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**IN THE SUPREME COURT OF GUAM**

<b>IN RE:</b>	)	Supreme Court Case No.: ADC04-001
	)	
<b>CAROL FITCH BAULOS,</b>	)	<b>ORDER</b>
	)	
Respondent.	)	
	)	

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This matter comes before the court pursuant to a Submission and Proposed Order of Discipline submitted by the Guam Bar Ethics Committee on January 19, 2004. The Proposed Order sought an entry of discipline against the Respondent Carol Fitch Baulos ("Baulos") in Ethics Complaint Number EC02-010, as consolidated with Ethics Complaint Numbers EC01-047, and EC01-057.

On January 20, 2004, the Clerk of the Supreme Court issued a Notice informing Ms. Baulos of the filing of the January 19, 2004 Proposed Order, and that in accordance with Rule 2 of the Rules for the Discipline of Attorneys, she shall have twenty (20) days after service of the Proposed Order to file a Statement of Objections challenging the Committee's Findings of Fact, Conclusions of Law, and Discipline, and to pay the required docketing fee. Ms. Baulos was further informed that the failure to file a Statement of Objections and pay the docketing fee within the time prescribed would result in the entry of the proposed order as a final judgment of this court.

Ms. Baulos has failed to file a timely Statement of Objections and pay the docket fee as permitted under Rule 2 of the Rules for the Discipline of Attorneys. Accordingly, the Committee's Proposed Order of Discipline shall be entered as the judgment of the court, as set forth below.

In the three aforementioned cases that were consolidated for purposes of hearing and disposition, Respondent was charged with the violation of several rules of the Guam Rules of Professional Conduct. Having taken testimony at the hearing and having deliberated thereon, the Committee issued its Findings

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1 of Fact, Conclusions of Law, and Discipline on January 23, 2003, a copy of which is attached to the  
2 Committee's Submission and Proposed Order as Exhibit "A."

3 As pertaining to the instant order of discipline, relating to Ethics Committee Complaint No. EC02-  
4 010, the Committee made the following findings of fact, set forth in Paragraphs 24-27 in its Findings of  
5 Fact, Conclusions of Law, and Discipline:

6 **EC02-0110 [sic]; THE LINDBERRY MATTER**

7 24. In May of 2001, Respondent represented Linda Seichy Lindberry, a named-  
8 defendant in a domestic matter before the Superior Court of Guam, to wit: Eric Lee  
9 Lindberry, Plaintiff, v. Linda Seichy Lindberry, Defendant, Superior Court Domestic Case  
10 No. DM287-01.

11 25. The plaintiff, Eric Lee Lindberry, was represented by Jane Kennedy of the  
12 Public Defender Service Corporation ("PDSC"), Respondent had actual knowledge of  
13 Ms. Kennedy's representation.

14 26. On the evening of July 28, 2001, Mrs. Lindberry arrived at Respondent's  
15 home, which served as her office in a distraught and agitated state. Mrs. Lindberry related  
16 an incident earlier that day involving the minor child of the parties and her concern that the  
17 child had been left alone and hungry by Mr. Lindberry. Mrs. Lindberry called Mr.  
18 Lindberry from Respondent's house and an argument ensued. Mrs. Lindberry gave the  
19 telephone to Respondent who then spoke to Mr. Lindberry. The conversation involved  
20 the following: (a) ascertaining the safety of the child; (b) informing Mr. Lindberry that she  
21 would call the Guam Police Department if he did not assure her that the child was safe; (c)  
22 the fact that the visitation agreement allowed telephonic contact between Mrs. Lindberry  
23 and the child; and (4) [sic] asking Mr. Lindberry to reconsider what language the child may  
24 speak to her mother while in his home.

25 27. After learning of the conversation between Respondent and her client, Ms.  
26 Kennedy filed a motion to disqualify respondent from the case. Respondent confirmed the  
27 conversation to Ms. Kennedy by letter dated October 29, 2001. On December 3, 2001,  
28 a hearing of Ms. Kennedy's motion was held before the Honorable Katherine Maraman.  
In its December 5, 2001 Decision and Order, Judge Maraman found that Respondent had  
violated Rule 4.2 of the Guam Rules of Professional Conduct; however, it denied the  
motion on the basis that the impermissible contact was not severe enough to warrant the  
sanction of disqualification.

Submission and Proposed Order, Exhibit A, ¶¶ 24-27 (Ethics Complaint Nos. EC01-047/EC01-057/  
EC02-010, Findings of Fact, Conclusions of Law, Discipline, January 23, 2003).

In Paragraphs 33-35 of the Findings of Fact, Conclusions of Law, and Discipline, the Committee  
made the following legal conclusions:

33. In Ethics Complainant [sic] No. EC02-010, (The Lindberry Matter) the  
Respondent was charged with the following violations of the Guam Rules of Professional  
Conduct:

1 In representing a client, a lawyer shall not communicate about the subject  
2 representation with a party the lawyer knows to be represented by  
3 another lawyer in the matter, unless the lawyer has the consent of the other  
4 lawyer or is authorized by law to do so. Guam Rules of Professional  
5 Conduct 4.2.

6 It is professional misconduct for a lawyer to violate or attempt to violate  
7 the rules of professional conduct, knowingly assist or induce another to do  
8 so, or do so through the acts of another. Guam Rules of Professional  
9 Conduct 8.4(a).

10 34. The Committee concludes that the communication that occurred on July 28,  
11 2001, between the Respondent and Mr. Lindberry was a violation of the Rules of  
12 Professional Conduct proscribing such conduct and that there was clear and convincing  
13 evidence of the misconduct. The Committee further notes that Respondent has not  
14 disputed that the violation occurred.

15 35. The Committee, however, finds that Respondent has expressed regret and  
16 remorse for her conduct and that she has cooperated with the investigation and hearing in  
17 all the matters before the Committee and thus regards such facts as relevant for  
18 considerations as mitigation.

19 Submission and Proposed Order, Exhibit A, ¶¶ 33-35 (Ethics Complaint Nos. EC01-047/ EC01-057/  
20 EC02-010, Findings of Fact, Conclusions of Law, Discipline, January 23, 2003).

21 In Part III of the Findings of Fact, Conclusions of Law, and Discipline, the Committee ordered the  
22 following discipline based on its factual findings and legal conclusions:

23 **WHEREFORE**, the Committee, giving due regard to the conduct charged in the  
24 respective Specification of Charges filed in each of the cases, the nature of the violations  
25 alleged, the proof adduced at the hearing and the circumstances in mitigation, finds the  
26 appropriate discipline to be imposed upon Respondent to be as follows: . . . (B) that a  
27 Private Reprimand shall be issued [in] EC02-010, subject to the conditions described in  
28 the next paragraph, for her improper communication with Eric Lee Lindberry, in violation  
of Guam Rules of Professional Conduct 4.2.

As a condition to the Private Reprimand issued in EC02-010, Respondent is  
ordered to take and pass the Multi State Professional Responsibility Examination  
("MPRE"), to complete seven (7) hours of Continuing Legal Education ("CLE") that  
includes not less than four (4) hours in legal ethics before December 31, 2003. If the  
Respondent fails (1) to take and pass the MPRE, or (2) to complete the required hours  
of CLE, then the Private Reprimand shall become a Public Reprimand.

Submission and Proposed Order, Exhibit A, pp. 7-8 (Ethics Complaint Nos. EC01-047/ EC01-057/  
EC02-010, Findings of Fact, Conclusions of Law; Discipline, January 23, 2003).

In its Submission and Proposed Order, the Committee further stated that:

Respondent has completed the CLE component of the discipline; however, she has failed  
to take and pass the MPRE by December 31, 2003.

Proposed Order, p. 2 (Jan. 19, 2004) (citing Declaration of Prosecuting Counsel (Jan. 19, 2004)).

1           Therefore, pursuant to Rule 2 of the Supreme Court of Guam's Rules for the Discipline of  
2 Attorneys, the Supreme Court of Guam hereby orders as follows:


- 3           A.     Respondent has violated Guam Rules of Professional Conduct 4.2 as  
4                 described in the Committee's Findings of Fact and Conclusions of Law,  
5                 quoted above.
- 6           B.     Respondent is publicly reprimanded and the Guam Bar Ethics Committee  
7                 is ordered to publish the following:

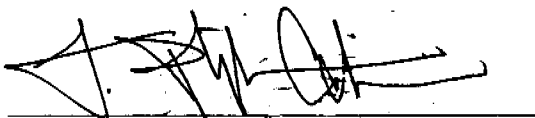
8                         CAROL FITCH-BAULOS, an attorney licensed to  
9                         practice law, has been publicly reprimanded by the  
10                        Supreme Court of Guam for a violation of the Guam  
11                        Rules of Professional Conduct which provides that in  
12                        representing a client, a lawyer shall not communicate  
13                        about the subject representation with a party the lawyer  
14                        knows to be represented by another lawyer in the matter,  
15                        unless the lawyer has the consent of the other lawyer or  
16                        is authorized by law to do so.

- 17           C.     Respondent is ordered to pay to the Guam Bar Association the cost of  
18                 publishing the public reprimand in the *Pacific Daily News* and the  
19                 *Marianas Variety* within ninety (90) days of the entry of judgment herein.

20           **SO ORDERED**, this 5<sup>th</sup> day of March, 2004.

21                           
22                         \_\_\_\_\_  
23                         ROBERT J. TORRES  
24                         Associate Justice

25                           
26                         \_\_\_\_\_  
27                         FRANCES M. TYDINGCO-GATEWOOD  
28                         Associate Justice

  
                               \_\_\_\_\_  
                               F. PHILIP CARBULLIDO  
                               Chief Justice