

MALACAÑANG  
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 390

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE OF DR. ROSALINDA U. MAJARAIS, DIRECTOR IV, DEPARTMENT OF HEALTH

This refers to the Anonymous Complaint, dated March 15, 1996, received on even date by the Office of the Secretary of Health, thru the Office of Public Health Services, Department of Health (DOH) regarding alleged anomalous purchase of hospital medical kits and community health care medical kits by herein respondents, namely: Dr. Rosalinda U. Majarais, Director IV, Horacio D. Cabrera, Administrative Officer III and Priscilla Camposano, Financial Management Chief II, all of DOH-National Capital Region (NCR).

Acting thereon, the Secretary of Health issued Department Order No. 104-D, series of 1996, creating a committee to undertake an inquiry on the said complaint. In its report, dated May 07, 1996, the Committee found prima facie case for grave misconduct, gross incompetence, violation of law, rules and regulations and conduct prejudicial to the best interest of the service against the respondents.

On December 02, 1996, the Presidential Commission Against Graft and Corruption (PCAGC) directed the DOH to stop all investigations and turn over to the Commission all records of the case pursuant to Administrative Order (AO) No. 298, dated October 25, 1996, issued by then Executive Secretary Ruben D. Torres.

Briefly, the facts of the case are as follows:

1. On November 10, 1995, Horacio D. Cabrera prepared and filed Requisition Issue Vouchers (RIVs) for six hundred (600) units of Community Health Care Medical Kits and two hundred (200) units of Hospital Medical Kits.
2. Dr. Rosalinda U. Majarais approved both RIVs.
3. Dr. Roland L. Cortez, Chairman, Bids and Awards Committee sent on November 10, 1995 letter-requests to suppliers for quotations.



The following responses were received:

"For: Community Health Care Medical Kit  
(Kit 1)

Supplier	Price Quoted/Kit	Date of Response
Sapphire Pharma Medical	₱19,500	Nov. 20, 1995
Mc Andilles Drug Chemical Trading	₱18,000	Nov. 17, 1995
San Marino Laboratories Corp.	₱15,000	Nov. 10, 1995
Metro Drug Distribution, Inc.	_____	Dec. 01, 1995

"For: Hospital Medical Kit (Kit II)

Supplier	Price Quoted/Kit	Date of Response
Sapphire Pharma Medical	₱19,500	Nov. 20, 1995
Mc Andilles Drug Chemical Trading	₱18,000	Nov. 17, 1995
JohnTann Int'l. Pharma Corp.,	₱15,000	Nov. 10, 1995
Metro Drug Distribution, Inc.,	_____	Dec. 01, 1995

4. On November 14, 1995, Memorandum of Agreements between the DOH, represented by Dr. Rosalinda U. Majarais and San Marino Laboratories Corporation and JohnTann International Pharmaceutical Corporation were signed, authorizing the two suppliers to supply the medical kits to DOH.

On the basis of the foregoing facts, respondents were charged of the following:

1. No public bidding;
2. Splitting of transaction in violation of COA Circular No. 76-41 dated July 30, 1976; and
3. Grossly overpriced purchase price

Both complainants and respondents invoke Executive Order No. 301, dated July 28, 1987, the former stressing the general rule that there must be public bidding, and the latter relying on the exception to the general rule. The PCAGC had this to say on the matter:

"The law is very clear and explicit which leaves no room for doubt. Such public bidding is a must before the procurement of said medical kits can be made. The allegation that the purchase was due to an urgent need to meet an emergency is of no moment as records show that 700 boxes of those medicines/medical kits were delivered to seven (7) senators and six (6) congressmen on different dates and occasions.

"In addition, record is bereft of any evidence of such declaration of calamity, including the names of the different provinces supposedly hit by the alleged super typhoon.

"Records further show that San Marino Laboratories Corporation and JohnTann International Pharma Corporation submitted their price quotations on November 10, 1995. Whereas, the three (3) other suppliers submitted their price quotations on November 17, 20 and December 1, 1995, pretty much late as the Memorandum of Agreements for the supply of said medical kits, between DOH-NCR and San Marino Laboratories Corporation and JohnTann International Pharma Corporation were signed on November 14, 1995. This fact clearly gives forth unwarranted benefits advantages or preference in favor of San Marino Laboratories Corporation and JohnTann International Pharma Corporation, both located in the same office/business address at No. 25 Kabignayan Street, Quezon City.

"As regards the splitting of requisitions, purchase orders, vouchers and the like, Commission on Audit Circular No. 76-41, dated July 30, 1976 is quite clear and unambiguous. It explains the three (3) forms of splitting, to wit:



- '1) Splitting of Requisitions consists in the non-consolidation of requisitions for one or more items needed at or about the same time by the requisitioner.
- '2) Splitting of Purchase Orders consists in the issuance of two or more purchase orders based on two or more requisitions for the same or at about the same time by different requisitioners; and
- '3) Splitting of Payment consist in making two or more payments for one or more items involving one purchase order.'

"The above-enumerated forms of splitting are usually resorted to in the following cases:

- 1) Splitting of requisitions and purchase orders to avoid inspection of deliveries;
- 2) Splitting of requisitions and purchase orders to avoid action, reviews or approval by higher authorities; and
- 3) Splitting of requisitions to avoid public bidding.

"It is noteworthy mentioning that the requisition for the 800 boxes/medical kits has a total cost of P12 million. Under such circumstance, procurement of medical supplies involving the same amount necessarily requires a public bidding. Upon the other hand, Section 2, Executive Order No. 301, dated July 26, 1987, provides that negotiated contracts for public services or for furnishing supplies, material or equipment involving P2 million pesos up to P10 million pesos shall be signed by the Secretary and two Undersecretaries.



"As the records have clearly shown, the procurement of the 800 boxes/medical kits were split into two transactions and categorically identified as Kit I - Community Health Care Medical Kits and Kit II - Hospital Medical Kit. Subsequently, the two (2) Memorandum of Agreements were signed on the same dates, November 14, 1995, thus awarding the contracts for the supply of 200 Hospital Medical Kits and 600 Community Health Care Medical Kits in favor of JohnTann International Pharma Corporation and San Marino Laboratories Corporation, respectively, management of said two (2) establishments belong to spouses Jonathan C. Tuble and Iluminada C. Tuble. Patently, the abovesited Section 2, Executive Order No. 301 was unmistakably used as a shield to avoid public bidding in the procurement of said medical kits. Moreover, a close scrutiny on the contents of these medical kits would readily reveal that the medicines obtaining therein are very much same/identical.

"Records likewise reveal that no less than the DOH-NCR Resident Auditor made audit observations that payments made to JohnTann International Pharma Corporation and San Marino Laboratories Corporation are suspended for the reasons that 'a memorandum of agreement was made instead of the regular purchase order/contract wherein a public bidding is conducted'; 'no acknowledgment receipt from the barangay level was attached' and 'no basis of the allocation/distribution to the Senators/Congressmen was attached on why they were the chosen beneficiaries.'

"Arguing that the cost of the subject medicines is grossly overpriced, Complainant's witness Mr. Robert Joven, Supply Officer, DOH-NCR testified that the so-called agency price estimate was based on the prices quoted/offered by Metro Drug Distribution, Inc., one of the prospective suppliers. Mr. Joven further testified that





the prices of said medical kits compared with that of the prices based on the PIMS. Vol. 25, No. 2, s. 1996, the resulting price difference obtained for each item of medicine obtaining in the two (2) medical kits has amounted to P5,005,862.00 as shown below.

Price/kit as Quoted by Supplier	Price Based on PIMS DOH-Bid Price	Difference in Price
600 units-kit 1-P15,000	P8,809.48/kit	P6,190.52
200 units-kit11-P15,000	P8,542.75/kit	P6,457.75

"Such that P6,190.52 multiplied by 600 units is P3,714,312.00 and P6,457.75 multiplied by 200 units is P1,291,550.00 or a total overprice of P5,005,862.00.

"These substantial evidence adequately proved that Respondents Rosalinda U. Majarais and Horacio D. Cabrera have violated the aforesaid provisions of Executive Order No. 301 of July 26, 1987 and COA Circular No. 76-41 dated July 30, 1976. Such violation amounted to willful, intentional neglect and failure to discharge the duties of the office. The same acts constitute grave misconduct."

After a careful re-study of the case, I fully agree with the findings of the PCAGC. Moreover, by entering into a Memorandum of Agreement between the suppliers and herself, as representative of the DOH, respondent Majarais had arrogated unto herself even the mandated duty of the Bids and Awards Committee to award the contract to the winning bidder in the form of a Resolution of said Committee.

It is noted, however, that only Dr. Rosalinda U. Majarais, Director IV, who is under the disciplinary authority of this Office, she being a Presidential appointee. The other respondents are within the disciplinary jurisdiction of the Department Head.

WHEREFORE, premises considered, respondent Dr. Rosalinda U. Majarais is hereby found guilty as charged and, as recommended by the Presidential Commission Against Graft and Corruption, is meted the penalty of dismissal from the service.

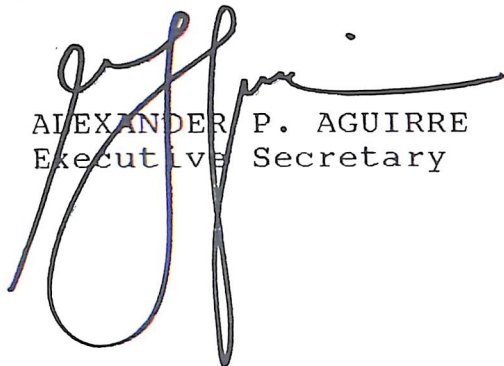
The records of the case with respect to the other respondents are remanded to Secretary Carmencita N. Reodica, Department of Health for appropriate action.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of Republic of Philippines to be affixed.

Done in the City of Manila, this 20<sup>th</sup> day of April, in the year of Our Lord, nineteen hundred and ninety eight.



By the President:



ALEXANDER P. AGUIRRE  
Executive Secretary