

[ADMINISTRATIVE ORDER NO. 128, June 29, 2000]

IMPOSING THE PENALTY OF SIX (6) MONTHS SUSPENSION WITHOUT PAY FOR SIMPLE NEGLIGENCE 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 enrollment 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.

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 aforesaid 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 aforesaid 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 . . ."; 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").

"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 aforequoted 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 . . .", 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 . . ."; 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