

RULE 139-B

DISBARMENT AND DISCIPLINE OF ATTORNEYS

SECTION 1. **How Instituted.** - Proceedings for the disbarment, suspension, or discipline of attorneys may be taken by the Supreme Court *motu proprio*, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person. The complaint shall state clearly and concisely the facts complained of and shall be supported by affidavits of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts.

The IBP Board of Governors may, *motu proprio* or upon referral by the Supreme Court or by a Chapter Board of Officers, or at the instance of any person, initiate and prosecute proper charges against erring attorneys including those in the government service.

Six (6) copies of the verified complaint shall be filed with the Secretary of the IBP or the Secretary of any of its chapters who shall forthwith transmit the same to the IBP Board of Governors for assignment to an investigator.

A. PROCEEDING IN THE INTEGRATED BAR OF THE PHILIPPINES

SEC. 2. **National Grievance Investigators.** - The Board of Governors shall appoint from among the IBP members an Investigator or, when special circumstances so warrant, a panel of three (3) investigators to investigate the complaint. All investigators shall take an oath of office in the form prescribed by the Board of Governors. A copy of the Investigator's appointment and oath shall be transmitted to the Supreme Court.

An Investigator may be disqualified by reason of relationship within the fourth degree of consanguinity or affinity to any of the parties or their counsel, pecuniary interest, personal bias, or his having acted as counsel for either party, unless the parties sign and enter upon the record their written consent to his acting as such Investigator. Where the Investigator does not disqualify himself, a party may appeal to the IBP Board of Governors, which by majority vote of the members present, there being a quorum, may order his disqualification.

An Investigator may also be removed for cause, after due hearing, by the vote of at least six (6) members of the IBP Board of Governors. The decision of the Board of Governors in all cases of disqualification or removal shall be final.

SEC. 3. **Duties of the National Grievance Investigator.** - The National Grievance Investigators shall investigate all complaints against members of the Integrated Bar referred to them by the IBP Board of Governors.

SEC. 4. **Chapter assistance to complainant.** - The proper IBP Chapter may assist the complainant[s] in the preparation and filing of his complaints.

SEC. 5. **Service or dismissal.** - If the complaint appears to be meritorious, the Investigator shall direct that a copy thereof be served upon the respondent, requiring him to answer the same within fifteen (15) days from the date of service. If the complaint does not merit action, or if the answer shows to the satisfaction of the Investigator that the complaint is not meritorious, the same may be dismissed by the Board of Governors upon his recommendation. A copy of the resolution of dismissal shall be furnished the complainant and the Supreme Court which may review the case *motu proprio* or upon timely appeal of the complainant filed within 15 days from notice of the dismissal of the complaint.

No investigation shall be interrupted or terminated by reason of the distance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complaint to prosecute the same, unless the Supreme Court *motu proprio* or upon recommendation of the IBP Board of Governors, determines that there is no compelling reason to continue with the disbarment or suspension proceedings against the respondent. (Amendment pursuant to Supreme Court Resolution dated May 27, 1993 re Bar Matter 356)

SEC. 6. **Verification and service of answer.** - The answer shall be verified. The original and five (5) legible copies of the answer shall be filed with the Investigator, with proof of service of a copy thereof on the complainant or his counsel.

SEC. 7. **Administrative counsel.** - The IBP Board of Governors shall appoint a suitable member of the Integrated Bar as counsel to assist the complainant or the respondent during the investigation in case of need for such assistance.

SEC. 8. **Investigation.** - Upon joinder of issues or upon failure of the respondent to answer, the Investigator shall, with deliberate speed, proceed with the investigation of the case. He shall have the power to issue subpoenas and administer oaths. The respondent shall be given full opportunity to defend himself, to present witnesses on his behalf, and be heard by himself and counsel. However, if upon reasonable notice, the respondent fails to appear, the investigation shall proceed **ex parte**.

The Investigator shall terminate the investigation within three(3) months from the date of its commencement, unless extended for good cause by the Board of Governors upon prior application.

Willful failure or refusal to obey a subpoena or any other lawful order issued by the Investigator shall be dealt with as for indirect contempt of court. The corresponding charge shall be filed by the Investigator before the IBP Board of Governors which shall require the alleged contemnor to show cause within ten (10) days from notice. The IBP Board of Governors may thereafter conduct hearings, if necessary, in accordance with the procedure set forth in the Rule for hearings before the Investigator. Such hearing shall as far as practicable be terminated within fifteen (15) days from its commencement. Thereafter, the IBP Board of Governors shall within a like period of fifteen (15) days issue a resolution setting forth its findings and recommendation, which shall forthwith be transmitted to the Supreme Court for final action and if warranted, the imposition of penalty.

SEC. 9. **Depositions.** - Depositions may be taken in accordance with Rules of Court with leave of the Investigators.

Within the Philippines, depositions may be taken before any member of the Board of Governors, the President of any Chapter, or any officer authorized by law to administer oaths.

Depositions may be taken outside the Philippines before a diplomatic or consular representative of the Philippine Government or before any person agreed upon by the parties or designated by the Board of Governors.

Any suitable member of the Integrated Bar in the place where a deposition shall be taken may be designated by the Investigator to assist the complainant or the respondent in taking a deposition.

SEC. 10. **Report of Investigator.** - Not later than thirty (30) days from the termination of the investigation, the Investigator shall submit a report containing his findings of fact and recommendations to the IBP Board of Governors, together with the stenographic notes and the transcript thereof, and all the evidence presented during the investigation. The submission of the report need not await the transcription of the stenographic notes, it being sufficient that the report reproduce substantially from the Investigator's personal notes any relevant and pertinent testimonies.

SEC. 11. **Defects.** - No defect in a complaint, notice, answer, or in the proceeding or the Investigator's Report shall be considered as substantial unless the Board of Governors, upon considering the whole record, finds that such defect has resulted or may result in a miscarriage of justice, in which event the Board shall take remedial action as the circumstances may warrant, including invalidation of the entire proceedings.

SEC. 12. **Review and decision by the Board of Governors.** -

(a) Every case heard by an investigator shall be reviewed by the IBP Board of Governors upon the record and evidence transmitted to it by the Investigator with his report. The decision of the Board upon such review shall be in writing and shall clearly and distinctly state the facts and the reasons on which it is based. It shall be promulgated within a period not exceeding thirty (30) days from the next meeting of the Board following the submittal of the Investigator's report.

(b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and

recommendations which, together with the whole record of the case, shall forthwith be transmitted to the Supreme Court for final action.

(c) If the respondent is exonerated by the Board or the disciplinary sanction imposed by it is less than suspension or disbarment (such as admonition, reprimand, or fine) it shall issue a decision exonerating respondent or imposing such sanction. The case shall be deemed terminated unless upon petition of the complainant or other interested party filed with the Supreme Court within fifteen (15) days from notice of the Board's resolution, the Supreme Court orders otherwise.

(d) Notice of the resolution or decision of the Board shall be given to all parties through their counsel. A copy of the same shall be transmitted to the Supreme Court.

B. PROCEEDINGS IN THE SUPREME COURT

SEC. 13. **Supreme Court Investigators.** - In proceedings initiated *motu proprio* by the Supreme Court or in other proceedings when the interest of justice so requires, the Supreme Court may refer the case for investigation to the Solicitor General or to any officer of the Supreme Court or judge of a lower court, in which case the investigation shall proceed in the same manner provided in Sections 6 to 11 hereof, save that the review of the report of investigation shall be conducted directly by the Supreme Court.

SEC. 14. **Report of the Solicitor General or other Court-designated Investigator.** - Based upon the evidence adduced at the investigation, the Solicitor General or other Investigator designated by the Supreme Court shall submit to the Supreme Court a report containing his findings of fact and recommendations together with the record and all the evidence presented in the investigation for the final action of the Supreme Court.

C. COMMON PROVISIONS

SEC. 15. **Suspension of attorney by Supreme Court.** - After receipt of respondent's answer or lapse of the period therefor, the Supreme Court, *motu proprio*, or at the instance of the IBP Board of Governors upon the recommendation of the Investigators, may suspend an attorney from the practice of his profession for any of the cause specified in Rule 138, Section 27, during the pendency of the investigation until such suspension is lifted by the Supreme Court.

SEC. 16. **Suspension of attorney by the Court of Appeals or a Regional Trial Court.**¹ - The Court of Appeals or Regional Trial Court may suspend an attorney from practice for any of the causes named in Rule 138, Section 27,² until further action of the Supreme Court in the case.

SEC. 17. **Upon suspension by Court of Appeals or Regional Trial Court, further proceedings in Supreme Court.** - Upon such suspension, the Court of Appeals or a Regional Trial Court shall forthwith transmit to the Supreme Court a certified copy of the order of suspension and a full statement of the facts upon which the same was based. Upon receipt of such certified copy and statement, the Supreme Court shall make a full investigation of the case and may revoke, shorten or extend the suspension, or disbar the attorney as the facts may warrant.

SEC. 18. **Confidentiality.** - Proceedings against attorneys shall be private and confidential. However, the final order of the Supreme Court shall be published like its decisions in other cases.

SEC. 19. **Expenses.** - All reasonable and necessary expenses incurred in relation to disciplinary and disbarment proceedings are lawful charges for which the parties may be taxed as costs.

SEC. 20. **Effectivity and Transitory Provision.** - This Rule shall take effect on June 1, 1988 and shall supersede the present Rule 139 entitled "DISBARMENT OR SUSPENSION OF ATTORNEYS". All cases pending investigation by the Office of the Solicitor General shall be transferred to the Integrated Bar of the Philippines Board of Governors for investigation and disposition as provided in this Rule except those cases where the investigation has been substantially completed.