

RUIZ, Joseph Cedrick O.

Re: Midnight Appointments

x-----x

RESOLUTION NO. 020828

Rodolfo H. Carreon, Jr., Mayor, City of Dapitan, Zamboanga del Norte, appeals Omnibus Order dated August 17, 2001, issued by the Civil Service Commission Regional Office (CSCRO) No. IX, Zamboanga City, which declared null and void his Memorandum Order Nos. 1 and 2, revoking the 83 appointments issued by then Mayor Joseph Cedrick O. Ruiz, who lost in the May 14, 2001 elections.

Pertinent portions of the appealed Omnibus Order state, as follows:

"At first glance, the herein subject appointments would appear to have been issued en masse. x x x While it may appear to be so per the Report of Personnel Actions (ROPA) for the month of June 2001, it is likewise evident that said appointments were not issued at the same time as they were actually handed out on different dates. In addition, an examination of the minutes of the meetings of the Personnel Selection Board (PSB) would disclose that the deliberations for the various positions to be filled occurred on different dates as well. Some of the appointments were deliberated upon as early as January, this year while the others were done a little later during the first week of March. It was likewise revealed in these minutes that some of the employees have either retired or were promoted to higher positions. Thus, it becomes an inequitable consequence that others who occupy the lower-level positions would similarly be promoted under what is generally termed as 'chain promotion' as a result of certain vacancies in the LGU. It is in this respect that the subject appointments cannot be classified as 'mass appointments' as defined above.

"Anent the question as to whether or not there is an urgent need to fill the position, it is believed that the same is subject to the determination by the appointing authority in the lawful exercise of his discretionary power. In the absence of a showing of fraud or bad faith, it cannot be justifiably presumed that the subject appointments were issued by Mayor Ruiz to deprive the incoming local chief executive, Mayor Carreon, of his prerogatives in the choice of the persons he wants to employ during his term of office. x x x

"It is worthy to note that former Mayor Ruiz appeared to have determined the need to fill the vacancies as early as the first quarter of this year. It is, however, unfortunate that the issuance of the subject appointments was not completed before the ban on appointments was imposed in connection with the national and local

elections last 14 May 2001. x x x

"In a seemingly desperate effort to rectify its mistake in prematurely revoking the appointments, the LGU-Dapitan contends that its 'official communication' bearing the same date as the assailed Memoranda and addressed to the PCSO-ZDN was in effect requesting for the disapproval of the subject appointments, This Office believes otherwise. Said 'official communication' reads:

'Please be informed that pursuant to CSC Resolution No. 01-0988, dated 04 June 2001, in connection with CSC Memorandum Circular No. 7, series of 2001, the undersigned Office for the City of Dapitan through its Memorandum Order No. 1, s. 2001, has effectively revoked the appointments that were issued by the former Mayor x x x before, during or after the prohibited period on the issuance of appointments as provided for under election laws and rules, and which were made effective during or after the said period. A copy of the said latter Memorandum has been previously furnished to your good office x x x.

'In line with the CSC Resolution, and bolstered by this Office's said Memorandum, may we, therefore, request your good office that the said appointments submitted by former Mayor Ruiz, be forthwith disapproved. x x x'

"Consequently, the refusal of Mayor Carreon to pay the salaries and other emoluments of the 83 appointees based on the salary rates stated in the appointments issued by then Mayor Ruiz is considered unwarranted and unjustifiable. Inasmuch as the revocation of the subject appointments was not validly made, the appointments remained effective and therefore, the salaries of the appointees should be those provided for in the appointments. x x x

"WHEREFORE, all premises considered,

"1. The eighty three (83) appointments issued by then Mayor Joseph Cedrick O. Ruiz, including those issued to the herein requesting parties, are, therefore, not considered 'mass appointments' as defined under CSC Resolution No. 01-0988 and are thus, VALID and EFFECTIVE;

"2. Memorandum Order Nos. 1 and 2, series of 2001, issued by then Mayor Rodolfo H. Carreon, Jr., are hereby declared NULL and VOID; and accordingly,

"3. The LGU-Dapitan is hereby directed to pay the salaries and other emoluments to which the 83 appointees are entitled to pursuant to the appointments issued to them."

In his appeal, Mayor Carreon, raised the following:

"THE OMNIBUS ORDER IS AN UTTER DISREGARD AND A BLATANT VIOLATION OF CSC RES. NO. 010487 AND CSC RES. NO. 010988

"It is, thus, important to emphasize that because of the patent violation by the former Mayor of the foregoing CSC Resolution, Dapitan City's political conditions hitherto, show the manifest existence of the very evils sought to be avoided by the said Resolution, that is, continuing animosities, which, thus far, are seemingly aggravating steadily.

"MIDNIGHT APPOINTMENTS ARE NULL AND VOID AB INITIO; HENCE, REVOCATION IS A NECESSITY, AND NON-PAYMENT OF SALARIES A MUST

"It has to be reiterated that since the subject midnight appointments are a nullity right from the moment they were made, the same cannot give rise to any legal obligation upon the City to part some of its limited funds for purposes of salaries of the subject appointees. It is simply not right. It is simply illegal.

"Moreover, the appellant Office of the City Mayor has to be shielded from a potential penal sanction under Section 4, Rule VI, CSC MC No. 40, s. 1998, as amended, which provides that 'the appointing authority shall be personally liable for the salary of appointees whose appointments have been disapproved for violation of laws...' The same penal sanction is provided for in the last sentence of Section 11, Rule V, of the same Omnibus Rules Implementing Book V of EO 292 and Other Pertinent Civil Service Laws, which also provides that 'the appointing authority shall likewise be liable for the payment of salary of the appointee if the appointment is disapproved because the appointing authority has issued it in violation of existing laws or rules, making the appointment unlawful'. In short, paying the affected employees of any salaries exposes the incumbent chief executive to a personal liability.

"DAPITAN AS ACCREDITED AGENCY TO TAKE FINAL ACTION ON APPOINTMENTS DOES NOT EXCUSE IT TO VIOLATE PERTINENT LAWS

"To push the interpretation of the said accreditation a little farther, appellant hazards an opinion that while the CSC, through its accreditation program, delegates to a certain local government unit (LGU) the authority to take final action on its appointments, it follows from the same delegated authority that the same accredited LGU also has the authority to revoke its appointments.

"THE CITY HAS NO ENOUGH FUNDING FOR ITS OUTSTANDING OBLIGATIONS

"THERE IS ABSOLUTELY NO NECESSITY TO FILL UP THE VACANCIES IMMEDIATELY IN

ORDER NOT TO PREJUDICE PUBLIC SERVICE AND/OR ENDANGER PUBLIC SAFETY

"It is, however, very sad to note that in a seeming twist in the assailed Omnibus Order, it appears that, with all due respect, the Honorable Director Macybel Alfaro-Sahi herself is the one justifying the acts of former Mayor Ruiz. While it is incumbent upon the former Mayor to justify that the appointments he issued were covered by the exceptions, the Honorable Director now wants to make it appear that 'the same is subject to the determination by the appointing authority in the lawful exercise of his discretionary power'. She continued that in the absence of a showing of fraud or bad faith , it cannot be justifiably presumed that the subject appointments were issued by Mayor Ruiz to deprive the incoming local chief executive, Mayor Carreon, of his prerogatives in the choice of the persons he wants to employ during his term of office.

"On the contrary, former Mayor Ruiz does not enjoy the presumption of law. The presumption can not be applied in favor of former Mayor Ruiz as the provisions in CSC Resolution No. 010988 clearly mandate that he must prove first that there was an urgency of filling up the vacancies. Said Resolution is clear on the matter: no appointments must be issued after the elections. One requisite exception: only when there is a need to do so in order not to prejudice public service and/or endanger public safety. In short, former Mayor Ruiz must show first that the appointments he made fall within the exceptions. The burden is with him. This is basic in statutory constructions.

" x x x However sorry the Honorable Director was for the predicament of former Mayor Ruiz that he was not able to complete the issuance before the ban, the same does not translate to her justifying his acts. The fact is, former Mayor Ruiz has issued the appointments after the elections. For being such, the appointments he made are null and void ab initio. Period.

"THE PERSONNEL SELECTION BOARD (PSB) WAS NOT PROPERLY CONVENED WHEN THE AFFECTED APPOINTEES WERE SUPPOSEDLY SCREENED

"Ordinary human experience can surely attest to the fact that the alleged screenings made by the PSB of all the papers, not to mention the interviews that necessarily come with it, of the many applicants for the vacant positions, would surely not be done within such a short span of three (3) days. Certainly, even when the said screenings were oddly conducted in marathon settings, such haste must be treated as highly suspect, if not impossible at all.

xxx

"THE EIGHTY-THREE (83) APPOINTMENTS WERE ISSUED IN BULK: HENCE, MASS

APPOINTMENTS

"In particular, the Honorable Director mentioned that while it may appear to be so (in bulk) per report of Personnel Actions (ROPA) for the month of June 2001, it is likewise evident that said appointments were not issued at the same time as they were actually handed out on different dates. Again this is a very sad statement. While it may be true that the appointments were made by former Mayor Ruiz in the month of June 2001, thirty-three (33) of which were made on June 18, 2001 and eleven (11) of which were in fact made three (3) days to closing his term of office. With all due respect, it should have been incumbent upon the CSC Regional Office to so require the appointing authority, or the appointees themselves, to prove the worth of their supposed appointments, that is, to prove that theirs is not in bulk.

"MEMORANDUM ORDERS OF THE CITY MAYOR'S OFFICE CANNOT BE SIMPLY NULLIFIED IN COLLATERAL ACTION

"With all due respect, the CSC Regional Office exceeded its authority, if not without any at all, when it declared, in blanket, that the Memorandum Order Nos. 1 and 2, series 2001, of the City Mayor's Office are null and void. With all due respect, the CSC Regional Office arrogates upon itself the powers and authority of the Courts or any tribunal or agency, in a direct action that never was, when the said Memorandum Orders were never directly assailed at all."

In its Comment dated September 11, 2001, the CSCRO No. IX states, as follows:

" x x x it appears that the Dapitan Local Chief Executive now asseverates, 'some of the PSB members have even signified their intention to testify. In case they are told to do so, that they were only made to sign on the minutes of the alleged meeting'.

" x x x But as it is, no such statements by the members have been made. It is, therefore, unlikely that the matter of the alleged 'non-existent PSB meetings' be considered as no proof to that effect was ever submitted for our evaluation. Mere allegation, therefore, without the same being substantiated cannot hold water.

X X X

"As an aside, be it noted that after this Office rendered the questioned Omnibus Order, Mayor Rodolfo Carreon, Jr., immediately brought the matter up to Her Excellency. President Gloria Macapagal-Arroyo, praying that the undersigned be advised 'to stay within the bounds of its own Resolution'. It must be emphasized that the remedy to administrative matters, such as this, cannot be an appeal to the President of the Republic of the Philippines, the undersigned not being a

Presidential appointee. Thus, technically speaking, even at first instance, this 'appeal' should be dismissed outright. Moreover, if we were to treat the same as an 'appeal' on the Omnibus Order issued by this Office on the eighty-three (83) appointments issued by then Mayor Ruiz, then the requirements for an appeal should have first been satisfied."

Records show that then Dapitan City Mayor Cedrick Joseph O. Ruiz issued eighty-three (83) appointments during his last month in office. Specifically, Mayor Ruiz issued the following appointments:

| | | |
|---------|---|-----------------|
| June 1 | - | 17 appointments |
| June 5 | - | 3 appointments |
| June 6 | - | 7 appointments |
| June 8 | - | 4 appointments |
| June 18 | - | 32 appointments |
| June 20 | - | 1 appointment |
| June 21 | - | 1 appointment |
| June 25 | - | 7 appointments |
| June 27 | - | 11 appointments |
| <hr/> | | |
| Total | - | 83 appointments |

The 83 appointments, as contained in the Report on Personnel Actions (ROPA) for the month of June 2001 of the City Government of Dapitan, include thirty-six (36) original, forty-six (46) promotional and one (1) transfer. The lists of vacancies for the said appointments were published in newspapers: twenty-six (26) on December 24, 2000; three (3) before May 2001 and the rest on different dates after the May 14, 2001 elections. These 83 appointments were then submitted as enclosures in the ROPA to the CSC Field Office in Dipolog City, Zamboanga del Norte, on June 29, 2001.

The term of Mayor Ruiz ended on June 30, 2001. Mayor Carreon took his oath of office as City Mayor of Dapitan City on July 1, 2001.

On July 2, 2001, Mayor Carreon issued Memorandum Order Nos. 1 and 2, series of 2001.

Memorandum Order No. 1 states, thus:

"Pursuant to Resolution No. 01-0988, dated 04 June 2001, of the Civil Service Commission, in relation to CSC Memorandum Circular No. 7, Series of 2001, ALL APPOINTMENTS made by the former Mayor J. Cedrick O. Ruiz, whether original, transfer, reemployment, reappointment, promotion or demotion, issued BEFORE, DURING or AFTER the prohibited period on the issuance of appointments as provided for under election laws and rules, and made effective DURING or AFTER the same period, are hereby REVOKED."

The contents of Memorandum Order No. 2 are almost identical to Memorandum Order No 1.

On July 10, 2001, Patricio Sales, in his capacity as President of the Dapitan City Government Employees Association, sent a letter to CSCRO No. IX, requesting its intercession relative to the alleged unreasonable and illegal refusal of Mayor Carreon to pay their salaries and benefits. Sales was issued a promotional appointment as Local Revenue Collection Officer III by former Mayor Ruiz.

Mayor Carreon sent a Position Paper to CSCRO No. IX dated July 16, 2001, which states, as follows:

"The issuance by the Office of the undersigned of the foregoing Memorandum [No. 1] is not without basis. One legal leg that supports the same is CSC Resolution No. 01-0487 which prohibits personnel movements in any government entity from March 30 to May 14, 2001. Further, the said Resolution prohibits the issuance of appointments before or during the election ban which are made effective during the ban or immediately thereafter.

"The said Resolution was even bolstered when on June 4, 2001, the Civil Service Commission issued and adopted Resolution No. 01-0988. x x x The resolution is clear and emphatic that outgoing chief executive is deemed as 'caretaker' administrator who is supposed to be compelled by law to prepare for the smooth and orderly transfer of power and authority to the incoming local chief executive. x x x

"In view of the foregoing, we maintain our position that the mass appointments was null and void ab initio for violation of Civil Service Commission Resolution No. 01-0988 dated June 4, 2001, and that the revocation and/or disapproval thereof is justified under the premises."

In a letter dated July 19, 2001, CSCRO No. IX directed Mayor Carreon to comment on the letter of Sales.

In his Comment dated August 3, 2001, Mayor Carreon, through Patri B. Chan, Officer-in-Charge, reiterated his argument in his Position Paper, adding that the outgoing chief executive is duty bound to prepare for the smooth and orderly transfer of power to the incoming local chief executive. He likewise contends that there was no immediate need for the issuance of said appointments.

In a letter dated August 3, 2001 to Lydia O. Adriatico, Officer-in-Charge, Civil Service Field Office, Zamboanga del Norte, CSCRO No. IX confirmed, as follows:

"1. Eighty three (83) appointments were issued for the month of June 2001 bearing 9 different days of issuance. x x x;

"2. The two department head appointments were deliberated by the Promotion and Selection Board on January 3, 2001 while the rest were deliberated on March 6,7 and 8, 2001. These dates are all

before the prohibited period on the issuance of appointments.;

"3. The positions were all published pursuant to R.A. 7041;

"4. The appointees meet the minimum qualifications prescribed for their respective positions, except for Allan O. Amador. x x x As there is no qualified eligible available for the position of Painter I, the temporary appointment of Mr. Amador may be allowed x x x.

"5. The appointment of Ms. Luzminda R. Matias as City Civil registrar was issued and submitted to Sangguniang Parlunsod (SP) on June 5, 2001. Per Certification of HRMO Edmundo P. Habunal the 15-day period within which the SP has to act on the appointment had lapsed, hence, the appointment was deemed confirmed after June 20, 2001. The effectivity date, therefore, of her appointment shall not be earlier than June 21, 2001.

"6. The appointment of Mr. Robert B. Tomarong as City Budget Officer was issued on June 6, 2001 and submitted to SP on June 7, 2001. Per Certification of HRMO Edmundo P. Habunal the 15-day period within which the SP has to act on the appointment had lapsed, hence, the appointment was deemed confirmed after June 22, 2001. The effectivity date, therefore, of her appointment shall not be earlier than June 23, 2001.

"From the foregoing, this Office finds the said ROPA in order and consistent with CSC Resolution No. 01-0988."

In a letter dated August 6, 2001 to CSCRO No. IX, Mayor Carreon stated, as follows:

"With all due respect, your aforesaid letter advising your Field Office to process the appointments of the Eighty three (83) midnight appointees of former Mayor J. Cedrick O. Ruiz is an utter disregard and a blatant violation of your own Commission's Resolution No. 010988.

" x x x The number EIGHTY THREE (83) alone countenances every adjective that does not consider the same as 'mass appointments'. Regardless of whether the same has gone through any regular screening by the Personnel Selection Board (PSB), it is still a fact that said 83 appointments were issued in bulk in the last month of Mayor Ruiz in office.

"During the Committee Hearing conducted by the Committee on Rules and Revisions of Ordinances of the Office of the City Council last 06 July 2001, it was revealed that the PSB of the City Government of Dapitan allegedly conducted marathon meetings on March 6, 7 and 8, 2001. x x x Please note that the said alleged meetings which were oddly made in marathon settings, were obviously conducted in haste, and are thus highly irregular. x x x"

On August 17, 2001, CSCRO No. IX issued an Omnibus Order, which is now the subject of this appeal.

While both parties raised several issues, the primary issue that must be resolved in this case is whether the questioned appointments were validly issued by outgoing Mayor Joseph Cedrick O. Ruiz.

To determine the validity of the subject appointments, it is relevant to look into the city's compliance with Republic Act No. 7041, CSC Memorandum Circular No. 18, s. 1988, as amended by CSC Memorandum Circular No. 30, s. 1988, and CSC Resolution No. 01-0988.

A. COMPLIANCE WITH REPUBLIC ACT NO. 7041

Republic Act No. 7041 requires that vacant positions with funds allocated therefor shall be published first before the same can be filled up, except in the case of chain promotion where anticipated vacancies may be published simultaneously with existing vacant positions.

The purpose of the law on publication of vacant position is to inform and provide opportunity for interested parties to file their applications. Ideally, therefore, the publication comes first before the screening of applicants and issuance of the appointment.

In the instant case, it is noted that in the City Budget Office although a publication was made, only four (4) positions were actually vacant at the time of the publication.

With regard to the appointments made in the City Accounting Office, it appears that the publication of the License Officer III item, to which Purificacion Eguia was promoted, was made on December 24, 2000. However, records reveal that the previous occupant of said position, Valentino Suarez, was promoted only on March 1, 2001. Since the publication came before the actual vacancy, the appointment of Purificacion Eguia is invalid. Thus, there is no resultant chain of promotion to consider. Consequently, all other appointments issued to fill up the vacancies in the City Accounting Office do not satisfy the publication requirements for chain promotion.

As to the Information Officer I position in the City Engineering Office, the vacancy was published before said position became vacant. The same is true with the Clerk II position.

In the City Treasurer's Office, only the position Local Revenue Officer III was published after the position was actually vacated.

On the other hand, publication of the vacant positions in the Offices of the City Agriculturist, Veterinarian and Cultural Affairs and Tourism Division was made in May 2001 or prior to the date said positions were actually vacated. The same is true with the positions in the Office of the City General Services, which were published in June 2001. The

publication of the vacant positions in the City Health Office except for the City Health Officer I, Nurse III, Administrative Officer III and Sanitation Inspector II positions was also made before the positions actually vacated.

Except for the position of City Civil Registrar, the publication of all vacant positions in the Office of the City Registrar was likewise done prematurely.

Thus, it appears that with a few exceptions, the supposed publication of vacant positions in the aforementioned offices were done before the existence of the vacancy. Hence, were done in violation of R.A. No. 7041.

B. COMPOSITION OF THE PERSONNEL SELECTION BOARD

Section 9, Rule VI of the Omnibus Rules Implementing Book V of Executive Order No. 292 provides, as follows:

"To ensure objectivity in promotion, a Selection/Promotion Board shall be established in every department or agency which shall be responsible for the adoption of the formal screening procedure and formulation of criteria for the evaluation of the candidates for promotion.

"Reasonable and valid standards and methods of evaluating the competence and qualifications of all employees competing for a particular position shall be established and applied fairly and consistently. The criteria established for evaluation of qualification of candidates for promotion most suit the job requirements of the position.

"The Selection/Promotion Board shall then evaluate the qualifications of an employee being considered to promotion in accordance with the department or agency Merit Promotion Plan.

*"The Selection/Promotion Board shall likewise determine **en banc** the list of employees recommended for promotion from which the appointing authority may choose the employee to be promoted. In preparing the list, the Board shall see to it that the qualifications of employees recommended for promotion are comparatively at par and that they are the best qualified from among the candidates."*

CSC Memorandum Circular No. 18, s. 1988, as amended by **CSC Memorandum Circular No. 30 s. 1988**, provides for the composition of the PSB, as follows:

"a. official of department/agency directly responsible for personnel management;

"b. representative of management;

"c. representative of organizational unit which may be an office, department or division where

the vacancy is;

"d. representative of rank-and-file employees, one (1) for the first level and one (1) for the second level, who shall both be chosen by duly registered/accredited employees' association in the department or agency. The former shall sit during the screening of candidates for vacancy in the first level, while the latter shall participate in the screening of candidates for vacancy in the second level. In case where there are no employee association in the department of agency, the representative shall be chosen at large by the employees through a general election to be called for the purpose."

The following compose the PSB of the City Government of Dapitan pursuant to Resolution No. 001, s. 1994, adopted during the regular session of the City Council of Dapitan on January 4, 1994, as supplemented by Executive Order No. 21 s. 1995 of then City Mayor James A. Adasa.

1. The Human Resource Management Officer IV, as ex-officio member;
2. The City Mayor, as the Chairman of the PSB pursuant to the provisions of

RA 7160 and CSC MC No. 18 s. 1988;

3. Beltran Falconete of the City Engineering Office as the representative of the rank-and-file for the first level;
4. Lucille Adasa of the City Health office as the representative for the second level.

In the minutes of the PSB deliberation dated March 6, 7 and 8, 2002, the following affixed their signatures as members of the PSB:

1. City Mayor Joseph Cedrick O Ruiz as Chairman;
2. Edmundo Habunal, HRMO IV, as ex-officio member;
3. Lucille Adasa as representative of the second level; and
4. The following representing their respective offices where the vacancy is located:
 - a. Nicasio Silvan Hamoy, Supvg. Tourism Operations Officer for the Cultural Affairs and Tourism Division;
 - b. Felix Ramoga, City Agriculturist for the City Agriculture Office;
 - c. Fatima Ruda, OIC-City Budget Officer for the City Budget Office;
 - d. Jaime Sagario, City General Services Officer for the City General Services Office;
 - e. Rolito Cataluna, City Health Officer II for the City Health Office;
 - f. Luzminda Macias, OIC-City Civil Registrar for the City Civil Registrar's Office
 - g. Jose Torres, OIC-City Treasurer of the City Treasurer's Office;
 - h. Eleuterio Galleposo, City Engineer for the City Engineering Office;

- i. Glendora Deloria, City Accountant for the City Accounting Office.

A perusal of the minutes of the PSB deliberation reveals that no representative for the first level attended all deliberations involving first level positions. Edmundo Habunal, HRMO IV, disclosed that when Beltran Falconete retired on April 22, 2000, no first level representative was named to replace him. Thus, the City of Dapitan, as an agency accredited to take final action on appointments under the Civil Service Commission Accreditation Program (CSCAP) violated the conditions for its continued accreditation pursuant to CSC Resolution No. 96-3332. The composition of the PSB, which allegedly deliberated on the applicants for the forty three (43) positions in the first level, failed to comply with the provisions of CSC Memorandum Circular No. 18 s. 1988, thereby rendering the appointments issued to the following subject to recall:

City Agriculturist Office:

1. Lourderico Gudmalin - Aquacultural Technician II
2. Oscar Mongcupa - Aquacultural Technician I
3. Elba Calasang - Clerk III
4. Anastacia Pailaga - Farm Worker I

City Veterinary Office

1. Lea Al-ag – Livestock Inspector II
2. Lennie Frejoles – Clerk I

City Budget Office

1. Merla Caidic - Budgeting Assistant
2. Myrna Sagario - Budgeting Aide
3. Darlene Carreon - Clerk II
4. Almira Cardeno - Data Entry Machine Operator II
5. Ada Cabilin - Clerk III
6. Geraldine Carin - Budgeting Aide
7. Andro Agda - Budgeting Aide

City General Services Office

1. Isidra Galleposo – Metro Aide II
2. Bob Hayag – Metro Aide II
3. Resty Socobos – Metro Aide II
4. Frannie Antivo – Metro Aide II

5. Mario Pausal – Air-conditioning Technician I
6. Glafera Galleposo – Utility Worker II
7. Eufrocino Proceso – Utility Worker II
8. Romilo Bajas – Security Guard III
9. Ronnie Labisig – Utility Worker I
10. Ma. Luz Sienes – Utility Worker I
11. Elmer Carreon – Public Services Foreman
12. Jose Darry Sagario – Metro Aide II
13. Allan Amador – Painter I

City Health Office

1. Sol Jamarolin – Laboratory Aide

City Civil Registrar's Office

1. Camila Bagor – Assistant Registration Officer
2. Marimel Sagario – Clerk III

City Treasurer's Office

1. Noel Mawili – Revenue Collection Clerk III
2. Joseph Verd Dalman – Revenue Collection Clerk II
3. Lilibeth Oberaes – Revenue Collection Clerk I

City Engineering Office

1. Luis Cadano – Construction and Maintenance General Foreman
2. Euifemio Montederamos – Heavy Equipment Operator II
3. Benjamin Sumalpong – Driver I
4. James Taguhan – Light Equipment Operator
5. Roger Sarimos – Light Equipment Operator
6. Policarpo Saguin Jr. – Painter II
7. Al Busico – Construction and Maintenance Foreman
8. Maribeth Dangcalan – Draftsman II
9. Joseph Earl Alonso – Clerk III

City Accountant's Office

1. Rone Bagabuyo - Management and Audit Assistant I

C. COMPLIANCE WITH CSC RESOLUTION NO. 01-0988

Pertinent also to this case are **Items No. 3 and No. 4 of CSC Resolution No. 01-0988** which state, as follows:

"3. All appointments, whether original, transfer, reemployment, reappointment, promotion or demotion, except in cases of renewal and reinstatement, regardless of status, which are issued AFTER the elections, regardless of their dates of effectivity and/or date of receipt by the Commission, including its Regional or Field Offices, of said appointments or the Report of Personnel Actions (ROPA), as the case may be, shall be disapproved unless the following requisites concur relative to their issuance:

'a) The appointment has gone through the regular screening by the Personnel Selection Board (PSB) before the prohibited period on the issuance of appointments as shown by the PSB report or minutes of its meeting;

'b) That the appointee is qualified;

'c) There is a need to fill up the vacancy immediately in order not to prejudice public service and/or endanger public safety;

'd) That the appointment is not one of those mass appointments issued after the elections.'

"4. The term 'mass appointments' refers to those issued in bulk or in large number after the elections by an outgoing local chief executive and there is no apparent need for their immediate issuance."

The Commission observed that outgoing local chief executives have the tendency to issue appointments even after the elections, especially when their successors have already been proclaimed. This practice causes animosities between the outgoing and incoming officials, and the people who are immediately affected and made to suffer the consequences thereof are the ordinary civil servants and eventually, to a larger extent, their constituents themselves. This is exactly what is happening in the instant case. Instead of the officials and employees of the LGU-Dapitan concentrating on their respective functions, their attention is divided with this legal process.

It is clear from the aforesaid rules that all appointments issued after the elections shall be disapproved unless all of the four enumerated requisites are present. Conversely, absence of any of the four requisites shall result in the disapproval of appointments issued within the said period.

We will now determine if all of the four requisites are present in the appointments issued by then Mayor Ruiz.

The first requisite is, **the appointments must have gone through the regular screening by the PSB before the prohibited period on the issuance of the appointments.** The prohibited period is from March 29, 2001 to May 14, 2001. The minutes of the PSB deliberations submitted show that 81 of the 83 positions were deliberated upon only on March 6, 7, and 8, 2001, respectively, way before the prohibited period. However, Mayor Carreon submitted a sworn statement of Nicasio Silvan Hamoy attesting to the fact that no PSB deliberations were actually conducted despite his signature in the minutes of the PSB deliberation for the Cultural Affairs and Tourism Office.

During the interview Hamoy affirmed the contents of his affidavit and further clarified some points as follows: that every Thursday, the Mayor calls for a meeting with the chiefs of offices within the city government; in some of the weekly meetings just before the election, the filling up of positions particularly by those who were designated OIC's was brought up; that he was not asked his recommendation in the filling up of positions under his supervision; he was merely informed of the employees who will be appointed under his supervision and that there was no meeting called for the PSB deliberation; that he mentioned to his uncle (a retired Fiscal) during a family dinner that no PSB deliberation transpired; he executed an affidavit because he wanted to tell the truth.

Hamoy stressed that he was not pressured to sign the PSB minutes. He did it as a gesture of gratitude. When asked if he is related to the incumbent Mayor, he readily said yes but that he is also distantly related to the previous mayor and to some of the promoted employees whose appointments are now being questioned. He further stated that Mrs. Lucille Adasa also informed him that no PSB deliberations really transpired but she refused to execute an affidavit because one of those promoted is her relative.

"Q: What you are trying to say now is that you signed it by way of a birthday gift to the outgoing Mayor but you are not confirming the contents of the minutes?"

"A: I assumed, I did not read it."

X X X

"Q: Are you related to any promoted employee?"

quot;A: Yes, . . . and the other one is Mrs. Lydia Carreon . . . Civil Registrar's Office. Amarillo."

"Q: Are you also related to the incumbent mayor?"

"A: Yes."

"Q: Are you related with the outgoing mayor?"

"A: Malayo na iyon."

"Q: But still a relative?"

"A: Kasi halos . . . magkaka-pinsan."

"Q1: So you did not recommend this Emilio . . .

"A: Parang . . . may casual atmosphere lang . . . tapos sabi ko, siempre naman ...

"Q: So, bale it was said in front of other people.

"A: Yes, during the regular meetings of executive committee.

"Q: Do you keep a minutes of . . .

"A: Yes, with the former mayor.

"Q: Is it under the care of somebody here in the office?

"A: Wala. That I don't know if he has the records . . . kasi, lalong lalo na nung panahon na iyon, parating na ang election, parang informal na informal yung meeting namin.

"Q: When you say parating na iyong elections, how proximate is that particular date when you had your meeting to the date of election?

"A: I think, its about the months of January, February and March 2001.

"Q: During the term of the previous mayor, how many employees were promoted?

"A: Marami.

X X X

"Q1: Did you bother asking some of the members of the PSB whether they convened on that particular date?

"A: Sinabi na sa akin nung isa.

"Q1: Who is this person?

"A: Si Mrs. Adasa tapos tinanong ko puede ba siyang magbigay ng affidavit, huwag na lang dahil iyong pamangkin niya kasama . . .

"Q1: But you heard Ms.Adasa affirming that the PSB never convened?

"A: Ang sabi wala pero hindi na sila nag-execute ng affidavit. Ako lang yata ang nag-execute.

"Q: Sinong iba?

"A: Marami . . .

"Q: Did Adasa tell you?

"A: Oo, pero hindi siya nag-ano ng affidavit kasi kasama nga doon iyong pamangkin niya.

"Q: So, when you signed the minutes, Sir, of the deliberation, were you the first to sign?

"A: I was the last to sign.

"Q: So, there were other signatures . . . attested by Mayor . . .

"A: Ako na lang actually ang hindi naka-sign.

"Q: The minutes said "the Board convened with the following present"

"A: Wala ako.

"Q: Tapos, ito iyong napag-usapan, kaya sini-certify true and correct, signed.

"A: Wala ako doon.

"Q: . . . that you were not a party to the meeting . . .

"A: Nag-sign ako.

"Q: You signed.

"A: Parang gratitude na . . .

"Q1: Okay, let's clarify this, are you a regular member of the PSB?

"A: Yes, as the head of the Tourism division.

"Q1: So that, if there is a vacant position in the Cultural Affairs Office or division you are a regular member. But you are not a member of the PSB in other offices?

"A: Yes."

Moreover, Misael Ondong confirmed that he was not interviewed by the PSB thereby corroborating the statement of Hamoy that there was no PSB deliberation conducted.

"Q: Mr. Ondong, what was your previous position?

"A: Information Officer Ma'am.

"Q: For how long have you been . . .

"A: More than three (3) years. I started September 1998.

"Q: You signified your interest in the Operations Officer I ?

"A: I just talked to the former Mayor.

"Q: So, there was no formal written request for a change of your position title?

"A: None Ma'am.

"Q: So, if you asked for this, then, you were not also called for an interview by the Personnel Selection Board.

"A: That I cannot remember because I ask the Personnel and they say, a lateral transfer because there was no promotion involved, the same, that's what they told me.

"Q: Are you enjoying your step increment?

"A: No, because I transferred to another office, but I was aware of that. So, if I stayed at my own job, my salary would have been higher today than it is now.

"Q: Why did you seek transfer?

"A: It's delicadeza because the position is semi-confidential, it's the Information Office, it's just like the Office of the Mayor so, coz there was a change in the administration. It's like when you serve in cabinet of the President. When there's a new President, supposedly, you resign but you can not do that. Here, I just asked to be transferred, but it's not co-terminous, it's permanent.

"Q: So, it really came from you?

"A: Yes Ma'am.

"Q: Since when did you assume office as Tourism Information Officer I?

"A: I think, June 18.

"Q: You started June 18?

"A: Yes Ma'am.

"Q1: Were you interviewed by the Personnel Selection Board?

"A: For the transfer?

"Q1: Yes.

"A: There were talks, I don't know if there was formal interview because we know these people.

"Q1: Did PSB convene . . . No interview like this one, the panel members are there, and you are there, sitting and being asked questions?

"A: That I do not remember. But then, I submit all my papers.

"Q1: When did you request for a transfer? After May 14?

"A: No, later than that. Because we are still in the days right after he lost and decided that I have to move.

"Q1: So, that was already June?

"A: No Ma'am, May. . . it was not finalized . . . I decided to answer after election . . . but it was the decision . . . where will I transfer you, I said anywhere, you can even demote me if you want to but I have to get out of here. If

you can ask Mr. Jabunal, I even asked him, Sir, is it okay if I have been demoted, if there is no other position, I was willing to do that, go down, just to be transferred to other office.

"Q: Prior to the election, you already manifested your interest to be transferred?

"A: No.

"Q: It was only after . . .

"A: After the election

"Q: It was after knowing that the Mayor that you requested for transfer.

"A: Yes, sense of delicadeza, because there was no need for that if you want.

"Q1: In other words, the Mayor never had the intention of filling up the Tourism Operations Officer I?

"A: I do not know what he was thinking, I did not even know there was movement to that office. Okay, there is this: are you willing to go here, because you cannot be demoted.

"Q: When were you asked?

"A: Ma'am, I cannot remember the exact date.

"Q: It was only after the election?

"A: I have to run to the mayor, Mayor, you have to transfer me. I have to keep reminding him.

"Q1: Can you recall what month?

"A: May."

Floro Empeynado, applicant for Administrative Officer III position in the City Health Office testified that the PSB did not conduct any deliberation. He recalled that the procedure adopted in the screening is for the applicants to go directly and file their applications to the Mayor who immediately issued the appointments without the applicant passing through the PSB. He likewise alleged that it was then the practice of the City Government of Dapitan that whoever is recommended by the chief of office automatically gets the appointment.

"Q: Now, we have Floro Empeynado, HRMO II, applicant for the Administrative Officer III position with the CTM Office. Nag-apply ka unya, in writing to imo application para sa Administrative Officer III position? (Was your application for the Administrative Officer III position in writing?)

"A: . . . previous administration pa. (During the previous administration only.)

"Q: Now, aning pagka-apply nimo ng Administrative Officer III, gipatawag ba ka sa PSB after you filed your application? (After you applied for Administrative Officer III, were you called by the PSB?)

"A: Wa. (No)

"Q: Wa sad ka gi-interview? (Were you not called for interview?)

But you were interviewed before when you applied as Administrative Officer III during the time of Adasa were you interviewed, were you called by the PSB? So, you just submitted an application letter but there was no, you never appeared in the PSB screening?

"A: No.

"Q: Di ba wa man ka gipatawag sa PSB para interview no? (You said you were not called for PSB interview, is that correct?)

"A : Wa. Wala sab ko gi-interview sa Mayor. (No, I was not also interviewed by the Mayor.)"

An interview with Marimel Sagario, who was issued an original appointment as Clerk III with the Office of the Civil Registrar, revealed that there was actually no PSB deliberation. She said she was never called for a panel interview and that she only had short informal conversation with the Chief of the City Agriculturist's Office, the HRMO and the OIC Civil Registrar.

"Q: Wala ka'y nadumduman na gipatawag ka sa mga miembro sa Personnel Selection Board unya ingon ani ba unya gipangutana ka, wa ka kadumdum? (You cannot remember a time when you were called by the members of the PSB and asked questions just like this?)

"A: Wala. (No)

"Q: Have you met Lucille Adasa?

"A: Yes.

"Q: Asa man ni siya? (Where is she?)

"A: Sa Popcom. (At the Popcom)

"Q: Before your appointment as Clerk III nagkaestoryahay mo ani niya? (Before your appointment as Clerk III were you able to talk/converse with her?)

"A: Mora'g passing lang pero walay serious conversation about something ano. (No serious conversation...)

"Q: Pero wala ka nag-appear sa morag Selection Board nga aron ma-screen ka? (But you never appeared before a Selection Board for screening?)

"A: Wala. (No.)"

As regards the case of Concepcion Lactuan, Clerk I of the City Information Office, she verbally applied for the Traffic Officer of PTV 7 operated by the City Government of Dapitan. She was informed by Misael Ondong that she is qualified to apply as Information Officer I considering that Ondong is transferring to another office. Although Lactuan did not apply for Information Officer I position, she was included as one of the applicants for said position. She, however, was never notified by the PSB that she was considered as a candidate for said position. She was informed later by Ondong that Hamoy got the position.

"Q: Did you apply for any promotional position prior to 2001 sa mga between your appointment in 1997 as Clerk I hangtud mga 2000. (From the time that you were appointed in 1997 as Clerk I up to 2000, did you apply for any promotional position prior to 2001?)

"A: Kadto na sa 2001 (It was only in 2001)

"Q: Ninghangyo ka kang Mayor? (Did you approach the Mayor?)

"A: Oo. (Yes)

"Q: Unya, that was only verbal? (That was only verbal then?)

"A: Verbal only Ma'am kay niingon man sila nga mobakante kay I-promote ang isa so mao to nga gihangyo nako kung pwede ba ko... (Verbal only Ma'am because they said one will be promoted so there will be a vacancy so I asked if I qualify.)

"Q: Pero sa pag-apply nimo sa position nga Info Officer I, was this already vacant or dihay incumbent ani unya na-promote? (At the time you applied for Information Officer I, was this already vacant or was there an incumbent eligible for promotion?)

"A: Ma'am wala ko mag-apply ug Information Officer I. (Ma'am I did not apply for Information Officer I)

"Q: Unsa man diay imong gi-applyan? (What position did you apply for?)

"A: Kadtong Traffic Officer, verbal. (For Traffic Officer, verbal.)

"Q: Nag-signify sa imong interest for that position? (You signified your interest for that position?)

"A: Yes.

"Q: Kinsa may nagpahibawo sa imoha nga mabakante na siya kay i-promote and usa? (Who informed you that there will be a vacancy because of a promotion?)

"A: Ang kadtong kuan an naang – sa personnel rapod ko nahibalo nga mabakante siya. (I learned from the Personnel (Office) that there will be a vacancy.)

"Q: Nganong mabakante man siya maasa man diay? (Why will there be a vacancy?)

"A: Ma-promote. (Promotion.)

"Q: I-promote siya. Naay lain nga position higher? (Is there another higher position?)

"A: Di lain nga opisina, I-transfer siya. (No, in another office, he will be transferred.)

"Q: Do you have a City Information Officer?

"A: Information Officer I.

"Q: Your chief in the Information Office?

"A: Si Misael Undong.

"Q: Siya ang Information Officer I, as OIC? (As Information Officer I, he is OIC?)

"A: Oo. (Yes.)

"Q: Dili, gipatawag ba ka ni Mr. Habunal being a member of the Personnel Selection Board nga iya kang gi-interview para mo-qualify ba ka sa Information Officer I? (Were you called by Mr. Habunal for interview by the PSB to determine if you qualify for the Information Officer I?)

"A: Wala. (No.)

"Q: Wala ka niya sukad gitawag? (Ever since, you were never called?)

"A: Wala. (No.)

"Q: Kadto si Lucille Adasa, Population Program Officer IV man ni member man ni sa Selection Board, nakadumdum sad ka nga iya kang gitawag? Giingnan ka nga aplikante man ka aning Information Officer I atong I-screen kung pwede ka ba? (Lucille Adasa, Population Program Officer IV is a PSB member, can you recall being called by her for screening?)

"A: Wala. (No.)

"Q: Pero wala ka gipatawag, you were never informed formally. Si Misael ray niingon sa imoha nga mobalhin siya? Ang sa HRMO Office wa sad mopahibalo sa imoha nga – (But you were not called. You were never informed formally. It was only Misael who informed you that he was transferring? HRMO did not inform you also?)

"A: Wala. (No.)

"Q: Niingon man ka nga nihangyo ka kang Jabunal, unsa may imong gihangyo kang Jabunal? (You said you approached Jabunal, what was your request?)

"A: Kadto nga mobakante man to siya Sir ang Information Officer I qualified ba ko ana. (Whether I'm qualified for the Information Officer I.)

"Q: That's why they included your name. Unsa may giingon ni Jabunal nga di ka mo-qualify? (What did Jabunal say, that you did not qualify?)

"A: Miingon siya nga qualified. (He said I'm qualified.)

"Q: Unya kanus-a man na nasulti nga ambak ka sa grade 11, kinsa may nagsulti ana? (When were you informed about the jumping to salary grade 11?)

"A: Si Misael na. Gipahibalo ko niya nga dili mohatag si Mayor ana kay gikan sa grade 11 lisud kuno kaayo nga mo-diretso – gikan sa grade 3 modiretso ug 11. (It was Misael who informed me that the Mayor will not allow a big jump of salary grade from SG 3 to SG 11.)

"Q: When did Misael relate that to you?

"A: Mga last week of May. (Sometime last week of May.)

"Q: Nangutana kung pwede ba kang mo-qualify ba ka sa Info Officer I kang Jabunal sometime? (When did you ask Jabunal whether you qualify for Info Officer I?)

"A: Mga tunga-tunga sa May. (Around middle of May.)

"Q: After the elections?

"A: Yes, after the elections.

"Q: Ikaw man sad tong gi-recommend ni Misael no? (You were also recommended by Misael?)

"A: Oo, gi-recommend ko ni Misael. (Yes, Misael recommended me.)

"Q: Wa sad ka kaestoryaha ni Mayor? (Were you not able to talk to the Mayor?)

"A: Wala sad. (No.)

"Q: But it all happened after the election.?

"A: Yes. Ma'am.

"Q: Unya wa sad gyud ka gipatawag para interview? (Were you not called for an interview?)

"A: Wala sad. (No.)"

Worthy to mention also is the testimony of Lucille Adasa, regular member of the PSB representing the second level employees, who consistently claimed that she was present in all the PSB deliberations for the 83 appointments issued by Mayor Ruiz for the month of June 2001. She mentioned that it would take thirty (30) minutes to complete the deliberation of the qualifications of applicants for each office, and the minutes of the deliberation are prepared by the Human Resource Development Office within one week. However, she said contradictory statements with respect to the PSB deliberation as mentioned by the other personnel interviewed as well as the documents gathered. Particularly, she stated that she could not recall the presence of Nicasio Silvan Hamoy during the deliberation for the positions in the Cultural Affairs and Tourism Division.

Moreover, her statement that the PSB subsequently confirmed the other appointments issued is belied by the fact that the Human Resource Development Office could not produce the minutes of the said meeting. When asked about the comparative assessment form used by the PSB, she mentioned that she was not aware of it but insisted the Human Resource Development Office prepared a certain tabulation for the positions evaluated. However, she could not produce the same, neither could she describe the details of the said tabulation.

"Q: Kinsa may nag-recommend ini ni Jonas? (Who recommended Jonas?)

"A: Ako Ma'am. (I did, Ma'am.)

"Q: Can you still recall what are those positions that you deliberated in the morning of March 6?"

"A: Tourism.

"Q: Unsa pa? You can only name one. What about in the afternoon? Kanus-a man mo nag-deliberate sa Population Program Officer I? You can name only one in the morning? (What else? ... when did you deliberate for the Population Program Officer I?)

"A: Nakalimut naman ko Ma'am. (I forgot, Ma'am.)

"Q: In the afternoon you can also name only one? Ang Health Office kanus-a man mo naka-deliberate adto? (The Health Office, when were you able to deliberate?)

"A: March 7, nakalimut na ko. (March 7, I forgot already.)

"Q: How long will it take the PSB to deliberate?"

"A: Dali raman gud Ma'am. (It's fast, Ma'am.)

"Q: Per person?"

"A: Per office.

"Q: 30 minutes?"

"A: Oo. (Yes.)

"Q: Dali-a gud. You mentioned that the chief of office is always around when there is a deliberation. So .. (That's fast!)

"A: Usahay pod Ma'am wala sila diha amo dayon – basta quorum na mi magdiscuss na mi. (Sometimes Ma'am when they aren't around provided we have a quorum we start the discussion already.)

"Q: Who was the chief of the Information Officer?"

"A: During that time, Mr. Undong.

"Q: Was he around when you deliberated for the position of Information Officer I?"

"A: Yes.

"Q: When was that?"

"A: Di na ko kadumdum sa mga office. (I can't remember the other offices.)

"Q: Who were the applicants then?"

"A: Hamoy,

"Q: You deliberated only one person?

"A: Dunay usa. (There's another one.)

"Q: So, bale you deliberated on the Information Officer I with Mayor Ruiz, Jabunal, ikaw unya si Misael, upat mo nag-deliberate, dinhi sab gihapon? (You, then Misael, there were four of you meeting in this room also?)

"A: Dinhi. (Here.)

"Q: Unya unsa may recommendation ni Misael? (What was the recommendation of Misael?)

"A: Darvie Hamoy as Information Officer.

"Q: Kinsa may moplastar aning mga-ining mga applicants Alicia Gajul, kinsa may magplastar ana? (Who prepares the list of applicants, Alicia Gahul etc.?)

"A: Si Jabunal. Kay ang mga application naa man gud nila diha. (It's Jabunal because the applications are with them.)

"Q: Ang choice bale ani sa si Jabunal pa? Mga tawo nga iyang gi line up. (Does this mean Jabunal has a choice to line up people he favored?)

"A: Dili pod siya, I-deliberate na dayon na based on the application dayon ang recommendation ng chief of office dayon... (Not him, deliberation is based on the application and the recommendation of the Chief of office.)

"Q: Ang mag-line up ining mga tawo, kinsa may mag-line up ani? (Who prepares the line up?)

"A: Si Jabunal. (It's Jabunal.)

"Q: Unsa raman inyong discuss? (What do you discuss?)

"A: Kuan ra ilang qualification, dayon based pod sa recommendation sa ilang chief of office, tan-awon pod ilang bio data kon mo-qualify sila. Mao na siya - normal gyud na siya nga process. (Only their qualification, based on the recommendation of the chief of office, we look at their bio-data if they qualify. That's it, the normal process.)

"Q: Di mo gatan-aw sa performance? (You don't look at the performance?)

"A: Wala mi motan-aw sa performance kay ang among gikuhaag basehan kana ramang recommendation sa chief of office kay siya man mismo ang nakahibalo kay iya man nang sakop. (We don't check the performance, we base it on the recommendation of the chief of office because he knows his personnel.)

"Q: So you never bothered anymore to look into the performance rating?

"A: Wala, based nalang sa recommendation sa chief of office. Pero kung naa poy moingon nga tan-awon pwede pod na motan-aw pero kung dina.. (No more, we have it on the recommendation of the chief of office. But if somebody in the group says we check on it.)

"Q: Kini sa imong office, Program Officer I, kinsa may nagline up aning mga pangalan aning applicants? (The

Program Officer I in your office, who lined up the names of the applicants?)

"A: Akong nag-recommend. (I recommended.)

"Q: Ang nagline up ani? (Who lined up these)

"A: Sila sa HRMO. (They at HRMO.)

"Q: Pero ingon man gud ka nga initially – before mongadto sa PSB duna nay initial recommendation ang chief of office, naa na kay initial recommendation... (But you said that initially before it reaches the PSB the Chief of Office has the initial recommendation, so you had an initial recommendation.)

"A: Ingon ani man gud ni siya Ma'am – primero they will be applying for the position so naa diha sa HRMO ang mga application and their bio data. So I-inform na mi nga mao ni nag-apply. So ang priority namo kung unsa gyud ang among makita namo didto nga kuan maoy amo nga i-recommend based didto sa mga application. (It's like this Ma'am, first they apply for the position, so the application letter and biodata are with the HRMO. So, we are informed that these are the applicants. So our priority is to recommend based on what we see on the application papers.)

"Q: So ang step is, you first look into the application. So, you will be furnished with this application.

"A: Ug dili sila ni-furnish Ma'am, diha lang mi sa HRMO. Mu-inform man the HRMO nga niay application diri, kani siya. So amo dayong adtuon, tan-awon namo ang application. (If they don't furnish us Ma'am, we go to the HRMO, when they inform us to look at the applications.)

"Q: So dili lugar ni sya luto? (So this is not predetermined?)

"A: Dili. (No.)

"Q: Lutong macao?

"A: Dili ma na sya luto. Ranking man gud ni sya. Abi nimo Ma'am abi naka ayo man gyud kay ug unsa gyud ang kuan, mao gyud na syay gi-appoint. (No, it's not predetermined. Ranking is made and appointment is based on the ranking.)

"Q: Unsa may ranking ninyo nga wa man moy gihimo na parang assessment form? (What ranking when you don't have an assessment form?)

"A: Dili kay, pananglitan no, insider na siya, siya gyud ang kuan ba ang chain ang promotion ba Ma'am, mao na siya diha. (No, because for example, he is an insider then he gets it so there is chain promotion.)

"Q: Unsa bay ipasabot ining inyuhang gibutang diri nga "After ... discussion the PSB agreed to already select the potential recommendees/appointees to the various possible vacant positions in view of the manifestation of the local chief executive and in the exigency of the public service subject to the future confirmation ... You mean to say that after the deliberation, diha pa gyuy sunod nga deliberation to confirm? (What is meant by "After

discussion the PSB ... there was still another deliberation to confirm?)

"A: Oo kay mura ug naa pa mi mura'g ni-confirm nami nga magkuan na mao na gyud to siya. (Yes, it seems there was and it was something like we confirmed that those were the choices.)

"Q: Kanus-a man gyud bale mo nag-meeting for the confirmation? (When did you meet for the confirmation?)

"A: Dili pod to siya dugay Ma'am. (It was not long after, Ma'am.)

"Q: How many weeks after, or days after?

"A: A week after I think. Dinhi na mi, kami na bitaw'ng tanan kay naa man mi executive committee. Gi-discuss na dayon to siya. (We were all here because we had an executive committee. We discussed that.?)

"Q: Ang confirmation bale? (You mean the confirmation?)

"A: Oo confirmation. (Yes, confirmation.)

"Q: So, naa gyud nay minutes? (So, there should be minutes.)

"A: Naa mi minutes. (We had minutes.)

"Q: Naa kay minutes adto nga meeting? (You have minutes of that meeting?)

"A: Di na ko ka-remember. (I can not remember.)

"Q: Kung kinsa'y naghawid sa minutes o naay? (Who has custody of the minutes if there is any? Naa gyud na, (there should be) each member of the executive committee should be furnished a copy of the minutes.

"A: Ang akong – nakahold ko ug copy kana bitaw'ng, ambot lang naa ba koy kopya I will try to see. (I got hold of a copy, I don't know if I still have a copy, I will try to see.)

"Q: Are you furnished minutes of your executive committee meeting? Is it a practice?

"A: Wala mi kopya sa minutes every meeting, every Thursday. Nga I-furnish gyud mi tagsa-tagsa, wala. (No, I don't have copy of the minutes every meeting, every Thursday. We were not furnished a copy each.)

"Q: So, how do you conduct your executive committee meeting every Thursday?

"A: Reading of the previous agenda.

"Q: Previous agenda...

"A: Minutes, I mean. Reading of the previous minutes.

"Q: Therefore, there are minutes for every meeting?

"A: Yes.

"Q: So, where can we get a copy of the minutes?

"A: From the secretary.

"Q: Secretary of?

"A: City Mayor.

"Q: Asa man na siya? (Where is he?)

"A: Wala naman ron. Dili man magpareha ang iyang secretary, usahay si Mr. Laput, usahay kadto si Arlo Cagatan usahay si Mr. Ed Cuba²⁾ez. (No longer around. He does not use the same secretary everytime. Sometimes it's Mr. Laput, or Carlo Cagatan or Ed Cuba²⁾ez.)

"Q: Unsa man na si Laput, unsa may apilyedo ana niya, ngalan? (Who is this Laput, what is his complete name?)

"A: Gualberto Laput.

"Q: Unsa man nay position niya? (What is his position?)

"A: Private Executive Secretary man seguro na siya.

"Q: You don't know him. Si Mr. Cagatan?

"A: Diri na siya sa City Mayor. (He is with the City Mayor.)

"Q: Naa na siya karon nganhi? (Is he around now?)

"A: Wala napod, tua na-detail sa Agriculture. (No, he is detailed at the Agriculture.)

"Q: Pero more or less maski different people and magkuan take down notes naa gyud ang records sa City Mayor. (But more or less even though different people take down notes the records are with the City Mayor?)

"A: Naa gyud sila, sila gud mag-hold ana. (Yes, they have, they are the ones holding them.)

"Q: Pero dili mo mag-affix sa inyong signature sa ... (But you don't affix your signature?)

"A: Dili. (No.)

"Q: Dula dula lang diay mo. So ang second minutes, ma-recall ba nimo ug pila ka minutes sa deliberation ang imong na-signan? Pila ka minutes kay bale naa may gi-mention dinhi nga subject to future confirmation. According to you naay another gathering, another session for the confirmation nga naay minutes nga gi-. (So, the second minutes, can you recall how many minutes for the deliberation you signed because it is stated here "subject to further confirmation. According to you, there was another gathering, another session for the confirmation that had minutes that you ..)

"A: Pirmahan. (Signed)

"Q: Ma-recall ba nimo nga pila na ka minutes ang imong na-pirmahan? (Can you recall how many minutes you signed?)

"A: Sa confirmation usa ra akong napirmahan Ma'am. (For the confirmation I signed only one (1) Ma'am.)

"Q: Pirma ka sa before the confirmation, sa confirmation? (You signed before or during the confirmation?)

"A: Sa confirmation nakapirma ko. (I signed the confirmation.)

"Q: Unsa may petsa sa confirmation? (What was the date of confirmation.)

"A: Nakalimut na ko. Naay confirmation. (I forgot, there was confirmation.)

"Q: Kamo tanan pirma? (All of you signed?)

"A: Pirma. (Signed.)

"Q: Kinsa may naka-sign? (Who else signed?)

"A: Ako nakapirma ko. (I signed.)

"Q: Kinsa pay other names nga nakapirma? (Who else signed?)

"A: Si Mr. Jabunal, tanan man seguro nakapirma. (Mr. Habunal, I think all signed.)

"Q: Unsa nga ... (What about?)

"A: Kadtong naay gipang-appoint. (Those who were appointed.)

"Q: Minutes gyud to, unsa may hitsura long bond paper? (You're sure that was the minutes, how did it look like, long bond paper?)

"A: Long bond paper. Confirmation.

"Q: Ang tenor more or less unsa man siya, ang wordings ba unsa may imong ma-recall kay nakapirma man kaha ka, unsa man gyud to ang nakasulat. (What was the tenor more or less, can you recall how it was worded since you said you signed it, what was the content.?)

"A: Nga kadtong among nakuan Ma'am na-deliberated, gi-confirm namo tong mga kuan nga mga position. (That those positions who were deliberated to they are now confirmed.)

"Q: Pero naa tong confirm nga word unya mo-sign mo sa ubos? (But the word confirm was indicated and you signed below?)

"A: Confirm and affirm."

All the foregoing interviews not only cloud the truthfulness of the PSB minutes of deliberation submitted, they also establish the fact that the PSB deliberations are flawed, if not nonexistent. Hence, all appointments issued for the positions allegedly deliberated upon by the PSB on March 6, 7 and 8, 2001 are likewise flawed.

The second requirement is, **the appointees are qualified**. The qualifications of the appointees are not questioned in

the instant case. While the City HRMO could not produce any document or record showing that there was a comparative assessment of the qualifications of the applicants to determine who among them is the most qualified, the ROPA submitted to the Commission shows that all the appointees, except Allan Amador who was issued a temporary appointment, met the minimum qualifications required for the position they were respectively appointed.

The third requirement is, **there is a need to fill up the vacancy immediately in order not to prejudice public service and/or endanger public safety.** To determine compliance with this requirement, the date the vacancy occurred, the manpower complement in a certain office and the date it was filled up should be considered.

In the City Budget Office, the City Budget Officer position became vacant on January 26, 1996 with the retirement of Ananias Cagbabanua. The fact that the position remained vacant for five (5) years casts doubt on the urgency to fill it up immediately when the term of office of outgoing Mayor Ruiz is about to end. The City Budget Office has a manpower complement of 15 people composed of one (1) Budget Officer III, three (3) Budget Officer II, one (1) Budget Officer, two (2) Budgeting Assistant, three (3) Budgeting Aide and five (5) Support Staff, all filled up, hence, a delay for a month in the filling up of the said position would not greatly affect the delivery of services.

In the case of the Population Management Division, there are at least seven (7) positions in the said division, with incumbents for Population Program Officer IV, III and II positions, two (2) Population Program Officer I, and two (2) support Staff. Considering that the higher positions in the division are occupied, it is believed that there is no urgency to fill up of the position of Population Program Officer I.

The same is true with the positions in the Cultural Affairs and Tourism Division of the City Administrator's Office with the presence of Supervising Tourism Operations Officer and the lower Tourism Officer positions.

Regarding the position of a Data Entry Machine Operator III in the Office of the City Mayor, the filling up of the said position is believed not urgent considering that the vacancy occurred on September 17, 2000, while publication of said vacant position was made only on December 24, 2000. Furthermore, the appointment was issued after the elections or long after the position was vacated, thereby establishing the fact that there is no immediate need to fill it up.

The position of Information Officer I in the City Information Office is actually occupied by Misael Ondong who verbally requested from the City Mayor, a transfer to another office in the City Government sometime after the May 14 elections.

The Engineering Office has sixteen (16) Driver items, seven (7) of which are filled up. However, it appears that the city government has only two (2) dump trucks. To allow, therefore, the filling up of the new Driver I item when there are presently more drivers than there are vehicles, is a clear violation of CSC Resolution No. 010988. Of the eight (8) other positions, four (4) became vacant in the year 2000 while the rest of the vacancies occurred in 2001.

Likewise, in the Office of the City General Services where all the vacant positions are not technical in nature to warrant the immediate issuance of the appointments, specially when the term of the appointing authority is about to end. Obviously, the

local government was able to sustain itself for a period of time and to delay the filling up of the same for another month or so will not substantially prejudice the public.

As regards the five (5) appointments in the Office of the City Treasurer, noteworthy is the fact that except for the position of Local Revenue Collection Officer III which became vacant on March 1, 2000, the four other positions became vacant only in June 2001. Evidently, there is no urgency to fill up the said positions.

A perusal of the Personnel Schedule of the Office of the City Agriculturist reveals that it has an employee complement of twenty-six (26) with twelve (12) technical personnel assisted by fourteen (14) support staff. It is believed that a delay in the filling up of the vacant positions for at least a month will not unduly prejudice the services of the said office.

In the Office of the City Veterinarian, only four (4) positions are filled up, two (2) – Meat Inspector III, one (1) – Livestock Inspector II and one (1) – Clerk I. The promotion of Henry Cinco from Livestock Inspector II to Agricultural Technologist in the City Agriculturist Office, left two (2) technical positions and one (1) Clerk. Evidently, as the City Agriculture Office is fully staffed, there is no compelling reason to promote Cinco to said office within the month of June.

The City Health Office personnel were able to dispense the health services after the retirement of Artemio Nielo on March 24, 2000. With the promotion of Rolito Catalu²⁷₁₁a as City Health Officer II on February 13, 2001, and the presence of all the other medical and technical personnel, there is no reason to believe that the quality of services will be adversely affected if the remaining vacant positions in the City Health Department will not be filled up within the month of June.

In the Office of the City Civil Registrar, there are eight (8) positions filled up, composed of the following: One (1) Registration Officer I, One (1) Registration Officer I, One (1) Assistant Registration Officer, One (1) Statistician II, One (1) Statistician I, One (1) Records Officer I, Clerk II, and Clerk I, respectively. Luzviminda Macias, Statistician II, is the highest-ranking personnel in the Office of the Civil Registrar since the retirement of Cesar Cabilin on March 1, 1999. For a period of two (2) years, that the services of the Office were satisfactorily delivered even in the absence of an appointed City Civil Registrar. Therefore, the fact that the length of time that the position remained vacant did not affect the usual delivery of services, casts doubt on the urgency to fill it up.

All the positions in the City Accounting Office became vacant due to the promotion of Purificacion Eguia to the position of Licensing Officer III. There was seemingly a chain of promotion of all the other positions then. Hence, the Commission is of the position that there was no urgency to fill up the said positions brought about by her promotional appointment, as public service was not prejudiced, neither was public safety endangered.

The fourth requirement is, **the appointments are not mass appointments issued after the elections.**

Under CSC Resolution No. 010988, the term "mass appointments" refers to those issued in bulk or in large number after the elections by an outgoing local chief executive and there is no apparent need for their immediate issuance.

Although the appointments were issued on different dates, what is glaring is the fact that all eighty- three (83) appointments were issued in just one month. As reflected in the data, majority or 60 of the 83 appointments were issued only on three dates, particularly on June 1, 18 and 27 2001. This is a concrete proof of appointments issued in bulk, as the term is defined in the above-quoted provision.

The Table below shows the dates when each position was vacated, published, deliberated upon by the Personnel Selection Board, and the date the appointments were issued.

| | NAME | POSITION | DATE OF VACANCY | DATE OF PUBLICATION | DATE OF DELIBERATION BY THE PSB | DATE OF ISSUANCE OF APPOINTMENT |
|----|---------------------------|---------------------|-----------------|---------------------|---------------------------------|---------------------------------|
| | CITY BUDGET OFFICE | | | | | |
| 1 | ACOPIO, ADELINA C. | Budget Officer I | new | 12/24/00 | 3/6/01 3:45 PM | 06/01/01 |
| 2 | TAN, MANOLITA A. | Budget Officer I | new | 12/24/00 | 3/6/01 3:45 PM | 06/01/01 |
| 3 | CAIDIC, MERLA E. | Budgeting Asst. | 06/01/01 | 05/20/01 | 3/6/01 3:45 PM | 06/05/01 |
| 4 | SAGARIO, MYRNA G. | Budgeting Aide | 06/05/01 | 05/20/01 | 3/6/01 3:45 PM | 06/06/01 |
| 5 | CARDINO, ALMIRA | DEMO II | 10/26/00 | 12/24/00 | 3/6/01 3:45 PM | 06/18/01 |
| 6 | CABILIN, ADA S. | Clerk III | 06/18/01 | 05/20/01 | 3/6/01 3:45 PM | 06/18/01 |
| 7 | TOMARONG, ROBERT D. | City Budget Officer | 01/26/96 | 12/24/00 | January 2001 | 06/06/01 |
| 8 | CARREON, DARLENE | Clerk II | 06/01/01 | 05/20/01 | 3/6/01 3:45 PM | 06/25/01 |
| 9 | CARIN, GERALDINE S. | Budgeting Aide | 06/18/01 | 06/13/01 | 3/6/01 3:45 PM | 06/27/01 |
| 10 | CAD, MA. LOREBEL A. | Budget Officer II | 06/06/01 | 06/06/01 | 3/6/01 3:45 PM | 06/27/01 |
| 11 | BAGOLBOC, GRACE B. | Budget Officer I | 06/27/01 | 06/06/01 | 3/6/01 3:45 PM | 06/27/01 |
| 12 | AGDA, ANDRO H. | Budgeting Aide | 06/27/01 | 06/06/01 | 3/6/01 3:45 PM | 06/27/01 |

LICENSING AND PERMITS DIVISION – CITY ADMINISTRATOR’S OFFICE

| | | | | | | |
|---|------------------------|-----------------------|----------|----------|----------------|----------|
| 1 | EGUIA, PURIFICACION V. | Licensing Officer III | 03/01/01 | 12/24/00 | 3/8/01 9:00 AM | 06/06/01 |
|---|------------------------|-----------------------|----------|----------|----------------|----------|

CITY ACCOUNTING OFFICE

| | | | | | | |
|---|-----------------------|--------------------------|----------|----------|----------------|----------|
| 1 | ABITONA, ROSA R. | Mgmt. & Audit Analyst II | 06/06/01 | 05/30/01 | 3/8/01 9:40 AM | 06/18/01 |
| 2 | DAQUIPIL, REBECCA T. | Accts Specialist I | 06/18/01 | 05/30/01 | 3/8/01 9:40 AM | 06/18/01 |
| 3 | BAGABUYO, MA. PERLA | Accts Liq. Ofcr I | 06/18/01 | 05/30/01 | 3/8/01 9:40 AM | 06/18/01 |
| 4 | DINI-AY, EVA C | Mgmt & Audit Asst II | 06/18/01 | 05/30/01 | 3/8/01 9:40 AM | 06/18/01 |
| 5 | BAGABUYO, RONE B. | Mgmt & Audit Asst I | 06/18/01 | 05/30/01 | 3/8/01 9:40 AM | 06/18/01 |
| 6 | CABILIN, JOSEPHINE S. | Fiscal Clerk II | 06/18/01 | 05/30/01 | 3/8/01 9:40 AM | 06/18/01 |

POPULATION MANAGEMENT DIVISION – CITY ADMINISTRATOR’S OFFICE

| | | | | | | |
|---|-----------------|-------------------|----------|----------|----------------|----------|
| 1 | SOLON, JONAS C. | Pop. Prog. Ofcr I | 12/03/99 | 12/24/00 | 3/7/01 2:45 AM | 06/18/01 |
|---|-----------------|-------------------|----------|----------|----------------|----------|

CITY MAYOR’S OFFICE

| | | | | | | |
|---|------------------|----------|----------|----------|----------------|----------|
| 1 | CAGATAN, ARLO B. | DEMO III | 09/17/00 | 12/24/00 | 3/6/01 1:30 PM | 06/01/01 |
|---|------------------|----------|----------|----------|----------------|----------|

INFORMATION DIVISION – CITY ADMINISTRATOR’S OFFICE

| | | | | | | |
|---|------------------------|---------------------|----------|----------|----------------|----------|
| 1 | HAMOY, HILARION DARVIE | Information Officer | 06/18/01 | 05/20/01 | 3/6/01 1:30 PM | 06/18/01 |
|---|------------------------|---------------------|----------|----------|----------------|----------|

CITY ENGINEERING OFFICE

| | | | | | | |
|---|-------------------------|-------------------------|-----------------|-----------------|-----------------------|----------|
| 1 | SUMALPONG, BENJAMIN | Driver I | new | 12/24/00 | 3/7/01 1:30 PM | 06/01/01 |
| 2 | CADANO, LUIS C. | Const Maint Gen Foreman | 04/22/00 | 12/24/00 | 3/7/01 1:30 PM | 06/01/01 |
| 3 | BUSICO, AL B. | Const Maint Foreman | 06/01/01 | 05/20/01 | 3/7/01 1:30 PM | 06/05/01 |
| 4 | TUGAHAN, JAMES D. | Light Equip Operator | 05/12/00 | 12/24/00 | 3/7/01 1:30 PM | 06/06/01 |
| 5 | SARIMOS, ROGER R. | Light Equip Operator | 03/01/01 | 02/14/01 | 3/7/01 1:30 PM | 06/06/01 |
| 6 | SAGUIN, POLICARPO JR. | Painter II | 03/01/00 | 05/20/01 | 3/7/01 1:30 PM | 06/18/01 |
| 7 | MONTERAMOS, EUFEMIO JR. | Heavy Equip Op. II | 12/17/00 | 12/24/00 | 3/7/01 1:30 PM | 06/18/01 |
| 8 | DANGCALAN, MARIBETH | Draftsman II | 05/16/01 | 05/20/01 | 3/7/01 1:30 PM | 06/18/01 |
| 9 | ALONSO, JOSEPH EARL | Clerk III | 06/18/01 | 06/03/01 | 3/7/01 1:30 PM | 06/20/01 |

CITY TREASURER'S OFFICE

| | | | | | | |
|---|---------------------|------------------------|-----------------|-----------------|------------------------|----------|
| 1 | SALES, PATRICIO E. | Loc Rev Coll Offcr III | 03/01/00 | 12/24/00 | 3/7/01 10:45 AM | 06/01/01 |
| 2 | AMPARADO, JUDITH Q. | Loc Rev Coll Offcr II | 06/01/01 | 05/20/01 | 3/7/01 10:45 AM | 06/08/01 |
| 3 | MAWILI, NOEL E. | Rev Coll Clerk III | 06/18/01 | 05/23/01 | 3/7/01 10:45 AM | 06/18/01 |
| 4 | DALMAN, JOSEPH VERD | Rev Coll Clerk II | 06/18/01 | 05/23/01 | 3/7/01 10:45 AM | 06/18/01 |

| | | | | | | |
|---|---------------------|------------------|----------|----------|-----------------|----------|
| 5 | OBERES, LILIBETH O. | Rev Coll Clerk I | 06/18/01 | 05/20/01 | 3/7/01 10:45 AM | 06/25/01 |
|---|---------------------|------------------|----------|----------|-----------------|----------|

CITY AGRICULTURIST OFFICE

| | | | | | | |
|----|-----------------------|----------------------|----------|----------|----------------|----------|
| 1 | JUMAWAN, CORNELIO JR. | Agriculturist II | new | 01/21/01 | 3/6/01 9:00 AM | 06/01/01 |
| 2 | GIMENA, ELDA S. | Agr. Technologist | 02/07/00 | 12/24/00 | 3/6/01 9:00 AM | 06/01/01 |
| 3 | RUIZ, RONILO B. | Agr. Technologist | 04/01/00 | 12/24/00 | 3/6/01 9:00 AM | 06/01/01 |
| 4 | GUDMALIN, LOURDERICO | Aquacultural Tech II | new | 12/24/00 | 3/6/01 9:00 AM | 06/01/01 |
| 5 | MONGCUPA, OSCAR | Aquaculturl Tech I | new | 12/24/00 | 3/6/01 9:00 AM | 06/01/01 |
| 6 | RECAMARA, CAMILO P. | Agriculturist I | | 12/24/00 | 3/6/01 9:00 AM | 06/01/01 |
| 7 | SUN, ILDEFONSA G. | Home Mgt Spc. II | new | 12/24/00 | 3/6/01 9:00 AM | 06/01/01 |
| 8 | PAILAGA, ANASTACIA | Farm Worker I | 05/16/01 | 05/23/01 | 3/6/01 9:00 AM | 06/08/01 |
| 9 | CALASANG, ELBA R. | Clerk III | 06/18/01 | 05/27/01 | 3/6/01 9:00 AM | 06/18/01 |
| 10 | JAMOLOD, PILAR A. | Agr. Technologist | 06/01/01 | 05/20/01 | 3/6/01 9:00 AM | 06/18/01 |
| 11 | REYES, LORNA I. | Agr. Technologist | 06/01/01 | 05/20/01 | 3/6/01 9:00 AM | 06/18/01 |
| 12 | CINCO, HENRY E. | Agr. Technologist | 06/01/01 | 05/20/01 | 3/6/01 9:00 AM | 06/18/01 |

CITY VETERINARY OFFICE

| | | | | | | |
|---|---------------------|-------------------|----------|----------|----------------|----------|
| 1 | AL-AG, LEA C. | Livestock Insp II | 06/18/01 | 05/27/01 | 3/6/01 9:00 AM | 06/18/01 |
| 2 | FREJOLEZ, LERNIE S. | Clerk I | 06/18/01 | 06/06/01 | 3/6/01 9:00 AM | 06/25/01 |

CITY GENERAL SERVICES

| | | | | | | |
|----|----------------------|---------------------------|-----------------|-----------------|-----------------------|----------|
| 1 | GALLEPOSO, GLAFERA | Utility Worker II | 10/16/00 | 12/24/00 | 3/6/01 2:30 PM | 06/01/01 |
| 2 | SOCOBOS, RESTY | Metro Aide II | 11/21/00 | 05/20/01 | 3/6/01 2:30 PM | 06/06/01 |
| 3 | GALLEPOSO, ISIDRA T. | Metro Aide II | 11/5/00 | 12/24/00 | 3/6/01 2:30 PM | 06/06/01 |
| 4 | CARREON, ELMER C. | Public Serv Foreman | 06/05/01 | 05/20/01 | 3/6/01 2:30 PM | 06/18/01 |
| 5 | PROCESO, EUFROCINO | Utility Worker II | 01/01/01 | 12/24/00 | 3/6/01 2:30 PM | 06/18/01 |
| 6 | BAJAS, RONILO D. | Security Guard III | 10/01/00 | 12/24/00 | 3/6/01 2:30 PM | 06/18/01 |
| 7 | HAYAG, BOB C | Metro Aide II | vacant | 12/24/00 | 3/6/01 2:30 PM | 06/18/01 |
| 8 | ANTIVO, FRANNIE M. | Metro Aide II | 11/01/00 | 12/24/00 | 3/6/01 2:30 PM | 06/18/01 |
| 9 | PAUSAL, MARIO C. | Air Cond. Technician I | new | 12/24/00 | 3/6/01 2:30 PM | 06/21/01 |
| 10 | LABISIG, RONIE L. | Utility Worker I | 06/01/01 | 06/06/01 | 3/6/01 2:30 PM | 06/25/01 |
| 11 | SIENES, MA. LUZ S. | Utility Worker I | 06/18/01 | 06/06/01 | 3/6/01 2:30 PM | 06/25/01 |
| 12 | AMADOR, ALLAN O. | Painter | 06/18/01 | 06/06/01 | 3/6/01 2:30 PM | 06/25/01 |
| 13 | SAGARIO, JOSE DARRY | Metro Aide II | vacant | 05/20/01 | 3/6/01 2:30 PM | 06/27/01 |

CULTURAL AFFAIRS AND TOURISM DIVISION – CITY ADMINISTRATOR’S OFFICE

| | | | | | | |
|---|---------------------------|-------------------------|-----------------|-----------------|----------------------------|----------|
| 1 | UBANDO, EMILIO JR. S. | Sr. Tourism Op. Ofcr | 03/01/01 | 12/24/00 | 3/6/01 10:45 AM | 06/01/01 |
| 2 | TOMBOC, ANTONIO ROMULO | Tourism Op. Ofcr. | 06/01/01 | 05/20/01 | 3/6/01 10:45 AM | 06/18/01 |
| 3 | ONDONG, MISAEAL P. | Tourism Op. Ofcr.I | 06/18/01 | 05/20/01 | 3/6/01 10:45 AM | 06/18/01 |

CITY HEALTH OFFICE

| | | | | | | |
|----|-----------------------|-----------------------|-----------------|-----------------|-----------------------|----------|
| 1 | GALLEPOSO, MA. AVELEE | City Health Officer I | 02/14/01 | 02/14/01 | 3/7/01 9:00 AM | 06/01/01 |
| 2 | AUSTERO, LEAH S. | Nurse III | 02/16/01 | 01/17/01 | 3/7/01 9:00 AM | 06/01/01 |
| 3 | TAGAPAN, MA. ASELA | Nurse II | 06/01/01 | 05/23/01 | 3/7/01 9:00 AM | 06/08/01 |
| 4 | CUARESMA, MA. LEIZEL | Public Health Nurse I | 06/08/01 | 05/23/01 | 3/7/01 9:00 AM | 06/08/01 |
| 5 | ADAZA, GLADYS | Adm. Officer III | 02/20/01 | 05/20/01 | 3/7/01 9:00 AM | 06/18/01 |
| 6 | ABAD, ELGEN O. | Med. Tech II | 06/18/01 | 05/27/01 | 3/7/01 9:00 AM | 06/18/01 |
| 7 | DOSDOS, JOELYALLUZ | Med. Tech I | 06/18/01 | 05/27/01 | 3/7/01 9:00 AM | 06/18/01 |
| 8 | GALLEPOSO, NICARITA | Sanitation Insp. II | 04/03/99 | 1/14/01 | 3/7/01 9:00 AM | 06/18/01 |
| 9 | HERRA, JOIVELYN E. | Nurse I | 06/08/01 | 05/23/01 | 3/7/01 9:00 AM | 06/18/01 |
| 10 | JAMAROLIN, SOL R. | Laboratory Aide I | 06/18/01 | 6/6/01 | 3/7/01 9:00 AM | 06/18/01 |

CIVIL REGISTRAR'S OFFICE

| | | | | | | |
|---|---------------------|----------------------|-----------------|-----------------|-----------------------|----------|
| 1 | MACIAS, LUZMINDA R. | City Civil Registrar | 03/01/99 | 12/24/00 | January 2001 | 06/05/01 |
| 2 | PATANGAN, ANGELITA | Reg. Officer II | 06/27/01 | 06/11/01 | 3/7/01 3:30 PM | 06/27/01 |
| 3 | OGARTE, GEMMA C. | Statistician II | 06/05/01 | 06/06/01 | 3/7/01 3:30 PM | 06/27/01 |
| 4 | BENITEZ MYRNA D | Reg. Officer I | 06/27/01 | 06/13/01 | 3/7/01 3:30 PM | 06/27/01 |
| 5 | BAGOR, CAMILA P. | Asst. Reg. Officer | 06/27/01 | 06/06/01 | 3/7/01 3:30 PM | 06/27/01 |
| 6 | AMARILLE, LEIDA C. | Statistician I | 06/27/01 | 06/06/01 | 3/7/01 3:30 PM | 06/27/01 |
| 7 | SAGARIO, MARIMEL S. | Clerk III | 06/27/01 | 06/06/01 | 3/7/01 3:30 PM | 06/27/01 |

The above table likewise reveals that all the 83 appointments were issued after the May 14, 2001 elections, after the 81 positions were said to have been deliberated upon by the PSB on March 6, 7 and 8, 2001. The two (2) vacant department head positions published on December 24, 2000 were filled up in June 2001. The appointments issued to the appointees were confirmed by the Sangguniang Bayan pursuant to Sec. 454(d), Chapter II, Title III of Republic Act 7160.

Applicable to the other issues raised in this case are **Sections 9, 10 and 11, Rule V of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws** which provide, as follows:

"SEC. 9. An appointment accepted by the appointee cannot be withdrawn or revoked by the appointing authority and shall remain in force and effect until disapproved by the Commission. However, an appointment may be void from the beginning due to fraud on the part of the appointee or because it was issued in violation of law.

"SEC. 10. An appointment issued in accordance with pertinent laws and rules shall take effect immediately upon its issuance by the appointing authority, and if the appointee has assumed the duties of the position, he shall be entitled to receive his salary at once without awaiting the approval of his appointment by the Commission. The appointment shall remain effective until disapproved by the Commission. In no case shall an appointment take effect earlier than the date of the issuance.

"SEC. 11. x x x The appointing authority shall be liable for the salaries of the appointee whose appointment became ineffective. The appointing authority shall likewise be liable for the payment of the salary of the appointee if the appointment is disapproved because the appointing authority has issued it in violation of existing laws or rules, making the appointment unlawful." (Emphasis supplied)

Thus, while the appointing authority enjoys vast discretionary powers when it comes to appointments, the same must be in accordance with CSC law and Rules. In this case, CSC Resolution No. 01-0988 prohibits the issuance of appointments after the election by an outgoing Chief Executive if certain requisites are not present.

Records reveal that all the appointees assumed their new positions and started performing the functions thereof. Although the salaries of the appointees were initially withheld, they were paid in full pursuant to an amended judgment of the Regional Trial Court in Special Civil Case No. 5657 which approved the Amicable Settlement duly signed by the parties.

While then Mayor Ruiz violated the provisions of Republic Act 7041, CSC Memorandum Circular No. 18, s. 1988, as amended by Memorandum circular No. 30, s. 1988, and CSC Resolution No. 01-0988, incumbent Mayor Carreon is not exactly bereft of fault as he arrogated unto himself the authority of the Commission to revoke appointments. Likewise, the appointees themselves may also be at fault. The Supreme Court in the similar case of Aytona vs. Castillo, held as follows:

"Incidentally, it should be stated that the underlying reason for denying the power to revoke after the appointee has qualified is the latter's equitable rights. Yet it is doubtful if such equity might be successfully set

*up in the present situation, considering the rush conditional appointments, hurried maneuvers and other happenings detracting from that degree of good faith, morality and propriety which form the basic foundation of claims to equitable relief. **The appointees, it might be argued, wittingly or unwittingly cooperated with the stratagem to beat the deadline, whatever the resultant consequences to the dignity and efficiency of the public service.***"

An individual is bound to verify his/her title to an office. If the title is doubtful, as in this case, he/she enters the office at his/her own risk and must be prepared to suffer all adverse consequences that may befall him/her by reason of his/her anomalous status. Be that as it may, the Commission does not detract from the closer possibility that the appointees herein are also victims of the turn of events.

Needless to say, this is one instance wherein not only strict legality, but also fairness, justice and righteousness should be taken into account.

WHEREFORE, premises considered, the Omnibus Order dated August 17, 2001 of the Civil Service Commission Regional Office No. IX is **REVERSED** and **SET ASIDE**. The Commission hereby rules, as follows:

1. The approval of all 83 appointments issued by then Mayor J. Cedrick O. Ruiz is revoked for being violative of Republic Act No. 7041, CSC Memorandum Circular No. 18, s. 1988, as amended; CSC Resolution No. 96-3332 on its accreditation and CSC Resolution No. 01-0988;
2. All promoted employees are reverted to their previous positions; and
3. Memorandum Order No. 1 and Memorandum Order No. 2 issued by incumbent Mayor Rodolfo H. Carreon, Jr. are hereby declared null and void.

Quezon City, **JUN 17 2002**

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

FPG/KPZ/esdruizdiskres2 / rad90