

**IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
DISCIPLINARY TRIBUNAL**

IN THE MATTER OF ATTORNEY JOHN DOE,
Respondent.

Cite as: 2021 Palau 12
Disciplinary Proceeding No. 19-001

Hearing Held: January 19, 2021
Decided: April 13, 2021

Disciplinary Counsel	Rachel A. Dimitruk
Counsel for Respondent	Pro Se

BEFORE: JOHN K. RECHUCHER, Associate Justice
GREGORY DOLIN, Associate Justice
ALEXANDRO C. CASTRO, Associate Justice

OPINION

PER CURIAM:

[¶ 1] This matter comes to us following a disciplinary complaint against Respondent alleging that he made court appearances despite being automatically suspended from the practice of law in the Republic due to his failure to pay his Palau Bar dues. *See* Rule of Admission 9(b) (“Failure of an active member to timely pay his or her annual fee shall mean the immediate suspension of his or her privilege to practice law in the Republic of Palau.”).

BACKGROUND

[¶ 2] Between 2015 and 2019 Respondent was employed as an attorney by one of the governmental agencies in Palau. He was admitted to the Palau Bar pursuant to Rule 3(a) of the Palau Rules of Admission. After his annual dues came owing in 2019, Respondent tendered a check for the dues amount and

separately tendered payment for the late fee. However, because Respondent's employment in Palau was scheduled to end, he tried to have his annual dues prorated. Respondent was unsuccessful in receiving permission to prorate his dues, and he put a stop payment order on his dues check.

[¶ 3] Despite failing to pay his dues, Respondent continued to appear in court. A Complaint was filed with the Chief Justice, who appointed Disciplinary Counsel to further investigate and appointed this Disciplinary Tribunal to hear the matter.¹ Disciplinary Counsel brought formal charges against Respondent, and the matter proceeded to a hearing. Respondent admitted the factual allegations of the Complaint.

[¶ 4] At the hearing, Disciplinary Counsel and Respondent agreed that both prior to and after the incident just described, Respondent had an exemplary record of service to the citizens of Palau and other countries, especially to those who are usually underserved by the legal system. Respondent admitted to an error in judgment but urged leniency, explaining that his failure to abide by the Rules of Admission stemmed not from any ill will or malice, but from a good-faith belief that in prior instances bar dues had indeed been prorated, and from the pressure he was under as a result of his imminent departure from the Republic and the need to find new employment. Disciplinary Counsel did not object to leniency but urged the Tribunal to make clear to both Respondent and other attorneys that the behavior complained of is unacceptable.

APPLICABLE STANDARD

[¶ 5] Alleged violations of the Republic of Palau Disciplinary Rules must be proven by clear and convincing evidence. ROP Discp. R. 5(e).² "Clear and convincing evidence requires the Tribunal be convinced that the allegations are highly probable or reasonably certain, but falls short of proof beyond a reasonable doubt." *In re Shadel (Shadel II)*, 22 ROP 154, 157 (Disc. Proc. 2015). "If the Tribunal finds that the allegations of misconduct are true, it shall impose an appropriate sanction" ROP Discp. R. 5(g). "The Disciplinary

¹ The resolution of the matter was significantly delayed as a result of the difficulty locating Respondent, who had since left Palau, changes in the membership of the Court, and the death of the initially appointed Disciplinary Counsel.

² The Tribunal applies the Rules as they were in effect at the time the Complaint was filed.

Tribunal may, in the exercise of its discretion, suspend the imposition or execution of sanctions and place the respondent attorney on probation under conditions for up to five years.” ROP Discp. R. 3.

DISCUSSION

[¶ 6] Because Respondent admitted the factual allegations of the Complaint, and further admitted that the facts alleged constitute a violation of the Disciplinary Rules and the Rules of Admission, we conclude that the allegations against Respondent were proven by clear and convincing evidence. However, the Tribunal decided to resolve this matter in a manner reflecting Respondent’s admirable service to the people of Palau and lack of prior violations. Pursuant to Rule 3 of the Disciplinary Rules, we have exercised our discretion and have “suspend[ed] the imposition or execution of sanctions” on the Respondent for six months on the condition that no further misconduct in the Republic or any other jurisdiction where Respondent is licensed occurs. Should no further violations occur, and other conditions be met, the Complaint against Respondent will be dismissed. Because, by rule, the formal hearing is “closed to the public,” ROP Discp. R. 5(d), we have decided to both protect respondent’s anonymity and keep sealed the conditions of the final disposition.³

[¶ 7] Although we exercised our discretion to keep the matter confidential, we concluded that highlighting the importance of paying bar dues and refraining from practicing law until late dues are paid would have a salutary effect for the bar and the public at large. Accordingly, we take this opportunity to make clear that our Disciplinary Rules and Rules of Admission mean what they say and say what they mean—the failure of any attorney to timely pay his or her bar dues automatically triggers “*immediate* suspension of his or her privilege to practice law in the Republic of Palau.” Rule of Admission 9(b) (emphasis added). And engaging in the practice of law in violation of the Rules of Admission is grounds for discipline. ROP Discp. R. 2(i). Simply put, paying bar dues is not optional and any disagreement over the amount owed must be resolved *after* the dues are paid. We wish to make it clear that future violations

³ Of course, should the conditions not be complied with, we retain the authority to reopen the matter and issue a supplemental opinion and sanctions.

of this rule are likely to encounter a much less sympathetic and lenient response.

[¶ 8] At the same time, we bring this matter to the leadership of the Palau Bar Association so that it may consider whether to, in the future, allow people in Respondent's situation to prorate their dues. There are certainly arguments on both sides of the issue, and it is up to the Bar Association to make the ultimate decision on this matter. We do hope that whatever decision the Bar Association reaches, it will be clearly communicated to the Association's members.

CONCLUSION

[¶ 9] The Tribunal **ORDERS** that this matter remain **UNDER SEAL** and **SUSPENDS** the imposition of sanctions on Respondent for six months, on the condition that Respondent engages in no future misconduct either in Palau or any other jurisdiction. The Tribunal further **ORDERS** that upon the expiration of the six-month period, and provided all other conditions have been met, the matter be **DISMISSED**. Finally, the Tribunal expresses its appreciation to Ms. Rachel A. Dimitruk for having accepted and professionally discharged her appointment as Disciplinary Counsel in this matter.