



LEYTE STATE UNIVERSITY

Visca, Baybay, Leyte 6521-A

Philippines

Tel: +63 53 335 2600; Fax: +63 53 335 2601

e-mail: opvisca@mozcom.com; website: www.lsu-visca.edu.ph

Office of the President

20 April 2007

MEMORANDUM NO. 68

Series of 2007

T O: Mr. Jovito Magnawa

**R E: Submission of Counter Affidavit in Answer to the Complaint
of Grave Misconduct**

Attached is a copy of the sworn complaint of SG Hermelina Malate against you for Grave Misconduct.

Please submit your counter-affidavit to this office within three (3) days from receipt hereof.

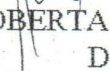

PACIENCIA P. MILAN
President

Leyte State University
Tolosa Campus
Tolosa, Leyte

1st Endorsement

April 3, 2007

Respectfully forwarded to the President, Dr. Paciencia P. Milan, Leyte State University, Visca, Baybay, Leyte the herein complaint of Hermelina B. Malate for Grave Misconduct against Jovito P. Magnawa, Watchman of LSU, Tolosa Campus for your appropriate action.


ROBERTA D. LAUZON
Dean

COLLEGE OF FISHERIES
LSU TOLOSA CAMPUS
Tolosa, Leyte

March 28, 2007

Dr. Paciencia P. Milan
President
Leyte State University
Baybay, Leyte

Thru: Dr. Roberta D. Lauzon
Dean, LSU Tolosa Campus

Dear Madam President:

Attached please find my sworn complaint affidavit for Grave Misconduct against Jovito Magnawa of Brgy. Tanghas, Tolosa, Leyte occupying the position of Watchman assigned at LSU Tolosa Campus. Said complaint affidavit is supported with a copy of the affidavit executed by Chief Security Officer, Deigo Petronio. A certification of Non-Forum Shopping is likewise attached herewith.

Very truly yours,



HERMELINA MALATE

CERTIFICATION OF NON-FORUM SHOPPING

I HEREBY CERTIFY that I have not commenced any other action or proceeding involving similar issues of the herein complaint before any other tribunal or agency except this present administrative complaint. Should I learn that similar case involving similar issues is filed in any tribunal or agency, the undersigned undertakes to report such fact to this office within five (5) days.

LSU Tolosa Campus, March 28, 2007.



HERMELINA MALATE

REPUBLIC OF THE PHILIPPINES)
PROVINCE OF LEYTE) S.S.
MUN. OF BAYBAY)

COMPLAINT AFFIDAVIT

I, HERMELINA B. MALATE, of legal age, single, Filipino, Security Guard I assigned at LSU Tolosa campus, and a resident of Brgy. Tanghas, Tolosa, Leyte, after having duly sworn to in accordance to law, do hereby depose and say, to wit:

1. I was on duty last March 17, 2007 at 7:00 p.m. up to 1:00 a.m. of March 18, 2007 and relieved by the watchman assigned from 1:00 a.m. to 7:00 a.m. in the person of Jovito Magnawa;
2. When Mr. Magnawa arrived, I smelled that he was under the influence of liquor. When he entered the administration building, Mr. Magnawa pulled out his 45 caliber from his waist and pointed to me three (3) times. He said to me in a loud voice, "Kay ano na ako la it iyo gin kikinuan nga nagtutuhay naman ako, bangin karuyag mo praktisan." The undersigned answered, "Sige kay maaram na hira na kita gudla it anhi." He again said to me in a loud voice, "Kay ano na ato ka!" two times and after that, he punched in his card and went out from the Administration building uttering bad words, "buli ka! Yawa ka!";
3. Since I was already off-duty, I immediately left the campus and proceeded to the house of Ms. Elvira Sabulao, Administrative Officer II and of Mr. Diego Petronio, Chief Security Officer and reported the incident;
4. I requested SG Petronio for us to see Mr. Magnawa immediately but SG Petronio suggested not to confront Mr. Magnawa because of his being under the influence of liquor and having been armed by 45 caliber pistol. SG Petronio advised the undersigned to have the case blotted at the barangay and also at the police. Attached is a copy of police blotter marked as Annex "A" of the complaint.
5. Ms. Sabulao likewise advised the undersigned not to confront Mr. Magnawa at that very moment but to have the incident blotted;
6. Because of threat to my life, I requested SG Petronio to assign me in another shift to avoid another incident with Mr. Magnawa;
7. This is not the first time that my life was threatened by Mr. Magnawa. In August 22, 2000, I reported an incident with the Punong Barangay of Tanghas, Tolosa wherein, I was again threatened with a deadly weapon "pisao" by Mr. Magnawa, a copy of the excerpt of the barangay logbook and certified copy of the logbook herewith attached as Annexes "B" & "C";
8. As Watchman, aside from the above cited violations, he is not dedicated to his job in several instances leaving his post without being relieved. A specific instance was last November 25, 2006 at about 6:20 a.m. wherein as the watchman on duty, he was not around when VP Palomar, AO Cano and Atty. Guinocor arrived but could not enter the main gate because the gate was padlocked. I was the outgoing guard when Mr. Magnawa timed out at 7:00 a.m. of said date. However, since it was not safe for me to go home at said unholy hour, I decided to first sleep at the Adm. building together with Gilda Cayanong who was rendering overtime at that time. At 5:00 a.m., herein complainant and Gilda Cayanong left the campus and

went home. Mr. Magnawa, learning that I and Ms. Cayanong are leaving said thank you that you are leaving because I will go to the beach to look for something to cook as "tinola". When I and Gilda Cayanong was already outside the gate. Mr. Magnawa immediately padlocked the gate and we saw him proceeding to the sea. I was informed by SG Perez that Mr. Magnawa arrived at 7:00 a.m. bringing with him fish;

I am filing this complaint against SG Magnawa for grave misconduct due to his threatening my life, said act is unbecoming as the supposed protector of the lives and properties of the LSU Campus and for other violations.

IN WITNESS WHEREOF, I have hereunto affixed my signature this ____th day of March 2007 at Baybay, Leyte, Philippines.

HERMELINA B. MALATE
Affiant

27 MAR 2007

SUBSCRIBED AND SWORN to before me this ____th day of March 2007 at Baybay.



ROSILIO C. VIVERO
Prosecutor II

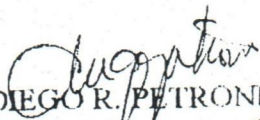
REPUBLIC OF THE PHILIPPINES)
PROVINCE OF LEYTE) S.S.
MUN. OF BAYBAY)

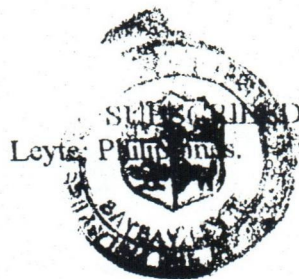
AFFIDAVIT

I, DIEGO R. PETRONIO, of legal age, married, Filipino, Chief Security Officer assigned at LSU Tolosa campus, and a resident of Brgy. Tanghas, Tolosa, Leyte, after having duly sworn to in accordance to law, do hereby depose and say, to wit:

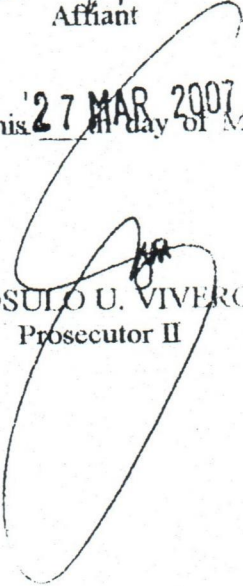
1. I am the designated Chief Security Officer of the LSU Tolosa campus;
2. As Chief Security Officer, part of my duty is to supervise all the security guards and to plan how security and safety of the lives and properties of the campus can be assured/protected;
3. As the Chief Security Officer, I have observed the performance of Watchman Jovito Magnawa as unsatisfactory especially for the year 2006. In fact, last November 3, 2006, I submitted a report to our Dean, Dr. Roberta Lauzon enumerating Mr. Magnawa's violation for the month of October 2006 alone, a copy of said report is hereto attached as Annex "A" hereof;
4. In action to my report, Dr. Lauzon issued office Memorandum no. 65, s. 2006 dated Nov. 14, 2006 addressed to Mr. Magnawa requiring him to submit his written answer/explanation to my report. Until the present, however, I have not received any copy of his answer/explanation;
5. On November 25, 2006 at 6:20 a.m., my attention was called by Ms. Sabulao inquiring the whereabouts of the guard on duty because Dr. Palomar, Dr. Cano and Atty. Guinocor arrived at 6:00 a.m. to inspect the high school because they are on their way to Manila to meet with the Solicitor General regarding the conflict with DepEd on the high school site but cannot enter the gate because the guard on duty is nowhere to be found. I immediately responded to the report and tried to find Mr. Magnawa but he cannot be found. I learned later that he was somewhere in the sea outside the LSU compound and in fact, he returned at 7:00 a.m. bringing with him fresh fish;
6. These are not the only violations committed by Mr. Magnawa. On August 23, 2005, he was formally charged by the President with Gross Neglect of Duty for Abandoning his post without being relieved and for Inefficiency and Incompetence in the performance of his duties as watchman, for not recording critical incidents in the logbook during his tour of duty, as a result after due process, Mr. Magnawa was penalized for two (2) Reprimand. He was even warned that similar offense shall be considered as second offense and shall be dealt with in accordance with CSC rules, a copy of Adm. Order No. 07, series of 2006 is hereto attached as Annex "B";
7. This affidavit is executed to support the complaint of SGT Hermelina Malate against Mr. Magnawa for Grave Misconduct due to his poking a .45 caliber to complainant three (3) times and also Gross Neglect of Duty for leaving his post without being relieved and for violation of reasonable office rules for not wearing uniform during his duty.

IN WITNESS WHEREOF, I have hereunto affixed my signature this ____th day of March 2007 at Baybay, Leyte, Philippines.


DIEGO R. PETRONIO
Affiant



SUBSCRIBED AND SWORN to before me this 27 MAR 2007 day of March 2007 at Baybay, Leyte, Philippines.


ROSULO U. VIVERO
Prosecutor II