

CRUZ, Milagros D.

Re: Appeal; Solicitation

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RESOLUTION NO. 01-0923

Milagros D. Cruz, Broadcast Producer Announcer, DZRB-Radyo ng Bayan, Bureau of Broadcast Services, through counsel, appeals the decision dated July 12, 2000 of Director Fernando G. Gagelonia, Philippine Broadcasting System (PBS), finding her guilty of Violation of the Civil Service rule on Solicitation.

The appealed decision quoted in full, states, as follows:

"DECISION

"Upon review of Resolution No. 01-00 dated May 17, 2000 submitted by the Investigation Committee, the undersigned finds Respondent guilty of violating CSC rule specifically Soliciting Fee in the Course of Official Duty when she signed and sent a solicitation letter to Engr. Pantaleon Tabanao, General Manager of the Laguna Water District (LWD) asking a fee in performance of her regular function as anchor of the LWD-sponsored program at DZRB with the following: `This is to bill you the amount of One Thousand Five Hundred Pesos as sponsorship fee during the radio interview over DZRB using the official stationery of the Bureau.

"For the offense, she is hereby meted the penalty of one (1) year suspension effective August 15, 2000.

"SO ORDERED.

"July 12, 2000.

*"(Sgd) FERNANDO G. GAGELONIA
Director IV"*

In her appeal, appellant, by counsel, cited the following grounds in support of the appeal:

"ASSIGNMENT OF ERRORS

"1. THAT PBS THROUGH ITS DIRECTOR, FERNANDO G. GAGELONIA ERRED IN FINDING RESPONDENT-APPELLANT GUILTY OF VIOLATING CSC RULE ON SOLICITING FEE IN THE COURSE OF OFFICIAL DUTY DISREGARDING, AS IT DID, THE STRENGTH OF RESPONDENT-APPELLANT'S TESTIMONIAL AND DOCUMENTARY EVIDENCES;

"2. THAT PBS ERRED IN NOT FULLY APPRECIATING THE WEIGHT OF THE CONVINCING TESTIMONIES OF THE RESPONDENT-APPELLANT'S WITNESSES, JANNET GOJOCCO AND ARLYN DATULIO;

"3. THAT PBS ERRED IN NOT STRONGLY CONSIDERING THE JUSTIFYING CIRCUMSTANCES THAT LEAD TO RESPONDENT-APPELLANT'S SIGNING OF THE

ALLEGED SOLICITATION LETTER;

"4. THAT PBS ERRED IN METING OUT THE PENALTY OF ONE (1) YEAR SUSPENSION AGAINST RESPONDENT-APPELLANT."

Records show that on May 11, 1999, Cruz was formally charged with the offense of Soliciting and Accepting Fee in the Course of Official Duty, for allegedly demanding One Thousand Five Hundred Pesos (P1,500.00) as sponsorship fee during radio interview over DZRB in her letter dated January 19, 1998 to Engr. Pantaleon Tabanao, General Manager, Laguna Water District.

In her answer to the formal charge, Cruz categorically denied the charge and stated, in part, as follows:

"1. Sometime on 18 January 1998, JANNET D. GOJOCCO of the Local Water Utilities Administration (LWUA) prepared a letter addressed to Engr. Pantaleon Tabanao of LWUA's Laguna Water District, Los Banos, Laguna, a copy of which is hereto attached as Annex 1, using the stationery of Philippine Broadcasting Service and with me as the signatory.

"2. I signed the aforesaid letter after being convinced by Ms. Gojocco that the 'sponsorship fee' mentioned on the letter refers to production cost allowed under Section 4.6 of Memorandum Circular No. 003 of the Philippine Broadcasting Service, a copy of the significant portion of said circular is likewise attached as Annex 2.

"3. Sometime on 25 January 1999, I wrote a letter to Director Gagelonia explaining that the term sponsorship fee contained in the letter to Engr. Tabanao, subject of this instant charge, simply means production cost requirements to defray various expenses such as

transportation expenses of LWUA coordinator, cassette tapes, honorarium for production assistant, researcher and anchor person including other miscellaneous expenses like batteries, flyers, etc. A copy of said letter is also attached as Annex 3.

"4. Contrary to the allegations in the formal charge, I never demanded from Engr. Tabanao any amount of money much less received the same. The term `sponsorship fee' was misconstrued to mean as an act of solicitation when in truth and in fact no less than a LWUA's officer in the person of Jannet D. Gojocco has stated in her affidavit marked as Annex 4 that the term sponsorship fee, as aforementioned, should be interpreted to mean as production cost and nothing more.

"5. The letter to Engr. Tabanao was merely an offshoot of the letter of LWUA broadcast coordinator, Jannet D. Gojocco who, under date of 12 March 1997, has written the then Director Rafael Dante A. Cruz of the Bureau of Broadcast Services regarding LWUA's intention to avail of a time-slot in the former's radio program wherein LWUA assumed the responsibility of shouldering the cost of production and other miscellaneous expenses. A copy of said letter is hereto attached as Annex 5.

"6. In his letter to Director Gagelonia, dated 14 May 1999, a copy of which is attached as Annex 6, Engr. Tabanao clarified that his purpose of transmitting the letter of Ms. Miles Cruz which, unfortunately, became the subject of the formal charge, was only for clarification purposes and not to complain against Ms. Cruz. He further admitted that the transmittal of said letter was an error of LWUA and that the same should not be made as basis to charge Ms. Cruz for any violation of civil service rules.

"7. The allegation under No. 4 of the formal charge which indicted the undersigned to have received some money from LWUA is blatant lie. In my entire stint at the Bureau of Broadcast Services, I never demanded money or gift from our clients. In fact, this is the first

time that I have been charged with an administrative offense which I never did and will never do."

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In a decision dated July 12, 2000, Cruz was found guilty of Soliciting Fee in the Course of Official Duty. Cruz filed a Motion for Reconsideration of the said decision. On August 21, 2000, the Motion for Reconsideration was denied for lack of merit.

On September 6, 2000, the Commission received the instant appeal of the respondent-appellant.

Records further show the documentary evidence offered by Cruz, which, among others, are, as follows:

1. Affidavit of Jannet Gojocco of Local Water Utilities Administration (LWUA), which states in part, as follows:

X X X

"3. That sometime on 12 March 1997, I, as the then broadcast coordinator, wrote Director Rafael Dante A. Cruz of the Bureau of Broadcast Services, PIA Bldg., Visayas Avenue, Quezon City regarding LWUA's interest to avail of a time-slot in the Bureau's radio program which was, at that time, anchored and produced by MILAGROS D. CRUZ;

"4. That in the said letter, I made it clear that the 'guests/resource persons will be arranged by our Public Affairs Office, as well as cost of production and other miscellaneous expenses will be borne by the local water district being featured on the said date', a copy of

the letter is hereto attached for reference;

"5. That sometime on 15 May 1997, LWUA's then Administrator, Antonio R. De Vera has written Engr. Reynaldo Codavillo of Quezon Metropolitan Water District, Lucena City informing the latter of the 30-minutes live airing of water supply development in the countrywide hosted by Ms. Milagros 'Miles' Cruz over 'Sambahayan' program, DZRB (Radio ng Bayan) every Tuesday at 11:30 to 12:00 noon, a copy of the letter is also attached for reference;

"6. That in paragraph 5 of said letter of Administrator De Vera, he explicitly asked for financial assistance in the amount of P1,500.00 to support the said radio program, pertinent portion of which reads as follows:

'May we request a little amount of sponsorship fee worth P1,500.00 payable to Ms. Miles Cruz of DZRB to help, support, maintain the program.'

"7. That under date of 18 January 1998, I prepared a letter addressed to Engr. Pantaleon Tabanao, General Manager, Laguna Water District, Los Banos, Laguna informing the latter of the sponsorship fee in favor of Ms. Miles Cruz, which letter was signed by Ms. Cruz upon my request, a copy of which is likewise attached;

"8. That the term 'sponsorship fee' I have used in the letter refers to the various cost of production that will be incurred in airing the program and which procedure we had been doing in other radio stations;

"9. That, in fact, the sponsorship fee of P1,500.00 mentioned in the letter to Engr. Tabanao was never given nor received by Ms. Miles Cruz;"

In her supplemental affidavit, Gojocco further stated, as follows:

"2. That the letter to Engr. Pantaleon Tabanao of the Laguna Water District, dated 18 January 1998 referred to in my previous affidavit was erroneously sent because Engr. Tabanao has not guested in the program, Tubig Serbisyo sa Kanayunan of the Bureau of Broadcast Services then anchored by Milagros Cruz;

X X X

"4. That when I prepared the letter addressed to Engr. Tabanao, dated 18 January 1998, which I have asked Milagros D. Cruz of the Bureau of Broadcast Services to sign, I was on the honest belief that the same is allowable because Administrator de Vera himself signed and sent to Engr. Cadavillo his letter-request, as aforequoted, which, from the tenor thereof, has similar import with that of the letter I prepared and sent to Engr. Tabanao;

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"6. That as for (sic) as I can remember, the only amount that I gave to Milagros 'Miles' Cruz was P500.00, to which amount, I requested Ms. Cruz to buy cassette tapes that I can use for the program;

X X X

"8. That it is not also true that Miles Cruz hired the services of my sister, Arlyn Datulio as her researcher and in fact, Ms. Cruz and my sister never met even up to the present."

2. Letter of then LWUA Administrator, Antonio N. de Vera, to Engr. Reynaldo Codavillo, which partly states, as follows:

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"The Local Water Utilities Administration (LWUA) and the Philippine Broadcasting Service will jointly launched 'Tubig Serbisyo sa Kanayunan', a 30-minutes live airing of water supply development in the countryside to be hosted by Ms. Miles Cruz over 'Sambahayan' program, DZRB (Radyo ng Bayan) every Tuesday at 11:30 - 12:00 nn.

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"May we request a little amount of sponsorship fee worth P1,500.00 payable to Ms. Miles Cruz of DZRB to help, support or maintain the program."

3. Reply-letter of Cruz, dated January 25, 1999, to Director Gagelonia, which in part, states, as follows:

"The Local Water Utilities Administration offered to give Production Cost and such had been approved during their Board Resolution, as shown in the attached document.

"The word used in the letter was Sponsorship which means Production Cost which actually meant to defray production expenses such as:

- *transportation expenses of LWUA staff/coordinator*
- *cassette tapes*
- *other miscellaneous expenses (batteries, flyers, etc.)*
- *honorarium of prod. asst./researcher*
- *honorarium of anchor person*

"That such Production Cost had a verbal approval from the Director upon Consultation with the Station Manager and the Sales Manager.

"LWUA was responsible for the coordination of such activities related to the program to its local water districts, including the sources of funds for production cost.

"That the letter addressed to Engr. Pantaleon Tabanao of Laguna Water District was missent by LWUA. The said water district did not participate in the campaign, thus, LWUA admitted that they made an error of sending the letter to Engr. Tabanao."

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4. Letter dated May 14, 1999 of Engr. Pantaleon Tabanao to Director Gagelonia, which in part, states as follows:

"In this regard, please allow me to inform you that my inquiry re the said billing is only for clarification and not as a complaint against Ms. Cruz.

"Nevertheless, I was already informed by the Local Water Utilities Administration

(LWUA) through its Public Affairs Office that such is LWUA's project and Ms. Cruz was only requested to make use of her program for the same.

"Please understand that there was an error on the part of LWUA as to the transmittal of communication.

"I hope I have made this matter clear to you and that Ms. Cruz will not be held liable for any charges against her."

In an Order dated December 8, 2000, the Commission requested Director Gagelonia to comment on the appeal and to submit the complete records of the case. However, to date, the Commission has not received the requested comment and the pertinent documents. Hence, the Commission shall resolve the instant appeal based on the available records.

Pertinent to the issue in this case is **Section 52(11) of the Uniform Rules in the Conduct of Administrative Cases in the Civil Service**, which states, as follows:

"Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature."

In this case, Cruz was found guilty of Soliciting Fee in the Course of Official Duty. From the aforementioned rule, it is evident that the impropriety of solicitation shall be determined by its value, relationship between giver and receiver and motivation. Further, a thing of monetary value is one, which is evidently excessive by its very

nature.

Solicitation is “*any action which the relation of the parties justifies in construing into a serious request.*” (**Black’s Law Dictionary, Fifth Edition, p.1249**) It is noted that the parties in this case relevant to solicitation are Cruz, who signed the letter requesting for “sponsorship fee” in the amount of P1,500.00 and Engr. Tabanao, the recipient of the said letter.

There is no relationship whatsoever between the two parties because Tabanao was not a client of PBS, not having been a guest in the program of Cruz. The letter was erroneously sent to him. This was confirmed by Tabanao, himself, in a letter to Director Gagelonia dated May 14, 1999, recognizing the error on the part of LWUA in transmitting the said communication to him. Lacking the necessary relation between the parties, Cruz does not have the authority to insist or make serious requests from Engr. Tabanao.

To constitute solicitation of monetary value, the same should be evidently excessive by its very nature. Excessive is “*tending to or marked by excess, which is the quality or state of exceeding the proper or reasonable limit or measure.*” (**Black’s Law Dictionary, Fifth Edition, p.504**). The Commission is inclined to give weight to the evidence showing that the amount of P1,500.00, as “sponsorship fee” contained in the letter, refers to collection of production costs allowed by PBS.

As alleged by Cruz and undisputed by PBS, there is a Board Resolution duly approved by LWUA offering to give production costs such as transportation expenses of LWUA staff/coordinator, cassette tapes, other miscellaneous expenses (batteries, flyers, etc.), honorarium of production assistant/researcher and honorarium of anchor person. Another evidence is the affidavit of Gojocco, of LWUA, stating that when she prepared the letter for Cruz’ signing, the “sponsorship fee” contained therein refers to production costs and nothing more. Adding that, the said letter was just copied from a previous letter of then LWUA Administrator, Antonio R. De Vera to Engr. Reynaldo Codavillo, portions of which state, as follows:

“May we request a little amount of sponsorship fee worth P1,500.00 payable to Ms. Miles Cruz of DZRB to help, support, maintain the program.”

Moreover, Engr. Tabanao, of Laguna Water District, wrote a letter to prove that the questioned letter was missent to him by LWUA as said water district did not participate in the campaign and did not avail the services of PBS.

Considering the enumerated production costs as approved in a Board Resolution of LWUA, it is clear that the amount of P1,500.00 supposed to be collected to cover production costs is justified and not excessive.

Finally, there is sufficient evidence to show that Cruz was not motivated to do an illegal act as Solicitation. We give credit to her assertion, duly admitted by Gojocco, that she signed the questioned letter only after being assured by Gojocco, that the “sponsorship fee” contained therein refers to production costs.

The questioned letter was sent by LWUA. It was LWUA which availed of a time slot in the Bureau’s radio program anchored by Cruz. When LWUA availed of a time slot in the radio program, it made clear that the guests/resource persons, cost of production and other expenses will be borne by the local water district being featured on the said date as approved in their Board Resolution. There was good faith on the part of Cruz in signing said letter as it was made sure to her that the “sponsorship fee” was only for production costs.

In sum, Solicitation of Monetary Value may be committed when the receiver intends to unlawfully gain by making a serious request for monetary value exceeding the reasonable limit allowed in any transaction which may be affected by the functions of his office. This is not present in this case.

WHEREFORE, the appeal of Milagros D. Cruz is hereby **GRANTED**. She is, thus, exonerated of the charge against her.

Quezon City, **May 5, 2001**

(SIGNED)

J. WALDEMAR V. VALMORES

Commissioner

(SIGNED)

KARINA CONSTANTINO-DAVID

Chairman

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

Attested by:

(SIGNED)

ARIEL G. RONQUILLO

Director III

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