

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 231

IMPOSING THE PENALTY OF TWO (2) MONTHS AND TWENTY (20) DAYS SUSPENSION FROM THE SERVICE ON EDMUNDO LIBID, CHIEF OF MISSION II, FOR SIMPLE NEGLIGENCE OF DUTY

This refers to the administrative complaint filed *motu proprio* by the Department of Foreign Affairs (DFA) against Chief of Mission II Edmundo Libid for Inefficiency and Incompetence in the performance of official duties, Neglect of Duty and Dishonesty.

On July 18-20, 1994, in the course of the regular fiscal, administrative and consular inspection of Foreign Service Posts, an Inspection Team headed by Assistant Secretary Estrella Berrenguel of the DFA conducted an inspection of the Philippine Embassy in Nairobi.

The Inspection Team found several irregularities at the post, as follows: the loss of the Embassy vault in October 1993 which was not reported to the Home Office; collecting fees at the old rates; non-submission of the latest Performance Appraisal Reports of the Staff; absence of any diplomatic pouch for the Home Office for the period of five (5) months; issuance of two checks worth US \$42,000 as advance rental for the Ambassador's residence not in accordance with fiscal regulations, one check of which was deposited in the personal account of Mrs. Libid, wife of the respondent; and non-issuance of receipts for the one (1) year subscription collection for the Embassy newsletter.

On March 7, 1995, pursuant to the Board of Foreign Service Administration (BFS) Resolution No. 95-008, an Investigating Committee was created to hear the case of CM II Libid. On 26 September 1995, the Investigating Committee submitted its report which resulted in the filing of a formal complaint against respondent.

In support of the charges of Inefficiency and Incompetence in the performance of official duties, the Department alleged: Issuance of passports to Myrna Obsuna Bolay on 22 October 1992, to Regina de Ramos Libid and Katrina Tatum Libid Papa on 12 April 1994, all without payment of the required passport fees; Issuance of an Embassy cheque payable to cash in the amount of US\$18,000.00 as part of the US\$42,000.00 payment of annual rental paid for the Ambassador's residence, without prior Department approval and in violation of existing administrative and fiscal regulations; Loss of the Embassy safe and its contents; Excessive telephone and fax charges amounting to US\$4,502.85 incurred

during the months of March, April and May 1994; and Non-payment of the Embassy's account with the Kenya Postal Telecommunications Corporation amounting to US\$32,139.22. On the charge of Neglect of Duty, the Department further alleged: The publication of an Embassy newsletter and collection of subscription fees without prior approval and without issuing proper receipts; and the employment of one Wilma Tarroza as contractual employee of the Embassy without prior Department approval. On the charge of Dishonesty, the Department furthermore alleged: Payment in advance of salaries and allowances of Embassy personnel for the period 16-31 July and August 1994 contrary to existing regulations; and payment to respondent of salary, allowances and per diem for the month of September 1994 knowing that his tour of duty as Philippine Ambassador to Kenya has officially ended.

Respondent submitted his Answer on February 22, 1995 and his Supplemental Answer on August 3, 1995 wherein he refuted the charges against him and explained the reasons for his actions.

The Investigating Committee found the allegations of the Department on the charge of non-payment of required passport fees substantiated. The non-payment was established from the Embassy's Fiscal Report, on the fact that the official receipt numbers were not noted in the passport application forms and on the Commission on Audit Report dated 26 May 1995. However, respondent's act did not constitute inefficiency and incompetence in the performance of official duties but only simple neglect of duty. Respondent should know that existing regulations require the payment of passport fees before issuance of passports is made, unless waived by the Secretary of Foreign Affairs under certain conditions. For failure to give due attention to this requirement in the performance of his duty, he is liable for neglect of duty. Neglect of duty, in law, has been interpreted to mean "to fail to give due attention especially to the performance of a task or duty". (Magallanes vs. Provincial Board, 66 OG 7832). Secondly, on the charge of issuance of Embassy check payable to cash without prior Department approval, respondent should have presented an affidavit of the Assistant Secretary for Fiscal Management to confirm his alleged prior authorization. Impliedly, such act would have been proper had the Department's prior approval been secured. Also, the Department has not alleged that it suffered damage as a result of the issuance of the cheque payable to cash, neither has it been established that respondent unduly profited thereby. The Investigating Committee likewise found respondent's act as constituting simple neglect of duty.

Regarding the other charges against respondent concerning the loss of the Embassy safe, the non-payment of the Embassy's account with the Kenya Postal Telecommunications Corporation, the publication of an Embassy newsletter, the hiring of a contractual employee without the prior Department approval and the

advance payment of salaries and allowances of Embassy personnel, the Committee found the evidence insufficient to sustain the imposition of any administrative penalty. Respondent's explanation was found acceptable.

However, on the charge of having incurred excessive telephone and fax bills amounting to US\$4,502.85, the Committee did not accept respondent's explanation for the calls and faxes made to countries outside of his territorial jurisdiction and to those that were not connected with the crises which the Embassy experienced. The examination of the telephone bills by the Ad Hoc Investigating Committee disclosed that the invoices consisted of 31 pages noted that 655 calls were made to the Philippines; 36 to South Africa; 28 to Djibouti; 25 to Saudi Arabia; 22 to UAE; 16 to U.K.; 13 to U.S.A.; 8 to Oman; 7 to Madagascar; 4 to Ethiopia; 4 to France; 4 to Switzerland; 2 to Austria and 1 each to Belgium, Egypt and Luxembourg. The territorial jurisdiction of the Philippine Embassy in Nairobi covers Kenya, Burundi, Comoros, Djibouti, Eretria, Ethiopia, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Tanzania, Uganda and South Africa before the opening of the Philippine Embassy in Pretoria. While it could be safely assumed that telephone calls or fax messages sent to countries within its territorial or consular jurisdiction are official in nature, the same assumption could not be made for calls made outside of its territorial jurisdiction. Respondent has not explained nor introduced evidence to establish the official nature of the calls made to countries outside of the Embassy's jurisdiction and those to where there were no crises to be attended. Under ordinary circumstances, the Office of Fiscal Management Services would demand payment for the unofficial telephone calls. The Investigating Committee, therefore, recommended that respondent be required to pay for the telephone calls and fax messages which he could not fully justify as official in nature.

Lastly, respondent is liable for his failure to adhere to Department Order 05-95 which mandates that "if an officer has not left the post ten (10) days from the effectivity of his recall, he shall be paid only at peso rate and that payment of all allowances shall cease". In the light of respondent's admission that per Assignment Order 163-94 (12 May 1994) his official tour of duty in Nairobi was "until 31 August 1994 with no further extension", there was therefore no express extension of his assignment.

The Investigating Committee recommended that the Board direct the Office of Fiscal Management Services to determine respondent's fiscal liability for possible refund of the excess amount he received taking into consideration the *quantum meruit* principle, given that he continued to perform his duties until the date of his departure on 28 September 1994.

The findings of the Investigating Committee, as affirmed by the Board of Foreign Service Administration, was adopted *in toto* by the Department of Foreign Affairs.

WHEREFORE, upon the recommendation of the Secretary of Foreign Affairs, this Office hereby orders the **SUSPENSION** from the service of respondent **EDMUNDO LIBID** for two (2) months and twenty (20) days, effective immediately.

In addition, the Office of Fiscal Management, that Department, is ordered to determine respondent's liability under Department Order 05-95 and to implement corresponding penalties therefor. Finally, respondent is ordered to pay for the telephone calls and fax messages which were not official in nature.

SO ORDERED.

Manila, Philippines, December 6, 1995



By the President:



RUBEN D. TORRES
Executive Secretary