

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 346

**IMPOSING THE PENALTY OF SIX MONTHS SUSPENSION FROM  
OFFICE ON FOREIGN SERVICE OFFICER I JOSE P. AMPESO  
OF THE DEPARTMENT OF FOREIGN AFFAIRS**

Before this Office is the 06 January 1997 recommendation of Secretary of Foreign Affairs Domingo L. Siazon, Jr. on the findings made by the Investigating Committee and affirmed by the Board of Foreign Service Administration regarding the administrative charges filed against Foreign Service Officer I Jose P. Ampeso.

The charges, based on the complaints filed by Foreign Service Staff Employee II Benjamin Laplana and Foreign Service Staff Officer II Amelita G. Almeda are as follows: a) grave misconduct; b) falsification of official documents; c) conduct prejudicial to the best interest of the service; and d) violation of Civil Service Law, Rules and Regulations.

On 19 May 1994, the Board of Foreign Service Administration, acting on the charges, created an Investigation Committee to hear the case. During the proceedings, the complainants and the respondent were represented by counsel.

On the basis of the hearings conducted and the evidence on record, the Investigating Committee found Ampeso guilty of all the charges.

Regarding Laplana's complaint, the Committee determined that a certification of his emoluments was submitted to the Bureau of Customs and to the Department of Finance to enable him to import a Range Rover to the country, free of duties and taxes. The Office of Personnel and Administrative Services denied having issued a certification on the emoluments. The Department of Foreign Affairs likewise had no record of the said certificate.

Although there was no direct evidence to show that the respondent falsified the documents submitted to the Bureau of Customs, the Committee considered the following circumstantial evidence to prove Ampeso's participation in and awareness of the transaction: a) taking advantage of his position and friendship with Mr. Laplana, then assigned at the Philippine Embassy in Jakarta, respondent convinced him to fax his passport and identification card, the same documents that were later used in the duty-free importation of the Range Rover; b) on two occasions

M

respondent received money from Ampeso, the first being US \$200.00 that was given when the documents were being processed and the P 25,000.00 received after the release of the Range Rover; c) Ampeso arranged the meeting wherein a special power of attorney concerning the said vehicle was executed between Laplana and a certain Mr. Ricafort.

Anent the complaint filed by Mrs. Almeda, the Committee established that complainant's DFA ID and a photocopy of her assignment and recall order were used for the tax free importation of a BMW vehicle in her name. Earlier, she entrusted said documents to Ampeso upon his representation that they were necessary in identifying the package which he volunteered to deliver to her family in Vancouver. Prior thereto, respondent also verified whether complainant had availed of her tax free privilege. When Mrs. Almeda confronted Ampeso, the latter admitted to having arranged the shipment of the BMW but he assured her that she will not be implicated in the importation.

The Committee's findings were affirmed by the Board of Foreign Service Administration during its 5 June 1995 deliberations and found respondent guilty of misconduct. The BFSA recommended respondent's suspension from service for seven months and 18 days.

On 14 August 1995, respondent moved for a reconsideration of the Committee's findings. On 29 January 1996, he submitted a letter to the Office of the Secretary wherein he attached a 15 January 1996 affidavit of desistance allegedly executed by complainant Laplana. The affidavit stated that his complaint was prepared under duress and intimidation and that respondent had no participation in the illegal importation.

In light of the affidavit of desistance, the Secretary of Foreign Affairs, on 07 March 1996, created a committee to review the decision of the BFSA. In view however of Laplana's death on 09 March 1996, the Committee found no legal basis for a review. The Committee reasoned that the complainant's death prevented them from validating the retraction and verifying the circumstances which caused its execution. Furthermore, reliance was placed on existing jurisprudence stating that "retraction of testimony previously given, especially if the same was made in the presence of or upon advice of counsel is looked upon with disfavor for obvious reasons. An affidavit of retraction can easily be secured from witnesses, usually thru intimidation or monetary consideration, thus recanted testimony is considered exceedingly unreliable" (Lopez v. CA G. R. No. 101507, 29 December 1994).

Respondent's one month suspension was thereafter recommended by the Department of Foreign Affairs.

n

It may be recalled that at the outset of the investigation, the DFA filed four charges, namely grave misconduct, falsification of official documents, conduct prejudicial to the best interest of the service and violation of existing Civil Service laws, rules and regulations. While the Investigating Committee found respondent guilty of misconduct on both the Laplana and Almeda importation, no ruling was made on the other charges.

Nonetheless, it is sufficiently clear from the evidence on record, particularly the Reports of the Investigating Committee and the BFSA Resolution, that respondent committed two counts of misconduct.

Section 22, Rule XIV of the Omnibus Rules Implementing Book V of the Revised Administrative Code, specify the imposition of suspension for one (1) month and one (1) day to six (6) months for acts constituting simple misconduct, to be determined by the presence of any mitigating or aggravating circumstances. Relative thereto, it is stated in Section 17 of the same rules that should the respondent be found guilty of two or more charges or counts, the penalty imposed should be that corresponding to the most serious charge or count and the rest may be considered as aggravating circumstances.

Thus while this Office is inclined to impose a stiffer penalty on respondent Ampeso to send an unequivocal signal to our fellow public servants, the clear provision of the aforementioned rules constrains us to do otherwise.

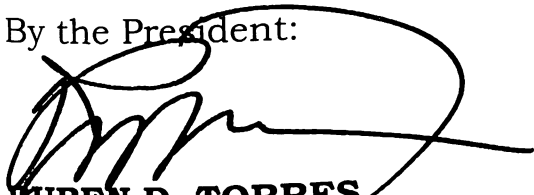
**WHEREFORE**, in view of the foregoing provisions of law and the substantial evidence establishing respondent's guilt, respondent is hereby meted the penalty of suspension from office without pay for six (6) months with a strong warning that a commission of similar offense in the future will be dealt with more severely.

**SO ORDERED.**

Manila, Philippines, *10 Dec 97.*



By the President:



**RUBEN D. TORRES**

Executive Secretary

*M 4 71*