

[ADMINISTRATIVE ORDER NO. 93, November 05, 1999]

**IMPOSING THE PENALTY OF DISMISSAL FROM THE SERVICE
WITH FORFEITURE OF BENEFITS ON RODOLFO C. NAYGA,
PRESIDENT OF ISABELA STATE UNIVERSITY, ECHAGUE,
ISABELA.**

This refers to the administrative case against Rodolfo C. Nayga, President of the Isabela State University (ISU), Echague, Isabela.

Pursuant to Executive Order No. 151, series of 1994, as amended, the Presidential Commission against Graft and Corruption (PCAGC), being the Presidential arm tasked to investigate charges of graft and corruption against Presidential appointees, took cognizance of the case and subsequently conducted a hearing. Thereafter, the PCAGC submitted its report, styled as "*Resolution*".

As gathered from the PCAGC report and the records, the following are the relevant facts:

At the core of the case are the contracts for soil poisoning and termite extermination in certain buildings in the University complex awarded by the ISU in favor of Quadro A Marketing on October 16, and 20, 1992 and January 2 and 5, 1993, for a total contract price of P581,000.00, more or less. Respondent Rodolfo C. Nayga ("*Nayga*" or "*respondent*", hereinafter), as the complaint would suggest, was alleged to be at the forefront of all major decisions in carrying out the transaction/s in question. Nayga's participation allegedly consisted primarily of knowingly approving and/or signing falsified contracts in connection with said termite extermination project. His co-respondents' participation allegedly consisted of making it appear that the transactions underwent public bidding when there was no such bidding; of allowing disbursements, *vis-a-vis* the said contracts, and/or of falsifying documents.

The antecedents relevant to this case show that in a resolution dated August 12, 1993, the Isabela State University Employees and Faculty Association (ISUEFA) charged Nayga and several other officials/employees of ISU for graft and corruption for entering into anomalous transactions. After investigation, the National Bureau of Investigation (NBI), in a report dated October 8, 1993, recommended the filing of appropriate charges against Nayga and other officials of the ISU. The said report, augmented by other evidence, subsequently formed part of the basis of the charges filed by the ISUEFA before the PCAGC against Nayga for violation of Republic Act (R.A.) No. 1319 – the Anti-Graft and Corrupt Practices Act – specifically Section. 3, par. (e) thereof, i.e. "*Causing any undue injury to any party, including the government or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official . . . functions through manifest partiality, evident bad faith or gross inexcusable negligence . . .*" and par. (g), i.e. "*Entering, on behalf of the government, into any contract or transaction manifestly and grossly*

disadvantageous to the same, whether or not a public officer profited or will profit thereby".

Per its report, the NBI secured sworn statements, the relevant statements being those of –

- a). Fernando P. Ibarra (Chief Accountant and Bidding Committee Member) who stated that the contract was not subjected to public bidding, or if there was one, the same was simulated.
- b). Avelino C. Manaay (Supply Officer and Bidding Committee Member) who *"insinuated that the said project was never subjected to public bidding"*; and
- c). Arnuldo A. Sepillos (supplier representing Quadro A Marketing) who admitted that he did not participate in any public bidding relative to the project.

There were also certifications issued by the end-users, namely: Virgilio R. Anolin and Carmen Y. Pinzon, Dean of the College of Agriculture and Dean of the College of Arts and Sciences, respectively, to the effect that the whole project was completed and accepted in accordance with existing accounting and auditing rules. These certifications, however, were considered by the NBI as part of the falsification scheme because the said documents were allegedly made the basis for the disbursements on the transaction/s.

The NBI report suggested that there was practically no bidding for the soil poisoning and termite extermination project because only two (2) bidders actually participated, the third bidder having backed out for the reason *"not interested"*; that, since there was a failure of bidding, the proper recourse should have been an offer for the re-bidding of the project and not the outright award thereof to Quadro A Marketing; and that to justify the splitting of payments because of insufficiency of funds for the project, the contracts were allegedly falsified to support each and every disbursement made thereon.

Apart from the NBI report, complainant ISUEFA offered evidence consisting, *inter alia*, of the affidavits of some of its members as individual complainants. These affidavits contain –

1. A statement that Quadro A Marketing is not registered with the Securities and Exchange Commission; that its given address at 697 Cebu St., Sampaloc, Manila is non-existent, and that it is registered with the Department of Trade with a measly capital of P20,000.00;
2. Accounts that certain documents were already made and dated and/or fabricated as part of respondents' evidence; and
3. A detailed discussion about the anomalous bidding and related contracts that are the subjects of the controversy.

The collective defense of respondent Nayga and other ISU officials consisted of a long narration, traversing point-by-point the inculpatory findings contained in the NBI report aforesated. They also submitted documentary evidence, such as the affidavits of Fernando Ibarra, et al., recanting their sworn statements taken by the NBI and alleging that their individual statements were taken without the presence of counsel.

In summary, respondent claimed that on July 15, 1992, the University's landscaping co-ordinator wrote Andres Karganilla, the University's Director of Infrastructure, to inform him that the College of Agriculture was infested with termites; that, after an ocular inspection, Karganilla reported that the College of Arts and Sciences building was also infested with termites and recommended anti-pest treatment; that the University's Board of Regent adopted a resolution authorizing the University President (Nayga) to hire expert service to conduct soil treatment and termite extermination on the buildings and to pay for the services out of available funds for the calendar year 1992, and that any remaining balance shall be paid in 1993, subject to accounting and auditing rules; and that the Notice for the Invitation to Bid and Bid Invitations dated July 1, 1992, were forthwith issued to be received on or before July 16, 1993 and to be opened on July 16, 1993.

According to the respondents, the following events took place on July 16, 1993: 1) the bidders' proposal and quotations of prices were submitted; 2) an abstract of quotation of prices was prepared by the ISU committee on Bids and Awards, and 3) the Notice of Award to Quadro A Marketing was issued. Moreover, the succeeding events, indicated opposite the dates of occurrence, took place:

July 20, 1992 – Letter of Arnold Sepillos (Quadro A Mktg.) expressing willingness to undertake the whole project depending on the availability of funds.

October 1, 1992 – Notice to Sepillos to proceed with the project.

October 16, 1992 – Contract signed for P214,616.50

October 16, 1992 – Contract signed for P97,125.00

January 2, 1992 – Contract signed for P112,875.00

January 5, 1993 – Contract signed for P156,383.50

Total: P581,000.00

Respondents' other allegations were along the following lines:

1. All the contracts in question were notarized.
2. On October 15, 1992, the Bids and Awards Committee adopted a resolution, approved by respondent Nayga, stating, among other things, that since the funds were insufficient to finance the whole project, the award should only cover the following project components at the price indicated:

<u>College</u>	<u>Entire Area</u>	<u>To be Awarded For 1992</u>	<u>Cost per sq. m</u>	<u>Total Cost</u>
Agriculture	1,200 sq. m	555 sq. m.	P175	P97,125.00
Arts and Sciences	1,200 sq. m	1,226.38 sq. m.	P175	214,616.50

Balance for 1993 To Be Awarded

(if funds are available)