

PRESS RELEASE

26 October 2015

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MANILA CITY PROSECUTOR'S OFFICE DISMISSES COMPLAINT FOR 'USURPATION OF LEGISLATIVE POWER' AGAINST MARINA

The Maritime Industry Authority (MARINA) has been cleared of blame or suspicion when the Office of the City Prosecutor of Manila recommends the dismissal of the charge for Usurpation of Legislative Power under Article 239 of the Revised Penal Code. The City Prosecutor states in the resolution, **"it is crystal clear that complainant is, in effect, assailing or questioning the validity and constitutionality of the IRR (Implementing Rules and Regulations) of Republic Act 10635, which was promulgated by the MARINA in the exercise of its quasi-legislative powers or its authority to promulgate rules and regulations."**

The City Prosecutor has also established the lack of legal capacity of the complainant, Engr. Isagani Valmonte, in instituting protest or complaint for Usurpation of Legislative Power against some MARINA executive officers and cites **failure of the complainant to establish that he is the offended party "against whom or against whose property the offense was committed."**

Valmonte, in his Complaint, denounces the transfer from the Professional Regulations Commission (PRC) the regulatory function for licensure examinations of marine officers despite no clear and categorical statement is provided in Republic Act 10635. RA 10635 is the *act establishing the Maritime Industry Authority as the single maritime industry administration responsible for the implementation and enforcement of the 1978 international convention on standards of training, certification and watchkeeping for seafarers, as amended, and international agreements or covenants related thereto.*

He asserts that the Implementing Rules and Regulations (IRR) of RA 10635 is where MARINA executives explicitly provided the transfer of the regulatory function for

licensure examinations of marine officers. That, in conspiracy with one another, MARINA executives promulgated the IRR of RA 10635 that created the Board of Examiners under the STCW Office that consists of the Board of Marine Deck Officers (BOMDO) and the Board of Marine Engineer Officers (BOMEEO). He continues that same persons illegally created the composition of the Board of Deck Rating (BODRA) and the Board of Engine Rating (BOERA) despite no provisions were mentioned in the RA 10635 and that they also included in the IRR the power of the MARINA administrator to appoint Boards of Examiners.

Further, Valmonte goes on with his denouncements that the Repealing Clause of the IRR that amended all provisions under RA 8544 are related to the examination, licensing and certification system for marine deck and engine officers, but that the first statement of Section 4 (c) (1) of the IRR only pertains to STCW Convention. In addition, Vamonte refers to the Transitory Provision of the IRR as arbitrary removal from the PRC the regulatory function of licensure examination although RA 10635 solely pertains to the implementation of, and compliance with the STCW 1978, and never about the regulatory function of the Licensure Examination for Marine Deck and Marine Engineer Officers, which is not a requirement under the STCW Convention.

Finally, Valmonte affirms that the promulgation of the IRR of RA 10635 adversely affected the employment and profession of Marine Deck and Marine Engineer Officers as they will no longer be regarded as *professionals* but mere *rating* or non-professionals. He maintains that the MARINA executives acted in bad faith when they selectively excluded the transfer of the STCW function of the Department of Health (DOH), Commission on Higher Education (CHED), and the National Telecommunications Commission (NTC) to MARINA.

Based on its findings, the City Prosecutor **dismisses for lack of probable cause the charge for Usurpation of Legislative Power** under Article 239 of the Revised Penal Code against MARINA Administrator Dr. Maximo Q Mejia Jr, Deputy Administrator Atty. Gloria V. Bañas and Executive Director Atty. Alvin A Tormon, and the Chief of Staff of the Administrator Atty. Jabeth Sena Jepath A. Dacanay.

MARINA, MARITIME PHILIPPINES, we move the world The Maritime Industry Authority is an attached agency of the Department of Transportation and Communications tasked to accelerate the integrated development of the maritime industry in the country. It has been implementing reforms and programs to transform the country's domestic shipping industry to global competitiveness and the MARINA into a premiere maritime administration in Southeast Asia. For more information, visit marina.gov.ph.