

**TIPC-Monitoring Body
Resolution No. 3, Series of 2012.**

CFA Case No. 2528

**ADOPTING A TIPC-MONITORING BODY
RECOMMENDATION/ COURSE OF ACTION
ON THE SEVEN (7) CASES OF HARASSMENT
PREVIOUSLY ENDORSED TO THE
COMMISSION ON HUMAN RIGHTS
PURSUANT TO RESOLUTION NO. 2-B, SERIES
OF 2011.**

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RESOLUTION

WHEREAS, on 20 January 2010, the National Tripartite Industrial Peace Council approved TIPC Resolution No. 1, series of 2010, constituting the National TIPC as the High Level Tripartite Monitoring Body on the Application of International Labor Standards, in particular ILO Convention on Freedom of Association and Protection on the Right to Organize (No. 87), that shall: (1) facilitate “out of the box solution” to long-standing CFA cases; (2) monitor and report progress on active CFA cases; and (3) facilitate gathering of relevant information on complaints and evaluate and recommend appropriate action/s.

WHEREAS, on 25 June 2010, TIPC Monitoring Body Resolution No. 1, series of 2010, classified ILO Convention No. 87 cases with allegation of extrajudicial killings, harassments, and abduction into **possibly labor-related** under ILO Convention No. 87 if the circumstances of the case would constitute an infringement of the exercise of freedom of association and the right to organize, and **possibly not labor-related cases** under ILO Convention NO. 87 if the circumstances of the case would not constitute an infringement of the exercise of freedom of association and the right to organize, based on the following criteria on the admissibility of cases/complaints:

- a) The alleged facts, if proved, would not constitute an infringement of the exercise of trade union rights; or
- b) That the allegations made are so basically or obviously political in character that it is undesirable to pursue the matter further; or
- c) That the allegations made are too vague to permit a consideration of the case on its merits; or
- d) That the complainant has not offered sufficient evidence to justify the allegations on the matter.

WHEREAS, the TIPC-Monitoring Body issued TIPC-Monitoring Body Resolution No. 2-B, Series of 2011, adopting the closure of five (5) cases of harassment and referring the other seven (7) cases to the Commission on Human Rights (CHR) for in-depth investigation or “final pass”;

WHEREAS, by virtue of the aforementioned Resolution, the TIPC-Monitoring Body also requested for the Department of Labor and Employment to validate whether the labor issues related to the harassment cases have already been resolved with finality;

WHEREAS, to date, the CHR could not give clear recommendations on the following seven (7) cases for lack of material evidences, especially in those cases that are not filed with CHR and with no valuable information that could warrant a motu proprio investigation:

	NAME OF VICTIMS/ COMPANY/UNION	REGION	CLASSI- FICATION	CHR INVESTIGATION	DATE OF INCIDENT	CHR RECOMMENDATION
1.	Harassment at Fresh Banana Agricultural Corporation (Osmiguel): Aldrene Tambalo, Roque Roncales & Nestor Legaspi ; NAMAOS	XI	Possibly labor-related under C87	Still pending with the CHR. No resolution yet is issued by the CHR Region 11 Office.	11/14/04 11/27/04 12/04/04	For further investigation.
2.	Harassment at Fresh Banana Agricultural Corporation (Suyapa): Vicente Barrios, et. al. (Packing Plant 92 Workers Union) & Joel Cuyos, et. al. NAMASAN	XI	Possibly labor-related under C87	Still pending with the CHR. A comprehensive investigation is still under consideration on this matter to obtain pieces of evidence to determine the real motives of the crime and the identities of the liable person/persons.	August 2005	For further investigation.
3.	Members of Sulpicio Lines Workers' Union Sulpicio Lines	NCR	Possibly labor-related under C87	Still pending with the CHR. No criminal complaints were filed against the military.	n/a	For further investigation.
4.	Ariel Gerres Legaspi Nestle, UFE-DFA-KMU	IV-A	Possibly labor-related under C87	No case was filed with the CHR. No information.	10/31/05	CHR, to conduct a <i>motu proprio</i> investigation, if warranted.
5.	Noel Tenorio Sanches Nestle	IV-A	Possibly labor-related under C87	No case was filed with the CHR. No information.	06/23/06	CHR, to conduct a <i>motu proprio</i> investigation, if warranted.
6.	Fifty-two workers of Chiyoda Integreted Phils. Chiyoda, TALIM Chiyoda	IV-A	Possibly labor-related under C87	No case was filed with the CHR. No information.	06/20/07	CHR, to conduct a <i>motu proprio</i> investigation, if warranted.
7.	Edison Alpedan, Gerald Daria, Erica Lee Balane, and Christopher Capistrano Hanjin Garment , AMIHAN	IV-A	Possibly labor-related under C87	The case is still pending with the CHR Region 4 Office.	02/06/08	

WHEREAS, in order to gather more facts in aid of the investigation conducted by the CHR, PNP-Task Force Usig and/or the Department of Justice, the Department of Labor and

Employment requested upon the Kilusang Mayo Uno (KMU) as the complainant organization for a dialogue or meeting;

WHEREAS, getting the complainant organization to provide additional verifiable information or evidences on the cases through sectoral meetings or through other means convenient to them proved futile;¹

WHEREAS, the TIPC-Monitoring Body, in order to come up with appropriate recommendations on the aforementioned cases of harassment, also took into account the information that has been gathered and reported by other competent agencies such as the Philippine National Police (PNP);

WHEREAS, in the case of Harassment at *Fresh Banana Agricultural Corporation (NAMAOS): Mr. Nestor Legaspi*, investigation initiated by the PNP Police Regional Office No. XI of the PNP states that Mr. Legaspi was called for interview regarding his alleged involvement with the NPA;

WHEREAS, the PNP Police Regional Office No. XI, after the investigation, recommended that the harassment case be treated as a personal case against Mr. Legaspi and not as a violation against ILO Convention 87 as his profession as a worker and a labor union member were never mentioned in the alleged case;

WHEREAS, in the case of *Harassment at Fresh Banana Agricultural Corporation (Suyapa): Vicente Barrios, et. al. & Joel Cuyos, et. al.*, the Secretariat of the Regional Tripartite Monitoring Body (RTMB)² of Region XI had a meeting with Mr. Vicente Barrios wherein Mr. Barrios manifested that the case remains archived for lack of evidence and that since October 2011, two incidents of failed assassination/harassment within the vicinity of Packing Plant 90 were reported to PNP Compostela Valley;

WHEREAS, information from the Department of Justice shows that the Direct Assault case filed against Edison Alpedan, Gerald Daria, Erica Lee Balane, and Christopher Capistrano was dismissed on 10 March 2011;

WHEREAS, information from the Department of Labor and Employment shows that the Nestle strike arising from a collective bargaining agreement deadlock with respect to the union position to make the management unilateral retirement grant be made part of the negotiation, was resolved by DOLE in 2002 and was finally decided by the Supreme Court on 03 March 2008. However the issue persisted despite the DOLE ruling on 28 November 2008

¹ A total of three (3) communications were sent to KMU. The first was a letter invitation for a sectoral meeting dated 24 February 2010, followed by a request for information or indication of preference on how to consult them on the cases dated 5 March 2010, and the last, was the notice for information with a form dated 24 May 2010.

² Pursuant to TIPC Resolution No. 3, Series of 2011, the Labor Secretary issued Administrative Order No. 263, Series of 2011, on 6 July 2011 directing all DOLE Regional Directors to create a Regional Tripartite Monitoring Body (RTMB) in their respective RTIPCs. The RTMB is tasked to monitor the investigation and prosecution of cases with allegation of trade union rights violation at the local level while at the same time, proactively attending to complaints of similar nature prior to its submission to the International Labour Organization (ILO).

that the existing Retirement Plan in the parties' collective bargaining agreement be maintained in its present form and directed Nestle to establish a Contributory Retirement Plan;

WHEREAS, the Hanjin Garments strike was settled on 10 February 2008, but on 11 February 2009, the union leaders reported violation or non-reinstatement by the management of the illegally dismissed workers, which is now subject of a separate case before the National Labor Relations Commission (NLRC);

WHEREAS, the Chiyoda strike was settled on 10 September 2009 upon the forging of an agreement between the workers and the management on the separation pay and benefits of the covered employees;

WHEREAS, on the above-mentioned (7) cases, three (3) have not been filed with the CHR while four (4) cases are still pending before the same body;

WHEREAS, in some of these cases of harassment wherein the PNP and/or the AFP is involved, some labor rights might have been violated;

NOW THEREFORE, taking into consideration the foregoing facts, **BE IT RESOLVED AS IT IS HEREBY RESOLVED**, that the TIPC-Monitoring Body adopts the following courses of action:


1. request the **Commission on Human Rights** to expedite the process in resolving the cases of alleged Harassment at Fresh Banana Agricultural Corporation, as well as the cases involving Edison Alpiedan, et al., and the members of Sulpicio Lines Workers' Union;
2. request the **Department of Labor and Employment** to continuously engage the Armed Forces of the Philippines and the Philippine National Police in social dialogues such as meetings, summits, seminars and other means necessary in order for them to fully understand the concept of freedom of association, self-organization and collective bargaining, and instill an attitude of respect of labor rights so as complaints of harassment shall be abated if not eliminated entirely;
3. request the **Department of Labor and Employment** and the **National Labor Relations Commission**, as the case may be, to exert efforts to resolve expeditiously the remaining issues in the labor disputes in Nestle and Hanjin, through the use of alternative dispute resolutions, social dialogues and/or voluntary and compulsory arbitration;
4. direct the concerned **Regional Tripartite Monitoring Bodies** to continuously monitor the movement of the cases, gather more information and provide updates to the National TIPC Monitoring Body.

APPROVED this 25th day of January 2012, Occupational Safety and Health Center,
Diliman, Quezon City, Philippines.

LABOR SECTOR



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Alliance of Progressive Labor


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Alliance of Progressive Labor


ANGELITO P. CALDERON
Alliance of Filipino Workers


JOSE SONNY G. MATULA
Federation of Free Workers

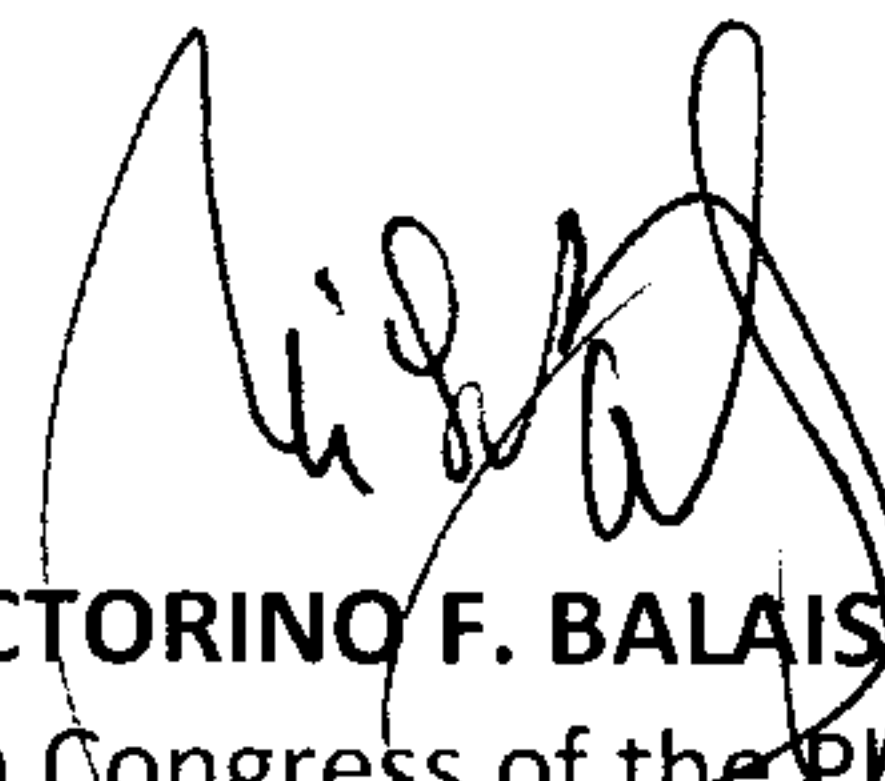

ALLAN S. MONTAÑO
Federation of Free Workers


DAVID L. DIWA
Lakas Manggagawa Labor Center

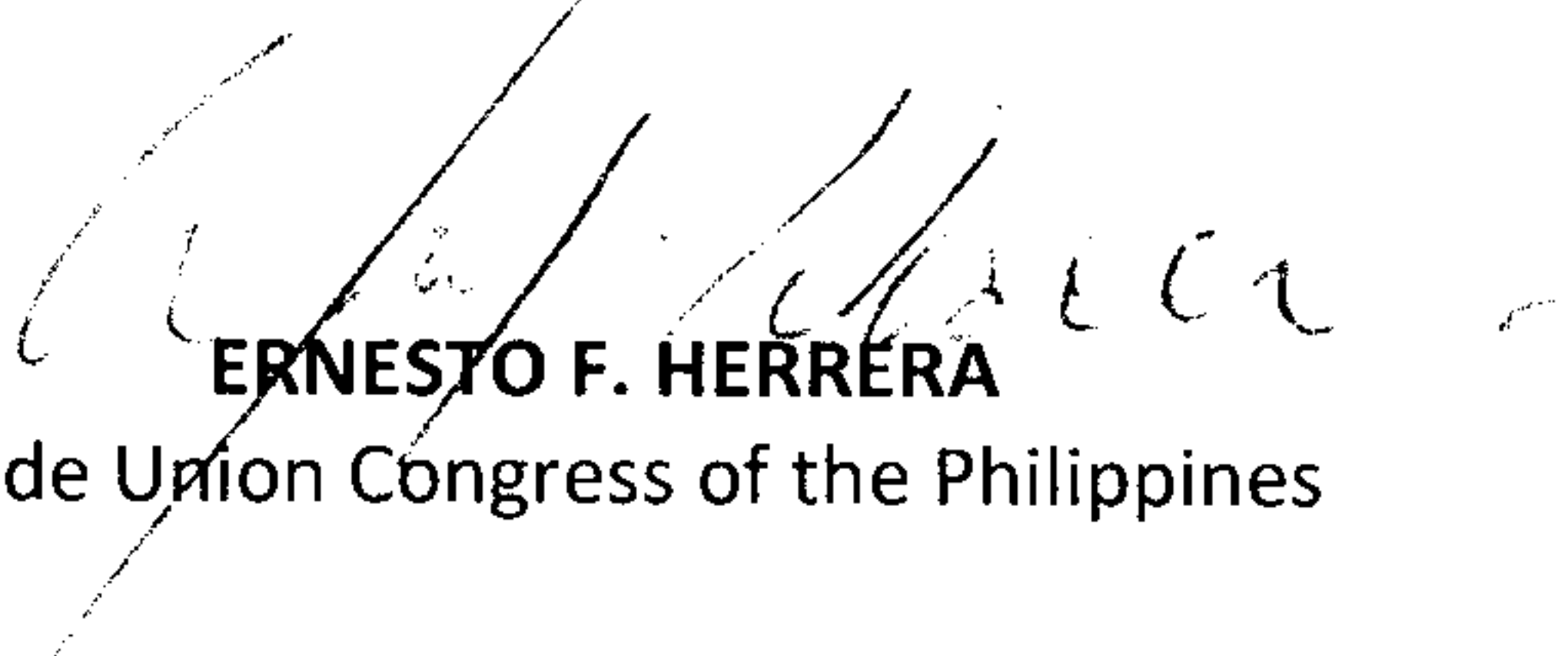

BENJAMIN C. ALAR
National Confederation of Labor



MANUEL P. ARIAS
National Federation of Labor Unions

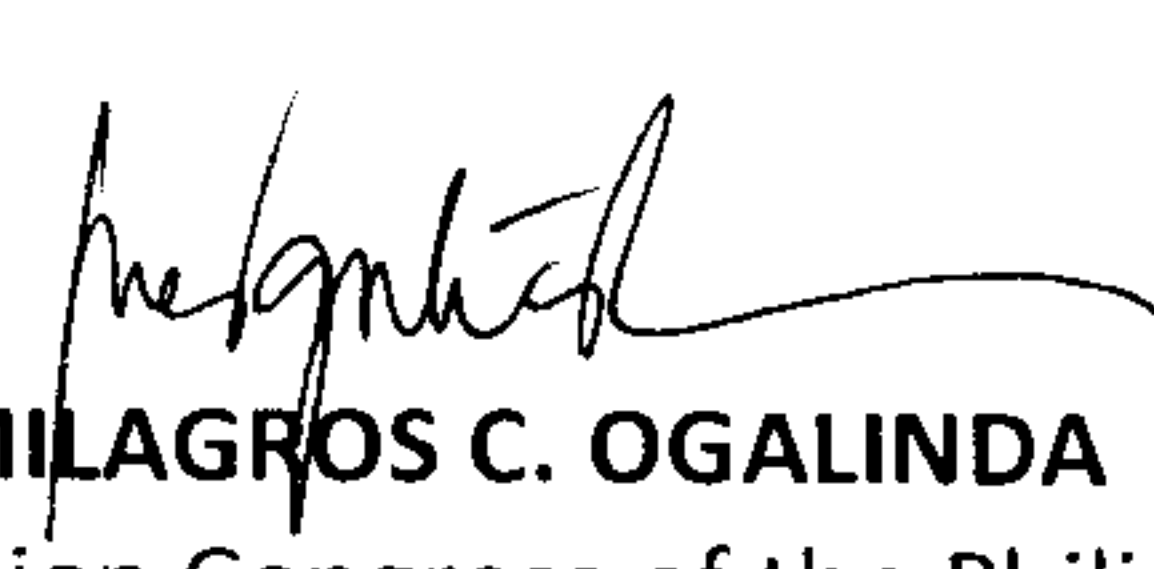

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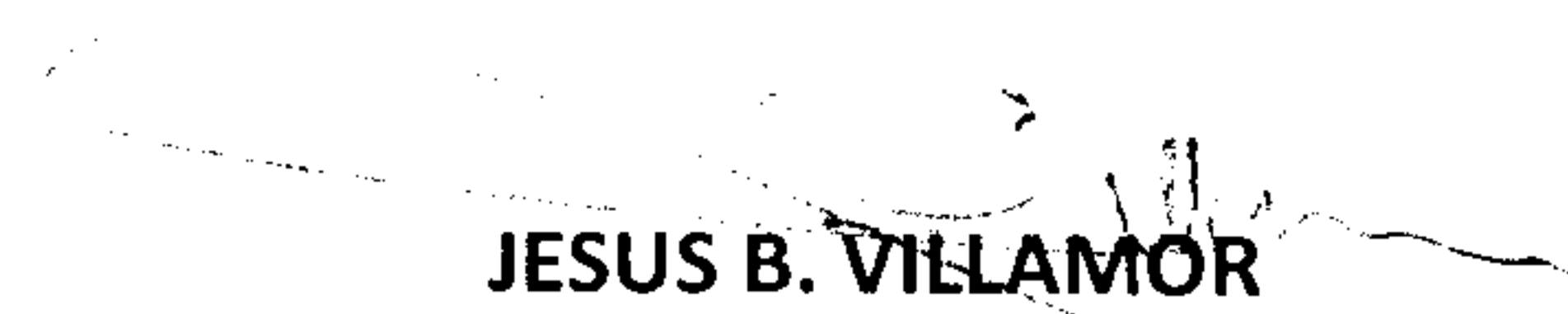

ZOILO V. DELA CRUZ, JR.
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ERNESTO F. HERRERA
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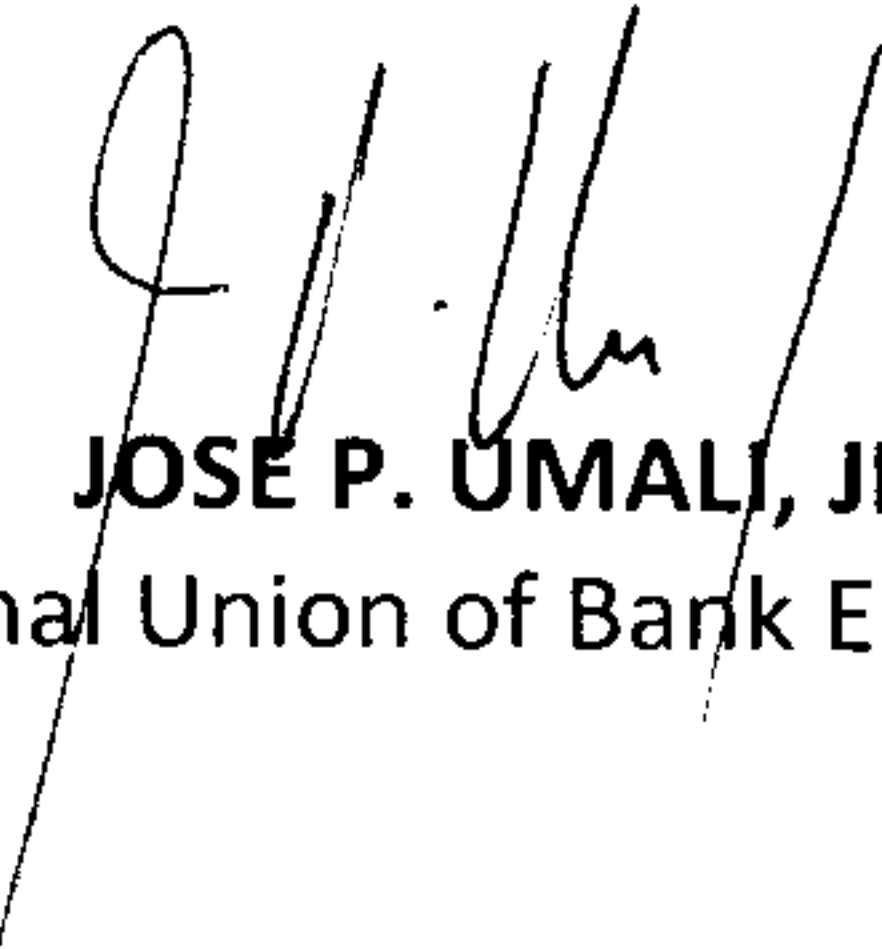

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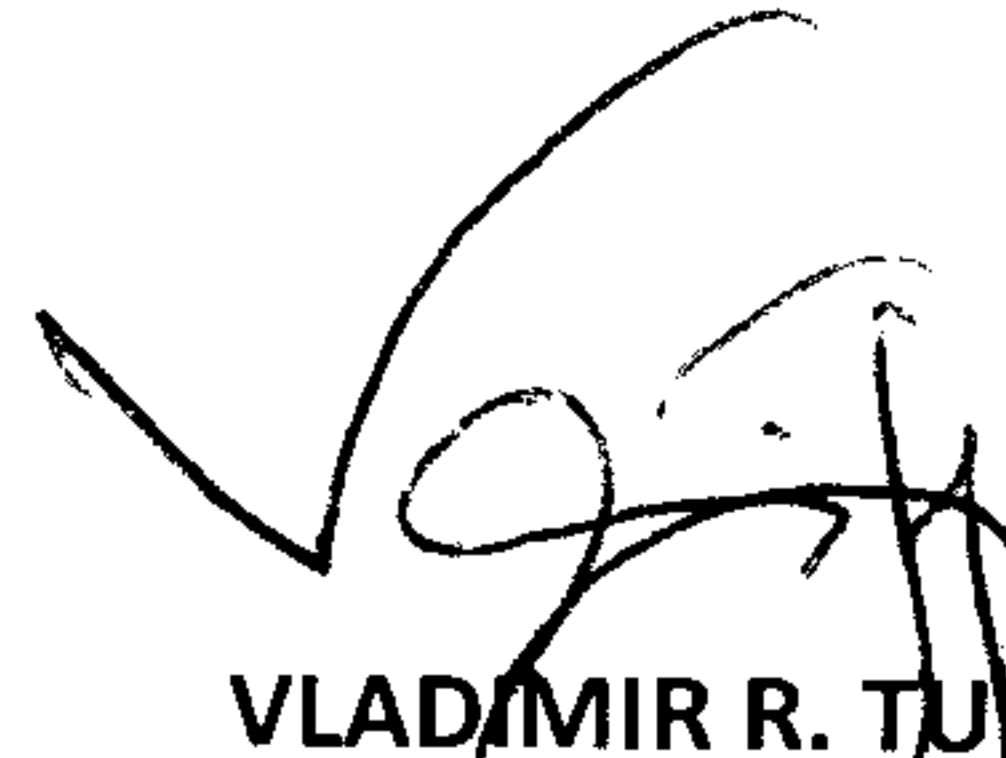

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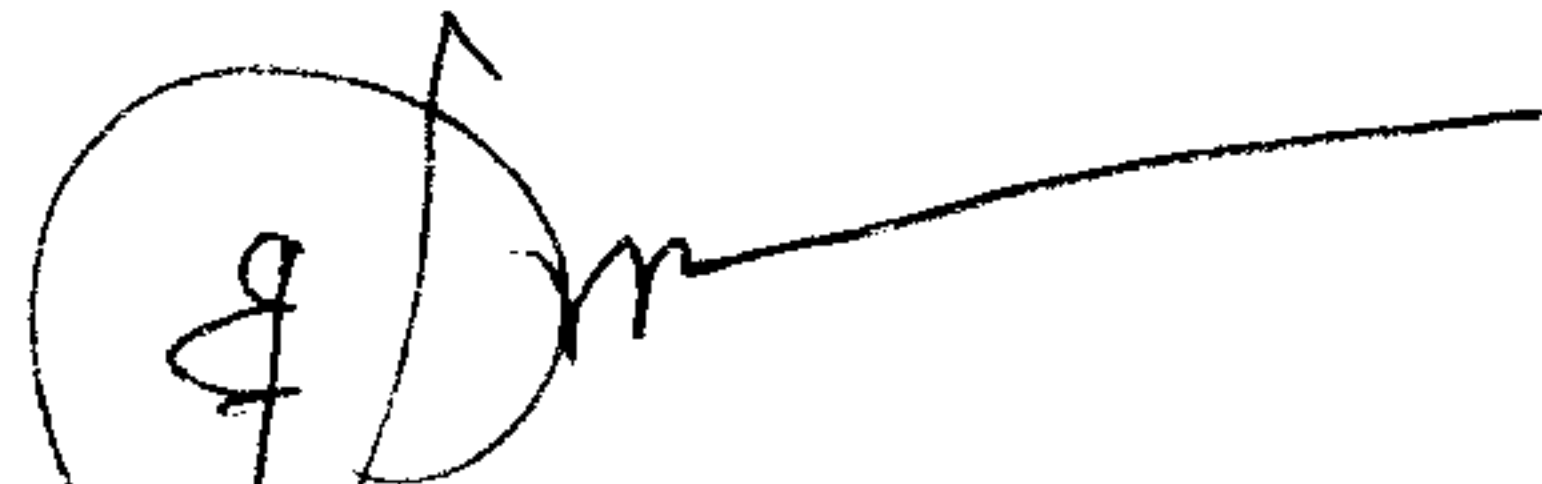


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EMPLOYERS' SECTOR




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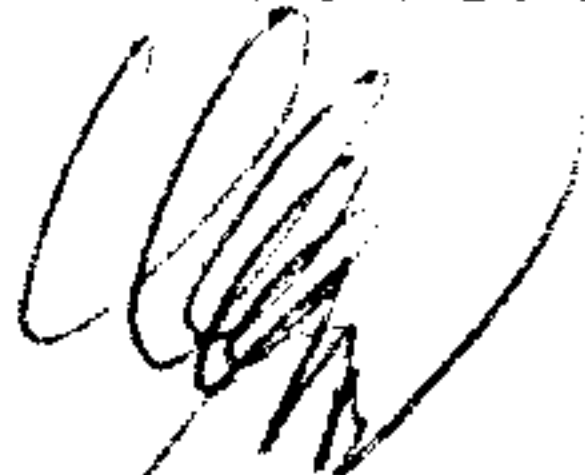
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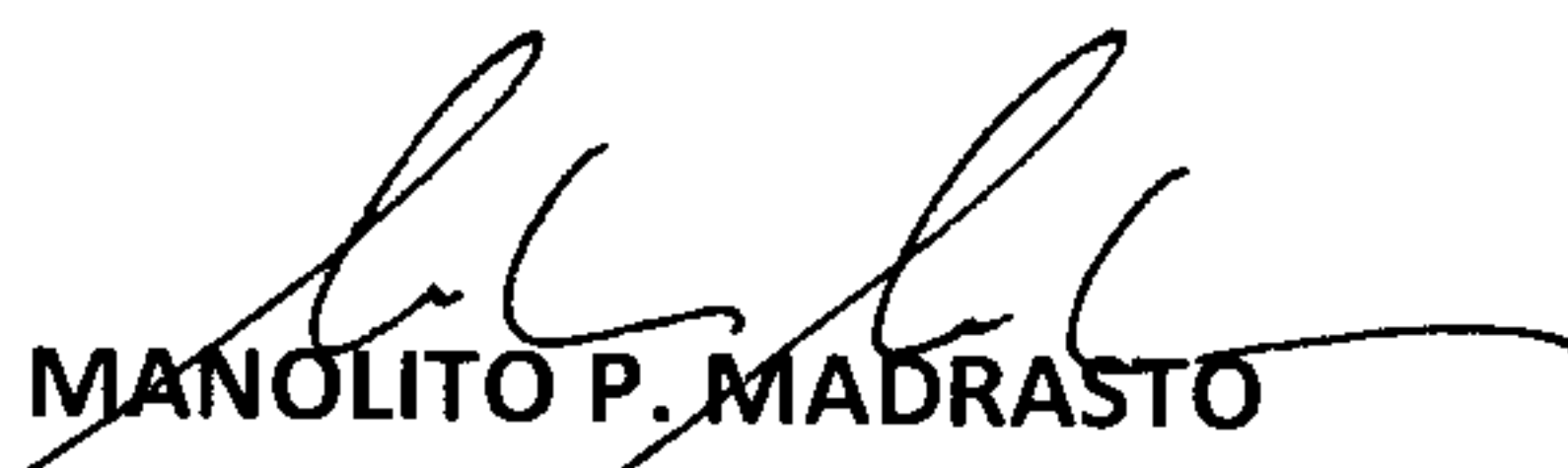
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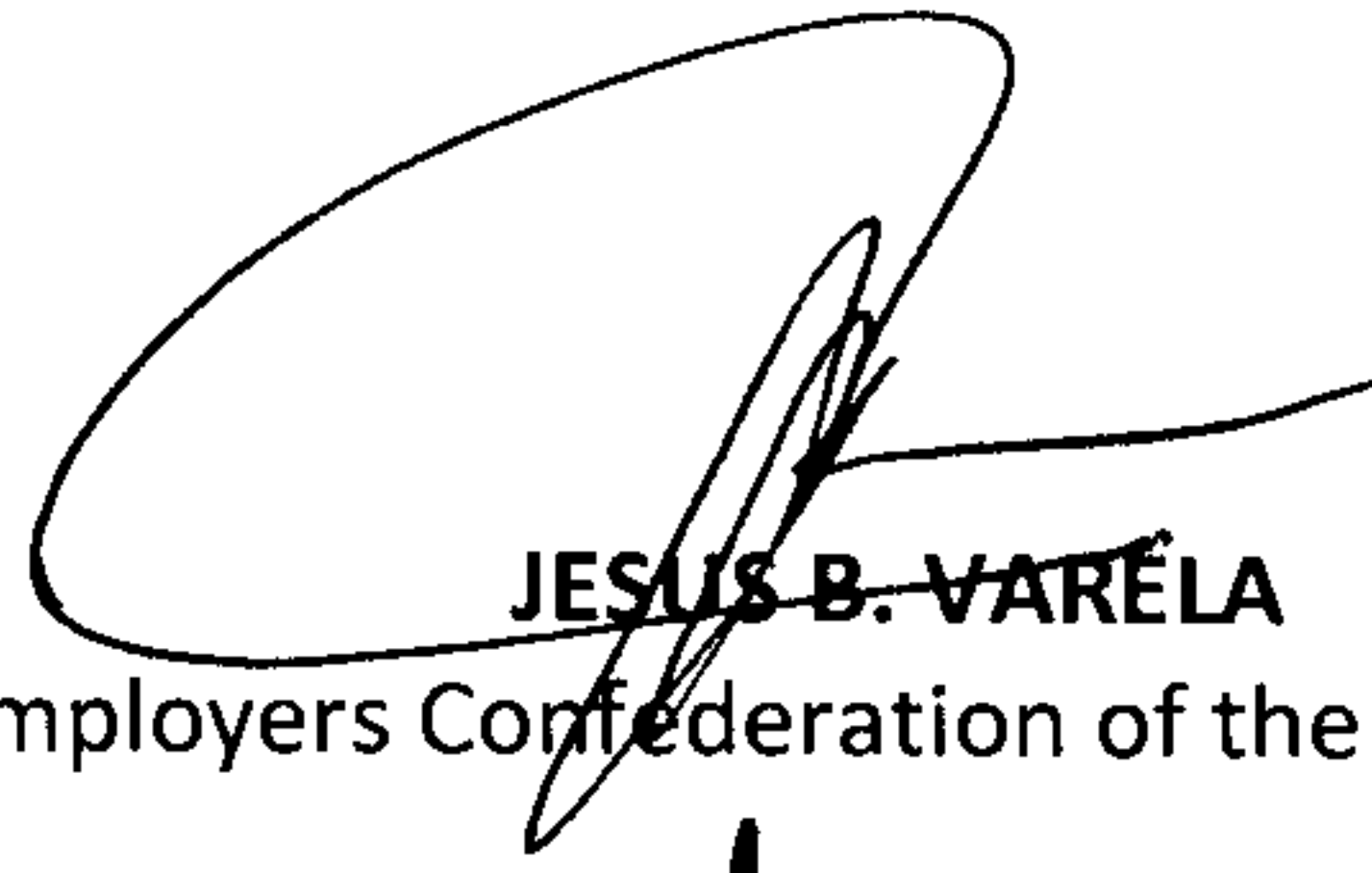
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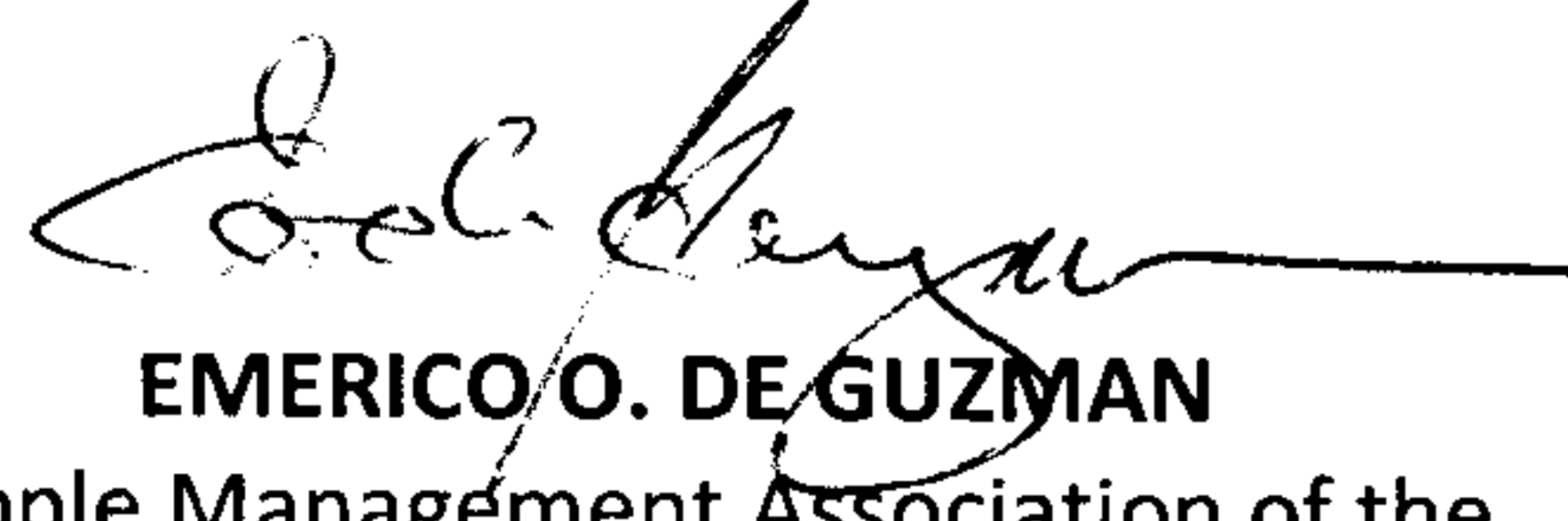
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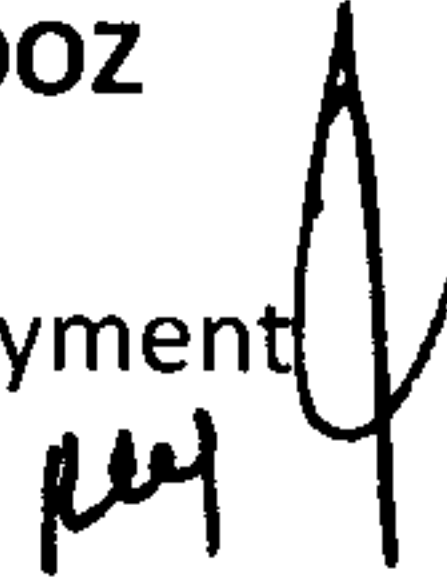


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GOVERNMENT SECTOR



ROSALINDA DIMAPILIS-BALDOZ
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