IMPOSING THE PENALTY OF REPRIMAND ON PHILLIP JOHN V. JARINA, ENGINEER II, ERB VISAYAS OFFICE

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WHEREAS, on December 1995, the Board issued Office Order No. 95-97, creating an Ad Hoc Committee tasked to conduct a formal investigation regarding the loss of ERB dye cast No. VA-2-1995, which is used in calibrating the meters of walk-in customers while the same was in the custody of respondent Phillip John V. Jarina, Engineer II of the ERB Visayas Office and the unauthorized use of ERB dye cast No. 3-VA-95 by the said respondent which was exclusively assigned for sealing the kilowatt hour meter of Mactan Electric Company.

WHEREAS, hearings were conducted on December 6, 8, 13, 14 and 15, 1995 by the Ad Hoc Committee where the herein respondent appeared and several witnesses were presented namely, Mr. Crisoldo B. Fortuna, Mr. Jaime Punzalan and Mr. Tomas C. Macatangay of the Energy Regulation Branch of the ERB Central Office and Mr. Gervacio Cabusas, Engineer Allan B. Tajanlangit and Mr. Agaton Valenzona of the ERB Visayas Field Office.

WHEREAS, on February 2, 1996, the Ad Hoc Committee recommended the filing of charges against respondent Jarina and pursuant thereto, the Board issued Office Order 96-20 creating a committee tasked to conduct formal investigation thereon.

WHEREAS, on March 1, 1996, respondent Jarina was formally charged under Administrative Order No. 96-03 with (1) Gross neglect of duty; (2) Conduct prejudicial to the best interest of the service; and (3) Violation of reasonable office rules and regulations.

WHEREAS, on March 5, 1996, respondent Jarina was placed under preventive suspension for sixty (60) days effective from March 13, 1996 to May 13, 1996.

WHEREAS, on April 1, 1996, respondent Jarina filed a ”Motion to Dismiss” praying for the reconsideration of Administrative Order No. 96-03 and the dismissal of the case filed against him, citing as grounds the following:

> “1. That no officer or employee of the Civil Service shall be removed or suspended except for cause as provided by law and after due process;
>
> 2. That any person may file an administrative complaint with the Commission or in any of its proper office. Said complaint shall be in writing and under oath, otherwise the same shall not be given due course; and
>
> 3. That the complaint shall be written in clear, simple and concise language and in a systematic manner as to apprise the respondent of the nature of the charge against him and to enable him to prepare his defense.”

WHEREAS, in its letter to respondent Jarina dated April 19, 1996, the Fact-Finding Committee denied said motion to dismiss for lack of merit, the same being baseless and unfounded, citing pertinent provisions of the Rules Implementing Book V of Executive Order No. 292 and other Civil Service Laws as basis.

WHEREAS, on April 23, 1996, the Committee received a telegram from the herein respondent moving that his “Motion to Dismiss” be resolved and the hearings of this case be transferred to Cebu City.

WHEREAS, a hearing was conducted on April 25, 1996 at the ERB Main Office, which was previously scheduled on April 25 and 26, 1996 at the same venue, but respondent and his counsel did not appear.

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WHEREAS, finding the motion for the change of venue meritorious, the same was granted by the Fact-Finding Committee, and subsequently, a hearing was set on June 10 to 14, 1996 at the ERB Visayas Field Office, Cebu City directing respondent Jarina to appear at the said hearing with the assistance of a counsel of his own choice with a warning that his failure to do so shall be considered a waiver of his right to controvert the charges against him and the prosecution shall be allowed to present evidence ex parte.

WHEREAS, on May 21, 1996, the Committee received respondent Jarina's notice of appeal filed with the Civil Service Commission relative to the denial of his motion to dismiss.

WHEREAS, on June 7, 1996, the Committee issued an Order holding in abeyance the hearing of this case pending the resolution by the Civil Service Commission of the appeal filed by respondent Jarina.

WHEREAS, the Committee, in its Order dated June 17, 1996, has resolved to proceed with the hearing of this case inasmuch as the Civil Service Commission has not issued a directive suspending/restraining the hearing of the instant case nor would it cause jeopardy to respondent Jarina.

WHEREAS, accordingly, the hearing of this case was set on July 1 to 3, 1996 at the ERB Cebu Field Office and the Committee proceeded with the said hearing by allowing the prosecution to present its evidence, ex parte, even without respondent Jarina and his counsel who were duly notified of the scheduled hearing.

WHEREAS, on August 2, 1996, the prosecution submitted its formal offer of evidence and the testimonies of the six (6) witnesses.

WHEREAS, on September 16, 17 and 18, 1996, another hearing was set at the ERB Hearing Room to allow respondent Jarina to present his evidence with a warning that his failure to appear at the said hearing shall be considered as a waiver of his right to controvert the charges against him and the case shall be deemed submitted for resolution.

WHEREAS, during the said hearing, only the counsel for the prosecution was present and respondent Jarina and his counsel again failed to appear.

WHEREAS, another hearing was set on October 28 and 29, 1996 at the ERB Main Office to afford respondent Jarina the last opportunity to present his evidence but only the counsel for the prosecution was present during the said hearing who moved that the case be submitted for resolution for the failure of respondent Jarina to appear at all the scheduled hearings.

WHEREAS, for failure of respondent Jarina to appear at all the hearings in this case, he is deemed to have waived the right to present evidence to controvert the charges against him.

WHEREAS, the Committee recommended that the charges of simple neglect of duty and violation of reasonable office rules and regulations be imputed against the respondent and the penalty of suspension for one (1) month and one (1) day be imposed against him.

WHEREAS, during the Board meeting attended by Chairman Bayani V. Faylona, Commissioners Welma T. Sicangco, Arnaldo P. Baldonado, Melinda L. Ocampo and Edward C. Castañeda, the Board decided after due deliberation to adopt with modifications the findings and recommendations of the Committee which conducted the formal investigation.

WHEREAS, the Board found respondent Jarina liable only for violation of reasonable office rules and regulations, for which the penalty is reprimand.

WHEREFORE, be it resolved as it is hereby resolved to adopt with modifications the findings and

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recommendations of the Investigation Committee as embodied in its report copy of which is attached hereto and made an integral part hereof.

Accordingly, respondent Phillip John V. Jarina is hereby meted out the penalty of reprimand.

Let copies of this Resolution and the report of the Investigation Committee be furnished the Civil Service Commission, Atty. Crispin C. Carlos, 201 File of respondent, and the Financial and Administrative Services Branch which is directed to implement this resolution.

Adopted: 11 June 1997

(SGD.) BAYANI V. FAYLONA
Chairman

(SGD.) ARNALDO P. BALDONADO
Member III

(SGD.) MELINDA L. OCAMPO
Member III

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