IMPOSING THE PENALTY OF SUSPENSION FOR SIX (6) MONTHS ON ELLEN V. HERNANDEZ, REGIONAL DIRECTOR, BUREAU OF LOCAL GOVERNMENT FINANCE, REGION III

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This resolves the administrative case filed by Hercules M. Abela (Abela, hereinafter) against Ellen V. Hernandez (Hernandez), Regional Director, Bureau of Local Government Finance, Region III, for deliberate refusal to perform her official duty contrary to Section 4 (e) of Republic Act (RA) No. 6713 and Sec. 3 (f) of RA No. 3019, as amended.

The complaint against respondent Hernandez arose from her alleged failure to act, with dispatch, on the three (3) complaints filed by Abela against Loreto P. Azores, City Treasurer of Olongapo City, for various acts of irregularities. The complaints were filed with respondent Hernandez on August 14 and 26, 1991 as well as on September 20, 1991.

For the purpose of showing that she had indeed acted on the three (3) complaints filed by Abela, Hernandez submitted her letter/resolution to City Treasurer Azores dated December 28, 1992, clearing the latter of the charges against him. However, the Presidential Commission Against Graft and Corruption (PCAGC) gave no consideration to this piece of evidence because: (1) the complaint dated September 20, 1991 had never been referred to Azores for comment; hence, respondent Hernandez could not have included the same in her letter/resolution; and (2) complainant Abela was not furnished with a copy of the said letter/resolution of Hernandez.

In its resolution dated November 7, 1997, the PCAGC pertinently stated:

> "x x x , [I]t is clear that from 1991, when Abela filed with respondent Hernandez his complaints against Azores until 1995, when Abela filed with this Commission administrative charges against said respondent Hernandez, the latter had failed to act and resolve Abela's complaints against Azores, perforce, herein respondent Hernandez has committed the following acts or omissions contrary to law, to wit:

(a) Respondent failed to refer to Azores the complaint of Abela dated September 20, 1991; (b) she failed to answer the request of the Office of the Ombudsman for the status of the investigation of Abela's complaints; (c) respondent filed to expedite the calling of a meeting with complainant, contrary to Sec. 4(b) and Sec. 5(d) of Republic Act 6713; (d) respondent failed to inquire into the cause of Abela's non-attendance of the conference set on September 15, 1992; (e) respondent did not comply with the instruction of Deputy Director Angelina M. Magsino; and (f) that while respondent took certain initial steps in investigating Abela's complaints against Azores, she failed to resolve these cases in six (6) years time.

In fine respondent Hernandez, by her acts and omissions contravened Sec. 4 (b) and Sec. 5 (a) and (d) of Republic Act 6713; and Sec. 3 (f) of Republic Act 3019, as amended, reading as follows:

Sec. 4 (b) and Sec. 5 (a) of Republic Act 6713, read as follows:

> "SECTION 4. Norms of Conduct of Public Officials and Employees. — (A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:

(a) x x x x x x

(b) Professionalism. — Public officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and dedication to duty. They shall endeavor to discourage wrong perceptions of their roles as dispensers or peddlers of undue patronage."

"SECTION 5. Duties of Public Officials and Employees. — In the performance of their duties, all public officials and employees are under obligation to:

(a) Act promptly on letters and requests. — All public officials shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

xxx xxx xxx
(d) Act immediately on the public's personal transactions. — All public officials and employees must attend to anyone who wants to avail himself of the services of their offices and must, at all times, act promptly and expeditiously."

and Sec. 3 (f) of Republic Act No. 3019, [as amended] reads as follows:

"SECTION 3. Corrupt Practices of Public Officers. — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxx xxx xxx

(f) Neglecting or refusing after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party." (Brackets supplied)

The inculpatory findings and conclusions of the PCAGC, supported as they are by, or at least reasonably inferable from, substantive evidence on record commend themselves for concurrence. This is not to say, however, that the act complained of constitutes corrupt practice under Section 3 (f) of RA 3019. As it were, no evidence was presented to show that Hernandez failed to act with dispatch on Abela's complaint for the purpose of gaining material advantage.

WHEREFORE, premises considered, respondent Ellen V. Hernandez is hereby found guilty of the offense of deliberate refusal to perform official duty and accordingly, is hereby meted the penalty of suspension for six (6) months, effective upon receipt of a copy hereof.

Adopted: 07 Sept. 1999

BY THE PRESIDENT:

(SGD.) RONALDO B. ZAMORA
Executive secretary

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