

ADMINISTRATIVE ORDER NO. 283

**EXONERATING ROLANDO M. LIBAS, CHIEF OF MISSION II,
DEPARTMENT OF FOREIGN AFFAIRS**

This refers to the administrative case filed by the Department of Foreign Affairs, against Mr. Rolando M. Libas, Chief of Mission II, for Insubordination, Misconduct, and Conduct Prejudicial to the Best Interest of the Service.

Antecedent facts show that, by virtue of Assignment Order No. 223-89 dated 5 December 1989, respondent was assigned to the Philippine Consulate in Agana, Guam, as Consul General. After the issuance of the corresponding Consular Commission to respondent on 24 January 1990, the Secretary of Foreign Affairs signed Travel Order No. 90-20 on 26 January 1990, authorizing the travel of respondent, together with his family, to Agana, Guam, to assume his post as Consul General.

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In compliance with the abovementioned orders, respondent commenced with the necessary preparations to assume his post in Agana, Guam. Diplomatic passports for himself and the members of his family were obtained. Applications for visas were made with the Embassy of the United States. Also, in his Memorandum, dated 12 February 1990, to the Acting Director-General of the Office Personnel and Administrative Services (OPAS) Mr. Ernesto V. Llamas, respondent informed OPAS that he is "preparing to depart for Guam pursuant to A.O. 223-89 ... on or before 31 March 1990". In the same Memorandum, respondent sought the assistance of OPAS in requesting the appropriate government agencies to brief him on "matters concerning the promotion of trade, investment and tourism as well as the Philippines' programs for economic development" and to "update him on these agencies' current undertaking with regards to the latest thrust of the Philippine Government for economic development".

Sometime during the second week of March 1990, then Acting Chief Coordinator Alfredo Almendrala, Jr., informed respondent of the DFA Secretary's instructions for him (respondent) to be in Guam in time for the Secretary's scheduled visit on 5-6 April 1990.

In his letter of 29 March 1990, Acting Secretary of Foreign Affairs, Manuel T. Yan, advised respondent that A.O. No. 223-89 dated 5 December 1989, has been cancelled. Respondent was also "instructed not to proceed to Agana and to remain in the Home Office until further notice".

On 24 April 1990, Mr. Llamas asked respondent to "explain in writing, within seventy two (72) hours, why no administrative case shall (sic) be filed against [him] for not proceeding to Agana, Guam immediately and assume duties as Consul General at the Phil. Consulate General, Agana". Mr. Llamas also alleged that "[d]espite the verbal instruction of Secretary Raul S. Manglapus for [respondent] to be present [in his] assigned post during the Secretary's visit in Guam as relayed by then Acting Chief Coordinator Alfredo L. Almendrala, Jr., [respondent] failed to proceed to [his] post and assumed duties thereat".

In his letter-reply of 27 April 1990, respondent pointed out that he has not violated any regulation that would warrant the filing of administrative charges against him. He further stated that he "undertook necessary steps to comply with Assignment Order No. 223-89 and the verbal instruction relayed by the then Acting Chief Coordinator to be present in Agana 'during the Secretary's visit' thereat". Finding respondent's written explanation of 27 April 1990 to be unsatisfactory, OPAS Acting General Director Rolando S. Gregorio formally charged respondent on 29 October 1990 with Insubordination, Misconduct and Conduct Prejudicial to the Best Interest of the Service.

In his Answer dated 14 November 1990 respondent did not make any comment with respect to the charge of Misconduct and Conduct Prejudicial to the Best Interest of the Service for lack of knowledge as to the particulars of the specific acts which respondent committed constituting the offense.

Anent the charge for insubordination, respondent averred that he had undertaken the necessary preparation for his departure for Agana last March 31, 1990, as evidenced by the issuance of diplomatic passports, application for appropriate visas and photostatic copies of quotations from forwarding companies concerning the shipment of his household effects and the respective affidavits of Ildefonso G. Ocampo, Cynthia D. Tayam and Jocelyn C. Banis, all employees of the Office of Financial Management Services (OFMS), DFA, attesting that he was indeed on his way to Agana in compliance with existing orders.

Respondent further alleged that a) he was not formally ordered to be present at Agana, Guam, in time for the DFA Secretary's visit, it being incumbent upon DFA Acting Chief Coordinator Almendrala to convey the Secretary's order to the OPAS which, in turn, should issue to him the official instruction; b) OPAS was negligent in failing to issue a formal directive to him, as instructed by the DFA Secretary; c) the information conveyed by

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Almendrala does not constitute a valid order because he was not vested with authority to do so.

A careful review of the records show that there appears to be no particular act/acts or omissions which respondent committed or failed to do that would justify the charge of Misconduct and Conduct Prejudicial to the Best Interest of the Service. The letter of Mr. Gregorio formally charging respondent of the alleged offenses failed to cite any specific act/acts or misdeed which respondent committed which could be interpreted as a misconduct or much less conduct prejudicial to the best interest of the service.

With respect to the charge of insubordination, it is important to determine what law, rule, regulation or order which respondent was supposed to have violated or failed to comply with in order to constitute the offense of insubordination. Insubordination, as held in Civil Service Board of Appeals - Administrative Case No. R-8146, Delfin T. Lacsamana, Respondent-Appellant, "imports willful disregard of express or implied directions and refusal to obey reasonable orders of superior"

The formal charge dated 29 October 1990, signed by Mr. Gregorio alleged, inter alia, that:

pl "In spite of the written orders and verbal instructions to proceed to your post in Agana and assume office thereat, you refused and defied the instructions.

In view thereof, you are formally charged with the offenses of insubordination, misconduct and conduct prejudicial to the best interest of the service."

The only written orders on record are: (1) Assignment Order No. 223-89, dated 5 December 1989; (2) Travel Order No. 90-20, dated 26 January 1990. The only verbal instruction on record was that relayed by then Acting Chief Coordinator Almendrala to respondent for the latter to be in Guam during the visit thereat of the Secretary.

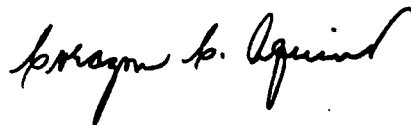
Contrary to the claim by OPAS, records show that respondent clearly manifested his intention to comply with the written and verbal orders in connection with his assumption to the post of Consul General in Agana, Guam. The issuance of diplomatic passports to him and members of his family, application for U.S. visas, solicitation of quotations from forwarding companies concerning shipment of personal effects, flight reservations and

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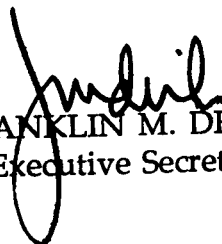
booking on or before 31 March 1990, and more importantly his request for briefing by appropriate government agencies concerning trade, investment and tourism as well as the Philippines' current programs and thrusts for economic development belie the assertion that respondent committed the offense of insubordination. As a matter of fact, were it not for the letter of then Acting Secretary Yan cancelling respondent's A.O., the latter's scheduled flight to Guam on 31 March 1990 would have materialized and respondent would have been in Guam in time for the Secretary's scheduled visit on 5-6 April 1990, thereby complying with both written and verbal orders.

Wherefore, in view of the foregoing, respondent Rolando M. Libas is hereby EXONERATED from the instant charges.

DONE in the City of Manila, this 29th day of May, in the year of Our Lord, nineteen hundred and ninety-two.



By the President:



FRANKLIN M. DRILON
Executive Secretary