

MALACAÑAN PALACE

MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 127

REMOVING HERMENEGILDO ATIENZA AS MEMBER OF THE MUNICIPAL BOARD, AND SUSPENDING BOARD PRESIDENT EUSTAQUIO BALAGTAS AND BOARD MEMBERS TEOFILO MENDOZA, VALERIANO FUGOSO, BARTOLOME GATMAITAN, IÑIGO ED. REGALADO, AGATON CECILIO AND MATEO HERRERA, ALL OF THE CITY OF MANILA

This case arose out of certain charges and counter-charges alleged to have been made by Members Hermenegildo Atienza, Teofilo Mendoza and Valeriano Fugoso of the Municipal Board of the City of Manila during its session held on February 21, 1940, in connection with the election of the President of that body. Acting upon my instructions, the Department of the Interior conducted a preliminary inquiry into the case, and after going over its report, I ordered the preventive suspension and formal investigation of the parties affected on the following counts: (1) That the President and the Members of the Municipal Board who belong to the majority party, as well as the Secretary and the two stenographers of the Board, upon learning of the investigation being conducted by Undersecretary Luna, conspired with one another to obstruct the investigation ordered by me; (2) That the President and Members of the Municipal Board who belong to the majority party, entered into and signed an agreement whereby each and everyone of them bound himself to do an official act which is contrary to public policy and morality; (3) That the conduct of the President and Members of the Municipal Board above referred to, considering all the circumstances of the case, constitute, if true, a grave offense.

The charges against Board President Eustaquio Balagtas and Board Members Hermenegildo Atienza, Teofilo Mendoza, Valeriano Fugoso, Bartolome Gatmaitan, Iñigo Ed. Regalado, Agaton Cecilio and Mateo Herrera were duly investigated by the Department of the Interior, in which investigation the respondents were given full opportunity to be heard and present evidence in their defense. The administrative discipline of the secretary and the two stenographers of the Municipal Board involved were left to the Board and the Commissioner of Civil Service pursuant to the procedure laid down in Executive Order No. 39, dated June 23, 1936.

It appears that in the afternoon of February 23, 1940, the Undersecretary of the Interior requested the Secretary of the Municipal Board to furnish him a copy of the transcript of the record of the proceedings of the Board in its session of February 21, 1940, including those portions relating to the alleged splitting of per diems between the aspirants to the presidency of the Board, which were ordered stricken out during that session. The delivery of the said transcript was considerably delayed until 1:15 o'clock in the afternoon of the following day notwithstanding repeated reminders addressed to the President and the Secretary of the Board, and the copy of the transcript as delivered did not include the speeches of Councilors Atienza, Mendoza and Fugoso particularly desired by the Department of the Interior. Moreover, the stenographic notes accompanying the transcript showed that the portions ordered stricken from the records were crossed out so heavily as to render them completely unreadable. The evidence shows that the obliteration was accomplished by the stenographers only between the hours of 12:00 and 12:30 noon of February 24, 1940, upon instruction of the majority party councilors present at the caucus held on the same day in the office of the Board President, namely, Councilors Balagtas, Fugoso, Atienza, Cecilio, Mendoza and Herrera. There was thus a deliberate conspiracy between the majority members of the Board just named to delay and obstruct the investigation.

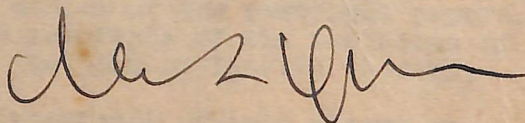
With reference to the second charge, it appears that in a caucus held by the respondents in the house of Councilor Cecilio on December 31, 1939, for the purpose of determining who should be elected Board President for the year 1940, several ballotings resulted in a deadlock between Councilors Atienza and Fugoso, as was the case in previous caucuses. The rumor that Councilor Mendoza was going to be appointed a month thence as Judge of the Municipal Court of Manila was brought up and Councilor Herrera proposed that the former be chosen Board President for the purpose of breaking the deadlock and incidentally affording him a good remembrance of his comradeship with the other majority board members, subject, however, to the conditions that he should resign on February 1, 1940, that his resignation would then be accepted and that they would elect Councilor Atienza to succeed him as Board President. Councilor Herrera's proposition was approved by all the other majority councilors, and Councilor Atienza who apparently anticipated such move produced three documents all addressed to the Municipal Board and dated February 1, 1939, which date Councilor Atienza declared during the

investigation to be a mere "psychological" error and should be corrected to read February 1, 1940. One of these documents was a letter of resignation as President of the Municipal Board to be signed by Councilor Mendoza; another was an acceptance of the resignation of Councilor Mendoza and a nomination of Councilor Atienza as President of the Board for the rest of the term of Councilor Mendoza, to be signed by Councilors Fugoso, Gatmaitan, Balagtas, Cecilio, Regalado and Herrera; and the other is a letter nominating Councilor Atienza as President of the Board, to be signed by Councilor Mendoza. All these letters were signed as proposed and kept by Councilor Atienza as a guarantee that the other majority members of the board would live up to their agreement. Accordingly, Councilor Mendoza was elected Board President on January 2, 1940, and in accordance with the agreement, he submitted his resignation to the Board on February 6, 1940, which resignation, however, the Board did not accept. Councilor Mendoza pressed the approval of his resignation which was finally accepted by the Board in its session on February 15, 1940, but the consideration of the election of the next Board President was postponed to the succeeding session. As during the caucus which preceded the next session on February 21, 1940, some of the majority members of the Board manifested their unwillingness to carry out the previous agreement to elect Councilor Atienza as President of the Board, the latter produced the three letters dated February 1, 1939 (1940) in open session, in an endeavor to force his election. The other majority members of the Board, however, disregarded the agreement embodied in those documents and elected Councilor Balagtas as President of the Board instead. Councilor Atienza alleged that he acceded to the agreement of December 31, 1939, to elect Councilor Mendoza as President of the Board in view of the friendly remonstrance made to him that it would increase the latter's chances of being appointed Judge of the Municipal Court. The other majority councilors maintained, however, that their only intention in electing Councilor Mendoza as President of the Board was to break the long-standing deadlock and to secure harmony among themselves. Whatever the reasons which might have motivated the respondents into entering into the agreement in question, the stubborn fact remains that they entered into a contract concerning a public office which is beyond the commerce of men. The question to decide is not whether the contract entered into by the respondents is valid or not, because the illegality of the agreement is indisputable. What qualifies the offense of the respondents is not so much the unenforcibility of the contract as the fact that it runs counter to all considerations of public policy and morality.

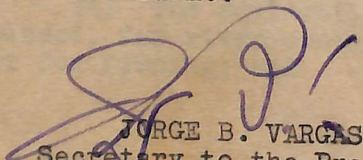
After carefully weighing the evidence of record, I agree with the findings of the Secretary of the Interior that Councilor Atienza, and Councilor Mendoza to a lesser degree, are guilty of grave misconduct for obstructing the investigation and trafficking in the office of the President of the Municipal Board; that Board President Balagtas and Councilors Fugoso, Gatmaitan, Cecilio, Regalado, and Herrera are liable as accomplices in trafficking with a public office although they did not derive any personal benefit from the transaction, and with the exception of Councilors Gatmaitan and Regalado, are likewise guilty of obstructing the investigation.

In view of the foregoing, and concurring in the recommendation of the Secretary of the Interior, Hermenegildo Atienza is hereby removed from office as Member of the Municipal Board of the City of Manila; Board Member Teofilo Mendoza is suspended for five months; Board President Eustaquio Balagtas and Board Members Mateo Herrera, Valeriano Fugoso and Agaton Cecilio are suspended for four months each; and Board Members Ifiigo Regalado and Bartolome Gatmaitan are suspended for three months each. In addition, Board President Balagtas and Board Members Mendoza, Herrera, Fugoso, Cecilio, Regalado and Gatmaitan are hereby publicly reprimanded and warned to be more careful in the performance of their duties under pain of more drastic penalty for the same or similar derelictions in the future.

Done at the City of Manila, this sixth day of June, in the year of Our Lord, nineteen hundred and forty, and of the Commonwealth of the Philippines, the fifth.



By the President:



JORGE B. VARGAS  
Secretary to the President