

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 14

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE ON
SENIOR STATE PROSECUTOR FERDINAND R. ABESAMIS,
DEPARTMENT OF JUSTICE**

This refers to the administrative complaint instituted by then Secretary Teofisto Guingona Jr. of the Department of Justice (DOJ) against Senior State Prosecutor Ferdinand R. Abesamis for conduct prejudicial to the best interest of the service, committed, as stated in the Formal Charge, as follows:

“That on or about August 14, 1996, October 17, 1996, November 21, 1996 and January 23, 1997, [respondent] contracted loans in the amounts of thirty thousand pesos (P30,000.00), twenty thousand pesos (P20,000.00), ten thousand pesos (P10,000.00) and fifteen thousand pesos (P15,000.00), respectively, from Cesar del Rosario, complainant in I.S. No. 96-563 where (respondent was) the investigating prosecutor, and from his counsel, Oscar Sahagun.”

Pursuant to separate DOJ department orders, State Prosecutor Lagrimas T. Agaran was designated as prosecuting officer, while a panel of three (3) investigators was constituted for the purpose of the formal investigation of the case, docketed as Adm. Case No. 97-0005 FS.

In his answer to complaint dated June 2, 1997, respondent Abesamis denied securing loans from either Del Rosario, or Sahagun, in his capacity as Del Rosario's counsel.

Issues having been joined, hearings were set and conducted. Thereafter, the panel of investigators submitted its report dated February 6, 1998, to the Secretary of Justice with the following findings:

“State Prosecutor Lagrimas T. Agaran presented as its sole witness, Atty. Oscar C. Sahagun, who testified that he is a practicing lawyer and had known respondent Abesamis since 1991 x x x In 1996, he represented complainant Cesar del Rosario, Sr. in I.S. No. 96-563 against Amelia Ternida, et al., for falsification, which case is being investigated by herein respondent. Sometime in August 13 or 14, 1996, late in the afternoon, respondent phoned him at his office asking for financial assistance. The latter told the former that he would consult first the matter with his client, Mr. Del Rosario, Sr. who agreed to give respondent P30,0000.00 in check (Exhibit “B”) which was borrowed from Leticia Guerrero with Atty. Sahagun as the guarantor. Thereafter, on October 17, 1996 Atty. Sahagun received from respondent a handwritten letter (Exhibit “D”), which reads:

Dear Pareng Oca,

I have sought the help of other people but to no avail. You are the last person on my mind but I have no other recourse. I am in a very tight financial distress, pare. I have to return P200,000.00 to someone who asked for help regarding a case handled by another prosecutor. My colleague double crossed me.

I am now the target of a complaint filed by the someone. I don't want this to go out of hand hence I talked to him and he is only after the return of the P200,000.00. I have already come up with P150,000.00. All I need now is P50,000.00 to complete the amount. I have to settle it not later than tomorrow otherwise the case will move.

Hindi na sana kita gagambalain pero wala akong magawa. Pasensiya ka na. Kung wala pare kahit ano na lang na pampuno.

I am leaving you a check, pare. My loan would come out first week of November. You will be the first I'll settle.

Thanks.

Pareng Ferdie"

Again, Atty. Sahagun consulted Mr. Del Rosario, Sr. who agreed once again to give respondent Abesamis, through Mr. De Leon, another check amounting to P20,000.00 (Exhibit "C") under the same set-up as Exhibit "B". In November, 1996, respondent again wrote Atty. Sahagun the following handwritten letter (Exhibit "G"):

"Pare,

I'm sorry, I have to bother you again. Times now are very difficult for me.

Again, my appreciation.

Pareng Ferdie"

Conformably thereto and as has been the practice of Messrs. Sahagun and del Rosario, Sr. a check amounting to P10,000.00 (Exhibit "F") was prepared in favor of respondent. According to Atty. Sahagun,

these checks although not received personally by respondent but through an emissary, were all encashed either by respondent's secretary, Divina Gracia Taduran or by respondent himself as can be gleaned from their signatures appearing at the dorsal portion thereof (Exhibits "B-1", "C-1" & "F-1"). Atty. Sahagun further testified that aside from checks, they also gave cash to respondent which happened on January 23, 1997, when respondent phoned him (Atty. Sahagun) informing that he (respondent) already prepared the resolution and information in I.S. NO. 96-563 but Mr. del Rosario, Sr. needs to dole out P15,000.00 cash to ACSP Francisco Santos whom respondent approached for the approval of his resolution, instead of ACSP Nilo Mariano who may not approve it because of pressure from the Office of the Vice-President. Despite sufficient lapse of time, respondent failed to resolve the subject case which was eventually assigned to State Prosecutor Virginia Ruiz who resolved to dismiss I.S.No. 96-563.

After Prosecutor Agaran rested her case, Atty. Mario A. Aguinaldo, for respondent, moved for leave to file a demurrer to evidence which he did on October 16, 1997. x x x

On December 2, 1997, the panel issued an order deferring action on the subject motion and set the case for reception of defense evidence on December 15, 17 and 19, 1997. Unfortunately, these settings were all cancelled on written motion dated December 9, 1997 of Atty. Aguinaldo who requested for a resetting thereof to January 16, 21 and 28, 1998.

At the scheduled hearing on January 16, 1998, which was intransferable in character, neither respondent nor his counsel appeared. However, on record was Atty. Aguinaldo's Motion to Resolve the Demurrer to Evidence and Cancel Hearings which was vigorously opposed by Prosecutor Agaran and upon whose verbal motion an order was issued by the panel declaring respondent to have waived his right to present evidence and the case deemed submitted for resolution on the merit. Copy of such order was furnished to Atty. Aguinaldo on January 22, 1998."

In an undated resolution, the Secretary of Justice approved the findings contained in the report aforementioned as well as the recommendation made therein and forthwith forwarded the records of the case to my office.

The only issue to be resolved is whether or not sufficient evidence obtain to hold respondent liable for the offense charged.

After a circumspect evaluation of the evidence at hand, I find, as did the Department of Justice, respondent guilty of the offense charged.

To establish guilt in an administrative disciplinary proceedings, neither preponderating evidence called for in civil cases, nor the proof-beyond-doubt threshold

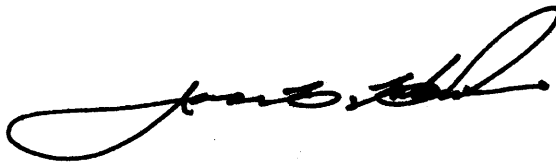
demanded in criminal trials is required. Substantial evidence, which means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion even if other minds equally reasonable might not so accept (Lansang vs. Garcia, 42 SCRA 448), would suffice.

The evidentiary norm has more than been met in the present case. The uncontroverted testimony of Oscar Sahagun, juxtaposed with the afore-quoted "Pareng Oca" letters, Exhibits "D" and "G", respectively, supra., prove beyond cavil that respondent, while acting as investigating prosecutor in I.S.No. 96-563, had, on several occasions, sought, in the guise of a loan, and received a substantial amount of money from del Rosario, the complainant in said case. Under the circumstances in which they were effected, the requests and the acts of receiving adverted to constitute conduct prejudicial to the best interest of the service. There can be no quibbling that behind those transactions was the case respondent was investigating - I.S.No. 96-563. The "contracting loans of money or other property from persons with whom the office of the employer has business relations" is a grave offense, the penalty of which is dismissal from the service. (Rule XIV (7), Omnibus Rules Implementing Book V of EO No. 292, and other pertinent Civil Service Laws.)

Respondent lamentably had not been true to the principle that a public office is a public trust. By his acts complained of, he veritably has undermined the public's faith in our prosecutorial system and, ultimately, in the administration of justice. His continued employment in the Government must, therefore, be terminated at once.

WHEREFORE, as recommended by the Secretary of Justice, respondent Senior State Prosecutor Ferdinand Abesamis is hereby found guilty as charged. Accordingly, he is hereby **DISMISSED** from the service with all accessory penalties attached to the penalty of dismissal, effective upon receipt by him of this Order.

Done in the City of Manila, this 27th day of AUGUST
in the year of Our Lord, nineteen hundred and ninety eight.



By the President:



RONALDO B. ZAMORA
Executive Secretary