

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 136

IMPOSING THE PENALTY OF ONE (1) MONTH AND ONE (1) DAY SUSPENSION WITHOUT PAY ON AMBASSADOR NELSON D. LAVIÑA, CHIEF OF MISSION I, AND SUSPENSION OF THREE (3) MONTHS WITHOUT PAY WITH SEVERE REPRIMAND ON NESTOR N. PADALHIN, CHIEF OF MISSION II, BOTH FOR SIMPLE MISCONDUCT AND BOTH OF THE DEPARTMENT OF FOREIGN AFFAIRS (DFA)

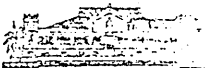
The administrative case against Ambassador Nelson D. Laviña, Ambassador Extraordinary and Plenipotentiary to Kenya stemmed from the charges issued against him by three (3) members of his staff, all Kenyan nationals, that he appropriated part of their salaries for his personal use, while that of Consul General Nestor Padalhin from charges raised against him by Ambassador Laviña.

On January 14, 1997, the Department of Foreign Affairs (DFA), through the Board of Foreign Service Administration (BFSA) requested this Office for a Presidential Authority to investigate the allegations of misconduct committed by Ambassador Laviña and also that of Consul General Padalhin at the Philippine Embassy in Nairobi, Kenya. The request was granted.

The Department of Foreign Affairs, through the Board of Foreign Service Administration (BFSA), constituted a Fact-Finding Team composed of Undersecretary Rosario G. Manalo, Office of Legal Affairs (OLA), Assistant Secretary Franklin M. Ebdalin and Ma. Theresa B. Dizon, FSO IV, and authorized the same to travel to Nairobi, Kenya from 20-30 April 1997 to conduct a fact-finding investigation pursuant to the authority granted by the Office of the President.

In a Memorandum dated 24 June 1997, the Secretary of Foreign Affairs transmitted to the Office of the President the findings of the Fact-Finding Team. The Team recommended, and the Secretary concurred, that Amb. Laviña be charged administratively without prejudice to the filing of appropriate criminal charges. Ambassador Laviña was administratively charged for Conduct Unbecoming of an Ambassador consisting of the following:

1. Illegally deducting a portion from the salaries of three Kenyan local hires of the Philippine Embassy, Nairobi, and using the deducted amount for his personal use:

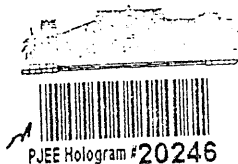


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2. For purchasing and keeping in his possession raw elephant tusks which is prohibited under Kenyan law;
3. For allowing the involvement of members of the Filipino community in the internal concerns of the Embassy;
4. For endorsing to an International Organization communications signed by an Embassy staff member containing defamatory statements against some members of the Filipino community as well as transmitting to that organization internal communications of the Department of Foreign Affairs;
5. For attesting to affidavits of Ms. Helen Tadifa, Finance Officer, containing defamatory statements against members of the Filipino community;
6. For improperly undertaking representational activities such as non-holding of an Embassy Celebration of the Philippines' National Day for members of the Diplomatic Corps in 1996 despite the release of US \$1,000 for this purpose, and instead allowing the said fund to be used as reimbursement for silverware dishes purchased by his spouse, Mrs. Estelita Laviña;
7. For compromising the security of the Embassy premises and communications by allowing the access of non-Embassy personnel to secured areas of the Embassy as well as to internal communications;
8. For charging to the Embassy funds expenses for personal telephone calls and fax communications, reasoning that his position as Ambassador entitles him to such a privilege; and
9. For mismanagement of the Embassy's operation particularly in fiscal-related matters.

On the other hand, Nestor N. Padalhin, Chief of Mission II, Special Assistant to the Undersecretary for International Economic Relations and formerly Minister-Counselor and Consul General, Philippine Embassy, Nairobi, was charged of Conduct Unbecoming of an Officer as manifested in the following acts:



1. For planning and executing the violation of the residence of the Philippine Ambassador and the taking of pictures of raw elephant tusks owned by Amb. Laviña by a Kenyan local hire and a Kenyan police officer in total disregard for the welfare and image of the Philippine Government;
2. For involving members of the Filipino community in the internal concerns of the Embassy;

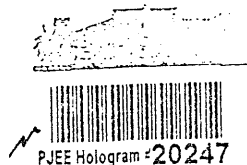
On 17 July 1997, pursuant to Board Resolution No. 97-21, the Board of Foreign Service Administration (BFSA) created a Special Investigating Committee (SIC) to hear the charges against Amb. Nelson D. Laviña and Consul General Nestor N. Padalhin with former Undersecretary Leonides T. Caday as Chairman and with the following as Members: Asst. Sec. Jose Fernandez, Asst. Sec. Victor Garcia III, Asst. Sec. Marcellana Desales and Asst. Sec. Luz Palacios.

The SIC commenced hearings of the charges on 10 October 1997 with Amb. Laviña, represented by counsel, who opted for a formal hearing of his case. The hearings lasted until 10 June 1998.

On 5 January 1999 after due deliberations on the facts of the case, the SIC submitted its findings to the Board that Amb. Laviña is guilty of dishonesty, misconduct and gross violation of regulations and recommended his suspension for six (6) months and issue a letter of admonition. In its Resolution No. 99-07 dated 15 April 1999, the Board, by a majority vote of the voting members present (Undersecretary Rosario G. Manalo and Assistant Secretary Franklin Ebdalin inhibited themselves from participating in the deliberation of the Board on this case as both were members of the Fact-Finding Committee whose report was the basis for filing the administrative cases against Ambassador Laviña and Mr. Padalhin), resolved to affirm the SIC's findings and recommendations, as amended, to wit:

- a) that the Board endorse the Special Investigating Committee's findings and recommendations on the suspension of Amb. Laviña for six (6) months without pay and in view of Amb. Laviña's forty years of service to the Department, to recommend the acceptance of his offer to retire under R.A. 660 upon the service of said penalty;

- a) xxx
- b) xxx

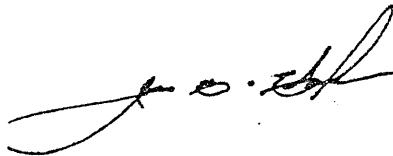


On 11 June 1999, Amb. Nelson D. Laviña submitted to the Board his Omnibus Petition for Review and to Admit Newly Discovered Evidence. The Board of Foreign Service Administration at its *En Banc* Hearing held on 03 September 1999 deliberated on the Omnibus Petition for Review and to Admit Newly Discovered Evidence in connection with the Board Resolution No. 99-07 dated 15 April 1999 filed by Mr. Nelson D. Laviña, Chief of Mission. It was the Board's consensus, however, that Amb. Laviña be found guilty for one count of misconduct for the offense of illegally deducting from and/or appropriating for his own personal use the salaries and compensation of four (4) Kenyan local hires of the Philippine Embassy. Under the Civil Service Rules and Regulations, the offense of misconduct carries the penalty, for first offense, of suspension for one (1) month to six (6) months. For the aforesaid offense, the Board members agreed to recommend to impose the penalty of one (1) month and one day suspension without pay against Mr. Laviña. In making its recommendation for his penalty, the Board considered Amb. Laviña's forty (40) years of service with the Department and very satisfactory performance.

With respect to the charge against Consul General Padalhin, the Board found him guilty of simple misconduct and recommended that he be meted the penalty of suspension of three (3) months without pay with severe reprimand.

In view of the foregoing, this Office, after a careful study of the case concurs with the recommendation of the DFA Secretary and hereby orders that Ambassador Nelson D. Laviña, Chief of Mission I, be meted the penalty of one (1) month and one day suspension without pay, and that Consul General Nestor N. Padalhin, Chief of Mission II be meted the penalty of suspension of three (3) months without pay, with severe reprimand.

Done in the City of Manila, this 03 day of September, in the year of Our Lord, two thousand.



By the President:



RONALDO B. ZAMORA
Executive Secretary

