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MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 343

IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE WITH FORFEITURE OF ALL BENEFITS UNDER THE LAW ON NATIONAL FOOD AUTHORITY (NFA) ASSISTANT ADMINISTRATOR FOR OPERATIONS PEDRO S. HERNANDO, JR.

On January 8, 1996, Administrative Order No. 239 was issued constituting the Presidential Commission Against Graft and Corruption as an Ad Hoc Committee to investigate administrative complaints filed against certain officials and employees of the National Food Authority (NFA). One of the officials investigated was Mr. Pedro S. Hernando, Jr., formerly Directorate for Marketing Operations now NFA Assistant Administrator for Operations. There were six charges filed against respondent Hernando hereinafter quoted, as follows:

1. "As then Regional Director of the NFA Metro Manila Office, you entered into two (2) Letters of Agreement for Vessel/Barge Hire in behalf of National Food Authority, one with R.S. Cailian General Merchandise dated October 8, 1990 (for Barge Alma III) and the other undated contract with Pexcor Shipping Co., Inc. A provision common to both contracts provided that the freight payment shall be subject to percentage increase effective upon approval of the CISO (Conference in Inter-island Shipowners and Operators) rate increase.

The barges (Alma III and Pexcor) reached their destination (North Harbor) on November 8, 1990 and part of the cargo was already unloaded. However, on November 12, 1990, the CISO-approved increase in freight rate took effect and was applied to the unloaded portion of the cargo. This entailed additional unnecessary expense on the part of the Government.

For so entering into a contract grossly disadvantageous to the Government, respondent Hernando is charged with a violation of Republic Act 3019 (Anti-Graft and Corrupt Practices Act) Section 3 (g)."

2. "From January 1990 up to March 31, 1991, you caused the repurchase of used empty jute sacks of 50/100 kilo capacity amounting to ₱954,787.32. These sacks remained unused until they became outmoded/unserviceable. In 1993, they were sold thru bidding as outmoded/unserviceable at only ₱203,978.11 thus, incurring a loss to the Government of ₱750,809.21.

Because of the gross negligence characterized by this transaction, you are charged with a violation of COA Circular 85-55-A (Prevention against irregular, unnecessary, excessive and/or extravagant expenditure or uses of Government funds and/or property), Republic Act 3019 Section 3 (e) and (g) and Republic Act 6713 Section 4 (a)."

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3. "In 1991 and from November 26 up to December 14, 1993, you requested for the purchase of brand new plastic empty sacks of various sizes, including sacks of 25 kilo capacity.

The aforementioned purchase was excessive and unnecessary because the volume of sacks procured was excessive and the prices do not show any volume discount considering the quantity of sacks involved. As a result, a total of 886,920 pcs. of brand new sacks worth ₱4,553,637.00 were tied up to inventory, due to insufficient demand for said items. Not only was the NFA deprived of the use of the aforementioned funds, the purchased sacks were likewise exposed to rapid deterioration and obsolescence attributable to long storage.

COA reports losses in terms of interest income which NFA could have earned, computed at 12% p.a. amounting to ₱838,806.45.

For this unnecessary and excessive procurement, you are charged with a violation of COA Circular No. 85-55-A, Republic Act 3019 Section 3 (e) and (g) and Republic Act 6713 Section 4 (a)."

4. "Between August to October of 1995, in order to make use of the excess sacks of 25 kilo capacity referred to above, you ordered the rebagging of imported Japanese rice from 50 kilos to 25 kilos. This is not only unnecessary but entailed increased cost and expense to the Government since rebagging required additional labor and handling charges as well as the cost of the 25 kilo capacity sacks.

For this transaction, you are charged with violation of COA Circular 85-55-A, Republic Act 3019 Section 3 (e) and Republic Act 6713 Section 4 (a)."

5. "Since 1984 up to 1995, you have been approving and signing cash advance vouchers which were not supported with documents to determine the amount needed, thus resulting to overestimates of the amounts involved. You likewise certified that liquidation of cash advances have been made and/or accounted for, despite the non-settlement thereof. As a result, the cash advances did not tally with the net payroll. These are violations of section 175 of the GAAM, vol. 1, COA Circular 85-55-A, Section 89 P.D. 1445 and Republic Act 3019 section 3 (e) for which you are charged."

6. "Since Administrator Tanchanco's time up to the present, the NFA has been tolerating the occupancy of private organizations namely: Food Hauler's Association of the Phils. and the Federation of Grains Retailers of its NFA Metro Manila compound. The occupancy is free of charge since it is not covered by any lease agreement nor is the electric and water consumption charged to the occupant. You, as then Regional Director of the NFA are hereby charged for inaction regarding this matter, which is causing excessive loss of potential revenue for the Government in terms of rental fees and electric consumption and water charges which at present are being shouldered by the NFA.

For your negligence during your tenure as Regional Director, you are charge for violation of COA Circular 85-55-A and Republic Act 3019 Section 3 (e)."

In defense of the first charge, respondent Hernando offered the following justifications:

1. "That a letter agreement for vessel/barge hire was entered into by NFA with R.S. Cailian Gen. Merchandise, the owner of Alma II x x x , and Pexcor, owner of M/V Monte Sol x x x for the transfer of corn from General Santos City and Cagayan de Oro, respectively."

2. "That the letter agreement for shipping was entered into on instructions of Central Office to help decongest the warehouses and corn stocks in Mindanao."

3. "That during the period, there was already in effect, a fuel price increase on 21 September 1990 in which CISO member's have also filed a petition for rate increase to MARINA on 27 September 1990. It is against this background that the affiant has to contain with in the course of the negotiation with unwilling barge/vessel owners. Both prospective contractor were demanding that a provision be included in the letter agreement that allows for the imposition of the freight increase upon effectivity of a new CISO rate increase as approved by MARINA."

4. "That in view of the fuel situation and the prevailing condition of corn stocks in Mindanao, knowing fully well the instruction of Central Office to move the stocks in Mindanao, Metro Manila Office scouted for prospective carriers and in this regard entered into a letter agreement on 8 October 1990."

5. "That based on record of Metro Manila Office the carrier Alma III started loading in General Santos City (on) 22 October 1990 up to 28 October, 1990 with a load of 68,170 bags of corn, M/V Monte Sol started loading in Cagayan de Oro City on 24 October, 1990 up to 2 November 1990 with a load of 13,323 bags of corn."

6. "That Alma III arrived in Manila on 8 November 1990 and commenced unloading on the same date and finished on 2 December 1990. Monte Sol arrived in Manila on 9 November, 1990, commenced unloading on 15 November 1990 and finished on 21 November 1990."

7. "That the *proviso* in the letter agreement as agreed upon meant that if the price increase be made effective and the corn is still in the vessels, the stocks in the vessel will be subjected to the new rate. In case the vessel is currently discharging, the stocks still remaining in the vessel will be subjected to the new rate."

8. "That by the end of November 1990, a total of 7,700 bags have already been unloaded. The balance was therefore subjected to the new rate increase."

9. "That for M/V Monte Sol, the total stocks on board were subjected to the new rate because unloading started only on 15 November 1990."

10. "That the move to hire the vessels was in response to the prevailing situation to move the corn within a period where rate increase were under review by MARINA."

In a nutshell, respondent hinges his defense on the fact that prior to entering into the questioned contracts, there was a fuel price increase and that the entire shipping industry was awaiting the approval by the MARINA of a CISO petition for increase in freight rate. This allegedly constrained him to agree to the provision subjecting the cargo to an increase in freight effective upon approval of the aforesaid petition. True enough, on November 12, 1990, MARINA issued Memorandum Circular No. 17 approving the CISO petition and increasing the applicable passage and freight rates.

As found by the Committee, it is not disputed that respondent signed and executed the questioned letter-agreements with Cailian and Pexcor. It is likewise undisputed that there was a fuel price increase and a subsequent increase in freight rates. However, these scenarios are not sufficient to explain why respondent did not conduct or order the conduct of a competitive public bidding in awarding the contracts to transport the cargo to Cailian and Pexcor, as required by Executive Order No. 301. There was no emergency or even an imminent need to transport the corn from Mindanao to Metro Manila. Neither does the situation fall under any of the exceptions from public bidding. Respondent merely stated that there was an order from the Director of Operations to move the stocks. As to why he, as then Regional Director of Metro Manila (the recipient of the cargo), was the one who secured the vessel/barge when under NFA regulations, it should be the director/officer of the region or province of origin or the place where the cargo will be loaded, in these cases General Santos City and Cagayan de Oro, who should "secure the bottoms" or contract the vessel and accordingly pay the freight, was not satisfactorily explained.

In an attempt to justify the contracts, respondent presented in evidence several wire messages from then Director Eduardo L. Galang, Directorate for Marketing Operations. Rather than help his cause, the messages, particularly the wire transmission dated August 22, 1990, expressly showed that it was the regional directors of General Santos, Cotabato and Cagayan de Oro who were ordered by Director Galang to ship to the Metro Manila Office, even on staggered basis, their stocks of corn. In fact, the regional directors were instructed to inform Director Galang of their readiness, volume, expected time of departure and the name of the vessel. The intention, therefore, of Director Galang to authorize these regional directors, not respondent Hernando who was merely furnished a copy of the message, to contract for the necessary vessels/barges, which is their standard procedure, could not have been any clearer. The fact that it was respondent who ultimately executed the contracts was undoubtedly irregular.

With respect to the issue of public bidding, respondent claimed that what was resorted to was sealed canvassing. Such justification however, is inutile with

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his failure to submit to the Committee the report of the alleged canvass. For, if either a public bidding or a sealed canvass was conducted, the NFA would not be constrained to agree to the manifestly onerous *proviso* subjecting the freight rate to an increase once the petition was approved.

Assuming *arguendo* that public bidding or even a sealed canvass could have been done away with, still respondent's reasoning that he had no choice but to agree to the onerous *proviso* in the contracts because of the pendency of the CISO petition with MARINA has no leg to stand on in the light of the documentary evidence he submitted to the Committee.

A perusal of the alleged CISO petition for an increase in freight rate would reveal that neither R.S. Cailian General Merchandise, its shipping company Centerpoint Shipping Company, nor Pexcor Shipping Co. Inc. is a member of the 17 member-shipping companies of the CISO, which include Aboitiz Shipping Corp., Alberto Gothong Enterprises, Archipelago Lines, Inc., Carlos A. Gothong Lines Inc., Eusebio Shipping Lines, Inc., George & Peter Lines, Inc., Escano Lines, Inc., Lapu-Lapu Shipping Lines, Inc., Lorenzo Shipping corp., Negros Navigation Co. Inc., San Vicente Shipping Corp., Solid Shipping Corp., Sulpicio Lines, Inc., Sweet Lines, Inc., and Viva Shipping Lines, Inc. Further, no evidence was submitted by respondent that either Cailian, Centerpoint or Pexcor filed, on their own, applications for an increase in freight rate with MARINA.

Under Memorandum Circular No. 17, relied upon by respondent in justifying the questioned *proviso* and increase in freight payment, it was expressly stated that "only member-companies of the Conference in Inter-island Shipowners and Operators and any other operators who have filed applications for rate increase by paying the corresponding filing fee and issued the corresponding Order therefor are authorized to implement the following structure/system and schedule of rates x x x." Since both barge/vessel owners are not CISO members and there being no indication that they filed applications for rate increase, it is highly questionable if the approved increase in freight rate would be applicable to them.

Moreover, proof that respondent, or the NFA for that matter, was not under any compulsion to subscribe to any increase in freight rates is the fact that years after the execution of the questioned contracts, the Regional Director of General Santos City was still able to contract the M/V Premship VI to transport cargo at the "old" rate of ₱19.00/bag, from the same place where the shipment of corn in this case originated, which is the original freight rate for Barge Alma III prior to the CISO rate increase.

From the foregoing, it is clear that respondent violated Sec. 3 (g) of RA 3019, which states that "x x x (g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby." When respondent entered into the two letter-agreements in question and agreed to the *proviso*

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subjecting the cargo to increases in freight rate, he caused the Government a loss of ₱60,155.33 (with respect to the contract with Pexcor) and ₱219,223.63 (with respect to the contract with Cailian). These amounts represent the difference in freight rate paid by the NFA as a result of the onerous *proviso*.

As to the second charge, it was alleged that respondent was responsible for the excessive repurchase of empty sacks in violation of COA Circular 85-55-A (Prevention against irregular, unnecessary, excessive and/or extravagant, expenditure or uses of Government funds and/or property), Sections 3 (e) and (g), Republic Act 3019 and Sec. 4 (a) of Republic Act 6713 (Code of Conduct and Ethical Standards for Government Employees).

Records show that at the time of the alleged repurchase of empty sacks from licensed NFA retailers, dubbed in the NFA as the "buy-back operation" aimed as a stop-gap measure in case suppliers of sacks fail to meet their delivery schedules, respondent was the Regional Director of Metro Manila. Respondent alleged that the order to repurchase came from then Administrator Pelayo Gabaldon thru then Directorate for Marketing Operations, Dir. Ludovico J. Jarina. Respondent submitted the memorandum and wired transmissions in support thereof.

It is apparent from the documents submitted that respondent did not have a hand in the formulation of the policy, the scheme being an operational strategy. He was merely an "implementor" thus, he claims that the failure of said strategy cannot be attributed to him. The Committee submits that it finds merit to respondent's contention that it is virtually impossible to determine from the stock inventory the exact identities of the empty jute sacks which he caused to be repurchased. Furthermore, from the figures in the "Statement of Empty Sacks Receipt" from April to December 1990, it is evident that the empty sacks bidded out as outmoded could not have been part of what was repurchased by respondent considering that as reflected in the records, he ordered the repurchase of a total of 283,728 sacks and caused the dispersal to the different regions of 576,820 sacks. In short, he distributed more sacks than what was actually repurchased.

After his stint as Regional Director, respondent acted as Director of the Directorate for Marketing Operations (DMO), which this time involved policy determination. From the period January 1991 to January 1995, he was in charged of determining the empty sacks requirement of the NFA and was the recommending authority for the purchase of sacks. In fact, as found by the Committee in a Memorandum dated April 11, 1991, he requested from the Administrator the extension of the buy-back scheme.

The Committee was of the opinion that operational strategies of the NFA is anticipatory and fluid in nature and largely dependent on natural and physical conditions. Thus, considering the absence of concrete evidence that at the time of the request for extension, the inventory was already overstocked and since there

was no evidence linking respondent to the alleged excessive repurchase to the bidding out of outmoded sacks, the Committee submits that the second charge against him lacks merit.

Anent the third charge of unnecessary and excessive procurement of brand new plastic sacks, respondent alleged that as Director of DMO, he was responsible for coming out with marketing plans for the coming year which include the determination of the empty sack requirements of the NFA. He admitted recommending to the Administrator the purchase of the questioned empty sacks, the quantity of which was determined after assessing the latest inventory, supply and demand for rice, the projected milling and procurement targets of the NFA for the coming year as well as, after consultation with the different Regional Directors who submitted to him their projected estimates of the respective sack requirements of their regions. Plainly put, he claims that the quantity recommended for every questioned purchase was arrived at after careful study and not at random. As far as the 25-kilo capacity sacks are concerned, he alleged that they were recommended for purchase in line with then Administrator Romeo G. David's instruction for him to come up with an estimated quantity of 25-kilo capacity sacks needed for pilot testing the rice distribution strategy.

Further, respondent alleges that being only the recommending authority, the final decision and ultimate responsibility for the purchase falls on the Administrator who approved his recommendation. With respect to the actual purchase, he explained that the same was undertaken by the Committee on Bids and Awards, constituted by then Administrator David, which he was not a member of.

The Committee finds merit to respondent's justification. Documents submitted by him and the NFA resident Auditor showed that the Memoranda bearing his recommendations for the purchase of brand new empty sacks were all approved by then Administrator David. With respect to the 25-kilo capacity sacks, the Memorandum of respondent to then Administrator David dated April 27, 1993 showed that the idea of purchasing the same came from the latter in the light of the Administrator's "Service Corporation" vision to make rice more movable and convenient to end-users and consumers. In short, he was merely tasked to submit an estimate of the quantity of sacks suitable to be used in pilot-testing the project.

As can be gleaned therein the questioned purchases cannot be attributed to respondent. At the time he recommended the quantity of empty sacks to be purchased, he had bases therefor and the figures cannot be regarded as unreasonable. It only appeared "excessive" when years after, remnants of the millions of sacks purchased still remained in the NFA inventory, totaling 886,920 pcs. As discussed, the success or failure of a marketing plan or strategy is dependent upon several unpredictable factors such as the onset of typhoons, success of the harvest, the prevailing price of rice or corn as passed on by farmers, whether the same is above or below the NFA price, the demand for NFA rice, to name a few. Considering that the marketing arm of the NFA, headed by

him, makes projections one year in advance, it cannot be expected to make exact and accurate estimates of empty sacks to be purchased. Considering further that the commodity involved is of national interest, the NFA could not risk the occurrence of any shortage of sacks. The concomitant "excesses" if any, as long as within reasonable limits, should naturally be expected.

With respect to the fourth charge, respondent claims that it was then Administrator David who ordered the rebagging of the imported Japanese rice using the 25-kilo capacity bags. However, no evidence was presented in support of the aforesaid allegation. With regard to the alleged increase in labor cost, he explained that the rebagging did not entail additional cost to the NFA because the workers utilized were their permanent and casual employees.

A perusal of the documents submitted in support of charge no. 4 reveals that none of the documents involving rebagging operations bear the signature of respondent. There is also no evidence that then Administrator David ordered the rebagging, as what was allegedly given was only a verbal order, neither is there positive proof that respondent made the order. As far as the alleged additional labor and handling costs are concerned, respondent presented documentary evidence to prove that no additional laborers were hired to undertake rebagging.

The resident COA Auditor of the NFA however, furnished the Committee with documents showing the handling expenses incurred by the NFA from August to October of 1995 with the contention that although it is true that no additional personnel were hired, more piece rate workers were hired to perform the work left by the casual laborers who were rebagging, such as the handling of the receipt and issue of rice in the NFA warehouse. Assuming *arguendo* that there is merit to the contention of the Auditor, still inasmuch as there is absence of evidence linking respondent to the rebagging operations, it is highly unlikely that the fault for the increased cost could be attributed to him. The evidence against respondent under charge no. 4 is therefore inconclusive.

Anent the fifth charge, respondent denied before the Committee that he signed or approved any cash advance without the necessary supporting papers. He admitted, however, that considering the voluminous papers to be attached to the Cash Advance Vouchers, the Finance Section of the NFA-Metro Manila Office opted to retain the attachment in its Cashiering Unit in order to avoid loss. Also, he pointed out that as can be gleaned from the documents he submitted to the Committee as well as, from his Memorandum, all the cash advances he signed and approved were duly liquidated.

Respondent submitted the list of vouchers he approved while he was the Regional Director of NFA-NCR, summarized as follows:

"Nature of Cash Adv.	Date	Amount	Refund	Date

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Educ. Loan	5-7-90	300,000	93,192.20	7-2-90
Overtime	12-3-90	500,000	-	-
Overtime	12-5-90	500,000	-	-
Educ. Loan	10-24-90	300,000	-	-
Educ. Loan	10-18-90	400,000	-	-
O.T. Diff.	12-17-90	1,000,000	292,262.86	1-18-90
O.T. Diff.	12-18-90	1,000,000		
O.T. Diff.	8-22-90	500,000	143,406.07	10-9-90
COLA Diff.	6-4-90	2,600,000	1,100.00	7-4-90
			55,970.24	7-4-90

It is undisputed that respondent, as the approving authority, signed all the vouchers for the cash advances above enumerated. Considering that it is the accountant and the cashier who prepare and determine the amounts advanced, the question now is whether respondent should be held accountable for the excessive amounts advanced.

A perusal of the above list reveal that it takes the Finance Section of the NFA-Metro Manila an average of one to two months before the excess of the amounts advanced is liquidated and refunded. Upon inquiry by the Committee from the resident Auditor, it appears that the check representing the amount advanced is in the name of the cashier and any excess of the amount after payment to the employees likewise remain with the cashier who then liquidates and refunds the same. The Committee was also informed that after the payment of the amounts to the employees, the approving authority, in this case respondent, is no longer informed of any excess in the amount advanced. The present Auditor also pointed out that the drawing of excessive cash advances is not isolated in the case of respondent, as in fact, other directors of the NFA also approved similar cash advances. From this pattern, it appears that this practice has already been adopted by management and obviously tolerated by past auditors.

Under Sec. 175, Vol. 1 of the General Accounting and Auditing Manual (GAAM) "the cash advance shall be equal to the net amount of the payroll for a pay period." Also, Sec. 179 of the same, states that "the accountable officer shall liquidate his cash advance within the prescribed (period) as follows: x x x (F)or salaries, wages, etc. - within 5 days after each 15th/end of the month pay period." Hence, considering the above-stated provisions, it is evident that there were violations of existing COA rules. The basis for the cash advances were merely estimates and as such, this gives rise to excess in the amounts advanced. But what seems more potentially dangerous is the delay in the refunding of the resulting excesses. It leaves available, in the hands of the cashier, a sizable amount of money which could be utilized for purposes other than that for which they were intended.

The Committee submits that it is to respondent's credit that the Supreme Court made the following pronouncement in the case of Magsuci vs.

Sandiganbayan (240 SCRA 1995) citing the case of Arias vs. Sandiganbayan (180 SCRA 809):

> "We would be setting a bad precedent if a head of office plagued by all-too common problems -- dishonest or negligent subordinates, overwork, multiple assignments or positions, or plain incompetence is suddenly swept into a conspiracy conviction simply because he did not personally examine every single detail, painstakingly trace every step from inception, and investigate the motives of every person involved in a transaction before affixing his signature as the final approving authority.
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> x x x
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> We can, in retrospect, argue that Arias should have probed records, inspected persons. It is doubtful if any auditor for a fairly sized office could personally do all these things in all vouchers presented for his signature. The Court would be asking for the impossible. All heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations. If a department secretary entertains important visitors, the Auditor is not ordinarily expected to call the restaurant about the amount of the bill, question each guest whether he was present at the luncheon, inquire whether the correct amount of food was served, and otherwise personally look into the reimbursement voucher's accuracy, propriety and sufficiency. There has to be some added reason why he should examine each voucher in such detail. Any executive head of even small government agencies or commissions can attest to the volume of papers that must be signed.
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> There are hundreds of documents, letters, memorandum, vouchers, and supporting papers that routinely pass through his hands. The number in bigger offices or departments is even more appalling. x x x"

In view of the above considerations, the Committee suggests that it is judicious to hold respondent administratively liable only for simple neglect of duty on this charge.

Undoubtedly, respondent is guilty of negligence in allowing such practice to pervade the Finance section of the NFA. Specifically when he signed and approved the vouchers without the supporting documents attached thereto, which according to him, are left in the Cashiering Unit to avoid loss. There was therefore no way for him to determine or even check whether the amount being advanced is sufficient, excessive or has basis. It is important to note of the fact that the ultimate responsibility for this anomalous practice devolves not upon respondent himself but on the accountant and the cashier who have personal custody and control over the amounts advanced.

Finally, with respect to the sixth charge, respondent alleged in his Memorandum that Mrs. Gregoria del Rosario, President of the Federation of Greater Manila Grains/Businessmen requested former Administrator Jesus T. Tanchanco "to provide them a space within the NFA-compound to facilitate information dissemination among their members and foster closer coordination

with the NFA under its interrelationship program." This request was allegedly granted by Administrator Tanchanco with the condition that the Food Hauler's Association (formerly Gintong Butil, an association of truckers created upon the initiative of the NFA-MMO Management in 1982) and the Bakery Foundation will also be housed in the same building within the NFA compound. In 1982, when Roberto H. Goce was the Regional Director of NFA-Metro Manila, the building was allegedly reconstructed and the costs were shouldered by the Food Haulers, Grains Retailers and the Bakers Association, who each contributed ₱30,000.00 to shoulder the costs of the reconstruction. Of note is the fact that none of these transactions were documented.

On the basis of the above explanations, there is no merit to the sixth charge. The questioned occupancy of a building has been going on long before respondent's time as Regional Director of NFA-Metro Manila and continued, for several years after he was reassigned to the Central Office, up to the present. Even the present Auditor concedes that it was former Administrator Tanchanco who initially allowed the questioned occupancy mainly for NFA's convenience since these associations offer services regularly required in NFA's day-to-day operations. The tolerance of this situation by the succeeding Administrators and Metro Manila Regional Directors, including respondent thus, came about as a result of this "understanding" between the NFA management and the associations and probably out of deference to the "tradition" set by Administrator Tanchanco.

In light of these circumstances, it would be inequitable to hold respondent accountable when the continued occupancy of the premises arose through the common inaction of several NFA Administrators and Regional Directors, respondent being just one of them. More importantly, there is nothing, not a single piece of document to show that this matter was brought to his attention either by the resident Auditor or any of his personnel, when he was still Regional Director of Metro Manila and that he failed or refused to act thereon. Hence, the Committee recommends that there is no basis for the sixth charge to prosper.

The Ad Hoc Committee based on the foregoing recommended to the Office of the President the dismissal of respondent Pedro S. Hernando, Assistant Administrator for Operations of the National Food Authority, from the service for violation of Sec. 3 (g), Republic Act 3019 under charge no. 1 and for simple neglect of duty under charge no. 5 of the same Act. Further, it recommended the dismissal of charges 2, 3, 4 and 6 for lack of merit.

After assessing respondent's justification, his testimony and the evidence presented, this Office finds the findings and recommendations of the Committee to be in order. Respondent is administratively liable under the first charge for violation of RA 3019 and under the fifth charge for simple neglect of duty.

WHEREFORE, IN VIEW OF THE FOREGOING, and as recommended by the Ad Hoc Committee constituted by virtue of Administrative Order No. 239, s. of 1996, respondent **PEDRO S. HERNANDO, Jr.**, Assistant Administrator for

Operations of the National Food Authority is hereby **DISMISSED** from the service with forfeiture of all benefits under the law for violation of Section 3 (g) of Republic Act 3019 and for committing acts constituting simple neglect of duty.

SO ORDERED.

DONE in the City of Manila, this 17th day of June in the year of Our Lord, Nineteen Hundred and Ninety-Seven.

By the President:

RUBEN D. TORRES
Executive Secretary

DEL/RCO/PDC/JLC/cb

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