

**MALACAÑANG
MANILA**

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 259

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE WITH FORFEITURE OF RETIREMENT OR GRATUITY BENEFITS UNDER THE LAW OF DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES REGIONAL TECHNICAL DIRECTOR (REGION III)
MARIANO T. MACHACON**

This refers to the complaint filed by "Friends of People Against Graft and Corruption" charging Samuel Peñafiel, Regional Executive Director; Mariano T. Machacon, Regional Technical Director for Forestry; Ely Nabua, Land Evaluation Party; Terencio Taloma, Chief, Forest Resources Development Division; all employees of the Department of Environment and Natural Resources (DENR), Regional Office III, San Fernando, Pampanga, for two (2) incidents of graft and corrupt practices.

As per report of the Presidential Commission Against Graft and Corruption (Commission) there are two incidents of graft and corrupt practices reported in the complaint allegedly involving herein respondents, namely:

I. CORRUPTION INVOLVING REGIONAL EXECUTIVE DIRECTOR PENAFIEL, REGIONAL TECHNICAL DIRECTOR MACHACON AND MR. ELY NABUA.

The complaint alleged that in consideration of the certification of the accomplishment of the latter's Surveying, Mapping and Planning (SMP) Contract for 1,000 hectares in the province of Tarlac, respondents received P160,000.00 from Greentech, Inc. despite the fact that its accomplishments therein were far below standards and that the required technical report of said company was not presented to the DENR Committee for review and acceptance and that the maps submitted by it were actually tampered with by respondents to make it appear that there was compliance with the requirements and conditions of the contract. The complaint also alleged that it was respondent Ely Nabua who encashed the check in favor of Greentech and that P 100,000.00 was divided between Regional Executive Director Penafiel and Machacon and the balance of P60,000.00 was pocketed by Nabua.

The Commission found no sufficient evidence to hold respondents Regional Executive Director Samuel Peñafiel, Regional Technical Director Mariano T. Machacon and Mr. Ely Nabua liable for falsification of the data/maps of Greentech, Inc.'s accomplishment report. Respondent Machacon explained that on 21 September 1993, he advised Greentech that its accomplishment report was not in accordance with existing guidelines and required it to rectify the same. (Annex "F", Counter-Affidavit, Machacon). In view thereof, he directed the Land Evaluation Party (LEP) composed of Peter Tuscano, Cartographer, Alfredo Leproso, Team Leader and respondent Ely

Nabua, regional LEP coordinator to do sampling validation of the area and to evaluate Greentech's accomplishment. The LEP inspected and validated the accomplishments of Greentech and on 5 November 1993, issued a certification to the effect that Greentech has rectified/coordinated all data/maps of their SMP. (Exhibit "4").

The charge that herein respondents divided among themselves the P160,000.00 check their office issued as payment for services rendered by Greentech is not supported by evidence. Contrary to complainant's allegation that respondent Nabua encashed the said check, an examination of said check revealed that the same was made payable to Greentech, Inc. and encashed by Mr. Luis L. Laudencia, Manager of Greentech, as shown by the endorsement on the dorsal side thereof. Moreover, Laudencia himself denied respondents' alleged extortion from him.

It is worthy to note that the assistance of National Bureau of Investigation (NBI) was sought by the Commission for the investigation of this case. On 8 August 1994, NBI Agent Leopoldo G. Andrada appeared before the Commission and testified on their report of the investigation and declared that they found no sufficient evidence to hold respondents liable."

II. ENTRAPMENT OF REGIONAL TECHNICAL DIRECTOR MACHACON ON 10 JANUARY 1994 CONDUCTED BY NBI MEN.

The complaint alleged that Regional Technical Director Machacon was caught by NBI men receiving bribe money from one Vilma Battad in an entrapment conducted on 10 January 1994 in the former's office.

In his counter-affidavit, dated 25 May 1994, respondent Machacon denied that he was caught by NBI men receiving bribe money from Vilma Battad, President of Likas Lakas Kalikasan Foundation, Inc. (LLKFI), a non-government agency which was awarded an Inspection Chart Map (ICM) contract by the DENR, Region III. Machacon alleged that the 10 January 1994 incident in his office was actually a frame-up.

Upon being informed by counsel for respondent Machacon that there was also a pending administrative investigation of the entrapment case with the DENR, the Commission informed the DENR Secretary that it was taking over said investigation pursuant to Section 4 of Executive Order No. 151, as amended. Accordingly the records of the DENR were submitted to this Commission on 2 September 1994. It was then revealed to us that aside from Mariano T. Machacon, there was another respondent in this incident in the person of Mr. Terencio Taloma, Forest Resources Development Division.

In the hearing conducted before the Special Committee created by the DENR Secretary, the version of the prosecution may be summarized as follows:

On 6 January 1994 - Vilma Battad went to the NBI and filed a complaint (see Sworn Statement before Atty. Rustico Vigilia, Acting Chief, Criminal Intelligence Division, Domestic Intelligence Service) against RED Penafiel and RTD Machacon for extortion. Battad related to the NBI that LLKFI was contracted by DENR, Region 3, for the Inspection Chart Mapping (ICM) of reforestation projects in Olongapo City, Botolan and Zambales. The contract cost ₱220,000.00. Sometime in October, she went to the DENR Region III Office to follow-up the payment for LLKFI's services. She talked with Forester Taloma, Chief of the Forest Resources Development Division and was informed that the voucher was still with RTD Machacon. When she sought Machacon, he told her to go back and talk to Taloma. As instructed, she went back to Taloma who then informed her that RTD Machacon was asking for ₱30,000.00 for the release of the check. She agreed to the demand. She got the check on the third week of October and met Taloma who commented to her that she might not return (to give them the ₱30,000.00 demanded by Machacon). She replied that she will be back after encashing the check. She went back to the DENR office sometime on mid-December 1993 and informed Taloma that she did not have the money yet as she had just come from the field. She promised to deliver the amount on 22 December 1994 but did not return on said date. Instead, she sought NBI assistance and an entrapment was planned.

On 10 January 1994, at about 1:30 p.m. she handed the "marked" money to RTD Machacon in the presence of NBI Special Investigators Auralyn Pascual and Lauro Nacis. Machacon allegedly received the envelope containing the marked money and with both hands felt the envelope as if estimating its thickness. Thereafter, the NBI agents pounced on Machacon and he was brought to the NBI, Manila, where, after the necessary tests, he was found positive for fluorescent powder.

The foregoing is supported by Battad's affidavit dated 10 January 1994; and the affidavits of NBI Agents Alex Advento, Lauro Nacis, Olivo Ramos and Cecilio Zamora, Jr., who were members of the apprehending group that entrapped Machacon; photocopies of cash money marked and dusted with fluorescent powder and the certification from the NBI's Forensic Chemistry Division, viz:

"Ultraviolet examinations conducted on the dorsal and palmar aspects of the left and right hands of the above Subject showed the presence of yellow fluorescent specks and smudges on the fingertips. Further examinations on the pockets of his pants and on the front side of his polo shirt showed yellow fluorescent smudges." (underscoring ours).

On 11 January 1994, former NBI Director Epimaco Velasco filed charges against MARIANO MACHACON y TAMAYO and TERCENCIO TALOMA for direct bribery under Article 210 of the Revised Penal Code and violation of Section 3(b) of the Anti-Graft and Corrupt Practices Act before the Office of the Ombudsman.

Accordingly, the Commission resolved to recommend the following:

1. Dismissal of the first charge for insufficiency of evidence; and
2. Dismissal of respondent MARIANO T. MACHACON, including forfeiture of retirement or gratuity benefits under the law.
3. Dismissal of the charges against respondent TERCENCIO TALOMA, he being a non-presidential appointee, without prejudice to the result of the complaint still pending with the Office of the Ombudsman involving the same subject matter.

After a careful review of the evidence on record, this Office adopts the findings of the Commission and concurs with its recommendation.

Wherefore, as recommended by the Commission, the charges against respondents SAMUEL PENAFIEL, MARIANO MACHACON, and ELY NABUA involving an alleged bribery of ₱160,000.00 from Greentech, Inc. is hereby DISMISSED for insufficiency of evidence.

Respondent MARIANO MACHACON, is hereby DISMISSED from Office, with forfeiture of retirement or gratuity benefits under the law. The case against respondent TERCENCIO TALOMA, is hereby DISMISSED, he being a non-presidential appointee, without prejudice to the result of the complaint pending with the Office of the Ombudsman involving the same subject matter.

SO ORDERED.

Done in the City of Manila, this 4th day of March in the year of Our Lord, Nineteen Hundred and Ninety Six.

By the President:


RUBEN D. TORRES
Executive Secretary



