

**[ ADMINISTRATIVE ORDER NO. 49, November 25, 2002 ]**

**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 Big. 22. On November 16, 1998, respondent caused the filing of criminal Informations for estafa (*Criminal Case No. 98-168731*) and violation of Batas Pambansa Big. 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	P20,000.00
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---	P95,000.00

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