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MEMORANDUM FOR H.E., THE PRESIDENT

T H R O U G H **HON. ALBERTO G. ROMULO**
Executive Secretary

F R O M **Secretary ELISEA G. GOZUN**
Department of Environment and Natural Resources

S U B J E C T **Letter of ATTY. JULIANO P. NACINO.**

D A T E 16 September 2003

This memorandum is in response to the letter of Atty. Juliano P. Nacino to the President that alleged a breach of ethics and propriety in my decisions as Secretary of Environment and Natural Resources.

The breach purportedly occurred by favoring the award of a contract for consultancy services to a firm some of whose Incorporators/Board of Directors are composed of former DENR officials and myself. Atty. Nacino continued to state that his refusal to sign the resolution awarding the contract to the Environmental Services Australia Overseas (OPCV)/GAIA South, Inc. was the cause of his replacement as Director of DENR's Legal Services.

I respectfully wish to clarify the issues raised by Atty. Nacino. It is true that I was one of the incorporators of GAIA South, Inc. when it was established sometime in 1992. It follows that I was also a member of the Board of Directors, as is the standard practice in any corporate entity. However, since 1994, I have ceased to be an Incorporator and member of the Board of Directors by withdrawing my shares of stocks. And that was nine years before I became Secretary.

My being the Secretary at the time that the contract was awarded is only incidental. The various prerequisite stages of evaluation of bid proposals and the actual bidding prior to the final phase of contract award started in early 2000. And these stages have gone through three DENR Secretaries and three years before I became Secretary. I could not undo a process that, to my analysis and evaluation, has observed the evaluation criteria set in the award of consultancy services. Doing so would be a disservice that I consider would be more of *the* breach of ethics and propriety.

The award of the project to the winning bidder was recommended to the Asian Development Bank by the Technical Evaluation Committee and the Pre-Qualification and Evaluation Committee (PEVAC) last 28 May 2002 and 06 June 2002. This recommendation to the ADB was reiterated on 12 September 2002 when Secretary Heherson T. Alvarez was still heading DENR.

All of these facts were submitted in detail in a memorandum sent to your Office on 01 August 2003.

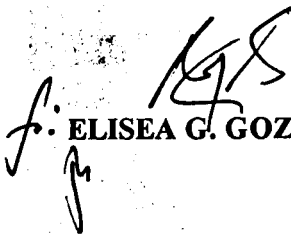
The replacement of Atty. Nacino as Director of Legal Services was not in retaliation for his refusal to sign the Board Resolution. Since the day I assumed office, and fully aware that I only have eighteen months of tenure, I have made it clear to my team that it is not the management of the environment and natural resources that is crucial but finding and placing good managers. Hence, I started with the selection of field officers from the community level up to the director level. Again, we have spent considerable time in setting the evaluation criteria so that our actions would be above board. And because I believed in the process that we have undertaken, I have even resisted giving in to the numerous requests and recommendations that I have received to accommodate personnel to the available positions.

The same is true in the selection of my team in the Central Office. And since we are working on a limited time frame, I have to find people who have the experience and the capacity to share my vision of and work towards the mission of the DENR. Therefore, I relied on former DENR officials who are not only technically capable but managers as well. The decision to replace Atty. Nacino with someone who had been in the DENR service for quite a time was a big consideration. The backlog of past administrations have to be unloaded especially the administrative cases whose respondents have been waiting for a long time for a decision. The same holds true for other legal cases. If there is a legacy that I would like to leave in DENR, it is that I facilitated the resolution of cases. And this could be realized only with an official who would have full grasp of the situation and circumstances.

These and other considerations have been outlined in my memorandum to Your Excellency dated 23 July 2003 when I recommended Atty. Clarence Darrow de Guia as Director of Legal Services. I humbly consider your approval of Atty. de Guia's appointment as an acknowledgment of the need to get things done at a faster pace.

I have taken this opportunity to respond immediately, not because there are things to cover up but because I believe that nuisances should not sidetrack us in our work in the Department of Environment and Natural Resources.

FOR HER EXCELLENCY'S INFORMATION.


f. ELISEA G. GOZUN