

[ADMINISTRATIVE ORDER NO. 136, September 04, 2000]

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;
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