

MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 128

IMPOSING THE PENALTY OF SIX (6) MONTHS SUSPENSION WITHOUT PAY FOR SIMPLE NEGLECT OF DUTY ON DR. GREGORIO T. DE LA ROSA, PRESIDENT, LEYTE INSTITUTE OF TECHNOLOGY

This refers to the letter-complaint dated September 11, 1999, with enclosures, filed with the Presidential Commission Against Graft and Corruption (PCAGC) and the action taken thereon by the said Commission with respect to respondent Gregorio T. de la Rosa, a presidential appointee.

The present complaint charges respondent de la Rosa for the non-implementation of certain decisions and issuances of the Commission on Audit (COA), particularly with respect to its audit findings and recommendations as summarized in COA letter dated January 28, 1997, addressed to said respondent, which are hereunder quoted:

"1. Engr. Caidic and Atty. Tezon had been inactive from time of enrolment per SAIDI records, thus, failed to acquire the degree of M.A./Ph.D. in Organizational Development and Planning within the time frame set to finish the course.

Recommendation: Management should require the grantees to refund the amount paid for their scholarship expenses.

"2. Management failed to execute a Scholarship Contract or a Memorandum of Agreement with the scholars/grantees as recommended in our 1990 Annual Audit Report (AAR) pursuant to Article 96 of the College Code.

Recommendation: Management should execute a Scholarship Contract with Engr. Caidic to assure faithful adherence to the terms and conditions thereto and to safeguard the interest of the government.

"3. The school did not have an effective system of monitoring its scholars, thus, full payment of Engr. Caidic's was made despite his being "inactive" on the first year of his studies.



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Recommendation: The school should devise an effective mechanism of monitoring its scholars/grantees to forestall the occurrence of the same in the future.

"4. The honorarium granted them while they were on scholarship grant were disallowed in audit. The disallowance on Atty. Tezon, was, however, lifted under COA Decision No. 93-2635 dated January 6, 1993 while that of Engr. Caidic was upheld/sustained by the Commission Proper under COA Decision No. 95-647 dated November 21, 1995.

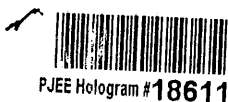
"We request that the foregoing recommendations be fully implemented and the audit disallowances contained under COA Decision No. 647 dated November 21, 1995 be settled"
(Underscoring supplied).

Finding sufficient basis to commence an administrative investigation against the respondent, the Commission required him to submit his counter-affidavit/verified answer, together with other documents in his defense, with which he complied through counsel as per letter dated October 20, 1999.

The action of the Commission on the complaint as well as its findings thereon as contained in its Resolution dated February 3, 2000 are as follows:

"In his sworn Counter-Affidavit dated October 18, 1999 (Records, pp. 27-30), respondent de la Rosa declares that the accusations against him by the fictitious complainant are not true, and expresses his honest belief that he has not committed any violation of any law, rule or regulation, nor has he been remiss or negligent in the performance of his duties as LIT President as mandated under R.A. No. 4572, and more specifically in the implementation of COA decisions and other issuances.

"Regarding Specifications Nos. 1 and 4 of the aforementioned COA letter (Exhibit "3"), which he points out are related to each other, respondent de la Rosa explains that the matter of the scholarship grants to Engr. Caidic and Atty. Tezon started in 1986 before he assumed office as President of the Leyte



Institute of Technology in 1992; that at the first instance when the matter of the questioned scholarships was officially brought to his knowledge sometime in 1994, he issued Special Order No. 45, s. 1994 (Exhibit "5"), creating a Fact-Finding Committee "to investigate the complaint against Engr. Gonzalo B. Caidic, Vice-President, and Atty. Miguel T. Tezon, Professor, re: alleged possible disbursement of government funds as LIT-SAIDI scholar"; that when the said Committee submitted its findings and recommendations on the case on June 15, 1995 (Exhibit "6"), he implemented the same "by ordering Engr. Caidic and Atty. Tezon to refund the expenses for scholarships granted them" (Records, p. 28); that the four (4) specifications of the aforementioned COA letter (Exhibit "3"), were the same subject-matter of an earlier letter dated July 9, 1996 (Exhibit "7"), which was sent to him by LIT Resident Auditor Aurora S. Guy-Uyco, and on which he had acted through his letter dated July 25, 1996 (Exhibit "8"), favorably recommending approval of respondent Caidic's request for extension of his (Caidic) scholarship at SAIDI for a period of another forty (40) months as per letter dated July 22, 1996 (Exhibit "9"); that he acted on the COA letter dated June 11, 1997 (Exhibit "10") and the COA Decision No. 95-647 dated November 21, 1995 (Exhibit "11"), "by instructing the Chief Accountant, Elvira C. Valdemoro, to effect the refund as far as Engr. Caidic is concerned x x x"; that the said LIT Chief Accountant, however, went "on AWOL for the period from October 06, 1994 to February 28, 1995 and the records were with her until finally when he had to drop her from employment and declare her position vacant effective March 01, 1995, for abandonment" (Exhibit "14"); and that on account of lack of records to refer to, the implementation of COA Decision No. 95-647 was finally effected through the issuance by respondent of Memorandum dated October 11, 1999, directing Engr. Caidic "to settle these matters as early as possible so as to avoid further stern action from the Commission on Audit" (Exhibit "15").



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"Anent Specifications Nos. 2 and 3 of the COA letter above, respondent de la Rosa states that "scholarship grants to other employees" are already covered by corresponding scholarship agreements, about which he submitted sample Agreements as evidence therefor (Exhibits "16", "16-A", "16-B", "16-C" and "16-D"); that certain reforms have been "implemented only during his (sic) incumbency in dutiful compliance with pertinent laws, rules and regulations" such as the provision for scholarship agreements with LIT scholars and grantees; and that for the responsibility of monitoring the progress of LIT scholars and grantees, among others, he had initiated the formation of a Staff Development Committee headed by Dr. Iluminado Nical under Special Order No. 07, s. 1998 (Exhibit "17").

"The crux of the issue in the case at bar is whether or not respondent de la Rosa had in fact been remiss in the discharge of his duties and responsibilities as LIT President, particularly in the implementation of the COA audit findings and recommendations as summarized in the letter dated January 28, 1997.

"Since the only hearing conducted on the instant case was the preliminary conference hearing held on October 25, 1999, and considering the fact that during said hearing the respondent through counsel had decided to submit the case for resolution based on the records, the evidence in chief against him are essentially the documents/records which are annexed to the letter-complaint dated September 11, 1999 (Records, pp. 2-14).

"On the other hand, the herein respondent through counsel formally submitted in support of his averments and/or explanations relative to the charges against him, various documents/records through Respondent's Memorandum and Formal Offer of Exhibits dated November 17, 1999 (Records, pp. 85-95), all of which have been admitted by the Commission (Records, p. 96).

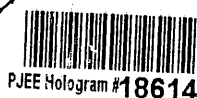


"A careful review and evaluation of the records of the case at bar discloses that it is true as indicated by respondent de la Rosa -- who was first appointed as President of the Leyte Institute of Technology on February 20, 1992, by then President Corazon C. Aquino (Exhibit "1"), and subsequently, re-appointed pursuant to R.A. 8292 (1997) by the LIT Board of Trustees, effective March 9, 1998 (Exhibit "2") -- that the awards of scholarship/grants to Engr. Caidic and Atty. Tezon effective as of the Second Semester of SY 1988-1989), were indeed given before he assumed the presidency of the Leyte Institute of Technology.

"However, it is likewise indubitable that the enforcement of the COA audit findings and recommendations on the issues or specifications as contained in the aforementioned COA letter dated January 28, 1997 (supra), including the resignation of Atty. Tezon effective November 3, 1992, which was approved under LIT Board of Trustees Resolution No. 68, s. 1992 (Records, p. 42), all came about during the period of respondent de la Rosa's incumbency as LIT President. This fact is made crystal clear through the COA letters dated July 9, 1996, January 28, 1997 and July 29, 1997, which are all addressed to respondent de la Rosa (see Records, pp. 41-44; 33-34; and 10-11).

"At any rate, with the view to afford a more orderly presentation and deeper appreciation of the charges against the respondent, the specifications as indicated in the COA letter dated January 28, 1997 (supra), are hereunder, seriatim, viz:

"1. Failure to implement the COA audit finding/recommendation requiring Engr. Caidic and Atty. Tezon to refund the amounts for their respective scholarship expenses, on account of their failure to finish or graduate from their courses at SAIDI.



"The first action taken by respondent de la Rosa on the questioned scholarship grants of Engr. Caidic and Atty. Tezon had been the creation of a Fact-Finding Committee through his issuance of Special Order No. 45, s. 1994 (Exhibit "5"), to investigate an alleged possible disbursement of government funds as LIT-SAIDI scholars involving said LIT officials; and that the said Committee submitted its findings and recommendations on the matter through a Memorandum dated June 15, 1995 to the LIT President (Exhibit "6").

"Regarding this matter, it is not intrinsically correct for respondent to have indicated in his Counter-Affidavit (Records, p. 28) that "(o)n the first instance that the issue officially came into my knowledge sometime in 1994, I issued Special Order No. 45, s. 1994 x x x", since it is self-evident on the face of the Order itself that the issuance thereof had been "(p)ursuant to the Institute's Board of Trustees order during its 231st board meeting dated December 11, 1994 at the University of Eastern Philippines, University Town, Northern Samar x x x"; and that moreover, respondent has not submitted any proof or evidence to support his statement that in 1994, "(p)er findings and recommendations of the committee, I implemented the same by ordering Engr. Caidic and Atty. Tezon to refund the expenses for scholarship granted them" (Ibid).

"The second action taken by respondent on the aforesaid specification appears to have been through his letter dated July 25, 1996 (Exhibit "8"), addressed to the LIT Resident Auditor, favorably recommending the grant of an extension of another forty (40) months on the questioned scholarship grant, including such other additional benefits as book allowance, travel fares and expenses for training modules, as requested by Engr. Caidic through his letter dated July 22, 1996 (Exhibit "9"). The said action by respondent de la Rosa which seems to be comparatively prompt, was apparently taken by him after his receipt of the LIT Resident Auditor's Memorandum dated July 9, 1996 (Exhibit "7"), or a period of sixteen (16) days only. However, except for his favorable recommendation on the request of Engr. Caidic, it is clear that respondent had not taken any action at the time on the other subject-matter of the LIT Resident Auditor's Memorandum dated July 9, 1996 (Exhibit "7").



"The third action taken by respondent on this issue appears to have been through his Memorandum dated October 11, 1999 (Exhibit "15"), addressed to Engr. Caidic, calling his attention on the COA Decision No. 95-647 (Exhibit "11"), the letter dated June 11, 1997 of COA Chairman Celso D. Gangan (Exhibit "10") and the LIT Resident Auditor's Memorandum dated July 9, 1999 (Exhibit "7"), and directing him "to settle these matters as early as possible so as to avoid further stern actions from the Commission on Audit".

"It will be noted that in contrast to his second action, it took the respondent more or less two (2) years and four (4) months after his receipt of COA Chairman Gangan's letter dated June 11, 1997, and three (3) years, three (3) months and two (2) days after his receipt of the LIT Resident Auditor's letter dated July 9, 1996, before he took his action of October 11, 1999, which not surprisingly, it was not heeded since even its wordings are neither clear-cut nor categorical. It will further be noted that the wishy-washy action taken by respondent does not square with the urgency of the COA request in its two (2) letters dated January 28, 1997, wherein the respondent had been asked to have the audit findings and recommendations "be fully implemented and the audit disallowance contained under COA Decision No. 647 dated November 21, 1995 be settled" (Records, pp. 33-34; Exhibit "3"), and dated July 29, 1997, wherein he was further reminded that the subject disallowance on the salaries paid to Engr. Caidic had become "final and executory" (Records, p. 10).

"The fourth action taken by the respondent on this specification appears to have been through his Memorandum dated November 3, 1999 (Exhibit "19"), directing Engr. Caidic to effect the refund of the amounts of P103,260.00, representing salaries received by him as Assistant Administrator of evening classes at LIT, and P36,089.30 representing the expenses incurred for his scholarship at SAIDI, effective December 1, 1999. In the same Memorandum, which is an addendum to his earlier Memorandum dated October 11, 1999 (Exhibit "15"), respondent de la Rosa further stated that "(i)f you opt for a staggered payment, you are directed to submit a written schedule of payment within five (5) days from receipt hereof with the approval of the LIT Resident Auditor".



"It should be pointed out that the aforesaid fourth action on November 3, 1999 was taken by respondent de la Rosa after the filing with this Commission of the present case and after he and his counsel attended the scheduled initial preliminary conference hearing thereon held on October 25, 1999 (Records, p. 82).

"The fifth and final action taken by the respondent on this issue appears to have been through his Memorandum dated November 15, 1999 (Records, p. 99), addressed to Engr. Caidic, which specifically directed him to effect the payment of the amounts of P103,260.00 and P36,089.30 on December 1, 1999" (Records, p. 99).

"The aforesaid fifth and final action of the respondent on this issue was received through fax by the Commission on December 1, 1999, which, it could be surmised, was sent by the respondent or his counsel on account of its non-inclusion on the respondent's Memorandum and Formal Offer of Exhibits dated November 17, 1999 (Records, pp. 85-95).

"Also received by the Commission, together with the aforesaid fifth and final action by respondent de la Rosa, is a copy of a letter dated November 9, 1999, of LIT Vice President Caidic, addressed to the COA Resident Auditor at LIT, in which he is appealing that the "refund of disallowance relative to COA Decision No. 95-647 and tuition fee for SAIDI Scholarship x x x be effected upon my retirement to be charged from the retirement funds x x x" (Records, p. 98).

"On this issue, therefore, aside from lack of proof to support certain explanations that he submitted, respondent de la Rosa not only took an unreasonably long period of time to take action on the COA audit finding and recommendation on the matter but also showed an unwarranted conduct or attitude thereon which may be viewed as giving undue advantage to his co-respondent Gonzalo B. Caidic and/or lack of commitment to public interest.

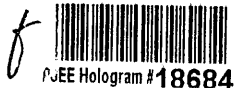
"Accordingly, respondent de la Rosa's explanation and/or defense on this specification is undoubtedly unsatisfactory and unacceptable, about which he should be held liable therefor.



"2. Failure to execute scholarship contracts with LIT scholars/grantees, particularly with Engr. Caidic as recommended by COA to safeguard the interest of the Government.

"It is gathered that the COA recommendation regarding scholarship contracts to be signed by and between the scholars/grantees and the school administration had been earlier brought to the attention of the LIT administration in the COA 1990 Annual Audit Report on the Institute; that in relation to the respondent in particular, the COA through its LIT Resident Auditor has brought to his attention the same matter in two (2) separate instances, first, through Memorandum dated July 9, 1996 (Exhibit "7"), and second, through the letter dated January 28, 1997 (Exhibit "3"); that in the two (2) COA letters (Exhibits "7" and "3"), it was explicitly indicated that "(m)anagement should execute a Scholarship Contract with Engr. Caidic to assure faithful adherence to the terms and conditions thereto and to safeguard the interest of the government", which respondent failed to comply and has not at all complied with until the present time; and that while it appears that the respondent has implemented the said requirement in a number of other cases, it also took him a considerably long period of time to do so, as evidenced by the dates of the copies of the scholarship contracts/agreements he submitted which are respectively dated June 7, 1999 (Exhibit "16"), May 24, 1999 (Exhibit "16-a"), dated May 24, 1999 (Exhibit "16-b"), dated May 24, 1999 (Exhibit "16-c") and dated May 24, 1999 (Exhibit "16-d").

"Viewed in the context of time from July 9, 1996 when respondent de la Rosa was first requested to implement the requirement on scholarship agreements with LIT scholars/grantees to the time when he actually implemented the said requirement as of May 24, 1999, when he signed as Grantor the agreements of same date (Exhibit "16-a" and "16-b"), or a period of two (2) years, eight (8) months and sixteen (16) days, and more importantly, on account of his unexplained failure to provide Engr. Caidic with the required scholarship contract as repeatedly recommended by the COA, it is axiomatic that respondent's explanation and/or defense relative to this issue must likewise fall.



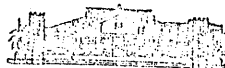
"3. Failure to institute an effective system or mechanism of monitoring the progress of LIT scholars/grantees.

"While it cannot be denied that there are indeed certain reforms implemented during the incumbency of respondent de la Rosa as he pointed out in his counter-affidavit, such as the designation through Special Order No. 07, s. 1998 of Dr. Iluminado Nical as Chairman of the LIT Staff Development Committee, whose functions, among others, is to monitor the progress of LIT scholars/grantees (Exhibit "17"), yet it is a fact that the copy of "Implementing Guidelines of the Training and Staff Development of the Leyte Institute of Technology" (Exhibit "18"), has yet to be approved by the LIT Board of Trustees for the same to be considered as effective.

"Thus, the same observations specifically in relation to the factor of time in taking action vis-a-vis the first two (2) issues or specifications above should likewise be applied to the present issue or specification.

"4. Failure to implement the refund of honorarium paid to Engr. Caidic as Assistant Administrator of evening classes, which was denied in audit as per COA Decision No. 95-647 dated November 21, 1995 and affirmed through letter dated June 11, 1997 signed by COA Chairman Celso D. Gangan.

"The explanation of respondent to the effect that he "acted on said decisions by instructing the Chief Accountant, Elvira C. Valdemoro, to effect the refund as far as Engr. Caidic is concerned, however, said Chief Accountant was on AWOL for the period from October 06, 1994 to February 28, 1995 x x x" (Records, p. 29), is simply untenable and unbelievable, for the reason that Engr. Caidic filed a request for reconsideration of the COA Decision No. 95-647 and he received a copy of the decision on his request only on September 23, 1996, and that he thereafter filed a letter of appeal on the same matter to the President Fidel V. Ramos, who referred the said appeal to the COA which



informed him that the matter "could not be given due course on the ground that the decision therefor has already become final and executory" (Records, p. 47; Exhibit "10"). The further explanation or insinuation of the herein respondent that as a cause of the delay on his action to the effect that "we could not finally act on the matter as there were no available records as yet to refer to" for the reason that the LIT Chief Accountant who went on AWOL had "the records with her", is likewise untenable and unacceptable, since he had not given any reason at all as to why the said school official on AWOL had the records in her possession in the first place (Records, p. 29).

"Reckoned from the time the LIT Resident Auditor apprised the respondent through her letter dated July 29, 1997 (Records, p. 10), that the disallowance on the payment of salaries to Engr. Caidic as Assistant Administrator of evening classes at LIT for the years 1988 to 1990 "had become final and executory", and requested him to "facilitate the prompt settlement of said disallowance", to the time he actually took action on the matter through his Memorandum dated October 11, 1999 (Exhibit "15"), it took the respondent a period of two (2) years, two (2) months and twelve (12) days, to do so, and even the action he took evinces an attitude of indifference as it directed Engr. Caidic only "to settle these matters as early as possible so as to avoid further stern actions from the Commission on Audit" (Exhibit "15").

"In fairness to respondent de la Rosa, the subsequent action he had taken on this issue or specification, namely, his Memoranda dated November 3, 1999 and November 15 1999 (Records, pp. 95 and 99), both addressed to Engr. Caidic, are definitely more clear-cut and categorical although as earlier pointed out the said actions came about after the filing of the present complaint, and more importantly, after the respondent's attendance at the initial preliminary conference hearing thereon held on October 25, 1999. As earlier indicated above, Engr. Caidic has finally submitted an appeal to pay his accountabilities/disallowances when he retires from the service, which can be conceded as having been triggered by said two (2) letters of respondent.



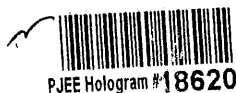
"The relevant observations on Issues 1, 2 and 3 above should also be applied to the present issue or specification herein.

"In sum, this Commission holds that respondent de la Rosa's liability in the instant case proceeds from his palpable unjustified failure to take appropriate action within a reasonable period of time, on the matter of Issues/Specifications Nos. 1, 2, 3 and 4 above, which thereby lend credence to the report that there was connivance between him and his co-respondent Gonzalo B. Caidic, or more specifically, that he was giving undue advantage in Caidic's favor to the prejudice of the Government. For this, respondent de la Rosa violated Section 1, Chapter 1 and Section 55, Chapter 10, Subtitle B, Title I, Book V of Executive Order No. 292, Section 4(a) of Republic Act No. 6713 and Section 3(f) of Republic Act No. 3019. Such violations constitute Neglect of Duty which is a ground for disciplinary action under Section 36(a)(3), Article LX of Presidential Decree No. 807 (1985) and punishable under Memorandum Circular No. 30, s. 1989 of the Civil Service Commission.

"WHEREFORE, premises considered this Commission hereby resolves, and so recommends to His Excellency, President Joseph Ejercito Estrada, that respondent Gregorio T. de la Rosa, President, Leyte Institute of Technology, be held liable for SIMPLE NEGLIGENCE OF DUTY and he be suspended from office for a period of six (6) months without pay.

"SO RESOLVED."

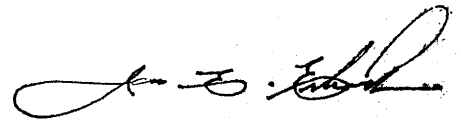
After an exhaustive study of the records of the instant case, this Office concurs with the findings and conclusions of the Presidential Commission Against Graft and Corruption, supported as they are by substantive evidence on record.



WHEREFORE. in view of the foregoing and as recommended by the Presidential Commission Against Graft and Corruption, respondent Gregorio T. de la Rosa, President, Leyte Institute of Technology, is hereby suspended, from office without pay for a period of six (6) months, effective upon his receipt hereof.

SO ORDERED.

Done in the City of Manila, this 29th day of JUNE in the year of our Lord Two Thousand.



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By the President:



RONALDO B. ZAMORA
Executive Secretary

