

Written by

Sunday, 23 June 2013 20:27 - Last Updated Friday, 28 June 2013 00:57

By JOSEPH G. LARIOS

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CHICAGO (FAXX/jGLi) – A Filipino-American lawyer, who was accused of conspiring with a Filipino-American caregiver in bilking an elderly Chicago senior citizen with severe dementia of “approximately \$900,000,” is facing charges of engaging in a “conduct, which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute” before the Illinois Attorney Registration and Disciplinary Commission (IARDC) in Chicago.

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Alfonso S. Bascos, 76, licensed to practice law in Illinois since 1976, is facing charges of (Count I for) incompetence in drafting power of attorney for Marshall F. Davies; (Count II) for incompetence and conflict of interest in creation of the Marshall F. Davies Will and Trust; and (Count III) for conflict of interest and breach of fiduciary duty in response to Catholic Charities Investigation.

If found guilty of the complaint, Mr. Bascos could either be censured, suspended or could lose his license to practice law in Illinois and could be charged criminally in civilian courts.

His co-accused in the case in probate court – Carmelita Pasamba, 62, a certified nursing assistant (CNA); her sister, Jocelyn Vargas Baker, 46, also a CNA, and Pasamba's husband, Edgardo Pasamba, 63, -- are now locked up in jail, facing felony charges of financial exploitation of an elderly, Marshall F. Davies, 94, a retired Chicago city engineer.

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Mr. Bascos did not respond to email request for comment by this reporter on the case.

The complaint was filed last May 23, 2013, before the IARDC. He was served a copy of the complaint on June 6, 2013, according to IARDC spokesman Atty. James Grogan. Mr. Bascos has 21 days or until June 27, 2013, to file an answer. A pre-hearing conference of the case is set on July 2nd.

IARDC Administrator Jerome Larkin thru his attorney, Marita C. Sullivan, said the case arose when Carmelita Pasamba contacted Mr. Bascos in mid-April 2008 whom she knew was “affiliated with the Filipino community in Chicago.”

Ms. Pasamba, a CNA of Chicago’s St. Joseph’s Hospital, met Mr. Davies as his caregiver in the hospital where she worked.

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When Davies checked out of the hospital, Pasamba presented herself as his caregiver. Because Mr. Davies needed a round-the-clock care, Pasamba enlisted the help of her sister, Jocelyn Vargas Baker, and her adult daughter, Donabel Copon, to help her care for Davies.

DAVIES WALKED WITH A CANE

On April 24, 2008, Pasamba, her husband, Edgardo Pasamba and Jocelyn Baker assisted Davies in getting into their car as Davies “walked with a cane and was unable to get” to Bascos’s building, the Jose Rizal Heritage Center in Chicago’s north side, “without assistance.”

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Inside Bascos' office was Bascos' friend, Herminio Poblete, a former president of the Filipino American Council of Greater Chicago (FACC), who remained in Bascos' office the entire meeting. There, Pasamba told Bascos "Davies wanted Respondent (Bascos) to draft a power of attorney on Davies' behalf, naming Pasamba as Davies' agent, and granting Pasamba power to conduct financial transactions on Davies' behalf, including selling Davies' condominium."

Pasamba provided Bascos description of each of Davies' bank accounts and account numbers. Bascos drafted the power of attorney in accordance with "Pasamba's request, Davies signed the power of attorney, Poblete witnessed Davies' signing, and Respondent (Bascos) notarized it."

As of April, 2008, when Davies was signing the power of attorney, Davies was suffering from "dementia and cognitive deficits, and lacked the capacity to make his own personal and financial decisions," according to the complaint.

"At no time during the April 24, 2008, meeting between Respondent (Bascos), Pasamba and Davies did anyone other than

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Pasamba describe Davies' purported wishes to Respondent (Bascos). At no time during the April 24th meeting did Davies explain to Respondent (Bascos) why he would want or need a power of attorney, or why he would select Pasamba to hold that power, and Respondent never consulted with Davies outside the presence of Pasamba or Poblete to ascertain if the power of attorney accurately reflected Davies' desires," the complaint added.

"Davies' dementia and cognitive deficits, described above, were, or would have been upon reasonable inquiry, apparent to Respondent (Bascos)."

BASCOS FAILED TO COMPETENTLY REPRESENT DAVIES

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Based on his conduct, Bascos failed to “competently represent Davies” and failed to “explain a matter to the extent reasonably necessary to permit the client to make informed decisions about the representation,” which are both violations of the Illinois Rules of Professional conduct; and Bascos committed a conduct “which tends to defeat the administration of justice, or to bring the courts or the legal profession into disrepute.”

The complaint’s count II of incompetence and conflict of interest in creation of the Davies’ will and trust said that as Davies' attorney, Bascos had a fiduciary relationship with Davies which required him to “exercise the highest degree of honesty, loyalty, undivided fidelity, and good faith regarding his handling of Davies' legal transactions.”

Bascos “was prohibited from engaging in transactions that gave preference to his own interests above those of Davies' interests, and was prohibited from representing anyone with interests possibly adverse to Davies' interests.”

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The complaint said three days later on April 27, 2008, Pasamba brought Davies back to Bascos' office and handed Bascos Davies' 1995 trust and 1995 will. She asked him to change the names of the beneficiaries although Mr. Bascos "did not practice in the area of estate planning and had never done any estate planning legal work." Bascos was paid \$1,750 for preparing the new trust and will.

Pasamba told Bascos to replace the Secretary General of the Chicago Metropolitan Division of Salvation Army with herself as successor trustee in the event of Davies' death. When Pasamba asked Bascos if he wanted any organizations affiliated with Bascos, he could include them to receive a bequest when Davies dies, Bascos said, "yes."

Instead of leaving the Salvation Army solely with the residue of the trust, in the new trust drafted by Bascos, the residue was to be shared three ways upon Davies' death -- the Salvation Army, the Filipino American Council of Greater Chicago, Inc. (FACC), which was once headed by Bascos but now acts as its legal counsel, and Pasamba. This was to be "in equal shares to be used for the benefit of the respective programs." "Davies is not Filipino, and was never affiliated with Filipino American organizations," the complaint noted.

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In the new will, Edgardo Pasamba was appointed as Executor, while Bascos was retained as “attorney for my Executor.”

The other witnesses of the new will were Corazon Sopena and Mauro Larracas, who is now dead, both directors of FACC.

As a result of his conduct for preparing the new trust and the will, Mr. Bascos represented “a client when the client may be materially limited by lawyer’s responsibilities to another client or to a third person, or by the lawyer’s own interests;” prepared “on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift; conduct involving dishonesty, deceit, fraud or misrepresentation,” all in violation of Illinois Rules of Professional Conduct. (lariosa_jos@sbcglobal.net)

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