

MALACAÑANG
Manila

ADMINISTRATIVE ORDER NO. 142

REPRIMANDING RESPONDENT ROGER P. PEREZ, EXECUTIVE
DIRECTOR OF THE COMMISSION ON HIGHER EDUCATION (CHED).

This is an administrative case against Dr. Roger P. Perez, formerly Officer-in-Charge of the National Capital Region (NCR) of the Commission on Higher Education (CHED) and currently Executive Director of the said Commission, for (1) selling in 1999 thesis and dissertation books stored at the Commission on Higher Education (CHED), NCR, to the La Salette College in Isabela; and (2) serving as professor on weekends in the Graduate School of the University of La Salette, Isabela City. The charges were investigated by the Presidential Commission Against Graft and Corruption (PCAGC)

The action of the Commission on the complaint as well as its findings and recommendation thereon embodied in its Resolution dated March 14, 2000, are hereunder quoted, to wit:

“The charge against respondent Roger P. Perez, who was then the Officer-in-Charge of CHED-NCR, and presently the Executive Director of the Commission on Higher Education, consist of two (2) specifications: (1) that as the then OIC of CHED-NCR, respondent sold or caused the sale to the University of La Salette of Santiago City of the thesis and dissertation books submitted by private schools to the CHED-NCR, in order to raise funds with which to procure computer units and a television set for use of the office; and (2) that respondent served as a professor on weekends in the Graduate School of the said University.

“For his defense as contained in his verified Answer dated September 22, 1999 and in his Position Paper dated October 26, 1999 (Records, pp. 45-57), in relation to the first specification above, respondent Perez denies having sold to the University of La Salette the thesis and dissertation books on file in the storeroom of CHED-NCR, although he admits having allowed the said University to take possession of the said materials for free or without any monetary consideration whatsoever.

“Further, respondent avers that the computer units adverted to in the complaint have been actually donated to the CHED-NCR by the University of La Salette while the television set was purchased from available office funds; that he acted well within his authority as the then head of CHED-NCR, since the subject thesis and dissertation books are not considered “records” within the purview of Department Order No. 13-A dated February 3, 1988, so that the disposition of said materials was at his



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discretion as the then agency head concerned; that even before he took over as OIC of CHED-NCR, the previous head of said office had allowed other institutions of higher learning to secure copies of the thesis and dissertation books from its storeroom; that he did not act maliciously nor negligently when he allowed the University of La Salette to take possession of the questioned materials since before he took action, he sought the advice of the Records Officer of CHED-NCR and was informed that there were no formalities in the disposal of said records inasmuch as they are not technically government property; and that he has not in any way benefited personally from the fact that he allowed the University of La Salette to take the questioned books for use in its library.

“Respondent attached to his Answer a copy each of the Memorandum of Agreement dated January 19, 1999 and Deed of Donation dated January 23, 1999, both of which he signed with Rev. Romeo B. Gonzales, MS, of the University of La Salette (Records, pp. 36-40).

“Anent the second specification of having served as ‘professor on weekends,’ respondent denies having been a regular professor at the University of La Salette, although he admits having conducted lectures on specific topics every now and then in the Graduate School of said University for which he received a token honorarium in the amount of P500.00 for every lecture that he conducted. Corollarily, respondent points out that even admitting for the sake of argument that he was a part-time professor at the University of La Salette, he was at the time armed with an authority to teach signed by then CHED Chairman Angel C. Alcala (Records, p. 63).

“The issue to be resolved in the instant case are as follows:

- “1. Re: Disposition of thesis and dissertation books -
 - (a) Whether or not respondent Perez as the then OIC of CHED-NCR was authorized to dispose of the questioned thesis and dissertation books, University of La Salette to take possession of the same;
 - (b) Whether or not the computer hardwares donated to CHED-NCR by the University



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of La Salette, in token of its appreciation for the bestowal of the questioned thesis and dissertation books to it, have been properly booked-up as required under government rules and regulations; and

- (c) Whether or not there are graduate students who may have been prejudiced as a consequence of the transfer of the subject thesis and dissertation books to the University of La Salette from CHED-NCR?

2. Re: Teaching Activities -

Whether or not respondent Perez' teaching activities at the University of La Salette is violative of any existing law or rule?

"After a careful evaluation of the records, this Commission finds that on the basis of the Memorandum of Agreement dated January 19, 1999, which respondent Perez entered into for the Commission on Higher Education-NCR with Rev. Romeo B. Gonzales of the University of La Salette, 1971 copies of thesis and dissertation books have been transferred from CHED-NCR to the said University (Records, p. 85).

"In this connection, this Commission believes that in relation to issue 1(a) above the contention of respondent that the subject thesis and dissertation books do not constitute 'records' within the purview of DECS Department Order No. 13-A dated February 3, 1988, does not hold water. Said Department Order under its Definition of Terms (Article II) provides. .

'Records. Any paper, book, photograph, motion picture, film, microfilm, X-ray films, sound recording, drawing map or other document of any physical form or character whatever or any copy thereof, that has been made by any entity or received by it in connection with the transaction of public business, and has been retained by that entity or its successor, as evidence of the objectives, organizations, functions, policies, decisions, procedures, operations or other objectives of the government or because of the information contained therein' (Underscoring supplied).

"Thus, contrary to the claim of respondent, it is clear and definitive



on the basis of the aforesaid provision that the subject thesis and dissertation books are 'records' under the contemplation of Department Order No. 13-A of the DECS, since it cannot be denied that the said books have been submitted to and received of CHED-NCR as part of the supporting papers for applications of private institution of higher learning for the issuance of special orders for graduation of students from their respective programs at the graduate level, and that the list of specific documents under the General Records Disposition Schedule of said Department order is certainly not exclusive nor all-embracing.

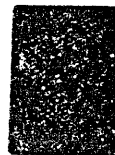
"Likewise the submission of respondent to the effect that in allowing the University of La Salette to take possession of the subject thesis and dissertation books, he acted well within his authority as the then OIC of CHED-NCR, which had custody of the said books, and did not commit any breach of any existing laws, rules or regulations on account of said disposition of the subject thesis and dissertation books, yet it cannot be denied that his authority on the matter, if any, is not plenary, in the sense that his action or decision on the disposition of unnecessary or useless records of the agency is subject to the approval of his department head, as may be gleaned from Section 49, Chapter 12, Book I of Executive Order No. 292, and the disposal of unnecessary or useless records of an agency is subject to the audit jurisdiction of the Commission on Audit (COA), compliance with requirements on records disposition as prescribed by the Records Management and Archives Office (RMAO), and submission of a report on such disposal to the said Office, as provided in Sections 10 and 11 of Executive Order No. 301 (1987) as implemented through Department Order No. 12-A dated February 3, 1988 of the Department of Education, Culture and Sports (DECS). Needless to say, respondent Perez failed to comply with all of the said requirements under the relevant laws and rules.

"Neither is it valid as a defense for respondent Perez to cite the previous similar actions of his predecessor in office at CHED-NCR, who has already retired from the government service, in having likewise allowed in the past other schools to secure copies of the subject thesis and dissertation books from the storeroom of CHED-NCR, for the simple reason that such actions were clearly unauthorized and violative of existing law or rules.

"Fortunately for respondent, in the present case it is evident that in deciding on the disposition of the subject thesis and dissertation books he



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was guided by good faith and imbued only with good motives as borne out by the fact that his action on the matter had been reduced unto writing, which he could have done surreptitiously had he been motivated and/or disposed otherwise; and that in the ultimate analysis, it is quite obvious that the transaction with respondent Perez had with the University of La Salette on the subject thesis and dissertation books, did not result in any disadvantage or injury to the Government.

"For this violation, therefore, respondent Perez should be held accountable and liable only for the light offense of **NEGLECT OF DUTY**.

"Regarding issue 1(b) above, the respondent submitted as part of his evidence a copy of the Invoice Receipt for Property dated February 15, 1999, signed by him, for the computer hardwares donated to CHED-NCR by the University of La Salette (Records, p. 64). Since the evidence submitted was not considered as a sufficient proof to show that the donated items were then properly booked-up as government properties, the CHED Resident Auditor Ms. Luzviminda V. Rubico, State Auditor IV, was requested to verify the relevant records in CHED-NCR and she submitted the following report:

'x x x the undersigned verified the 'Certified True Xerox Copy' of the invoice Receipt for Property from the original. I also accounted the donations and verified the corresponding Memorandum Receipts. Order donated units were not issued yet, hence no MR but were found to be stored in the Office of the Director. Also found were two units overhead projector, per Deed of Donation four pointers were listed but three was (sic) actually counted. As alleged, the other printer was exchanged for four scanners.

'The donations were booked-up per JV No.0523641 dated October 22, 1999 in the amount of P511,402.72. The printers and projectors were booked up without cost' (Records. pp. 66-76).

"On the basis of the aforequoted report of the CHED Resident Auditor, it is clear that although belatedly, the donated computer items from



the University of La Salette had been properly booked-up as government properties as of October 22, 1999.

"Accordingly, it is the sense of this Commission that respondent Perez' accountability on this issue is considered moot and academic.

"Anent issue 1(c) above, it is believed that the respondent's explanation to the effect that it could not have been possible for any student to have been prejudiced as a consequence of the questioned disposal of the subject thesis and dissertation books, for the reason that the said records 'were merely stored inside the storeroom' of the CHED-NCR, and the same records could not be systematically filed nor properly maintained since the CHED-NCR does not maintain a library in which the materials could have been housed and neither does the said Office employ a librarian, should be considered as satisfactory. At any rate, considering that the present complaint is anonymous, there was simply no feasible way of determining the graduate students who may have been prejudiced by the respondent's action.

"Finally, the Commission found no contradictory evidence to belie the denial interposed by respondent that he has been a regular professor at the University of La Salette; nor on his admission that he only occasionally conducted lectures on specific topics in the Graduate School of the said University, for which, he was paid a token honorarium of P500.00 for every lecture that he conducted, which was confirmed or corroborated by the President of the University of La Salette. Additionally, respondent points out that even assuming for the sake of argument that he was a part-time professor in the said University, he was, however, provided at the time with an authority to teach signed by then CHED Chairman Angel C. Alcala.

"This Commission believes that on this specification respondent Perez has not violated any law or rule, since his involvement of conducting lectures on specific topics every now and then in the Graduate School of the University of La Salette for which he was correspondingly compensated in the form of a token honorarium, does not constitute employment; and that, moreover, since the University of La Salette is situated outside the territorial jurisdiction of CHED-NCR, it is axiomatic that respondent Perez as the then OIC of CHED-NCR did not have any direct supervisory or regulatory ascendancy or authority over the said University.



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"This specification should, therefore, be likewise set aside.

"WHEREFORE, premises considered, it is hereby recommended to His Excellency, President Joseph Ejercito Estrada, that respondent Roger P. Perez, formerly Officer-in-Charge of the National Capital Region of the Commission on Higher Education, be **REPRIMANDED** for the unauthorized disposal of the subject thesis and dissertation books at the CHED-NCR, in violation of Section 49, Chapter 12, Book 1 of Executive Order No. 292 and Sections 10 and 11 of Executive Order No. 301 (1987), as implemented by Department Order No. 13-A dated February 3, 1988 of the Department of Education, Culture and Sports. It is further recommended that the charge against the respondent for serving as professor on weekends in the Graduate School of the University of La Salette be dismissed for lack of merit.

" SO RESOLVED".

After a careful review of the case, I concur in the findings and recommendations of the PCAGC.

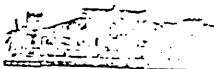
WHEREFORE, and as recommended by the Presidential Commission Against Graft and Corruption, respondent Roger P. Perez, formerly OIC of CHED-NCR and currently Executive Director of the Commission on Higher Education (CHED), is hereby **REPRIMANDED** for violation of Section 49, Chapter 12, Book I of Executive Order No. 292 and Sections 10 and 11 of Executive Order No. 301 (1987), as implemented by Department Order No. 13-A dated February 3, 1988 of the Department of Education, Culture and Sports.

Done in the City of Manila, Philippines, this 20th day of October in the year of Our Lord, Two Thousand.

Ronald B. Zamora

RONALDO B. ZAMORA
Executive Secretary

Joseph Ejercito Estrada



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