

Visayas State University

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Office of the President

10 January 2013

MEMORANDUM NO. 6

Series of 2013

T O: Dr. Antonio L. Acedo, Jr.
Head, Department of Horticulture

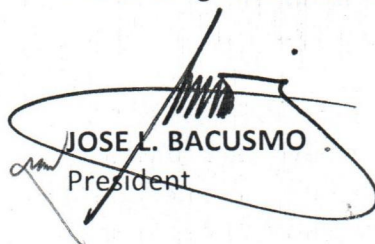
R E: Decision on Serious Sexual Harassment Case of Prof. Paciano T. Quirol
by the Civil Service Commission

In view of the adverse decision of CSC Chairman Francisco T. Duque III and Commissioners Mary Ann Z. Fernandez-Mendoza and Robert S. Martinez on the Motion for Reconsideration of Prof. Paciano T. Quirol on the decision of CSC Reg. Office No. VIII, Palo, Leyte finding him guilty of Serious Sexual Harassment and imposing him the penalty of dismissal from service (please see attachment), you are hereby directed to implement the following:

- Retrieval of office properties assigned to Prof. Paciano Quirol
- Retrieval of official documents/project reports
- Reassignment of student thesis advisorship under Prof. Quirol
- Reassignment of classes under Prof. Quirol

It is requested that your office will execute this directive immediately.

Please be guided accordingly.


JOSE L. BACUSMO
President

cc: OVPI
OVPRE
ODAHRD/PRPEO
Records
File



QUIROL, Paciano T.

Re: Sexual Harassment; Grave Misconduct
(Petition for Review)

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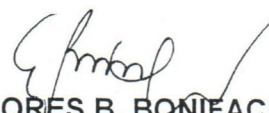
NOTICE OF DECISION

Sir/Madam:

The Commission promulgated on **November 26, 2012 Decision No. 12-0826** on the above-cited case, copy attached. Its original is on file with this Commission.

November 27, 2012.

Very truly yours,


DOLORES B. BONIFACIO

Director IV

Commission Secretariat and Liaison Office

Copy furnished:

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IRMO – This Commission


cslo/ssd/dang

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QUIROL, Paciano T.

Re: Sexual Harassment; Grave Misconduct
(Petition for Review)

Number: 120826

Promulgated: 26 NOV 2012

X-----X

DECISION

Paciano T. Quirol, former Professor, Visayas State University (VSU), Baybay City, Leyte, through counsel, moves for reconsideration (treated as petition for review) of the Decision No. 11-0163 dated September 22, 2011 of the Civil Service Commission Regional Office (CSCRO) No. VIII, Palo, Leyte, finding him guilty of Serious Sexual Harassment and imposing upon him the penalty of dismissal from the service with all its accessory penalties, and the Resolution No. 12-0112 dated July 9, 2012, denying his Motion for Reconsideration.

The dispositive portion of Decision No. 11-0163 reads, as follows:

"WHEREFORE, Paciano T. Quirol is hereby found guilty of Serious Sexual Harassment. Accordingly, he is meted the penalty of dismissal from the service with all the accessory penalties appurtenant thereto."

On the other hand, the dispositive portion of Resolution No. 12-0112 reads, as follows:

"WHEREFORE, the instant Motion for Reconsideration is hereby denied. Accordingly, CSCRO 8 Decision No. 11-0163 dated September 22, 2011, finding Quirol guilty of Grave Sexual Harassment with accessory penalties appurtenant thereto stands."

In his petition, Quirol argues, as follows:

- "I. DECISION IS NOT SUPPORTED BY EVIDENCE ON RECORD
- "II. COMPLAINANT FAILED TO PROVE BY SUBSTANTIAL EVIDENCE HER ALLEGATIONS IN THE COMPLAINT-AFFIDAVIT

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"III. THE ACTS COMPLAINED OF DOES NOT CONSTITUTE SEXUAL HARASSMENT AS DEFINED AND PENALIZED UNDER RA 7877 OTHERWISE KNOWN AS THE ANTI-SEXUAL HARASSMENT ACT OF 1995

"IV. RESPONDENT IS NOT LIABLE FOR GRAVE MISCONDUCT

"V. THE COMMISSION MISERABLY FAILED TO APPRECIATE THAT THE INSTANT COMPLAINT IS PURELY A HARASSMENT CASE AGAINST THE RESPONDENT.

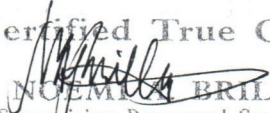
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"34. The first issue is the sweeping conclusion that the case is between 'complainant's words against that of the respondent' before mention is made on respondent's evidences. It is extremely unfair to consider the case as being between 'complainant's words against that of the respondent' simply because complainant does not have any witnesses or material evidence to support her allegations.

"35. The second issue is the sweeping dismissal of the objectivity and impartiality of respondent's witnesses 'because of their close association with the respondent'. Respondent's witnesses were presented and subjected to cross examination and the truthfulness of their testimonies was not destroyed. The close association among individuals does not always result in false testimonies. As repeatedly ruled, mere relationship does not necessarily tarnish the testimony of a witness.

"36. In fact, Ms. Peteros, a close associate of the complainant refused to make an affidavit of something that she did not know about, much for something that is an outright lie. It should also be mentioned that respondent's witness in the person of Ms. Gontinas was hired by the late wife of respondent and that Ms. Gontinas agreed to make her affidavit and testify in this case after she was separated from the respondent's household shortly after the death of respondent's wife. In deed, it was Ms. Gontinas whom the complainant approached that afternoon of February 25, 2007 and who saw the complainant proceed to Duplex, instead of the jackfruit drive alleged by the complainant.

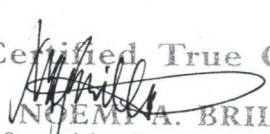
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"37. These the complainant failed to ascribe improper motive on the part of respondent's witnesses. The absence of evidence as to an improper motive actuating the principal witness of the prosecution strongly tends to sustain that no improper motive existed and that their testimonies is worthy of full faith and credence.

"38. The third issue is the ease by which an incredible excuse be accepted, thus, 'her reference to the computer room as such because of the presence of computers therein.' Considering that most of the offices in the Department of Horticulture already have computers, then it is unclear which of these 'computer rooms' the alleged incident took place. The formal charge claimed to have been filed based on prima facie evidence was very certain that the incident took place in the computer room which is any of several rooms in the Department of Horticulture which has computers.

"39. The fourth issue is the highly illogical conclusion that 'The defense of the respondent is insufficient to overthrow the finding of prima facie evidence against him.' Even if one goes by the idea that the case has become the 'complainant's words against that of respondent', the conclusion has no leg to stand on. Complainant, based on her own affidavit, acted so strangely in going to respondent's residence after their choir practice that ended at 5:40 pm when she should be proceeding to church for the 6:00 pm mass for which the choir practice was intended. Since respondent was not yet at home, she allegedly proceeded to the Department of Horticulture via the Jackfruit drive xxx knowing fully well that respondent is supposed to work overtime under 5:30 pm that afternoon. On her way back she told respondent's wife that she will no longer go to the Department of Horticulture and requested the respondent's wife to the respondent that 'wala ko makatuman sa among sabot' (I failed to abide with our agreement). That, while walking towards the guard post xxx, she again changed her mind and allegedly proceeded to the Department of Horticulture where she allegedly saw the respondent in the computer room. The complainant narrated that she was offered coffee xxx, the supposed jokes of respondent that progressed into something that alarmed her to the point of trembling and being unable to put the cursor in place, that respondent placed his hand over her hand that was holding the mouse, her being able to move aside with a much heightened alarm until she was able to get out of the computer

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room. Then, all of a sudden, xxx she found herself getting inside the computer room again to look at the computer that hanged up. At this instance, complainant alleged that she was kissed by the respondent two times, after which she hurried to get out of the building xxx. Once again, xxx she returned to help the respondent padlock the door. Actuations of complainant were not normal.

"40. On the other hand, respondent was convincingly clearer in presenting his facts. That he went home, leaving her sick wife in Ormoc for a faith healing session, because of huge task of preparing the report of the department's extension program, to which task, any disturbance is unwelcome. That the overtime in office shall only be until 5:30 pm so that he may have time to fetch her wife in Ormoc in case healing is not started yet by 6:00 pm considering that his wife may miss the 7:00 pm bus and the stress of waiting until the 9pm bus may be too much to bear. That he was in the office, all alone, until his departure. That he reached home shortly before 6:00 pm and was in his home with his wife and other household members since then until the following day.

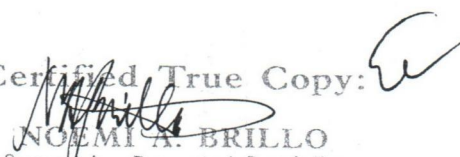
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"42. Under the first element, it is without doubt that herein complainant cannot be considered under the care, custody or supervision of respondent not being the designated thesis adviser of the former as admitted by complainant during the pre-hearing conference. Though complainant is a student of the Department of Horticulture, there is nothing on record and evidence presented showing student-teacher relationship since there is no showing that complainant is a student of the respondent in any of his subject or subjects handled in the department.

"43. xxx, though it would appear that complainant was working on respondent's mango farm at Domonar, Ormoc City, he purposely offered his mango farm for data collection to help Horticulture Majors conducting thesis on said trees. Hence, it cannot be said that herein complainant's education or apprenticeship is entrusted to respondent.

x x x

"46. No where in the affidavit would show and state that herein respondent categorically ask for sexual favor from the

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complainant. Nothing would even show that herein respondent promised certain consideration as condition in return for sexual favor from the complainant.

"47. If at all, complainant repeatedly said that respondent saying 'naa bayad mag encode diri (there is a fee if you will encode here) xxx. Again, respondent said to her 'naa bitaw bayad ang pag encode diri' (there is really payment when you encode here) in a serious tone of voice to which she answered 'mobayad gud ko sir' (I will just pay sir). Then, he said 'di man kwarta bayad' (money is not the payment), at this time she was beginning to be alarmed but kept cool and tried to ignore what he said xxx. That after she encoded, when they were about to leave the office she was allegedly kissed twice on the lips by respondent xxx.

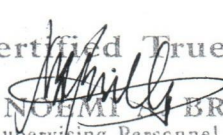
"48. From the foregoing set of facts, it would appear that complainant was able to encode and finish her work on the computer. It would also appear that respondent made no sexual favor from complainant as a condition for using the computer. Rather, respondent's alleged statement that 'naa raba bayad mag encode diri' (there is a fee if you will encode here) and that 'di kwarta ang bayad' (money is not the payment) would even appear to be simple jokes with no serious tones. The alleged sexual advances were made after complainant was through with her work.

"49. In fact, to quote complainant's allegations in par. 31. 'That as he was closing the door of the computer room he called to me 'day uyab na ta ha' (we're sweethearts already), and added 'ato ato ra ni ha?, ako'y bahala sa imo thesis) and I answered, 'di ko sir kay gusto ko mahibalo unsaon paghimo ug libro' (no sir, I want to learn how to write a book) and he answered 'ako na lage bahala ato' (don't worry, I'll take care of it). A close examination of said statement would even appear that herein respondent was courting complainant. There is no showing of any sexual favor made by respondent, what would appear is that, he was just trying to win and woo complainant.

x x x

"54. Viewed from the acts of the complainant and respondent, they were at pleasantry and in light and jovial mood as they were laughing and joking. All these bespeak an intimidating, hostile and

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offensive situation where the alleged sexual advances or favors were made.

"55. Interestingly, if indeed complainant claimed to be threatened and alarmed by the actuations of respondent, why would she return and help respondent padlock the door xxx? Isn't it strange for respondent not to know how to padlock the door of his own office to which he often does? And they even left the office together and went home and separated ways when they were near the guard post xxx.

Commenting on the said petition, the CSCRO No. VIII states, as follows:

x x x

"Quirol is found guilty by this Office based on substantial evidence adduced against him. In his notice of appeal, the vagueness and general accusation that the finding of this Office is 'not supported by evidence on record', does not hold water. In fact, even in his belatedly filed Appeal memorandum, the same issues that have already been addressed by this Office were merely by the appellant.

"Spelled out in the CSCRO No. 8 Decision No. 11-0163 dated September 22, 2011, thus:

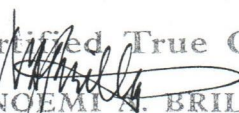
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'The defense of the respondent is insufficient to overthrow the finding of prima facie evidence against him.

x x x

'The complainant positively identified the respondent as her perpetrator. The respondent merely offered his alibi without necessarily proving that it would be physically impossible for him to be in the place where the sexual harassment took place. As in fact, the house of the respondent and the place where the incident happened are both within the premises of the VSU.

'Moreover, it is bereft of evidence that will substantially justify the claim that complainant's act of filing a case against the respondent is merely to

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accommodate the management of the VSU. No one in her right mind will concoct a story that will subject her to hideous proceedings and experience a humiliating episode in her life. Filing a charge for sexual harassment is not a trivial matter. It entails having to go public with an incident that one is trying to forget. It means opening oneself to public ridicule and scrutiny. xxx

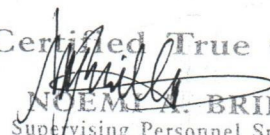
'When the complainant testified, she was asked why she did not shout, cry or went to report the incident, instead, she stayed on, until she and the respondent finally left the latter's office.


'The assertion by the complainant that the respondent has moral ascendancy and influence over her is evident. When asked how she felt when she thought that the respondent is already harassing her, the complainant testified that 'na alam ko gamay sir, pero the fact that thesis adviser nako sya, mura nako siyag tatay gi ignore nako, kay nag respect ko niya. (I was alarmed, a little, but the fact that he is my thesis adviser, he is already like a father to me, so I ignored because I respect him.) However, the protestations of the complainants to the acts of the respondent is evident. xxx'

"Clearly, the complainant manifested her repulsion to the sexual advances of the respondent. Yet, despite the protestations made by the complainant, still the respondent proceeded and in fact succeeded in kissing the complainant and at the same time insisted that they have a relationship. The struggle on the part of the complainant, though not the usual physical, the same is clearly shown, how the complainant was cowed with fear, confusion and intimidation with the detestable actuation of his thesis adviser."

Records show that on February 25, 2007 at around 7 o'clock in the evening, Dahlia D. Maboloc, a third year student, was at the computer room of the Department of Horticulture, VSU. There, Quirol, professor and thesis adviser of Maboloc, found her and asked her to encode her data for her thesis, to which the latter obliged.

While working on the computer, Quirol told Maboloc "naa bayay bayad ang mag encode diri" (there is really payment when you encode here). Thinking it was a joke, she answered "si sir sab oy" (sir, you're bad). He then told her in a serious tone, "naa bitaw bayad ang pag encode diri" (there is really payment when you encode here), to which she

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answered “mobayad gud ko sir” (I will just pay sir). Then, he said “di man kwarta bayad” (money is not the payment). At that point, she began to feel alarmed but kept her cool and tried to ignore what he said.

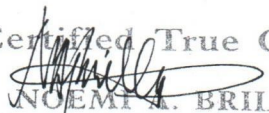
When Maboloc was about to finish the first page of her paper, Quirol told her “hala hapit na mahuman ang first page basta makahuman na ug first page kay may bayad” (when the first page is finished, you will have to pay). She then laughed, thinking that it was just a joke. Then he said, “ako na lang ana beh but may bayad lagi” (I will pay for you). She then replied, “ako na lang sir oy” (I will pay sir), and both of them laughed.


As she was about to save what she had encoded, Maboloc’s hand trembled and Quirol came over and placed his hand over her right hand. She then moved sideways while sitting to create a distance from him. He turned off the computer she was using and as she was fixing her things, he said to her, “oy ang bayad beh” (hey, don’t forget to pay). She answered, “da sir mo amen na lang ko nimo” (I will pay sir). Both of them laughed at that point. He then added, “wa baya ko magbinuang day” (I’m not kidding), and she replied, “ikaw jud sir noh” (you’re kidding sir).

Maboloc was out of the computer room as Quirol locked his nearby office. He then noticed that his computer was still turned on and said, “awa day wala pa na off ang computer ni hang man ciguro” (my computer is still on. It might have hanged). Thus, she went inside the room to check. As she was inside, he stood behind her and caressed her elbows. Though shocked, she managed to utter, “ayaw sir” (no sir). He replied, “sige na day” (come on). She again told him, “sir ayaw sir” (sir, no, sir). He suddenly cupped her face with his two hands, and kissed her on the lips. As she struggled to free herself, she said “ayaw sir” (no sir). When she stepped back and got her back behind the wall, he walked towards her and said, “di bitaw taka unsaon” (I won’t let you go), and again kissed her on the lips. She again struggled to get free and told him, “sir gigutom na jud ko pag ayo, I need to go back to the boarding house” (sir, I am hungry, I need to go back to the boarding house). He answered, “dungan ra gud ta day kay may momo diri” (then let’s go together as there might be ghost here). She again said, “sir, as in gutom na gyud ko pag ayo” (sir, I am really hungry).

When Quirol was closing the door of the room, he called to Maboloc and said, “day uyab na ta ha” (we’re lovers already), and added, “ato ato ra ni ha? Ako’y bahala sa imo thesis, ako na pakyawon lagi day” (it will be our secret, ok? I will take care of your thesis). She replied, “di ko sir kay gusto ko mahibalo unsaon paghimo ug libro” (no sir because I want to learn how to make a thesis), and he answered, “ako I lage bahala ato” (I will take care).

After the said incident, Maboloc filed an Affidavit-Complaint dated March 6, 2007 before the Leyte State University (now VSU) against Quirol for Sexual Harassment. The University referred the complaint to its Anti-Sexual Harassment Office (ASHO) for

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investigation. In a letter dated March 8, 2007, Quirol was directed to file his counter-affidavit or comment on the said complaint. On March 20, 2007, he requested for an extension of time to file his comment/answer. Accordingly, on April 13, 2007 he submitted his counter-affidavit, denying the allegations against him.

After preliminary investigation, the ASHO recommended the issuance of formal charge for Sexual Harassment against Quirol. Consequently, he was formally charged for Grave Sexual Harassment on June 12, 2007. On July 6, 2007, he submitted his answer to the formal charge.

Then, on June 8, 2010, Jose L. Bacusmo, University President, VSU, referred the case against Quirol before the CSCRO No. VIII for appropriate action.

Finding *prima facie* case against Quirol, the CSCRO No. VIII on September 8, 2010, formally charged him with Grave Sexual Harassment. On September 27, 2010, he submitted his answer, denying the allegations against him.

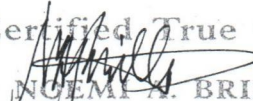
During the formal investigation, both prosecution and defense presented their respective evidence/witnesses. After hearing, the CSCRO No. VIII issued the Decision No. 11-0163, finding Quirol guilty of Serious Sexual Harassment and imposed upon him the penalty of dismissal from the service with all the accessory penalties. His subsequent Motion for Reconsideration having been denied in Resolution No. 12-0112 dated July 9, 2012, he filed the instant appeal.


The issue to be resolved in this case is whether there is substantial evidence to hold Quirol liable for Sexual Harassment.

For his defense, Quirol claimed that he was already at home at the time the incident took place. He also alleged that there was no computer room at the Department of Horticulture; that he is not the designated thesis adviser of Maboloc; and that, the whole case is an act of harassment by the VSU management against him. It is, however, noteworthy that these allegations are mere alibi, which cannot overthrow the finding of *prima facie* evidence of guilt against him.

CSC Resolution No. 01-0940 dated May 21, 2001 (Administrative Disciplinary Rules on Sexual Harassment Cases) defines Sexual Harassment, as follows:

“Sexual Harassment is defined as an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favor, or other verbal or physical behavior of a sexual nature, committed by a government employee or official in a work-related environment of the person complained of. The acts likewise had an effect of interfering with

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the complainant's work performance, creating a hostile or offensive work environment."

Complainant Maboloc categorically narrated in her affidavit-complaint the following incidents:

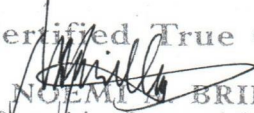
"xxx As she was inside, he stood behind her and caressed her elbows. Though shocked, she managed to utter, 'ayaw sir' (no sir). He replied, 'sige na day' (come on). She again told him, 'sir ayaw sir' (sir, no, sir). He suddenly cupped her face with his two hands, and kissed her on the lips. As she struggled to free herself, she said 'ayaw sir' (no sir). When she stepped back and got her back behind the wall, he walked towards her and said, 'di bitaw taka unsaon' (I won't let you go), and again kissed her on the lips. She again struggled to get free and told him, 'sir gigutom na jud ko pag ayo, I need to go back to the boarding house' (sir, I am hungry, I need to go back to the boarding house). He answered, 'dungan ra gud ta day kay may momo diri' (then let's go together as there might be ghost here). She again said, 'sir, as in gutom na gyud ko pag ayo' (sir, I am really hungry).

"When Quirol was closing the door of the room, he called to Maboloc and said, 'day uyab na ta ha' (we're lovers already), and added, 'ato ato ra ni ha? Ako'y bahala sa imo thesis, ako na pakyawon lagi day' (it will be our secret, ok? I will take care of your thesis). She replied, 'di ko sir kay gusto ko mahibalo unsaon paghimo ug libro' (no sir because I want to learn how to make a thesis), and he answered, 'ako I lage bahala ato' (I will take care)."

Verily, Quirol committed an unwelcome sexual advance against Maboloc when he forcibly kissed her on the lips despite protest. In fact, he kissed her twice, causing her anxiety, discomfort, insecurity, and humiliation. Clearly, the instant case falls squarely within the definition of Sexual Harassment. And pursuant to Section 53 (A) (2), Rule X of the Administrative Disciplinary Rules on Sexual Harassment Cases, the liability for Sexual Harassment is grave considering the presence of sexual assault.

Certainly, no women of younger ages would expose themselves to humiliation and public ridicule of having been sexually assaulted or harassed by a man who happened to be their superior, unless they are wronged and deeply motivated by a strong desire to seek justice and redress (**Guiéb, Reynaldo A. CSC Resolution No. 07-1804 dated September 10, 2007**).

In addition, no less than the Supreme Court made the pronouncement that as a rule, "no Filipina of decent reputation would publicly admit that she had been criminally


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abused and ravished unless that is the truth. It is her natural instinct to protect her honor.
(People vs. Ramilo, G.R. No. 52230, December 15, 1986)

WHEREFORE, the petition for review of Paciano T. Quirol, former Professor, Visayas State University, Baybay City, Leyte, is hereby **DISMISSED**. Accordingly, the Decision No. 11-0163 dated September 22, 2011 of the Civil Service Commission Regional Office (CSCRO) No. VIII, Palo, Leyte, finding him guilty of Serious Sexual Harassment and imposing upon him the penalty of dismissal from the service with all its accessory penalties, and the Resolution No. 12-0112 dated July 9, 2012, denying his Motion for Reconsideration, are **AFFIRMED**. The penalty of dismissal from the service shall carry with it the accessory penalties of forfeiture of retirement benefit, perpetual disqualification from reemployment in government service, cancellation of civil service eligibility, and bar from taking any civil service examination.


Quezon City.


FRANCISCO T. DUQUE III
Chairman

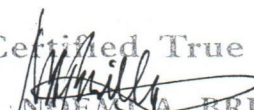

MARY ANN Z. FERNANDEZ-MENDOZA
Commissioner


ROBERT S. MARTINEZ
Commissioner

Attested By:


DOLORES B. BONIFACIO
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