

## **ASIAN DEVELOPMENT BANK ADMINISTRATIVE TRIBUNAL**

**Decision No. 55  
(8 August 2002)**

**Florencio P. Galang, Jr.  
v.  
Asian Development Bank**

**Mark Fernando, President  
Shinya Murase  
Flerida Ruth Romero**

1. The Applicant joined the Bank in December 1977. In September 2000 he was a Senior Procurement Assistant (Support Staff Level 5) in the Office of Administrative Services Procurement Section ("OAGS-PR").

### **Background**

2. On 29 September 2000, consequent upon a theft of PhP 1,500 from the room of a staff member, the Applicant was suspended from duty, by the following memorandum issued by the Director, Budget, Personnel and Management Systems Department ("BPMSD"), and served on him at 5:50 p.m.:

- a. We have been informed by Manager, OAFM [Office of Administrative Services, Facilities Management Division], that you are suspected of theft within the ADB's premises. The matter has been brought to the attention of the police and, in view of the pending investigation by the police, you are hereby suspended with immediate effect from duty for a period of 30 days. During this period, ADB will withhold 50% of your current monthly take home salary, notwithstanding any further deductions which otherwise may be applicable.
- b. Please note that such suspension is only an interim measure, not a disciplinary measure. The withholding of part of your salary is being done in order to be fair to you and in view of your personal circumstances. However it appears on the basis of the information currently available that your participation in the thefts within ADB's premises caused financial damage to the property of other ADB staff. The money withheld from your salary will be returned to you in case the investigation concludes that you are innocent of such thefts.

3. By another memorandum dated 13 October 2000 the Director, BPMSD, lifted the suspension because "the police reports [did] not offer conclusive evidence" of theft.

4. The Applicant having duly exhausted his internal remedies, contests his suspension, contending that the Bank grievously disregarded and violated the terms and conditions of his appointment, in that:

- a. The Bank disregarded its own policy on disciplinary measures and procedures laid down in Administrative Order ("A.O.") No. 2.04 (of 9 July 1998), paragraph 1.1: "These policies and procedures are intended to ensure fairness and to safeguard the rights of staff members and legitimate interests of the Bank";

- b. The Applicant was denied due process as guaranteed not only by accepted general principles of law but also more specifically by paragraph 1.2 of A.O. No. 2.04: "Disciplinary measures shall be imposed only following a thorough investigation of the facts and after affording the staff member concerned an opportunity to state his/her case";
- c. The Bank erred in its imposition of the interim suspension order and violated the provisions of Section 5.1 of A.O. No. 2.04.

5. The Applicant prayed for the following reliefs:

- a. US\$200,000 as compensation for moral injury, humiliation, besmirched reputation, wounded feelings, mental stress, anxiety and anguish;
- b. US\$1,000,000 as punitive damages to be donated to the Staff Community Fund;
- c. An order directing the ADB to amend Section 5 of A.O. No. 2.04 to include strict guidelines in its implementation, specifically in the issuance of interim suspension orders;
- d. The removal of all remarks in the Bank's records of a prejudicial nature against him;
- e. The issuance of a public apology by ADB; and
- f. US\$20,000 as legal and other costs.

6. The Bank contends that the issue is not whether the Applicant was guilty of the theft, but whether the Applicant's suspension pending investigation was warranted and appropriate on the information available at that time, and whether the correct, fair and transparent procedure was followed in reaching the decision to suspend.

#### **Administrative Order No. 2.04**

7. A.O. No. 2.04 lays down the Bank's "Disciplinary Measures and Procedures." The following extracts are relevant to the issues now before the Tribunal:

##### **1. Policy**

1.1 ...These policies and procedures are intended to ensure fairness and to safeguard the rights of staff members and the legitimate interests of the Bank.

1.2 ...Disciplinary measures shall be imposed only following a thorough investigation of the facts and after affording the staff member concerned an opportunity to state his/her case.

1.3 It is essential that, if an incident of unsatisfactory conduct or misconduct is alleged or discovered, prompt action is taken to determine the substance and circumstances of the matter....

#### **4. Disciplinary Measures**

4.1 Disciplinary measures imposed by the Bank on a staff member shall be determined on a case-by-case basis, taking into account the criteria set forth in this Section. They may take the forms indicated below....

4.2 ....

(d) Suspension from duty with reduced pay or without pay;...

#### **5. Interim Measures**

5.1 If a charge of unsatisfactory conduct or misconduct is made against a staff member, the following interim measures may be taken pending investigation of the charges against the staff member:

(a) Temporary Transfer/Assignment to other Duties. The staff member may be transferred temporarily to another Department/Division or be assigned to different duties and responsibilities within his/her Department/Division.

(b) Suspension pending investigation. The staff member may be suspended from duty with pay, with partial pay or without pay, such suspension being without prejudice to the rights of the staff member....

#### **8. Preliminary Inquiry**

8.1 Where a staff member is alleged to have engaged in unsatisfactory conduct or misconduct for which disciplinary measures may be imposed or where an incident of possible unsatisfactory conduct or misconduct is discovered, a preliminary inquiry will be undertaken, if necessary, to determine the substance and circumstances of the matter... The purpose of the preliminary inquiry is to determine whether there is sufficient evidence to merit the initiation of formal disciplinary proceedings. For this purpose, the explanations of the staff member may be sought with a view to determining if the initiation of formal disciplinary proceedings is warranted....

#### **9. Formal Disciplinary Procedures**

....

9.2 Where there is sufficient evidence to indicate that the staff member has engaged in unsatisfactory conduct or misconduct, the following procedures shall be carried out by BPMSD:

(a) The initiating officer (paragraph 9.1 of this A.O.) shall address to the staff member a confidential memorandum in duplicate describing the unsatisfactory conduct or misconduct and informing the staff member of the charges against him/her. This memorandum shall specify the alleged unsatisfactory conduct or misconduct....

....

(c) The staff member shall have ten working days ... to reply ...."  
(emphases added)

There follow other provisions regarding the subsequent steps in the disciplinary procedure, the imposition of disciplinary measures, appeals, etc. Those are not relevant to the issues which the Tribunal has to determine.

### **The Facts**

8. There had been several thefts, especially of cash, from the offices of professional staff members working in the Bank's headquarters building during the month of August 2000.

9. One such theft of cash was on 11 August 2000 from the office of Ms. M., a professional staff member in the Office of External Relations ("OER"). The circumstances of that theft, which are very relevant to the issues in this case, were disclosed only in the Bank's Rejoinder: that on 11 August at 4:00 p.m. Ms. M. had found a man inside her office who was holding a wallet and did not explain his presence despite being twice asked to do so; that she later noticed that PhP 8,000 had been taken from her own wallet; and that she had given the Head, OAFM-SE, a physical description of the man.

10. Thefts continued in September too. In order to catch the thief the Bank installed hidden surveillance cameras and placed currency notes dusted with blue anthracene powder in wallets in the offices of some of the professional staff members (after recording their serial numbers). Handling those notes would leave traces of that powder on the palms or fingers. Those traces, though not visible to the naked eye, would show up as fluorescent smudges when placed under an ultraviolet light.

11. On Friday 29 September 2000 one such wallet was placed in a visible place in the office of Ms. M. At 8:45 a.m. it was discovered that the camera was not functioning, and arrangements had been made for it to be replaced by 10:30 a.m. Before that, however, at 10:15 a.m. Ms. M. reported that she had been away from her office from 9:00 a.m. to 10:00 a.m., and that on her return she had observed that a PhP 1,000 note and a PhP 500 note were missing from the wallet.

12. In an endeavour to trace the thief, the Head, OAFM-SE, decided to test a batch of service contractors' personnel (29 waiters, three janitors, five security staff, three drivers) as well as two Bank drivers and seven OER consultants. Those persons were selected for testing on the basis of either proximity to Ms. M.'s office or the nature of their work, but OER staff were not included as it was decided to test them later in the day "so as not to unduly alarm the suspect if he/she was an insider in [the OER] office." The tests were conducted by the Assistant Security Administrator ("ASA"). All the tests were negative.

13. At about 3:00 p.m., the Head, OAFM-SE, asked the Head, Office of Administrative Services, General Services Division, Procurement Section ("OAGS-PR"), for cooperation in testing all OAGS-PR staff. Nine staff members present submitted themselves for testing. The Applicant was the eighth to be tested. Immediately thereafter the hands of the remaining staff member "were grabbed and shaken" by the Applicant. Everyone except the Applicant tested negative.

14. The ASA then discreetly informed the Head, OAFM-SE, that "it looked to him that [the Applicant had] traces of fluorescent powder and that he should be re-examined discreetly." The Head, OAFM-SE, informed the Head, OAGS-PR, who sought Applicant's consent to a closed-door re-examination in his office. The second test produced the same result. The Head, OAFM-SE, informed the Applicant of the result and asked him if he had touched anything that could have been the cause of the fluorescent traces. The Applicant replied that he had played bowling the previous night and that perhaps the bowling powder he had used was the cause. The Applicant also claims (and this is supported by a police report dated 5 October 2000) that he had stated that the result could be due to calluses on his hand caused by years of bowling, and that he had requested that a fellow bowler and staff member, Mr. A., whose hands were similar, be tested.

15. The Tribunal notes that the Applicant was not questioned on his whereabouts from 9:00 to 10:00 that morning and that consequently the Applicant had no opportunity to establish an alibi.

16. The Head, OAFM-SE, then asked him if he was willing to have his wallet inspected. The Applicant agreed and went to his workstation. The Head, OAFM-SE, followed him. The Applicant unlocked his desk drawer, took out a wallet, and placed it on the desk. He then said he wished to make phone calls to his wife and his lawyer. The Head, OAFM-SE, did not touch the wallet or say anything, but simply waited. The ASA then came, and the Head, OAFM-SE, asked him to listen to what the Applicant was saying in Tagalog, and to keep a watch on the Applicant and the wallet. The Head, OAFM-SE, then telephoned the Manager, OAFM, explained the situation, and requested guidance as to how to proceed. The latter instructed him to continue monitoring the Applicant and to await further instructions. The Head, OAFM-SE, did not pick up the wallet or again ask the Applicant for his consent to examine it. While waiting for the Applicant to finish his calls, the Head, OAFM-SE, left upon receipt of a telephone message that he was summoned by the Director, BPMSD, to attend a meeting.

17. At that meeting the Head, OAFM-SE, narrated the events of the day and, together with the Manager, OAFM, responded to the questions that were asked. The Director, BPMSD, decided "that the police should be requested to come to the Bank immediately and to conduct an examination, and that [the Applicant] should be suspended pending the result of the investigation. The decision to call the police was conveyed to the ASA by 5:00 p.m. There is no written record of that discussion and decision.

18. The Tribunal notes that Ms. M. was not asked – either on that day or even subsequently – whether the Applicant was the man whom she had seen in her office on 11 August; that no attempt was made to ascertain whether the Applicant fitted the description of that man as given by Ms. M. to Head, OAFM-SE; and that OER staff had not been tested.

19. In the meantime the Applicant was continuing to make phone calls, saying that he wanted to contact Staff Council officers and friends. The ASA stated that at one point the Applicant took the wallet and held it underneath his desk, and that the ASA did not see what exactly he did with his wallet or money. In conversation with the ASA, he protested his innocence: that he could not possibly have done such a thing as he was a lay minister in his church congregation, that he was familiar with powders having been in Security before, and that the incident would do great harm to his reputation. The ASA "reminded him to stay cool as we hope to clear him soonest if so warranted." At about 4:00 p.m. the Applicant's lawyer and his fellow bowler Mr. A. arrived - obviously in response to his phone calls. Mr. A. confirmed to the ASA that they had played bowling the previous night, and had used bowling powder. The lawyer asked the ASA what was the probable cause that would justify the search of the Applicant's wallet, and the ASA

explained that his right palm and fingers had shown traces of the fluorescent powder. The Bank does not claim that the Applicant or his lawyer expressed any reluctance whatever to the search of his wallet, nor does it explain why Mr. A. was not promptly tested in order to verify the Applicant's claims.

20. The Tribunal considers it probable that the Applicant did request that Mr. A. be tested; that at his request Mr. A. promptly presented himself for testing; and that the ASA did not test him because, as claimed by the Applicant, by then the ultraviolet light was not functioning. Mr. A. did not wait because he had another engagement. The Bank thus lost an opportunity to verify the Applicant's explanation, through no fault of his.

21. Soon after 5:00 p.m. the Applicant packed his bag in order to leave, saying that he had to fetch his daughter from school. Without informing him that the police would be arriving, the ASA told the Applicant to wait; and the Applicant complied without demur. It is clear that he continued to be closely monitored, because even when he went to the toilet the ASA followed him.

22. At 5:30 p.m. two police officers arrived. Upon their request, the Applicant submitted his wallet for search. The serial numbers did not match those of the missing notes. Not only did they search his bag but they subjected him to a body search as well. Here, too, the Bank does not suggest that he showed any reluctance. Indeed, the police report dated 5 October 2000 confirms that he "cooperated in the investigation."

23. While that search was in progress, the letter of suspension was brought, and was served on the Applicant at 5:50 p.m.

24. Shortly before the police left at 6:30 p.m., the question arose whether the Applicant should go to the police, Office of the Scene of the Crime Operation ("SOCO"), for a further examination of his hands. There are conflicting versions on that point. The police officers stated in their report dated 29 September 2000 that the Applicant "resisted", but, at the same time, that the Bank's "security officers did not bother to give attention to [their] recommendation", and in their next report that the Applicant declined, stating that he had recently played bowling and the reaction could be due to the bowling powder or the calluses on his hand. The ASA noted that "the police did not ... invite him to the police station for confirmatory laboratory tests." The Head, OAFM-SE, reported that the police officers had told him that since they "lacked the necessary expertise to determine whether there were traces of blue anthracene powder ... [the Applicant] had been requested to accompany them to the police station for further investigation but he had explained that it was not convenient at that time." On the other hand, the Applicant stated that the invitation "was tentatively made" and "there was no assurance that the procedure could be carried out that night." The Tribunal will proceed on the basis that the Applicant declined to undergo further testing that night.

25. The foregoing account of the facts is based principally on a "Note for File" dated 5 October 2000 made by the ASA (which is the earliest written record of the events of 29 September 2000), as well as a note made by Head, OAFM-SE, on 21 June 2001 and the Bank's pleadings.

26. The Tribunal notes that there was another theft of cash, of PhP 18,000, on the very next working day, which was Monday 2 October 2000, i.e. even after the Applicant's suspension.

27. On 3 October 2000 the Applicant asked the Director, BPMSD, to lift the suspension. He refused. On 9 October 2000, the police reported after testing the Applicant on 5 October 2000 that "no conclusive result was obtained since there was no marked specimen submitted for

comparison and considering also the span of time that had elapsed." Later by memorandum dated 13 October 2000 the Director, BPMSD, lifted the suspension but maintained that the suspension had been warranted and justified on the basis of the evidence available at the time it was imposed.

28. The reason for suspension, as originally stated in the letter of suspension, was that the Director, BPMSD, had "been informed by Manager, OAFM, that [the Applicant was] suspected of theft within the ADB's premises" and "on the basis of the information currently available that [the Applicant's] participation in the thefts within ADB's premises caused financial damage to the property of other ADB staff" (emphases added).

29. Those reasons were amplified by the Director, BPMSD, in his memorandum dated 25 January 2001, by which he refused the Applicant's request for administrative review. He then stated that there were reasonable grounds to believe that the Applicant was a suspect in the theft which took place on 29 September 2000, because:

- a. The Applicant was the only person who tested positive to the ultraviolet test;
- b. The Applicant's behaviour in grabbing and shaking the hands of the person next in line vigorously without any apparent reason, suggested that he might have been trying to rub off the powder in order to make her produce a positive result;
- c. The Applicant chose to make phone calls and failed to comply with the request to allow the inspection of his wallet;
- d. According to the police report, the Applicant had declined to undergo examination at SOCO.

### **Questions for Determination**

30. The Applicant contends that the Bank failed to ensure fairness to him, and thus contravened Section 1.1 of A.O. 2.04; that the Bank denied him due process, and contravened Section 1.2 of A.O. 2.04 by imposing a disciplinary measure without "a thorough investigation of the facts and after affording the staff member concerned an opportunity to state his/her case"; and that the Bank issued the interim suspension order with undue haste and without reasonable grounds for suspecting the Applicant of theft, and thus contravened Section 5.1 of A.O. No. 2.04.

31. The Bank submits that the decision to suspend the Applicant was not a formal disciplinary measure; that the information available at the time, the fact that the Applicant tested positive, his suspicious conduct, and his failure to cooperate in the ongoing investigation, gave the Bank reasonable cause to suspect that he had committed the theft; and that this level of evidence and the gravity of the alleged offence gave the Bank grounds to impose the interim non-disciplinary measure of suspension pending further investigation.

32. Three questions arise for determination:

- a. Was the Applicant's suspension a "disciplinary measure"; and, if so, invalid because the Bank failed to conduct an investigation as required by A.O. 2.04 Section 1.2?

- b. Had a "charge" (of unsatisfactory conduct or misconduct) been "made" against the Applicant in terms of A.O. 2.04 Section 5.1; and, if not, was the order of suspension invalid?
- c. Did the Bank have reasonable grounds for suspecting the Applicant of theft?

### **Was the Suspension a "Disciplinary" Measure?**

33. Although one of the "disciplinary measures" listed in Section 4.1(d) of A.O. 2.04 is "suspension from duty", it is clear from Section 5.1(b) that suspension from duty is also a permissible "interim measure" pending investigation.

34. The order of suspension expressly stated that the suspension was only an interim measure pending investigation, and not a disciplinary one. The circumstances in which it was issued confirm that it was never intended to be a disciplinary measure. The Tribunal holds that the Applicant's suspension was no more than an interim measure. His challenge on that count fails.

### **Had a "Charge" Been Made?**

35. The Tribunal has to consider whether the "charge" contemplated by Section 5.1 is an express accusation or allegation of unsatisfactory conduct or misconduct, or whether it also includes a reasonable suspicion.

36. A scrutiny of Sections 8 and 9 of A.O. 2.04 reveals that it contemplates the following sequence of events:

- a. An allegation or discovery of unsatisfactory conduct or misconduct;
- b. Action (in the form of a preliminary inquiry) to determine the substance and circumstances of the matter;
- c. If such action discloses that there is sufficient evidence to warrant formal disciplinary proceedings, the staff member will be informed of the charge against him, describing the alleged unsatisfactory conduct or misconduct; and thereafter,
- d. Formal disciplinary proceedings.

37. The "charge" contemplated by Section 9 of A.O. 2.04 is not a mere suspicion or allegation, but an accusation supported by sufficient evidence. The question which the Tribunal has to decide is whether the same meaning must be given to "charge" in Section 5.1.

38. Section 5.1 authorizes interim measures if "a charge is made" against a staff member. That phrase is not appropriate to describe a "suspicion." Besides, it was the Bank which issued the A.O., and it could have put the matter beyond doubt by using unambiguous language, e.g. "if a staff member is suspected of or charged with unsatisfactory conduct...." The Bank failed to do so, and Section 5.1 must be interpreted contra proferentem, and any ambiguity resolved in favor of the staff member.

39. In any event, there is good reason to prefer the narrower interpretation. Suspension involves serious consequences to the livelihood and reputation of a staff member. An interpretation which allows such consequences only where there is sufficient evidence of misconduct should,



in the event of ambiguity, be preferred to another interpretation which would permit those consequences despite the absence of evidence.

40. The Tribunal holds that, no charge of unsatisfactory conduct or misconduct having been made against the Applicant, the Bank was not entitled to suspend him from duty.

Were There Reasonable Grounds for Suspicion?

41. In view of that finding, it would have been unnecessary to decide whether there were reasonable grounds for suspicion. However, that matter is relevant to the relief claimed.

42. The memorandum dated 25 January 2001 sent by the Director, BPMSD, to the Applicant specified four reasons for suspicion. The Tribunal accepts the Bank's contention that testing positive to the ultraviolet light gave rise to suspicion, and will even assume that grabbing and shaking the hands of the next person to be tested may also be considered suspicious. The last reason set out in that memorandum is quite untenable. While it is true that the Applicant refused to undergo further testing at SOCO, that occurred after 5:50 p.m. However, the order of suspension was made before 5:00 p.m., and the Bank is not entitled to attempt to justify suspension by reference to subsequent events.

43. As for the alleged failure to comply with the request to allow inspection of his wallet, the Tribunal notes two points. First, it is quite clear that the Applicant promptly agreed to such inspection no sooner that request was made. Placing his wallet on his desk was consistent with continuing consent, and not with refusal. Second, if the Head, OAFM-SE, genuinely entertained a doubt as to whether the Applicant's consent still held good, all he had to do was to direct him to return to the office of the Head, OAGS-PR. Instead he opted to wait until the Applicant finished his phone calls. Even when he was summoned for the meeting with the Director, BPMSD, the Head, OAFM-SE, did not ask the Applicant whether he could inspect the wallet. In the circumstances, making phone calls could not have been regarded as a delaying tactic, because trying to contact his wife, his lawyer, Mr. A., and Staff Council members was legitimate for the protection of the Applicant's interests. The fact that the investigation was consequently delayed, at most for fifteen or twenty minutes, could not reasonably have been regarded as an act of obstruction or non-cooperation. Indeed, telephoning Mr. A. and getting him down to be tested should have been regarded as cooperation in the inquiry – for the inquiry was intended not only to find evidence of guilt but proof of innocence as well. What is more, at 4:00 p.m. both Mr. A. and the lawyer arrived. After the lawyer obtained clarification of the reason for examining the wallet, neither he nor the Applicant expressed any reluctance about inspection, but the ASA did nothing to ensure that the wallet was examined. Thus before the decision to suspend the Applicant was taken, it had become clear that the Applicant had no objection to the inspection of his wallet. Furthermore, by the time the letter of suspension was served it had become clear that the Applicant was cooperating fully: at 5:00 p.m. although he wished to leave, he agreed to wait; and later when the police arrived, he allowed himself to be searched. Hence, the conclusion that he did not cooperate was unjustified.

44. Reverting to the test with the ultraviolet light, the Tribunal notes that although the evidence suggests that the Bank is right in contending that blue anthracene powder does produce a particular reaction to the ultraviolet light, there is no evidence, nor even a suggestion, that other substances do not produce a similar reaction. Besides, the Bank failed to verify the Applicant's claim in regard to bowling powder and calluses, particularly by testing Mr. A., before issuing the suspension order. In that regard, other matters for concern are, first, that no sooner the Applicant tested positive the Bank refrained from proceeding to test other OER staff; second,

that no attempt was made to ascertain whether the Applicant was the man whom Ms. M. found in her room on the occasion of the first theft; and third, that the Applicant was not questioned on his whereabouts at the time the theft took place.

45. The Tribunal notes also that in the letter of suspension the Director, BPMSD, did not even state that he suspected the Applicant of theft, let alone the grounds for such suspicion. All he said was that he had been informed by the Manager, OAFM, that the Applicant was suspected of theft. Even if suspension can be ordered on the basis of suspicion alone, at the very least the person making the order of suspension should himself entertain a reasonable suspicion, after considering all the relevant facts and taking adequate time for consideration.

46. Although suspension was an interim measure, its impact on the reputation of the Applicant should not have been ignored. Irrespective of whether a decision is valid, just as it is implicit in every contract of service that the staff member shall be loyal, shall treat his superiors with due respect, and shall guard the reputation of the employer, so it is implicit that the employer in its treatment of staff members shall have a care for their dignity and reputation and shall not cause them unnecessary personal distress. Often distress and disappointment cannot be avoided, but, where it can be, it should be (*In re Schofield*, ILOAT Judgment No. 361, 9). The Tribunal holds that order of suspension was made with undue haste.

47. The Bank has cited three decisions of the UNAT (*Pennachi*, Judgment No. 542, *Leo*, Judgment No. 615 and *Augustine*, Judgment No. 890) in support of its contention that there was no undue haste or other irregularity in regard to the suspension of the Applicant. These decisions are distinguishable, because in every one of them there was prima facie evidence of misconduct warranting investigation, and not mere suspicion.

48. For those reasons, the Tribunal holds that the order of suspension was fatally flawed.

### **Reliefs**

49. The suspension was flawed and must be quashed, and remarks regarding the theft, prejudicial to the Applicant, must be expunged from the Bank's records. However, there is no evidence that the suspension was motivated by any ill-will or that undue publicity was given. Further, the suspension was lifted within a short period. In those circumstances, the Tribunal considers that an award of compensation for moral injury in a sum of PhP 150,000 would be equitable. The Tribunal does not consider that punitive damages and the issuance of a public apology are either justified or appropriate. The Tribunal has set out its interpretation of Section 5.1 of A.O. 2.04, and directions to the Bank to amend that A.O. are unnecessary.

50. From its inception (*Lindsey*, Decision No. 1 [1992], I ADBAT Reports), the Tribunal has stressed that an applicant's Reply must contain proof of his costs. However, the Applicant has failed to give any details of the legal fees and other costs incurred. While his Reply emphasizes the injustice done to him and his family, the only justification for claiming US\$20,000 is that his counsel "has dedicated a big part of his law office in the pursuit of the Applicant's cause [for which] \$20,000 is a meager recompense." The Tribunal awards him PhP 75,000 as costs.

### **Decision**

For the above reasons, the Tribunal unanimously

- a. Quashes the order of suspension dated 29 September 2000;

- b. Directs the Bank to pay the Applicant as compensation for moral injury the sum of PhP 150,000;
- c. Directs the Bank to expunge from its records all remarks of a prejudicial nature against the Applicant in respect of the theft which occurred on 29 September 2000;
- d. Directs the Bank to pay the Applicant as costs the sum of PhP 75,000; and
- e. Dismisses the Applicant's other claims.