



MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 180

MODIFYING ADMINISTRATIVE ORDER NO. 172 DATED JANUARY 9, 1956,  
CONCERNING DR. FELINO N. HERNANDEZ, FORMER MEMBER AND ACTING  
CHAIRMAN OF THE BOARD OF OPTICAL EXAMINERS.

Under Administrative Order No. 172 dated January 9, 1956, Dr. Felino N. Hernandez was required to resign as member and acting chairman of the Board of Optical Examiners, for unprofessional and unethical conduct and violation of the rules governing board examinations, consisting of (1) making a joint announcement in his signboard of his business and his profession, (2) participating in the disposal of the charge against him for unprofessional conduct in connection with said signboard and (3) copying verbatim questions from a certain book in the examination given to a certain candidate.

The respondent now seeks reconsideration of said order on the ground that, as to the first two irregularities, he acted in utter good faith without any intention of violating any law or regulation and that, as to the last, he was not duly informed of the charge about it. He also invokes the comparatively lenient attitude adopted by the Commissioner of Civil Service on said matters.

After a restudy of the case, I am satisfied of respondent's protestations of good faith in the premises. The fact that he corrected his disputed signboard and removed the objectionable words therefrom once his attention was called to it shows, as held by the Commissioner of Civil Service, "evident good faith on his part to abide by the law and regulations".

As to his participation in the resolution dismissing the charge against him, the Commissioner of Civil Service was of the opinion that said resolution was not even necessary. It was therefore a vain and useless act. In fact, he said, "upon the elimination of the words in the sign board of Dr. Hernandez objected to by the Optometric Association of the Philippines, the cause of action against Dr. Hernandez for the alleged unethical advertisement ceased to exist and as such, said complaint should be dismissed and the matter considered closed", because "an administrative proceeding is essentially remedial, not penal, in nature" and for the purposes of the regulations governing the Practice of optometry, "a correction, elimination, or rectification of what constitutes unethical in an advertisement or on a sign board is sufficient and should, in the opinion of this

Office, exempt the person concerned who acted in good faith from further liability".

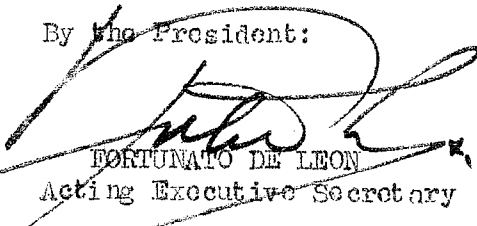
A revision of the records tends to confirm respondent's claim as to the third irregularity found against him. It does not appear that he was notified of any charge about the supposed violation of the regulations governing the giving of examination questions and that he was required to answer the same. The requirements of due process were therefore not satisfied, and it was improper to make any finding against him in that regard. In any event, according to the Commissioner of Civil Service, the pertinent regulation allegedly violated is only directory and for purposes of guidance, and mere failure to observe it faithfully does not render the examiner concerned liable for disciplinary action or removal.

In view of all the foregoing, I find respondent's request for reconsideration to be in order. I am satisfied that the penalty heretofore imposed on him was rather too severe and that he deserves to be merely reprimanded with warning. Considering, however, that such disciplinary action would only be warranted if the respondent were to continue in office, which is not the case here, in order to serve as a pattern for his future conduct and behavior, it is apparent that there is no more need for imposing said penalty, in accordance with the action taken on similar cases.

Wherefore, Administrative Order No. 172 dated January 9, 1956, is hereby reconsidered and the respondent exonerated of the charges. He shall be considered as having served his full term as a member of the Board of Optical Examiners which expired on January 18, 1956.

Done in the City of Manila, this 27<sup>th</sup> day of February, in the year of Our Lord, nineteen hundred and fifty-six, and of the Independence of the Philippines, the tenth.

By the President:

  
FORTUNATO DE LEON  
Acting Executive Secretary

