



REPUBLIC OF THE PHILIPPINES  
Sandiganbayan  
Quezon City

SECOND DIVISION

The People of the Philippines,  
*Plaintiff,*

Criminal Case No.  
**SB-17-CRM-0657**

-versus-

For: Violation of Section 3(e),  
Republic Act No. 3019

Anthony Castillo Miranda,  
Antonio Yrigon Ortiz,  
Dennis Lacson Cunanan,  
Marivic Villaluz Jover,  
Belina A. Concepcion,  
Francisco Baldoza Figura,  
Domingo Mamauag,  
Edison I. Sabio,

*Accused.*

X-----X

The People of the Philippines,  
*Plaintiff,*

Criminal Case No.  
**SB-17-CRM-0658**

-versus-

For: Violation of Section 3(e),  
Republic Act No. 3019

Anthony Castillo Miranda,  
Antonio Yrigon Ortiz,  
Dennis Lacson Cunanan,  
Marivic Villaluz Jover,  
**Maria Rosalinda Masongsong**  
Lacsamana  
Francisco Baldoza Figura,  
Domingo Mamauag,  
Edison I. Sabio,

*Accused.*

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**The People of the Philippines,**  
*Plaintiff,*

-versus-

**Anthony Castillo Miranda,**  
*Accused.*  
X-----X

Criminal Case No.  
**SB-17-CRM-0659**

For: Violation of Section 3(h),  
Republic Act No. 3019

**The People of the Philippines,**  
*Plaintiff,*

-versus-

**Anthony Castillo Miranda,**  
*Accused.*  
X-----X

Criminal Case No.  
**SB-17-CRM-0660**

For: Violation of Section 3(h),  
Republic Act No. 3019

**The People of the Philippines,**  
*Plaintiff,*

-versus-

**Anthony Castillo Miranda,  
Antonio Yrigon Ortiz,  
Dennis Lacson Cunanan,  
Marivic Villaluz Jover,  
Belina A. Concepcion,  
Francisco Baldoza Figura,  
Domingo Mamauag,  
Edison I. Sabio,**  
*Accused.*  
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Criminal Case No.  
**SB-17-CRM-0661**

For: Malversation of Public Funds

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**The People of the Philippines,**  
*Plaintiff,*

Criminal Case No.  
**SB-17-CRM-0662**

For: Malversation of Public Funds

-versus-

Present:  
Herrera, Jr., J. *Chairperson*  
Musngi, J. &  
Jacinto, J.\*  
De la Cruz, J.\*\*  
Econg, J.\*\*

**Anthony Castillo Miranda,**  
**Antonio Yrigon Ortiz,**  
**Dennis Lacson Cunanan,**  
**Marivic Villaluz Jover,**  
**Maria Rosalinda Masongsong**  
**Lacsamana,**  
**Francisco Baldoza Figura,**  
**Domingo Mamauag,**  
**Edison I. Sabio,**

*Accused.*

Promulgated:

October 14, 2022 *anh*

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## DECISION

**HERRERA, JR., J.:**

These are six (6) consolidated criminal cases pertaining to alleged misuse/misappropriation of the Priority Development Assistance Fund (PDAF) of former Congressman Anthony Castillo Miranda of the 4<sup>th</sup> District of Isabela who is an accused in all the cases. The cases are as follows:

[1] Criminal Case No. SB-17-CRM-0657 for **Violation of Section 3(e) of Republic Act (R.A) No. 3019, as amended**, or the **Anti-Graft and Corrupt Practices Act**, where accused Miranda is jointly charged with the following: 1) Antonio Yrigon Ortiz; 2) Dennis Lacson Cunanan; 3) Marivic

\*Sitting as Special Member per Administrative Order No. 043-2020 dated February 24, 2020  
\*\*Sitting as Special Members per Administrative Order No. 5-C-2022 dated September 5, 2022

*anh* *24/10* *[Signature]* *[Signature]*



Villaluz Jover; 4) Belina A. Concepcion; 5) Francisco Baldoza Figura; 6) Domingo Mamauag; and 7) Edison I. Sabio;

[2] Criminal Case No. SB-17-CRM-0658 also for **Violation of Section 3(e) of R.A. No. 3019** where accused Miranda is jointly charged with the same individuals included in Criminal Case No. SB-17-CRM-0657, except Belina A. Concepcion. In lieu of Concepcion, the one included in the charge is Maria Rosalinda Masongsong Lacsamana;

[3] Criminal Case No. SB-17-CRM-0659 for **Violation of Section 3(h) of R.A. No. 3019** where Miranda is the lone accused;

[4] Criminal Case No. SB-17-CRM-0660 also for **Violation of Section 3(h) of R.A. No. 3019** where Miranda is likewise the lone accused;

[5] Criminal Case No. SB-17-CRM-0661 for **Malversation of Public Funds, under Article 217 of the Revised Penal Code** where accused Miranda is jointly charged with the very same individuals included as accused in Criminal Case No. SB-17-CRM-0657; and

[6] Criminal Case No. SB-17-CRM-0662 also for **Malversation of Public Funds** where accused Miranda is jointly charged with the very same individuals included as accused in Criminal Case No. SB-17-CRM-0658.

Accused Cunanan,<sup>1</sup> Concepcion,<sup>2</sup> Lacsamana,<sup>3</sup> Mamauag,<sup>4</sup> Sabio,<sup>5</sup> Figura,<sup>6</sup> and Jover<sup>7</sup> posted bail for their provisional liberty in these cases, while accused Miranda and Ortiz remain at large.

<sup>1</sup> Record Volume 1, p. 356, Order dated April 24, 2017, p. 357

<sup>2</sup> Id, p. 387, Order dated May 2, 2017, p. 388 and 447

<sup>3</sup> Id, p. 446, Order dated April 26, 2017; Records, Volume 2, p. 366

<sup>4</sup> Record Volume 2, pp. 131, 133, 135 and 421

<sup>5</sup> Id, pp. 129, 157, 159, and 411

<sup>6</sup> Record Volume 3, p. 213; Order dated April 5, 2018, p. 214

<sup>7</sup> Id, p. 206; Order dated April 5, 2018, p. 207

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Since accused Miranda, who is at large, is the only accused in Criminal Cases Nos. SB-17-CRM-0659 and 0660, trial of said cases are excluded from the proceedings. Instead, these two (2) cases are archived to be revived upon the arrest or voluntary surrender of accused Miranda.

Also, since both accused Miranda and Ortiz are at-large in Criminal Cases Nos. SB-17-CRM-0657, 0658, 0661 and 0662, they are also excluded in trial of said cases. Instead, these cases are also archived with regard to accused Miranda and Ortiz, to be revived upon their arrest or voluntary surrender.

In Criminal Case No. SB-17-CRM-0657 for **Violation of Section 3(e) of R.A. No. 3019**, the accusatory portion of the **Information**<sup>8</sup> dated October 24, 2016 reads:

"In January 2007, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction; accused **ANTHONY CASTILLO MIRANDA**, (Miranda), the then Representative of the 4<sup>th</sup> District of Isabela; **ANTONIO YRIGON ORTIZ** (Ortiz), Director General, **DENNIS LACSON CUNANAN** (Cunanan), Deputy Director General, **MARIVIC VILLALUZ JOVER** (Jover), Chief Accountant, **BELINA A. CONCEPCION** (Concepcion), Former Legislative Liaison Officer, **FRANCISCO BALDOZA FIGURA** (Figura), Group Manager, all of the Technology Resource Center (TRC), all public officers and while in the performance of their administrative and/or official functions, conspiring with one another and with private individuals, **DOMINGO MAMAUAG** (Mamauag) and **EDISON I. SABIO** (Sabio), acting with manifest partiality and/or evident bad faith, did then and there willfully, unlawfully and criminally cause undue injury to the government and give unwarranted benefits and advantage to said private individuals in the amount of at least **NINE MILLION FIVE HUNDRED THOUSAND PESOS (P9,500,000.00)** through a scheme described as follows:

- (a) **Miranda** unilaterally chose and indorsed Aksyon Makamasa Foundation, Inc. (AMFI), a non-governmental organization owned and/or controlled by Miranda and operated by the aforementioned private individuals, as "project partner" in implementing livelihood projects in his

<sup>8</sup> Record Volume 3, pp. 1-4

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legislative district, which were funded by his Priority Development Assistance Fund (PDAF) allocation covered by **Special Allotment Release Order (SARO) NO. ROCS-07-00608** in the aforesaid sum, in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding as required under Republic Act No. 9184 and its implementing rules and regulations, and with AMFI being unaccredited and unqualified to undertake the projects;

- (b) **Miranda** and TRC's **Ortiz** then entered into a Memorandum of Agreement with AMFI's **Sabio** on the purported implementation of Miranda's PDAF-funded projects;
- (c) **Ortiz** also facilitated, processed and approved the disbursement of the subject PDAF release by signing **Disbursement Voucher No. 012007030429** along with **Cunanan, Jover** and **Concepcion**, as well as causing the issuance of **Landbank Check No. 850371** to AMFI that was signed by **Ortiz** and **Figura**, without accused TRC officers and employees having carefully examined and verified the accreditation and qualifications of AMFI as well as the transaction's supporting documents;
- (d) **Mamauag**, acting for and on behalf of **Miranda** and AMFI, received the above-described check from TRC and helped remit the proceeds thereof to **Miranda**;
- (e) The above acts by the accused TRC officials thus allowed AMFI to divert said PDAF-drawn public funds to **Miranda's** control and benefit instead of implementing the PDAF-funded projects which turned out to be non-existent, while **Miranda, Sabio** and **Mamauag** caused/participated in the preparation and signing of the acceptance and delivery reports, disbursement reports, project proposal and other liquidation documents to conceal the fictitious nature of the transaction; and
- (f) **Miranda**, personally and/or thru his representatives, as well as the other accused public officers and employees, diverted and misappropriated his PDAF."

CONTRARY TO LAW."

The accusatory portion of the **Information** <sup>10</sup> dated October 24, 2016 in Criminal Case No. SB-17-CRM-0658 also for **Violation of Section 3(e) of R.A. No. 3019** is similar with that in Criminal Case No. SB-17-CRM-0658, except only with respect to the following: date of the commission of the offense which is "February 2007, or sometime prior or subsequent thereto";

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<sup>10</sup> Id, pp. 5-8

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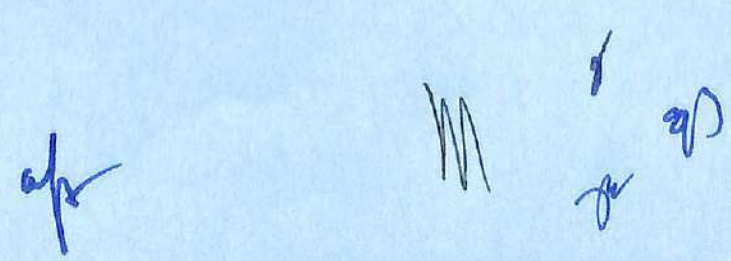
the amount involved which is Php10,560,000.00; the Special Allotment Release Order (SARO) which is No. ROCS-07-04174; the Disbursement Voucher which is No. 012007040597; and the Landbank check issued to AMFI which is Check No. 850426.

In Criminal Case No. SB-17-CRM-0661 for **Malversation of Public Funds**, the accusatory portion of the **Information**<sup>12</sup> dated October 24, 2016 reads:

"In January 2007, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction; accused **ANTHONY CASTILLO MIRANDA**, (Miranda), a high ranking public official, being the then Representative of the 4<sup>th</sup> District of Isabela, and as such, accountable for public funds received and/or entrusted to him by reason of his office; **ANTONIO YRIGON ORTIZ** (Ortiz), Director General, **DENNIS LACSON CUNANAN** (Cunanan), Deputy Director General, **MARIVIC VILLALUZ JOVER** (Jover), Chief Accountant, **BELINA A. CONCEPCION** (Concepcion), Group Manager, **FRANCISCO BALDOZA FIGURA** (Figura), Group Manager, all of the Technology Resource Center (TRC), all public officers, conspiring with one another and with private individuals, **DOMINGO MAMAUAG** (Mamauag) and **EDISON I. SABIO** (Sabio), did then and there willfully, unlawfully and feloniously take, misappropriate, and convert, for his own personal use and benefit, fund releases amounting to at least **NINE MILLION FIVE HUNDRED THOUSAND PESOS (P9,500,000.00)** drawn from Miranda's PDAF to the damage and prejudice of the government, through a scheme described as follows:

- (a) **Miranda** unilaterally chose and indorsed Aksyon Makamasa Foundation, Inc. (AMFI), a non-governmental organization owned and/or controlled by Miranda and operated by the aforementioned private individuals, as "project partner" in implementing livelihood projects in his legislative district, which were funded by his Priority Development Assistance Fund (PDAF) allocation covered by **Special Allotment Release Order (SARO) NO. ROCS-07-00608** in the aforesaid sum, in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding as required under Republic Act No. 9184 and its implementing rules and regulations, and with AMFI being unaccredited and unqualified to undertake the projects;

<sup>12</sup> Id, pp. 13-16





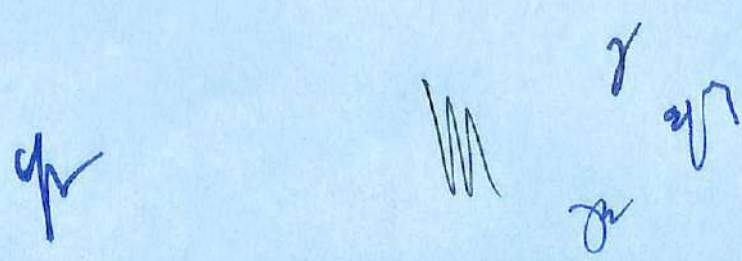
- (b) **Miranda** and TRC's **Ortiz** then entered into a Memorandum of Agreement with AMFI's **Sabio** on the purported implementation of Miranda's PDAF-funded projects;
- (c) **Ortiz** also facilitated, processed and approved the disbursement of the subject PDAF release by signing **Disbursement Voucher No. 012007030429** along with **Cunanan, Jover** and **Concepcion**, as well as causing the issuance of **Landbank Check No. 850371** to AMFI that was signed by **Ortiz** and **Figura**, without accused TRC officers and employees having carefully examined and verified the accreditation and qualifications of AMFI as well as the transaction's supporting documents;
- (d) **Mamauag**, acting for and on behalf of **Miranda** and AMFI, received the above-described check from TRC and helped remit the proceeds thereof to **Miranda**;
- (e) The above acts by the accused TRC officials thus allowed AMFI to divert said PDAF-drawn public funds to **Miranda's** control and benefit instead of implementing the PDAF-funded projects which turned out to be non-existent, while **Miranda, Sabio** and **Mamauag** caused/participated in the preparation and signing of the acceptance and delivery reports, disbursement reports, project proposal and other liquidation documents to conceal the fictitious nature of the transaction; and
- (f) **Miranda**, personally and/or thru his representatives, as well as the other accused public officers and employees, misappropriated his PDAF by diverting the same to AMFI, **Miranda's** own NGO."

CONTRARY TO LAW."

The accusatory portion of the **Information** <sup>16</sup> dated October 24, 2016 in Criminal Case No. SB-17-CRM-0662 also for **Malversation of Public Funds** is similar to that in Criminal Case No. SB-17-CRM-0661, except only with respect to the following: date of commission of the offense which is "February 2007, or sometime prior or subsequent thereto"; the amount involved which is Php10,560,000.00; the Special Allotment Release Order (SARO) which is No. ROCS-07-04174; the Disbursement Voucher which No. 012007040597; and the Landbank check issued to AMFI which is Check No. 850426.

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<sup>16</sup> Id, pp. 17-20





Although excluded from among those tried in these cases because they are at-large, the relevant participation of accused Miranda and Ortiz will necessarily have to be included in the discussion herein.

On June 1, 2017, accused Cunanan, Concepcion, and Lacsamana, assisted by counsel, were arraigned and they pleaded not guilty to the charges against them.<sup>25</sup>

On October 13, 2017, accused Mamauag and Sabio, assisted by their respective counsels, were arraigned and they pleaded not guilty to the charges.<sup>28</sup> Accused Figura and Jover, upon their arraignment on April 13, 2018, similarly pleaded not guilty to the charges.<sup>29</sup>

The pre-trial of the cases culminated in the issuance by the Court of **Pre-Trial Orders** on December 8, 2017<sup>30</sup> and April 17, 2018.<sup>31</sup>

Trial of the cases ensued.

On July 16, 2018, the prosecution filed a **Formal Offer of Evidence**,<sup>32</sup> with the Court resolving to admit prosecution Exhibits "A" to "Z", "AA" to "ZZ" and "AAA" and series, inclusive, as well as the submarkings thereof per its **Resolution**<sup>33</sup> dated October 25, 2018.

Defense evidence was thereafter presented by accused Figura and Jover who subsequently filed their **Formal Offer of Evidence**<sup>39</sup> on September 5, 2019. In a **Resolution**<sup>40</sup> dated October 22, 2019, the Court resolved to admit their Exhibits "1" to "8", "13" and "13-A", "14" and "15".

<sup>25</sup> Record Volume 2, p. 46, Order dated June 1, 2017

<sup>28</sup> Id, p. 437; Order dated October 13, 2017

<sup>29</sup> Record Volume 3, p. 258, Order dated April 13, 2018

<sup>30</sup> Id, pp. 229-245, As regards accused Cunanan, Concepcion, Mamauag, Sabio, and Lacsamana

<sup>31</sup> Id, pp. 271-285, As regards accused Figura and Jover

<sup>32</sup> Record Volume 5, pp. 37-76

<sup>33</sup> Record Volume 6, pp. 79-80

<sup>39</sup> Id, pp. 238-246

<sup>40</sup> Id, p. 366

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Accused Lacsamana, on the other hand, filed her **Formal Offer of Documentary Evidence**<sup>41</sup> on October 24, 2019. Her Exhibits "1", "2", "3", "4", and "5" were admitted by the Court in a **Resolution**<sup>42</sup> dated November 13, 2019.

Accused Cunanan filed his **Formal Offer of Documentary Exhibits**<sup>43</sup> on October 28, 2019. His Exhibits "1" to "1-C", "2" to "2-B", "3" to "3-C", "4", "5" to "5-F", and "6" to "6-A" were admitted by the Court per its **Resolution**<sup>44</sup> dated November 13, 2019.

For accused Concepcion, the Court resolved<sup>45</sup> to admit her Exhibits "1", "2", "3" and "3-a", "4", "5", "6" and "6-1", following her **Formal Offer of Evidence**<sup>46</sup> on October 30, 2020.

Accused Mamauag manifested that he has no documentary exhibits to offer, thus dispensing with the filing of a formal offer of exhibits.<sup>48</sup> He subsequently passed away on June 3, 2020, as per **Certificate of Death**<sup>50</sup> submitted to the Court. Conformably with **Article 89, paragraph 1** of the **Revised Penal Code**, the cases against him were dismissed and the bail deposited for his provisional liberty was ordered released.<sup>51</sup>

To prove the charges, the prosecution presented as witnesses Christian Jesse Gregorio Batalla and Leona A. Andriano. On the other hand, the prosecution dispensed with the testimonies of the following: **Avelina H. Zumarraga**, after a stipulation with the accused, through counsels, who admitted the existence of prosecution Exhibits "O", "P", "EE" and "FF";<sup>52</sup> **Atty. Melissa A. Santiago-Yan**, after a stipulation with the accused, through

<sup>41</sup> Id, pp. 369-373

<sup>42</sup> Id, p. 483

<sup>43</sup> Id, pp. 400-404

<sup>44</sup> Id, p. 484

<sup>45</sup> Record Volume 7, p. 165

<sup>46</sup> Id, pp. 119-124

<sup>48</sup> Id, pp. 78-79

<sup>50</sup> Id, p. 152

<sup>51</sup> Id, pp. 201-202

<sup>52</sup> Judicial Affidavit of Avelina H. Zumarraga, Record Volume 3, pp. 61-65; Order dated April 11, 2018, p. 248

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counsels, who admitted the existence of prosecution Exhibits "G"; <sup>53</sup> **Marissa A. Santos**, after a stipulation with the accused, through counsels, who admitted the existence of Prosecution Exhibits "N", "N-1", "O", "P", "Q", "CC", "CC-1", "DD", "EE", "FF", "GG", and "J"; <sup>54</sup> **Rachel Marquez-Abendanio**, after a stipulation with the accused, through counsels, who admitted the existence of prosecution Exhibits "I", "H", "K" and "L"; <sup>55</sup> **Irish D. Tan**, after a stipulation with the accused, through counsels, who admitted the existence of prosecution Exhibits "Q" and "GG"; <sup>56</sup> **Aileen E. Maqueda**, after a stipulation with the accused, through counsels, who admitted the existence of prosecution Exhibits "C" to "C-31", "D" to "D-3", "E", "RR" to "RR-8", "SS" to "SS-7", "TT" to "TT-7", "UU" to "UU-7", "VV" to "VV-5", "WW" to "WW-3", and "XX" to "XX-9"; <sup>57</sup> and **Artemio R. Villaluz**, after a stipulation with the accused, through counsels, who admitted the existence of prosecution Exhibit "YY". <sup>58</sup>

The prosecution also submitted as evidence the following documents: Exhibit "A", Field Investigation Office (FIO), Office of the Ombudsman Complaint dated April 21, 2014; Exhibit "B", COA Report for PDAF Utilization covering Calendar Year 2007-2009 and attachments, including COA office orders; Exhibit "C", Certificate of Incorporation of Aksyon Makamasa Foundation, Inc. (AMFI); Cover Sheet of Aksyon Makamasa Foundation, Inc. (AMFI); Articles of Incorporation of Aksyon Makamasa Foundation, Inc. (AMFI); By-Laws of Aksyon Makamasa Foundation, Inc. (AMFI) with attachments; Certificate of Filing of Amended Articles of Incorporation of Aksyon Makamasa Foundation, Inc. (AMFI); Payment Assessment Form paid to SEC by Aksyon Makamasa Foundation, Inc. (AMFI); Cover Sheet of Aksyon Makamasa Foundation, Inc. (AMFI) for Fiscal Year Ending December 31, 2001; Articles of Incorporation of Aksyon Makamasa

<sup>53</sup> Judicial Affidavit of Atty. Melissa A. Santiago-Yan, Id, pp. 104-108; Order dated April 12, 2018, p. 251

<sup>54</sup> Judicial Affidavit of Marissa A. Santos, Id, pp. 71-77; Order dated April 12, 2018, p. 251

<sup>55</sup> Judicial Affidavit of Rachel Marquez-Abendanio, Id, pp. 118-122; Order dated April 18, 2018, p. 413

<sup>56</sup> Judicial Affidavit of Irish D. Tan, Id, pp. 97-100; Order dated April 18, 2018, p. 413

<sup>57</sup> Judicial Affidavit of Aileen E. Maqueda, Id, pp. 297-302; Order dated May 9, 2018; Record Volume 4, p. 59

<sup>58</sup> Judicial Affidavit of Artemio R. Villaluz, Record Volume 4, pp. 111-115; Order dated June 28, 2018; Record Volume 5, p.18

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Foundation, Inc. (AMFI) acknowledged on March 29, 2007 with attachments; Exhibit "D", General Information Sheet of Aksyon Makamasa Foundation, Inc. (AMFI) for Year 2007; Exhibit "E", Certificate of Corporate Filing/Information from SEC; Exhibit "F" and "F-1", Letter dated May 30, 2012 from COA to AMFI President for submission of Liquidation documents; Exhibit "G", GPPB Resolution No. 012-2007; Exhibit "H", COA Circular No. 95-003 issued in 1995; Exhibit "I", COA Circular No. 96-003 dated February 27, 1996; Exhibit "J", NBC No. 476 dated September 20, 2001; Exhibit "K", COA Circular No. 85-55A as amended; Exhibit "L", COA Circular No. 2012-003 dated October 29, 2012; Exhibit "M"- "M-1", Indorsement dated December 21, 2006 from House of Representative signed by Joey Salceda and Jose de Venecia with List of Projects; Exhibit "N", Letter of Anthony Miranda addressed to Joey Salceda dated December 20, 2006; Exhibit "O", Special Allotment Release Order dated January 15, 2007 with number ROCS-07-00608 amounting to Php10,000,000.00; Exhibit "P", Advice of NCA issued dated February 13, 2007 for NCA No. 336062-6; Exhibit "Q", NCA No. 336062-6; Exhibit "R", Letter of Anthony Miranda to Antonio Ortiz of TLRC dated February 8, 2007; Exhibit "S", Work and Financial Plan of Aksyon Makamasa Foundation Inc. (AMFI) in the amount of Php10,000,000.00; Exhibit "T", Project Proposal entitled "Enhancing Income Through the Use of Livelihood Development Project" in the amount of P10 Million Pesos; Exhibit "U", Memorandum dated March 9, 2007 from Belina Concepcion to Antonio Ortiz for the release of PDAF of Congressman Anthony Miranda; Exhibit "V", Communication Document of TLRC (Routing Slip); Exhibit "W", Memorandum of Agreement executed among TLRC, represented by Antonio Ortiz, the Office of Hon. Anthony Miranda, represented by Anthony Miranda, and AMFI, represented by Edison Sabio, acknowledged on March 12, 2007; Exhibit "X", TLRC Disbursement Voucher 012007030429 in the amount of P10 Million Pesos; Exhibit "Y", LBP Check 850371 dated March 13, 2007 in the amount of P9.5 Million Pesos for payment to the order of Aksyon Makamasa Foundation Inc. (AMFI); Exhibit "Z", AMFI Official Receipt No. 000593 evidencing receipt of P9.5 Million

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



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Pesos; Exhibit "AA", Notice of Disallowance dated October 26, 2015 with SAO-ND No. TRC-2015-165-PDAF (07-09); Exhibit "BB", Official Receipt No. 5296110; Exhibit "CC", 1<sup>st</sup> Indorsement dated February 21, 2007 from House of Representatives signed by Joey Salceda and Jose de Venecia with List of Projects; Exhibit "DD", Letter of Anthony Miranda addressed to Joey Salceda dated February 5, 2007; Exhibit "EE", Special Allotment Release Order dated February 23, 2007 with number ROCS-07-04174 amounting to Php11,000,000.00; Exhibit "FF", Advice of NCA dated March 5, 2007 for NCA No. 336783-6; Exhibit "GG", NCA No. 336783-6; Exhibit "HH", Letter of Anthony Miranda to Antonio Ortiz of TLRC dated March 12, 2007; Exhibit "II", Work and Financial Plan of Aksyon Makamasa Foundation Inc. (AMFI) in the amount of Php11,000,000.00; Exhibit "JJ", Project Proposal entitled "Enhancing Income Through the Use of Livelihood Development Project" in the amount of P11 Million Pesos; Exhibit "KK", Memorandum dated March 23, 2007 from Rosalinda Lacsamana to Antonio Ortiz for the release of PDAF of Congressman Anthony Miranda; Exhibit "LL", Undated Memorandum of Agreement executed among TLRC, represented by Antonio Ortiz, the Office of Hon. Anthony Miranda, represented by Anthony Miranda, and AMFI, represented by Edison Sabio, acknowledged on March 30, 2007; Exhibit "MM", TLRC Disbursement Voucher 012007040597 in the amount of P11 Million Pesos; Exhibit "NN", LBP Check 850426 dated April 2, 2007 in the amount of Php 10,560,000.00 Million Pesos for payment to the order of Aksyon Makamasa Foundation Inc. (AMFI); Exhibit "OO", AMFI Official Receipt No. 000656 evidencing receipt of Php 10,560,000.00; Exhibit "PP", Notice of Disallowance dated October 26, 2015 with SAO-ND No. TRC-2015-166-PDAF (07-09); Exhibit "QQ", Official Receipt No. 5296503; Exhibit "RR", Proof of Office of Anthony Miranda and other proof of government service; Exhibit "SS", Service Record, PDS and other proof of office of Antonio Ortiz; Exhibit "TT", Personal Data Sheet of Dennis Cunanan and other proof of his office, duties and functions; Exhibit "UU", Service Record of Marivic Jover and other proof of office, duties and functions; Exhibit "VV", Service Record of Maria Rosalinda









Lacsamana and other proof of office, duties and functions; Exhibit "WW", Personal Data Sheet of Belina A. Concepcion; Exhibit "XX", Service Record of Francisco Baldoza Figura and other proof of office, duties and functions; Exhibit "YY", Certification issued by the Office of the City Permit and License Inspection Officer of Santiago City, Isabela; Exhibit "ZZ", Income Tax Returns of AMFI; Exhibit "AAA", Commission on Audit Officer Orders.

For the defense, accused Figura, Lacsamana, Cunanan, Sabio, Mamauag, and Concepcion testified as witnesses for themselves. Sabio also presented as witness Silverio Marcelino Bermudez.

Accused Figura and Jover submitted as evidence the following documents: Exhibits "1"; Office Circular No. 00P0100 dated 27 November 2007 (Revised Implementing Guidelines on PDAF Accounts); Exhibit "2", Office Circular No. 000P0099 dated 3 September 2007 (Implementing Guidelines on PDAF Accounts); Exhibit "3", Office Circular No. OOG0098 dated 19 January 2007 (Reiteration of Office Policies on Authorized Signatories for Official Documents); Exhibit "4"; Office Circular No. OOFN0059 dated 18 July 1995 (Guidelines on the Processing of Disbursement Vouchers and Checks); Exhibit "5", Office Circular No. OOG0061 dated 29 August 1995 (Strengthening and Redefining the functions of Internal Audit Office); Exhibit "6", Office Circular No. OOFN0009 dated 12 September 1989 (Pre-Audit of TLRC Transactions); Exhibit "7", Office Circular No. OOFN0009 dated 27 February 1989 (Pre-Audit of Payable/Check Voucher); Exhibit "8", Memorandum Order No. 07 dated 22 June 2005 (Reactivation of Legislative Liaison Office (LLO) and Designation of Legislative Liaison Officer; Exhibit "13"; Memorandum dated 9 February 2007 from Deputy Director General Dennis Cunanan to DG Ortiz which was coursed thru the Office of Atty. Figura; Exhibit "13-A", Handwritten Note of Atty. Figura on the said Memo dated 9 February 2007; Exhibit "14", Memorandum dated 4 April 2007 (Memo of Atty. Figura to DG Ortiz requesting to be relieved of duty or responsibility as signatory to the





Disbursement Vouchers in his capacity as OIC-DDG, insofar as PDAF of legislators are concerned); and Exhibit "15", Management Letter dated 14 September 2009 from Jerry A. Calayan, Audit Team Leader (COA) addressed to DG Ortiz and coursed through the GM of TLIDSG, regarding the liquidation of Priority Development Allocated (*sic*) Funds (PDAF).

Accused Lacsamana, on the other hand, submitted the following documentary evidence: Exhibits "1", Counter-Affidavit of the accused filed on November 17, 2014; Exhibit "2", Memorandum of Agreement (MOA) between Technology Research Center (TRC), Aksyon Makamasa Foundation, Inc. (AMFI) and Hon. Anthony C. Miranda dated March 30, 2007; Exhibit "3", Memorandum dated March 23, 2007; Exhibit "4", TRC Office Circular No. 000P0099 issued on September 3, 2017; and Exhibit 5", TRC Office Circular No. 000P0100.

For his part, accused Cunanan proffered the following documentary evidence: Exhibits "1" to "1-C", Technology Resource Center (TRC) Office Circular No. 00GE0098 dated 19 January 2007, issued by Dir. Gen Antonio Y. Ortiz on the subject: "Reiteration of Office Policies on Authorized Signatories for Official Documents"; Exhibit "2" to "2-B", Office Circular 00OP0099 dated 3 September 2007 issued by Dir. Gen. Antonio Y. Ortiz on the subject: "Implementing Guidelines on Priority Development Assistance Fund (PDAF) Accounts"; Exhibit "3" to "3-C", Office Circular 00OP00100 dated 27 November 2007 issued by Dir. Gen. Antonio Y. Ortiz on the subject: "Revised Implementing Guidelines on Priority Development Assistance Fund (PDAF) Accounts"; Exhibit "4", Memorandum No. ODG-200712 dated 20 December 2007 issued by Dir. Gen Antonio Y. Ortiz on the subject: Amendment to Office Circular No. 00GE0098 dated 19 January 2007; Exhibit "5" to "5-F", Office Circular No. 00PE0100b dated 28 January 2010 issued by Dir. Gen. Dennis L. Cunanan on the subject: "Implementing Guidelines of Projects Funded through PDAF or Other Government Subsidy"; and Exhibit "6" to "6-A",

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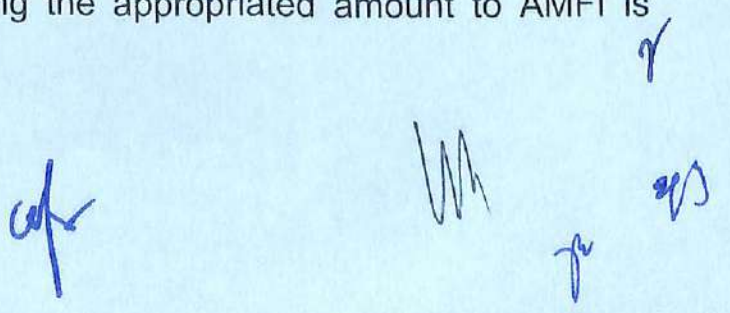


Lastly, accused Concepcion submitted the following documentary evidence: Exhibit "1", Counter-Affidavit dated February 14, 2014; Exhibit "2", Motion for Reconsideration dated September 1, 2015; Exhibit "3" and "3-a", Memorandum of Agreement and the date "3/09/2007" as appearing beside the name of Chief of Accounting Division; Exhibit "4" and "5", Action Slips; and Exhibit "6" and "6-1", Disbursement Voucher and Stamp mark of the internal auditor of TRC.

### SUMMARY OF THE TESTIMONIES OF PROSECUTION WITNESSES

**Christian Jesse Gregorio Batalla** testified that, as a Legal Assistant II of the Field Investigation Office, Office of the Ombudsman, he was a member of the team that investigated the instant PDAF-related cases of Congressman Miranda. He was assigned to prepare and draft the **Complaint**<sup>66</sup> filed for preliminary investigation. Congressman Miranda's 2007 PDAF amounting to P21 Million Pesos was released in two (2) SAROs. To implement the projects in both SAROs, Miranda utilized TLRC as the implementing agency, and AMFI as its conduit NGO. AMFI is a non-stock and non-profit association created under the laws of the Philippines, and whose chairman and president was Miranda. The amount of P10 Million Pesos PDAF was released by virtue of SARO No. ROS-07-00608 dated January 15, 2007 while the amount of P11 Million Pesos PDAF was released by virtue of SARO No. 07-04174 dated February 23, 2007. Both SAROs were issued by former DBM Secretary Rolando G. Andaya, Jr. to TLRC. Said amounts were chargeable against the Fiscal Year 2007 Budget under R.A. 9336, as re-enacted. The sole purpose of the release of said PDAF is for "financial assistance for the implementation of livelihood programs in the 4<sup>th</sup> District of Isabela". Andaya issued the Advice of Notice of Cash Allowance (NCA No. 336062-6) dated February 13, 2007 and NCA No. 336783-6 dated March 5, 2007, for credit to the account of TLRC at the LBP-Intramuros Branch under MDS Sub-Account No. 2001-90167-3. On two separate occasions, February 8, 2007 and March 12, 2007, Miranda requested in a letter to then TLRC Director General Ortiz that the aforesaid amounts be released to the AMFI. As a rule, the Implementing Agency (IA) to which funds are released by DBM for a specific project should be the implementor of the project. Under Government Procurement Policy Board (GPPB) Resolution No. 012-2007, funds may be transferred to NGOs for implementation when there is an appropriation law or ordinance earmarking an amount to be specifically contracted out to NGOs. Since there is no appropriation law or ordinance earmarking an amount to be specifically contracted out to NGOs, devolving the appropriated amount to AMFI is

<sup>66</sup> Exhibit "A"





without legal basis. More importantly, per said GPPB Resolution, the selection of NGOs shall either be through competitive bidding or negotiated procurement. However, TLRC devolved the funds to AMFI merely on the endorsement of the sponsoring legislator who was Congressman Miranda. To enable AMFI to receive the funds, Mamauag prepared an undated Work and Financial Plan which was noted by Sabio in his capacity as AMFI Chairman. Attached to the Work and Financial Plan is the Project Proposal endorsed by Miranda, with the project title: "Enhancing Income Through the Use of Livelihood Development Project", which indicated the specific details of the project and the corresponding responsibilities of the TLRC, the Office of the Representative of the 4<sup>th</sup> District of Isabela, and the beneficiaries. Belina A. Concepcion, OIC-DC, Marketing, LLO, in a Memorandum dated March 9, 2007, recommended to then TLRC Director General Ortiz the release of Miranda's PDAF in SARO No. ROCS-07-00608 for Php9,500,000.00 to implement the livelihood projects in the 4<sup>th</sup> District of Isabela. Pursuant to the MOA, the amount of Php100,000.00 for cost of livelihood materials, Php100,000.00 for livelihood training, and Php300,000.00 for Service Fee were retained. DG Ortiz affixed his signature on the same Memorandum. Figura, Group Manager, reviewed and initialed on the documents attached to the MOA for signature and approval of DG Ortiz. On March 12, 2007, TLRC, through DG Ortiz, Miranda, and AMFI through its Chairman, Sabio, executed the MOA before a Notary Public. In the same MOA, Jover, Chief of Accounting Division, certified as to the availability of funds. The TLRC released the fund under an undated Disbursement Voucher No. 012007030429 signed and approved by the following TLRC officials, among others: Cunanan, Jover, and DG Ortiz. TLRC made the payment in check by virtue of LBP Check No. 850371 dated March 13, 2007 signed by DG Ortiz and Figura. The check was received on March 12, 2007 by AMFI, through Mamauag, who issued Official Receipt No. 503 evidencing receipt of the Php9,500,000.00 from the TLRC as partial payment of the PDAF of Miranda. On the other hand, Lacsamana, Group Manager, TLIDS, LLO, in a Memorandum dated March 23, 2007, recommended that Miranda's PDAF in SARO No. 07-04174 for Php10,560,000.00 be released for the implementation of various livelihood projects in the 4<sup>th</sup> District of Isabela in accordance with the MOA between TLRC and the AMFI. Following the MOA, the amount of Php330,000.00 for service fees and Php 110,000.00 worth of livelihood materials were retained. DG Ortiz affixed his signature on the same Memorandum. On March 30, 2007, the TLRC, through DG Ortiz, Miranda, and AMFI, through its Chairman, Sabio, acknowledged a MOA before a Notary Public. In the same MOA, Jover certified as to the availability of funds. The TLRC released the fund under an undated Disbursement Voucher No. 012007040597 signed and approved by the following TLRC officials, among others: Cunanan, Jover, and DG Ortiz. TLRC made the payment in check by virtue of LBP Check No. 850426 dated April 2, 2007 signed by DG Ortiz and Group Manager Figura. Said check was received on April 2, 2007 by AMFI through Mamauag, who issued Official Receipt No. 656 evidencing receipt of the Php10,560,000.00 from the TLRC as full payment of the PDAF of Miranda.





AMFI did not submit the required financial statements to TLRC as required for its accreditation. A Certification prepared by Gerardo F. Del Rosario, Assistant Director, Corporate Filing and Records Division, Securities and Exchange Commission (SEC), confirmed that AMFI did not comply with the reportorial requirements from 2007 to present. It also shows for 3 years, for CYs 2004-2006, fund assistance from the Government was its sole source of funds.

On cross-examination, Batalla said that he conducted their fact-finding investigation independent from the COA Report. Their team was proscribed from directly contacting any of the accused, and they conducted their investigation by relying on official documents provided by relevant government agencies. When asked if the checks relating to the disbursement vouchers were really deposited in the name of AMFI, he said that there was no way of finding that out because the project funds were unliquidated; explaining also the subsequent issuance of demand letters by the Director of Special Audits Office (SAO) for AMFI to account for the subject funds. He averred that it was TLRC, not AMFI, that received the fund as an Implementing Agency and that, based on the disbursement vouchers, the checks representing the two (2) releases were received by Mamauag who issued the official receipt of AMFI. There was no notice of disallowance issued in relation to the PDAF of Miranda.<sup>67</sup>

**Leona A. Andriano** testified on direct-examination by way of **Judicial Affidavit**.<sup>68</sup> She stated that in 2010-2013, as State Auditor V assigned in the Special Audits Office (SAO) of the Commission on Audit, she conducted government-wide and sectoral performance audits and special audits; that is, examining the economy, efficiency, and effectiveness of government programs. In 2010, the government-wide performance audit conducted by SAO was in relation to the Priority Development Assistance Fund (PDAF) and Various Infrastructure Projects including Local Projects (VILP). Due to emerging issues on the utilization of PDAF based on reports such as unliquidated fund transfers, undocumented disbursements, and non-compliance with existing rules and regulations, PDAF was decided to be the subject of a government-wide performance audit in 2010. Among the implementing agencies that were subject of special audit was the Technology Resource Center (TRC). Based on their audit, Anthony Castillo Miranda was among the legislators whose PDAF allocations were transferred irregularly to Non-Government Organizations. The Implementing Agency to which the PDAF funds of Congressman Miranda were released by DBM was the Technology Livelihood Resource Center (TLRC) which, in turn, transferred the said PDAF Funds to an NGO, Aksyon Makamasa Foundation, Inc. (AMFI), whose founding chairman was Congressman Miranda. Two (2) SAROs in particular were the subject of the team's special audit in so far as the PDAF of Congressman Miranda was concerned: These

<sup>67</sup> TSN dated April 26, 2018

<sup>68</sup> Judicial Affidavit of Leona A. Andriano, Record Volume 4, pp. 118-136

*[Handwritten signatures and initials]*



were SARO No. ROCS-07-00608 dated January 15, 2007 for P10 Million and SARO No. ROCS-07-04174 dated February 23, 2007 for P11 Million. These SAROs were specifically indicated in the corresponding Advice of Notice of Cash Allocation Issued (ANCAIs) released upon the initiative of Congressman Miranda. The funds covered by the SAROs were purposely "for financial assistance to the Technology and Livelihood Resource Center (TLRC) for the implementation of livelihood programs and projects in the 4<sup>th</sup> District of Isabela". The audit team determined that Congressman Miranda requested that his PDAF be released to AMFI when said NGO was not even identified in the GAA for the year 2007 as among the implementing arm for PDAF-funded projects and, further, that the project funds remained unliquidated as of audit date. Moreover, for fund transfer to be allowed by law, the NGO should be selected either through public bidding or negotiated procurement, as prescribed by RA 9184 or provided for under GPPB Resolution No. 12-2007. None of these selection processes were observed in the transfer of funds to the NGO which was identified and endorsed by Congressman Miranda. Additionally, the releases were not in compliance with DBM National Budget Circular (NBC) No. 476 which required that a project profile and endorsement emanate from TLRC. The project profile and endorsement letter from the Implementing Agency (IA) in the utilization of PDAF funds would have fortified the intention and commitment by the IA to implement and monitor project implementation. In this case, Congressman Miranda requested that his PDAF be released to the NGO, AMFI. Under SARO No. ROCS-07-00608, the amount of P10 Million was transferred to AMFI, supposedly for livelihood projects in the 4<sup>th</sup> District of Isabela. There was, however, no proof of utilization and of project implementation since the funds continue to be unliquidated. The findings of the audit team are contained in the Special Audits Office (SAO) Report No. 2012-03 and in SAO Notice of Disallowance No. TRC 2015-165-PDAF (07-09). The Notice of Disallowance was issued because the transaction was considered irregular and illegal for being non-compliant with existing laws, rules, and regulations and for being unliquidated.

The witness explained that the implementation of PDAF projects usually commences with the legislator requesting the Congress, through the Chairman of the Appropriations Committee or the Speaker of the House, in case of the lower house. Thereafter, the Committee will endorse it to the DBM which will issue a SARO for the Implementing Agency once a project profile and endorsement is submitted by the latter. In this case, the TRC did not submit any project profile nor proposal to the DBM prior to the approval of the SARO. She also divulged that she had no idea why the DBM approved the release of funds despite the fact that AMFI was not supposed to implement the project and the fact that the project did not pass through a public bidding or a negotiated transaction.<sup>69</sup>

<sup>69</sup> TSN dated July 4, 2018



## SUMMARY OF THE TESTIMONIES OF DEFENSE WITNESSES

**Atty. Francisco B. Figura's** direct testimony is contained in his **Judicial Affidavit**.<sup>70</sup> According to him, he joined the TRC in July 1986, initially as part of the task force to reorganize TRC. Eventually, he was appointed Head of the Litigation Division of its Legal Department. In 2007 to 2010, he was the Officer-in-Charge of the Corporate Support Services Group (CSSG). As TRC OIC-Group Manager, he monitored and supervised the performance of the department heads, rated them accordingly, addressed their concerns to ensure efficiency, and represented them in the Management Committee of TRC, among others. He was familiar with PDAF because it is commonly known as a discretionary fund given to legislators to finance the projects in their districts. The Fund's predecessor, the Countrywide Development Fund or CDF, used to be implemented by TRC in the 1900's. He recalled that sometime in August 2006, Deputy Director General Dennis Cunanan announced during a ManCom meeting that TRC had been officially chosen as one of the agencies authorized under the General Appropriations Act (GAA) to implement the PDAF projects of legislators. The ManCom members were jubilant because that meant the influx of substantial revenue for TRC from the full operationalization of its livelihood training programs and a ready market for their livelihood materials/training kits. As head of TRC, Director General Antonio Ortiz (DG Ortiz) said that the inclusion of TRC in the GAA is a welcome development especially because TRC's finances are in the "red". Several months later, DG Ortiz issued Office Circular No. OOGEO098 dated 19 January 2007 which reiterated the Office Policies on Authorized Signatories for Official Documents. He recounted that soon after, DG Ortiz called for a ManCom meeting to discuss certain concerns regarding the PDAF projects. One of the things mentioned was the requirement of public bidding in the selection of the conduit NGO which will be implementing the projects. Livelihood training, according to Ortiz, is part of the "soft" portion of the PDAF which doesn't require public bidding unlike the "hard" portion which requires public bidding because it involves infrastructure. DG Ortiz also intimated that since the PDAF is considered a discretionary fund of the legislators, the TRC (as implementing agency) had to respect the wishes of the legislators, like in their choice of NGO which will serve as conduit of the TRC. Since the DBM Circular requiring public bidding even for NGO's had not been issued yet, he found some logic and merit on the stand of DG Ortiz. Finally, DG Ortiz decided that the NGO or Foundation designated in the official letter of the legislator should serve as the TRC conduit in the implementation of the PDAF. He also decided to impose a one (1) percent management fee plus Php 50,000.00 worth of TRC livelihood materials for every PDAF account. He reiterated that the designated Legislative Liaison Officer (LLO), Belina Concepcion, should continue to coordinate with the legislators' office, vet or assess the qualifications of the recommended NGO, prepare the MOA for

<sup>70</sup> Judicial Affidavit of Atty. Francisco B. Figura, Record Volume 6, pp. 193-207; Supplemental Judicial Affidavit, Id, pp. 227-232

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review of the Legal Department and such other initiatory work needed to process the PDAF projects. Since DG Ortiz had not yet issued the Office Circulars on PDAF, the standard or normal procedure on regular accounts was used by TRC in processing PDAF accounts as stated in Office Circular No. OOFN0059 dated July 18, 1995 re: Guidelines on the Processing of Disbursement Vouchers and Checks. In the processing and release of the PDAF of Congressman Anthony Miranda to the NGO, the MOA was referred to the Legal Department for review and he co-signed the checks released to the foundation as part of his official and ministerial duty under Office Circular No. OOGEO098 dated January 19, 2007. Having reservations on the matter, he made a handwritten note to both DG Ortiz and Deputy Director General Dennis Cunanan that due to the far-reaching implications and consequences of these PDAF matters/issues which may affect the very existence of the Center, he suggested that these matters be thoroughly discussed in the ManCom and presented to the Board of Trustees of TRC for approval since policies related to operations were unavoidably involved. To that end, he issued a Memorandum addressed to DG Ortiz wherein he requested to be relieved of the duty to sign Box "A" of the DV in his capacity as OIC-DDG (as the DDG was then out of the country), in view of the serious implications and responsibilities attached to such signature, not to mention the huge amounts involved, in so far as releases of the PDAF of the congressmen to NGOs/foundations are concerned. Unfortunately, this Memorandum was not acted upon by DG Ortiz. On September 3, 2007, DG Ortiz finally issued Office Circular OOOP009 which set the Implementing Guidelines for PDAF accounts and established the uniform requirements and methodology for implementing livelihood projects funded under the PDAF of members of Congress. Later, Office Circular No. OOOP0100 dated November 27, 2007 was issued by DG Ortiz which partially revised the Implementing Guidelines on PDAF accounts. The latter Circular emphasized that no PDAF releases shall be made to conduit project implementors who had outstanding unliquidated funds from prior releases. He stated that his office did not have any role in coordinating with the legislators on their PDAF projects nor in the accreditation of the NGO-conduits, such tasks belonging to the Legislative Liaison Office (LLO) of TRC, as stated in Memorandum Order No. 7 issued by DG Ortiz on June 22, 2005. He said that the task of monitoring project implementation rested with the Technology and Livelihood Information Dissemination Services Group (TLIDSG). To prove that his group had no role in monitoring the implementation of PDAF Projects, he pointed to a Management Letter dated September 14, 2009 issued by the Corporate Auditor to DG Ortiz, where it was indicated that concerns about non-liquidation of PDAF Funds were to be coursed through the Group Manager of TLIDSG and not to the Legal Department. According to him, he does not personally know Congressman Miranda nor has he ever talked to him, to any legislator, or any officer of either Aksyon Makamasa Foundation Inc. (AMFI) or any other foundation. Moreover, he points out that whistle blower Benhur Luy already testified that he does not know him personally and that his name does not appear in Luy's list of persons who received kickbacks, commissions, gifts or favors. In addition, during the

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years 2007, 2008, 2009, and 2010 that exit conferences were conducted, not a single Notice of Disallowance was issued on PDAF projects by the Corporate or Resident Auditor. Since there was no showing from the Office of the Corporate Auditor that the handling of the PDAF projects was irregular, his office continued to perform its regular mandated functions under the Office Circulars and he signed official documents as part of his ministerial duties.<sup>71</sup>

**Maria Rosalinda M. Lacsamana** testified on direct-examination by way of **Judicial Affidavit**.<sup>72</sup> She said that at the time material to these cases, she was employed at TRC as Group Manager. When she joined TRC in 2006, it was already implementing livelihood projects funded by the PDAF of members of Congress. As Group Manager, her duties included ensuring that the supporting documents relating to projects were signed, complete, and in order. She averred, however, that she had no participation in the selection, endorsement, or approval of the NGO which will implement the project funded by a legislator's PDAF and that she had no authority to enter into any agreement with the legislators or the NGOs for the release of funds and the implementation of their projects. In the MOA between TRC, the legislators, and the NGOs, neither her name nor her signature appears. She does not know the NGO involved in these cases nor its corporate officers. She asserted she did not derive any pecuniary benefit from the subject transactions. She likewise pointed out that none of the prosecution witnesses had testified that she received any kickback, commission, or anything of value in consideration of TRC's implementation of PDAF projects. Her only participation, she said, was as signatory in the Memorandum, a role vested upon her by the relevant TRC Office Circulars. As a subordinate employee of TRC, she said she was not in a position to question the request for the release of a legislator's PDAF nor the endorsement of the legislator's request to the DBM by the Senate President or the House Speaker. Neither can she assail the issuance by the DBM of the Special Allotment Release Order (SARO) or the tripartite Memorandum of Agreement entered by the legislator, TRC, and the NGO.<sup>73</sup>

**Dennis L. Cunanan's Judicial Affidavit** was adopted to serve as his direct testimony.<sup>74</sup> He stated that he was the Deputy Director General of the Technology Resource Center (TRC) from December 2004 until December 2009. He was eventually appointed as Director General of TRC (replacing former TRC Director General Antonio Ortiz) and held such post from January 2010 until his resignation on March 2014. Upon assumption in 2004 as Head of the Change Management Team (CMT), his function was to be responsible for the day-to-day administration of the then TLRC, particularly with respect to maintaining the financial stability of their organization. When

<sup>71</sup> TSN dated August 27, 2019

<sup>72</sup> Judicial Affidavit of Maria Rosalinda M. Lacsamana, Record Volume 6, pp. 280-286

<sup>73</sup> TSN dated October 22, 2019

<sup>74</sup> Judicial Affidavit of Dennis L. Cunanan, Record Volume 6, pp. 331-342

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he assumed the post of Deputy Director General of TLRC, he likewise became its Chief Operations Officer. In said capacity, he was required to be a co-signatory in the disbursement vouchers pertaining to the financial transactions of TRC. All PDAF transactions and processing were lodged under the direct supervision of the Office of the Director General. It was former DG Ortiz who directly dealt with and supervised the processing of all PDAF-related projects of the TRC. Through the issuance of several circulars, his authority in relation to PDAF matters had then been limited to signing TLRC's checks in amounts ranging from P100,000.00 up to P1,000,000.00 only. He recounted that by way of Office Circular 00OP0098, DG Ortiz specifically stated, among others, that no PDAF shall be implemented without a Memorandum of Agreement (MOA) duly executed and that all MOA shall need to be endorsed by the Legislative Liaison Officer (LLO) for approval by DG Ortiz after being reviewed by the Legal Department and initialed on by the Group Manager of the Corporate Support Services Group (CSSG). The Office of the Deputy Director General which he headed was stripped off any participation in the implementation of PDAF-funded projects. During that time, he worked upon the assumption that the PDAF-funded projects were regular and legitimate undertakings of TLRC. In the course of regular audit and as manifested in the regular annual audit report of TRC, there had been no red flag to which the attention of their office had been drawn with regard to the processing or accrediting of PDAF funds. There were no adverse observations or disallowances except when the results of the Special Audit came in. He said that, as a matter of fact, when he assumed the position of Director General in 2010, he immediately organized a committee to investigate and review TRC's implementation of PDAF projects and initiated communication with the concerned NGOs to enable them to rectify deficiencies, if any, and to afford them the chance to liquidate all unliquidated funds on record. He stated that he also caused the blacklisting of NGOs that failed to comply with his initial letter, instructing them to update their legal documents, rectify their deficiencies, and/or similarly liquidate funds that remained unliquidated. He reiterated that he had not met nor had spoken with Congressman Miranda nor had received any money or other form of benefit in exchange for his signature.<sup>75</sup>

**Edison Ines Sabio** testified by way of **Judicial Affidavit**.<sup>76</sup> According to him, he was appointed as one of Congressman Anthony Miranda's staff at his office at the City Council of Santiago City when the latter was still a City Councilor. The area of concern he was to work on was the planning and preparation of programs, particularly pertaining to agriculture. When Miranda later on won a seat in the Congress, he was appointed as his district coordinator and, subsequently, his political affairs officer. Miranda also took on some other staff such as Domingo Mamauag who became his personal liaison officer and Silverio Bermudez who served as his secretary. His work was primarily to monitor projects in the district and to receive, and

<sup>75</sup> TSN dated October 21, 2019

<sup>76</sup> Judicial Affidavit of Edison Ines Sabio, Record Volume 6, pp. 451-461

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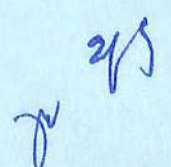


accordingly transmit, letters and requests from Congressman Miranda's constituents to his office in the House of Representatives. As far as he knows, Aksyon Makamasa Foundation Incorporated (AMFI) was organized and registered by Congressman Miranda at the Securities and Exchange Commission as a foundation during his term as City Councilor of Santiago City. AMFI's objective was to give its beneficiaries, who are also its members, the benefits of the different programs of Congressman Miranda which included social services, health services, agricultural inputs, technology assistance, and educational assistance. At the time he joined AMFI, the chairman was Congressman Miranda. Upon the ascent of Miranda to Congress, he was appointed chairman and Silverio Bermudez trustee and concurrent treasurer of the Foundation. He testified that they were instructed by Congressman Miranda to open a checking account with the Land Bank of the Philippines-Santiago Branch with him and Bermudez as signatories. He declared, however, that it was Congressman Miranda who had control and authority on how the funds of AMFI were to be disbursed and that only Miranda can actually approve the budget and identify the beneficiary for their projects. Several projects for the fourth congressional district were undertaken by AMFI, some of which he identified as: "Ahon Mamamayan", a program for the distribution of farm implements to different farmers; "Agas ti Marigrigat", a program to give free medicines and medical apparatus per barangay; and "Aralan ng Mamamayan", for the training and education of farmers on how to plant high value crops. All of the said projects of AMFI were upon the initiative and funding of Congressman Miranda and all of these were fully liquidated and were successful. Later in 2006, he resigned as chairman of AMFI as he filed his candidacy for Board Member of the Fourth District of Isabela. Sometime in March 2007, he said he was asked by Domingo Mamauag to sign a Memorandum of Agreement and financial program of AMFI amounting to 21 Million Pesos upon the instruction of Congressman Miranda, the said documents to be supposedly filed with the TLRC. He said he inquired from Mamauag why he had to sign the MOA when he had already resigned as Chairman of AMFI. He was told that it would be better that he be the signatory for the new project because of the success of similar programs he had implemented before and so that the proposal for the project can better gain approval. With this explanation, he agreed to sign the documents. Later, he was also asked by Congressman Miranda to sign/draw a check together with Bermudez amounting to 9.5 Million Pesos in favor of Leilanie Gabriel whom he knew as one of the staff of Congressman Miranda. A few days thereafter, he and Bermudez were again asked by Congressman Miranda to sign two (2) checks in the amount of 10,560,000 Million Pesos, this time in favor of Daniela Marie Santos, staff of Joan Miranda, who was the wife of Congressman Miranda. He only learned years later that the amounts covered by the checks he signed came from the Priority Development Assistance Fund (PDAF) of Congressman Miranda. He denied participation and involvement in the use of the amount subject of these cases.<sup>77</sup>

<sup>77</sup> TSN dated November 19, 2019





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**Silverio Marcelino Bermudez** testified on direct-examination by way of **Judicial Affidavit**.<sup>78</sup> He stated that he personally knows former Congressman Miranda as the latter was his classmate in elementary and high school. When Miranda won in 2004 as Congressman, Bermudez became his personal secretary. Prior thereto, he worked as Miranda's Legislative Assistant II for the City Council of Santiago City, Isabela. Later, he was designated as the District Coordinator for Miranda's congressional district. As District Coordinator, his responsibilities included expediting Congressman Miranda's programs such as medical missions, distribution of medicines and relief goods, and bringing to Miranda's attention the needs of his constituents. He was also appointed by Congressman Miranda as the treasurer of Aksyon Makamasa Foundation Incorporated (AMFI), a non-stock, non-profit corporation that existed prior to the election of Miranda as Congressman. As founding chairman of AMFI, Congressman Miranda directed all the affairs of the foundation, most especially its finances. All expenses of the Foundation were made upon Miranda's orders and checks/disbursements were only possible upon his orders. All the affairs of AMFI were likewise upon the direction of Congressman Miranda. He explained that AMFI served as the conduit of Congressman Miranda in bringing his projects to his constituents. Some of the projects of AMFI were "Ahon Mamamayan" which became the vehicle for distributing farm implements; "Agas Ti Marigrigat", for the distribution of free medicines and apparatus for barangays in the 4<sup>th</sup> district; and "Aralan ng Mamamayan", which was for the distribution of high value crops to farmers within the 4<sup>th</sup> Congressional District. Sometime in March 2007, he was ordered by Congressman Miranda and his wife, Joan Miranda, to sign together with Edison Sabio, a check of AMFI in the amount of 9.5 Million Pesos in favor of Leilanie Gabriel, personal secretary of Joan Miranda. He did not ask as to the circumstances but merely complied as instructed. He said that, soon after, he and Sabio resigned from AMFI to embark on their candidacy as councilor and board member, respectively, of the local government of Santiago City. Concomitantly, they were instructed by Congressman Miranda to hand over the check book and disbursement vouchers of AMFI to Gabriel. During the campaign period of 2007, he and Sabio were again ordered by Congressman Miranda and his wife to sign two (2) checks of AMFI prepared by Gabriel in the amount of 5 Million Pesos and 5,560,000 Million Pesos. It was Gabriel who came to them and sought their signatures. Both amounts were issued in the name of Daniella Marie Santos. He testified that Gabriel and Santos were employed at 828 Pawnshop which was operated by Joan Miranda. Further, he vouched that Sabio had no hand in the use of the 21 Million Pesos from the Priority Development Assistance Fund (PDAF) of Congressman Miranda as the latter was also just following orders from Congressman Miranda.<sup>79</sup>

<sup>78</sup> Judicial Affidavit of Silverio Marcelino Bermudez, Record Volume 6, pp. 469-477

<sup>79</sup> TSN dated November 18, 2019

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**Domingo B. Mamauag** testified by way of *Judicial Affidavit*.<sup>80</sup> He stated that at the time material to these case, he was an "on call messenger" of then Congressman Miranda, but not a government employee. His tasks were, among others, to deliver, transmit, pick-up documents/papers to and from different offices, as may be assigned to him by Congressman Miranda. He testified that he receives an allowance from the personal money of accused Miranda, the amount of which depended on the task he was required to perform. He claimed that his only participation in the subject transactions was to pick up the checks involved in the instant cases. Upon receipt of the checks from TRC, he deposited the same checks with Land Bank under the account of the payee, Aksyon Makamasa Foundation, Inc. (AMFI). Moreover, he denied having prepared the documents denominated as "Work and Financial Plan", his signature appearing thereon merely affixed for "formality's sake", upon the instruction of Congressman Miranda. He claimed not having received any amount nor benefiting from the subject transactions. The only reason he says he was included in these cases was because he received the subject checks from TRC and deposited them under the account of AMFI, which acts were merely in compliance with the directives of Congressman Miranda. Except for Congressman Miranda and Sabio, he said he did not know personally the other accused nor had he conspired with them in the commission of the crimes for which they are presently charged.<sup>81</sup>

**Belina A. Concepcion**'s direct examination was adopted from her *Judicial Affidavit*.<sup>82</sup> She stated that she was employed with the then-TLRC from 1989 to 2015. In the year 2007, she was designated as Officer-in-Charge of the Sales and Marketing Division/Technology and Livelihood Information Dissemination Service Group and then concurrent Legislative Liaison Officer (LLO). As an LLO, she checked if supporting documents forwarded from the Office of the Director General in the checklist of PDAF projects were complete and if found so, prepared the recommendation memorandum for the release of the funds and for the initial processing of the documents for the PDAF transaction. Other than such involvement, she has no participation in the implementation of the PDAF-funded livelihood projects. She did not prepare or review the MOA executed among Congressman Miranda, Director General Ortiz, and AMFI as such was not the function of her office. She asserted that she had neither signed nor affixed her initials on the MOA, reiterating that she merely recommended the release of the subject PDAF funds. According to her, not only the documents submitted in accordance with the MOA, they were also complete per the requirements checklist, i.e., the MOA, Special Allotment Release Order (SARO), Notice of Cash Allocation (NCA), Endorsement Letter from the Congressman, Project Proposal, and the Work and Financial Plan. Her recommendation was subject to the review of the Legal Department and the

<sup>80</sup> Judicial Affidavit of Domingo B. Mamauag, Record Volume 6, pp. 491-497

<sup>81</sup> TSN dated January 21, 2020

<sup>82</sup> Judicial Affidavit of Belina A. Concepcion, Record Volume 7, pp. 27-34; Amended Judicial Affidavit, Id, pp. 63-70

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approval of the Office of the Director General. Her authority to evaluate was limited only to the existence of the MOA but not as to its propriety. Furthermore, there had been no adverse audit observation made by their Resident COA Auditor on the implementation of the PDAF livelihood projects, not only as to Congressman Miranda but to all other legislators as well. TLRC's transactions and procedures regarding PDAF projects were legal, regular, and in order. Lastly, she did not receive any amount in recommending the release of PDAF and she was merely faithfully carrying out her duties as a government employee.<sup>83</sup>

### STIPULATED FACTS

As indicated in the **Pre-Trial Order** of April 17, 2018,<sup>84</sup> the following were stipulated/agreed upon by the parties:

- 1) During the time material and relevant to this case, accused Marivic V. Jover is the Chief Accountant of TLRC;
- 2) During the time material and relevant to this case, accused Francisco B. Figura is the Group Manager of TLRC;
- 3) Domingo R. Mamauag is the Representative of Aksyon Makamasa Foundation, Inc. (AMFI); while Edison I. Sabio is the one who signed as Chairman of Aksyon Makasama Foundation, Inc. (AMFI) in the Memorandum of Agreement executed among TLRC, Office of Hon. Anthony Miranda and AMFI which were acknowledged on March 12, 2007 and March 30, 2007, respectively;
- 4) Marivic V. Jover and Francisco B. Figura, admit their respective identities as the accused in these cases;
- 5) The existence, genuineness and due execution of the following documents:

<sup>83</sup> TSN dated March 9, 2020

<sup>84</sup> Record Volume 3, pp. 271-285, As regards accused Figura and Jover

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EXHIBITS

DESCRIPTION

"A"	Field Investigation Office (FIO), Office of the Ombudsman Complaint dated April 21, 2014;
"B"	COA Report for PDAF Utilization covering Calendar Year 2007-2009 and attachments, including COA office orders;
"C" and series	Certificate of Incorporation of Aksyon Makamasa Foundation, Inc. (AMFI);  Cover Sheet of Aksyon Makamasa Foundation, Inc. (AMFI);  Articles of Incorporation of Aksyon Makamasa Foundation, Inc. (AMFI);  By-Laws of Aksyon Makamasa Foundation, Inc. (AMFI) with attachments;  Certificate of Filing of Amended Articles of Incorporation of Aksyon Makamasa Foundation, Inc. (AMFI);  Payment Assessment Form paid to SEC by Aksyon Makamasa Foundation, Inc. (AMFI); Cover Sheet of Aksyon Makamasa Foundation, Inc. (AMFI) for Fiscal Year Ending December 31, 2001;  Articles of Incorporation of Aksyon Makamasa Foundation, Inc. (AMFI) acknowledge on March 29, 2007 with attachments.
"D"	General Information Sheet of Aksyon Makamasa Foundation, Inc. (AMFI) for Year 2007;
"E"	Certificate of Corporate Filing/Information from SEC;
"F"	Letter dated May 30, 2012 from COA to AMFI President for submission of Liquidation documents;
"G"	GPPB Resolution No. 012-2007;
"H"	COA Circular No. 95-003 issued in 1995;
"I"	COA Circular No. 96-003 dated February 27, 1996;
"J"	NBC No. 476 dated September 20, 2001;
"K"	COA Circular No. 85-55A as amended;
"L"	COA Circular No. 2012-003 dated October 29, 2012;
"M"- "M-1"	Indorsement dated December 21, 2006 from the House of Representatives signed by Joey Salceda and Jose de Venecia with List of Projects;
"O"	Special Allotment Release Order dated January 15, 2007 with number ROCS-07-00608 amounting to Php 10,000,000.00;
"P"	Advice of NCA issued dated February 13, 2007 for NCA No. 336062-6;
"Q"	NCA No. 336062-6;

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"CC" to "CC-1"	1 <sup>st</sup> Indorsement dated February 21, 2007 from the House of Representatives signed by Joey Salceda and Jose de Venecia with List of Projects;
"EE"	Special Allotment Release Order dated February 23, 2007 with number ROCS-07-04174 amounting to Php 11,000,000.00;
"FF"	Advice of NCA issued dated March 5, 2007 for NCA No. 336783-6;
"GG"	NCA No. 336783-6.

### UNDISPUTED FACTS

The antecedent facts, as culled from the record, are as follows:

In the course of a government-wide performance audit on the Priority Development Assistance Fund (PDAF) allocation and disbursements covering Calendar Years 2007-2009, the Commission on Audit (COA), through its Special Audits Office (SAO), uncovered various irregularities in the release and utilization of the PDAF by Implementing Agencies (IAs), including the Technology Resource Center (TRC),<sup>85</sup> to Non-Governmental Organizations (NGOs). The said audit had focused on the releases, utilization of funds, as well as implementation of projects/programs by selected implementing agencies.<sup>86</sup> Pertinent to the present cases, the audit found that Miranda, through the TRC, sought the release and transfer of his PDAF in the total amount of Php21,000,000.00 to **Aksyon Makamasa Foundation, Inc.** (AMFI),<sup>87</sup> a duly organized non-stock, non-profit NGO based in Santiago City, Isabela.

After conducting an independent fact-finding investigation and on the basis of the **COA Report**,<sup>88</sup> the Field Investigation Office (FIO) of the Office of the Ombudsman filed a **Complaint**<sup>89</sup> dated April 21, 2014 against the following:

<sup>85</sup> Formerly known as Technology and Livelihood Resource Center (TLRC), terms will be used alternately

<sup>86</sup> Exhibit "AAA"

<sup>87</sup> Exhibits "C", "D", "E"

<sup>88</sup> Exhibit "B" and submarkings

<sup>89</sup> Exhibit "A"



NAME	POSITION	OFFICE/AGENCY
Anthony Castillo Miranda	Representative of the 4 <sup>th</sup> District of Isabela Province; Founding Chairman	Technology Resource Center (TRC)
Antonio Yrigon Ortiz	Director General	Technology Resource Center (TRC)
Dennis Lacson Cunanan	Deputy Director General	Technology Resource Center (TRC)
Marivic Villaluz Jover	Chief Accountant	Technology Resource Center (TRC)
Maria Rosalinda Masongsong Lacsamana	Group Manager, TLIDSG	Technology Resource Center (TRC)
Belina A. Concepcion	Legislative Liaison Officer; Sales and Promotion Officer V	Technology Resource Center (TRC)
Francisco Baldoza Figura	Head of Litigation Division/ OIC-CSSG	Technology Resource Center (TRC)
Domingo R. Mamauag	Personal Liaison Officer/Representative of Anthony Castillo Miranda	Aksyon Makamasa Foundation, Inc. (AMFI)
Engr. Edison I. Sabio	Chairman	Aksyon Makamasa Foundation, Inc. (AMFI)

#### I. SARO No. ROCS-07-00608

In a **Letter**<sup>90</sup> dated December 20, 2006 by Miranda to Hon. Joey S. Salceda, Chairman of Committee on Appropriations, House of Representatives, Miranda requested the release of Php10,000,000.00 in soft projects, chargeable against his Congressional PDAF, for the purpose of covering the funding requirements of livelihood projects in the 4<sup>th</sup> District of Isabela, with TLRC as the Implementing Agency. In the **Indorsement**<sup>91</sup> dated December 21, 2006 by Salceda and Hon. Jose de Venecia, Speaker, House of Representative, they referred to the Secretary of the Department of Budget and Management the list of projects for the Fourth Tranche of FY

<sup>90</sup> Exhibit "N"

<sup>91</sup> Exhibit "M"

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2006 chargeable against the PDAF of legislators, among which was that for accused Miranda.

36	Rep. Miranda, Anthony C.	4 <sup>th</sup> District, Isabela	10,000,000
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On January 15, 2007, the DBM, through Secretary Rolando G. Andaya, Jr., issued **SARO No. ROCS-07-00608** <sup>92</sup> authorizing the allotment of Php10,000,000.00 as financial assistance to TLRC for the implementation of livelihood programs and projects in the 4<sup>th</sup> District of Isabela. The DBM likewise issued the **Advice of Notice of Cash Allocation (NCA No. 336062-6)** <sup>93</sup> dated February 13, 2007 for credit of the said amount to the account of TLRC at the Land Bank of the Philippines (LBP) Intramuros Branch under MDS Sub-Account No. 2001-90167-3.

In a **Letter** <sup>94</sup> dated February 8, 2007 by Miranda to Ortiz, then Director General of TLRC, he requested that the said amount be released to AMFI for which a Memorandum of Agreement (MOA) will be executed between AMFI and TLRC. Miranda prepared a **Project Proposal** <sup>95</sup> and endorsed the same to TLRC to justify the implementation of his Php10,000,000.00-worth PDAF project with AMFI as the project Implementor. A **Work and Financial Plan**, <sup>96</sup> showing specific programs, activities, and target date, was prepared by Mamauag and noted by Sabio, as AMFI Chairman. In a **Memorandum** <sup>97</sup> dated March 9, 2007 prepared by Concepcion for Director General Ortiz, with subject "Release of PDAF of Congressman Anthony C. Miranda", it was stated: "[I]n accordance to the Memorandum of Agreement between TLRC and Aksyon Makamasa Foundation, Inc., we are recommending the release of Congressman Anthony C. Miranda's PDAF in the amount of P9,500,000.00 for the implementation of livelihood projects in the 4<sup>th</sup> District of Isabela. Following

<sup>92</sup> Exhibit "O"

<sup>93</sup> Exhibits "P" and "Q"

<sup>94</sup> Exhibit "R"

<sup>95</sup> Exhibit "T"

<sup>96</sup> Exhibit "S"

<sup>97</sup> Exhibit "U"

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the MOA, we have retained the amount of P100,000.00 for cost of livelihood materials, P100,000.00 for Livelihood Training, and P300,000.00 for Service Fees." **Routing Slips** <sup>98</sup> dated March 8 and 9, 2007 accompanied the MOA and the DV that were to be approved by Director General Ortiz. Consequently, a **Memorandum of Agreement** <sup>99</sup> dated March 12, 2007 was entered into by TLRC (represented by Ortiz), Miranda, and AMFI (represented by Sabio) for the transfer of Php10,000,000.00 to AMFI for the implementation of livelihood and development projects in Miranda's district. Jover signed the same MOA certifying availability of funds. Thereafter, TLRC released to AMFI, through Mamauag as claimant, the financial grants from the PDAF of Miranda, as evidenced by **Disbursement Voucher No. 012007030429**, <sup>100</sup> certified by Cunanan in his capacity as Deputy Director General and Jover as OIC, Accounting Division, and approved by Ortiz in his capacity as Director General. Attached thereto was the **LBP Check No. 0000850371** <sup>101</sup> dated March 13, 2007, and signed by Ortiz and Figura, indicating payment to the order of AMFI of the amount of Php9,500,000.00. Mamauag issued **AMFI Official Receipt No. 000593** <sup>102</sup> evidencing receipt of the amount.

## II. SARO No. ROCS-07-04174

In a **Letter** <sup>103</sup> dated February 5, 2007 by Miranda to Salceda, Chairman of Committee on Appropriations, House of Representatives, Miranda submitted his list of priority projects to be funded by his Php15,000,000.00 PDAF for the 1<sup>st</sup> Tranche FY 2007, intended for the 4<sup>th</sup> District of Isabela, the amount of Php11,000,000.00 of which is allotted for his livelihood projects to be implemented by TLRC, and the remaining Php 4,000,000.00 to cover the cost of Insurance Premium with Philippine Health

98 Exhibit "V"  
99 Exhibit "W"  
100 Exhibit "X"  
101 Exhibit "Y"  
102 Exhibit "Z"  
103 Exhibit "DD"

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Insurance Corporation as implementor. In the **Indorsement** <sup>104</sup> dated February 21, 2007 by Salceda and De Venecia, they again referred to the Secretary of the Department of Budget and Management the list of projects for the First Tranche of FY 2007 relative to the PDAF of various Representatives, Miranda included.

19	Rep. Miranda, Anthony C.	4 <sup>th</sup> District, Isabela	15,000,000
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On February 23, 2007, the DBM, through Secretary Andaya, issued **SARO No. ROCS-07-04174** <sup>105</sup> authorizing the allotment of Php11,000,000.00 as financial assistance to TLRC for the implementation of livelihood programs in the 4<sup>th</sup> District of Isabela. The DBM likewise issued the **Advice of Notice of Cash Allocation (NCA No. 336783-6)** <sup>106</sup> dated March 5, 2007 for credit of the said amount to the account of TLRC at the Land Bank of the Philippines (LBP) Intramuros Branch under MDS Sub-Account No. 2001-90167-3.

In a **Letter** <sup>107</sup> dated March 12, 2007 by Miranda to Ortiz, he again requested the said amount to be released to AMFI, premised on the execution of a MOA between AMFI and TLRC. Another **Project Proposal** <sup>108</sup> was prepared by Miranda and endorsed to TLRC to justify the implementation of his Php11,000,000.00-worth PDAF project where AMFI is identified as the project Implementor. A **Work and Financial Plan** <sup>109</sup> was once again prepared by Mamauag and noted by Sabio, stating the project programs, activities, and target date. In a **Memorandum** <sup>110</sup> dated March 23, 2007, prepared by Lacsamana (Group Manager-TLIDS, LLO) for Ortiz, with subject "Release of PDAF of Congressman Anthony C. Miranda", it was stated: "[I]n accordance to the Memorandum of Agreement between TLRC

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<sup>104</sup> Exhibit "CC"

<sup>105</sup> Exhibit "EE"

<sup>106</sup> Exhibits "FF" and "GG"

<sup>107</sup> Exhibit "HH"

<sup>108</sup> Exhibit "JJ"

<sup>109</sup> Exhibit "II"

<sup>110</sup> Exhibit "KK"

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and Aksyon Makamasa Foundation, Inc., we are recommending the release of Congressman Anthony C. Miranda's PDAF in the amount of P10,560,000.00 for the implementation of various livelihood projects in the 4<sup>th</sup> District of Isabela. Following the MOA, we have retained the amount of P330,000.00 for service fees and P110,000.00 worth of livelihood materials." A **Memorandum of Agreement**<sup>111</sup> dated March 30, 2007 was then entered into by TLRC (represented by Ortiz), Miranda, and AMFI (represented by Sabio) for the transfer of Php11,000,000.00 to AMFI for the implementation of livelihood and development projects in Miranda's district. Jover signed the same MOA certifying availability of funds. Thereafter, TLRC released to AMFI, with Mamauag as claimant, the financial grants from the PDAF of Miranda, as evidenced by **Disbursement Voucher No. 012007040597**<sup>112</sup> certified by Cunanan in his capacity as Deputy Director General and Jover as OIC, Accounting Division, and approved by Ortiz as then Director General. Attached thereto was **LBP Check No. 0000850426**<sup>113</sup> dated April 2, 2007, indicating payment to the order of AMFI of the amount of Php10,560,000.00, signed by Ortiz and Figura. Mamauag issued **AMFI Official Receipt No. 000656**<sup>114</sup> evidencing receipt of the amount.

On both MOA, AMFI and TLRC have the following respective responsibilities:

- I. The FOUNDATION shall:
  - a. Submit to TRC a duly certified list of the target areas/beneficiaries of the livelihood projects;
  - b. Submit a Work and Financial Plan in the amount of TEN MILLION PESOS (P10,000,000.00)/ ELEVEN MILLION PESOS (P11,000,000.00) as a pre-requisite to the transfer of funds;
  - c. Take full responsibilities in the proper disposition/disbursement of funds in accordance with the program guidelines and the Work and Financial Plan;
  - d. Submit to TRC a regular project implementation report including funds utilized and pertinent documents relative to the disbursement/disposition of funds;

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<sup>111</sup> Exhibit "LL"

<sup>112</sup> Exhibit "MM"

<sup>113</sup> Exhibit "NN"

<sup>114</sup> Exhibit "OO"

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- e. Coordinate with TRC for the post evaluation of the project implementation per agreed schedules.

II. TRC shall:

- a. Transfer the initial amount of TEN MILLION PESOS (P10,000,000.00)/ ELEVEN MILLION PESOS (P11,000,000.00) to the FOUNDATION for its implementation, subject to submission of a Work and Financial Plan;
- b. Provide necessary technical assistance to the FOUNDATION to ensure that the program objectives are met;
- c. Require the FOUNDATION to submit, progressively, project implementation reports in accordance with the agreed schedules and data requirements;
- d. Monitor the status of the implementation of the program and the utilization of the fund during actual project implementation; and
- e. Retain THREE percent (3%) of the amount released as service fee for its role in the implementation of the project, and ONE percent (1%) worth of livelihood materials and ONE percent (1%) training.

In a **Letter**<sup>115</sup> dated May 30, 2012, the COA-SAO through its Director IV, Susan P. Garcia, requested for AMFI's confirmation of its receipt of the total amount of P20,060,000.00 and proof of implementation of the livelihood projects. Further, the COA-SAO requested for the submission of liquidation documents supported with Official Receipts and Sales Invoices of all items procured, and duly signed distribution lists indicating the complete names and addresses of recipients for evaluation, including the: (1) manner and criteria for selection of beneficiaries; (2) the manner of selection of suppliers; (3) the manner by which [it] was selected as partner in the implementation of the priority projects; and (4) the problems encountered in the implementation of the projects. Up until the filing of these case, AMFI has not yet complied with the letter-request of COA-SAO.

**Notices of Disallowance** with **SAO ND No. 2015-165-PDAF (07-09)**<sup>116</sup> and **SAO ND No. 2015-166-PDAF (07-09)**<sup>117</sup> both dated October 26, 2015 were sent to persons identified therein as liable for the pertinent transaction, accused herein included, for them to settle immediately the

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<sup>115</sup> Exhibit "F"

<sup>116</sup> Exhibit "AA"

<sup>117</sup> Exhibit "BB"

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disallowance inasmuch as the funds released for the implementation of livelihood projects in the 4<sup>th</sup> District of Isabela remained unliquidated as of audit date. The transactions were disallowed in audit as these were undertaken without due regard to existing laws and regulations.

### ISSUE

The question before the Court is whether the accused are criminally liable for **Violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act** and of **Malversation of Public Funds**, as defined and penalized under **Article 217 of the Revised Penal Code, as amended**, as charged under the **Informations** filed.

### FINDINGS AND CONCLUSION

In criminal cases, the accused is presumed innocent and the burden is on the prosecution to establish his guilt of the crime charged by proof beyond a reasonable doubt. Every element of the crime charged must be proved with this requisite quantum of proof. Proof beyond reasonable doubt requires moral certainty, or that degree of proof which produces conviction in an unprejudiced mind. It is such certainty that satisfies the judgment and conscience of a reasonable mind that the accused is guilty of the crime charged. Conviction must rest on the strength of the prosecution evidence and not on the weakness of the defense.<sup>118</sup>

The Court will first deal with Criminal Cases Nos. SB-17-CRM-0657 and 0658 for alleged **Violation of Section 3(e) of R.A. No. 3019, as amended**. The Informations essentially allege that the accused conspired with one another, acted with manifest partiality and/or evident bad faith, and

<sup>118</sup> Section 14(2), Article III, 1987 Constitution; Section 2, Rule 133, Revised Rules of Court; *People v. Tolentino*, 16 SCRA 467

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in so doing, caused undue injury to the government through the PDAF scheme.

To begin with, **Section 3(e) of R.A. 3019** provides, insofar as pertinent:

“SEC. 3. Corrupt practices of public officers. – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

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(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.”

To sustain a conviction for **Violation of Section 3(e) of R.A. 3019, as amended**, the following elements must be sufficiently established by the prosecution: <sup>119</sup>

1. The accused must be a public officer discharging administrative, judicial, or official functions, or a private individual acting in conspiracy with such public officers;
2. The accused acted with manifest partiality, evident bad faith, or inexcusable negligence; and
3. In the discharge of accused's functions, the accused caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage, or preference.

The presence of the first element is not disputed. At the time material and relevant to these cases, accused Cunanan, Figura, Jover, Lacsamana,

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<sup>119</sup> *Fuentes v. People*, G.R. No. 186421, April 17, 2017

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and Concepcion were public officers being, respectively, the Deputy Director General, Legal Management Manager, Chief Accountant, Group Manager, and Legislative Liaison Officer of TRC. Sabio, who acted as Chairman of AMFI, is a private individual who is alleged to have conspired with the aforementioned public officers.

The second element describes the three modes of commission of the offense, namely, through "manifest partiality", "evident bad faith", and/or "gross inexcusable negligence". Proof of any of these three in connection with the prohibited acts mentioned in Section 3(e) is enough to convict.<sup>120</sup>

In *Coloma, Jr. v. Sandiganbayan*,<sup>121</sup> the Court expounded on the different modes of committing the offense penalized under Section 3(e), viz.:

**"Partiality"** is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." **"Bad faith"** does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." **"Gross negligence"** has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property."

The prosecution avers that manifest partiality and/or evident bad faith of the accused is exemplified in their individual yet concerted acts which eventually led to the release of Miranda's PDAF to AMFI, an NGO that he himself founded and controlled but whose competence and qualification had not been duly ascertained.

Before the Court delves into a discussion of the remaining two interrelated elements, it is useful to recall first the process involved in the release of a legislator's PDAF.

<sup>120</sup> *Sison v. People*, 628 Phil. 573, 583 (2010)

<sup>121</sup> 744 Phil. 214 (2014)

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As can be gleaned from the evidence, the process begins with a request from a legislator to the Chairman of Committee of Appropriations, House of Representatives, for a release of a specified amount for "soft projects" chargeable against the legislator's PDAF. Usually, such request already identifies the type of program/project to be carried out, its intended beneficiary, and the implementing agency. The Committee on Appropriations, in turn, indorses the same to the Department of Budget and Management (DBM) Secretary, attaching a list of projects similarly submitted by the other Representatives. The DBM will then issue the corresponding SARO and NCA, whereupon the legislator concerned indorses to the implementing agency the NGO chosen after a selection process in accordance with the prescribed procedure. The NGO would be the entity to actually implement the projects in his/her congressional district. Along with the request, the legislator prepares and attaches his/her Project Proposal and the Work and Financial Plan prepared by the NGO. Consequently, the legislator, the implementing agency, and the NGO will enter into a tripartite memorandum of agreement. The implementing agency will then check if the documents are in order and complete before preparing the DV and the check payable to the NGO. After crediting the allocated amount stated in the MOA, the implementing agency will release the DV and check to the NGO who will then withdraw the funds for the implementation of the projects pursuant to the tripartite MOA. Thereafter, the NGO will submit to the implementing agency a regular project implementation report including funds utilized and pertinent documents relative to the disbursement of funds. In turn, the implementing agency will monitor the status of the implementation of the projects/programs and the utilization of the funds.

In the instant cases, evidence clearly bear out the fact that AMFI was unilaterally chosen and indorsed as project implementor for the projects in the Congressional District of Isabela without, however, the benefit of either

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an appropriation law or ordinance or the conduct of a public bidding which would have served as basis for its selection. Here, even as the Court is held back from making a pronouncement as to accused Miranda who remains at large as of date, it is indubitable from the established facts that AMFI had been chosen as the preferred NGO absent the required substantiation of its qualification or competence to carry out the projects funded by the subject PDAF. The unfounded indorsement of AMFI as project implementor and conduit of congressional funds gained momentum as it passed through the hands of the public officials involved and such deplorable status was but a necessary consequence, *inter alia*, of the procedural lapses that occurred within the TRC.

This brings the Court, therefore, to a consideration of the alleged acts/participation in the offense by the accused officials of the TRC.

Under the graft charge, the prosecution alleges that accused Cunanan, Jover, Figura, Lacsamana, and Concepcion – by their overt acts or willful omission – unlawfully facilitated the processing, approval, and release of the PDAF of Miranda to AMFI.

The matrix of evidence before the Court betrays the fact that even as AMFI was selected and recommended by its sponsor-legislator (despite the absence of an appropriation law or ordinance or the conduct of a public bidding), such unilateral choice was authorized and assented to by the TRC officials who were burdened by their mandate to screen and evaluate such selection. No due diligence was undertaken to assess the qualification and capability of AMFI to implement the livelihood projects, and the choice of AMFI upon the sole representation of Miranda had been perfunctorily approved despite the glaring non-compliance to the requirements of law and under the MOA.

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