

In re Armaluuk, 10 ROP 109 (2003)
In the Matter of
FRANCISCO ARMALUUK,
Respondent.

DISCIPLINARY PROCEEDING
NO. 02-05

Supreme Court, Disciplinary Tribunal
Republic of Palau

Heard: May 26, 2003
Decided: June 12, 2003

Disciplinary Counsel: Michael Fineman

Counsel for Respondent: Oldiais Ngiraikelau

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice;
R. BARRIE MICHELSEN, Associate Justice.

PER CURIAM:

In a decision issued March 31, 2003, Respondent, a trial counselor licensed to practice law in the Republic of Palau, was **L110** found to have violated ABA Model Rules of Professional Conduct 8.4(c) and (d) and Palau Disciplinary Rule 2(a). Upon consideration of testimony and argument presented at the sanctions hearing, the Tribunal orders that Mr. Armaluuk's practice be limited to representation before the Court of Common Pleas.

Disciplinary Rule 3 lists the various forms of discipline which may be imposed on lawyers found to be in violation of the Rules: disbarment, suspension for not more than five years, public censure, private censure, a fine, or community service. "In considering the appropriate sanction, we consider it our duty to impose the discipline that is necessary to protect the public, the legal profession, and the courts." *In re Tarkong*, 4 ROP Intrm. 121, 132 (1994). The Tribunal refers to the list of aggravating and mitigating circumstances set forth in the ABA Standards for Imposing Lawyer Discipline (1986) in order to craft an appropriate sanction. *Id.* at 131-32 (citing *In re Howard*, 743 P.2d 719, 731-33 (Or. 1987)).

The Tribunal finds the presence of three aggravating factors in this case. First, Mr. Armaluuk was clearly disingenuous when he made various averments as to his ownership interest in Cadastral Lots 040 B 07 and 040 B 08 in affidavits to the Land Court, in the bank loan application and "affidavit of collateral," and in the warranty deed to the Palau Central Bank. The Tribunal further recognizes that Mr. Armaluuk's conduct reflected a pattern of behavior designed to achieve a dishonest motive. Last, Mr. Armaluuk previously has had discipline imposed for conduct related to competence and diligence in representation. As a result of prior violations, Mr. Armaluuk has been suspended from practicing before the Appellate Division of the Supreme

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Court until such time as he passes an exam demonstrating his knowledge of the Rules of Appellate Procedure. A mitigating factor is present. Mr. Armaluuk has expressed remorse for his actions and the Tribunal believes that remorse to be sincere.

In light of his prior disciplinary record and in recognition of the severity of the present violations, Mr. Armaluuk has suggested that an appropriate sanction here would be an extension of his current suspension to preclude practice before the Trial Division of the Supreme Court and practice before the Land Court. Because such a sanction would serve as a significant punishment for Mr. Armaluuk's conduct in this case and mindful of his past deficiencies in regard to competence, we accept this proposed sanction as an appropriate resolution to this matter. Thus, Mr. Armaluuk's practice will be limited to representation of clients in matters filed before the Court of Common Pleas. Mr. Armaluuk is hereby ordered to withdraw as counsel of record in any cases currently pending before the Trial Division or the Land Court as soon as is practicable and in no event later than sixty days from the issuance of this decision.