

MALACANANG
Manila

ADMINISTRATIVE ORDER NO. 102

**IMPOSING THE PENALTY OF SUSPENSION FROM OFFICE FOR SIX (6)
MONTHS WITHOUT PAY ON GOVERNOR DOMINADOR T. BELAC
OF THE PROVINCE OF KALINGA.**

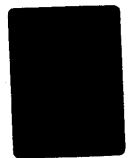
This refers to the verified administrative complaint of Richard Abadilla and seven other members of the Sangguniang Panlalawigan of Kalinga against Governor Dominador T. Belac of the same province, for alleged acts of misconduct in office, dishonesty and abuse of authority, arising from the purchase of his service vehicle, a Nissan Safari.

Complainants alleged that the irregular purchase of respondent's service vehicle was consummated with the use of a falsified document and was made in violation of prescribed rules regarding the purchase of government vehicle. They likewise averred that the purchase was done in cahoots with other government officials of the province.

In answer, respondent contends, *inter alia*, that the purchase of the service vehicle for the use of the Office of the Governor was based on necessity, made in good faith and in consonance with law; that the purchase was legal in all aspects and with the knowledge and consent of the Committee on Finance and Appropriation; that the authority to secure a loan for the purpose was unanimously approved by the said committee; that complainants disapproved the authority to secure a loan for reasons known only to them and that complainants are in bad faith, having induced the Local Finance Committee to make the necessary payment only to repudiate the authority later.

As Investigating Authority, the Department of the Interior and Local Government (DILG) conducted several hearings, after which it submitted its report.

As gathered from both the testimonial and documentary evidence submitted by the parties, it was established that on July 6, 1998, respondent, in his personal capacity, bought a 1998 model Nissan Patrol Safari complete with accessories for P1,585,000.00 from the Royce Motor Center, Inc. and paid a down payment of P600,000.00 (Exhibit "QQ"-Sales Invoice No. 5357 dated July 6, 1998), with the balance payable in six months at P165,000.00 per month; that when the first monthly installment became due and demandable, respondent defaulted (page 19 TSN of July 21, 1999) and on August 17, 1998 respondent requested the Sangguniang Panlalawigan for the realignment of the amount of P200,000.00 from the Roads and Bridges Fund to Capital Outlay to pay the



monthly amortization of the vehicle (Exhibit "K") which request was denied; that upon denial of the request for realignment, respondent, on August 26, 1998, wrote Vice-Governor Jocel C. Baac requesting from the Sangguniang Panlalawigan authority to secure a loan from the Development Bank of the Philippines (DBP) for the purchase of one service vehicle (Exhibit "3" and "3-A"); that the request was referred to the Committee on Finance and Appropriation on September 4, 1998, which committee, after consultation and deliberation with the Provincial Budget Officer, Provincial Treasurer and Provincial Accountant, recommended that (1) a resolution be adopted authorizing the Provincial Treasurer to open a depository account with DBP Tabuk branch in the amount of P2.5 million; 2) a resolution be adopted authorizing the Provincial Governor to secure a loan to pay for the service vehicle in the amount of P1.5 million, and 3) the re-alignment of the amount of P200,000.00 from any source to augment the additional cost of insurance, and other expenses to complete the purchase (Exhibit "F"); that the Advice of Allotment was prepared on September 3, 1998 (Exhibits "H" and "9"); that on September 4, 1998, the Request for Obligation and Allotment (ROA) [Exhibits "W" and "151"], Purchase Request [Exhibits "BB" and "11"), Purchase Order (Exhibits "Z" and "12"), Disbursement Voucher (Exhibit "X"), Delivery and Inspection Report (Exhibit "AA"), Land Bank Check No. 0000126591 (Exhibit "E") and Royce Motor Official Receipt (Exhibit "TT") were all prepared; and that when the Sangguniang Panlalawigan came to know that the purchase of the vehicle was already consummated, it denied further action on the request of the respondent for authority to secure a loan and later conducted an inquiry on the matter.

The main issue to be resolved in this case is whether or not respondent, in consummating the purchase of the questioned motor vehicle, acted with the intention of concealing or distorting the truth that indeed there was no appropriation ordinance for the purchase of the vehicle.

My findings are in the affirmative.

It must be emphasized that the procurement of equipment by government agencies including local government units is governed by pertinent laws and prescribed rules and regulations. Assuming that funds are available, the basic steps or procedures for the procurement of equipment are as follows: 1) Preparation of Purchase Request. The head of office needing the equipment shall certify as to their necessity for official use and specify the project or activity where the equipment are to be used (Sec. 359, Local Government Code). Every purchase request must be accompanied by a certificate signed by the local



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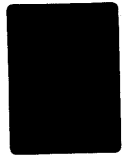
Budget Officer, the local Accountant and the local Treasurer showing that an appropriation therefor exists, that the estimated amount of such expenditures has been obligated, and that the funds are available for the purpose, respectively (Sec. 360, *ibid*); 2) Approval of the Purchase Request. In local government units, purchase requests are approved by the head of office or department concerned which has administrative control of the appropriation against which the proposed expenditure is chargeable (See Sec. 361 *ibid*). 3) Preparation of Certificate of Availability of Funds. The Certificate of Availability of Funds is the certification made by the Chief Accountant of the agency or his duly authorized representative that funds have been duly appropriated/allotted for the purpose of entering into a contract involving expenditures of public funds and that the amount necessary to cover the proposed contract for the current fiscal year is available for expenditure; 4) Preparation of Purchase Order. The Purchase Order is the document evidencing a transaction for the purchase of supplies and materials; 5) Approval of the Purchase Order. The Purchase Order shall be delivered by the Agency Official authorized for the purpose and within the limits of his authority; 6) Delivery of Purchase Order. The Purchase Order shall be delivered by the Agency Official concerned to the supplier within a reasonable time after its approval; 7) Delivery of Items. Deliveries of materials being ordered must be made by the supplier in accordance with the specifications, terms and conditions provided in the purchase order; 8) Inspection of Item. Purchases made by the agency must be inspected and verified by their authorized inspector for conformity with specifications in the order; 9) Preparation of Certificate of Acceptance. Acceptance of deliveries may be made only if the supplies and materials delivered conform with the standards and specification stated in the contract; and 10) Preparation of the Voucher. After the acceptance and inspection of delivery of the items comes the preparation of the voucher.

Testing the above-enumerated steps against the transaction subject of the instant case, it would seem that there was compliance. However, a closer scrutiny of the transaction will show otherwise.

We start with the lack of the required appropriation ordinance or resolution to support the purchase of the subject vehicle. As borne out by the records, the entry 97-04 under the column of Appropriation Ordinance in the Advice of Allotment spawned the series of acts culminating in the purchase of the subject vehicle. It provided the information that appropriate funds existed for the purpose when there was none. The Provincial Budget Officer, the Provincial Treasurer, the Provincial Accountant and the respondent were all aware that when the Advice of Allotment and the other documents related to the transaction were prepared, there was neither an appropriation ordinance nor resolution passed by the Sangguniang Panlalawigan for the purchase of the vehicle.



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Be it noted that Appropriation Ordinance No. 97-04 was the ordinance for the budget of the year 1998 or current obligation. The column in said ordinance under the Advice of Allotment dated September 3, 1998 was filled up only to facilitate the transaction and to make it appear that the transaction was duly supported by an appropriation ordinance. Respondent's justification that the questioned entry of 97-04 in the Advice of Allotment was a mistake is a very flimsy defense. All along, respondent's wrongful intent could not have succeeded if no appropriation ordinance number was mentioned in the advice. Hence, to facilitate the transaction and to make it appear that there was a color of legitimacy in the purchase, the numbers "97-04" was conveniently cited. This scheme, however, must not be allowed to pass over. Even that part of the defense of respondent that there was a verbal resolution or appropriation for the purpose cannot hold water because this has no factual basis. The recommendation of the committee on finance and appropriation was only to grant the request of the respondent for authority to secure a loan from the DBP Tabuk Branch. The aforesaid recommendation is what respondent is banking on as the verbal resolution or appropriation which is not the case. Appropriation Ordinance No. 97-04 which was indicated in the Advice of Allotment, refers to an "Ordinance Providing for the Salaries of Officials and Personnel of the Province of Kalinga for the Period of January 1, 1998 to December 31, 1998 and for other Purposes."

Another point. Respondent kept on harping that the amount used in the transaction came from an unappropriated fund. Assuming this to be correct, a resolution or appropriation ordinance is still needed. Section 305 (a) of the Local Government Code provides that no money shall be paid out of the local treasury except in pursuance of an appropriation ordinance or law.

The Notice of Suspension (Exhibit "Q") on the transaction issued by the Provincial Auditor is significant. It indicates that respondent certified a given expense as necessary and lawful, when in truth and in fact it was not.

Finally, there can be no quibbling that respondent acted in evident bad faith. Evident bad faith implies a dishonest purpose in the performance of one's duty; a breach of some known duty through some motive or interest or ill will. It partakes of the nature of fraud. (Board of Liquidators vs. Kalaw, 20 SCRA 987). In the instant case, it is very clear that respondent knew all along that there was no appropriation, resolution or ordinance for the purchase of the vehicle. Yet he closed his eyes to this reality and proceeded with the purchase of the vehicle on the basis of a fake entry on the Advice of Allotment. For this, he must be penalized.

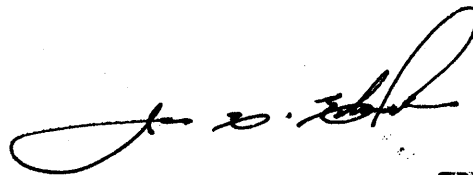


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WHEREFORE, as recommended by the Department of the Interior and Local Government respondent is found guilty of dishonesty and is hereby meted the penalty of six (6) months suspension from office without pay, effective upon receipt hereof.

Done in the City of Manila this 16th day of December, 1999.



By the President:



RONALDO B. ZAMORA
Executive Secretary



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