improvised letterhead of the Supreme Court and the Metropolitan Trial Court Stenographers Association (MeTCSA), Manila Chapter. Using the improvised solicitation letters, respondents solicited cash from eight (8) bonding companies namely: Country Bankers Insurance, Sterling Insurance, Philippines Phoenix Surety and Insurance, Far Eastern Surety and Insurance, Prudential Guarantee and Insurance, Malayan Insurance, Paramount Life and General Insurance, and Equitable Insurance. However, only six (6) companies responded to the request

who gave an amount that ranges from One Thousand to Two Thousand Pesos (P1,000.00 - P2,000.00) either in cash or check. Both admitted they actually received the amount solicited.

When respondent Nobleza was asked to explain why she was involved in the improper solicitation from the bonding companies, she contended that soliciting money from any person is allowed so long as the donor has no pending cases before the courts. Pertinent portion of the transcript of the proceedings as quoted hereunder clearly shows this point:

- Q: *Are you aware of the Code of Conduct for Court Personnel?*
A: *Opo.*
Q: *have you read the Code of Conduct for Court Personnel?*
A: *Nabasa ko po.*
Q: *When was that?*
A: *Nag-attend po pala ako ng Code of Conduct for Court Personnel.*
Q: *Ano ang pinaka content ng Code of Conduct for Court Personnel? What is required of us as employees of the Judiciary?*
A: *Huwag pong hihingi ng kapalit sa mga ginagawa n'ya.*

x x x
x

- Q: ***At the outset, alam mong mali ang mag-solicit?***
A: ***Hindi po kasi ang alam ko po Ma'am, ang pagkakaalam ko kapag walang kaso sa inyo eh pwedeng mag-solicit.***^[3]

Respondent's contention is untenable. She may have already conveniently forgotten OCA Circular No. 4-91 strictly enjoining all personnel of the lower courts under the Administrative supervision of the Office of the Court Administrator from making any form of solicitation for contributions as it is strictly prohibited by law. And consequently, all those who have been found soliciting for and/or receiving contributions, in cash or in kind, from any person, whether or not a litigant or lawyer, will be dealt with severely.^[4]

While respondent Hernandez during the hearing alleged that he just wanted to help Ms. Nobleza through soliciting money from the bonding companies that he knows. Pertinent portion of the transcript of the proceedings as quoted hereunder clearly shows this point:

- Q: *Sino po ang gumawa ng sulat na yan?*
A: *Siya po.*
Q: *Ano po ang nagpag-usapan n'yo tungkol sa sulat?*
A: *Sabi ko nga po ay tutulungan ko s'ya sa abot ng aking makakaya.*
Q: *Ano `yung ibig n'yong sabihin na "tutulungan n'yo s'ya sa abot ng inyong makakaya"? Ano `yung specific na gagawin n'yo na*

pagtulong o ginawa n'yong pagtulong?

A: **Lumapit po ako sa mga bonding companies.**^[5]
(*Emphasis and underscoring supplied*)

Both respondents apparently see nothing wrong with asking or soliciting money from bonding companies. This Office, reminds them that such act is highly improper conduct as all forms of solicitations and receipt of contributions, directly or indirectly, are prohibited. That is why, the Court provides the rule against any form of solicitations of gift or other pecuniary or material benefits or receipts of contributions for himself/herself from any person, whether or not a litigant or lawyer, to avoid any suspicion that the major purpose of the donor is to influence the court personnel in performing official duties. Further, it should be emphasized that in improper solicitation, its receipt is not necessary as it is sufficient that the employee demanded money from them.^[6] Also, the act of respondents in soliciting money using the name of an association and of the Supreme Court itself without its consent cannot be countenanced. Using the name of the Court is strictly for official correspondence, records and similar papers of the court only. Unless authorized by the Court or its offices, no person shall use the name of the Court for personal gain or advantage.

This Office established how the respondents were able to carry out their plan in raising the money to be used allegedly in a seminar for court stenographers. Respondents' protestation of good faith and inadvertence are simply too incredible to believe and merit credence. With their desire to hide something by finger pointing and accusing one another, unfortunately, it only bolsters and exposes their guilt to the present administrative charges rather than their innocence thereof. This Office found out that the scheme could only have been effected by the respondents themselves who were acting in agreement in the pursuit of their unlawful act. This Office has reached such conclusion primarily on the following: **First**, Ms. Nobleza asked Mr. Hernandez's help to raise money so she could attend the seminar of the court stenographers. **Second**, two (2) sets of solicitation letters indicating the same tenor of the request were printed. One letter bears the signature of Ms. Nobleza, and the other letter carries the signature of Mr. Hernandez using the letterhead of the Metropolitan Trial Court Stenographers Association and Supreme Court, respectively so it would appear as official and authorized. **Third**, respondents actually used the solicitation letters in soliciting money from different bonding companies. The principal role of Mr. Hernandez on their modus operandi is to merely introduce Ms. Nobleza to the employees of the bonding companies since he knows most of them by name while Ms. Nobleza is the one who collects and keeps the proceeds thereof. Although the idea to solicit from bonding companies was denied by Ms. Nobleza, her claim would thus be unlikely, considering that right from the start, she was with Mr. Hernandez when she went to these companies to solicit. **Fourth**, this Office cannot accept the defense of Ms. Nobleza that she inadvertently used the letterhead of the court stenographers' association neither we believe the excuse of Mr. Hernandez that he only signed the other set of the solicitation letter using the Supreme Court's letterhead but have not read the content