

Written by

Saturday, 02 March 2013 18:02 - Last Updated Saturday, 09 March 2013 17:42

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By JOSEPH G. LARIOS

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CHICAGO (*FAXX/jGLi*) – Filipino-American Attorney Alfonso S. Bascos was expected to put up a spirited defense during the oral argument Wednesday (Feb. 27) against allegations that he conspired with another Filipino-American caregiver Carmelita Pasamba in siphoning nearly a million dollars off the fund of a disabled retired Chicago engineer, Marshall F. Davies, who is suffering from severe dementia.

But it turned out that it was only his ghost, who showed up, leaving his defense lawyer, another Filipino American Arcadio “Jun” Joaquin, to take the cudgels for him by issuing general denials to all the accusations against Mr. Bascos.

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It was not known if Mr. Bascos was even in town. In the previous hearings of the case, the once “untouchable” and perennial leader of the Filipino American community was reportedly taking a world tour and had left Mr. Joaquin to fend for himself.

Mr. Bascos was supposed to be the only one of a host of alleged conspirators, who could introduce some doubt into a conspiracy accusation that could land him a jail time for a number of years. When he handled for the first time a case involving a will and a trust, he had no idea how much he would charge his client and how a probate hearing is ever conducted, instead of referring the case to a seasoned probate law practitioner.

When Mr. Bascos was placed in a conflict-of-interest situation, he was not able to extricate himself.

After the Chicago-based Catholic Charities, the elder abuse agency assigned to Mr. Marshall F. Davies, received an anonymous call regarding possible financial exploitation of Mr. Davies, instead of talking to Mr. Davies himself to find out, Mr. Bascos relied on the information relayed to him by Mr. Davies’ caregiver, Carmelita Pasamba.

Mr. Bascos wrote a letter on Oct. 26, 2010 to Catholic Charities, stating that “our office represents Carmelita Pasamba,” and that Mr. Bascos “advised Ms. Pasamba not to turn over documents that concerns or (are) related to Mr. Davies, unless ordered by Court or Mr. Davies himself.”

## **BASCOS COULD HAVE STOPPED COLD DISSIPATION OF FUND**

During Mr. Bascos’ deposition by Cook County Public Guardian’s representative, Atty. James Burton, Mr. Bascos was having a hard time explaining if he was the lawyer for Pasamba or for Mr. Davies, owner of the check payment issued to him by Ms. Pasamba.

Had Mr. Bascos advised Ms. Pasamba to turn over Mr. Davies’ financial documents to the Catholic Charities that early, it would have stopped cold the continuing dissipation of Mr. Davies finances.

When the Catholic Charities insisted on seeing Mr. Davies’ financial records five months later in March 2011, Mr. Bascos wrote back that “there was no truth to the ‘unsupported rumors of financial abuse’ by Carmelita Pasamba, and reiterated his unwillingness to turn over any documents,” according to court documents.

When Mr. Bascos prepared a Special Power of Attorney for Ms. Pasamba, it became a key for Ms. Pasamba to “gain control of all of Mr. Davies’ assets, and converted more than \$500,000 of Mr. Davies money.” It (the SPA) was complemented by a pour-over will and living trust prepared by Mr. Bascos, who merely copied Mr. Davies prior will and trust but added new beneficiaries that Mr. Bascos said was approved by Mr. Davies after supposedly discussing them with Ms. Pasamba.

A few months after Mr. Davies signed away the SPA, the will and the trust, Mr. Davies was believed to have been diagnosed with “severe dementia even as early as September 2008” that questions Davies’ legal and mental capacity to sign such instrument. “Given the severity of Ms. Davies’ deficits, Dr. (Geoffrey) Shaw (, a licensed psychiatrist,) concluded that Mr. Davies lacked capacity to sign the April 24 and April 27, 2008 documents,” according to court records. Ap

Mr. Bascos, who was also accused of professional negligence (malpractice) for stonewalling the Catholic Charities investigation, “owed a duty to Mr. Davies to exercise reasonable care and competent professional judgment, and to use the care, skill, and prudence in his representation to Mr. Davies,” according to court records.

Mr. Bascos knew or should have known that Mr. Davies was not competent to execute legal documents. He claimed to represent both the agent (Pasamba) and the principal (Davies) at the

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same time he created the power of attorney. Mr. Bascos had Mr. Davies sign the trust agreement knowing that charities Mr. Bascos were affiliated with were also beneficiaries of the new trust documents he drafted for Mr. Davies.

## **BASCOS' CHOICE FACC BENEFICIARIES**

Among the beneficiaries to the new trust documents were the programs of the Filipino-American Council of Greater Chicago, an organization that Bascos headed for a long time until he was termed out. But it was also reported that his wife, Mrs. Thelma Bascos, would also be heading the same organization, when the current president, Rene Abella, is also termed out. The FACC benefits from the new trust would be paid for the upkeep of the Rizal Center, home of the FACC, \$5,000; the Seniors Program of the FACC, \$5,000; the Health Care Program of the FACC, \$5,000; and the Free Legal Services Program of the FACC, \$5,000.

At the hearing yesterday, Cook County Circuit Court Judge Lynne Kawamoto agreed to the motion of Mr. Burton to strike the affirmative defenses of Mr. Bascos. Burton contended that the five affirmative defenses did not meet the legal standard for defenses and the judge dismissed them all. Mr. Bascos' attorney made little effort in his argument, and raised no additional arguments. He just asked the Judge to not strike them, even if she found they did not meet the requirement as a defense.

Mr. Burton's supervisor, Atty. Dawn Keller, was also present in court, as did the lawyers for

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Salvation Army and the court-appointed guardian ad-litem, who all sided with Mr. Burton.

The case is up for status hearing on April 19, 2013, at 10 a.m.

Mr. Bascos is required to file a response to the ruling of Judge Kawamoto within 28 days and the Public Guardian will have 14 days to respond.

At the previous hearing of the case last Dec. 6, Judge Kawamoto denied the motion to dismiss the conspiracy against Pasamba's sister, Jocelyn Baker. Ms. Baker assisted her sister to care for Mr. Davies but received more than the amount of her salary as his caregiver. She received three checks from her sister worth \$33,000; a gift of \$5,000; "advances" on her salary that would double. The total she received from Davies fund was \$40,300.

Pasamba did not file a motion to dismiss, nor any affirmative defenses.

Earlier, Judge Kawamoto also denied the motion to dismiss of St. Joseph Hospital, which was a

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ccused of “breach of duty of care” and “failure to report elder abuse” on its patient, Mr. Davies.

The other co-respondents on the case are Pasamba’s daughter, Donabel Copon, her son, Dennis Pasamba and her husband, Edgardo Pasamba, who all benefited from Mr. Davies' fund. They all have yet to file their answers to the petition to issue citation to recover assets. # # #

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