

**Office of the President
of the Philippines
Malacañang**

ADMINISTRATIVE ORDER NO. 49

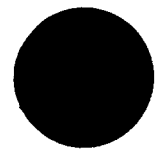
IMPOSING ON MANILA CITY ASSISTANT PROSECUTOR ROMEO C. SAMPAGA THE PENALTY OF DISMISSAL FROM THE SERVICE, WITH FORFEITURE OF ALL BENEFITS ACCRUING TO HIM OR WHICH MAY HAVE ACCRUED IN HIS FAVOR, AND DISQUALIFICATION FROM RE-EMPLOYMENT IN THE GOVERNMENT SERVICE

This refers to the administrative case against respondent Asst. City Prosecutor Romeo C. Sampaga, Office of the City Prosecutor, Manila, docketed herein as O.P. Case No. 001-E-9613 (Administrative Case No. 20-0014-FS in the office *a quo*), entitled "Secretary of Justice v. Assistant City Prosecutor Romeo C. Sampaga" for violation of Section 7 of Republic Act No. 6713 and Section 22, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292.

This case arose from an administrative complaint filed by private complainant against respondent. Private complainant avers that he came to personally know the respondent on August 26, 1998 when he filed a criminal complaint (I.S. No. 98H-46193-4) against a certain Violeta Gregorio, which was assigned to the respondent for preliminary investigation.

On October 27, 1998, respondent issued the resolution in I.S. No. 98H-46193-4 finding probable cause against Violeta Gregorio for Estafa and Violation of Batas Pambansa Blg. 22. On November 16, 1998, respondent caused the filing of criminal Informations for estafa (*Criminal Case No. 98-168731*) and violation of Batas Pambansa Blg. 22 (*Criminal Case No. 313807*) against Violeta Gregorio before the Regional Trial Court and the Metropolitan Trial Court, respectively, of Manila.

On March 15, 1999, respondent went to private complainant's business stall at No. 1554 Claro M. Recto Avenue, Sta. Cruz, Manila, and requested the latter to exchange for cash the following Banco Filipino checks which he issued in favor of the private complainant:



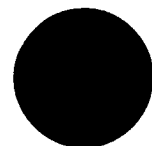
<u>Exhibits</u>	<u>Check No.</u>	<u>Due Date</u>	<u>Amount</u>
B to B-4	0101105	March 31, 1999	₱20,000.00
C to C-4	0101131	April 10, 1999	25,000.00
D to D-4	0101132	April 14, 1999	30,000.00
E to E-4	0101052	April 18, 1999	20,000.00
		Total -----	₱95,000.00

Out of courtesy and respect to the respondent, and his representation and assurance that the checks were good and will be honored upon maturity, private complainant acceded to his request and parted with his money on the same day. Upon maturity, the checks were dishonored for the reason of "Account Closed". Demand was made upon respondent to make good the checks, but he failed and refused to comply therewith.

As directed, respondent filed his Reply/Comment dated June 22, 2000. He admitted issuing the checks to the private complainant in payment of a pre-existing obligation. He avers that there is a pending petition for review filed with the Office of the Secretary of Justice for the reason that he has not received a notice of dishonor from Banco Filipino. Pending resolution of such petition, he is settling the civil aspect of the case. He avers that he suffered temporary financial reverses and has no intention of evading his obligation. He prays for the dismissal of the complaint for lack of basis.

Finding the existence of a *prima facie* case against the respondent, a formal administrative charge was issued against him on October 23, 2000. The initial hearing of the formal investigation was scheduled on November 22, 2000. Respondent filed his "Answer", denying that on March 15, 1999, private complainant had a case pending preliminary investigation before his office. He denies having received a notice of dishonor/letter of demand from the private complainant. He avers that this instant case is one of harassment and prays for its dismissal; otherwise, he elects for the conduct of a formal administrative investigation. The prosecution waived its right to file a Reply. The parties agreed to a second hearing on December 1, 2000.

On December 1, 2000, respondent filed a "Motion to Dismiss". He claims that the prosecution's waiver to file a Reply is an admission of his allegations in the Answer, more specifically, that private complainant had no case pending preliminary investigation with his office on March 19, 1999 or with the Office of the City Prosecutor of Manila. Attached to the motion is a certification issued on November 29, 2000 by the Office of



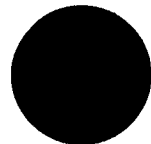
the City Prosecutor of Manila. Upon denial of his motion, the parties agreed to set the subsequent hearing on December 7, 2000.

On December 7, 2000, respondent did not attend the hearing. Instead, he filed a "Motion for Inhibition" of the Hearing Officer. He argues that despite the certification attached to his Motion to Dismiss, the Hearing Officer ignored the same and deprived him of his constitutional right to substantive due process. Moreover, this case should have been dismissed due to the prosecution's waiver to file a Reply. As directed, the prosecution filed its "Comments" on December 12, 2000. On December 14, 2000, respondent's Motion for Inhibition was denied and the parties were directed to appear during the hearing set on December 21, 2000, with a warning that failure to appear thereon shall be construed as a waiver of their right to present evidence and thereafter the case shall be deemed submitted for resolution.

On December 21, 2000, respondent filed a "Complaint" against the Hearing Officer for (1) ignorance of the law and grave abuse of discretion in denying his Motion to Dismiss, and for (2) conduct prejudicial to the best interest of the service in denying his Motion for Inhibition. He also filed a "Motion for Reconsideration" of the December 14, 2000 resolution. Respondent attempted to walk out during the hearing, but he was warned that the same shall be construed as a waiver of his right to cross examine the prosecution's witness. Thus, he decided to stay. The prosecution offered the testimony of the private complainant who, among others, identified the prosecution's exhibits and was cross-examined by the respondent. Thereafter, the parties agreed to a continuation of the hearing on January 4, 2001.

On January 4, 2001, the prosecution offered the testimony of Anthony M. Soria, representative of Banco Filipino, Quirino-Taft Avenue Branch, who, among others, identified the prosecution's exhibits and was cross-examined by the respondent. Thereafter, the prosecution was directed to file its formal offer of evidence within three (3) days and the respondent to file his comments thereon within the same period. As agreed upon by the parties, the next hearing was scheduled on January 18, 2001 for the reception of respondent's evidence.

On January 10, 2001, the prosecution filed an "Ex-Parte Motion to Admit Formal Offer of Documentary Exhibits". On January 11, 2001, such motion was granted and respondent was directed to file his comments on the formal offer of evidence within three (3) days from receipt thereof, with a warning that after receipt of his comments, or expiration of the three-day period, the formal offer of evidence shall be deemed submitted for resolution.



On January 12, 2001, respondent filed an "Urgent Motion to be Furnished Copy of Official Transcript of Stenographic Notes" to enable him to comply with the above three-day period.

On January 18, 2001, respondent's motion was granted and he was directed to file his comments within five (5) days from receipt of the transcript, with a warning that upon receipt of his comments or expiration of the said period, the prosecution's formal offer of evidence shall be deemed submitted for resolution. The parties agreed to set the hearing for the reception of respondent's evidence on February 2, 2001.

On February 2, 2001, respondent received a copy of the transcript. He undertook to file his comments on or before February 9, 2001, which was non-extendible. The prosecution was given until February 14, 2001 to file its reply. The parties were warned that upon expiration of said periods, the prosecution's formal offer of evidence shall be deemed submitted for resolution.

On February 9, 2001, instead of filing his comments, respondent filed a "Motion to Produce Original of Transcript of Stenographic Notes Taken on December 21, 2000 and January 4, 2001". He avers that the transcript of notes were tampered, doctored, edited and were not the faithful reproduction of the proceedings.

On February 14, 2001, the prosecution filed its "Comments" praying that such motion be denied; that respondent be declared to have waived his right to file his comment on the Formal Offer of Documentary Exhibits; and such Formal Offer of Documentary Exhibits be admitted.

On March 30, 2001, respondent's "Motion to Produce Original of Transcript of Stenographic Notes Taken on December 21, 2000 and January 4, 2001" was denied and he was deemed to have waived his right to file his comment on the Formal Offer of Documentary Exhibits.

On April 3, 2001, the prosecution's exhibits were admitted and the parties were directed to appear on April 18, 2001 for the reception of respondent's evidence. They were warned that failure to appear thereon shall be construed as a waiver of their right to present evidence, or to object thereto or cross-examine the witness, and thereafter the case shall be deemed submitted for resolution.

On April 18, 2001, respondent filed a "Reiterating Motion for Inhibition" and "Motion for Reconsideration and Inhibition" to the Secretary of Justice and Chief State Prosecutor, and left without attending the hearing despite due notice. Upon motion of the



prosecution, respondent was deemed to have waived his right to present evidence. Hence, this case was submitted for resolution.

After a careful evaluation, the evidence on record shows that respondent is guilty of the offenses charged. RA 6713, reads:

“Sec. 7. *Prohibited Acts and Transactions.* – In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employees and are hereby declared to be unlawful:

x x x

(d) *Solicitation or acceptance of gifts.* – Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by or any transaction which may be affected by the functions of their office.” (underscoring supplied)

Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, on the other hand, provides:

“Sec. 22. Administrative offenses with its corresponding penalties are classified into grave, less grave, and light, depending on the gravity of its nature and effects of said acts on the government service.

The following are grave offenses with corresponding penalties: xxx

(j) Contracting loans of money or other property from persons with whom the office of the employee has business relations.

1st Offense - Dismissal

(k) Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value in the course of his official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his office. The propriety or impropriety of the foregoing shall be determined by its



value, kinship or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature.

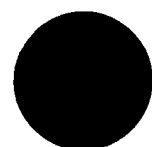
1st Offense -Dismissal.” (underscoring supplied)

From the foregoing, respondent's act of issuing worthless checks in exchange for the private complainant's cash, knowing the latter to be a party in a case previously assigned to him for preliminary investigation, runs counter to the moral parameter set forth by the Supreme Court that a public office is a public trust; that public officers and employees must serve with the highest degree of responsibility, integrity, loyalty and efficiency, and must be at all times remain accountable to the people (*Gacho v. Fuentes*, 291 SCRA 474; *Office of the Court Administrator v. Sumilang*, 271 SCRA 316). Equally repugnant is respondent's failure and refusal to pay his obligation to the private complainant.

Respondent's allegation that private complainant has no case pending before his office or the Office of the City Prosecutor of Manila for preliminary investigation, is inconsequential. What is primordial is that Criminal Cases No. 98-168731 and 313807 were investigated and filed by him before the Regional Trial Court and Metropolitan Trial Court, respectively, of Manila, and are being prosecuted by and/or under the control and supervision of the Office of the City Prosecutor of Manila, where respondent belongs. Thus, it was incumbent upon respondent to refrain from soliciting or contracting loans with, and worst, from issuing worthless checks to, litigants represented by his office.

Whether or not respondent received a notice of dishonor or letter of demand from the private complainant, is likewise inconsequential. Demand is not material since this case is administrative, and not criminal or civil, in nature. Neither is the alleged pendency of a petition for review relevant to the instant case, for what is proscribed by law is not merely the refusal to pay an obligation for lack of notice or demand, but, in the first place, the solicitation or contracting of a loan from a person whose case is being prosecuted by the office where respondent belongs.

The Code of Conduct and Ethical Standards for Public Officials and Employees (RA 6713) *inter alia* enunciates the State policy of promoting a high standard of ethics and utmost responsibility in the public service (*Alawi v. Alauya*, 268 SCRA 628). Thus, there is a need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities (*Estreller v. Manatad*, 268 SCRA 608). The act complained of being a grave offense carries the extreme penalty of dismissal for the first offense (*Marasigan v. Buena*, 284 SCRA 1).




Respondent cannot be said to have been denied due process of law for he was given every opportunity to be heard and to defend his interest (*Lumigued v. Exevea*, 282 SCRA 125) after he elected a formal investigation. Obviously, the motion and/or pleadings he filed were sinister ploys to delay the proceedings in this case. His contention that the prosecution's waiver to file a Reply is an admission of his allegation in his Answer, is misplaced. The filing of a reply under the 1997 Rules of Civil Procedure is optional, since by a party's failure to do so, all new matters alleged in the antecedent pleading are deemed controverted (*Herranz and Garaiz v. Bardudo*, 12 Phil. 6; *Lu Chiu Piao v. Lim Tuaco*, 33 Phil. 92).

WHEREFORE, premises considered, and as recommended by the Department of Justice, Asst. City Prosecutor Romeo C. Sampaga is hereby dismissed from the government service, with forfeiture of all benefits accruing to him or which may have accrued in his favor, and disqualified from re-employment in the government service.

Done in the City of Manila, Philippines, this 25th day of November 2002.



By the President:



ALBERTO G. ROMULO
Executive Secretary

