



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

**RE: MS. NENNETTE G. ZALDIVAR,
 TRAINING SPECIALIST II,
 PHILIPPINE JUDICIAL ACADEMY
 vs. MR. ELIZALDE S. CARMONA,
 JUDICIAL STAFF EMPLOYEE II,
 PHILIPPINE JUDICIAL ACADEMY.**

A.M. No. 2018-03-SC

Present:

PERALTA, *J.*, Chairperson,
 LEONEN,
 REYES, A., JR.,
 HERNANDO, and
 INTING, *JJ.*

Promulgated:

August 7, 2019

[Signature]

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RESOLUTION

INTING, *J.*:

This administrative matter is rooted on a Complaint¹ filed by complainant Nennette G. Zaldivar, Training Specialist II, Philippine Judicial Academy (PHILJA), against respondent Elizalde S. Carmona, Judicial Staff Employee II, PHILJA for gross dishonesty, grave misconduct, and conduct unbecoming of a public servant in connection with their agreement and transactions involving Supreme Court Savings and Loan Association (SCSLA) deposits.

¹ *Rollo*, pp. 88-90.

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The Antecedents

Sometime in February 2016, respondent verbally agreed to sell his SCSLA capital to complainant for ₱2,000.00.² Thereafter, complainant started to deposit the amount of ₱5,000.00 to respondent's SCSLA account every month, from February 2016 to November 2017.³

Thus, on February 9, 2017, respondent executed a Special Power of Attorney⁴ in complainant's favor which authorized her to: (a) claim his checks from SCSLA; (b) present the checks to the drawee bank for encashment on his behalf; and (c) enter into transactions involving his SCSLA account. On even date, respondent surrendered his SCSLA passbook to complainant.⁵

In November 2017, complainant discovered, upon having the SCSLA passbook updated, that the amount reflected thereon did not correspond to the total sum she deposited to respondent's SCSLA account which, at the time, had already accumulated to ₱112,000.00.⁶ As it turned out, respondent had withdrawn ₱7,000.00 from the account in May 2016, and applied for an equitable loan (advance loan for supposed dividend) in March 2017 and an equity loan (loan based on the capital contribution which is to be paid monthly over the counter) in May 2017.⁷

This prompted complainant to file the present Complaint before the Office of Administrative Services (OAS) wherein she prayed that respondent be directed to pay the sum of ₱70,000.00 for breaching their SCSLA deposits agreement.⁸

The OAS conducted several clarificatory hearings, and in the course of the administrative investigations, respondent admitted that he committed the acts complained of by complainant.⁹ The parties then came into an agreement for restitution of the amount withdrawn from the SCSLA account.¹⁰ Consequently, on October 3, 2018, complainant executed an Acknowledgment Receipt¹¹ in the amount of ₱52,350.67

² Id. at 1.

³ Id.

⁴ Id. at 92.

⁵ Id. at 1.

⁶ Id. at 1-2.

⁷ Id. at 2.

⁸ Id. at 3.

⁹ Id.

¹⁰ Id.

¹¹ Id. at 7.

representing respondent's payment for the period starting April 17, 2018 up to September 4, 2018.

The Report and Recommendation of the OAS

In the Memorandum¹² dated May 24, 2019 submitted by Atty. Maria Carina M. Cunanan, Deputy Clerk of Court and Chief Administrative Officer, the OAS found respondent guilty of simple dishonesty and recommended the penalty of suspension from office for a period of two (2) months without pay.¹³

The OAS observed that respondent, by his own admissions, had appropriated the funds deposited by complainant in the SCSLA account for his own benefit despite knowledge that the funds did not belong to him. Due to his financial crisis, he withdrew the amount of ₱7,000.00 and availed himself of two (2) loans with the intention of returning the funds before the transactions were discovered by complainant.¹⁴

In addition, the OAS recommended that complainant, too, be severely warned from engaging in dummy activities and directed to desist from buying SCSLA capitals to gain undue advantage/benefits at the expense of others, per SCSLA Board Resolution No. 03-75,¹⁵ Series of 2003.¹⁶

The Court's Ruling

The Court has carefully perused the records of the case and concurs with the findings of the OAS, with *modification* as regards the penalty imposed upon respondent.

Section 1 of the Rules on the Administrative Offense of Dishonesty¹⁷ defines dishonesty as "the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive or betray and an intent to violate the truth." To constitute the offense of **simple dishonesty**, the dishonest act must not, among others, cause

¹² Id. at 1-6.

¹³ Id. at 6.

¹⁴ Id. at 4.

¹⁵ Id. at 6.

¹⁶ Id. at 76-77; SCSLA Board Resolution No. 03-75 prohibits regular members from allowing themselves to be used as dummies by other regular members and non-members for purposes of making deposits with the Association.

¹⁷ CSC Resolution No. 06-0538, April 4, 2006; published in the May 5, 2006 of MALAYA.

damage or prejudice to the government,¹⁸ or have any direct relation to or involve the duties and responsibilities of the offender.¹⁹

In this case, respondent himself admitted that: (a) he secretly withdrew the amount of ₱7,000.00²⁰ and obtained two (2) loans despite not having any capital contributions in his SCSLA account;²¹ and (b) he withheld information regarding these transactions from complainant out of fear that the latter would get mad at him.²²

These acts clearly constitute simple dishonesty as they did not cause damage or prejudice to the government, and they were not related to or involve the duties and responsibilities of respondent.

The penalty for simple dishonesty is suspension from office for a period of one (1) month and one (1) day to six (6) months for the *first* offense; six (6) months and one (1) day to one (1) year for the *second* offense; and dismissal from the service for the *third* offense.²³

The Court weighs, on the one hand, the dishonest acts complained of, and on the other, the *mitigating circumstances* in respondent's favor, *i.e.*, his length of service for twenty-five (25) years, his admissions and restitution of the amount of ₱52,350.67 to complainant, and this case being his first administrative offense, and deems suspension from office for one (1) month and one (1) day appropriate under the circumstances.

WHEREFORE, the Court finds respondent Elizalde S. Carmona, Judicial Staff Employee II, PHILJA, **GUILTY** of simple dishonesty and imposes upon him the penalty of **SUSPENSION FROM OFFICE** for a period of one (1) month and one (1) day without pay, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.

The Court likewise directs complainant Nennette G. Zaldivar to **DESIST** from buying SCSLA capitals to gain undue advantage/benefits at the expense of other members, per SCSLA Board Resolution No. 03-

¹⁸ Id. at Section 5(a).

¹⁹ Id. at Section 5(b).

²⁰ *Rollo*, p. 29.

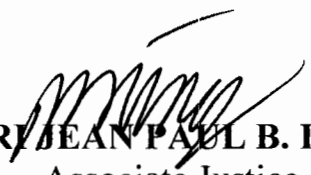
²¹ Id. at 32-33.

²² Id. at 33-34.

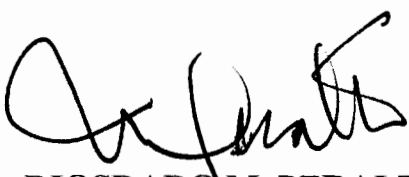
²³ CSC Resolution No. 06-0538, Section 2(c).

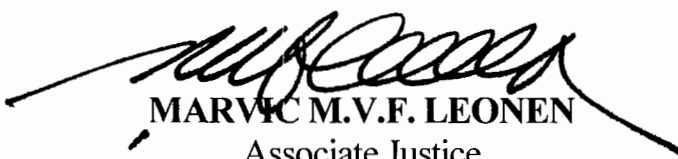
75, Series of 2003, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.



HENRY JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Chairperson


MARVIC M.V.F. LEONEN
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice