

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES
ADMINISTRATIVE ORDER No. 384

REPRIMANDING MR. SUSANO R. NEGADO AS GEN-
ERAL MANAGER OF THE NATIONAL WATER-

WORKS AND SEWERAGE AUTHORITY (NAWASA)

This is an administrative case against Mr. Susano R. Negado, general manager of the National Waterworks and Sewerage Authority (NAWASA), for alleged misconduct in office and inefficiency on various counts filed by members of the board of directors of said entity. The charges were investigated by a committee composed of Judge Salvador V. Esguerra, as chairman, and Professor Enrique M. Fernando and Col. Clemente Guerrero, as members. The investigating committee cleared the respondent of many of the counts or specifications except the following in which I concur:

1. It is alleged that respondent acquired 4" and 6" cast iron pipes from the Manila Sheet Metal Company and Domingo S. Jose in disregard of and willful disobedience to duly adopted resolutions and directives of the NAWASA Board of Directors. Respondent appears to have merely followed and acted in accordance with the decision and orders of his superior, the Secretary of Public Works and Communications, overruling the action of the Board. However, he should at least have apprised the Board, which is the policy-determining body of the corporation, of what he was doing in behalf of the corporation. That would not only have promoted harmony and understanding between the Board and the management so essential to the smooth operation of the NAWASA but would also have saved him from being suspected as favoring a certain group of bidders having business dealings with the NAWASA.

2. Respondent is next charged with purchasing without the knowledge of, and authority from the Board 6" and 8" cast iron pipes from C. A. Roxas & Co., Inc., and 4" and 6" water pipes of international specifications from Domingo S. Jose. The water pipes involved were imported into this country in exchange for the scrap metals exported under revalidated export permits of certain firms represented by Roxas & Co. and Jose. Said permits were revalidated by authority of the President on condition, among others, that the water pipes to be exchange with scrap metals should be sold to the Government or any party designated by it at landed cost plus not more than 7% profit. The Cabinet also approved the sale to the Government of the pipes to be imported on condition that the price would not be more than the latest prices of the Bureau of Supply and that the sale should be "without prejudice to other parties in possession of available stocks of pipes of the desired specifications participating in any bid called for if said parties should desire, pur-

suant to provisions of existing law, rules, and regulations on the procurement of materials and supplies needed by the Government." This last condition could have no other meaning than that the Government was not under obligation to purchase the pipes imported by the holders of the revalidated permits but instead public bidding would be held in order to obtain the lowest prices and most advantageous terms to the NAWASA.

Respondent admits that the purchase of the pipes did not have the approval of the board of directors but contends that the purchase without public bidding was authorized by the President because of the approval of the revalidated permits under which they were imported and because the Cabinet at its meeting held on October 20, 1954, in Naujan, Oriental Mindoro, approved the sale of the pipes, to the Government. He also contends that the Auditor General approved the corresponding requisition vouchers for the pipes.

It seems obvious that the Cabinet requirement for public bidding to obtain the best prices was binding on the NAWASA, the opinion or views of the Auditor General to the contrary notwithstanding. The Government was therefore under no obligation to purchase the pipes imported by the holders of the revalidated permits. Otherwise it would have been at the mercy of the owners of the pipes as it would have been compelled to pay any price quoted provided that their margin of profit would not be more than 7% of the landed cost.

The respondent, in the interest of harmony and cooperation with the board of directors which is the governing body of the NAWASA, should have notified or advised the Board of the purchase of the pipes in question so that the matter of the legality or propriety of the transaction could have been threshed out before that body and eventually, if need be, brought to the attention of the President who could have given the final decision on whether or not the pipes should be purchased by the NAWASA with or without public bidding.

Aside from the alleged lack of authority in purchasing the pipes in question, it is also claimed that respondent paid more than what was necessary for the purchase and lighterage or transportation charges.

The alleged losses totalling more than ₱47,000 in the purchase price are more apparent than real, as the prices of the Overseas Corporation which were the basis of comparison were not contemporaneous with the prices paid by respondent to Roxas & Co. and Jose. The purchase from the Overseas Corporation was based on prices prevailing on May 2, 1955, whereas the prices paid by respondent for the pipes in question were those prevailing

in September 1956. There appears to be no dispute that the prices of cast iron pipes in 1956 were much higher than those in 1955.

It appears that for lighterage and hauling charges for 113 tons of 6" pipes and 117.5 tons of 4" pipes the NAWASA paid the sums of ₱4,920 and ₱5,500, or a total of ₱10,420. Considering that the corporation had been paying from ₱5 to ₱5.25 per ton for similar service, it should have paid only around ₱1,210 for the 230.5 tons, or a difference of over ₱9,200. Adding 7% to said sum, the total overpayment would come up to over ₱9,850 as claimed by the complainants. Respondent has not presented any evidence to disprove the claim of the complainants. Evidently he has not been diligent and zealous in protecting the interests of the corporation as general manager thereof.

3. The charge that respondent purchased 4" and 6" water pipes of international specifications instead of federal specifications from Domingo S. Jose which resulted in the loss to the NAWASA of the total sum of ₱9,850.42 is intimately connected with the preceding charge where respondent was found guilty only of authorizing overpayment for lighterage and hauling service.

However, it was also shown in this specific charge that he took either an exceptional interest in awarding the purchase of the 4" and 6" pipes in question to Domingo S. Jose or a reckless and irresponsible attitude towards his responsibilities as NAWASA general manager. The purchase orders for the pipes were prepared in the typewriter of Mr. Jose and the approval thereof for the signature of the manager was also prepared on the same typewriter. There could be no other place where such documents were prepared than the office or establishment of Mr. Jose. Although there is no evidence that respondent profited one way or another out of the transaction, from the moral and ethical standpoint, the practice is highly condemnable, giving rise to the suspicion, by no means belabored, that the transaction was not wholly above board. He is therefore guilty of improper conduct under this count.

4. Respondent is also charged with procrastination in the construction of additional filters authorized by the Board. There is no question that the schedule set out by the Board for the various phases of the project was not followed, as there was appreciable time delay between the scheduled date and the actual date of performance. All that need be determined is whether the delay was justifiable.

It appears that the respondent, in his desire to make a thorough review of the plans for the ₱4 million proj-

ect, requested by memorandum his chief engineer to furnish him with the basic data, design criteria, economic studies, etc., which was not complied with until after two months and 23 days from the date of the request. Respondent also went into consultation by means of letters with the Director of Health and other officials whose technical knowledge might be of value in the design of the subject filter plant. The plans were finally approved by the respondent on October 30, 1956, or eight months after their submission, with certain revisions or changes which meant a saving of around ₱14,600 for the corporation.

Although the saving may be considered small, taking into account the estimated worth of the project of ₱4 million, still the value of a thorough review of the plans for a project of this magnitude cannot be over-emphasized, for which respondent manager should be given credit. At the same time the delay of eight months occasioned by the review is unreasonably long. The review could have been facilitated had respondent resorted to personal consultations with his engineers, and the latter had done the same with other agencies whose technical knowledge was deemed necessary, instead of effecting the same through the time-consuming procedure of letters and memoranda. He should have remembered that he had a schedule to follow.

Even if respondent did not procrastinate in the construction of the filter in question, yet he failed to adopt a more expeditious method of carrying out the project. If he considered the schedule rather tight under the attendant circumstances, he should have apprised the Board accordingly and requested reconsideration of the schedule.

5. As to the charge that respondent delayed the implementation of the resolution of the Board directing him to ascertain the water meter requirements of all waterworks system in the Philippines and to make arrangements for the direct importation of said meters, the record shows that, although respondent submitted a total requirement of 55,946 water meters, he merely sought to procure as reparations from Japan 20,960 meters and purchased 6,000 meters; so that his programmed procurement was only 26,960, which is not even 50% of the total requirement. Respondent did not therefore fully implement the Board resolution. If he had good reasons to spread the requirement over a certain period of time, he should have informed the Board accordingly.

6. The charge that respondent unduly delayed the submission of the results of the bidding for the purchase of 42" steel pipes for the Montalban Reactivation Project authorized by the Board, as a result of which the corpo-

ration allegedly lost the opportunity to accept a better offer and was compelled to accept a disadvantageous alternative offer, is without merit. The 21 days it took the respondent to study the various bids, if shortened, could not have materially altered the result in all likelihood and the rejection of the alleged advantageous offer of the Philippine Factors, Inc., was proper, as its original bid did not comply with the specifications. To award the contract on its revised cost submitted after the opening of the bids would amount to a negotiated sale which would be irregular. However, the practice of the management of entertaining revision of bid prices after the bids had been opened is anomalous and defeats the very essence of competitive bidding.

7. As to the charge that respondent unduly delayed the submission to the Board of the recommendation regarding the best bid for the supply of one deep well turbine pump for Polo, Bulacan, resulting in unnecessary injury to the public interest, it appears that the bidding for pipes took place on January 14, 1956, and the recommendation for award was made by the respondent on April 16, 1956. It therefore took three months before a recommendation for award was made, which delay was due, among others, to the fact that there were five items in the bid, some of which did not have the necessary funds, and there was much red tape in the NAWASA as evidenced by the series of intra-office communications. Apparently the respondent failed in his supervisory duty to effect a more expeditious system in the processing of bids. He also failed to use sound judgment when he placed several items in one bid, some of which were not backed up by necessary funds, thus contributing to the delay. The respondent is guilty of delay under this charge.

8. He is similarly guilty of delay in submitting to the Board on February 15, 1956, his report on the result of the bidding for pipes held on December 28, 1955, or 49 days thereafter. However, it is extremely doubtful whether the final outcome would have been any different even if he had forwarded his recommendation within a reasonable time in view of the divergent opinions of the respondent and the Board on the matter.

9. Respondent is also guilty of procrastination when it took him four months to submit to the Board his report on the result of the rebidding for water pipes held on June 2, 1956, despite his promise to the Board to submit it on June 8, 1956, but actually did so only on October 31, 1956.

In the light of all the foregoing, the investigating committee finds that respondent did not perform his duties

properly and conducted himself in office in an irreproachable manner. However, it believes that his shortcomings do not warrant his separation from office, most of them having been due either to a misapprehension of his powers and functions or to unfortunate personal friction with some members of the Board of Directors. I agree with the committee.

WHEREFORE, and upon the recommendation of the investigating committee, Mr. Susano R. Negado is hereby reprimanded and admonished to be more careful, tactful, and diligent in the performance of his duties.

Done in the City of Manila, this 28th day of December, in the year of Our Lord, nineteen hundred and sixty-one, and of the Independence of the Philippines, the sixteenth.

CARLOS P. GARCIA

President of the Philippines

By the President:

EDILBERTO B. GALLARES

Assistant Executive Secretary