

In re Wolf, 5 ROP Intrm. 51 (1995)
IN THE MATTER OF MARTIN WOLFF,
Respondent.

DISCIPLINARY PROCEEDING NO. 3-94

Supreme Court, Disciplinary Tribunal
Republic of Palau

Decision

Decided: January 12, 1995

Disciplinary Counsel: David Kirschenheiter

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice;
PETER T. HOFFMAN, Associate Justice

In a complaint filed December 13, 1994, Respondent was charged with violating Professional Conduct Rules 4.4, 8.4(d), 7.1, and 7.4.

I.

The charged violation of Rule 4.4, which prohibits a lawyer from engaging in conduct having "no substantial purpose other than to embarrass, delay, or burden a third person," and the charged violation of Rule 8.4(d), which prohibits a lawyer from engaging in conduct that is "prejudicial to the administration of justice," relate to a statement made by Respondent in an affidavit he filed in a pending civil action. In the affidavit, Respondent averred that "[Opposing Counsel] suffers from a minority complex because he is not truly Palauan and he is reminded of this fact every day of his miserable existence in Palau. This makes him a nasty, impertinent, offensive boor of low class and poor taste who takes out his frustration on anyone who dares to cross his path."

In his response to the complaint in this matter, Respondent acknowledged that in making this statement his conduct "falls below the acceptable level for an attorney." We emphatically agree. Respondent's racist, irrelevant, and impertinent statement was obviously meant to serve no other purpose than to embarrass opposing counsel. Furthermore, it has prejudiced the administration of justice by sullyng the court's files, and by diverting the time and energy of both the trial judge presiding over the civil action and the members of this Panel.

We feel Respondent's conduct is so outside the bounds of acceptable professional behavior that a substantial sanction is warranted. In addition to a public reprimand, we order Respondent to pay the cost of investigating and prosecuting this action. We also fine Respondent \$1,000.00. We are aware of Respondent's pending civil appeal, in which he challenges the trial court's authority to fine him \$1,000.00, as a criminal contempt, for filing the offensive affidavit. We make the fine in this disciplinary **152** matter contingent on the outcome of the civil appeal. If the Appellate Division affirms the trial court's contempt sanction, then the fine we impose

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today will be automatically vacated upon payment of the sanction in the civil action. If the sanction is ultimately vacated in the civil action, then the fine we impose today will become due and payable ten days after such vacation.

II.

The charged violation of Rule 7.1, which prohibits a lawyer from making false or misleading communications about his services, and the charged violation of Rule 7.4, which, with limited exceptions, prohibits a lawyer from stating or implying that he is a specialist in an area of law, relate to Respondent's use of the phrase "International Lawyer" on his letterhead, in his telephone book advertisement, and on the sign on his office building. At the hearing on this matter Respondent stated that he would remove the phrase from his communications without objection if the Panel found it inappropriate.

We find the phrase "International Lawyer" misleading since it could mean that Respondent is licensed to practice in more than one country, which is apparently true, or that Respondent specializes in international law, which is not true. Since, after careful deliberation, the Panel is unable to tell with certainty what the phrase means, we are confident that those not trained in the law (including potential clients) could do no better. We order Respondent to remove the phrase from his letterhead and from his office shingle immediately, and to remove it from his telephone book advertisement with the next issue.

III.

Respondent is publicly reprimanded, is ordered to pay the cost of this proceeding, and is contingently fined for filing a statement designed to embarrass or burden a third person. Respondent is also ordered to remove the phrase "International Lawyer" from all his communications. Disciplinary Counsel is ordered to file an account of his charges, and to serve Respondent with such account, within ten days of this Decision.