



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City
THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case Nos.

SB-18-CRM-0508

*For: Violation of Section 3(e),
R.A. No. 3019, as amended*

-versus-

SB-18-CRM-0509

*For: Malversation of Public
Funds (Art. 217, Revised
Penal Code)*

**HERMINIO GUIVELONDO TEVES,
HIRAM DIDAY RAAGAS PULIDO,
ANTONIO YRIGON ORTIZ,
DENNIS LACSON CUNANAN,
FRANCISCO BALDOZA FIGURA,
MARIVIC VILLALUZ JOVER,
BELINA AGBAYANI CONCEPCION,
SAMUEL SALVACION BOMBEO,**
Accused.

Present:

Cabotaje-Tang, P.J.,
Chairperson

**Fernandez, B.R., J. and
Moreno, R.B., J.**

Promulgated on:

SEPTEMBER 15, 2023

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DECISION

Moreno, J.:

Accused Herminio Guivelondo Teves, Hiram Diday Raagas Pulido, Antonio Yrigon Ortiz, Dennis Lacson Cunanan, Francisco Baldoza Figura, Marivic Villaluz Jover, Belina Agbayani Concepcion and Samuel Salvacion Bombeo are charged before this Court with violation of Section 3(e) of Republic Act (R.A.) No. 3019, as amended, and Malversation of

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Public Funds under Article 217 of the Revised Penal Code (RPC).
The *Informations* read as follows:

Criminal Case No. SB-18-CRM-0508

On February 27, 2007, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officers **HERMINIO GUIVELONDO TEVES** (Teves), then Congressman of the Third District of Negros Oriental; **HIRAM DIDAY RAAGAS PULIDO** (Pulido), then Chief of Staff of Teves; **ANTONIO YRIGON ORTIZ** (Ortiz), then Director General, **DENNIS LACSON CUNANAN** (Cunanan), then Deputy Director General, **MARIVIC VILLALUZ JOVER** (Jover), then Chief Accountant, **FRANCISCO BALDOZA FIGURA** (Figura), then Department Manager, and **BELINA AGBAYANI CONCEPCION** (Concepcion), then Officer-In-Charge of the Legislative Liaison Office, all of the Technology and Livelihood Resource Center (TLRC); while in the performance of their administrative and/or official functions, taking advantage of their official positions and conspiring with one another and with private individual **SAMUEL S. BOMBEO** (Bombeo); acting with manifest partiality, evident bad faith and/or gross inexcusable negligence; did then and there willfully, unlawfully and criminally cause undue injury to the government and/or give unwarranted benefits and advantage to said private individual in the amount of at least **NINE MILLION SIX HUNDRED THOUSAND PESOS (P9,600,000.00)**, through a scheme described as follows:

- (a) **Teves** unilaterally chose and indorsed Molugan Foundation, Inc. (MFI), a non-governmental organization operated and/or controlled by Bombeo, as "project partner" in implementing a livelihood program for his constituents in the Third District of Negros Oriental, funded by Teves' P10Million Priority Development Assistant Fund (PDAF) allocation covered by **Special Allotment Release Order (SARO) No. ROCS-07-00663**, 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 MFI being unaccredited and unqualified to undertake the project;
- (b) **Bombeo** of MFI and **Ortiz** of TLRC then entered into a Memorandum of Agreement (MOA) for the implementation of Teves' purported PDAF-funded project, which MOA was prepared and/or reviewed by **Concepcion** of the Legislative Liaison Office; **Pulido**, on the other hand, signed the Project Proposal on Teves' behalf;
- (c) **Ortiz** facilitated, processed, and approved the disbursement of the subject PDAF release by signing

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Disbursement Voucher (DV) No. 012007020350 along with **Jover** and **Cunanan** thereby automatically retaining the amount of **₱400,000.00** as TLRC's service fee, as well as causing the issuance of **Land Bank Check No. 850336** in the amount of **₱9,600,000.00** to MFI which he co-signed with **Figura**, while **Concepcion** recommended the release of the fund to MFI through her Memorandum dated February 22, 2007 to Ortiz, without accused TLRC Officers and Employees submitting the liquidation documents for the agency's retention fee, and without carefully examining and verifying the accreditation and qualification of MFI as well as the transaction's supporting documents;

- (d) **Bombeo**, acting for and in behalf of MFI, received the above cited check in the amount of **₱9,600,000.00** from TLRC, while TLRC received the amount of **₱400,000.00** as service fee;
- (e) By their above acts, **Teves, Pulido**, and the above-named **TLRC officials** allowed **Bombeo**, through MFI, to take possession and thus misappropriate PDAF-drawn public funds, instead of implementing the PDAF-funded project, which turned out to be non-existent, while **Bombeo** failed to submit liquidation reports despite demand by the Commission on Audit, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW.

Criminal Case No. SB-18-CRM-0509

That on February 27, 2007, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officers **HERMINIO GUIVELONDO TEVES** (Teves), then Congressman of the Third District of Negros Oriental; **HIRAM DIDAY RAAGAS PULIDO**, then Chief of Staff of Teves; **ANTONIO YRIGON ORTIZ** (Ortiz), then Director General; **DENNIS LACSON CUNANAN** (Cunanan), then Deputy Director General; **MARIVIC VILLALUZ JOVER** (Jover), then Chief Accountant; **FRANCISCO BALDOZA FIGURA** (Figura), then Department Manager; and **BELINA AGBAYANI CONCEPCION** (Concepcion), then Officer-In-Charge of Legislative Liaison Office, all of the Technology and Livelihood Resource Center (TLRC); while in the performance of their administrative and/or official functions, taking advantage of their official positions and conspiring with one another and with private individual **SAMUEL S. BOMBEO** (Bombeo); did then and there willfully, unlawfully, and feloniously allow Molugan Foundation, Inc. (MFI) to take public funds amounting to at least **NINE MILLION SIX HUNDRED THOUSAND PESOS (₱9,600,000.00)**, through a scheme described as follows:

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- (a) **Teves**, a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the General Appropriation Act for the year 2007, unilaterally chose and indorsed **MFI**, a non-government organization operated and/or controlled by **Bombero**, as “project partner” in implementing a livelihood program for his constituents in the Third District of Negros Oriental, which was funded by Teves’ P10Million PDAF allocation covered by **Special Allotment Release Order (SARO) No. ROCS-07-00663**, 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 MFI being unaccredited and unqualified to undertake the project;
- (b) **Bombero** of **MFI** and TLRC’s **Ortiz** then entered into a Memorandum of Agreement (MOA) for the implementation of Teves’ purported PDAF-funded project, which MOA was prepared and/or reviewed by **Concepcion** of the Legislative Liaison Office; **Pulido**, on the other hand, signed the Project Proposal on Teves’ behalf.
- (c) **Ortiz** also facilitated, processed, and approved the disbursement of the subject PDAF release by signing **Disbursement Voucher (DV) No. 012007020350** along with **Jover** and **Cunanan** thereby automatically retaining the amount of P400,000.00 as TLRC’s service fee, as well as causing the issuance of **Land Bank Check No. 850336** in the amount of **P9,600,000.00** to MFI which he co-signed with **Figura**, while **Concepcion** recommended the release of fund to MFI through her memorandum dated February 22, 2007 to Ortiz, without accused TLRC Officers and Employees submitting the liquidation documents for the agency’s retention fee, and without carefully examining and verifying the accreditation and qualification of MFI as well as the transaction’s supporting documents;
- (d) **Bombero**, acting for and in behalf of MFI, received the above cited check in the amount of P9,600,000.00 from TLRC, while the latter received the amount of P400,000.00 as service fee;
- (e) By their above acts, **Teves, Pulido, and the above-named TLRC officials** allowed **Bombero**, through MFI, to take possession and thus misappropriate PDAF-drawn public funds, instead of implementing the PDAF-funded project, which turned out to be non-existent, while **Bombero** failed to submit liquidation reports despite demand by the Commission on Audit, to the damage and prejudice of the Republic of the Philippines.

Contrary to Law.



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Upon a finding of probable cause, the Court ordered the issuance of *Warrant of Arrest* and *Hold Departure Order* against the accused on July 31, 2018.¹ All accused, except Ortiz, posted bail.

When arraigned, accused Pulido, Cunanan, Figura, Jover, Concepcion, and Bombeo pleaded “*Not Guilty*” to both charges.² The arraignment of accused Teves was suspended until such time that he should be physically and mentally fit to be arraigned.³ Accused Ortiz remains at-large.

During the pre-trial, the parties entered into the following stipulations as embodied in the *Pre-Trial Order*.⁴

- 1) That at all times relevant to the above-entitled cases, accused Hiram Diday Raagas Pulido was a public officer, being then the Chief of Staff of Congressman Herminio G. Teves;
- 2) That accused Hiram Diday Raagas Pulido admits her identity as the same accused charged in these cases;
- 3) That at all times relevant to the above-entitled cases, accused Dennis Lacson Cunanan was a public officer, being then the Deputy Director General of the Technology and Livelihood Resource Center (TLRC);
- 4) That accused Dennis L. Cunanan admits his identity as the same accused charged in these cases;
- 5) That at all times relevant to the above-entitled cases, accused Francisco B. Figura and Marivic V. Jover were public officers, being then the Group Manager/Department Manager III and Chief Accountant, respectively, of the Technology and Livelihood Resource Center (TLRC);
- 6) That accused Francisco B. Figura and Marivic V. Jover admit their respective identities as the same accused charged in these cases;
- 7) That at all times relevant to the above-entitled cases, accused Belina Agbayani Concepcion was a public officer, being then the Sales and Promotion Supervisor V, with concurrent designations as OIC Division Chief of the Sales and Marketing Division and as Legislative

¹ *Records*, Vol. I, pp. 332-333.

² *Order* dated September 21, 2018, *Id.*, p. 829; *Order* dated October 19, 2018, *Id.*, p. 828.

³ *Resolution* dated November 29, 2018, *Records*, Vol. II, pp. 84-91.

⁴ *Records*, Vol. II, pp. 639-640.

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Liaison Officer, at the Technology and Livelihood Resource Center (TLRC);

- 8) That accused Belina A. Concepcion admits her identity as the same accused charged in these cases; and
- 9) That accused Samuel S. Bombeo admits his identity as the same accused charged in these cases.

Thereafter, trial on the merits ensued.

EVIDENCE FOR THE PROSECUTION

Christian L. Tarce⁵ was Graft Investigation Prosecution Officer II at the Office of the Ombudsman (OMB) from 2015 to 2017. Tarce identified the *Complaint*⁶ and its attachments relative to these cases and which form part of his direct testimony. It was alleged in the *Complaint* that Congressman Teves endorsed “Various Livelihood and Development Projects” in the amount of ₱10,000,000.00 as his priority project for the 3rd District of Negros Oriental, to be implemented by TRC.⁷ This project was among the list of projects referred by the House of Representatives to the DBM for the fourth tranche of Fiscal Year 2006, chargeable against the PDAF.⁸ Accordingly, the DBM released *SARO No. ROCS-07-00663*⁹ and *Notice of Cash Allocation (NCA)* dated 01 February 2007¹⁰ to TLRC, despite the absence of a Project Profile prepared and endorsed by TLRC in accordance with the provisions of DBM National Budget Circular No. 476.

In a letter dated February 8, 2007,¹¹ Teves recommended to TLRC the release of funds to MFI for the immediate implementation of the livelihood projects in his district. Similarly, in TLRC *Memorandum* dated 22 February 2007¹² and signed by accused Ortiz and Concepcion, it was recommended that the PDAF of Teves be released to MFI. On February 23, 2007, TLRC, represented by Ortiz, and MFI, represented by Bombeo, entered into a MOA,¹³ indicating the responsibilities of the parties. Consequently, TLRC transferred the amount of

⁵ TSN dated February 6, 2019.

⁶ Exhibit A.

⁷ Formerly known as Technology and Livelihood Resource Center (TLRC). In this Decision, TRC shall be referred to as TLRC for consistency.

⁸ Exhibits A-122 and A-135.

⁹ Exhibit A-118.

¹⁰ Exhibit A-119.

¹¹ Exhibit A-151.

¹² Exhibit A-144.

¹³ Exhibit A-145 to A-148.

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₱9,600,000.00 to MFI and retained the balance of ₱400,000.00 purportedly as service fee to cover expenses relative to the grant of technical assistance and learning materials. TLRC issued *Disbursement Voucher No. 012007020350*,¹⁴ reflecting the release of the PDAF of Teves to MFI in the amount of ₱9,600,000.00. TLRC then issued *Land Bank Check No. 850336*¹⁵ dated February 27, 2007, which Bombeo received on February 28, 2007.

Based on the *Project Proposal*,¹⁶ the project involved the identification, distribution, and allocation of farm implements and livelihood materials for the low-income individuals in the depressed barangays in the 3rd District of Negros Oriental. Both the identification of the target beneficiaries and the distribution of the farm implements and livelihood materials were to be spearheaded by the Office of the Representatives. In a letter dated July 7, 2015,¹⁷ COA-SAO declared that the liquidation documents relative to the PDAF of Congressman Teves remained unsubmitted. On October 26, 2015, COA-SAO issued *Notice of Disallowance No. TRC-2015-226-PDAF (07-09)*,¹⁸ disallowing the transaction as it was undertaken without due regard to existing laws and regulations. The transfer of funds covered by the MOA between TLRC and MFI was without legal basis. According to COA, the funds were merely transferred to an NGO, when NGOs were not among the identified implementing arms of PDAF projects and there was no PDAF earmarked for the implementation by NGO in the GAA for FY 2007. COA also observed that the Project Proposal was lacking pertinent details and specifications, and no documents were submitted to support the actual implementation of the project.

On cross-examination by counsel for accused Cunanan,¹⁹ Tarce stated that he could not recall of any NBI investigation report submitted to their office. The investigation reports his team issued were internal documents which were not made part of the Complaint-Affidavit. He explained that the field investigation they conducted was for the purpose of verifying the beneficiaries of the project, and not its implementation. However, no beneficiaries were submitted since the project was unliquidated. He does not know whether it was Dennis Cunanan who signed second to the last in the Disbursement Voucher. As to the allegation of conspiracy, they considered the

¹⁴ Exhibit A-143.

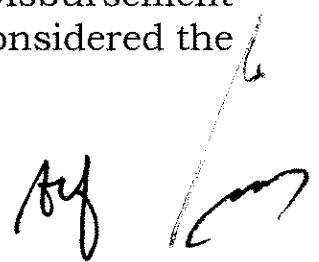
¹⁵ Exhibit A-141.

¹⁶ Exhibit A-154 to A-156.

¹⁷ Exhibit A-160.

¹⁸ Exhibit A-162.

¹⁹ TSN dated February 7, 2019.

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signing of the Disbursement Voucher as the overt act of Cunanan. When asked if Cunanan had custody or control of the funds or property by reason of the duties of his office, Tarce answered that it was the TLRC.

On cross-examination by counsel for accused Pulido,²⁰ Tarce confirmed that Pulido was impleaded in these cases because of her signature in the Project Proposal. He could tell that the signature above the name of Hon. Heminio G. Teves in the Project Proposal pertained to Pulido, although he is not certain if that really is her signature. Their theory is that she is part of the conspiracy because of her signature in the Project Proposal, which contributed to the release of the funds. He admitted that there is no proof showing that Pulido benefited from the transaction.

On cross-examination by counsel for accused Concepcion,²¹ he stated that Concepcion was a signatory to the *Memorandum* dated February 22, 2007,²² wherein she recommended the release of the PDAF of Teves for the implementation of livelihood projects in the 3rd District of Negros Oriental. Such act of signing the Memorandum was their basis in stating that Concepcion conspired with the other accused. Tarce agreed that it was not the duty of Concepcion to make a liquidation of the release of PDAF.

The testimony of **Aileen E. Maqueda** was dispensed with after the parties stipulated on the following:²³

1. That she is currently holding the position of Associate Graft Investigation Officer III and designated as Administrative Officer of the Field Investigation Office (FIO), Office of the Ombudsman since 2009;
2. That in relation to her functions as Administrative Officer, she received documents that have been gathered and secured relative to the case build-up and investigation conducted by the FIO in OMB-C-C-16-0218, entitled FIO versus Herminio Teves, et al.;
3. That she issued certified photocopies of documents marked as Exhibits "A-1" to "A-195" and their respective sub-markings to the prosecution which are attached to the Complaint of the FIO marked as Exhibit "A";

²⁰ *Id.*

²¹ *Id.*

²² Exhibit A-144.

²³ TSN dated February 28, 2019; Order dated March 6, 2019, *Records*, Vol. II, pp. 613-615.

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4. That the said photocopies of documents marked as Exhibits “A-1” to “A-195” and their respective sub-markings were photocopied from the official file copies of the FIO to which she is the official custodian; and
5. That she has no personal knowledge as to the transactions involved in these cases or the contents of the documents.

During the presentation of the testimony of **Lolita M. Soriano**,²⁴ the parties stipulated on the following:

1. That the witness is currently holding the position of Supervising Administrative Officer assigned at the Special Audit’s Office, Commonwealth Avenue, Quezon City;
2. That in relation to her functions as Supervising Administrative Officer, she has the official custody of the copies of documents relating to Special Allotment Release Order No. ROCS 07-00663; and
3. That the said copies of documents relating to Special Allotment Release Order No. ROCS 07-00663 are on file with the Special Audit’s Office.

Soriano then identified her *Judicial Affidavit*,²⁵ which constituted her direct testimony. On cross-examination, she declared that she has no personal knowledge as to the due execution and genuineness of the documents mentioned in her *Judicial Affidavit*. The documents listed in the *Manifestation (on Comparison of Documents)*²⁶ are on file in their office and the ones retrieved by the COA Special Audit Team from TLRC. The prosecution admitted that with respect to exhibits with remarks “photocopy”, there is no original on file with the COA.

When **Charito T. Soriano** was called to the witness stand, the prosecution offered the following matters for stipulation:²⁷

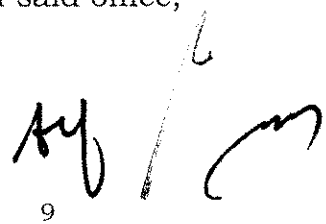
1. That she is presently a License Officer II at the Business Permits and License Office (BPLO) of the Quezon City Government;
2. That in June 2015, she was the Acting Chief of the Records and Statistics Division of said office;

²⁴ TSN dated April 22, 2019.

²⁵ *Records*, Vol. II, pp. 687-694.

²⁶ *Id.*, pp. 723-727.

²⁷ TSN dated April 29, 2019.

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3. That as Acting Chief, her duties include issuing certifications, letters, endorsements, etc. pertaining to the issuance of business permits and service custodian of the BPLO letters;
4. That on June 3, 2015, she issued a certification regarding the business registration of Molugan Foundation Incorporated in compliance with the *subpoena* of the Office of the Ombudsman;
5. She will identify the said certification and the attachments to her Judicial Affidavit marked as *Exhibits A and series*.

The defense counsels stipulated on the aforesaid matters with the counter-stipulation that Soriano has no personal knowledge of the matters contained in the document marked as prosecution *Exhibits A-169 to A-185*, which was admitted by the prosecution. Thereafter, the prosecution dispensed with the testimony of Soriano.

When **Atty. Hale Oliver M. Labayo** was called to the witness stand, the prosecution proposed the following matters for stipulation:²⁸

1. That he is Securities Counsel III at the Company Registration and Monitoring Department (CRMD) of the Securities and Exchange Commission (SEC);
2. His duties include reviewing documents for the registration and/or registration amendment of companies which include accessing the SEC's eyeview or database; answering legal queries; and, when directed by the Director, to appear before the Court in compliance with the *subpoenas*;
3. That in compliance with the *subpoena* of the Office of the Ombudsman, he submitted the original printout from the eyeview system or database of the Articles of Incorporation and By-Laws of Molugan Foundation Incorporated Incorporated; and
4. He will also be able to identify the signature of Director Ferdinand B. Sales, which appears on *Exhibit A-103*.

The defense counsels stipulated on the aforesaid matters with the counter-stipulation that Atty. Labayo has no personal knowledge of the matters contained in the document marked as prosecution *Exhibits A-104 to A-114*, which was admitted by the

²⁸ *Id.*

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prosecution. The prosecution likewise dispensed with the testimony of Atty. Labayo.

Susan P. Garcia²⁹ was Director IV of the Special Audits Office (SAO), COA Central Office from August 17, 2006 to February 12, 2014. SAO had the authority to audit the PDAF under COA Office Order No. 2010-309 dated May 13, 2010 and subsequent issuances. The audit covered the PDAF of Senators Bong Revilla, Jinggoy Estrada, Juan Ponce Enrile, Congressmen Valdez, Jaraula, Lanete, and Herminio G. Teves, among others. With respect to the PDAF of Congressman Teves, the special audit covered the following: the release by the Department of Budget and Management (DBM), through the Bureau of Treasury, to the TLRC/TRC, of SARO Order No. ROCS-07-00663 dated January 15, 2007 in the amount of ₱10,000,000.00, out of the PDAF of Teves; the subsequent transfer of a portion thereof in the amount of ₱9,600,000.00 to Molugan Foundation, Inc. (MFI); and the TLRC's (TRC's) retention of ₱400,000.00 as service fee. Garcia explained that for a PDAF allocation to be released, under DBM National Budget Circular No. 476, the request of funds chargeable against the PDAF shall be supported by a project profile and endorsement from the implementing agency. Considering the release of funds to the TLRC/TRC was for implementation of livelihood programs, the audit relative to TLRC/TRC focused on the: a) allocation and transfer of funds and monitoring of releases; and b) implementation of the livelihood programs.

The audit team conducted the special audit involving the PDAF of Congressman Teves from June 2010 to September 2012, employing the following methodologies: (a) obtained all relevant rules and regulations affecting the allocation, releases and utilization of the PDAF; (b) obtained and reviewed copies of the SARO,³⁰ Notice of Cash Allocation (NCA),³¹ and Advice of Notice of Cash Allocation Issued (ANCAI)³² involving the release of the PDAF of Teves, among others; (c) obtained and reviewed the DV and its supporting documents charged against the PDAF of Teves released under SARO No. ROCS-07-00663;³³ and the letter of Teves to the TLRC Director General regarding the release of his PDAF allocation to MFI for the implementation of

²⁹ *Judicial Affidavit* dated May 17, 2019, *Records*, Vol. II, pp. 802-830.

³⁰ Exhibit A-118.

³¹ Exhibit A-119.

³² Exhibit A-120.

³³ Exhibits A-118, A-141, 142, A-143, A-144, A-145 to A-148, A-150, A-151, A-152, A-153, A-154 to A-156.

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livelihood projects;³⁴ and assessed whether the fund was used for the purposes intended and disbursed in accordance with existing laws, rules and regulations; (d) confirmed/verified the authenticity of documents relative to the PDAF allocation of Teves; (e) confirmed/verified with MFI the implementation of the livelihood projects that were supposed to have been funded by the PDAF allocation of Teves in the amount of ₱9,600,000.00 covered by SARO No. ROCS-07-00663.

In verifying the authenticity of documents, COA Assistant Commissioner Carmela S. Perez sent a confirmation letter³⁵ to the Congressman, inquiring whether his signature or that of his authorized representative in his letter to Antonio Ortiz dated February 8, 2007³⁶ and in the Project Proposal³⁷ were authentic. Perez also requested for his comments on said documents and the implementation by MFI of his priority programs. Perez received a letter dated February 14, 2012,³⁸ signed by the former Chief of Staff of Teves and noted by Teves himself, confirming the authenticity of their signatures.

Garcia also sent a letter³⁹ to the President of MFI, inquiring about the implementation of the livelihood projects funded by the PDAF allocation of Teves, among others, and requesting the submission of liquidation documents and information on the manner and criteria for the selection of beneficiaries and suppliers, how MFI was selected as an implementing partner, and the problems encountered in the implementation of the projects. Garcia never received any response from the President of the MFI.

Thereafter, they prepared their audit findings on the release, disbursement, utilization, and liquidation of the PDAF allocation of Congressman Teves. They enumerated the persons to be held liable for the release and utilization of funds intended for the implementation of livelihood and development project under SARO No. 07-00663, which included the accused in these cases, and their respective participation. The documents showing their respective participation, as can be seen from their signatures or initials therein, are also pointed out in the audit findings.

³⁴ Exhibit A-151.

³⁵ Exhibit A-157.

³⁶ Exhibit A-151.

³⁷ Exhibit A-154 to A-156.

³⁸ Exhibit A-158.

³⁹ Exhibit A-116.

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After conducting the special audit, they prepared *Special Audits Office Report No. 2012-03*⁴⁰ on Priority and Development Assistance Fund and Various Infrastructures including Local Projects, which included the PDAF of Congressman Teves. After the report was released, Teves submitted a letter dated September 30, 2013,⁴¹ denying knowledge of the existence of MFI, the MOA between TLRC and MFI, and the letter to TLRC Director General Antonio Ortiz requesting the release of funds to MFI. He claimed that the signature in the letter to the TLRC Director General was forged. According to Garcia, the said letter of Teves confirmed the irregularity of the transaction but it has no effect on his liability since he signed the letter dated February 14, 2012, confirming the authenticity of his signature in the letter to TLRC Director General Ortiz for the release of ₱10,000,000.00 and that of his representative in the Project Proposal. The audit team thereafter prepared and issued a *Notice of Disallowance*.⁴²

On cross-examination by counsel for accused Pulido,⁴³ Garcia stated that her audit team did not dwell on the existence of conspiracy among the accused since that was not the purpose of their audit investigation. According to her, Pulido identified MFI in the Project Proposal as the implementing agency, which is in violation of the rules and laws since NGOs were not among the implementing agencies of PDAF. Garcia clarified that the participation of Pulido was her conformity in the Project Proposal, and not in the actual implementation of the project since there are no records showing that it was implemented. While it was not stated who accepted the Project Proposal, it nevertheless formed part of the disbursement voucher and was a basis in releasing the funds to MFI. Garcia agreed that there is nothing irregular with the Project Proposal *per se* and the alleged irregularity is in the proposal to have the project implemented by the MFI.

It was TLRC Director General Antonio Ortiz who approved the release of the funds to MFI based on the request of Congressman Teves. The release of the funds to MFI was due to the proposal signed by accused Pulido and the request of Congressman Teves. When asked how TLRC acquired the funds, Garcia explained that Teves already identified it as the recipient of the funds. Hence, the DBM released the SARO to the Bureau of the Treasury for TLRC. Garcia explained that it

⁴⁰ Exhibit A-196.

⁴¹ Exhibit A-159.

⁴² Exhibit A-162 to A-166.

⁴³ TSN dated June 18, 2019.

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has been the practice of the DBM to release the funds to where the legislator intended them to be implemented. She, however, agreed that DBM was not legally bound to comply with such request of the legislator. Garcia also agreed that no member of the Congress had control over TLRC and that the latter was also not bound to accede to the legislator.

On cross-examination by counsel for accused Cunanan,⁴⁴ she stated that Antonio Ortiz was the Director General of TLRC during the period from 2007 to 2009, while Dennis Cunanan became the Director General sometime in 2010. Cunanan participated in the exit conference conducted by the audit team of Garcia.

On cross-examination by counsel for accused Figura and Jover,⁴⁵ Garcia confirmed that there was a corporate or resident auditor assigned to TLRC. The resident auditor served as watchdog of the COA in the affairs of TLRC who had the authority to issue notices of disallowance or audit observations and findings. As a matter of practice, depending on the availability of the agency officials, there is always an annual exit conference after an audit of the previous year is conducted. There was an exit conference covering the years 2007, 2008, and 2009. Insofar as TLRC is concerned, the Audit Findings and Observations of the resident auditor also covered the PDAF transactions. To her recollection, there were observations of some violations of existing rules and regulations, and findings that certain foundations were not competent to implement projects. These findings did not result in the issuance of a Notice of Disallowance. Five (5) years after the initial implementation by the TLRC of the PDAF of legislators, a special audit team was created, which issued the notices of disallowance. Garcia confirmed that accused Figura was included in the audit findings because of his counter signature in the check issued to MFI. As for accused Jover, her participation was her signing the Disbursement Voucher and the MOA in her capacity as Chief Accountant of TLRC.

On cross-examination by counsel for accused Concepcion,⁴⁶ Garcia testified that the signature of Concepcion was necessary for the release of the funds to the MFI. The Disbursement Voucher would not have been signed without the Memorandum dated February 22, 2007⁴⁷ signed by

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Exhibit A-144.

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Concepcion. The Memorandum, although a mere recommendation, was not proper. While Concepcion did not exercise control over the financial affairs of TLRC, she was responsible under COA Circular No. 2009-006, which provides that public officers, although not accountable for government funds by the nature of their duties, may likewise be held accountable and responsible therefor through their participation in the initial application of such government funds.

When **Marissa Santos** was called to the witness stand, the prosecution offered the following matters for stipulation:⁴⁸

1. That she is the Chief Administrative Officer, Central Records Division, DBM since March 2015;
2. That she can identify Exhibits "A-118" to "A-130" as the certified true copies of documents which she issued;
3. That Exhibits "A-118" to "A-130" are faithful reproduction of the documents presented to the defense counsels for comparison;
4. That the witness can identify Exhibit "A-131" as the Certification she executed; and
5. That despite diligent efforts to locate the documents marked as Exhibits "A-121" and "A-122", the same could not be found in the official records of the DBM.

The defense agreed to stipulate on the aforesaid matters with the counter-stipulation made by the counsel for accused Cunanan that the witness has no participation in the preparation and execution of the documents, except for Exhibit "A-131", which she herself prepared. The prosecution agreed to such stipulation and the witness was thereafter excused.

After presenting its witnesses, the prosecution filed its *Formal Offer of Evidence*.⁴⁹ The Court, taking into consideration the objections of the accused,⁵⁰ resolved to admit Exhibits A, A-1, A-2, A-3, A-4, A-5, A-6 to A-11, A-12, A-13, A-14, A-15, A-16 to A-18, A-19, A-20, A-21, A-22 to A-25, A-26, A-27, A-28, A-29, A-30, A-31 to A-34, A-35, A-36, A-37, A-38, A-39 to A-41,

⁴⁸ TSN dated July 2, 2019.

⁴⁹ *Records*, Vol. III, pp. 153-180.

⁵⁰ *Id.*, pp. 884-886 (Pulido), 895-898 (Figura and Jover), 931-932 (Concepcion), 940-944 (Cunanan), 981-983 (Bombero)

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A-42 to A-45, A-46, A-47, A-48, A-49, A-50 to A-53, A-54 to A-56, A-57, A-58, A-59, A-60, A-61 to A-64, A-5 to A-67, A-68, A-69, A-70, A-71, A-72, A-73, A-74, A-75, A-76, A-77 A-80, A-81, A-82 to A-85, A-86 to A-88, A-89, A-90 to A-92, A-93, A-94, A-95, A-96, A-97, A-98, A-99, A-100 to A-102, A-103, A-104, A-105, A-106 to A-114, A-114-a, A-115, A-116, A-117, A-118, A-119, A-120, A-121 and A-134, A-122 and A-135, A-123 and A-133, A-124 to A-126, A-127 to A-130, A-131, A-132, A-136, A-137, A-138, A-139, A-140, A-141, A-142, A-143, A-144, A-144, A-145 to A-148, A-149, A-150, A-151, A-152, A-153, A-154 to A-156, A-157, A-158, A-159, A-160, A-161, A-162 to 166, A-167, A-168, A-169, A-170, A-171, A-172 to 182, A-183, A-184 (same as A-183), A-185, A-186, A-187, A-188, A-189, A-190, A-191, A-192, A-193, A-194, A-195, A-196, B, B-1, B-2, and B-3.⁵¹

Accused Pulido, Cunanan, Figura and Jover filed their respective Motions for Leave to File Demurrer to Evidence,⁵² which the Court denied for lack of merit.

EVIDENCE FOR THE DEFENSE

Hiram Diday R. Pulido⁵³ was the Chief of Staff of Congressman Teves from July 1, 1997 to June 30, 2007. She handled the day-to-day operations, mainly administrative matters, of the office of Teves. She has no knowledge of the Molugan Foundation, Inc. and their office had no dealings with it. She does not know Samuel S. Bombeo, Sr., Katherine C. Bombeo, Sheila Mae C. Bombeo, Samuel C. Bombeo, Jr., and Eden B. Bajuyo and she never had any dealings with them in any capacity. Neither is she familiar with Antonio Y. Ortiz, Dennis L. Cunanan, Marivic V. Jover, Belina A. Concepcion, Francisco B. Figura, and Maurine E. Dimaranan.

As for the PDAF of Congressman Teves, he did not utilize any foundation during his three terms in Congress. To her knowledge, Congressman Teves made sure that his PDAF was released directly to the beneficiaries of the 3rd District of Negros Oriental. Pulido denied seeing the Project Proposal and claimed to have no idea whose signature appears above the name of Herminio G. Teves. She denied that the signature above the

⁵¹ Resolution dated September 9, 2019, *Records*, Vol. IV, pp. 15-16.

⁵² *Records*, Vol. IV, pp. 61-64 (Figura and Jover), 65-69 (Pulido), 75-87 (Cunanan).

⁵³ *Judicial Affidavit* dated January 13, 2020, *Records*, Vol. IV, pp. 265-274.

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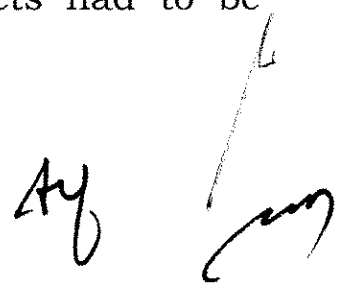
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name of Herminio G. Teves was hers, claiming that it was fake and forged. To prove her claim, Pulido presented a copy of the following: a) House of Representative ID No. 1045 for the Office of Margarito B. Teves, which she signed sometime in 1986;⁵⁴ b) House of Representative ID No. 1045 for the Office of Herminio G. Teves, which she signed sometime in 1977;⁵⁵ c) House of Representative ID No. 1045 for the Office of Herminio G. Teves, which she signed sometime in 2004;⁵⁶ d) House of Representative ID No. 1045 for the Office of Jocelyn Limkaichong, which she signed in 2007;⁵⁷ e) House of Representative ID No. 1045 for the Office of Jocelyn Limkaichong, which she signed in 2010;⁵⁸ f) House of Representative ID No. 1045 for the Office of Jocelyn Limkaichong, with her signature;⁵⁹ g) Bureau of Internal Revenue ID No. 102-775-476-000, which she signed in 2000;⁶⁰ h) bio and signature page of Passport ID No. EEB897250, which she signed in 1999;⁶¹ i) bio and signature page of Passport ID No. PP0913136, which she signed in 2005;⁶² j) bio and signature page of Passport ID No. EB1842032, which she signed in 2011;⁶³ k) bio and signature page of Passport ID No. P018365A, which she signed in 2016.⁶⁴ Upon comparing the signature appearing in the Project Proposal, Pulido claimed that it is different from her signatures in the identification cards she presented.

On cross-examination by the prosecution,⁶⁵ Pulido confirmed that being the Chief of Staff, a position of trust and confidence, she was entrusted by Congressman Teves with confidential and delicate matters. She would also act as clearing officer for the signature of Congressman Teves with respect to documents, papers and communications received in the Manila Office. The Congressman would sometimes designate her to act for and in his behalf.

She clarified that the beneficiaries to which the PDAF of Teves was directly released pertained to the local government unit, and not to the constituents. She is not aware that under the GAA of 2007, certain PDAF-funded projects had to be

⁵⁴ Exhibit 1 and 1-A for Pulido.
⁵⁵ Exhibit 2 and 2-A for Pulido.
⁵⁶ Exhibit 3 and 3-A for Pulido.
⁵⁷ Exhibit 4 and 4-A for Pulido.
⁵⁸ Exhibit 5 and 5-A for Pulido.
⁵⁹ Exhibit 6 and 6-A for Pulido.
⁶⁰ Exhibit 7 and 7-A for Pulido.
⁶¹ Exhibit 8 and 8-A for Pulido.
⁶² Exhibit 9 and 9-A for Pulido.
⁶³ Exhibit 10 and 10-A for Pulido.
⁶⁴ Exhibit 11 and 11-A for Pulido.
⁶⁵ TSN dated January 22, 2020.



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implemented only by GOCCs or National Government Agencies since she was not in charge thereof. To her, only the LGUs could implement them. She is also not aware that livelihood projects or comprehensive integrated delivery of social services could not be implemented by the LGUs. She claimed no knowledge of the audit conducted by the COA of the transaction subject of these cases.

Pulido denied executing the letter dated February 14, 2012 addressed to the COA, confirming the authenticity of her signature and that of Herminio Teves. She claimed to have the same signature over the years and did not know who forged her signature in the Project Proposal. She did not refer the matter to a handwriting expert for examination or to the NBI for investigation. In the course of her testimony, Pulido identified the *Counter-Affidavit*⁶⁶ that she executed and filed before the OMB in response to the Complaint-Affidavit filed against her.

On cross-examination by counsel for accused Bombeo,⁶⁷ she explained that Congressman Teves had a district office in Negros Oriental and one in Quezon City. She was assigned only at the Quezon City office, handling administrative and legislative matters, and focusing more on committee meetings. A coordinator in Negros Oriental was in charge of the projects. She learned about the Project Proposal upon her receipt of the complaint, when she was already retired. Upon seeing the signature in the Project Proposal and realizing that it was not hers, she immediately referred the matter to her lawyer. Pulido insisted that she did not execute and sign the letter confirming the authenticity of her signature in the Project Proposal.

On cross-examination by counsel for accused Concepcion,⁶⁸ Pulido confirmed that all PDAF-related matters were not coursed through the main office of Teves in Quezon City. She claimed that certain documents required to process the utilization of PDAF never passed through the main office, but the SARO would usually be referred to them. She denied any involvement with PDAF and averred that it was another staff who handled PDAF-related matters. She confirmed that the signature above the name Herminio G. Teves in the letter dated February 14, 2012⁶⁹ is similar to the signature of the Congressman. Pulido further stated during the cross-examination by counsel for accused Cunanan that she had

⁶⁶ Exhibit C for the Prosecution.

⁶⁷ *TSN* dated February 11, 2020.

⁶⁸ *Id.*

⁶⁹ Exhibit A-158 for the Prosecution.

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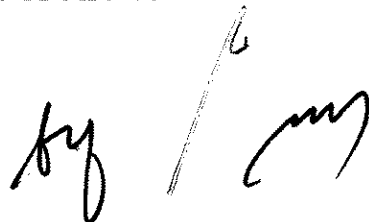
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raised forgery of her signature in her Counter-Affidavit filed before the OMB. Moreover, Pulido claimed that she has not heard of TLRC or the name Antonio Y. Ortiz.

On re-direct examination, she explained that Congressman Teves headed certain committees and she had to be present during the committee meetings. She acknowledged that the signature appearing above the name Hiram Diday R. Pulido on the letter addressed to Assistant Commissioner Carmela Perez dated February 14, 2012 is similar to her signature. She, however, denied signing the same as she was already retired and no longer connected with the Congress at that time.

On re-cross examination, Pulido confirmed that one of her duties and responsibilities as stated in her Counter-Affidavit was to coordinate the activities of different staff members in the Office of the Representative to ensure effective and efficient legislative support to the Congressman. She first encountered the letter dated February 14, 2012 in 2016, when a complaint was filed against her before the OMB. She was not able to find out who allegedly forged her signature. She confirmed that her signature in her Counter-Affidavit and her counter signatures in her Judicial Affidavit appear to be similar to the signature above the name Hiram Diday R. Pulido appearing in the aforesaid letter dated February 14, 2012.

Upon clarificatory questions from the Court, Pulido testified that she worked for Congressman Teves since 1968 in the sugar mill that the latter owned. Teves hired her as Chief of Staff when he was elected in 1997. She confirmed that she was still the Chief of Staff of Congressman Teves on February 27, 2007. There were letters, communications, correspondences that the Congressman received that she was not even aware of. Congressman Teves did not authorize her to sign letters on his behalf. Pulido is aware that Congressman Teves had PDAF allocation because she attended meetings of the Committee on Appropriations. There, the Committee would inform the Congressman of the project allocation, usually in the amount of ₱30,000,000.00 per year. The Congressman would inform the district office and would allocate the funds to the LGUs. To ensure that his PDAF was directly released to the beneficiaries of the 3rd District of Negros Oriental, Congressman Teves would usually report to his constituents by the end of his term.



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Dennis L. Cunanan⁷⁰ was the Deputy Director General of TLRC from December 2004 until December 2009. He was appointed as its Director General, replacing Antonio Y. Ortiz, in January 2010 until he resigned in March 2014. His primary duty as Deputy Director General of TLRC in 2004 until 2005 was to head the Change Management Team (CMT), which was tasked to rationalize the operations of TLRC. He was responsible for the daily administration of TLRC's affairs vis-à-vis the attainment of its financial stability, vision-mission, and goals. He also served as a co-signatory in the disbursement vouchers for the financial transactions undertaken by TLRC as required for by the level of his position and designation as Chief Operating Officer.

As far as he could remember, TLRC had been receiving PDAF allocations since its establishment. However, it started receiving PDAF from legislators sometime in 2005 until 2008. This continued until 2009 because TLRC was included in the GAA as one of the authorized implementing agencies for PDAF-funded projects. At the onset, all PDAF transactions and processing were lodged under the direct supervision of Director General Antonio Y. Ortiz.

Ortiz, through various issuances, limited the signing authority of Cunanan to keep him away from handling PDAF-related matters. Ortiz issued the following Office Circulars: a) *Office Circular 00GE0098* issued on 19 January 2007;⁷¹ b) *Office Circular 00OP0099* issued on 03 September 2007;⁷² and c) *Office Circular 00OP0100* issued on 27 November 2007.⁷³ *Office Circular 00GE0098* stated that Cunanan's signing authority for TLRC checks, which used to be at the same level as that of the Director General, was clipped and set at above ₱100,000.00 up to ₱1,000,000.00 only. *Office Circular 00OP0099* reiterated the signing limits in *Office Circular 00GE0098* and spelled out the office practice of processing PDAF in TLRC. It specifically stated that no PDAF shall be implemented without a Memorandum of Agreement duly executed and endorsed by the TLRC, LLO/GM, TLIDSG for approval by the Director General after being reviewed by the Legal Department and initialed by the Group Manager of the Corporate Support Services Group (CSSG). The office of Cunanan was stripped of any participation in the implementation of PDAF-funded projects. *Office Circular 00OP0100* slightly revised the implementing guidelines on PDAF

⁷⁰ *Judicial Affidavit* dated January 17, 2020, *Records*, Vol. IV, pp. 291-302.

⁷¹ Exhibit 1 for Cunanan.

⁷² Exhibit 2 for Cunanan.

⁷³ Exhibit 3 for Cunanan.

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accounts and reiterated the previously stated points about the signing authority and preparation of PDAF documents.

Ortiz also issued *Memorandum No. ODG-200712-081*,⁷⁴ which amended Office Circular 00GE0098. It provided alternate signatories for "Recommending Authority" (Box A) to TLRC's disbursement vouchers for any amount exceeding ₱1,000,000.00. Prior to the said Memorandum, this was a ministerial function of the Deputy Director General. The Memorandum specifically stated that in the case of the PDAF of legislators, the Group Manager of Technology Livelihood & Information Dissemination Services (TLIDSG), concurrently the Center's LLO, shall act as alternate signatory of the Deputy Director General. The Approving Authority (Box C) remained to be that of the Director General.

Cunanan acknowledged the possibility that he may have signed disbursement vouchers related to PDAF. Whenever he would sign PDAF-related document, he would first ascertain that the supporting documents were complete and in order, as required by the corresponding checklist. As for the disbursement vouchers, he made sure that they were supported by the appropriate SAROs, endorsement letters from the legislators, MOA, and project proposals, among others.

He explained that PDAF, upon reaching TLRC, was treated as special funds. It went to a special trust fund that could not be accessed until triggered by its source - the legislators. The COA required this to avoid co-mingling with the general funds of TLRC. This was already the practice when he was appointed at the TLRC. Upon endorsement by the legislator as to how the funds should be used and allocated, the LLO would then forward it to the Office of the Director General. Next would be fund disbursement and endorsement with Notice to Proceed Advice upon review of all documents and attachments needed to process the disbursement voucher. As soon as the Director General approved the Notice to Proceed, the disbursement voucher would be prepared and routed for signature. Since this was a special fund and not operational funds, Cunanan could sign the vouchers before the final signature of the Director General for check preparation, after all initials and pertinent signatures were in place. Although Cunanan had an alternate signatory to such specific vouchers, he could still sign in the exigency of service. When he signed the disbursement vouchers, he assumed that the PDAF-funded projects were regular and

⁷⁴ Exhibit 4 for Cunanan.

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legitimate because they were recognized as a source of income for TLRC through collection of management, product, and services fees. TLRC was a government owned and controlled corporation with no direct subsidy from the national government and all its transactions should bring in income to fund its operational expenses. The management fees it collected in handling and processing PDAF became its source of income to sustain operations and to pay the salaries of its employees. Thus, the faster it processed documents that would bring in income, the better. Moreover, TLRC was designated in the GAA, the prevailing law for that year relative to government spending and disbursement of funds, as one of the implementing agencies for PDAF livelihood programs and projects. He reiterated that PDAF funds were in a trust fund that until TLRC processed and released as instructed, it could not collect and book its management fee income to its general fund for disbursement and utilization.

During the regular audit conducted by its resident COA Auditor and as manifested in its regular annual audit report of TLRC, there was nothing that would call their attention to stop processing or accrediting PDAF. There were no adverse observations or disallowances until the special audit was conducted.

In 2010, upon assuming the position of Director General and upon learning the magnitude and scope of PDAF implementation of TLRC, Cunanan immediately organized a committee to investigate and review its implementation of PDAF projects and to write all the NGOs concerned to rectify all their deficiencies, if any, and to liquidate all unliquidated funds. He issued *Office Circular OOPE0100b*⁷⁵ on January 28, 2010 in order to comply with COA Circular No. 2007-001. This was in compliance with COA Observations that were brought to his attention and for them to inform the Board of Trustees of the PDAF transactions of TLRC. He also blacklisted NGOs that failed to comply with his previous letter, instructing them to update their legal documents, rectify their deficiencies, and/or liquidate unliquidated funds.⁷⁶

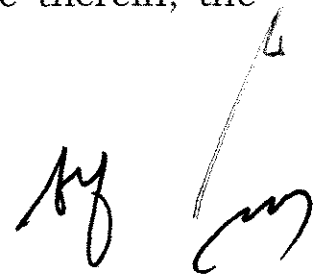
On cross-examination by the prosecution,⁷⁷ Cunanan confirmed his signature in Disbursement Voucher No. 012007020350⁷⁸ and that without his signature therein, the

⁷⁵ Exhibit 5 for Cunanan.

⁷⁶ Exhibit 6 for Cunanan.

⁷⁷ TSN dated February 18, 2020.

⁷⁸ Exhibit A-143.

Handwritten signature and scribble in the bottom right corner of the page.

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disbursement could not have been approved. He stated that there was no prescribed process observed in the selection of MFI either through public bidding or negotiated procurement and the amount earmarked for the implementation by the MFI was part of the GAA. However, he is not aware if there was a PDAF earmarked in the GAA for the implementation by the MFI during the calendar year 2007.

On cross-examination by counsel for accused Concepcion,⁷⁹ Cunanan confirmed that the LLO had no responsibilities other than endorsing the MOA to the Office of the Director General. He also confirmed that with respect to the subject transaction, the LLO did not affix her signature as an alternate signatory of Director General Ortiz.

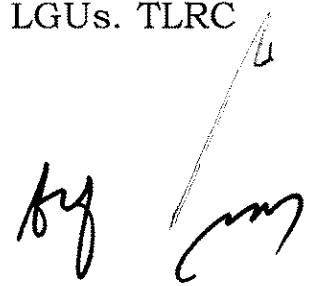
When asked by the Court how Ortiz limited his authority, Cunanan explained that instead of being the signatory to Box A, he was designated as an alternate signatory, particularly in this subject PDAF transaction. He stated that it was the LLO who received and checked the initial documents referred to in Office Circular 00PE0100b.⁸⁰ The LLO also verified the offices and would recommend the processing of the transfer of funds based on the submissions and recommendation of the legislators. If there were lacking documents, the Director General would be informed that they could not act on the recommendation of the legislator. The Director General would then inform the legislator that they could not process the transfer of funds because of lacking documents. The NGO would be given an opportunity to complete the deficiency and once completed, TLRC could start processing the funds.

Cunanan further stated that with respect to the implementation of the PDAF-funded projects, the principal role of TLRC was to handle livelihood trainings. When confronted with Office Circular No. 000P0100 issued on November 27, 2007,⁸¹ he confirmed that TLRC could implement every PDAF-funded project of a particular legislator. He explained that when TLRC had not yet rationalized their operations, it was the one that implemented the projects. When it was rationalized, its core function focused on the dissemination of information regarding technology and livelihood trainings. He confirmed that "conduit as implementor of the project" referred to in Office Circular No. 000P0100 pertains to the NGOs and LGUs. TLRC

⁷⁹ TSN dated February 18, 2020.

⁸⁰ Exhibit 5 for Cunanan.

⁸¹ Exhibit 3 for Cunanan.



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insisted that it should always be part of the implementation of the project even if it had a conduit. The MOA could not be entered into directly by the legislator and a particular NGO. TLRC had to be included since it had the funds and it was the conduit implementor of the project. It always had to be tripartite, otherwise, the MOA would be considered void. Later on, the representatives of the Congress were able to enter into a MOA with other NGOs and LGUs, excluding TLRC, in implementing the project. Cunanan claimed that in the case of Congressman Teves, there was a tripartite agreement stipulated in the MOA that the authentication, verification, and monitoring would be supported by the legislator considering the limited human resources of the TLRC.

Under Office Circular 000P0100 issued on November 27, 2007,⁸² a Certificate of Completion duly signed/accepted by the legislator was a mandatory requirement. Absence thereof, the legislator could not get the 10% retention fund and would be informed that the funds transferred to the district had not been liquidated. The COA would then issue Notice of Suspension and Disallowance to the legislator for non-compliance. The TLRC, upon the recommendation of the COA, would also put on hold the other PDAF of the legislator. In 2007, the legislator only needed to request TLRC to release a particular sum of money from his PDAF to be channeled to the LGU concerned. The only financial gain TLRC obtained from the process was the management fee.

Marivic V. Jover⁸³ was the Chief Accountant of TLRC from April 2007 until October 31, 2015. Her basic function as such was to implement plans/programs and guidelines for the Accounting and Billing Division and ensure the effective and efficient operation thereof.

TLRC conducted business and livelihood training for aspiring entrepreneurs and it implemented projects funded by the PDAF of legislators. In implementing PDAF projects, TLRC observed the procedures in Office Circular issued by the TLRC Director General on September 3, 2007, and the revised version thereof dated November 27, 2007. When the PDAF of Congressman Herminio Teves was released, the TLRC Director General had not yet issued a specific Circular on PDAF implementation. TLRC was guided by *Office Circular No.*

⁸² Exhibit 3 for Cunanan.

⁸³ *Judicial Affidavit* dated February 13, 2020, *Records*, Vol. IV, pp. 361-369.

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00FNO059 dated July 18, 1995,⁸⁴ embodying the "Guidelines on the Processing of Disbursement Vouchers and Checks". Said Circular applied to all regular transactions of TLRC. Although the implementation of PDAF was considered as a special project, in the absence of specific guidelines at that time, TLRC had to apply the standard procedure in the processing of disbursement vouchers.

With respect to the PDAF of Congressman Teves, the Accounting Division became involved after the signatory to Box A of the Disbursement Voucher had signed the same. Her division accomplished the accounting entry boxes, assigned and stamped number to the Disbursement Voucher, and checked the supporting documents. Thereafter, she made the following certifications in Box B of the Disbursement Voucher: the availability of funds, that expenditure was properly certified and supported by documents, that account codes were proper, and that previous cash advance, if any, had been liquidated or accounted for.

Her basis in certifying the availability of funds were the following documents: TLRC Official Receipt evidencing receipt of funds from the Bureau of Treasury, the SARO, and the NCA. These documents proved availability of funds in relation to the requested expenditure. This meant that the PDAF transaction was endorsed by the Requesting Unit, who was the authorized signatory in Box A and the one who certified that the expenses were necessary, lawful and incurred under direct supervision and supported by the endorsement letter of the concerned legislator and the Memorandum of Agreement. In determining that the expenditure was properly supported by documents, she would check the documents attached to the Disbursement Voucher. As to the certification of the account codes, Jover explained that PDAF transactions were recorded under Trust Liabilities-CDF/PDAF with account code 8-84-923, which was a liability or payable account. If the expenditure was properly recorded under the said account code, she would certify that the account codes were proper. She further explained that a certification of previous cash advance liquidated or accounted for pertained to cash advances granted to TLRC employees for a specific purpose. The certification did not apply to PDAF transactions considering that the PDAF received by TLRC were recorded as Trust Liabilities-CDF/PDAF, with account code 8-84-923. If the transaction was supported by documents, she

⁸⁴ Exhibit 5 for Jover and Figura.

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had no choice but to affix her signature as prescribed by Office Circular No. 00FN0059.

The preparation of disbursement vouchers followed a sequence of procedures, starting from the Requesting Unit down to the Approving Authority and Cash Division for the preparation and release of check. She certified Box B of the disbursement voucher because the transactions were supported by documents as prescribed by the Office Circulars.

Jover further stated that she is also familiar with the following Office Circulars: a) TLRC *Office Circular No. OOGEO061* dated August 23, 1995,⁸⁵ which strengthened and re-defined the functions of the Internal Audit Office after the COA stopped its pre-audit functions and embarked on post-audit actions; 2) *Office Circular No. O1FN0023* dated 12 September 1989,⁸⁶ which mandated the TLRC Internal Audit Division to perform pre-audit activities on all TLRC financial transactions to ensure that all its resources were properly managed, expended or utilized and in accordance with laws and regulations; c) *Office Circular No. OOFN0009* dated 27 February 1989,⁸⁷ which set the guidelines on pre-audit of payable/check voucher, defining the roles of various TLRC units in the processing of payables and check vouchers, particularly the pre-audit function of the Internal Audit Division.

On cross-examination,⁸⁸ Jover confirmed that the funds covered by SARO No. ROCS-07-00638 were released to TLRC through the Bureau of the Treasury, intended for the implementation of livelihood projects in the district of Negros Occidental.⁸⁹ The GAA of 2007 identified TLRC as one of the implementing agencies for livelihood projects. At that time, TLRC was a GOCC, different from an NGO. Jover was unaware that NGOs were not identified to implement PDAF-funded projects.

It was part of her general duty to ascertain that the funds covered by the SARO were intended to be used by the NGOs. Jover, based on the endorsement letter of Congressman Teves, knew that MFI had legal personality. Based on the supporting documents of the Disbursement Voucher, she was also able to identify the chairman of MFI, but not its other officers. However,

⁸⁵ Exhibit 6 for Jover and Figua.

⁸⁶ Exhibit 7 for Jover and Figua.

⁸⁷ Exhibit 8 for Jover and Figua.

⁸⁸ TSN dated March 3, 2020.

⁸⁹ *Id.* at p. 10.

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she was not able to determine its financial condition, expertise in implementing projects to be funded by the PDAF of Teves, or whether it had previously implemented similar projects.

Jover agreed that the funds covered by the SARO and the Disbursement Voucher were public funds subject to government accounting and auditing rules and regulations. She admitted that she did not observe COA Circular No. 96-003, prescribing accounting and auditing guidelines for the release of fund assistance to NGOs. Based on Office Circular No. OOFN0059,⁹⁰ if she found the Disbursement Voucher and its supporting documents in order, she would sign the Disbursement Voucher and forward them to the appropriate signatory. Should she have adverse findings thereon, she would return them to the requesting unit for appropriate action. Jover confirmed that the disbursement of funds would not have been processed and approved for payment without her signature and certification in Box B of the Disbursement Voucher.

Francisco B. Figura⁹¹ joined TLRC in July 1986. He was initially part of the task force to reorganize TLRC and ultimately appointed as Head of the Litigation Division, Legal Department. In the years 2007 to 2010, he was the Officer-in-Charge of the Corporate Support Services Group (CSSG), which consisted of the Legal and Administrative Department, the Financial Services Department, and the Corporate and Acquired Assets Department. He was also the Corporate Secretary to the Board of Trustees of TLRC.

As OIC-Group Manager of CSSG, Figura monitored and supervised the performance of the department heads, rated them, addressed their concerns to ensure efficiency, and represented them in the Management Committee (ManCom) of TLRC, among others. He was familiar with PDAF because TLRC used to implement its predecessor, the Countrywide Development Fund (CDF), in the 1990s.

Sometime in August 2006, Deputy Director General Dennis Cunanan announced in a ManCom meeting that TLRC was officially chosen as an implementing agency authorized under the GAA to implement PDAF projects of legislators. This meant a substantial revenue for TLRC because its livelihood training programs would be put into full operation and the

⁹⁰ Exhibit 5 for Jover and Figura.

⁹¹ *Judicial Affidavit* dated February 13, 2020, *Records*, Volume IV, pp. 384-400.

Handwritten signature and initials in black ink, located in the bottom right corner of the page.

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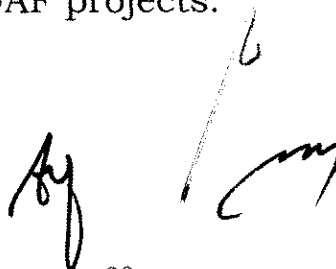
livelihood materials/training kits would have a ready market. TLRC Director General Antonio Ortiz said that the inclusion of TLRC in the GAA was a welcome development especially because its finances were on the red and its main source of income was the sale of its acquired assets. Ortiz also mentioned that he would issue Office Circulars on PDAF once the projects started to come in. Subsequently, he issued *Office Circular No. 00GE0098* dated 19 January 2007⁹² and Memorandum dated 20 December 2007,⁹³ amending Office Circular No. 00GE0098, which indicated the signatories to Boxes A and C of the Disbursement Vouchers with respect to the PDAF of legislators.

When the PDAF projects of legislators started coming in, Director General Ortiz called for a ManCom meeting sometime in January 2007 to discuss certain concerns regarding PDAF projects. In that meeting, Figura recommended that TLRC itself should implement the PDAF projects, citing its successful implementation of the CDF projects of former Senator Serge Osmena and Speaker Jose de Venecia. Figura also mentioned the process of selecting the conduit NGO that would implement the projects, particularly the requirement of public bidding. Ortiz replied that livelihood training was part of the “soft” portion of the PDAF which did not require public bidding unlike the “hard” portion because the latter involved infrastructure. Ortiz added that the PDAF was considered discretionary fund of the legislator hence TLRC, as implementing agency, had to respect the legislator’s wishes, especially in having his/her projects implemented by his/her chosen NGO as conduit of TLRC. Although he had reservations, Figura found merit on the stand of Ortiz since the DBM Circular requiring public bidding even for NGOs had not yet been issued.

The Director General decided that the NGO or foundation designated in the letter of the legislator should serve as the TLRC conduit in the implementation of the PDAF. He also decided to impose one percent (1%) management fee, plus ₱50,000.00 worth of TLRC livelihood materials for every PDAF account. He reiterated that the designated LLO should continue to coordinate with the legislator’s office, vet or assess the qualifications of the recommended NGO, prepare the MOA for review by the Legal Department, and such other initiatory work needed to process the PDAF projects.

⁹² Exhibit 3 for Figura and Jover.

⁹³ Exhibit 4 for Figura and Jover.



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In the case of Congressman Teves, the standard procedure on regular accounts was observed since the Director General had not yet issued the Office Circulars on PDAF. The details of this procedure were stated in *Office Circular No. 00FN0059* dated 18 July 1995 re: Guidelines on the Processing of Disbursement Vouchers and Checks.⁹⁴ In the processing and release of the PDAF of Teves, the MOA was referred to the Legal Department for review. Figura also co-signed the checks released to the foundation as part of his duty under *Office Circular No. 00GE0098* dated 19 January 2007.

In the *Memorandum*⁹⁵ dated 9 February 2007 issued by Deputy Director General Cunanan addressed to Director General Ortiz, Figura attached therewith a note, stating that due to the far-reaching implications and consequences of the PDAF matters which could affect TLRC, he suggested that the matters be discussed with the ManCom and presented to the Board of Trustees for approval as policies related to operations were involved.⁹⁶ The policies themselves were not presented to the Board of Trustees for approval but in one of the meetings, Cunanan made a report on the PDAF accounts, which centered on the finances of TLRC showing that the bulk of its income came from the management fees from the PDAF of legislators.

Meanwhile, in his *Memorandum*⁹⁷ dated 4 April 2007 addressed to the Director General, Figura requested to be relieved of the duty to sign Box A of the disbursement vouchers in his capacity as OIC-DDG while the Deputy Director General was out of the country. He had reservations in affixing his signature on the vouchers concerning the releases of the PDAF of the congressmen to foundations/NGOs because of the serious implications and responsibilities attached to the signature and the huge amounts involved. The Memorandum, however, was not acted upon by the Director General.

On September 3, 2007, Director General Ortiz finally issued *Office Circular No. 00OP0099*.⁹⁸ It served as a mandatory guideline to TLRC officials concerned, conduits and implementors on the uniform requirements and methodology for implementing livelihood projects funded under the PDAF of members of the Congress. Ortiz also issued *Office Circular No. 00OP0100*⁹⁹ dated 27 November 2007, which partially revised

⁹⁴ Exhibit 5 for Figura and Jover.

⁹⁵ Exhibit 12 for Figura and Jover.

⁹⁶ Exhibit 12-a for Figura and Jover.

⁹⁷ Exhibit 11 for Figura and Jover.

⁹⁸ Exhibit 1 for Figura and Jover.

⁹⁹ Exhibit 2 for Figura and Jover.

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Office Circular No. 00OP0099. It emphasized that no PDAF releases should be made to those conduit project implementors with outstanding unliquidated prior releases.

Figura averred that his office had no participation in coordinating with the legislators on their PDAF projects and in the accreditation of the NGO conduits. Such tasks belonged to the Liaison Officer of TLRC as per *Memorandum Order No. 07* dated 22 June 2005,¹⁰⁰ reactivating the Legislative Liaison Office. Belina Concepcion was the designated LLO in the years 2006 and 2007 when the PDAF of Congressman Teves was endorsed to TLRC.¹⁰¹ On the other hand, the Technological and Livelihood Information Dissemination Services Group (TLIDSG) was tasked in the implementation of the PDAF projects.

A team of auditors from COA, headed by a Corporate Auditor, had always been assigned to TLRC. It was mandated to monitor the transactions of TLRC, to issue audit findings and observations and notices of disallowance, and to conduct mandatory exit conferences with the TLRC management every year. During exit conferences, the Corporate Auditor would issue a summary of audit findings and observations for the previous year and require the head of office to comment or explain. These audit findings and comments of the management were consolidated and discussed during the exit conference. Usually present in the exit conference were the Corporate Auditor assisted by his team, a Director from COA in charge of GOCCs, and the TLRC Director General, Deputy Director General and Group Managers.

Figura was present in the exit conferences conducted in the years 2007, 2008, 2009, and 2010 since he was then the OIC-Group Manager of the TLRC CSSG. In the 2008 exit conference, there were audit findings and observations on PDAF accounts. The Corporate Auditor raised concerns on the release of PDAF funds which should be made in tranches and on the proper monitoring of the implementation of the projects by the NGOs which should be made by the TLRC. The Corporate Auditor also requested the Director General to negotiate with the legislators to allow TLRC itself to implement the projects instead of their chosen NGOs. In those exit conferences, there were no observations on the failure of TLRC to conduct a public bidding before a project was awarded to a foundation. During those years when exit conferences were held, the Corporate or

¹⁰⁰ Exhibit 9 for Figura and Jover.

¹⁰¹ Exhibit 10 for Figura and Jover.

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Resident Auditor never issued a Notice of Disallowance on the PDAF projects. Since there was no showing that the handling of the PDAF projects was irregular, the TLRC officers continued to perform their mandated functions under Office Circulars and signed official documents.

On cross-examination by the prosecution,¹⁰² Figura confirmed that under Office Circular No. 00GE0098, he was designated as a counter-signatory to checks with amount exceeding ₱1,000,000.00. He confirmed his signature in the Landbank Check dated February 27, 2007 issued to MFI. His signature and that of the Director General were necessary for a check to be validly issued. He also confirmed that under the GAA of 2007, TLRC, not the NGOs, was identified and indicated as implementing agency of PDAF projects. There was also no appropriation specifically earmarked for the use or implementation by NGOs. On cross-examination by counsel for accused Pulido, Figura claimed that he did not know that Pulido was the Chief of Staff of Congressman Teves and that he never met her prior to the trial of these cases.

He clarified to the Court that the main department he headed was the CSSG and under which were the Legal and Administrative Department, the Financial Services Department, and the Corporate and Acquired Asset Department. The participation of the CSSG in the implementation of the PDAF was only in terms of support. As head of certain departments, Figura could reverse the decision of the Department Managers if he found them to be not in accordance with certain rules of TLRC. He had no discretion with respect to the chosen NGO of the legislators because as mentioned to them by Director General Ortiz, their PDAF were discretionary funds. Hence, the legislators had the sole power on how to utilize them. Figura emphasized that he was against it and his position was that TLRC should be the one to implement the projects.

Figura confirmed that in the 2007 List of Beneficiaries, it was TLRC that should implement livelihood projects. It has always been his stand that TLRC should not have entered into a MOA with MFI since TLRC should be the one to implement the PDAF livelihood projects as provided in the 2007 GAA. Being the Group Manager of the CSSG, he signed Landbank Check No. 850336 since he was designated as a counter-signatory for checks exceeding the amount ₱1,000,000.00 under Circular No. 00GE0098. The Cash Division would not release the check if he

¹⁰² TSN dated March 10, 2020.

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would not countersign the same since it would be violative of the Office Circular if a signature was lacking. If he would not sign the check, the Director General could appoint another officer to countersign by amending the Office Circular.

Belina A. Concepcion¹⁰³ was employed with TLRC from 1989 to 2015. She was the Senior Technology and Livelihood Operating Officer, with concurrent designations as OIC Division Chief of the Sales and Marketing Division and as Legislative Liaison Officer (LLO). Part of her duties were to prepare marketing plans, promote, market and sell TLRC products and services through various media channels and develop marketing strategies or network, including the local government units, to attain target revenues for the benefit of TLRC.¹⁰⁴ She was appointed as LLO on January 10, 2006 until she was replaced on March 7, 2007.¹⁰⁵ As LLO, she cross-checked documents forwarded from the Office of Director General. If the supporting documents stated in the checklist of PDAF projects were complete and the amounts stated therein were correct, she would prepare a pro-forma recommendation memorandum for the initial processing of the PDAF transaction documents.

In the *Memorandum* dated February 22, 2007,¹⁰⁶ she recommended the release of the PDAF of Congressman Teves considering that all the documents needed in the TLRC checklist for the initial processing appeared to be complete. These documents were the MOA, SARO, Advice of NCA Issued, Endorsement Letter from the legislator, Project Proposal, and Work and Financial Plan. She recalled that there was already a signed MOA between the TLRC Director General and the NGO representative. There was also a pro-forma recommendation letter already drafted by the previous LLO, Ms. Priscilla Cioco. After going over the documents and finding them sufficiently compliant with the TLRC checklist, Concepcion copied the pro-forma recommendation memorandum and indicated her name, replacing that of the previous LLO. She also changed the other details to correctly reflect the amounts referred to in the MOA and signed the document thereafter. She then transferred all the documents to the Legal Department for review and to the Office of the Director General for approval. To her understanding, the purpose of the pro-forma recommendation memorandum was to check the completeness of the documents

¹⁰³ *Judicial Affidavit* dated January 13, 2021, *Records*, Vol. V, pp. 97-107.

¹⁰⁴ Exhibit 2 for Concepcion.

¹⁰⁵ Exhibits 4 and 7 for Concepcion.

¹⁰⁶ Exhibit A-144.

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and verify if the amounts corresponded to the ones stated in the MOA. The wordings of the pro-forma recommendation memorandum "*In accordance to the Memorandum...*" and "*Following the MOA...*" indicate that she was merely cross-checking the amounts indicated in the MOA.

She averred that she was not involved in the preparation, drafting and execution of the MOA. Under *Office Circular No. OOGEO098*,¹⁰⁷ Concepcion, as LLO, was not an authorized signatory to any official document to be issued by the TLRC. The pro-forma recommendation memorandum she signed was merely an internal document which served as a safety net to ensure the completeness of documents and the correctness of the amounts for the initial processing of the PDAF. It was not an official document for the release of funds. Even if she recommended that the PDAF should not be initially processed on some other ground, the Director General could still disregard her recommendation since it was not necessary to the actual processing of the PDAF, and TLRC could still disburse the amount as stated in the MOA. It was not even considered and reviewed by the TLRC internal auditor when auditing the projects involved in PDAF.

Concepcion stressed that the pro-forma recommendation memorandum only stated that the PDAF of Congressman Teves, in accordance with the MOA, be released for the implementation of livelihood projects in the 3rd District of Negros Oriental; it did not recommend that the funds be released to MFI or any NGO. As to why the MOA appeared to be executed on February 23, 2007, while the recommendation memorandum was dated February 22, 2007, she explained that the MOA was already available and signed by all the parties when she received the documents for the initial processing of the PDAF of Congressman Teves. Had the MOA been excluded in the documents that she checked, she would not have made reference to the MOA in her recommendation.

After the documents passed the Legal, Budget, and Accounting departments, the internal auditor of TLRC would affix her initial in the DV if they were complete and in order. The Cash Division would then process the preparation and release of the check. Aside from the internal auditor, there was also a resident COA auditor assigned at TLRC, who regularly audited its transactions. All the original copies of the disbursement vouchers and their attachments were submitted to the resident

¹⁰⁷ Exhibit 8 for Concepcion.

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COA auditor for review and audit. She recalled that the resident COA auditor found no adverse audit observations in the implementation of all PDAF projects of the legislators during that time. This meant that the transactions of the TLRC and the procedures relative to PDAF projects were legal, regular, and in order.

On cross-examination,¹⁰⁸ Concepcion confirmed that her job description stated that she performed other functions as may be assigned from time to time and she was actually designated as the LLO. She was aware, based on the recommendation memorandum, that the amount of ₱9,600,000.00 was intended to be released to MFI. She stated that the memorandum was part of the workflow in the TLRC relative to the release of the funds to a particular NGO.

Samuel S. Bombeo, Sr.¹⁰⁹ was the President of the Molugan Foundation, Inc. (MFI) in 2007. He claimed that MFI was accredited by TLRC, the implementing agency of the livelihood projects of Congressman Teves. TLRC Director General Antonio Ortiz called Bombeo and proposed to him to handle the livelihood project of Congressman Teves in the 3rd District of Negros Oriental. He agreed to the proposal and they then entered into a Memorandum of Agreement.¹¹⁰ He submitted to TLRC, through Ortiz, the *Certificate of Incorporation of MFI*¹¹¹ and *Project Proposal*,¹¹² stating the manner of implementing the livelihood project of Teves. It was Director General Ortiz who facilitated the affixing of signatures at the office of Congressman Teves. Thereafter, Bombeo received the *Disbursement Voucher*¹¹³ from TLRC in the amount of ₱9,600,000.00 for the implementation of the livelihood project. He then issued an official receipt,¹¹⁴ showing that he received the said amount.

The implementation of the livelihood project started sometime in April 2007. He was assisted by his project manager, Roberto Gianan, who was often at the district to implement the project upon his instructions. The project involved providing assistance to those living in depressed barangays. The assistance consisted of different kinds of aid,

¹⁰⁸ TSN dated January 20, 2021.

¹⁰⁹ *Judicial Affidavit* dated March 29, 2021, *Records*, Vol. V, pp. 221-235.

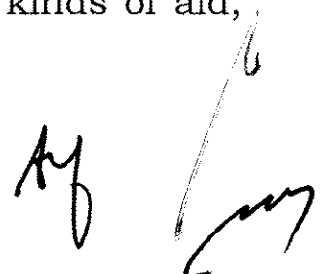
¹¹⁰ Exhibit 4 for Bombeo.

¹¹¹ Exhibit 1 for Bombeo.

¹¹² Exhibit 8 for Bombeo.

¹¹³ Exhibit 3 for Bombeo.

¹¹⁴ Exhibit 2 for Bombeo.



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depending on the needs of the beneficiaries. For instance, manicure sets for nail technicians, carpentry tools for carpenters, capital to buy goods for vendors. The recipients were asked to sign a document as proof that they have received assistance, which would then be submitted as progress reports to TLRC. Under the terms of the MOA, Bombeo was required to report to Director General Ortiz regarding the progress and the implementation of the project.¹¹⁵ In compliance therewith, he regularly submitted progress reports to TLRC.

The postal address of his office was in Quezon City but the business address for the purpose of implementing the project was at Lot 8, Block 35, Phase 3, Macanhan, Barangay Carmen, Cagayan de Oro. He described the place as a house with a room downstairs which served as his office. He rented the room from Olivia Marquez in 2006 until it was damaged by flood due to typhoon Sendong in December 2011. At that time, Bombeo was at their house in Quezon City. He then went to Cagayan de Oro to check the damage brought by the typhoon. Several of his things were lost and destroyed, including the records relative to the livelihood project of Teves. Although worried, he thought that the original reports were with Director General Ortiz, who would comply with the COA reporting requirements pertaining to the liquidation of the PDAF-funded project.

Bombeo recalled the letter dated May 30, 2012 from Director Susan Garcia of the COA-SAO, asking him to liquidate the funds he received from the PDAF of Congressman Teves.¹¹⁶ He got worried upon receiving the letter since he no longer had the records due to typhoon Sendong. He thought that Ortiz had submitted all the documents required by the COA. He called TLRC but was told that Ortiz was no longer connected with the Center. He requested to look for the reports and all documents relative to the livelihood project funded by the PDAF of Teves. However, they could no longer be located. He also went to TLRC but to no avail.

On cross-examination,¹¹⁷ Bombeo confirmed that the documents submitted for the accreditation of MFI by the TLRC included its Articles of Incorporation and Certificate of Incorporation. MFI had no financial statement for 2007 since it was incorporated only on February 27, 2007. He claimed that

¹¹⁵ Exhibit 5 for Bombeo.

¹¹⁶ Exhibit A-116.

¹¹⁷ TSN dated June 15, 2022.

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he had documents stating that MFI was accredited by the TLRC as early as 2005, but he has no records thereof.

It was in January 2007 when Ortiz called him to ask if he was interested in handling the livelihood projects of Congressman Teves. The MOA which they signed is dated February 23, 2007, four (4) days before MFI was issued a Certificate of Incorporation. He explained that the address of MFI in Quezon City as indicated in the MOA was only a postal address but its actual business operation was in Brgy. Carmen, Cagayan de Oro. There, he applied for a business permit and barangay clearance in order to conduct business but he lost the copy of the business permit. Bombeo clarified that his Project Manager, Roberto Gianan, had no written employment contract and was not registered with the SSS or PhilHealth as his employee.

It was Congressman Teves who gave Director General Ortiz a list of the intended beneficiaries and materials to be procured. With the release of the amount of ₱9,600,000.00 to MFI, it purchased the livelihood kits and then coordinated with the barangay officials to distribute them. In order to liquidate the said amount, Bombeo obtained receipts from the suppliers but his copy thereof was washed out by the typhoon. He reiterated that he submitted to TLRC the documents related to the PDAF-funded project of Congressman Teves.

On further cross-examination, he denied knowing and having communicated with accused Figura. He likewise denied personally knowing and having communicated with accused Jover during the time material to these cases. Additionally, he never met any of the staff of Congressman Teves during his meetings with Director General Ortiz.

On re-direct, Bombeo stated that MFI was accredited by TLRC in 2005 because it implemented the project of Senators Villar and Pangilinan. He presented the SEC registration of MFI dated July 1994. He narrated that before the execution of the MOA with TLRC, SEC wrote him a letter, revoking the registration of MFI due to non-compliance with reportorial requirements. He then complied with the requirements, paid the penalties, and waited for the copy of the new SEC registration. By that time, they had already signed the MOA on February 23, 2007. Ortiz was aware of the revocation of its SEC registration. Nonetheless, they proceeded to execute the MOA considering that the registration of MFI would soon be issued. MFI was able

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to get the new SEC registration (Certificate of Incorporation with Articles of Incorporation) on February 27, 2007 or four (4) days after signing the MOA. With respect to Roberto Gianan, Bombeo would sometimes ask him to attend lectures at TLRC as a requirement to implement the project. He further testified that the office in Brgy. Carmen, Cagayan de Oro was less than one kilometer away from where the PDAF-funded project of Congressman Teves was implemented. He submitted all the documents to TLRC since it was stipulated in the MOA that MFI had the responsibility to do so.¹¹⁸ To his recollection, he had implemented three to four projects prior to the PDAF-funded project of Congressman Teves.

On re-cross, he stated that the reportorial requirements of SEC, which he failed to submit, pertain to the General Information Sheet and financial statements of MFI. Bombeo added that MFI always had business permit from the Quezon City government. It was issued a business permit on February 2, 2007 and one of the documents submitted for its issuance was the 1994 Articles of Incorporation.¹¹⁹ When confronted with the *Affidavit of Non-Operation*¹²⁰ attached to the said Articles of Incorporation, Bombeo denied signing the same.

When asked by the Court how long it took for MFI to complete the livelihood program of Congressman Teves, Bombeo failed to answer since according to him, it was Gianan who went there. He elaborated that it was Ortiz, upon the instruction of Congressman Teves, who identified to him the recipients of the project. He, in turn, relayed the instruction to Gianan. After the implementation of the project, Gianan reported to him the list of recipients with their signatures. Bombeo then submitted the report to Ortiz and had his copy stamped "received" by the TLRC, but it was lost due to typhoon Sendong. He did not respond to the letter of COA-SAO Director Susan Garcia regarding the liquidation of the amount of ₱9,600,000.00 since he had already forwarded the documents to Director Ortiz, hoping that the latter would submit the reports to the COA. He maintained that he was able to liquidate the funds through Director Ortiz.

Olymar L. Marquez¹²¹ is the son of Olivia Marquez, the former landlady of accused Samuel Bombeo. In 2006, accused

¹¹⁸ Exhibit 5 for Bombeo.

¹¹⁹ Exhibit A-172.

¹²⁰ Exhibit A-183.

¹²¹ *TSN* dated June 21, 2022.

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Bombeo was their tenant at Lot 8, Block 35, Sitio Macanhan, Brgy. Carmen, Cagayan de Oro City. Bombeo occupied a room in their house which served as his office. On December 16, 2011, Marquez was at their residence when it started raining heavily. At 9 o'clock in the evening, there was a power interruption and flood entered their house. He and his family went to Carmen National High School. While they were heading towards the school, the flood waters were already chest deep. The heavy rains continued until 4 o'clock in the morning of the next day. Upon the instruction of his mother, he went back to their house and saw that the bookshelves and cabinets inside the room of Bombeo were all gone. He disclosed on cross-examination that he did not know the contents of those bookshelves.

On propounding questions by the Court, Marquez testified that the only things he recalled seeing when Bombeo moved in to their house were folders, bookshelves, and cabinets. The contents of those folders were not shown to him.

Meanwhile, upon confirmation of the death of accused Herminio G. Teves, the Court dismissed the cases against him, pursuant to Article 89 of the Revised Penal Code, as amended.¹²²

Thereafter, the defense submitted their respective *Formal Offer of Evidence*.¹²³ The Court, taking into consideration the objections of the prosecution, resolved to admit the following exhibits of the accused:¹²⁴

1) For Accused **Belina A. Concepcion**:

Exhibits 1-Concepcion, 2-Concepcion, 3-Concepcion, 4-Concepcion, 6-Concepcion, 7-Concepcion, 8-Concepcion, 11-Concepcion;

2) For Accused **Dennis L. Cunanan**:

Exhibits 1 to 1-C, 2 to 2-B, 3 to 3-C, 4, 5 to 5-F, and 6 to 6-A;

3) For Accused **Francisco Figura** and **Marivic Jover**:

¹²² Resolution dated May 11, 2022, *Records*, Vol. V, p. 425.

¹²³ *Records*, Vol. IV, pp. 442-518 (Cunanan); Vol. V, pp. 72-87 (Concepcion); pp. 259-299 (Figura and Javier); pp. 320-326 (Pulido); pp. 505-524 (Bombeo)

¹²⁴ *Records*, Vol. V, pp. 153, 633-635.

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Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 12-A;

4) For Accused **Hiram Diday Pulido**:

Exhibits 1, 1-A, 2, 2-A, 3, 3-A, 4, 4-A, 5, 5-A, 6, 6-A, 7, 7-A, 8, 8-A, 9, 9-A, 10, 10-A; and

5) For Accused **Samuel S. Bombeo**:

Exhibits 1, 2, 3, 4, 5, and 8.

The prosecution filed a *Formal Offer of Evidence*,¹²⁵ offering *Exhibit C* (Counter-Affidavit dated October 11, 2016 of Hiram Diday R. Pulido filed before the Office of the Ombudsman) and *Exhibit C-1* (signature of Hiram Diday R. Pulido appearing on page 10 of Exh. C). The Court admitted the said exhibits.¹²⁶

RULING OF THE COURT

Criminal Case No. SB-18-CRM-0508

The accused are charged with violation of Section 3(e) of R.A. No. 3019, as amended, which reads:

Section 3. Corrupt practices of public officers. —


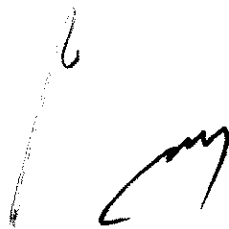
In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x

(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.

¹²⁵ *Records*, Vol. V, pp. 549-552.

¹²⁶ *Id.*, p. 630.

by  39 

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Reduced to its elements, a violation under this provision requires that: (1) the accused is a public officer discharging administrative, judicial or official functions; (2) the accused acted with manifest partiality, evident bad faith or gross inexcusable negligence; and (3) the accused caused undue injury to any party including the Government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.¹²⁷

I. First Element

The first element is present. It has been stipulated during the pre-trial that at the time material and relevant to this case, the following accused were public officers:

Name	Position
Hiram Diday Raagas Pulido	Chief of Staff of Congressman Herminio G. Teves
Dennis Lacson Cunanan	Deputy Director General of TLRC
Francisco Baldoza Figura	Group Manager/Department Manager III of TLRC
Marivic Villaluz Jover	Chief Accountant of TLRC
Belina Agbayani Concepcion	Sales and Promotion Supervisor V, with concurrent designations as OIC Division Chief of the Sales and Marketing Division and as Legislative Liaison Officer of TLRC

As for accused Bombeo, it is a settled rule that private individuals, when acting in conspiracy with public officers, may be indicted and, if found guilty, held liable for the pertinent offenses under Section 3 of R.A. No. 3019.¹²⁸

II. Second Element

The second element provides three (3) modes of commission of the offense, namely, through manifest partiality, evident bad faith, and/or gross inexcusable negligence. The case of *Uriarte v. People*¹²⁹ explained these modalities:

There is "**manifest partiality**" when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. "**Evident bad faith**" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious

¹²⁷ *Garcia v. Sandiganbayan*, G.R. No. 197204, March 26, 2014.

¹²⁸ *Braza v. Sandiganbayan*, G.R. No. 195032, February 20, 2013.

¹²⁹ G.R. No. 169251, December 20, 2006.

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wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. "**Gross inexcusable negligence**" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

As described in the Information, the accused are charged for acting with manifest partiality, evident bad faith and/or gross inexcusable negligence in causing the issuance of Nine Million Six Hundred Thousand Pesos (₱9,600,000.00) to the Molugan Foundation, Inc. in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under R.A. No. 9184 and its implementing rules and regulations, and with MFI being unaccredited and unqualified to undertake the project. In doing so, undue injury was caused to the government and/or unwarranted benefits and advantage was given to accused Bombeo.

The transfer of the PDAF of Teves to TLRC and its subsequent transfer to MFI is in violation of the 2007 GAA and COA Circular No. 96-003

Article XLVII of the GAA of 2007 ("PDAF Article") provides that the PDAF shall be directly released to the implementing agency indicated in the program menu concept, which is essentially a list of general programs and implementing agencies from which a particular PDAF project may be subsequently chosen by the identifying authority.¹³⁰ The special provision of the PDAF Article states:

XLVII. PRIORITY DEVELOPMENT ASSISTANCE FUND

x x x

Special Provision(s)

1. Use and Release of the Fund. The amount appropriated herein shall be used to fund priority programs and projects under the Ten Point Legacy Agenda of the national government and shall be released directly to the implementing agencies as indicated hereunder, to wit:

PARTICULARS	PROGRAM/PROJECT	IMPLEMENTING AGENCY
C. Livelihood/CIDSS	Small & Medium Enterprise/Livelihood	DTI/TLRC/DA/LIVECOR/CDA/OMA

¹³⁰ Belgica, et al. v. Hon. Executive Secretary Ochoa, et al., G.R. No. 208566, November 19, 2013.

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Among the programs eligible for funding under PDAF were livelihood programs, with TLRC as among the designated implementing agencies. It should be noted that NGOs were not among the implementing agencies of PDAF identified in the GAA. In this case, TLRC transferred the funds to MFI, an NGO, to implement the livelihood project of Teves in the 3rd District of Negros Oriental.

Records show that Teves endorsed to Rep. Joey Salceda, Chairman of the Committee on Appropriations, House of Representatives, the list of priority projects for the 3rd District of Negros Oriental amounting to ₱10,000,000.00, to be funded under his allocation in the PDAF and implemented by TLRC.¹³¹ Rep. Salceda and Speaker Jose de Venecia referred to the DBM Secretary the list of projects for the fourth tranche of FY 2006, chargeable against the PDAF of various representatives, one of which was that of Teves in the amount of ₱10,000,000.¹³² The DBM then issued SARO No. ROCS-07-00663 dated January 15, 2007 as financial assistance for livelihood programs in the 3rd District, Negros Oriental.¹³³ The DBM also issued *Advice of NCA Issued* dated February 1, 2007 (NCA No. 335856-3) to the Bureau of the Treasury to cover the cash requirements of the TLRC for the implementation of livelihood programs, authorized under SARO No. ROCS-07-00663.¹³⁴

On February 8, 2007, Teves recommended to TLRC Director General Antonio Ortiz to release to MFI his PDAF amounting to ₱10,000,000.00, covered by SARO No. ROCS-07-00663.¹³⁵

The Bureau of the Treasury, on February 12, 2007, issued *Disbursement Voucher No. 104-07-02-0066* in the amount of ₱10,000,000.00, with TLRC as payee "for payment of NG subsidy chargeable against SARO No. ROCS-07-00663 dated January 15, 2007 and NCA No. 335856-3 dated February 1, 2007".¹³⁶

A MOA was entered into between TLRC, represented by Director General Ortiz and MFI, represented by Bombeo, on February 23, 2007.¹³⁷ An undated *Project Proposal* was

¹³¹ Exhibit A-133.

¹³² Exhibit A-135.

¹³³ Exhibit A-118.

¹³⁴ Exhibit A-120.

¹³⁵ Exhibit A-151.

¹³⁶ Exhibit A-150.

¹³⁷ Exhibits A-145 to A-148.

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prepared by Angelo G. Pascua and noted by the President of MFI, herein accused Bombeo, with the conformity of Teves but which was signed for him by his Chief of Staff, herein accused Pulido.¹³⁸ A *Work and Financial Plan* containing project activities, estimated amount budget, and time frame was also prepared.¹³⁹ Bombeo submitted the Project Proposal and the Work and Financial Plan to TLRC, through Director General Ortiz.¹⁴⁰ TLRC Legislative Liaison Officer, accused Concepcion, recommended to Ortiz the release of the PDAF of Teves in the amount of ₱9,600,000.00, retaining the amount of ₱300,000.00 as service fee and ₱100,000.00 for the cost of livelihood materials.¹⁴¹

On February 27, 2007, *Disbursement Voucher No. 012007020350*, signed by Cunanan, Jover, Ortiz, among others, was issued.¹⁴² On the same day, *Landbank Check No. 0000850336* in the amount of ₱9,600,000.00, signed by Figura and Ortiz, was issued to MFI.¹⁴³ The following day, MFI issued an official receipt for the said amount.¹⁴⁴

In the *Notice of Disallowance*¹⁴⁵ issued by the COA-SAO, the subject transaction was deemed illegal and irregular. The COA-SAO made the following findings:

“The release of SARO and corresponding Notice of Cash Allowance (NCA) by the DBM to TLRC, and subsequent transfer of fund by TLRC to MFI were not compliant with the requirements of DBM National Budget Circular (NBC) No. 476 dated September 20, 2001, pertinent provisions of the General Appropriations Act (GAA) for the year, and COA Circular No. 96-003 dated February 27, 1996. Thus, the transaction was considered illegal and irregular as defined under COA Circular No. 85-55A, as amended by COA Circular No. 2012-003 dated October 29, 2012.

The results of the audit of this transaction are discussed below and under SAO Report No. 2012-03:

x x x

Of the amount received by TLRC without its endorsement, ₱9.60 Million was merely transferred to MFI, a non-governmental organization (NGO), when NGOs were not

¹³⁸ Exhibits A-154 to A-156.

¹³⁹ Exhibit A-153.

¹⁴⁰ TSN dated June 15, 2020, p. 39.

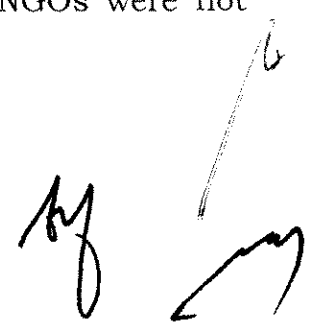
¹⁴¹ Exhibit A-144.

¹⁴² Exhibit A-143.

¹⁴³ Exhibit A-141.

¹⁴⁴ Exhibit A-142.

¹⁴⁵ Exhibits A-162 to A-166.



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among those identified in the GAA for the year 2007 as implementing arms of PDAF projects and there was no PDAF earmarked in the GAA for the implementation by NGOs. The transfer, which was covered by a Memorandum of Agreement (MOA) with TLRC Director General Antonio Y. Ortiz and MFI President Samuel S. Bombeo, as signatories, is therefore considered without legal basis.

TLRC, to which the PDAF of Teves was released, should have implemented the livelihood project as it was the implementing agency specifically indicated in the GAA. The transfer of the funds from TLRC to MFI is therefore in violation of the 2007 GAA.

Further, the subject transaction was governed by COA Circular No. 96-003 dated February 27, 1996, which laid down the accounting and auditing guidelines on the release of fund assistance to NGOs. The pertinent provisions of the COA Circular state:

3.0 GENERAL GUIDELINES

The following are the general guidelines in the extension of the fund assistance to the NGO/PO:

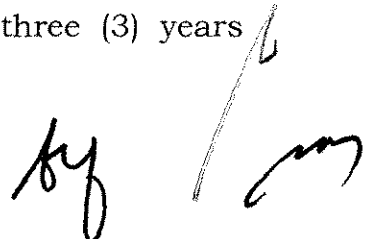
x x x

3.2 The NGO/PO shall be accredited by the GO. In the case of non-regularly-funded GOs which generate their funds out of donations and shares from other GOs like the Presidential Management Staff with respect to the President's Social Fund, the implementing GOs shall set the minimum requirements/criteria for the selection of the NGO/PO project partners as stipulated in each program guideline.

3.3 The following shall be the requirements for the NGO/PO accreditation:

3.3.1 Certificate of registration with the Securities and Exchange Commission (SEC), and/or with either the Cooperatives Development Authority (CDA) or the Department of Labor and Employment (DOLE), as the case may be, depending on the nature of the service required or to be rendered. This is to ensure that the NGO/PO has a legal personality, has officers who are responsible and accountable for its operations, and is based in the community where the project shall be implemented.

3.3.2 Financial statements for at least three (3) years operation to ensure that:



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- it has a stable financial condition so that the fund assistance shall not be its sole source of funds; and
- it has proven experience in fund management so that the grant shall be managed efficiently and economically.

3.3.3 For NGO/PO which has been in operation for less than 3 years, proof that it had previously implemented similar projects and a certificate from LGU concerned attesting to the credibility and capability of the officers and staff of the NGO/PO shall be submitted in lieu of financial statements.

3.3.4 List of projects it has previously undertaken to show its experience and expertise in implementing the project to be funded.

3.4 The GO and the NGO/PO shall enter into a Memorandum of Agreement (MOA) or similar document, incorporating the following requirements:

3.4.1 Project statement including identification of beneficiaries;

3.4.2 Standards for project implementation by the NGO/PO and acceptance by the GO to include completion date;

3.4.3 Systems and procedures for project implementation such as but not limited to, the procurement of goods and services by the NGO/PO and the schedule of release of the fund assistance by the GO. In the development of the system and procedures, the GO and the NGO/PO shall be guided by generally accepted management principles for economical, efficient and effective operations;

3.4.4 Project cost estimates and time schedules; and

3.4.5 Reporting, monitoring and inspection requirements.

x x x

3.8 The fund assistance shall be released as follows:

3.8.1 If the project is for implementation within a period of three (3) months, the assistance shall be released as follows:

3.8.1.1 For projects of ₱300,000 or less, assistance may be released in full.



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3.8.1.2 For projects of more than ₱300,000, release may be made in three tranches:

- 15% upon approval and signing of the MOA;
- 35% after 50% project completion;
- 50% upon completion of the project, subject to the favorable evaluation/inspection by the GO of the results of the previous release(s).

3.8.2 If the project is to be implemented for more than 3 months, the first release shall cover two (2) months operation but not to exceed 30% of the total assistance, subject to the release of the remaining balance upon submission of accomplishment reports evidenced by pictures of the accomplishments and/or report of inspection by the GO and certifications of receipt by beneficiaries/payrolls/invoices, etc.

x x x

4.0 DUTIES AND RESPONSIBILITIES OF THE GO

The GO shall:

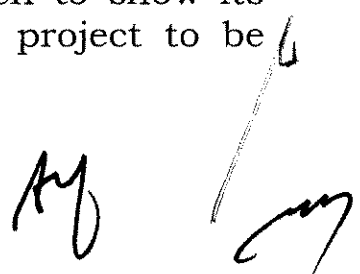
4.1 accredit the NGO/PO after proper verification and validation of required documents and statements;

x x x

COA Circular No. 96-003 requires prior accreditation of the NGO before it could be extended financial assistance. It defines accreditation as the acceptance by the government office of the NGO to implement the former's project after proper verification and validation of required documents.¹⁴⁶ The implementing government agency, which in this case was the TLRC, had the duty of accrediting the NGO after proper verification and validation of required documents.

It appears that MFI was not accredited to undertake the livelihood project of Teves. Nothing in the records would show that there was submission of documents required for its accreditation such as proof that MFI had previously implemented similar projects and a certificate from the LGU attesting to the credibility and capability of its officers and staff, and list of projects it has previously undertaken to show its experience and expertise in implementing the project to be

¹⁴⁶ Item 2.1, *COA Circular No. 96-003*.



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funded. It also bears stressing that MFI was not registered with the SEC when its President entered into a MOA with TLRC. The MOA was entered into on February 23, 2007, while the SEC registration of MFI was issued on February 27, 2007 or four (4) days thereafter. Based on that alone, MFI could not have possibly been qualified. This leads to the conclusion that TLRC did not undertake to assess the qualification of MFI.

Moreover, the schedule for the release of funds to NGOs as prescribed under COA Circular No. 96-003 was not complied with. Considering that the project involved the amount of ₱10,000,000.00 to be implemented within the First Quarter of 2007, the funds, in accordance with Item 3.8.1.2 of the COA Circular, should have been released as follows:

3.8.1.2 For projects of more than ₱300,000, release may be made in three tranches:

- 15% upon approval and signing of the MOA;
- 35% after 50% project completion;
- 50% upon completion of the project, subject to the favorable evaluation/inspection by the GO of the results of the previous release(s).

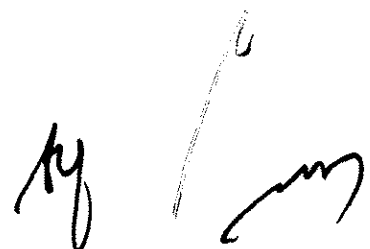
The funds, however, were released in full under Landbank Check No. 0000850336, which is not in accordance with the Circular.

It should be noted that under NCA No. 335856-3,¹⁴⁷ which authorized the release of the PDAF of Congressman Teves to TLRC, the “actual utilization/disbursements out of the cash allocation issued shall be subject to existing budget, accounting and auditing rules and regulations”. Here, there was failure to observe the accounting and auditing rules and regulations on the release of the PDAF to an NGO, particularly COA Circular No. 96-003.

Accused TLRC Officials

Concepcion issued a memorandum which facilitated the release of Teves’ PDAF to MFI. The memorandum states:

¹⁴⁷ Exhibit A-119.



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In accordance to the Memorandum of Agreement between **TLRC and Molugan Foundation, Inc.**, we are recommending the release of **Congressman Herminio G. Teves'** PDAF in the amount of ₱9,600,000.00 for the implementation of livelihood projects in the 3rd District of Negros Oriental. Following the MOA, we have retained the amount of ₱300,000.00 for service fees & ₱100,000.00 cost of livelihood materials.

x x x

As LLO, Concepcion had the following functions under TLRC *Memorandum Order No. 7*:¹⁴⁸

- To establish close working relationship and strong linkages with the Congressional Offices (COs).
- To take charge and/or monitor the Priority Development Assistance Funds (PDAFs) released to TLRC and facilitate the execution of Agreements relative to the utilization of the said funds in accordance with Special Allotment Release Order (SARO).
- To offer Technology and Livelihood program packages specifically designed for Congressional District areas.
- To coordinate, monitor and liaise facilitation of partnership programs/projects with Congressional Districts.
- To perform such other functions as the Director General may deem necessary and appropriate.

Concepcion cannot trivialize her role in the transaction. As LLO, she had the duty to facilitate the execution of MOAs for the utilization of the funds. It is worth mentioning that Concepcion issued the above Memorandum, with reference to the MOA, on **February 22, 2007**, while the MOA was entered into between the TLRC and MFI on **February 23, 2007**. Accused would have this Court believe that there was already a signed MOA between the TLRC Director General and the NGO representative when she issued the Memorandum, otherwise, she would not have made reference to the MOA in her recommendation. The Court is compelled to appreciate the Memorandum as it is plainly written considering that it was computerized. It shows that she already prepared and issued the Memorandum even prior to the execution of the MOA between TLRC and MFI. Such is indicative of manifest partiality

¹⁴⁸ Exhibit 9 for Figura and Jover.

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toward MFI. In addition, since she was tasked to facilitate the execution of the MOA, she could have noticed the lack of requirements for the accreditation of the NGO. However, to reiterate, she issued the Memorandum when the MOA had not yet been entered into by the parties.

The Court is not convinced that her Memorandum was merely recommendatory. Concepcion admitted during her cross-examination that the said Memorandum was part of the workflow in TLRC relative to the release of the funds to an NGO.¹⁴⁹

Cunanan, in signing Box A of Disbursement Voucher No. 012007020350, certified that the expenses were necessary, lawful and incurred under his direct supervision. In certifying the necessity and the lawfulness of the expenses, Cunanan is reasonably expected to have reviewed the basis for the disbursement. The fund transfer to MFI had no basis since NGOs were not among the identified implementors of PDAF projects under the 2007 GAA. When asked regarding the statement of the State Auditor that the NGO has no right to participate in the implementation of PDAF projects of the legislator if there is no law or ordinance appropriating funds for a particular NGO, his only explanation was that the resident COA auditor never flagged them which would call their attention to stop processing the PDAF.¹⁵⁰ Nonetheless, since he was the signatory to Box A of the Disbursement Voucher, he had the responsibility to verify the lawfulness of the disbursement. He should have also ensured the qualification and accreditation of the NGO to which the public funds would be disbursed. He cannot simply certify in the Disbursement Voucher without determining compliance with existing laws, rules and regulations. Admittedly, the disbursement could not have been approved without his signature in the Disbursement Voucher.

As for Jover, she signed Box B of the Disbursement Voucher, certifying that "adequate available funds/budgetary allotment in the amount of ₱9,600,000.00; expenditure properly certified; supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for". As per her testimony, when the PDAF of Teves was released, TLRC was guided by *Office Circular*

¹⁴⁹ TSN dated January 20, 2021, p. 16.

¹⁵⁰ TSN dated February 18, 2020, pp. 35-36.

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No. 00FN0059,¹⁵¹ which laid down the guidelines on the processing of disbursement vouchers and checks:

- 5 Chief Accounting Officer
Division/Authorized Signatory for Box B
 - a. Reviews DV and attachments
 - b. If found in order, indicate amount and signs Box B certifying:
 - b.1 availability of funds
 - b.2 that expenditure is properly certified
 - b.3 that expenditure is properly supported by documents marked (x) on checklist on the back of the DV
 - b.4 that account codes are proper
 - b.5 that previous cash advance, if any, has been liquidated/accounted for
 - c. Forwards DV and attachments to authorized signatory for Box C
 - d. If signatory of Box B has adverse findings, returns DV and attachments to requesting unit for appropriate action

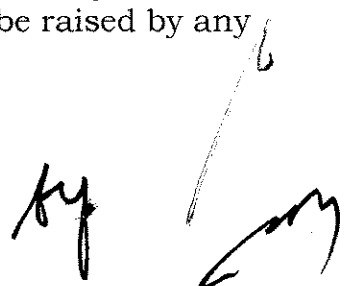
Documents checklist at the back of the DV

The checklist at the back of the voucher enumerates the mandatory minimum supporting documents for the selected documents for the selected transactions.

It should be clear, however, that the submissions of all supporting documents enumerated under each type of transaction does not preclude reasonable questions on the funding legality, regularity necessity or economy of the expenditure or transaction. Such question may be raised by any of the signatories to the voucher.

x x x

¹⁵¹ Exhibit "5" for accused Jover.



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According to the Office Circular, the Chief Accounting Division/Authorized Signatory for Box B has the duty to “review the DV and its attachments”. She may return the DV and its attachments to the requesting unit for appropriate action should she find any adverse findings. The Office Circular even categorically states that the submission of all the supporting documents does not preclude reasonable questions on the funding legality, regularity, necessity or economy of the expenditure or transaction.

In the case of *Marivic V. Jover v. Field Investigation Office, Office of the Ombudsman*¹⁵² concerning the accused herself and the same act for which she is charged in this case, it was held:

Nonetheless, a reading of the above COA Circular No. 96-003 shows that petitioner failed to comply with the requirement that fund releases for amounts more than ₱300,000.00 be made in tranches. The issuance allows the release of the fund assistance in full *only* if the amount is less than ₱300,000.00. If the amount exceeds ₱300,000.00, the Circular directs that payment be made in three tranches, with only fifteen percent (15%) being released upon approval and signing of the Memorandum of Agreement (MOA), thirty-five percent (35%) after fifty percent (50%) of the project completion, and the fifty percent (50%) upon favorable evaluation/inspection by the Government Organization, such as TRC.

Notably, COA Circular No. 96-003 was addressed to Chief Accountants such as petitioner. As Chief Accountant, one of petitioner's responsibilities was to ensure that all accounting transactions are in compliance/conformity with COA and TRC policies, rules, and regulations.

Equally important is COA Circular No. 92-389, also directed to Chief Accountants like petitioner, which states that in signing disbursement vouchers (DVs), the submission of complete documents does not preclude *reasonable questions* on the funding, legality, regularity, necessity, or economy of the expenditure, *viz.:*

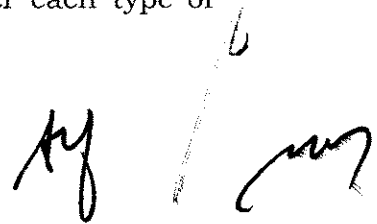
x x x x

3. Document Checklist at the Back of the Voucher

The checklist at the back of the voucher enumerates the mandatory minimum supporting documents for the selected transactions.

It should be clear, however, that the submission of the supporting documents enumerated under each type of

¹⁵² G.R. No. 253519, November 11, 2021.



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transaction does not preclude reasonable questions on the funding, legality, regularity, necessity or economy of the expenditure or transaction. Such questions may be raised by any of the signatories to the voucher.

x x x x

In all the transactions involved in this case, petitioner repeatedly failed to raise any questions as to why funds which were all above ₱300,000.00 were released in full to the NGOs contrary to express directive of COA Circular No. 96-003. Had petitioner raised such requirement, only fifteen percent (15%) of the funds would have been released to the NGOs at the time of the signing and approval of the MOA. As a signatory to the DV, petitioner should have raised this issue and questioned why the whole amount was being disbursed. Her failure to do so, and her signing the DVs despite the clear language of COA Circular No. 96-003, shows repeated lack of compliance with an established rule for which she should be liable for serious misconduct.

Petitioner's misconduct is considered grave due to her flagrant disregard of established rules under the COA issuances. It bears stress that COA Circular Nos. 96-003 and 92-389 were addressed to Chief Accountants and the requirement for the release of funds in tranches was clear. As it was, petitioner did not only allow that the funds be released in full, she allowed such release *without* raising any question on the funding, legality, regularity, necessity, or economy of the expenditure or transaction.

The same directive in COA Circular No. 92-389 mentioned in the above ruling is incorporated in TLRC *Office Circular No. OOFN0059* relied upon by Jover. She had the duty to ensure that the transaction complied with existing accounting and auditing guidelines but Jover herself admitted during cross-examination that she did not observe COA Circular No. 96-003:¹⁵³

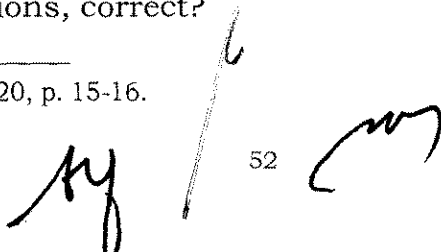
Pros. Corpuz:

Q: Would you agree with me Ma'am that the funds covered by the SARO and eventually by the Disbursement Voucher you signed are public funds?

A: Yes, ma'am.

Q: And as public funds, these funds were subject to Government Accounting and Auditing Rules and Regulations, correct?

¹⁵³ TSN dated March 3, 2020, p. 15-16.

Handwritten signatures and a vertical line. The number 52 is written in the center.

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A: Yes, ma'am.

Q: Did you not observe ma'am the provisions of COA or Commission on Audit Circular No. 96-003 which also prescribed Accounting and Auditing Guidelines of the released of fund, fund assistance by NGO?

A: At that time ma'am I was not there.

Q: So you did not observe COA Circular No. 96-003?

A: Yes, ma'am.

Considering the release of the full amount in favor of MFI, which was contrary to COA Circular 96-003, Jover should have raised such issue instead of just signing the Disbursement Voucher. She did nothing to prevent the processing of the disbursement of public funds. Contrary to her claim that as prescribed by the Office Circular, she had no choice but to affix her signature if the transaction was supported by documents, her act of signing the Disbursement Voucher was not merely a mechanical act. As the Chief Accountant, it was her duty to ensure that accounting transactions were in accordance with COA issuances.

Same as Cunanan, Jover admitted that without her signature and certification, the disbursement of funds would not have been processed and approved for payment.¹⁵⁴ In signing the Disbursement Voucher, Cunanan and Jover facilitated the transfer of funds to MFI, in disregard of the laws and regulations. Considering the amount of public funds involved in this case, they should have ensured that the transaction be devoid of any irregularity. The acts of Cunanan and Jover were attended with gross inexcusable negligence and manifest partiality toward MFI. Without their signatures, the funds would not have been disbursed to MFI.

As for Figura, he was designated as the authorized counter-signatory for checks exceeding the amount of ₱1,000,000.00 under TLRC Office Circular No. 00GE0098.¹⁵⁵ As such, he co-signed Landbank Check No. 0000850336, payable to MFI. His act of signing the check was merely in adherence to and part of his duty under the said Office Circular. There is no showing that he had discretion on whether to sign the check

¹⁵⁴ *Id.*, p. 18.

¹⁵⁵ Exhibit 3 for Figura.

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since there was already a certification in the Disbursement Voucher that the transaction was supported by documents and was already approved for payment.

While admittedly, the MOA was referred for review to the Legal Department which Figura headed, the Court notes that it has been his position that TLRC itself should implement the PDAF projects. As culled from the records, Figura has manifested his reservations regarding the TLRC policies on the PDAF implementation through a handwritten note¹⁵⁶ on the Memorandum dated February 9, 2007 issued by Cunanan. He suggested therein that the matters be thoroughly discussed in the MANCOM and presented to the Board of Trustees considering their far-reaching implications and consequences. It has been his stand that TLRC should not have entered into a MOA with MFI since TLRC should be the one to implement the PDAF projects as provided in the 2007 GAA. Figura subsequently issued a Memorandum¹⁵⁷ addressed to Ortiz, stating his reservations that TLRC should be the implementor of PDAF projects. These acts of Figura negate the presence of manifest partiality, evident bad faith or gross inexcusable negligence on his part.

Accused Pulido

Accused Pulido, being the Chief of Staff of Congressman Teves, signed the Project Proposal on behalf of the Congressman. In the letter dated February 14, 2012, Pulido confirmed to the COA Assistant Commissioner the authenticity of her signature in the Project Proposal. Pulido now vehemently denies executing the said letter, claiming that someone had forged her signature.

There are circumstances showing that Pulido signed the Project Proposal for and in behalf of Congressman Teves and the letter dated February 14, 2012 confirming her signature. Although Pulido insisted that she had the same signature through the years, however, as pointed out by the prosecution and as appearing in the records, she has varying signatures. For instance, her signature as appearing in her Exhibit 1-A states "*Hiram Diday R. Pulido*" while the signature appearing in her Exhibit 8-A simply states "*Hiram R. Pulido*".¹⁵⁸ She further

¹⁵⁶ Exhibit 12-a for Figura.

¹⁵⁷ Exhibit 11 for Figura.

¹⁵⁸ TSN dated January 22, 2020, p. 39.

Handwritten signatures and initials in black ink. On the left, there are initials that appear to be 'By' followed by a signature. On the right, there is a signature that looks like 'm' and another signature above it that looks like 'b'.

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admitted that her signature appearing in her Counter-Affidavit¹⁵⁹ and her countersignatures in her Judicial Affidavit appear to be similar to the signature appearing in Exhibit A-158 above the name Hiram Diday R. Pulido.¹⁶⁰ Additionally, she acknowledged that the signature above the name Hiram Diday R. Pulido in the letter dated February 14, 2012 is similar to her signature although she denied signing the same.¹⁶¹ Notably, the mobile number 0917-5322193 under the name Hiram Diday R. Pulido in the said letter is the same with the number indicated in her identification cards.¹⁶² Pulido herself even presumed that it was her number.¹⁶³ Although she had already retired on February 14, 2012, she could still have actually signed the pertinent documents.

Her denial is purely self-serving as she failed to substantiate her claim of forgery. She did not take any step to find out who forged her signature after learning about the allegations against her. The rule is that one who disavows the authenticity of his or her signature bears the responsibility to present evidence to that effect. Mere disclaimer is not sufficient.¹⁶⁴ The Court is inclined to rule that the Project Proposal and the letter dated February 14, 2012 indeed contain the signature of Pulido considering that she was not able to establish the existence of forgery. Signing on behalf of Congressman Teves in the Project Proposal signifies consent to MFI to be the implementor of the PDAF livelihood project. Such is indicative of manifest partiality in favor of MFI. The said Project Proposal was among the supporting documents for the release of the funds to MFI.

Accused Bombeo

Bombeo signed the MOA on February 23, 2007 notwithstanding the fact that the registration of MFI with the SEC was still pending at that time. The pertinent testimony of Bombeo reads:

ATTY. TIU:

Q Could you tell the Court when was this incorporated, Mr. Bombeo?

¹⁵⁹ Exhibit C-1 for the Prosecution.

¹⁶⁰ TSN dated February 11, 2020, p. 29.

¹⁶¹ *Id.*, p. 27.

¹⁶² Exhibits 4-a and 5-a for Pulido.

¹⁶³ TSN dated January 22, 2020, pp. 35-36.

¹⁶⁴ *Philippine Trust Company v. Gabinete*, G.R. No. 216120, March 29, 2017.

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- A It was registered in July 1994. *Bago pa magkapirmahan ng MOA sa TLRC*, SEC wrote me a letter to revoke my SEC registration because I did not comply with the reportorial. At the time I made the reportorial, and then we already signed the MOA on February 23, 2007 with TLRC.
- Q What happened when you received the letter from the SEC regarding the compliance for some reportorial?
- A We will just wait for the copy but **we already signed the MOA with the TLRC on February 23. That new SEC registration, I was able to get it at February 27. Four (4) days after signing the MOA.**

x x x

- Q And was Director Ortiz aware of that Certificate of Incorporation of Molugan, Inc.?
- A Yes, He is aware *kasi sinabihan ko sila na na-revoke kasi may sulat ang SEC*. So, *nag-renew ako, nag submit ako ng reportorial* and I paid penalties and *na-issuehan ulit ako ng registration*. *Dahil accredited na ako sa TLRC, itinuloy yung signing of MOA. Kasi palabas na yung registration ko. Noong February 27, 2007, lumabas yung new registration ko sa SEC.*¹⁶⁵

Bombero claimed that MFI had been accredited by TLRC since 2005. However, the records are bereft of any evidence that it was indeed accredited by TLRC. Likewise, no evidence was presented to prove his claim that MFI previously undertook similar projects, particularly the livelihood project of Senators Villar and Pangilinan.

When asked by the COA to submit liquidation reports relative to the PDAF-funded project of Teves,¹⁶⁶ Bombero did not respond and comply therewith. He was not able to come up with any proof to show that the livelihood materials had been delivered at all as well as the actual receipt thereof by the intended beneficiaries, his reason being that all the PDAF-related documents were destroyed by typhoon Sendong. While the Court acknowledges such a possibility, Bombero could have simply asked certification from the suppliers where he purchased the items purportedly distributed to the beneficiaries. He also could have asked the beneficiaries for certification that they actually received the livelihood materials.

¹⁶⁵ TSN dated June 15, 2022, pp. 64-65.

¹⁶⁶ Exhibit A-116.

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These Bombeo failed to do. He did not submit the documentation requested by the COA and the amount transferred to MFI remained unliquidated.

Interestingly, the actual business operation of MFI was in **Cagayan de Oro**, which is in Mindanao, while the project site of the livelihood project as indicated in the Project Proposal was in **Negros Oriental** in Visayas. The prosecution has repeatedly asked Bombeo regarding the location of the project. The Court hereby quotes the testimony of Bombeo:

PROS NUNEZ:

Q Cagayan de Oro is in Misamis Oriental, correct?

A The capital of Misamis Oriental.

Q But it is different from the province of Negros in Visayas, correct?

A Yes.

Q But different province.

A Yes, but we speak the same dialect.¹⁶⁷

x x x

PROS NUNEZ:

Q Sir, regarding the implementation of representative Teves' project, the project was in Negros Oriental, correct?

A Yes, ma'am.¹⁶⁸

The Court also observed the conflicting statements of Bombeo with respect to the project site. During his re-direct examination, he testified that his office in Barangay Carmen in Cagayan de Oro was less than one kilometer away from where the PDAF project of Congressman Teves was implemented.¹⁶⁹ On the other hand, in his Comment and Opposition to Prosecution's Formal Offer of Evidence,¹⁷⁰ he stated that the livelihood project in Negros Oriental was a mere 10-kilometer distance from Cagayan de Oro. This, as well as the absence of reports and/or records, supports the finding that the project

¹⁶⁷ *Id.*, p. 37

¹⁶⁸ *Id.*, p. 47.

¹⁶⁹ *TSN* dated June 15, 2022, p. 66.

¹⁷⁰ *Records*, Vol. III, p. 982.



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was non-existent. Taken together, there is clearly evident bad faith on the part of Bombeo.

III. Third Element

Anent the third element, there are two (2) ways by which Section 3(e) of R.A. No. 3019 may be violated - first, by causing undue injury to any party, including the government, or the second, by giving any private party any unwarranted benefit, advantage or preference.¹⁷¹ The accused may be charged under either mode or both.

The Information in this case alleged the two modes — that the acts of the accused caused undue injury to the government and/or gave Bombeo unwarranted benefits and advantage in the amount of ₱9,600,000.00.

The term "undue injury" in the context of Section 3(e) of R.A. No. 3019 is explained by the Supreme Court in this wise:¹⁷²

In jurisprudence, "undue injury" is consistently interpreted as "actual damage." Undue has been defined as "more than necessary, not proper, [or] illegal" and injury as "any wrong or damaged one to another, either in his person, rights, reputation or property [that is, the] invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.

Under the second mode, "unwarranted" means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. "Advantage" means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. "Preference" signifies priority or higher evaluation or desirability; choice or estimation above another. It suffices that the accused has given unjustified favor or benefit to another, in the exercise of his official, administrative or judicial functions.¹⁷³

There is no doubt that the acts of Concepcion, Cunanan, Jover, Pulido and Bombeo caused undue injury to the government in the amount of ₱9,600,000.00, which to date, remains unaccounted for. The PDAF allocation of Teves was

¹⁷¹ *Ampil v. Office of the Ombudsman*, G.R. No. 192685, July 31, 2013.

¹⁷² *Llorente, Jr. vs. Sandiganbayan*, G.R. No. 122166, March 11, 1998.

¹⁷³ *Ampil v. Office of the Ombudsman*, G.R. No. 192685, July 31, 2013.

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intended to carry out livelihood project for his constituents in Negros Oriental, but this was not realized because the project was non-existent.

Their acts also extended unwarranted benefits to a private party after allowing MFI to become the implementor of the PDAF-funded livelihood project of Teves without the proper accreditation, the lack of legal basis as it was not one of the implementing agencies identified in the 2007 GAA, and the impropriety of the full release of funds in violation of COA Circular No. 96-003.

The totality of the facts and circumstances demonstrates that the said accused, through manifest partiality, gross inexcusable negligence and/or evident bad faith, committed the offense of violation of Section 3(e) of R.A. No. 3019, causing undue injury to the government and giving unwarranted benefits to Bombeo and MFI.

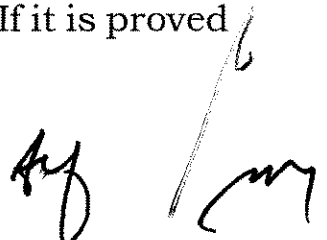
Conspiracy

Accused are alleged to have conspired with one another in committing the crime of violation of Section 3(e) of R.A. No. 3019, as amended.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy does not need to be proven by direct evidence and may be inferred from the conduct —before, during, and after the commission of the crime — indicative of a joint purpose, concerted action, and concurrence of sentiments. In conspiracy, the act of one is the act of all. Conspiracy is present when one concurs with the criminal design of another, as shown by an overt act leading to the crime committed. It may be deduced from the mode and manner of the commission of the crime.¹⁷⁴

It need not be shown that the parties actually came together and agreed in express terms to enter into and pursue a common design. The existence of the assent of minds which is involved in a conspiracy may be, and from the secrecy of the crime, usually must be, inferred by the court from proof of facts and circumstances which, taken together, apparently indicate that they are merely parts of some complete whole. If it is proved

¹⁷⁴ *Zoleta v. The Honorable Sandiganbayan*, G.R. No. 185224, July 29, 2015.



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that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiments, then a conspiracy may be inferred though no actual meeting among them to concert means is proved. Thus, the proof of conspiracy, which is essentially hatched under cover and out of view of others than those directly concerned, is perhaps most frequently made by evidence of a chain of circumstances only.¹⁷⁵

The actions (or inactions) of accused Concepcion, Cunanan, Jover, Pulido, and Bombeo are indicative of conspiracy to accord unwarranted benefits to a private party through manifest partiality, gross inexcusable negligence and/or evident bad faith. The circumstances discussed above signify unity among them for MFI to implement the livelihood project of Teves despite its lack of accreditation, lack of legal basis as it was not one of the appointed implementors of PDAF-funded project under the 2007 GAA, and the improper release of the full amount of the funds. Were it not for their consent and participation, the funds would not have been disbursed and released to MFI, through Bombeo.

Criminal Case No. SB-17-CRM-0940

The accused are also charged with violation of Article 217 of the RPC, which provides:

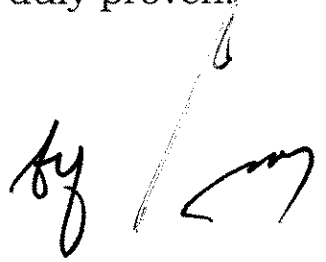
Art. 217. Malversation of public funds or property.

Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

x x x x

To warrant conviction for the charge for violation of Article 217 of the RPC, the following elements must be duly proven:

¹⁷⁵ *Alvizo v. Sandiganbayan*, G.R. No. 101689, March 17, 1993.



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- (1) that the offender is a public officer;
- (2) that he had the custody or control of funds or property by reason of the duties of his office;
- (3) that those funds or property were public funds or property for which he was accountable; and
- (4) that he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.

I. First Element

The first element is present. At the time material to the allegations in the Information, accused Concepcion, Cunanan, Jover, Figura, and Pulido were public officers. Accused Bombeo was a private individual who was charged with having conspired with the former. As in violation of Section 3(e) of R.A. No. 3019, a private individual may be charged with and be held liable for malversation if such private individual conspires with an accountable public officer to commit malversation.¹⁷⁶

II. Second and Third Elements

The second and third elements are also present. The funds alleged to have been misappropriated are public in character as they pertain to funds belonging to the government, sourced from the GAA for the year 2007.

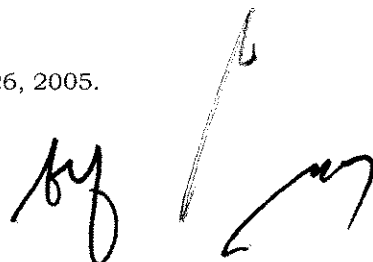
An accountable public officer, within the purview of Art. 217 of the RPC, is one who has custody or control of public funds or property by reason of the duties of his office. To be liable for malversation, an accountable officer need not be a bonded official. The name or relative importance of the office or employment is not the controlling factor. What is decisive is the nature of the duties that he performs and that as part of, and by reason of said duties, he receives public money or property which he is bound to account.¹⁷⁷

In *People v. Hipol*,¹⁷⁸ the Supreme Court held:

¹⁷⁶ *Barriga v. Sandiganbayan*, G.R. Nos. 161784-86, April 26, 2005.

¹⁷⁷ *Alejo v. People*, G.R. No. 173360, March 28, 2008.

¹⁷⁸ G.R. No. 140549, July 22, 2003.



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What is essential is that appellant had custody or control of public funds by reason of the duties of his office. He is an employee of, or in some way connected with, the government and, in the course of his employment, he receives money or property belonging to the government for which he is bound to account. Accordingly, what is controlling is the nature of the duties of appellant and not the name or relative importance of his office or employment.

Accused TLRC officials had custody or control of the funds drawn from the PDAF of Teves, which was transferred from the Bureau of the Treasury to TLRC. Concepcion, Cunanan, Jover, and Figura, as officials of TLRC, to which the PDAF of Teves was released, are accountable officers by reason of their duties.

As for accused public officer Pulido and private individual Bombeo, it must be stressed that a public officer who is not in charge of public funds or property by virtue of his or her official position, or even a private individual, may be liable for malversation or illegal use of public funds or property if such public officer or private individual conspires with an accountable public officer to commit malversation or illegal use of public funds or property.¹⁷⁹

III. Fourth Element

Under the MOA, MFI had the responsibility in the proper disposition/disbursement of funds as well as to submit implementation report including funds utilized and documents relative to their disposition.¹⁸⁰ On the other hand, TLRC had the obligation to monitor the implementation of the project and the utilization of the funds.¹⁸¹ TLRC likewise had the duty under COA Circular No. 96-003 to monitor and inspect the project implementation.¹⁸²

No record of transaction related to the implementation of the project was found. The fact that no document related to the monitoring of the implementation of the project and the use of the funds was submitted, it can reasonably be concluded that

¹⁷⁹ *Zoleta vs. Sandiganbayan*, G.R. No. 185224, July 29, 2015, citing *Barriga vs. Sandiganbayan*, G.R. Nos. 161784-86, April 26, 2005

¹⁸⁰ Item I (c) and (d).

¹⁸¹ Item II (d).

¹⁸² Item 4.5.

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the parties did not comply with their obligations under the MOA.

The release of the funds to MFI, through Bombeo, necessarily entailed the obligation on the part of the latter to use them for the purpose for which they were disbursed. Although Bombeo maintains that MFI implemented the livelihood project, no reports were presented as to its implementation and the public funds transferred to MFI remained completely unliquidated. Even after the COA asked him to submit liquidation reports, Bombeo failed to comply and show that the livelihood materials were actually delivered to and received by the constituents of Congressman Teves in the 3rd District of Negros Oriental. Considering that there is no proof as to the whereabouts of the funds and nothing happened to the project, this meant that the amount was not actually used for its intended purpose and that the accused misappropriated or consented, or, through abandonment or negligence, permitted Bombeo to take the public funds.

It is settled that a public officer is liable for malversation even if he does not use public property or funds under his custody for his personal benefit, if he allows another to take the funds, or through abandonment or negligence, allow such taking. The felony may be committed, not only through the misappropriation or the conversion of public funds or property to one's personal use, but also by knowingly allowing others to make use of or misappropriate the funds. The felony may thus be committed by *dolo* or by *culpa*. The crime is consummated and the appropriate penalty is imposed regardless of whether the mode of commission is with intent or due to negligence.¹⁸³

Accused public officers Concepcion, Cunanan, Jover, and Pulido consented or permitted Bombeo, through MFI, to take the PDAF-drawn public funds. MFI did not have the capacity to implement the project as it did not possess the required qualification and accreditation. Despite this, they still facilitated the release of the PDAF in the amount of ₱9,600,000.00 to MFI. Through their respective acts, they permitted Bombeo to take or misappropriate such a substantial amount of public funds.

Said accused are charged for having conspired with one another. The conspiracy among the public officers and Bombeo has already been established. They acted in unison in allowing Bombeo to take the ₱9,600,000.00 intended for the livelihood

¹⁸³ People v. Pantaleon, Jr., G.R. Nos. 158694-96, March 13, 2009.

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project. Pulido approved the purported livelihood project to be undertaken by MFI, which resulted to the release of the funds to MFI. Concepcion, through Memorandum dated February 22, 2007, recommended the release of the PDAF allocation of Teves to MFI. Cunanan and Jover signed Box A and Box B, respectively, of Disbursement Voucher No. 012007020350. The amount covered by the Disbursement Voucher would not have been processed without their certification.

As for accused Figura, there is no showing that he acted with a common criminal design in allowing the PDAF of Teves to be taken or misappropriated by MFI. As previously discussed, he merely co-signed the check as part of his duty and pursuant to Office Circular No. 00GE0098. Moreover, it has already been certified that the transaction was supported by documents and approved for payment.

In view of the foregoing and in line with the earlier discussion, the Court finds accused Concepcion, Cunanan, Jover, Pulido, and Bombeo liable for violation of Sec. 3(e) of R.A. No. 3019 and for malversation under Art. 217 of the RPC.

Imposable Penalty

Criminal Case No. SB-18-CRM-0508

A person guilty of violating Section 3 (e) of R.A. No. 3019, as amended, is punishable with imprisonment for not less than six (6) years and one (1) month nor more than fifteen (15) years and perpetual disqualification from public office.

Under the Indeterminate Sentence Law, if the offense is punishable by a special law, an indeterminate penalty shall be imposed on the accused, the maximum term of which shall not exceed the maximum fixed by the law, and the minimum not less than the minimum prescribed therein.

Accordingly, the Court finds it proper to impose an indeterminate penalty of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, and to suffer perpetual disqualification from holding public office.

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The total amount malversed is ₱9,600,000.00, representing the amount transferred to MFI. Art. 217 of the RPC prescribed the penalty of *reclusion temporal* in its maximum period to *reclusion perpetua*, if the amount malversed exceeds ₱22,000.00. Subsequently, the penalties prescribed in Art. 217 of the RPC were amended with the passage of R.A. No. 10951, the pertinent provisions of which read:

SEC. 40. Article 217 of the same Act., as amended by Republic Act No. 1060, is hereby further amended to read as follows:

"Art. 217. Malversation of public funds or property.—
Presumption of malversation. – x x x

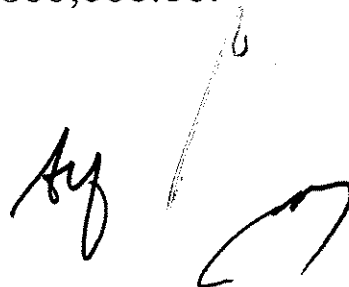
"5. The penalty of *reclusion temporal* in its maximum period, if the amount involved is more than Four million four hundred thousand pesos (₱4,400,000) but does not exceed Eight million eight hundred thousand pesos (₱8,800,000). **If the amount exceeds the latter, the penalty shall be *reclusion perpetua*.**

"In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

x x x

However, R.A. No. 10951 only finds application when favorable to the accused. Considering that Section 40 of R.A. No. 10951, which imposes a single indivisible penalty of *reclusion perpetua*, is not favorable to the accused, the provisions of Art. 217 of the RPC prior to its amendment, which provides for a lighter penalty of *reclusion temporal* in its maximum period to *reclusion perpetua*, should be applied.

Finally, under the second paragraph of Art. 217, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification, and a fine equal to the amount of funds malversed, which in this case is ₱9,600,000.00.

Handwritten signature and initials in black ink, located at the bottom right of the page. The signature appears to be 'Ay' followed by a large flourish, and the initials are '6'.

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WHEREFORE, in light of all the foregoing, judgment is hereby rendered as follows:

1. In **Criminal Case No. SB-18-CRM-0508**, the Court finds accused **Belina A. Concepcion, Dennis L. Cunanan, Marivic V. Jover, Hiram Diday R. Pulido**, and **Samuel S. Bombeo GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019, as amended, and are hereby sentenced to suffer the indeterminate penalty of imprisonment of (6) years and one (1) month, as minimum, to ten (10) years, as maximum, and to suffer perpetual disqualification from holding public office.

Accused **Francisco B. Figura** is hereby acquitted for failure of the prosecution to prove his guilt beyond reasonable doubt.

2. In **Criminal Case No. SB-18-CRM-0509**, the Court finds accused **Belina A. Concepcion, Dennis L. Cunanan, Marivic V. Jover, Hiram Diday R. Pulido**, and **Samuel S. Bombeo GUILTY** beyond reasonable doubt of the crime of malversation of public funds under Article 217 of the Revised Penal Code, as amended, and are hereby sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to eighteen (18) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.

Further, they are ordered to solidarily pay a fine of ₱9,600,000.00 equal to the amount malversed and to indemnify the Government of the Republic of the Philippines the amount of ₱9,600,000.00, with legal interest of six percent (6%) per annum reckoned from the finality of this Decision until full payment. They shall also suffer the penalty of perpetual special disqualification from holding any public office.

Accused **Francisco B. Figura** is hereby acquitted for failure of the prosecution to prove his guilt beyond reasonable doubt.

Accordingly, the Hold Departure Order issued against him in connection with these cases is hereby lifted and set aside. The bail bond he posted is ordered released, subject to the usual auditing and accounting procedures.

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*Criminal Case Nos. SB-18-CRM-0508 to 0509
People v. Teves, et al.*

The cases against accused **Herminio G. Teves** are hereby **DISMISSED** by reason of his death, pursuant to Article 89 of the Revised Penal Code. Since the Court has not acquired jurisdiction over the person of accused **Antonio Y. Ortiz** who remains at-large, the cases against him are hereby ordered **ARCHIVED**, the same to be revived upon his arrest. Let an *alias* warrant of arrest be issued against the said accused.

SO ORDERED.

Quezon City, Metro Manila, Philippines.



RONALD B. MORENO
Associate Justice

WE CONCUR:



AMPARO M. CABOTAJE-TANG
Presiding Justice, Chairperson



BERNELITO R. FERNANDEZ
Associate Justice

DECISION

*Criminal Case Nos. SB-18-CRM-0508 to 0509
People v. Teves, et al.*

ATTESTATION

I attest that the conclusions in the above *Decision* were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

AMPARO M. CABOTAJE-TANG
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above *Decision* were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

AMPARO M. CABOTAJE-TANG
Presiding Justice

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