

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 31

**IMPOSING THE PENALTY OF SIX MONTHS SUSPENSION ON
LIBERTY C. TUPAZ, REGIONAL DIRECTOR, TECHNICAL
EDUCATION AND SKILLS DEVELOPMENT AUTHORITY (TESDA)
REGION IX**

This refers to the administrative case against Liberty C. Tupaz, Regional Director, Technical Education and Skills Development Authority (TESDA) Region IX, for violation of the General Appropriations Act and other related laws.

The findings and recommendation of the then Presidential Commission Against Graft and Corruption (PCAGC), as embodied in its Resolution dated April 17, 2001, are quoted as follows:

"On October 10, 1999 and November 10, 1999, this Commission issued a subpoena ad testificandum and duces tecum requiring the State Auditor of TESDA Region IX to submit to this Commission some pertinent documents relative to the alleged violation of the respondent. (pp. 17 and 18, Records)

"Upon evaluation of the documents thus submitted, it was found that there was sufficient evidence to commence an administrative investigation, hence, this Commission pursuant to its powers under Executive Order No. 151, as amended, issued on January 17, 2000, an order requiring the respondent to submit her counter-affidavit/verified answer to the complaint together with the affidavits of witnesses and other documents/papers in her defense. (pp. 134 to 136, Records)

"On January 14, 2000, the complaint was referred to the Office of the Ombudsman for appropriate action on the criminal aspect of the case. (p. 133, Records)

"On 11 February 2000, the respondent filed her counter-affidavit/verified answer together with certain attached documents. (pp. 137 and 268, Records)

"A preliminary conference was conducted on 23 February 2000 wherein both parties were duly represented by their respective counsel. (pp. 280 and 281, Records)

"As agreed upon, the complainant filed an amended verified complaint on March 7, 2000. (pp. 282 to 290, Records)

"The amended complaint charged the respondent of the following acts/omissions, to wit:

(1) that the respondent received transportation allowance (TA) despite the fact that a government vehicle was assigned to her;

(2) that the respondent used the assigned vehicle without the appropriate mark "FOR OFFICIAL USE ONLY";

(3) that she failed to appoint an officer-in-charge to sign papers and official documents in her absence during her frequent travels to Dipolog City;

(4) that the respondent failed to observe proper decorum in the discharge of her official functions; and

(5) that the respondent violated the law against nepotism when she designated Mr. Edgar S. Cadavedo as officer-in-charge of the Provincial Office in Zamboanga.

"In her counter-affidavit/verified answer, the respondent averred as follows:

(1) that she denies all the charges levelled against her;

(2) that while she admitted to have received her transportation allowance from November 1997 to December 1998, she altogether desisted from receiving the transportation allowance when the Supreme Court issued a ruling in the case of Aida Domingo vs. Commission on Audit (G.R. No. 112371, October 7, 1998) in relation to COA Circular No. 2000-005 that whenever an official or employee entitled to transportation

allowance uses the government vehicle issued to his office, a corresponding proportionate reduction on his transportation allowance shall be made';

(3) that she claimed that her acts of designating Edgar Cadavedo did not constitute a violation of the rules on nepotism because the latter is not related to her within the third degree prohibited by the Civil Service Law;

(4) she averred that she used the government vehicle assigned to her without the designated mark 'For Official Use Only' because of the threats against her life and security;

(5) on the charge of her frequent travels, she stated that there were some national projects and programs which were personal accountability of the Regional Director; and

(6) she denies that she had never appointed any officer-in-charge during her travels. (pp. 343 to 348, Records)

"On October 2, 2000, the parties were directed to submit their respective formal offer of evidence for the complainant on or before October 12, 2000 and for the respondent on or before October 17, 2000.

"The exhibits thus submitted, disclosed that: (1) the respondent issued an office order dated February 10, 1998 which provided that Tamaraw FX (Plate No. 611) should be for the official use of the Regional Director (p. 293, Records); (2) that the respondent designated Mr. Edgar S. Cadavedo, in her office order dated January 12, 2000 (p. 283, Records); (3) that the transportation allowance received by the respondent from November 1997 to November 1998 amounting to P73,800.00 was disallowed. (pp. 294 to 296, Records)

"Sec. 41 of the General Appropriations Act provides that:

'The transportation allowance herein authorized shall not be granted to officials who are assigned a government vehicle or use government motor vehicle'.

"The respondent by receiving a transportation allowance despite the fact that she was assigned a government vehicle violated the above-quoted provision in the General Appropriations Act.

"Although the respondent denied all the charges levelled against her, it was, however, indubitably shown that she was administratively liable for violation of Sec. 41 General Appropriations Act (GAA) in relation to Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, for receiving transportation allowance notwithstanding the fact that she was assigned a government motor vehicle.

"Her defense that, from the time of the ruling of the Supreme Court in the case of Aida Domingo vs. Commission on Audit (G.R. No. 112371, October 7, 1998), she desisted from receiving said transportation allowance is unavailing considering that the law prohibiting the collection of transportation allowance when an officer is assigned/using a government vehicle was already in place/in effect. The best that she could have done was to have refunded the amount.

"On the charge of nepotism against the respondent, Sec. 6, Rule XVIII of the Civil Service Law is applicable, reading as follows:

'No appointment in the national, province, city and municipal government or in any branch or instrumentality thereof, including government-owned or controlled corporation with original charters shall be made in favor of a relative of the appointing or recommending authority, or of the chief of the bureau or office, or of the persons exercising immediate supervision over the appointee.

‘Unless otherwise specifically provided by law, as used in this Section, the word “relative” and members of the family referred to those related within the third degree either of consanguinity or of affinity.’

“The records of the case failed to show, however, that the appointee is related to the respondent within the third degree either of consanguinity or of affinity, hence, respondent is not administratively responsible therefore.”

“As regards the other charges, the same are dismissed for insufficiency of evidence.”

“WHEREFORE, in view of the foregoing, this Commission finds respondent Liberty C. Tupaz, Regional Director, Technical Education and Skills Development Authority (TESDA) Region IX, GUILTY for violation of Sec. 41, General Appropriations Acts in relation to Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and so recommends to Her Excellency, President Gloria Macapagal-Arroyo, that the penalty of suspension from the service for six (6) months be imposed.”

“SO RESOLVED.”

After an exhaustive review of the records of the case, this Office concurs with findings and conclusions of the Presidential Commission Against Graft and Corruption supported as they are by substantial evidence.

WHEREFORE, in view of the foregoing and as recommended by the Presidential Commission Against Graft and Corruption, respondent Liberty C. Tupaz, Regional Director, Technical Education and Skills Development Authority (TESDA), Region IX, is hereby suspended from office without pay for a period of six (6) months effective upon receipt hereof.

SO ORDERED.

Manila, Philippines, **MAR 04 2002**

By authority of the President:


ALBERTO G. ROMULO
Executive Secretary