

EXECUTIVE ORDER NO. 12

CREATING THE PRESIDENTIAL ANTI-GRAFT COMMISSION AND PROVIDING FOR ITS POWERS, DUTIES AND FUNCTIONS AND FOR OTHER PURPOSES.

Whereas, Article VII, Section 17 of the Constitution provides that the President shall have control of all executive departments, bureaus, and offices;

Whereas, in terms of personnel and funding, the Executive Department is the largest of the three branches of government;

Whereas, there is a need for commission under the Office of the President, to conduct the task of investigating and hearing administrative cases and complaints against personnel in the Executive Department;

Whereas, by virtue of the Executive Order No. 268 dated July 18, 2000, the Presidential Commission Against Graft and Corruption was abolished and replaced with the National Anti-Corruption Commission;

Whereas, the National Anti-Corruption Commission was never activated;

Whereas, there is a need to create a new commission to assist the President in the campaign against graft and corruption, whose jurisdiction and authority are clearly defined;

Now, therefore, I, Gloria Macapagal-Arroyo, President of the Philippines, by virtue of the powers vested in me by the Constitution and the laws, do hereby order:

Section 1. Creation - The Presidential Anti-Graft Commission hereinafter to as the "Commission", is hereby created under the Office of the President, pursuant to Article VII, Section 17 of the Constitution.

Sec. 2. Composition - The Commission shall be composed of a Chairman and two (2) Commissioners to be appointed by the President. All the members of the Commission shall serve on a full-time basis and a majority shall be members of the Philippine Bar. The Chairman shall have the rank, emoluments and privileges of a Presidential Assistant II. The Commissioners, on the other hand, shall have the rank, emoluments, and privileges of a Presidential Assistant I. The Chairman shall preside over the meetings of the Commission and shall direct and supervise the implementation and execution of policies, standards, rules and regulations.

Sec. 3. Secretariat. - The Commission shall have a Secretariat which shall provide technical and administrative support to the Commission and which shall be headed by an Executive Director. The Executive Director, under the control and supervision of the chairman, shall execute and administer the policies and decisions of the Commission and manage the day-to-day operations thereof. The Executive Director shall be appointed by the President upon the recommendation of the Chairman. The Chairman shall have the authority to appoint, promote, and discipline the personnel of the Secretariat.

The Commission, subject to pertinent laws, rules and regulations, may create, organize and set in operation such organizational units necessary for the performance of its powers, functions, and duties and for the enforcement of this Executive Order. Such units shall be staffed duly qualified personnel appointed by the Chairman and those detailed to the Commission by other government entities.

The Commission shall be exempt from the prohibition against hiring of new personnel prescribed in Administrative Order No. 100 dated December 1, 1999 with regard to its initial appointments provided that the organizational structure and staffing pattern of

the Secretariat shall be prepared in coordination with the Department of Budget and Management and submitted to the President for approval.

Sec. 4. Jurisdiction, Powers and Functions. -

(a) The Commission, acting as a collegial body, shall, on its own or on complaint, have the power to investigate or hear administrative cases or complaints involving the possible violation of any of the following:

(1) Republic Act No. 3019 as amended, otherwise known as the "Anti-Graft and Corrupt Practices Act;"

(2) Republic Act No. 1379 on the unlawful acquisition of property by a public officer or employee;

(3) Republic Act No. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees;"

(4) Presidential Decree No. 46, making it punishable for public officials and employees to receive gifts on any occasion, including Christmas;

(5) Any provision under Title Seven, Book Two of the Revised Penal Code; and

(6) Rules and regulations duly promulgated by competent authority to implement any of the foregoing laws or issuances.

(b) The Commission, acting as a collegial body, shall have the authority to investigate or hear administrative cases or complaints against all presidential appointees in the government and any of its agencies or instrumentalities (including members of the governing board of any instrumentality, regulatory agency, chartered institution and directors or officers appointed or nominated by the President to government-owned or controlled corporations or corporations where the government has a minority interest or who otherwise represent the interests of the government), occupying the positions of assistant regional director, or an equivalent rank, and higher, otherwise classified as Salary Grade "26" and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758). In the same manner, the Commission shall have jurisdiction to investigate a non-presidential appointee who may have acted in conspiracy or may have been involved with a presidential appointee or ranking officer mentioned in this subsection. The Commission shall have no jurisdiction over members of the Armed Forces of the Philippines and the Philippine National Police.

(c) Anonymous complaints against a presidential appointee shall not be given due course unless there appears on its face or the supporting documents attached to the anonymous complaint a probable cause to engender a belief that the allegations may be true.

(d) The Commission shall use every and all reasonable means to ascertain the facts in each case or complaint speedily and objectively and without regard to technicalities of law or procedure, in all instances observing the due process.

(e) The investigation or hearing involving a presidential appointee with the position of Undersecretary or higher shall be conducted by the

Commission sitting en bane. The investigation or hearing involving a presidential appointee occupying a lower position may be entrusted to a Commissioner or panel of hearing officers duly designated by the Chairman; Provided, however, that the report or recommendations of the Commissioner or panel of hearing officers who investigated or heard the administrative case or complaint shall be deliberated upon and reviewed by the Commission en bane before submitting its report and recommendations to the President.

Sec. 5. Powers Incidental to Investigation. - The Commission shall have the power to administer oaths and issue subpoena ad testificandum and duces tecum. The Commission shall likewise have the power to call upon and secure the assistance of any office, committee, commission, bureau, agency, department or instrumentality in the Executive Branch, including government-owned or controlled corporations.

During the pendency of its investigation or hearing, the Commission may recommend to the President the preventive suspension of the respondent for such periods as may be allowed by law.

Sec. 6. Enforcement of Subpoena. - Upon failure to comply with a subpoena issued by the Commission or by its authority without adequate cause, the Commission en bane, on motion or motu proprio, may recommend to the President, after formal charge and hearing, the suspension or dismissal from the service of the non-complying government personnel.

Sec. 7. Resignation/Retirement of Respondent. - The resignation or retirement of the public officer under investigation shall not divest the Commission of jurisdiction to continue the investigation or hearing and submit its recommendations to the President as to the imposition of accessory penalties or such other action to be taken.

Sec. 8. Submission of Report and Recommendations. - After completing its investigation or hearing, the Commission en bane shall submit its report and recommendations to the President. The report and recommendations shall state, among others, the factual findings and legal conclusions, as well as the penalty recommend to be imposed or such other action that may be taken.

Sec. 9. Referral to Other Government Units. - Whenever the Commission deems it warranted and necessary, it may refer for appropriate action any case to the Office of the Ombudsman, or any other office, committee, commission, bureau, agency, department, instrumentality or branch of the government, including government-owned or controlled corporations.

Sec. 10. Measures to Prevent and Minimize Graft and Corruption. - The Commission may conduct studies, on its own or in cooperation with other government agencies or non-governmental organizations, on new measures to prevent and minimize the opportunities for graft and corruption at all levels of bureaucracy.

Sec. 11. Consultants and Deputies. - The Chairman may engage the services of qualified consultants and/or deputies, from the public or private sector, subject to pertinent laws, rules and regulations.

Sec. 12. Reports. - At least thirty (30) days before the opening of each session of Congress, the Commission shall submit to the President:

(a) A list of respondents whom it has investigated, together with its recommendations, and other data or information it may deem necessary to be included;

(b) A list of respondents whom it is investigating, the status of the investigation, as well as other data or information it may deem necessary to be included; and

(c) Such other report or recommendation which is germane to any provision or purpose of this Executive Order or as may be required by the President.

Sec. 13. Disclosures. - The Commission shall not disclose or make public any record or information in connection with any investigation or hearing when such disclosure would deprive the respondent of his right to a fair and impartial adjudication. All disclosure of the Commission relating to an administrative case or complaint shall be balanced, fair, and accurate.

Sec. 14. Continued Performance of PCAGG. - Until the members of the Commission have been duly appointed, the Presidential Commission Against Graft and Corruption (PCAGG) shall continue to perform its powers, duties and functions under Executive Orders Nos. 151 and 151-A, both series of 1994, with respect only to cases already pending before it.

Sec. 15. Transfer of PCAGC Officers and Personnel. - The officers and personnel of the PCAGC may be transferred and appointed to such positions in the Commission for which they are deemed qualified.

Sec. 16. Transfer of PCAGC Funds, etc. - The funds, records, equipment, furnitures and other properties of the PCAGC shall be transferred to the Commission.

Sec. 17. Rules and Regulations. - The Commission shall promulgate or adopt its rules and regulations for the for the effective implementation of this Executive Order.

Sec. 18. Funding. - The Commission shall have a budget of EIGHTEEN MILLION TWO HUNDRED SIXTY THREE THOUSAND PESOS (P18,263,000.00) drawn against the budget appropriated for the National Anti-Corruption Commission. Any additional funding requirement shall be determined in coordination with the Department of Budget and Management and shall be submitted to the Office of the President for approval.

Sec. 19. Repeal. - Executive Order Nos. 151 and 151-A, dated January 11, 1994 and January 24, 1994 respectively, which created the PCAGC, are hereby repealed. Executive Order No. 268, dated July 18, 2000, which created the National Anti-Corruption Commission, is also hereby repealed. All other issuances, orders, rules and regulations, or parts thereof, inconsistent with this Executive Order are hereby repealed or modified accordingly.

Sec. 20. Effectivity. - This Executive Order shall take effect immediately upon approval.

Manila, April 16, 2001.