



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES,** **SB-20-A/R-0001**  
*Plaintiff,*

- **versus** -


*For: Malversation of Public Funds  
defined and penalized under  
Article 217 of the Revised  
Penal Code.*

**FERDINAND P. LLAPITAN,**  
*Accused-appellant.*

*Present*

**FERNANDEZ, SJ, J.,**  
Chairperson  
**MIRANDA, J. and**  
**VIVERO, J.**

*Promulgated:*

*July 6, 2023* 

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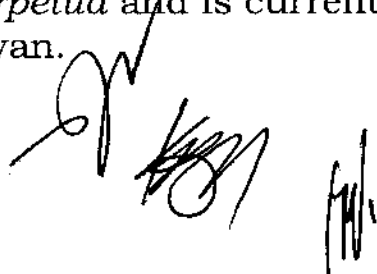
**DECISION**

**FERNANDEZ, SJ, J.,**

This is an appeal from the *Judgment dated November 29, 2019,*<sup>1</sup> in *Crim Case No. 17363,* of the Regional Trial Court (RTC), Branch 5, Tuguegarao City, which found accused-appellant Ferdinand P. Llapitan guilty of *Malversation of Public Funds* for his failure to account for Php17,139,108.80, constituting part of his collections as cashier of the Professional Regulation Commission, Region 2, from October 30, 2002 to January 3, 2008. Accused-appellant Llapitan was sentenced by the RTC to *reclusion perpetua* and is currently committed in the Provincial Jail of Cagayan.

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<sup>1</sup> Records, Vol. 1, pp. 462 - 473.



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### RELEVANT ANTECEDENTS

On August 6, 2015, an Information for *Malversation of Public Funds* defined and penalized under Article 217 of the *Revised Penal Code* was filed against accused-appellant Ferdinand Pobre Llapitan. The Information, docketed as Criminal Case No. 17363, reads:

On 7 January 2008, or sometime prior or subsequent thereto, in Tuguegarao City, Cagayan, Philippines, and within the jurisdiction of this Honorable Court, accused Ferdinand P. Llapitan, a public officer, being the Cashier I of the Professional Regulation Commission, Regional Office No. 2, Tuguegarao City, Cagayan, and as such is accountable for public funds received and/or entrusted to him by reason of his office, committing the offense in relation to the performance of his official duties and taking advantage of the same, did then and there, willfully, unlawfully, and feloniously take, misappropriate or convert for his own personal use and benefit the amount of Seventeen Million One Hundred Thirty Nine Thousand One Hundred Eight pesos and Eighty Centavos (Php17,139,108.80) representing part of his collection for the period 30 October 2002 to 3 January 2008, which accused failed to account and/or refund despite demand by the Commission on Audit (COA) Team leader, a duly authorized officer, to the damage and prejudice of the government in the afore-stated amount.<sup>2</sup>

When arraigned on November 4, 2015, accused-appellant Llapitan, assisted by his counsel *de parte*, Atty. Fidelis Victorino Quinagoran, entered a plea of *Not Guilty*.<sup>3</sup>

During pre-trial, the parties stipulated on the following:


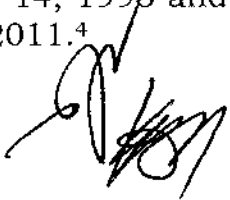
- a. The identity of the accused; and,
- b. Accused admits that he was the cashier of the Professional Regulation Commission for the period commencing October 14, 1998 and up to his termination in the year 2011.<sup>4</sup>

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<sup>2</sup> Information dated March 11, 2014; Records, Vol. 1, pp. 1 - 5.

<sup>3</sup> Order dated November 4, 2015, Records, Vol. 1, p. 322; Certificate of Arraignment, Records, Vol. 1, p. 323

<sup>4</sup> Pre-Trial Order (continuation) dated November 15, 2016, p. 5; Records, Vol. 1, p. 357.



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During trial, the prosecution presented the following witnesses:

- a. Dr. Rodrigo Bulaqui, Jr., PRC Regional Director;<sup>5</sup>
- b. Aida Baccay, State Auditor IV of COA;<sup>6</sup> and,
- c. Tomasa Macutay, State Auditor III of COA.<sup>7</sup>

In its *Order* dated January 22, 2019,<sup>8</sup> the RTC admitted the following documentary evidence for the prosecution:

Exhibit	Description
A	Affidavit of State Auditors <sup>9</sup>
B	Appointment of Ferdinand Llapitan as Cashier 1 <sup>10</sup>
C	Fidelity Bond of Ferdinand Llapitan <sup>11</sup>
D	Schedule of Collection of PRC for the period October 30, 2002 to January 3, 2008 <sup>12</sup>
E	Schedule of Unrecorded, Unreported and Unremitted Collections for CY 2007 <sup>13</sup>
F	Report of Cash Examination (General Form No. 74[A]) <sup>14</sup>
I and series	Schedule of Remittances for the period October 30, 2002 to January 3, 2008 <sup>15</sup>
J and series	Analysis of Collections and Deposits for the period October 30, 2002 to January 3, 2008 <sup>16</sup>
K	Demand Letter dated October 19, 2008 <sup>17</sup>
L	Letter of Ferdinand Llapitan dated November 10, 2008 <sup>18</sup>
M	Letter of the Office of the Ombudsman for Luzon dated February 10, 2009 <sup>19</sup>
N	Letter of the Office of the Ombudsman for Luzon dated January 14, 2009 <sup>20</sup>
Q	Commissioner's Report dated October 24, 2017 <sup>21</sup>
R	Statement of Accountability for Accountable Forms without Money Value <sup>22</sup>
R-1 and series	Bulk of receipts inspected by the Trial Commissioner appointed by the Court <sup>23</sup>

<sup>5</sup> TSN dated February 13, 2018.

<sup>6</sup> TSNs dated March 6, 2018 and May 28, 2018, and *Affidavit* dated December 9, 2008, Records, Vol. 1, pp. 19 - 23

<sup>7</sup> TSN dated August 14, 2018.

<sup>8</sup> Records, Vol. 1, pp. 426 - 428

<sup>9</sup> Records, Vol. 1, pp. 19 - 23

<sup>10</sup> Records, Vol. 1, p. 24

<sup>11</sup> Records, Vol. 1, p. 25

<sup>12</sup> Records, Vol. 1, pp. 26 - 27

<sup>13</sup> Records, Vol. 1, pp. 79 - 310

<sup>14</sup> Records, Vol. 1, p. 28

<sup>15</sup> Records, Vol. 1, pp. 32 - 68

<sup>16</sup> Records, Vol. 1, pp. 69 - 70

<sup>17</sup> Records, Vol. 1, p. 71

<sup>18</sup> Records, Vol. 1, p. 72

<sup>19</sup> Records, Vol. 1, p. 73

<sup>20</sup> Records, Vol. 1, pp. 74 - 75

<sup>21</sup> Records, Vol. 1, pp. 401 - 406

<sup>22</sup> Records, Vol. 1, pp. 416 - 417

<sup>23</sup> Records, Vol. 1, p. 416

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In its *Order* dated February 8, 2019,<sup>24</sup> the RTC granted accused-appellant Llapitan's *Motion for Leave to File Demurrer to Evidence*.<sup>25</sup> In its *Order* dated March 26, 2019,<sup>26</sup> the RTC denied accused-appellant Llapitan's *Demurrer to Evidence*.<sup>27</sup>

Thereafter, the defense presented the following witnesses:

- a. Sebastian Casibang, Jr.,<sup>28</sup> former driver on call of the PRC; and,
- b. Accused Ferdinand Llapitan.<sup>29</sup>

Accused-appellant Llapitan did not offer any documentary evidence.<sup>30</sup>

In its *Judgment* dated November 29, 2019,<sup>31</sup> the RTC found accused-appellant Llapitan guilty of the crime of *Malversation of Public Funds*, and sentenced him to *reclusion perpetua* and perpetual disqualification from public office. The dispositive portion of the *Judgment* reads:

WHEREFORE, premises considered, judgment is hereby rendered, finding the accused Ferdinand Llapitan *y* Pobre GUILTY beyond reasonable doubt of Malversation and sentences him in accordance with law to *reclusion perpetua*.

The accused shall likewise retribute to the coffers of the government the amount of Seventeen Million One Hundred Thirty Nine Thousand One Hundred Eight Pesos and 80/100 (Php17,139,108.80) which is the amount malversed.

The accused shall further suffer the penalty of perpetual disqualification from public office.

Thereafter, the RTC issued a *Commitment Order*<sup>32</sup> committing accused-appellant Llapitan to the Warden of the Provincial Jail of Cagayan. In its *Order* dated January 27,

<sup>24</sup> Records, Vol. 1, p. 429

<sup>25</sup> Dated February 1, 2019; Records, Vol. 1, pp. 430 - 431

<sup>26</sup> Records, Vol. 1, pp. 437 - 438

<sup>27</sup> Dated February 25, 2019; Records, Vol. 1, pp. 432 - 435.

<sup>28</sup> TSN dated July 29, 2019.

<sup>29</sup> TSN dated September 2, 2019.

<sup>30</sup> Minutes dated September 2, 2019; Records, Vol. 1, p. 453

<sup>31</sup> Records, Vol. 1, pp. 462 - 473

<sup>32</sup> Commitment Order dated November 29, 2019; Records, Vol. 1, p. 474.

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2020,<sup>33</sup> the RTC granted accused-appellant Llapitan's *Ex Parte Motion to Release Cash/Bail Bond*.<sup>34</sup>

In its *Order* dated May 22, 2020,<sup>35</sup> the RTC denied accused-appellant Llapitan's *Motion for Reconsideration*.<sup>36</sup>

Hence, this appeal.<sup>37</sup>

In his appeal, accused-appellant Llapitan assigned the following errors to the RTC's Decision:

The Honorable Regional Trial Court *a quo* gravely erred in not finding that there was no full description on how the shortage in the sum of Seventeen Million One Hundred Thirty Nine Thousand One Hundred Eight Pesos and Eighty Centavos (Php17,139,108.80) was arrived at.

The Honorable Regional Trial Court *a quo* gravely erred in not finding that the element of demand was not proven beyond reasonable doubt.

The Honorable Regional Trial Court *a quo* gravely erred in not finding that the procedure in the Special Audit was irregular, hence it denied the accused his right to due process and justice and fair play.<sup>38</sup>

In its *Appellee's Brief*, the prosecution submitted the following counter arguments:

The Regional Trial Court correctly found appellant guilty beyond reasonable doubt of the offense of malversation of public funds, defined and penalized under Article 217 of the *Revised Penal Code*.<sup>39</sup>

There was full description on how the shortage of P17,139,108.80 was arrived at.<sup>40</sup>

The element of demand was proven beyond reasonable doubt.<sup>41</sup>

<sup>33</sup> Records, Vol. 1, p. 508.

<sup>34</sup> Dated January 23, 2020 and filed on January 24, 2020; Records, Vol. 1 p. 507.

<sup>35</sup> Records, Vol. 1, pp. 511 - 514

<sup>36</sup> Dated December 19, 2020 and filed on even date; Records, Vol. 1, pp. 108 - 132

<sup>37</sup> Notice of Appeal dated May 28, 2020 filed on June 1, 2020.

<sup>38</sup> Appellant's Brief, p. 5.

<sup>39</sup> Appellee's Brief, p. 10

<sup>40</sup> Appellee's Brief, p. 13

<sup>41</sup> Appellee's Brief, p. 16

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The procedure in the special audit was regular, hence, due process, justice and fair play were afforded appellant.<sup>42</sup>

### THE RTC'S FINDINGS OF FACTS

For easier reference, the RTC's findings of facts in the assailed *Judgment* are hereunder reproduced.

#### Background of the Case

Acting on a request of Dr. Rodrigo F. Bulaqui, Jr., the then OIC of the PRC, a team from the Commission on Audit (COA), Region 02, conducted a cash examination on the cash accounts of accused Ferdinand Llapitan covering the period 30 October 2002 to 3 January 2008 with an audit made on 07 January 2008. This COA team was composed of Carmel O. Gamatero, State Auditor IV as Team Leader with the following members: Fe B. Gan, State Auditor III, Aida E. Baccay, State Auditor II, Tomasa A. Macutay, State Auditor I.

After the audit, the COA Team prepared their Analysis of Collections and Deposits, to wit:

#### Unrecorded and Unreported Collections:

2006	P 4,391,163.00
2007	<u>P11,301,652.37</u>
Sub-Total	<b>P15,692,815.37</b>

#### Reported and Recorded but undeposited Collections:

2007	739,271.41 (sic) <sup>43</sup>
2008 (January 2-3)	<u>707,022.00</u>
Sub-Total	<b>P1,446,293.43</b>

<b>Grand Total</b>	<b>P17,139,108.80</b>
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As soon as the COA Team was able to establish the cash shortage, it issued to the accused a demand letter dated 19 October 2008 which letter was received by him. The demand letter directed the accused to produce the missing funds and to explain the cash shortage. Despite receipt of the letter of demand, Ferdinand Llapitan failed to account for the missing funds and to retribute the said amount, the COA Team filed criminal and administrative complaints before the Office of the Deputy Ombudsman for Luzon who in turn conducted its

<sup>42</sup> Appellee's Brief, p. 17

<sup>43</sup> Should read as 739,271.43; This is the ending balance as of December 31, 2007, starting from October 30, 2002; Exhibit J-1.

preliminary investigation and in a Joint Resolution dated 02 July 2013 in OMB-L-C-09-0279-F (for Violation of Article 217 of the Revised Penal Code) and OMB-L-A-09-0283-F (for Grave Misconduct), the said office charged the accused with Malversation of Public Funds defined and penalized under Article 217 of the Revised Penal Code. <sup>44</sup>

### **This Court's Ruling**

This Court finds that the RTC's findings and conclusions of facts are substantially couched in evidence. Further, this Court agrees with the RTC's assessment on the credibility of the witnesses for the prosecution and defense, and the credence of the prosecution's documentary exhibits. However, this Court finds that the RTC erred in applying the penalties under *Republic Act No. 10951* and, thus, erred in imposing the penalty of *reclusion perpetua*. The Court also finds that the RTC erred in not imposing a fine equivalent to the amount malversed.

### **DISCUSSION**

*Malversation of Public Funds* under Article 217 of the *Revised Penal Code* is committed as follows:

**Article 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, 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:

xxx

xxx

xxx

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal use.

<sup>44</sup> Judgment dated November 29, 2019, pp. 1 - 2.

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The elements of *Malversation of Public Funds* under Article 217 of the *Revised Penal Code* are:

1. The offender is a public officer;
2. He/she has the custody or control of funds or property by reason of the duties of his/her office;
3. The funds or property involved are public funds or property for which he/she is accountable; and,
4. He/she has appropriated, taken, or misappropriated, or consented to, or through abandonment or negligence, permitted another person to take them.<sup>45</sup>

We agree with the conclusion of the RTC that all the elements of the crime of *Malversation of Public Funds* are present in this case.

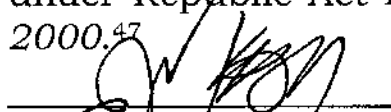
The presence of the first 3 elements is not disputed.

**The offender is a public officer.**

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A public officer is defined under Article 203 of the *Revised Penal Code* as “any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class.”<sup>46</sup>

The *Philippine Regulation Commission* (PRC) is a public office. It is a regulatory agency of the government created under Republic Act No. 8981 or the *PRC Modernization Act of 2000*.<sup>47</sup>



<sup>45</sup> People v. Nestor Villegas, G.R. No. 242466, Resolution dated April 26, 2023.

<sup>46</sup> Cited in People v. Villegas, GR No. 242466, April 23, 2023, pp. 5 - 6.

<sup>47</sup> An Act Modernizing the Professional Regulation Commission, Repealing for the Purpose Presidential Decree Numbered Two Hundred and Twenty-Three, entitled “Creating the Professional Regulation Commission and Prescribing its Powers and Functions,” and for Other Purposes. (December 5, 2000)





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During pre-trial, the parties stipulated that accused-appellant Llapitan was the Cashier 1 of Professional Regulation Commission-Region 2 Office (PRC RO2) at the time material to this case.<sup>48</sup> Accused-appellant Llapitan also admitted in his testimony that he was the cashier of PRC RO 2 from the time he was appointed in 1998 until he was preventively suspended in February 2008, and when his services were eventually terminated in 2010.<sup>49</sup>

Clearly, accused-appellant Llapitan was a public officer during the time material to this case.

**The offender had custody or control of funds or property by reason of the duties of his office.**

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The *Appointment* dated October 14, 1998<sup>50</sup> of accused-appellant Llapitan as Cashier 1, the *Fidelity Bond*<sup>51</sup> for accused-appellant Llapitan as cashier 1 of PRC (Tuguegarao City Station) for the year 2007 to 2008, and the official receipts of PRC RO2 bearing the signatures of accused-appellant Llapitan, confirm that: a) he was the Cashier 1 of PRC RO2; b) by reason of the duties of his office, it was his function to collect, receive, and take custody and control of the amounts payable to PRC RO2; and, c) he was accountable for the subject funds, at the time the shortages in the funds occurred.

Accused-appellant Llapitan admitted that it was his function to collect the subject amounts and to deposit the said amounts to the bank, and that he was the accountable officer for the funds subject of the special audit.<sup>52</sup> Accused-appellant Llapitan was the only cashier of PRC RO2 from the time he was appointed in 1998 until he was placed under preventive suspension when the Special Team was conducting its audit.<sup>53</sup>

<sup>48</sup> Pre-Trial Order (continuation) dated November 15, 2016, p. 5

<sup>49</sup> TSN dated September 2, 2019, pp. 3, 7, 11 and 14

<sup>50</sup> Exhibit B; Records, Vol. 1, p. 24

<sup>51</sup> Exhibit C; Records, Vol. 1, p. 25

<sup>52</sup> TSN dated September 2, 2019, pp. 3 - 6

<sup>53</sup> TSN dated September 2, 2019, p. 14; TSN dated February 13, 2018, pp. 6 - 7

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Thus, accused-appellant Llapitan had custody or control of the subject funds by reason of the duties of his office.

**The subject funds were public funds for which accused-appellant Llapitan was accountable.**

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As above discussed, PRC RO2 is a government agency. Necessarily, the subject funds, which consist of the *Examination Fees* [614], *Initial Registration Fees* [606-A], *Annual Fees* [606-B], *End. Fees* [606-C], *Surcharges* [609], *Miscellaneous Fees* [678] and *LRFs* [131]) payable to PRC RO2<sup>54</sup> are public funds, and for which accused-appellant Llapitan was accountable.

An accountable officer, under the third element, has no definition under the *Revised Penal Code*.<sup>55</sup> In *Corpuz v. People*,<sup>56</sup> the Supreme Court declared that an accountable officer is a public officer who, by reason of his or her office, is accountable for public funds or property.

Section 4.3 of COA Circular No. 2009-006,<sup>57</sup> defines an accountable officer as “the officer of any government agency who by the nature of his duties and responsibilities or participation in the collection/receipt and expenditure/use of government funds, is required by law or regulation to render account to the Commission on Audit.”

Thus, as Cashier I, accused-Llapitan had custody and control over his collections, including the cash shortage in the amount of PhP17,139,108.80 in public funds, and, is, therefore, accountable therefor.

<sup>54</sup> Exhibit E.

<sup>55</sup> *People v. Villegas*, GR No. 242466, April 23, 2023, p. 6

<sup>56</sup> G.R. No. 241383, June 8, 2020 citing *Zoleta v. Sandiganbayan*, 765 Phil 30 (2019)

<sup>57</sup> *Prescribing the Use of the Rules and Regulations on Settlement of Accounts*; Superseding COA Circular No. 94-001 dated January 20, 1994 and COA Memorandum No. 2002-053 dated August 26, 2002.

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**Accused-appellant Llapitan appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.**

In *People v. Villegas*,<sup>58</sup> the Supreme Court declared:

Malversation is committed from the moment the accountable officer misappropriates public funds and fails to satisfactorily explain his inability to produce the public funds he received.<sup>59</sup>

Under Article 217 of the *Revised Penal Code*, the failure of a public officer to have duly forthcoming public funds or property, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put the same to personal use. When these circumstances are present, a “presumption of law” arises that there was malversation of public funds or property as decreed by Article 217.<sup>60</sup> All that is necessary for conviction is proof that the accountable officer received the public funds and that such officer failed to account for the said funds, upon demand, without offering a justifiable explanation for the shortage.<sup>61</sup>

The evidence of the prosecution established that there was a shortfall of Php17,139,108.80 in the remittance of the collected funds of PRC 02 from 2002 to 2008, a huge portion of which was from the unreported and unrecorded collections for the years 2006 to 2007 received through several sets of official receipts included in the following series:

			No. of Receipts		Totals
1	2006	5820001 to 5825000	5,000	Php3,566,660.00	
2	2006	5893551 to 5894500	1,000	824,503.00	Php4,291,163.00
3	2007	5911501 to 5919000	7,500	5,527,851.77	
4	2007	6426001 to 6435000	9,000	5,773,800.60	11,301,642.37
				Php15,692,815.37	Php15,692,815.37

<sup>58</sup> G.R. No. 242466, Resolution, April 26, 2023.

<sup>59</sup> Citing *Venezuela v. People*, 826 Phil 11, 23 [2018].

<sup>60</sup> *People v. Nestor Villegas*, G.R. No. 242466, Resolution, April 26, 2023 citing *Legrana v. Sandiganbayan*, 687 Phil 253, 261 [2012]

<sup>61</sup> *Corpuz vs. People*, G.R. No. 241383, June 08, 2020, citing *Cantos v. People*, *id.* at 352 - 353, citing *Davalos, Sr. v. People*, 522 Phil. 63, 71 (2006).

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The remainder of the accountabilities were reported but unremitted collections in the total amount of Php693,241.43. The cash balance of 46,030.00 as of October 29, 2002 was included in the accountabilities of accused-appellant Llapitan. No ending cash on hand was considered since accused-appellant Llapitan did not turn over any cash to the Special Audit Team.<sup>62</sup>

The prosecution's evidence consisted of the following:

1. The *Report of Cash Examination* (Exhibit "F") prepared and signed by the COA Special Audit Team composed of Fe B. Gan, Aida E. Baccay, Tomasa A. Macutay and Carmen O. Gamatero, and certified to as correct by accused-appellant Llapitan himself.<sup>63</sup>

The first page shows that on January 7, 2008, in the initial stages of the audit, the Special Audit Team demanded that accused-appellant Llapitan produce all the cash, treasury warrants, checks, money orders, cash items, paid vouchers, unused accountable forms, etc. for which he is accountable as a cashier of PRC RO2 and any fund, checks, treasury warrants and/or cash items in his possession for deposit or safekeeping. Accused-appellant Llapitan signed beside the words "Noted and Complied with."

The *Inventory of Cash and Accountable Forms* portion of the *Report of Cash Examination* shows that on January 7, 2008, after demand was made upon him, accused-appellant Llapitan did not turn over any cash to the Special Audit Team.

The second page, containing the *Statement of Accountability* portion, summarized: a) the reported annual collections from October 30, 2002<sup>64</sup> to January 4, 2008; b) the receipted but unreported collections for the year 2006 to 2007; c) the remittances or deposits made from October 30, 2002 to January 4, 2008; and, d) the balances of accountability which is also the shortage. For convenience, Exhibit F is hereunder reproduced:

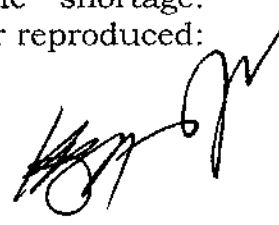
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<sup>62</sup> Report on Cash Examination (Exhibit F)

<sup>63</sup> The *Certification* portion reads:

I HEREBY CERTIFY that my accountability for the above fund PRC-Regional Office #2 at the time of the examination on January 7, 2008 is correctly stated above totaling Seventeen Million One Hundred Thirty Nine Thousand One Hundred Eight Pesos and 80/100.

<sup>64</sup> According to the *Statement of Accountability*, the last examination was conducted in October 29, 2009.




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Unsworn Form No. 74(A)  
Revised Dec. 22, 1983

**EXH. F**  
COMMISSION ON AUDIT  
REPORT OF CASH EXAMINATION

**Annex E**

Name of Accountable Officer: <b>FERDINAND P. LLAPTAN</b>		Position: <b>CASHIER I</b>	
Agency: <b>PROFESSIONAL REGULATIONS COMMISSION</b>		Station: <b>TUGUEGARAO CITY</b>	
Maximum Cash Accountability:	Amount of Bond: <b>225,000.00</b>	Ref. No.: <b>01D-07-0001R</b>	Effective Date: <b>March 16, 2007</b>
AUDITOR / EXAMINER: <b>CARMIN S. BAMBAYERO</b>		Official Designation: <b>State Auditor IV</b>	
<b>JOAN AIDA E. SACAY</b>		<b>TOMASA A. MACUTAY</b>	
State Auditor III		State Auditor II	
<b>CASH PRODUCTION NOTICE</b>			
TO:	Accountable Officer: <b>FERDINAND P. LLAPTAN</b>	Position: <b>CASHIER I</b>	Date: <b>January 7, 2008</b>
DEMAND, hereby order that you produce all your cash, treasury warrants, checks, money orders, cash items, paid vouchers, unused accountable forms, etc., for which you are officially accountable as <b>CASHIER</b> of the <b>Professional Regulations Commission</b> under <b>Order No. 82</b> (Payee) (Agency)			
and any bond, checks, treasury warrants and/or cash items in your possession held by you for deposit and safe keeping.			
NOTED AND COMPLETED WITH:	Accountable Officer's Signature: <i>[Signature]</i>	Date: <b>01/07/08</b>	Auditor/Only Authorized Representative's Signature: <i>[Signature]</i>
<b>B. CASH COUNT</b>			
<b>INVENTORY OF CASH ON HAND</b>			<b>INVENTORY OF CASH ITEMS (Include checks, treasury warrants, money orders, etc.)</b>
Paper and Coin			Particulars
Denomination	No. of Pcs.	Amount	Amount
			Allowed
			Disallowed
	None		None
Total, As Presented <b>P</b>			Total, As Presented <b>P</b>
<b>TOTAL INVENTORY OF CASH AND/OR ALLOWED CASH ITEMS (TO D) ..... P</b>			
<b>C. INVENTORY OF UNUSED ACCOUNTABLE FORMS</b>			
<b>With Money Value</b>			
Name of Form	Qty	Inclusive Serial No.	Description
			Amount
<b>Without Money Value</b>			
Name of Form	Qty	Inclusive Serial No.	
AF # 51	8 000	1243201-1249000	
	2 231	1046770-1049000	
Total			<b>P</b>
Total			<b>8,231</b>
<b>CERTIFICATION</b>	I HEREBY CERTIFY on my official oath: (1) That upon demand by the Auditor-Examiner I produced all my cash, treasury warrants, checks, money orders, cash items, paid vouchers, unused accountable forms, etc., for which I am officially accountable; (2) That the monetary value of such cash, cash items and unused accountable forms in my possession and produced to the Auditor-Examiner at the time of cash count today <b>January 7, 2008</b> is accurately stated above and is broken down as follows:		
	1) Cash and/or cash items ..... none		
	2) Unused accountable forms with money value (Cash Tabular) <b>P</b> ..... none		
3) Unused accountable forms without money value ..... <b>P</b> ..... <b>8,231</b>			
I was disallowed by the Auditor-Examiner and (2) That said cash, treasury warrants, checks, money orders, cash items, paid vouchers, unused accountable forms, etc., were returned to the strict office for cash count.			
Accountable Officer's Signature: <i>[Signature]</i>	Position: <b>Cashier I</b>	Agency Station: <b>PRC - Regional Field Office # 02 Tuguegarao City</b>	
Noted in the presence of:		OFFICE OF THE COMPTROLLER GENERAL	

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RECEIVED  
COMPTROLLER GENERAL'S OFFICE  
OFFICE OF THE COMPTROLLER GENERAL

*[Handwritten signatures and notes]*

People v. Ferdinand P. Llapitan  
 SB-20-A/R-0001

D. STATEMENT OF ACCOUNTABILITY				
Nature of Funds	GENERAL FUND			Total
	(1)	(2)	(3)	
BALANCE, Last Examination October 28, 2002	Collections (102)	(102)		40,030.10
ADD: Debits to Accountability				
October 30 to December 31, 2002	2,267,632.23			2,267,632.23
January 1 to December 31, 2003	12,263,830.80			12,263,830.80
January 1 to December 31, 2004	7,347,902.99			7,347,902.99
January 1 to December 31, 2005	11,646,909.03			11,646,909.03
January 1 to December 31, 2006	10,922,970.42			10,922,970.42
January 1 to December 31, 2007	10,494,323.74			10,494,323.74
January 1-4, 2008	900,733.00			900,733.00
Duly received but unreported collections - CY 2008	4,391,183.00			4,391,183.00
- CY 2007	11,301,852.37			11,301,852.37
<b>Total Debits to Accountability</b>	<b>71,804,167.81</b>			<b>71,804,167.81</b>
LESS: Credits to Accountability				
October 30 to December 31, 2002	2,343,418.00			2,343,418.00
January 1 to December 31, 2003	12,321,951.23			12,321,951.23
January 1 to December 31, 2004	7,363,939.93			7,363,939.93
January 1 to December 31, 2005	11,874,472.82			11,874,472.82
January 1 to December 31, 2006	10,825,970.22			10,825,970.22
January 1 to December 31, 2007	9,841,997.81			9,841,997.81
January 1-4, 2008	93,711.00			93,711.00
<b>Total Credits to Accountability</b>	<b>64,465,059.01</b>			<b>64,465,059.01</b>
<b>Balance of Accountability As of January 7, 2008</b>	<b>17,139,108.80</b>			<b>17,139,108.80</b>
Inventory of Cash and / or disputed Cash Items				
Shortage or ( Overage )	47,188,000.00	-	-	47,188,000.00

CERTIFICATION	I HEREBY CERTIFY that my accountability for the above fund		PRC-Regional Field Office #11
	at the time of examination on <u>January 7, 2008</u>		(Agency)
	Seventeen Million One Hundred Thirty-Nine Thousand One Hundred Eight pesos and 80/100		is correctly stated above totaling
	(Amount in Words)		<b>17,139,108.80</b>
Accountable Officer's Signature:	<i>[Signature]</i>	Designation:	Cashier 1
	<b>F-1</b>		Agency / Station: PRC-Regional Field Office #11 Tuguegarao City
I HEREBY CERTIFY that the preceding is a true and correct report of the examination of the Cash and Accounts of:			
Name of Accountable Officer:	FERDINAND P. LLAPITAN	Designation:	Cashier 1
		Agency/Station:	PRC-R02, TUG. CITY
Remarks:	- See attached monthly report -		Date: January 7, 2008
Signature of Auditor / Examiner:	<i>[Signature]</i>		Date: January 7, 2008

**INSTRUCTIONS**

- This form will be used for the examination of all cash accountable officers in the corporate, national and local government offices.
- Before proceeding to conduct an examination, the examiner should thoroughly familiarize himself with the relevant manual on cash examination.
- The six (6) columns on the face hereof are full blank to meet all needs of fund examiners.
- If space provided for is not enough, use it as necessary only and support it with schedules.
- All reports of examination with their supporting papers and letters will be forwarded to their respective Regional Directors in duplicate. In the event of shortage/irregularity, the procedures outlined under COA Memorandum 83-819 dated November 1982 should be strictly followed.
- Cheques, treasury warrants, money orders, and other cash items shall be listed on the space for treasury of Cash items.

The said Report is based on, and supported by, the following documents, which were also admitted as prosecution evidence:

- a. Letter dated October 16, 2008 of Land Bank (Tuguegarao Branch), through its Assistant Vice President Ms. Eulalie B.

*[Handwritten signatures and initials]*

People v. Ferdinand P. Llapitan  
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Taguiam-Fausto, in response to the letter of Audit Team Leader Carmen O. Gamatero dated July 29, 2008.

In the letter, Ms. Taguiam-Fausto confirmed, with minor corrections, the list of amounts remitted or deposited to the account of the *Treasurer of the Philippines* made by accused-appellant Ferdinand Llapitan of PRC RO2 during the period October 30, 2002 to January 3, 2008.<sup>65</sup> The letter dated October 16, 2008, and the corrections made on the schedule of remittances are reproduced hereunder:<sup>66</sup>



October 16, 2008

MS. CARMEN O. GAMATERO  
State Auditor IV  
Commission on Audit  
Tuguegarao City

EXH. H-1 G

Dear Auditor Gamatero:

This is in response to your letter of July 29, 2008 requesting for confirmation of deposits/remittances made by Mr. Ferdinand Llapitan, Cashier of PRC Tuguegarao City, for the period October 30, 2002 to January 3, 2008.

We wish to inform you that the list of transactions are found in order except for the following:

Per Confirmation Letter

Per Records on File

- LC# 06-208C dated 10.31.06  
was reflected as P23,862.00

- Should be- P23,892.27

- Only 1 deposit (P9000) was reflected  
for Aug. 29, 2007 transaction

- Additional transaction of  
P 6,565.00

- LC#194A (P9000) dated 10.17.06  
was reflected as 10.16.07 transaction

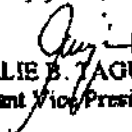
- Should be: 10.17.07  
transaction

- LC#08-001(P23,948) dated 1.2.08  
was reflected as 1.3.08 transaction

- Should be 1.2.08  
transaction

Thank you and best regards!

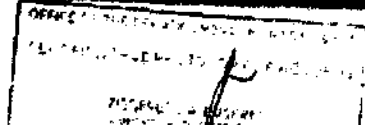
Very truly yours,

  
EULALIE B. TAGUIAM-FAUSTO, CEO V  
Assistant Vice President

LAND BANK Plaza 1506 Al M del Pilar Corner Dr. J. Quinsin St.,  
Alabete, Manila 1004 • Tel. Fax: 522 9999-551 7209-430 7091  
www.landbank.com



(a)



<sup>65</sup> Exhibit H; Records, Vol. 1, p. 30.

<sup>66</sup> Exhibit H-1, the letter dated October 15, 2008 of State Auditor Gamatero to Ms. Taguiam-Fausto asking for confirmation of the January 3, 2008 transaction made under Deposit No. 08-001A in the amount of Php33,633.00 is omitted.

People v. Ferdinand P. Llapitan  
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October 23, 2008		
October 23, 2008	08-204B	14,875.00
October 25, 2008	08-205A	11,025.00
October 25, 2008	08-205B	13,880.00
October 26, 2008	08-206A	15,020.00
October 26, 2008	08-206B	22,245.00
October 27, 2008	08-207A	14,775.00
October 27, 2008	08-207B	26,970.00
October 31, 2008	08-208A	23,825.00
October 31, 2008	08-208C	23,825.00
October 31, 2008	08-209B	18,058.90
November 2, 2008	08-210A	11,545.80
November 3, 2008	08-211A	19,700.00
November 3, 2008	08-211B	23,058.00
November 6, 2008	08-212A	18,340.00
November 6, 2008	08-212B	27,710.00
November 7, 2008	08-213A	22,456.00
November 7, 2008	08-213B	38,070.00
November 8, 2008	08-214A	16,740.00
November 8, 2008	08-214B	37,411.00
November 9, 2008	08-215A	26,510.00
November 9, 2008	08-215B	59,430.00
November 10, 2008	08-216A	60,265.00
November 10, 2008	08-216B	67,124.00
November 13, 2008	08-217A	46,490.00
November 13, 2008	08-217B	42,675.00
November 14, 2008	08-218A	29,931.00
November 14, 2008	08-218B	71,807.00
November 15, 2008	08-219A	38,675.00
November 15, 2008	08-219B	25,436.00
November 16, 2008	08-220A	20,175.00
November 16, 2008	08-220B	65,138.00
November 17, 2008	08-221A	70,504.00
November 17, 2008	08-221B	40,953.00
November 20, 2008	08-222A	38,160.00
November 20, 2008	08-222B	22,485.00
November 21, 2008	08-223A	20,880.00
November 21, 2008	08-223B	23,863.00
November 22, 2008	08-224A	24,335.00
November 22, 2008	08-224B	33,545.00
November 23, 2008	08-225A	27,387.00
November 23, 2008	08-225B	26,568.00
November 24, 2008	08-226A	19,055.00
November 24, 2008	08-226B	26,650.00
November 27, 2008	08-227A	26,110.00
November 27, 2008	08-227B	33,326.00
November 28, 2008	08-228A	20,885.00
November 28, 2008	08-228B	38,520.00
November 29, 2008	08-229A	21,373.00
November 29, 2008	08-229B	32,038.00
November 30, 2008	08-230A	22,416.00
November 30, 2008	08-230B	37,501.00
November 30, 2008	08-231A	27,306.00
December 4, 2008	08-231B	22,650.00
December 4, 2008	08-232A	18,070.00
December 5, 2008	08-232B	22,900.00
December 5, 2008	08-233A	19,701.00
December 5, 2008	08-233B	17,563.73
December 6, 2008	08-234A	17,195.00
December 7, 2008	08-234B	18,130.00
December 7, 2008	08-235A	16,045.00
December 8, 2008	08-235B	15,014.00
December 8, 2008	08-236A	17,195.00
December 11, 2008	08-236B	23,006.00
December 11, 2008	08-237A	

24, 648.27

OFFICE OF THE DISTRICT CLERK  
 CENTRAL TRUE PHOTO COPY SERVICE  
 DISTRICT CLERK'S OFFICE  
 ADMINISTRATIVE SERVICES  
 CDMJ

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*[Handwritten signatures and initials]*



People v. Ferdinand P. Llapitan  
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August 9, 2007	07-149-A	5,575.00
August 9, 2007	07-150	7,615.00
August 10, 2007	07-150-A	6,484.00
August 10, 2007	07-151	6,035.00
August 13, 2007	07-151-A	6,540.00
August 13, 2007	07-152	7,080.00
August 14, 2007	07-152-A	6,515.00
August 14, 2007	07-153	7,885.00
August 15, 2007	07-153-A	7,210.00
August 16, 2007	07-154	6,435.00
August 17, 2007	07-154-A	7,880.00
August 17, 2007	07-155	6,330.00
August 21, 2007	07-155-A	6,928.00
August 21, 2007	07-156	6,656.00
August 22, 2007	07-156-A	7,420.00
August 22, 2007	07-157	6,005.00
August 23, 2007	07-157-A	7,305.00
August 23, 2007	07-158	8,193.00
August 24, 2007	07-158-A	7,200.00
August 24, 2007	07-159	7,465.00
August 28, 2007	07-159-A	7,425.00
August 28, 2007	07-160	6,100.00
August 29, 2007	07-161	5,880.00
August 30, 2007	07-161-A	7,930.00
August 30, 2007	07-162	6,815.00
August 31, 2007	07-162-A	7,665.00
August 31, 2007	07-163	7,230.00
Sept. 3, 2007	07-163-A	9,535.00
Sept. 3, 2007	07-164	6,105.00
Sept. 4, 2007	07-164-A	10,330.00
Sept. 4, 2007	07-165	9,605.00
Sept. 5, 2007	07-165-A	9,410.00
Sept. 5, 2007	07-166	10,265.00
Sept. 6, 2007	07-166-A	15,091.00
Sept. 6, 2007	07-167	16,531.00
Sept. 7, 2007	07-167-A	16,885.00
Sept. 7, 2007	07-168	15,585.00
Sept. 10, 2007	07-168-A	6,130.00
Sept. 10, 2007	07-169	6,260.00
Sept. 11, 2007	07-169-A	10,560.00
Sept. 11, 2007	07-170	8,545.00
Sept. 12, 2007	07-170-A	8,545.00
Sept. 12, 2007	07-171	7,450.00
Sept. 13, 2007	07-171-A	14,005.00
Sept. 13, 2007	07-172	11,100.00
Sept. 14, 2007	07-172-A	18,103.00
Sept. 14, 2007	07-173	12,235.00
Sept. 17, 2007	07-173-A	9,380.00
Sept. 17, 2007	07-174-A	9,785.00
Sept. 17, 2007	07-174-B	11,045.00
Sept. 18, 2007	07-175	10,825.00
Sept. 19, 2007	07-175-A	14,385.00
Sept. 19, 2007	07-176	10,570.00
Sept. 20, 2007	07-176-A	18,455.00
Sept. 20, 2007	07-177	16,430.00
Sept. 21, 2007	07-177-A	17,390.00
Sept. 21, 2007	07-178	15,348.00
Sept. 24, 2007	07-178-A	13,358.00
Sept. 24, 2007	07-179	12,033.00
Sept. 25, 2007	07-179-A	22,628.00
Sept. 25, 2007	07-180	16,415.00
Sept. 26, 2007	07-180-A	29,475.00
Sept. 26, 2007	07-181	16,015.00
Sept. 27, 2007	07-181-A	14,826.00

Aug 29/12

74,461.00

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OFFICE OF THE DEPUTY CLERK (MANAGER, C-2) 2  
 CERTIFIED TRUE PHOTOCOPY OF RECORDS  
 ZIGFREDO A. ESPERON  
 COUNTY CLERK (OFFICIAL)  
 C-2-1

*[Handwritten signature]*  
*[Handwritten initials]*

People v. Ferdinand P. Llapitan  
SB-20-A/R-0001

Sep. 27, 2007		13,718.00
Sep. 28, 2007	07-182	13,830.00
Sep. 28, 2007	07-182-A	14,710.00
Oct. 1, 2007	07-183	8,700.00
Oct. 1, 2007	07-183-A	8,460.00
Oct. 3, 2007	07-184	13,515.00
Oct. 3, 2007	07-184-A	14,070.00
Oct. 3, 2007	07-185-A	13,200.00
Oct. 3, 2007	07-186	10,268.00
Oct. 4, 2007	07-186-A	13,370.00
Oct. 4, 2007	07-187	13,230.00
Oct. 5, 2007	07-187-A	12,633.00
Oct. 5, 2007	07-188	11,355.00
Oct. 8, 2007	07-188-A	10,195.00
Oct. 8, 2007	07-189	8,345.00
Oct. 9, 2007	07-189-A	8,890.00
Oct. 9, 2007	07-190	8,000.00
Oct. 11, 2007	07-190-B	8,705.00
Oct. 11, 2007	07-191	8,025.00
Oct. 11, 2007	07-191-A	8,000.00
Oct. 11, 2007	07-192	8,315.00
Oct. 15, 2007	07-192-A	9,705.00
Oct. 15, 2007	07-193	9,950.00
Oct. 16, 2007	07-193-A	8,355.00
Oct. 16, 2007	07-194	7,200.00
Oct. 16, 2007	07-194-A	8,000.00
Oct. 17, 2007	07-195	9,000.00
Oct. 18, 2007	07-195-A	13,668.00
Oct. 18, 2007	07-196	15,665.00
Oct. 19, 2007	07-196-A	19,358.00
Oct. 19, 2007	07-197	20,705.00
Oct. 22, 2007	07-197-A	12,415.00
Oct. 22, 2007	07-198	17,595.00
Oct. 23, 2007	07-198-A	9,330.00
Oct. 23, 2007	07-199	7,090.00
Oct. 24, 2007	07-199-A	7,970.00
Oct. 24, 2007	07-200	7,350.00
Oct. 25, 2007	07-200-A	10,325.00
Oct. 25, 2007	07-201	8,075.00
Oct. 26, 2007	07-201-A	12,785.00
Oct. 26, 2007	07-202	8,850.00
Oct. 30, 2007	07-202-A	10,138.00
Oct. 30, 2007	07-203	12,175.00
Oct. 31, 2007	07-203-A	8,830.00
Oct. 31, 2007	07-204	10,680.00
Nov. 5, 2007	07-204-A	4,320.00
Nov. 5, 2007	07-205	8,505.00
Nov. 6, 2007	07-205-A	10,800.00
Nov. 8, 2007	07-206	9,900.00
Nov. 7, 2007	07-206-A	7,855.00
Nov. 7, 2007	07-207	7,780.00
Nov. 8, 2007	07-207-A	8,305.00
Nov. 8, 2007	07-208	10,535.00
Nov. 9, 2007	07-209-A	8,055.00
Nov. 9, 2007	07-209	9,400.00
Nov. 12, 2007	07-209-A	8,464.00
Nov. 12, 2007	07-210	7,310.00
Nov. 13, 2007	07-210-A	9,000.00
Nov. 13, 2007	07-211	8,300.00
Nov. 14, 2007	07-211-A	8,615.00
Nov. 14, 2007	07-212	8,800.00
Nov. 15, 2007	07-212-A	9,310.00
Nov. 15, 2007	07-213	9,000.00
Nov. 15, 2007	07-213-A	10,800.00

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People v. Ferdinand P. Llapitan  
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Nov. 15, 2007		
Nov. 19, 2007	07-214	12,800.00
Nov. 19, 2007	07-214-A	0,300.00
Nov. 19, 2007	07-215	0,000.00
Nov. 20, 2007	07-213-A	11,700.00
Nov. 20, 2007	07-216	0,900.00
Nov. 21, 2007	07-210-A	10,050.00
Nov. 21, 2007	07-217	0,425.00
Nov. 22, 2007	07-217-A	14,900.00
Nov. 23, 2007	07-218	17,000.00
Nov. 23, 2007	07-218-A	10,245.00
Nov. 23, 2007	07-219	10,500.00
Nov. 27, 2007	07-219-A	15,451.00
Nov. 27, 2007	07-220	12,011.00
Nov. 28, 2007	07-220-A	13,740.00
Nov. 28, 2007	07-221	13,300.00
Nov. 28, 2007	07-221-A	18,110.00
Nov. 28, 2007	07-222	10,200.00
Dec. 3, 2007	07-223-A	17,425.00
Dec. 3, 2007	07-223	10,075.00
Dec. 4, 2007	07-223-A	13,000.00
Dec. 4, 2007	07-224	17,170.00
Dec. 5, 2007	07-224-A	17,040.00
Dec. 5, 2007	07-225	10,240.00
Dec. 5, 2007	07-225-A	13,450.00
Dec. 6, 2007	07-226	14,400.00
Dec. 7, 2007	07-226-A	31,700.00
Dec. 7, 2007	07-227	17,150.00
Dec. 10, 2007	07-227-A	41,304.00
Dec. 10, 2007	07-228	30,050.00
Dec. 11, 2007	07-228-A	24,400.00
Dec. 11, 2007	07-229	10,042.00
Dec. 12, 2007	07-229	12,015.00
Dec. 12, 2007	07-230-A	11,200.00
Dec. 13, 2007	07-230-A	13,150.00
Dec. 13, 2007	07-231	14,715.00
Dec. 14, 2007	07-231-A	0,700.00
Dec. 14, 2007	07-232	10,745.00
Dec. 17, 2007	07-232-A	11,000.00
Dec. 17, 2007	07-233	12,045.00
Dec. 19, 2007	07-233-A	13,405.00
Dec. 19, 2007	07-234	14,000.00
Dec. 20, 2007	07-234-A	13,010.00
Dec. 20, 2007	07-235	11,000.00
Dec. 21, 2007	07-235-A	15,020.00
Dec. 21, 2007	07-236	24,510.00
Dec. 28, 2007	07-236-A	10,040.00
Dec. 28, 2007	07-237	13,110.00
Dec. 28, 2007	07-237-A	104,731.00
Dec. 28, 2007	07-238	140,131.00
Dec. 28, 2007	07-239	40,330.00
January 2, 2008	07-239-A	10,130.00
January 2, 2008	08-001	25,340.00

PRG 0000 0000 0000 0000 0000 0000

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OFFICE OF THE CLERK OF THE COURT  
 COUNTY OF SAN DIEGO  
 JUDICIAL BRANCH  
 400 STATE STREET, 12TH FLOOR  
 SAN DIEGO, CA 92101  
 (619) 557-1000

*[Handwritten signatures and initials]*

People v. Ferdinand P. Llapitan  
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b. The 34-page *Schedule of Remittances* prepared by the Special Audit team which showed that, for the period from October 30, 2002 to January 3, 2008, the daily deposits or remittance made to the Land Bank account of PRC RO2 in the name of the Treasurer of the Philippines was in the total amount of 54,465,059.03.<sup>67</sup> The *Schedule* contained the: i) dates, ii) Deposit/LC Numbers, iii) amounts per deposit, iv) monthly total remittance, and, v) the total remittance for the said period. For a clearer picture of the details contained therein, the 1<sup>st</sup> and last pages of the 34-page *Schedule* are hereunder reproduced:

PROFESSIONAL REGULATION COMMISSION  
Region 02, Tuguegarao City

Accountable Officer: Ferdinand E. Llapitan  
Position: Cashier I

EXH. I series  
H

SCHEDULE OF REMITTANCES  
October 30, 2002 up to January 3, 2008

Date	Deposit/LC Number	Amount	Total
October 30, 2002	02-206-B	46,130.00	
	02-207-A	20,650.00	66,780.00
November 4, 2002	02-207-B	71,146.00	
November 5, 2002	02-208-B	48,580.00	
	02-209-A	8,450.00	
November 8, 2002	02-209-B	30,370.00	
	02-210-A	24,800.00	
November 7, 2002	02-210-B	36,190.00	
	02-211-A	10,850.00	
November 8, 2002	02-211-B	41,260.00	
	02-212-A	30,134.00	
November 11, 2002	02-212-B	107,378.00	
November 12, 2002	02-213-A	134,410.00	
November 13, 2002	02-214-B	131,186.00	
November 14, 2002	02-215-B	128,790.00	
November 18, 2002	02-216-C	180,844.00	
	02-217-B	299,614.00	
November 20, 2002	02-218-C	216,314.00	
	02-219-B	22,210.00	
November 21, 2002	02-220-B	40,440.00	
November 22, 2002	02-221-B	38,990.00	
November 25, 2002	02-222-B	29,440.00	
	02-223-A	14,780.00	
November 26, 2002	02-223-B	24,340.00	
	02-224-A	10,692.00	
November 27, 2002	02-224-B	23,900.00	
	02-225-A	8,252.00	
November 28, 2002	02-225-B	43,990.00	
	02-226-A	14,218.00	
November 29, 2002	02-226-B	19,350.00	
	02-227-A	10,470.00	1,761,358.00
December 2, 2002	02-227-B	31,180.00	
	02-228-A	16,600.00	
December 3, 2002	02-228-B	17,690.00	
	02-229-A	5,550.00	
December 4, 2002	02-229-B	19,990.00	
December 5, 2002	02-230-B	21,920.00	
	02-231-A	9,140.00	
December 9, 2002	02-231-B	31,220.00	
December 10, 2002	02-232-B	24,034.00	
December 11, 2002	02-233-B	11,320.00	
December 12, 2002	02-234-B	22,468.00	
	02-235-A	7,904.00	
December 13, 2002	02-235-B	15,670.00	
	02-236-A	12,458.00	
December 16, 2002	02-236-B	16,210.00	
December 17, 2002	02-237-B	23,616.00	
	02-238-A	9,606.00	
December 19, 2002	02-238-B	20,136.00	
	02-239-A	8,454.00	
December 23, 2002	02-239-C	32,510.00	
	02-240-B	41,660.00	
December 26, 2002	02-241-B	63,990.00	
December 27, 2002	02-242-B		

CERTIFIED TRUE PHOTOCOPY OF RECORDS  
SIGNATURE OF REGISTERED ACCOUNTANT OFFICER  
CPA

<sup>67</sup> Exhibit I, Records, Vol. 1, pp. 36 - 68

People v. Ferdinand P. Llapitan  
 SB-20-A/R-0001

Nov. 9, 2007	07-209	9,400.00	
Nov. 12, 2007	07-209-A	8,464.00	
Nov. 12, 2007	07-210	7,310.00	
Nov. 13, 2007	07-210-A	9,000.00	
Nov. 13, 2007	07-211	6,300.00	
Nov. 14, 2007	07-211-A	8,615.00	
Nov. 14, 2007	07-212	8,600.00	
Nov. 15, 2007	07-212-A	9,310.00	
Nov. 15, 2007	07-213	9,000.00	
Nov. 16, 2007	07-213-A	10,800.00	
Nov. 16, 2007	07-214	12,600.00	
Nov. 19, 2007	07-214-A	9,900.00	
Nov. 19, 2007	07-215	9,000.00	
Nov. 20, 2007	07-215-A	11,700.00	
Nov. 20, 2007	07-216	9,900.00	
Nov. 21, 2007	07-216-A	10,955.00	
Nov. 21, 2007	07-217	9,435.00	
Nov. 22, 2007	07-217-A	14,995.00	
Nov. 22, 2007	07-218	12,605.00	
Nov. 23, 2007	07-218-A	10,245.00	
Nov. 23, 2007	07-219	10,260.00	
Nov. 27, 2007	07-219-A	13,451.00	
Nov. 27, 2007	07-220	12,831.00	
Nov. 28, 2007	07-220-A	13,740.00	
Nov. 28, 2007	07-221	13,590.00	
Nov. 29, 2007	07-221-A	16,610.00	
Nov. 29, 2007	07-222	18,485.00	370,456.00
Dec. 3, 2007	07-222-A	17,425.00	
Dec. 3, 2007	07-223	16,075.00	
Dec. 4, 2007	07-223-A	13,940.00	
Dec. 4, 2007	07-224	17,170.00	
Dec. 5, 2007	07-224-A	17,040.00	
Dec. 5, 2007	07-225	18,540.00	
Dec. 6, 2007	07-225-A	13,400.00	
Dec. 6, 2007	07-226	14,408.00	
Dec. 7, 2007	07-226-A	31,799.00	
Dec. 7, 2007	07-227	17,130.00	
Dec. 10, 2007	07-227-A	41,384.00	
Dec. 10, 2007	07-228	30,050.00	
Dec. 11, 2007	07-228-A	24,480.00	
Dec. 11, 2007	07-229	18,642.00	
Dec. 12, 2007	07-230	12,865.00	
Dec. 12, 2007	07-229-A	11,280.00	
Dec. 13, 2007	07-230-A	18,530.00	
Dec. 13, 2007	07-231	14,715.00	
Dec. 14, 2007	07-231-A	9,780.00	
Dec. 14, 2007	07-232	10,745.00	
Dec. 14, 2007	07-232-A	11,880.00	
Dec. 17, 2007	07-233	12,645.00	
Dec. 17, 2007	07-233-A	13,485.00	
Dec. 19, 2007	07-234	14,606.00	
Dec. 19, 2007	07-234-A	13,810.00	
Dec. 20, 2007	07-235	11,600.00	
Dec. 20, 2007	07-235-A	13,824.00	
Dec. 21, 2007	07-236	24,510.00	
Dec. 21, 2007	07-236-A	14,840.00	
Dec. 26, 2007	07-237	13,110.00	
Dec. 26, 2007	07-237-A	184,721.00	
Dec. 28, 2007	07-238	140,121.00	
Dec. 28, 2007	07-239	85,338.23	903,888.23
Dec. 28, 2007	07-239-A	36,130.00	
January 2, 2008	08-001	23,948.00	
January 2, 2008	08-001A	33,633.00	
January 3, 2008			85,711.00

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OFFICE OF THE CLERK OF THE COURT  
 DEPARTMENT OF JUSTICE  
 CERTIFIED TRUE PHOTOCOPY OF RECORDS  
 ZIEG, FREDO A. RUSEBIO  
 ADMINISTRATIVE OFFICER  
 CPNU

People v. Ferdinand P. Llapitan  
 SB-20-A/R-0001

- c. The *Schedule of Collections*<sup>68</sup> for October 30, 2002 to January 3, 2008, which shows that, based on the official receipts issued by PRC Region 02, the monies collected for the period was in the total amount of P71,558,137.71. The *Schedule of Collections* is hereunder reproduced:

**PROFESSIONAL REGULATION COMMISSION**  
 Region 02, Tuguegarao City

Accountable Officer: Ferdinand P. Llapitan  
 Position: Cashier I

**SCHEDULE OF COLLECTIONS**  
 October 30, 2002-January 3, 2008

*Annex C*  
*Annex C*  
*EXH-D*

Period	Serial Number	Collection
<b>2002</b>		
October 30-31	2364051-2364275	91,798.00
November	2364276-2367997	1,741,392.00
December	2367998-2369716	533,844.23
<b>Sub-total</b>		<b>2,367,032.23</b>
<b>2003</b>		
January	2369717-2372095	825,438.00
February	2372096-2372500	
	2827501-2828810	598,152.00
March	2828811-2830457	604,812.00
April	2830458-3042716	808,200.00
May	3042717-3051075	4,157,384.00
June	3051076-3053550	845,522.00
July	3053551-3058183	913,348.00
August	3058184-3057500	
	3567501-3567753	507,458.00
September	3567754-3589750	614,718.00
October	3589751-3571582	536,085.00
November	3571583-3573776	881,253.00
December	3573777-3576447	991,462.93
<b>Sub-total</b>		<b>12,283,830.93</b>
<b>2004</b>		
January	3576448-3579172	785,948.00
February	3579173-3581554	830,723.00
March	3581555-3582500	203,873.00
	4145001-4147888	811,620.00
April	4147889-4150971	1,276,772.00
May	4150972-4153468	1,108,984.00
June	4153470-4154991	580,820.00
July	4154992-4156071	429,548.00
August	4156072-4156748	190,499.20
September	4156749-4157421	196,725.00
October	4157422-4158125	225,430.00
November	4158126-4158410	558,802.00
December	4158411-4160000	
	4827501-4827516	168,360.79
<b>Sub-total</b>		<b>7,347,902.99</b>
<b>2005</b>		
January	4827517-4828640	353,312.15
February	4828641-4829689	357,783.00
March	4829690-4831168	727,308.00
April	4831169-4834437	1,848,782.00
May	4834438-4835000	
	5065001-5070442	3,278,847.00
June	5070443-5072008	789,643.00
July	5072010-5073500	611,152.00
August	5073501-5074800	562,457.00
September	5074801-5075000	
	5320001-5321809	866,038.00
October	5321810-5323261	870,457.00
November	5323262-5325000	
	5662501-5663539	1,352,383.88
December	5663540-5664425	412,768.00
<b>Sub total</b>		<b>11,648,908.03</b>

OFFICE OF THE COMMISSIONER  
 PROFESSIONAL REGULATION COMMISSION  
 REGION 02, TUGUEGARAO CITY  
 3

*[Handwritten signatures and initials]*

<sup>68</sup> Exhibit D, Records, Vol. 1, pp. 26 - 27

People v. Ferdinand P. Llapitan  
 SB-20-A/R-0001

2006		
January		
February	5664426-5666269	848,162.00
March	5666270-5667472	697,623.03
April	5667473-5668706	634,300.20
	5668701-5670000	
May	5835001-5835714	1,160,469.76
June	5835715-5836415	1,095,095.50
	5836416-5840000	
	0165001-0165000	
July	0164001-0164200	1,088,077.00
	0164201-0165000	
August	0166001-0166420	632,797.00
September	0166421-0167500	640,767.68
October	0167501-0168818	779,210.27
November	0168817-0169767	581,201.27
December	0169768-0171669	1,405,422.00
Sub total	0171670-0172831	572,034.73
		10,922,596.42
2007		
January	0172832-0174000	
February	0325001-0325226	1,094,029.00
March	0325227-0325991	654,521.00
April	0325992-0327213	770,465.00
May	0327214-0329212	1,216,477.00
June	0329213-0332855	2,259,633.00
July	0332856-0334243	889,743.51
August	0334244-0334922	380,870.00
September	0334923-0335408	301,012.00
October	0335409-0336277	529,417.00
November	0336278-0336929	453,862.00
December	0336930-0337436	383,561.00
Sub total	1044001-1045410	1,562,503.23
		10,494,323.74
2008		
January 2-4	1045411-1045800	327,890.00
Sub total	1045801-1046799	472,843.00
		800,733.00
Unreported/unrecorded Collections		
2006	5820001-5825000	3,566,660.00
	5893551-5894550	824,503.00
		4,391,163.00
2007	6426001-6435000	5,527,851.77
	5911501-1919000 <sup>69</sup>	5,773,800.60
	Sub Total	11,301,652.37
Grand Total		71,688,137.71

OFFICE OF THE LEGISLATIVE COUNCIL  
 CERTIFIED TRUE PHOTOCOPY OF RECORDS  
 ZELFRAGE - A. BILLAGO  
 JUNIOR LEGAL OFFICER  
 CSMJ

The 2<sup>nd</sup> page of the said document, as above shown, demonstrates that out of the Php71,558,137.71, collections from the following receipts were unreported and unrecorded:

Year	Official Receipt Number	Total Amount
2006	5820001 - 5825000 (5000 pcs)	3,566,660.00
	5893551 - 5894550 (1000 pcs)	824,503.00
		<b>4,391,163.00</b>
2007	6426001 - 6435000 (9000 pcs)	5,527,851.77
	5911501 - 1919000 <sup>69</sup> (sic) (7500 pcs)	5,773,800.60
		<b>11,301,652.37</b>

<sup>69</sup> Should instead read 5919000

People v. Ferdinand P. Llapitan  
 SB-20-A/R-0001

- d. The *Statement of Accountability for Accountable Forms Without Money Value for the period from October 30, 2002 to January 3, 2008*<sup>70</sup> which shows that the above listed *Official Receipts*,<sup>71</sup> i.e., 5820001 to 5825000 (5000 pcs), 5893551 to 5894550 (1000 pcs), 5911501 to 5919000 (7,500 pcs) and 6426001 to 6435000 (9,000 pcs) with unrecorded collections were received by accused-appellant Llapitan, and were issued by him. Accused-appellant Llapitan does not deny that he signed the said document. The said document is hereunder reproduced:

STATEMENT OF ACCOUNTABILITY FOR ACCOUNTABLE FORMS WITHOUT MONEY VALUE  
 For the period from October 30, 2002 to January 3, 2008

Accountable Officer: Ferdinand P. Llapitan  
 Designation: Cashier  
 Agency: Professional Regulation Commission  
 Regional Field Office No. 02  
 Tuguegarao City, Cagayan

EXHIBIT R  
 JUNE '08  
 PC-78-18 Q4

Name of Form	Balance last cash examination		Received Since		Issued Since		Balance of Accountability		Per Count		On Hand Per Actual Count		Difference	
	Qty	Incl. Ser. Nos	Qty	Incl. Ser. Nos	Qty	Incl. Ser. Nos	Qty	Incl. Ser. Nos	Qty	Incl. Ser. Nos	Qty	Serial No.	Qty	Serial No.
AF No. 51 (Sheets)	8,500	3484951-2372500	5,000	2827501-2832500	5,000	2827501-2832500								
			15,000	3042501-3057500	15,000	3042501-3057500								
			18,000	3587501-3582500	15,000	3887501-3882500								
			18,000	4145001-4140000	15,000	4145001-4140000								
			7,500	4827501-4835000	7,500	4827501-4835000								
AF No. 51			10,000	5065001-5075000	10,000	5065001-5075000								
			5,000	5320001-5325000	5,000	5320001-5325000								
			7,500	5922501-5970000	7,500	5922501-5970000								
AF No. 51 (Sheets)			10,000	0164001-0174000	10,000	0164001-0174000								
			5,000	5835001-5840000	5,000	5835001-5840000								
			5,000	5920001-5925000	5,000	5920001-5925000								
AF No. 51 (Sheets)			13,000	0326001-0330000	13,000	0326001-0330000								
			1,000	5893551-5894550	1,000	5893551-5894550								
			7,500	5911501-5919000	7,500	5911501-5919000								
			9,000	6426001-6435000	9,000	6426001-6435000								
AF No. 51(Sheets)			6,000	1044001-1048000	1,410	1044001-1045410								
AF No. 51(Sheets)			6,000	1243001-1248000	-	-	6,000	1243001-1248000	6,000	1243001-1248000	6,000	1243001-1248000		None
Totals	8,504		141,890		141,789		8,231		8,231		8,231			

AIS

I hereby certify that the above statement of accountability for accountable forms with money value is true and correct.

*Carmen O. Gamatero*  
 CARMEN O. GAMATERO  
 Audit Team Leader

*Ferdinand P. Llapitan*  
 FERDINAND P. LLAPITAN  
 Accountable Officer  
 11/04/08  
 Date

NB: USA in 2005

- e. The *Analysis of Collections and Deposits for October 30, 2002 to January 3, 2008* which shows the monthly, annual and total deficiency in the remittances made by accused-appellant Llapitan.<sup>72</sup>

The *Analysis*, which contains the: i) pertinent periods, ii) serial numbers of the official receipts; iii) corresponding collections for the pertinent serial numbers; iv) deposits or remittances made for the relevant period; v) running balance; and vi) final expected cash balances and shortage, is hereunder reproduced for easier reference:

<sup>70</sup> Exhibit R, Records, Vol. 1, p. 416  
<sup>71</sup> Exhibit R-1  
<sup>72</sup> Exhibit J; Records, Vol. 1, pp. 69 -70.

*[Handwritten signature]*



People v. Ferdinand P. Llapitan  
 SB-20-A/R-0001

Accountable Officer: Ferdinand P. Llapitan  
 Position: Cashier  
 Agency: PROFESSIONAL REGULATION COMMISSION  
 Address: Region 02, Tuguegarao City

Annex I

**EXH J**

**ANALYSIS OF COLLECTIONS AND DEPOSITS**  
 October 30, 2002 up to January 3, 2006

Period	Serial Number	Collections	Deposits	Balance
<b>2002</b>				
Begin. Balance, Oct. 30, 2002				46,830.10
October 30-31, 2002	2384051-2384275	91,798.00	66,780.00	25,018.00
November	2384276-2387997	1,741,392.00	1,781,358.00	(39,966.00)
December	2387998-2388716	533,844.23	495,278.00	38,566.23
Sub-total		2,367,032.23	2,343,416.00	69,646.33
<b>2003</b>				
January	2389717-2372085	825,438.00	884,234.23	(38,796.23)
February	2372086-2372500			
	2827501-2828810	598,152.00	603,034.00	(4,882.00)
March	2828811-2830457	604,812.00	615,872.00	(10,860.00)
April	2830458-3042716	895,200.00	785,500.00	42,700.00
May	3042717-3051075	4,157,384.00	3,971,844.00	185,540.00
June	3051076-3053550	845,522.00	1,026,984.00	(181,442.00)
July	3053551-3056183	913,348.00	955,826.00	(42,478.00)
August	3056184-3057500			
	3587501-3587753	507,456.00	494,802.00	12,654.00
September	3587754-3588750	614,718.00	628,012.00	(11,294.00)
October	3588751-3571582	536,085.00	510,575.00	25,510.00
November	3571583-3573776	881,253.00	741,360.00	139,893.00
December	3573777-3576447	991,482.93	1,145,708.00	(154,245.07)
Sub-total		12,283,838.93	12,321,561.23	34,826.03
<b>2004</b>				
January	3576448-3579172	765,948.00	751,077.93	14,870.07
February	3579173-3591554	830,723.00	831,843.00	(1,120.00)
March	3591555-3582500	203,873.00		203,873.00
	4145001-4147868	811,620.00	1,023,909.00	(212,289.00)
April	4147869-4150971	1,276,772.00	1,252,538.00	24,234.00
May	4150972-4153489	1,108,984.00	1,072,230.00	36,754.00
June	4153470-4154991	580,620.00	631,538.00	(50,918.00)
July	4154992-4156071	429,546.00	473,532.00	(43,986.00)
August	4156072-4156748	190,499.20	188,423.00	2,076.20
September	4156749-4157421	196,725.00	188,747.00	7,978.00
October	4157422-4158125	225,430.00	229,674.00	(4,244.00)
November	4158126-4159410	358,802.00	563,792.00	(4,990.00)
December	4159411-4160000			
	4827501-4827516	168,360.79	158,336.00	12,024.79
Sub-total		7,347,902.99	7,363,938.93	18,889.09
<b>2005</b>				
January	4827517-4828840	353,312.15	357,288.79	(3,976.64)
February	4828841-4829689	357,783.00	370,328.15	(12,545.15)
March	4829690-4831156	727,368.00	725,845.00	1,523.00
April	4831157-4834437	1,848,782.00	1,543,204.00	105,578.00
May	4834438-4835000			
	5065001-5070442	3,276,847.00	3,225,613.00	51,234.00
June	5070443-5072009	769,843.00	938,198.00	(168,355.00)
July	5072010-5073500	811,152.00	624,933.00	186,219.00
August	5073501-5074900	582,457.00	570,872.00	11,585.00
September	5074901-5075000			
	5320001-5321809	888,038.00	877,421.00	10,617.00
October	5321810-5323261	670,457.00	637,888.00	32,569.00
November	5323262-5328000			
	5662501-5663539	1,352,383.88	1,376,863.00	(24,479.12)
December	5663540-5664425	412,768.00		412,768.00
Sub-total		11,848,909.03	11,674,472.62	174,436.41

CERTIFIED TRUE PHOTOCOPY OF RECORDS  
 2005  
 FERNANDO A. B. LEBIT  
 FINANCIAL CONTROL  
 (P.R.)

*[Handwritten signature]*

People v. Ferdinand P. Llapitan  
 SB-20-A/R-0001

J-1

2006				
January	5664426-5664366			
February	5666270-5667472	846,162.00	820,295.00	25,867.00
March	5667473-5668700	587,023.03	573,245.03	13,778.00
April	5668701-5670000	834,300.26	836,894.00	(2,593.74)
May	5635001-5635714			
June	5635715-5636415	1,100,499.76	1,120,453.75	40,034.00
	5636416-5640000	1,895,095.50	2,004,033.50	(8,938.00)
	0165001-0166000			
July	0164001-0164200	1,068,077.00	1,094,060.00	(25,983.00)
	0164201-0165000			
	0166001-0166420			
August	0166421-0167500	852,787.00	850,072.00	2,715.00
September	0167501-0168818	640,787.65	624,854.65	15,933.00
October	0168819-0169787	779,210.27	798,471.27	(17,261.00)
November	0169788-0171689	581,201.27	590,831.27	(9,630.00)
December	0171690-0172831	1,405,422.00	1,382,572.00	22,850.00
Sub-total		10,922,590.42	10,828,970.22	86,646.50
2007				
January	0172832-0174000			
February	0325001-0325226	1,094,029.00	1,084,212.00	9,817.00
March	0325227-0325991	854,521.00	868,122.00	(11,601.00)
April	0325992-0327213	770,465.00	773,186.00	(2,721.00)
May	0327214-0329212	1,215,477.00	1,180,928.00	24,551.00
June	0329213-0332850	2,259,833.00	2,187,179.20	72,653.80
July	0332851-0334243	889,743.51	905,332.38	(102,588.87)
August	0334284-0334922	380,070.00	381,175.00	(1,105.00)
September	0334956-0335408	301,012.00	300,992.00	20.00
October	0335409-0336277	528,417.00	530,252.00	(635.00)
November	0336278-0336929	453,862.00	458,277.00	(4,395.00)
December	0336930-0337436	363,561.00	370,456.00	(6,895.00)
	0337437-0338000			
Sub-total	1044001-1045410	1,582,503.23	903,888.23	658,615.00
Sub-total		10,494,323.74	9,941,997.61	739,271.43
2008				
January 2-3	1045411-1045800	327,860.00		327,860.00
	1045801-1046789	422,843.00	93,711.00	379,132.00
Sub-total		800,733.00	93,711.00	707,022.00
Unreported/Unrecorded Collections				
2006				
	5820001-5825000	3,588,660.00		3,588,660.00
	5893551-5894550	824,503.00		824,503.00
		4,391,163.00		4,391,163.00
2007				
	8426001-8435000	5,527,851.77		5,527,851.77
	8911501-8919000	5,773,986.60		5,773,986.60
		11,301,838.37		11,301,838.37
Sub-total		15,692,818.37		15,692,818.37
Grand Totals		21,568,137.71	54,488,059.01	17,139,106.80

(7)

NOTED BY THE COURT  
 FERNANDO L. LAPITAN  
 2008

f. The *Schedule of Collections* of Unrecorded, Unreported and Unremitted Collections for the Calendar Year 2007<sup>73</sup> prepared by the COA Special Audit Team which itemized the amounts constitutive of a portion of the shortage resulting from the unreported collection in the total amount of Php15,692,815.37. The *Schedule of Collection* contained the: a) Official Receipt Numbers, b) Names of Payees (sic), c) Amounts and purposes for the payment, specifically, i) Exam Fee [614], ii) Initial Registration [606-A], iii) Annual Fee [606-B], iv) End. Fee [606-C], v) Surcharge [609], vi)

<sup>73</sup> Exhibits E to E-231; Records, Vol. 1, pp. 79 - 310

*[Handwritten signature]*

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Miscellaneous Fee [678], and vii) LRF [131]), and d) total amount for each receipt. The 1<sup>st</sup> and last pages of the 232 page Schedule of Collections for Official Receipts No. 6426001 to 6435000 are hereunder reproduced to provide context:

Professional Regulation Commission  
Regional Office No. 02, Tuguegarao City, Cagayan

Unrecorded, Unreported and Unremitted Collections  
CY 2007

Official Receipt No.	Name of Payee	Exam Fee 614	Initial Reg 605-A	Annual Fee 605-B	End. Fee 605-C	C.O.C. 606-D	Surcharge 609	Certification 613	Misc. Fee 678	LRF 131	Total Collections
6426001	Stella S. Cabaya							75.00			75.00
6426002	Janalee B. Apolono							230.00			230.00
6426003	Amy T. Colobony			500.00				30.00			530.00
6426004	Libeth M. De La Cruz			1,100.00			120.00	225.00			1,445.00
6426005	Marissa G. Lue	800.00		450.00							1,050.00
6426006	Rubiel Arbo							75.00			75.00
6426007	Reneo S. Alagapa							75.00			75.00
6426008	Marcos C. Talar	600.00		450.00							1,050.00
6426009	Mar Joann C. Puyugan							75.00			75.00
6426010	Loisel Salar			700.00				30.00			730.00
6426011	Blansio P. Abayoluis			800.00				50.00			850.00
6426012	Elmaro E. Buan			750.00				30.00			780.00
6426013	Maron C. Talar							75.00			75.00
6426014	Libeth M. Bartolone	800.00		450.00							1,050.00
6426015	Perla M. Galan			750.00				30.00	225.00		950.00
6426016	Marysa G. Lue							75.00			75.00
6426017	Michael T. Macabangan							75.00			75.00
6426018	Estela E. Pera			700.00				30.00			730.00
6426019	Maryan G. Pera			800.00				30.00			830.00
6426020	Paula C. Jacinto			850.00				28.00			878.00
6426021	Alyn P. Asua			700.00				30.00			730.00
6426022	Rumelyn A. Pasadas			700.00				30.00			730.00
6426023	Estela E. Pera							75.00			75.00
6426024	Alyn P. Asua							75.00			75.00
6426025	Cristy D. Landa			700.00				30.00			730.00
6426026	Edmar C. Darang			1,500.00				194.00			1,694.00
6426027	Arnela A. Arbo			650.00				30.00			680.00
6426028	Cristy D. Landa							75.00			75.00
6426029	Elizabeth C. Landa							75.00			75.00
6426030	Edmar C. Darang			570.00				28.00			598.00
6426031	Arnela A. Arbo							75.00			75.00
6426032	Arnela A. Arbo			600.00				60.00			660.00

**EXH. E**  
**b E-231**  
J-1-16

OFFICE OF THE DEPUTY COMMISSIONER  
CERTIFIED TRUE COPY OF RECEIPTS  
DIRECTOR GENERAL  
PROFESSIONAL REGULATION COMMISSION  
REGIONAL OFFICE NO. 02, TUGUEGARAO CITY, CAGAYAN

Page 1 (only)

Official Receipt No.	Name of Payee	Exam Fee 614	Initial Reg 605-A	Annual Fee 605-B	End. Fee 605-C	C.O.C. 606-D	Surcharge 609	Certification 613	Misc. Fee 678	LRF 131	Total Collections
6434967	Arnela B. Mangabo			600.00			30.00				630.00
6434968	Ronald G. Balbuena							75.00			75.00
6434969	Rayador V. Abel M							75.00			75.00
6434970	Ramo Ermalin L. Magpay							85.00			85.00
6434971	Milagros P. Pajala							95.00			95.00
6434972	Zozimo C. Melapeng							100.00			100.00
6434973	Ronald G. Balbuena							95.00			95.00
6434974	Marilyn A. Felberto			600.00			30.00				630.00
6434975	Guillermo A. Toribio			600.00							600.00
6434976	Leopoldo T. Cañero			600.00							600.00
6434977	Mariano Junior N. Marayag			600.00							600.00
6434978	Joe Recar B. Calman							75.00			75.00
6434979	Azdy N. Bantog							115.00			115.00
6434980	Edison O. Dangkeo	800.00		450.00							1,050.00
6434981	Eliaso C. Darang	600.00		450.00							1,050.00
6434982	Eliaso C. Darang							75.00			75.00
6434983	Edmar C. Say			1,000.00			100.00				1,100.00
6434984	Edmar C. Say							75.00			75.00
6434985	Eliaso C. Darang							75.00			75.00
6434986	Karla L. Reyes							75.00			75.00
6434987	Anahy S. Lumigat	600.00		450.00							1,050.00
6434988	Bebby Florence R. Saniga	600.00		450.00							1,050.00
6434989	Genina A. Bialweg	600.00		450.00							1,050.00
6434990	Corazon G. Merced	600.00		450.00							1,050.00
6434991	Ronald O. Peralta	900.00									900.00
6434992	Reynel L. Gero			600.00							600.00
6434993	Edwin N. De la Cruz	800.00									800.00
6434994	Ramante M. Manaja			600.00							600.00
6434995	Vina I. Larasma			600.00			30.00				630.00
6434996	Vina I. Larasma							225.00			225.00
6434997	Gilbert C. Tontia							75.00			75.00
6434998	Cherry B. Pungilan			700.00			30.00				730.00
6434999	Reynel L. Gero							150.00			150.00
6435000	Ramante to Manaja							75.00			75.00
<b>Grand Total</b>		<b>2,007,600.00</b>	<b>483,800.00</b>	<b>2,384,830.00</b>	<b>930.00</b>	<b>60.00</b>	<b>108,712.00</b>	<b>344,067.00</b>	<b>4,860.00</b>	<b>2,583.77</b>	<b>5,527,881.77</b>

OFFICE OF THE DEPUTY COMMISSIONER  
CERTIFIED TRUE COPY OF RECEIPTS  
DIRECTOR GENERAL  
PROFESSIONAL REGULATION COMMISSION  
REGIONAL OFFICE NO. 02, TUGUEGARAO CITY, CAGAYAN

Signature: *[Handwritten Signature]*

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Signature: *[Handwritten Signature]*

Signature: *[Handwritten Signature]*

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- g. The *Commissioner's Report (Final)*,<sup>74</sup> prepared by Branch Clerk of Court Atty. Roderick L. Bautista, on the inspection of the 22,900 official receipts (458 booklets) of the PRC, particularly Exhibit E and series, and the *Schedule of Unrecorded, Unreported and Unremitted Collections for CYS 2006-2007*.

The *Report* shows that most of the Official Receipts included in the series: a) 5820001 - 5825000; b) 5893551 - 5894550; c) 5911501 - 5919000, and, d) 6426001 - 6435000, contained entries, thereby establishing that most of said official receipts were issued. The *Report* stated that some of the receipts which were issued did not contain the amounts in words, while some of the other receipts bore the signatures of accused-appellant Llapitan but were unissued or were cancelled. The *Report* also noted that the receipts uniformly bore the signatures of the cashier. But the handwriting for the entries for the names of the payor and the amounts in some booklets were different from those in the other booklets.



Republic of the Philippines  
**REGIONAL TRIAL COURT**  
 Second Judicial Region  
**BRANCH 5**  
 Tuguegarao City, Cagayan

*EXH. Q*  
*3-6-18*

**PEOPLE OF THE PHILIPPINES,**

**-versus-**

**CRIM. CASE NO. 17363**

**FERDINAND P. LLAPITAN,**

**Accused.**

x-----x

**COMMISSIONER'S REPORT**  
**(FINAL)**

The undersigned and unto the Honorable court most respectfully submits his final report on the inspection of the marked documentary exhibits pursuant to the Order of the Honorable Court dated June 6, 2017.

After the July 14, 2017 inspection, the inspection of the documentary exhibits was continued on August 2, 9, 23, 25, 30, September 4, 6, 8, 11, 13, 18, 20, 27, 29, October 4, 2017 with Proa. Esmar Lara, together with the COA representatives, Mrs. Tomasa Macutay and Ms. Aida Baccay, appeared and the accused himself, Ferdinand Llapitan.

The inspection of documents involved the inspection and comparison of the duplicate or triplicate copies of the Official Receipts issued by the Philippine Regulatory Commission (PRC), Regional Office No. 2, Tuguegarao City, Cagayan with the ANNEXES on record, particularly, Exhibit "E" and series, Schedule of Unrecorded, Unreported and Unremitted Collections for CYS 2006-2007.

A total of 22,900 receipts (458 booklets) of the documentary exhibits were inspected for the entire duration of the inspection period.

Over all, as observed, some of the inspected receipts bear no amount in figures and/or in words although the name of the payer appears as well as that of the name and signature of the accused, Ferdinand Llapitan; some receipts

(4c)

<sup>74</sup> Exhibit Q; Records, Vol. 1, pp. 401 - 406

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were unused or cancelled and the original copy as well as the duplicate and triplicate are intact. There were receipts that were likewise mutilated hence the name and signature of the accused was not evident or seen. The receipts inspected uniformly bear the name and signature of the cashier, although the handwritings on the entries for name of payer, amount in words and in figure in some of the booklets were different from other booklets.

In view hereof, the inspection is terminated.

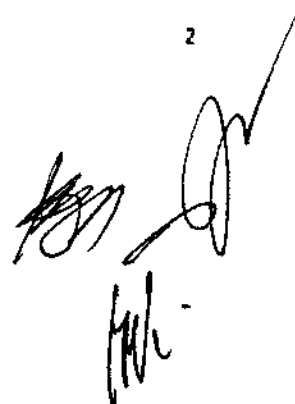
Attached is a summary of the receipts inspected.

Respectfully submitted.

Witness the HONORABLE JEZARENE C. AQUINO, Presiding Judge, this Court, this **24<sup>th</sup> day of October, 2017** at Tuguegarao City, Cagayan

  
**RODERICK L. BAUTISTA**  
Clerk of Court V

(412)

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11. OR Nos. 6430501 - 6430600 (Triplicate Copy)  
A. All receipts have amounts reflected.
12. OR Nos. 6431001 - 6431500 (Triplicate Copy)  
A. All receipts have amounts reflected.
13. OR Nos. 6434501 - 6435000 (Triplicate Copy)  
A. The following ORs were unused:  
6434524                      6434783  
B. All other receipts have amounts reflected.
14. OR Nos. 6430601 - 6431000 (Triplicate Copy)  
A. All receipts have amounts reflected.
15. OR Nos. 6432501 - 6433000 (Triplicate Copy)  
A. The following ORs were unused:  
6432625                      6432844  
B. OR No. 6432875 - No amount indicated in words and in figures although there is a check in "Cash" received; name of payer appears as well as signature of the cashier, Ferdinand Llapitan.  
C. All other receipts have amounts reflected.
16. OR Nos. 6430001 - 6430500 (Triplicate Copy)  
A. The following ORs were unused:  
6430127                      6430389                      6430433  
B. All other receipts have amounts reflected.
17. OR Nos. 6433501 - 6434000 (Triplicate Copy)  
A. The following ORs were unused:  
6433651                      6433718  
B. OR No. 6433851 - No amount indicated in words and in figures although there is a check in "Cash" received; name of payer appears as well as signature of the cashier, Ferdinand Llapitan.  
C. All other receipts have amounts reflected.
18. OR Nos. 6432001 - 6432500 (Triplicate Copy)  
A. OR No. 6432136 - unused  
B. All other receipts have amounts reflected.
19. OR Nos. 5916001 - 5916500 (Triplicate Copy)  
A. OR No. 5916495 - unused  
B. All other receipts have amounts reflected.
20. OR Nos. 5917501 - 5918500 (Triplicate Copy)  
A. OR No. 5918281 - unused  
B. O.R. No. 5918223 - the amount reflected in the receipt is P1220.00 but in the ANNEX, it is P1120.00  
C. All other receipts have amounts reflected.
21. OR Nos. 5918501 - 5919000 (Triplicate Copy)  
A. The following ORs were unused:  
5918541 - 5918550                      5918797 - 5918800                      5918969  
5918793                      5918848  
B. OR Nos. 5918951 - 5919000 - all receipts have complete entries (amount in figure and word, etc) however, the signature of Ferdinand Llapitan is not readable or not present  
C. All other receipts have amounts reflected.

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22. OR Nos. 5912501 – 5913000 (Triplicate Copy)  
 A. OR No. 5912791 – unused  
 B. OR No. 5912824 – the amount both in words and figure are not readable, the other entries are readable.  
 C. OR Nos. 5912951, 5912953, 5912954 – the bottom part has been torn that the signature and the name of the cashier is no longer appearing. All other entries are present.  
 D. All other receipts have amounts reflected.
23. OR Nos. 6426151 – 6426200 (Triplicate Copy)  
 A. All receipts have amounts reflected.
24. OR Nos. 6428051 – 6429250 (Triplicate Copy)  
 A. The following ORs were unused:  
 6428165 – 6428200 6428336 – 6430450 6428882  
 B. All other receipts have amounts reflected.
25. OR Nos. 6426001 – 6426150 (Triplicate Copy)  
 A. All receipts have amounts reflected.
26. OR Nos. 6428001 – 6428050 (Triplicate Copy)  
 A. All receipts have amounts reflected.
27. OR Nos. 6426201 – 6426600 (Triplicate Copy)  
 A. The following receipts have complete entries (amount in figure and word, etc) however, the signature of Ferdinand Llapitan is not readable or not present  
 6426471 – 6426483 6426485 - 6426500  
 B. All receipts have amounts reflected.
28. OR Nos. 6429251 – 6429500 (Triplicate Copy)  
 A. All receipts have amounts reflected.
29. OR Nos. 6429301 – 6429750 (Triplicate Copy)  
 A. OR No. 6429435 – unused  
 B. The following receipts have complete entries (amount in figure and word, etc) however, the signature of Ferdinand Llapitan is not readable or not present  
 6429581 - 6429600  
 C. All other receipts have amounts reflected.
30. OR Nos. 6429751 – 6430000 (Triplicate Copy)  
 A. OR No. 6429785 – unused  
 B. All other receipts have amounts reflected.
31. OR Nos. 6426601 – 6427500 (Triplicate Copy)  
 A. OR No. 6426948 – unused  
 B. All other receipts have amounts reflected
32. OR Nos. 6427501 – 6428000 (Triplicate Copy)  
 A. All receipts have amounts reflected.
33. OR Nos. 5911501 – 5912000 (Triplicate Copy)  
 A. The following ORs were unused:  
 5911542 5911544  
 B. OR No. 5911678 – the amount in figure and in words is not clear but there is the signature of the cashier and there is a name of the payer.  
 C. All other receipts have amounts reflected.

(4cs)



People v. Ferdinand P. Llapitan  
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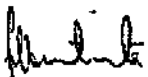
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- 34. OR Nos. 5914001 - 5914400 (Triplicate Copy)
  - A. The following ORs were unused:  
     5914196 - 5914199                      5914221                      5914312
  - B. OR No. 5914056 - the amount in figure and in words is not readable but there appears the signature of the cashier and there is a name of the payer.
  - C. All other receipts have amounts reflected.
- 35. OR Nos. 5913501 - 5914000 (Triplicate Copy)
  - A. OR No. 5913992 - unused
  - B. All other receipts have amounts reflected.
- 36. OR Nos. 5914351 - 5914500 (Triplicate Copy)
  - A. All other receipts have amounts reflected.

Respectfully submitted.

Witness the HONORABLE JEZARENE C. AQUINO, Presiding Judge, this Court, this 24<sup>th</sup> day of October, 2017 at Tuguegarao City, Cagayan

  
**RODERICK L. BAUTISTA**  
 Clerk of Court V

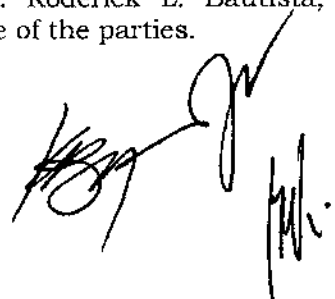
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(416)

- h. The bundles of receipts<sup>75</sup> which were inspected by the Branch Clerk of Court Atty. Roderick L. Bautista, as Commissioner, in the presence of the parties.

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<sup>75</sup> Exhibit R-1 and series.



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- 2. The *Demand Letter* dated October 19, 2008 addressed to accused-appellant Llapitan informing him of the shortage in the amount of Php17,139,108.80 in his remittance, and demanding that he produce the said amount immediately, and to explain in writing why the shortage occurred.

The document which bears the signature of accused-appellant Llapitan shows that he received the same on November 4, 2008. The letter is hereunder reproduced:

J

PH. K.

Republic of the Philippines  
**COMMISSION ON AUDIT**  
 Team II, Cluster I-Executive and Oversight  
 National Government Sector  
 NEDA Regional Office No. 02  
 Tuguegarao City

October 19, 2008

**Mr. Ferdinand P. Llapitan**  
 Cashier I  
 Professional Regulation Commission  
 Regional Field Office No. 02  
 Starlight Bldg., Washington corner Taft Streets  
 Tuguegarao City

Sir:

This is to inform you that in the examination of your cash and accounts as Cashier I of Professional Regulation Commission, Regional Field Office No. 02, Tuguegarao City on January 7, 2008 it was found that your cash was short by P17,139,108.80. This shortage was arrived at as follows:


	<u>Collections</u>	<u>Total</u>
<b>Accountability:</b>		
Balance as established and verified by us as of January 7, 2008	17,139,108.80	17,139,108.80
<b>Credits to Accountability:</b>		
Cash produced by you and counted by us	0.00	0.00
<b>Shortage</b>	<b>17,139,108.80</b>	<b>17,139,108.80</b>

In view of this, demand is hereby made of you to produce immediately the missing funds stated above. Also, please submit to us, within seventy-two (72) hours, a written explanation why this shortage occurred.

Very truly yours,

*Carmen O. Gamatero*  
**CARMEN O. GAMATERO**  
 Audit Team Leader

Original Received:

  
**FERDINAND P. LLAPITAN**  
 (Accountable Officer)  
 11/04/08

OFFICE OF THE DEPUTY COMMISSIONER  
 CERTIFIED TRUE PHOTO COPY OF ORIGINAL  
 DESPERADO  
 11/04/08

*[Handwritten signatures]*

People v. Ferdinand P. Llapitan  
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- 3. Accused-appellant Llapitan's letter dated November 10, 2008,<sup>76</sup> in response to COA's demand letter dated October 19, 2008.

In the said letter, without expressly admitting such shortage of funds, accused-appellant Llapitan acknowledged he was not able to settle his shortage within the period given and asked for time to "settle all my (his) compliance to the letter" with the help of his brother and a financier who were allegedly "very willing to cover my (his) shortage." The letter is hereunder reproduced:

Republic of the Philippines  
**PROFESSIONAL REGULATION COMMISSION**  
 Regional Field Office No. 02  
 Tuguegarao City

November 10, 2008

**MS. CARMEN O. GAMATERO** ✓  
 Audit Team Leader  
 Team II, Cluster I - Executive and Oversight  
 National Government Sector  
 Commission On Audit  
 Tuguegarao City

*EXH. L*  
*we lde*  
*11-11-08*  
*ery*

MADAM:

In compliance to your letter dated October 19, 2008 received by me dated November 04, 2008, I wish to acknowledge with full regrets that to no avail because of time constraint, I was not able to settle within the hours prescribed by your office with regards the remittance of my shortage

However, with much understanding and appreciation as to full disclosure of all my accountabilities as Cashier I of this office, I do adhere to strictly follow the prescribed accounting and auditing rules and regulations regarding my shortcomings to complete the soonest what has been stated upon. To these, may I request from your good office to extend an ample time until this week to settle all my compliance to the letter as it is indispensable to accomplish right now due to voluminous bank transactions albeit with reference to my financier

Also, I am now in direct contact to my financier whom I humbly seek assistance and support and very willing to cover my shortage with the help of my brother, Mr. Rogelio P. Llapitan Jr. to wit:

MS. THERESITA MONTELIBANO LOPEZ  
 #90 Burgos Street, Pamplona  
 Las Piñas City  
 CP# - 09297083412

--- a close ally of---

MR. HENRY SY  
 Owner  
 SM City Mall Inc  
 Metro Manila

For your reference and information, you may contact them at your most convenient time

Hope this will merit your kind and favorable attention

Thank you very much

Very Truly yours,

*[Signature]*  
**FERDINAND P. LLAPITAN**  
 Cashier I  
 [Stamp]

*[Handwritten signatures]*

<sup>76</sup> Exhibit L; Records, Vol. 1, p. 72.

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SB-20-A/R-0001

On the other hand, accused-appellant Llapitan admitted that he was the only cashier of PRC RO2 from 1998 until February 2008. This means he alone was in charge of the collection and custody of fees on behalf or PRC RO2.

Hence, this Court agrees with the RTC's conclusion that the prosecution evidence established, at the very least, a *prima facie* case for malversation against accused-appellant Llapitan. The Court also agrees that accused-appellant Llapitan's denial, through his testimonial evidence, and the paucity of any documentary evidence from the defense to justify the shortage, or to impugn the integrity and credibility of the *Report* of the Special Audit Team, lead one to the conclusion that accused-appellant Llapitan misappropriated the subject funds. The RTC's ratiocination, is hereunder quoted:

Exhibit "K" indubitably shows that demand was made upon the accused by the Audit Team Leader, Ms. Carmen O. Gamatero. This demand letter dated 19 October 2008 was received by the accused on 04 November 2008 as shown by the entry below his signature as 11/04/08. The COA already demanded the production of the amount of P17,139,108.80 which was the shortage. In reply to the demand letter, the accused wrote Ms. Gamatero a letter dated 10 November 2008 (Exhibit "L") informing her of his willingness to pay his accountabilities.

The Statement of Accountability with an effective date of 16 March 2007<sup>77</sup> (Exhibit "F") which the accused conformed to stated:

Nature of Funds		General Fund	
Balance, Last Examination	Collections (101)	(102)	Total
October 29, 2002 (date)	46,030.10		46,030.10
Add: Debits to Accountability			
Jan. 1 to Dec. 31, 2002	2,367,032.23 <sup>78</sup>		2,367,032.23
Jan. 1 to Dec. 31, 2003	12,283,830.93		12,283,830.93
Jan. 1 to Dec. 31, 2004	7,347,902.99		7,347,902.99
Jan. 1 to Dec. 31, 2005	11,648,909.03		11,648,909.03
Jan. 1 to Dec. 31, 2006	10,922,590.42		10,922,590.42
Jan. 1 to Dec. 31, 2007	10,494,323.74		10,494,323.74
Jan. 1 - 4, 2008	800,733.00		800,733.00
Duly receipted but unreported Collections -			
CY 2006	4,391,163.00		4,391,163.00
CY 2007	11,301,652.37		11,301,652.37
Total Debits to Accountability	71,604,167.81		71,604,167.81
Less: Credits to Accountability			
Oct. 30 to Dec. 31, 2002	2,343,416.00		2,343,416.00
Jan. 1 to Dec. 31, 2003	12,321,551.23		12,321,551.23

<sup>77</sup> This date refers to the date of the Fidelity Bond. The date of the *Statement of Accountability* and of the *Report on Cash Examination* is January 7, 2008.

<sup>78</sup> Should read as 2,367,032.23

People v. Ferdinand P. Llapitan  
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Jan. 1 to Dec. 31, 2004	7,363,939.93		7,363,939.93
Jan. 1 to Dec. 31, 2005	11,674,472.82		11,674,472.82
Jan. 1 to Dec. 31, 2006	10,825,970.22		10,825,970.22
Jan. 1 to Dec. 31, 2007	9,841,997.81		9,841,997.81
Jan. 1 - 4, 2008	93,711.00		93,711.00
Total Credits to Accountability	54,465,059.01		54,465,059.01
Balance of Accountability as of January 7, 2008	17,139,108.80		17,139,108.80
Inventory of Cash and/or Allowed cash items			
Shortage or (Overcharge)	17,139,108.80		17,139,108.80

This *Statement of Accountability* was prepared<sup>79</sup> and signed by the accused Ferdinand P. Llapitan as Cashier 1 of PRC-R02, Tuguegarao City (Exhibit "F-1").

As stated earlier, the COA represented by the Audit Team Leader, Carmen O. Gatamero wrote a letter to the accused (Exhibit "K") demanding the immediate production of the missing funds and a written explanation why the shortage was (*sic*) occurred.

In reply to the demand, the accused wrote Ms. Gamatero a letter (Exhibit "L") dated 10 November 2008 which reads in part:

"In compliance to your letter dated October 19, 2008 received by me dated November 04, 2008, I wish to acknowledge with full regrets that to no avail because of time constraint, I was not able to settle within the hours prescribed by your office with regards the remittance of my shortage.

However, with much undertaing (*sic*) and appreciation as to full disclosure of all my accountabilities as Cashier 1 of this office, I do adhere to strictly follow the prescribed accounting and auditing rules and regulations regarding my shortcomings to comply the soonest what has been stated upon. To these, may I request from your good office to extend an ample time until this week to settle all my compliance to the letter as it is indispensable to accomplish right now due to voluminous bank transactions albeit with reference to my financier.

Also, I am now in direct contact to my financier whom I humbly seek assistance and support and very willing to cover by (*sic*) shortage with the help of my brother, Mr. Rogelio P. Llapitan, Jr., to wit:

Ms. Theresita Montelibano Lopez  
90 Burgos Street, Pamplona  
Las Pinas City  
CP# 09297083412

A close ally of -

Mr. Henry Sy  
Owner

<sup>79</sup> Actually, the Report was prepared by the COA Audit Team, and was confirmed by accused-appellant Llapitan.

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SM City Mall, Inc.  
Metro Manila<sup>7</sup>

Against this backdrop, all that the accused could give as his defense was a general denial. Furthermore, despite repeated demands for him to file his counter-affidavit, the accused failed to submit any to the Office of the Deputy Ombudsman for Luzon nor to this Court.

In an attempt to cast a cloud of doubt over the audit, the accused declared:

- Q. And Mr. Witness, during the special audit, the auditors from the COA allegedly discovered shortages on your account, what can you say?
- A. I am not aware of that, sir, because I was not present during the entire course of the special audit.

(TSN dated 02 September 2019, p. 5)

This is not the clear and convincing evidence that the law requires to overturn a *prima facie* evidence.<sup>80</sup>

Clearly, accused-appellant Llapitan's failure to account for the missing or unremitted funds, and his failure to offer a justifiable explanation for such shortage, despite the demand made by COA, gives rise to a *prima facie* presumption that he appropriated the subject funds. His failure to overturn the presumption will lead to his conviction.

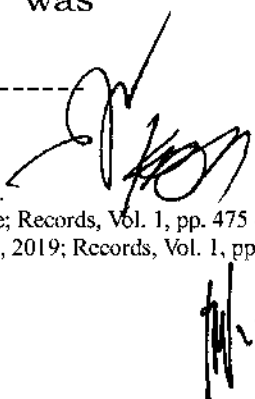
In his *Appellant's Brief*, appellant reiterated the arguments he raised in his *Demurrer to Evidence*<sup>81</sup> and his *Motion for Reconsideration*<sup>82</sup> filed before the RTC. Essentially, accused-appellant Llapitan's defenses consisted of: a) His claim that the amount of shortage was not sufficiently established; b) His denial of authorship of the *Statement of Accountability*; c) His denial of his signature acknowledging receipt of the *Demand Letter* dated October 19, 2008; d) His denial of his signature in the letter dated November 10, 2008; and, e) His claim that he was denied of his right to due process during the special audit.

Amount malversed or  
misappropriated was  
established by evidence.

<sup>80</sup> Judgment dated November 29, 2019, pp. 8 - 11.

<sup>81</sup> Dated December 9, 2019 and filed on even date; Records, Vol. 1, pp. 475 - 491

<sup>82</sup> Dated February 25, 2019, and filed on March 1, 2019; Records, Vol. 1, pp. 432 - 435



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In support of his claim that the amount of the shortage of Php17,139,108.80 was not established by sufficient evidence,<sup>83</sup> accused-appellant Llapitan argues:

- a. He did not prepare the *Statement of Accountability*.<sup>84</sup>
- b. The trial court only relied on the *Statement of Accountability* in its determination of a shortage. The documents showing the detailed manner by which the shortage resulted was not presented in evidence.<sup>85</sup>

A bank reconciliation in the cash examination was not done and a bank statement was not presented.<sup>86</sup> The *Statement of Accountability and Report on Cash Examination* relied upon by the trial court only shows the shortage or overcharge. The other accountable forms, namely, the deposit slips, cash book, book balance and bank balance were not adduced in evidence.<sup>87</sup>

Prosecution witness Baccay admitted that the official receipts, deposit slips and all reports of collections were submitted to PRC Manila.<sup>88</sup>

COA examines the same documents in the conduct of both regular and special audits. However, some documents were not examined during the regular audit because the same were submitted directly to the central office.<sup>89</sup>

- c. The auditors only conducted a cash examination during the special audit. Prior to the special audit, the auditors merely conducted a verification of the copy of the collection reports submitted to them.<sup>90</sup>
- d. There was no explanation on how the auditors arrived at the total accountability of accused in the amount of PhP71,604,167.81. The COA did not explain to him how they arrived at the

<sup>83</sup> Appellant's Brief dated October 8, 2020, p. 7; Records, Volume 1, p. 80.

<sup>84</sup> Appellant's Brief, pp. 5 - 6

<sup>85</sup> Appellant's Brief dated October 8, 2020, p. 5; Records, Volume 1, p. 78.

<sup>86</sup> Appellant's Brief dated October 8, 2020, p. 5; Records, Volume 1, p. 78.

<sup>87</sup> Appellant's Brief, pp. 5 and 11

<sup>88</sup> Appellant's Brief dated October 8, 2020, p. 8; Records, Volume 1, p. 81.

<sup>89</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 93.

<sup>90</sup> Appellant's Brief dated October 8, 2020, p. 8; Records, Volume 1, p. 82.

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amount of P17,139,108.80, appearing on the *Report of Cash Examination*.<sup>91</sup>

There was no basis for the unrecorded and unreported collections, allegedly amounting to P15,692,815.37. They had no basis because to begin with, there is no evidence that it was collected and remitted. There was no record or report on said collections.<sup>92</sup>

Accused-appellant Llapitan's contentions are without merit.

First. This Court accords the presumption of regularity to the *reports* and the *demand letter* prepared by the COA Special Audit Team. The Court sees no reason why the COA Special Audit Team will falsify documents and forge signatures to wrongly incriminate accused-appellant Llapitan. The records are bereft of any indication of any such ill motive.

Second. Section 83 of *Presidential Decree No. 1445*<sup>93</sup> provides that the working papers of the auditor concerned shall be *prima facie* evidence of the misappropriation of the funds or property unaccounted for or of civil liability of the officer. Thus:

SECTION 83. Transcript of auditor's record as evidence of liability. — In any criminal or civil proceeding against an officer for the embezzlement or misappropriation of government funds or property, or to recover an amount due the government from an accountable officer it shall be sufficient, for the purpose of showing a balance against him, to produce the working papers of the auditor concerned. A showing in this manner of any balance against the officer shall be prima facie evidence of the misappropriation of the funds or property unaccounted for or of civil liability of the officer as the case may be. The existence or contents of bonds, contracts, or other papers relating to or connected with the settlement of any account may be proved by the production of certified copies thereof but the court may require

<sup>91</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p.87, 91.

<sup>92</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, pp. 91 - 92.

<sup>93</sup> *Government Auditing Code of the Philippines*.



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the production of the original when this appears to be necessary for the attainment of justice.

In *Alcaria, Jr. v. People, G.R. No. 193735 (Notice), [March 23, 2015]*, a case involving a violation of Section 3(e) of R.A. No. 3019, the *Audit Observation Memorandum* and the *Audit Report* were deemed sufficient to establish the shortage of the accused-appellant therein. The Supreme Court declared therein:

We find Sections 82 and 83 of Presidential Decree No. 1445 insightful in this instance and quoted them in full as follows:

SECTION 82. *Auditor's notice to accountable officer of balance shown upon settlement.* — The auditor concerned shall, at convenient intervals, send a written notice under a certificate of settlement to each officer whose accounts have been audited and settled in whole or in part by him, stating the balances found due thereon and certified, and the charges or differences arising from the settlement by reason of disallowances, charges, or suspensions. The certificate shall be properly itemized and shall state the reasons for disallowance, charge, or suspension of credit. A charge of suspension which is not satisfactorily explained within ninety days after receipt of the certificate or notice by the accountable officer concerned shall become a disallowance, unless the Commission or auditor concerned shall, in writing and for good cause shown, extend the time for answer beyond ninety days.

SECTION 83. *Transcript of auditor's record as evidence of liability.* — **In any criminal or civil proceeding against an officer for the embezzlement or misappropriation of government funds or property, or to recover an amount due the government from an accountable officer it shall be sufficient, for the purpose of showing a balance against him, to produce the working papers of the auditor concerned. A showing in this manner of any balance against the officer shall be prima facie evidence of the misappropriation of the funds or property unaccounted for or of civil liability of the officer as the case may be.** The existence or contents of bonds, contracts, or other papers relating to or connected with the settlement of any account may be proved by the production of certified copies thereof but the court may require the production of the original when this appears to be necessary for the attainment of justice.

The pieces of evidence for the prosecution include Exhibit "E" or the Audit Observation Memorandum dated 14 January 1998. It inquired from petitioner about his degree of compliance and/or reasons or justifications for his noncompliance with audit recommendations of the 1996 *Annual Audit Report*. In the space for Comments/Actions Taken the following was written:

The image shows two handwritten signatures or initials in black ink. The first is a large, stylized signature, and the second is a smaller set of initials, possibly 'MLV'.

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The municipal treasurer is now starting communicating (*sic*) the previous treasurer to turn over the certificate of settlement.

Whereas, other disallowances has (*sic*) been slowly settled to reflect it (*sic*) with the next financial reports.

The explanations were, however, found unsatisfactory. Hence, Exhibit "A" or the Audit Report dated 26 February 1999 and Exhibit "B" or the follow-up Audit Report dated 16 March 1999 were issued. Exhibit "A" contains the disallowances issued from 1 October 1994 to 31 March 1998, while Exhibit "B" contains the disallowances from April 1988 to 30 September 1994.

xxx xxx xxx

COA Circular No. 97-002 mandates that all cash advances shall be fully liquidated at the end of each year. No liquidation documents were offered to rebut the prima facie evidence against petitioner. Indeed, as of the date of the auditor's testimony, petitioner had not settled the CSBs.

Third. The *Affidavit*<sup>94</sup> of the members of the Special Audit Team, which was adopted by the prosecution as part of the direct examination of prosecution witness Aida Baccay<sup>95</sup> described the procedure undertaken by the Special Audit Team in their conduct of the audit. The pertinent portions of the *Affidavit* reads:

1. In compliance with the request of Mr. Rodrigo F. Balaqui, Jr., PhD, officer-in-charge, Professional Regulation Commission (PRC) dated December 20, 2007, a cash examination was conducted on the cash and accounts of Mr. Ferdinand P. Llapitan, Cashier 1 of PRC Tuguegarao City Office covering the period October 30, 2002 to January 3, 2008. The audit was made on January 7, 2008.

xxx

3. To establish the total money accountability of Mr. Llapitan as Cashier 1, we have availed and made use of all available financial records in his office;
4. After collating the total collections of the accountable officer covering the aforementioned period October 30, 2002 to January 3, 2008, the audit team was able to establish a total collection of P71,558,137.71. The Schedule of Collections

<sup>94</sup> *Affidavit* dated December 9, 2008, Records, Vol. 1, pp. 19 - 23.

<sup>95</sup> ISN dated March 6, 2018, p. 4

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from October 30, 2002 to January 3, 2008 is marked xxx;

5. It was discovered that from this total collections of P71,558,137.71, the amount of P55,865,322.34 were duly acknowledged by Official Receipts (AF 51) and reported to the PRC Central Office, while the remaining amount of P15,692,815.37, as shown in the Schedule of Unrecorded, Unreported and Unreported Collections for CYs 2006 and 2007 x x collected under the following series of Official Receipts:

OR Nos. 6426001 to 6435000	P5,527,851.77
OR Nos. 5911501 to 5919000	P5,773,800.60
OR Nos. 5820001 to 5825000	P5,568,660.00
OR Nos. 5893551 to 5894550	P824,503.00
Total	<b>P15,692,815.37</b>

were not recorded and reported by Mr. Ferdinand Llapitan. The Audit Team had to prepare the schedule of collections for the subject receipts in order to arrive at the total amount of collections from these Official Receipts. Said Official Receipts were requisitioned in 2006 and were issued in 2006 and 2007. This unrecorded and unreported collections were not deposited to the Land Bank of the Philippines, Tuguegarao City Branch, for the account of the Bureau of the Treasury.

6. Verification also disclosed that Mr. Llapitan has a cashbook balance of P46,030.10 as of October 29, 2002, the last cash examination date thereby bringing the total debits to his accountability to P71,604,167.81. xxx;
7. We requested the Land Bank of the Philippines, Tuguegarao City Branch to confirm the remittances made by Mr. Ferdinand P. Llapitan for the period under audit which we attached to our letters dated July 29, 2008 and October 15, 2008, xxx;
8. In the letter of Ms. Eulalie B. Taguiam-Fausto, Assistant Vice President, Landbank of the Philippines, Tuguegarao City Branch, Tuguegarao City, dated October 16, 2008 x x x, she informed that the remittances were in order, except for the following:

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Per Confirmation Letter	Per Records on File
LC # 06-208 C dated 10.31.06	Should be P23,892.27 was reflected as P23,862.00
Only 1 deposit (P9,000) was reflected for August 29, 2007 transaction	Additional transaction of P6,565.00
LC # 194A (P9,000) dated 10.17.06 was reflected as 10.16.07 transaction	Should be: 10.17.07 transaction
LC # 08-001 (P23,948) dated 1.2.08 was reflected as 1.3.08 transaction	Should be 1.2.08 transaction

9. Taking into account the reply of Ms. Fausto x x x on our request for confirmation, we prepared a Schedule of Remittances for the period October 30, 2002 up to January 3, 2008, x x x, which shows a total remittance in the amount of P54,456,059.01 deposited by Mr. Llapitan during the stated period. This leaves an undeposited collection in the total amount of P17,139,108.80. Since Mr. Llapitan did not present any cash or allowable cash items during the cash count on January 7, 2008, the said undeposited collections of P17,139,108.80 represents his cash shortage;

10. In our Analysis of Collections and Deposits, xxx, the cash shortage came from the following transactions:

Unrecorded and unreported Collections	
2006	P 4,391,163.00
2007	11, 301,652.37
Sub-total	<b>15,692,815.37</b>
Reported and Recorded but undeposited Collections	
2007	739,271.43
2008 (January 2-3)	707,022.00
Sub-total	<b>1,446,293.43</b>
<b>Grand Total</b>	<b>17,139,108.80</b>

As can be confirmed from the Reports reproduced above,<sup>96</sup> i.e., a) *Schedule of Collections from October 30, 2002 to January 3, 2008* (Exhibit D) b) *Schedule of Unrecorded, Unreported and Unremitted Collections for CYs 2006 and 2007* (Exhibit E); c) *Schedule of Remittances for the period October 30, 2002 to January 3, 2008* (Exhibit I); and, d) *Analysis of Collections and Deposits* (Exhibit J), the said reports, prepared by the Special Audit Team, are replete with details and made references to specific documents that they examined and from which they

<sup>96</sup> *Infra*, pp. 13 - 27

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lifted their data. Said reports are sufficient under, Section 83 of *PD No. 1445*, to establish a *prima facie* case that accused-appellant Llapitan malversed or appropriated the subject Php17,139,109.80.

The burden to overturn the *prima facie* case, by establishing the errors in, or proving the falsity of, the *Reports*, and by showing that there was no such shortage in the amount of Php17,139,109.80 has been shifted to accused-appellant Llapitan. But he failed to present any evidence to show that the Special Audit Team's report was erroneous, inaccurate or was without basis.

Other than his testimony denying authorship of the *Statement of Accountability*, and his arguments pointing to the prosecution's alleged failure to present all transactional documents before the RTC, accused-appellant Llapitan did not present any evidence or any logical explanation to demonstrate that the COA erred in its conclusion that there was a discrepancy between his collections and remittances from October 30, 2002 to January 3, 2008 resulting to a shortage in the amount of Php17,139,109.80.

A valid demand was made upon accused-appellant Llapitan.

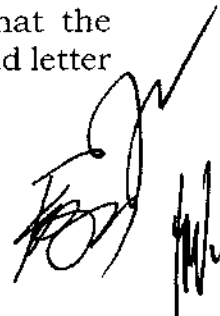
In support of his claim that that the prosecution failed to prove that demand was made upon him, and that the evidence failed to establish that he admitted to the shortage, accused-appellant Llapitan argues:

- a. The demand letter dated October 19, 2008 was signed by Carmen Gamatero. She passed away and was not able to identify her signature in the demand letter. <sup>97</sup>
- b. There is no evidence to prove that accused-appellant Llapitan himself received the demand letter. <sup>98</sup>
- c. There is no evidence to prove that the signature appearing on the demand letter

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<sup>97</sup> Appellant's Brief dated October 8, 2020, p. 11; Records, Volume 1, p. 84.

<sup>98</sup> Appellant's Brief dated October 8, 2020, p. 11; Records, Volume 1, p. 84.



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above the name Ferdinand Llapitan is his. Prosecution witness Baccay merely testified that the signature is the same as those in the other documents, but did not specify the documents.<sup>99</sup>

- d. He did not sign the demand letter and the *Report of Cash Examination*.<sup>100</sup>
- e. Exhibit L is inadmissible in evidence. He was under preventive suspension when he signed the blank forms.<sup>101</sup>

Auditor Gamatero went to his residence sometime in April and asked him to sign blank forms and the letter (Exhibit L), without affording him his constitutional right to be assisted by counsel and to be informed that the same may be used against him.<sup>102</sup> He disavows the admissions made in the letter.<sup>103</sup>

There was no testimony to show that he gave the letter<sup>104</sup> dated November 10, 2008.<sup>105</sup>

It must be emphasized that the COA Auditors, who had the authority, demanded the production of the shortage and an explanation for the shortage. But accused-appellant Llapitan failed to comply with both directives.

The letter dated November 10, 2008<sup>106</sup> of accused-appellant Llapitan in response to the demand letter dated October 19, 2008 indubitably proves that he received the said demand letter. While accused-appellant Llapitan claims that the letter dated November 10, 2008 was falsified after he was made to sign several blank forms, and alternately claims that his signature thereon was forged, he did not present any evidence to prove the alleged falsification or forgery.

This Court finds no reason to believe accused-appellant Llapitan's allegation that the COA Special Audit Team falsified the letter dated November 10, 2008 and forged his signatures

<sup>99</sup> Appellant's Brief dated October 8, 2020, p. 11; Records, Volume 1, p. 84.

<sup>100</sup> Appellant's Brief dated October 8, 2020, p. 12; Records, Volume 1, p. 85.

<sup>101</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 86.

<sup>102</sup> Appellant's Brief dated October 8, 2020, p. 12; Records, Volume 1, p. 85.

<sup>103</sup> Appellant's Brief, pp. 12 – 13.

<sup>104</sup> Exhibit L

<sup>105</sup> Appellant's Brief, p. 5

<sup>106</sup> Exhibit L

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thereon, on the *Statement of Accountability* and the demand letter just to make it appear that he admitted to the shortage and that he promised to pay the same.

It is settled that denial is inherently a weak defense. To be believed, it must be buttressed by a strong evidence of non-culpability; otherwise, such denial is purely self-serving and is with nil evidentiary value.<sup>107</sup>

Further, in *Requina v. Erasmo*,<sup>108</sup> the Supreme Court held:

x x x. *The Heirs of Peter Donton v. Stier and Maggay* laid down the rules on establishing forgery, viz.:

**Furthermore, forgery, as a rule, cannot be presumed and must be proved by clear, positive[,] and convincing evidence and the burden of proof lies on the party alleging forgery – in this case, petitioners. The fact of forgery can only be established by a comparison between the alleged forged signature and the authentic and genuine signature of the person whose signature is theorized to have been forged. Pertinently, Section 22, Rule 132 of the Revised Rules of Court provides:**

**Section 22.** How genuineness of handwriting proved. – The handwriting of a person may be proved by any witness who believes it to be the handwriting of such person because he has seen the person write, or has seen writing purporting to be his upon which the witness has acted or been charged, and has thus acquired knowledge of the handwriting of such person. **Evidence respecting the handwriting may also be given by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge.**

Here, other than accused-appellant Llapitan's uncorroborated testimony disowning the signatures, no evidence was presented to establish forgery. There is, likewise, no credible evidence of the alleged falsification.

Accused-appellant Llapitan was not denied his right to due process

Finally, in support of his claim that he was denied of his right to due process, accused-appellant Llapitan argues:

<sup>107</sup> *Re: (1) Lost Checks Issued to the Late Roderick Roy P. Melliza; and (2) Dropping from the Rolls of Ms. Esther T. Andres, A.M. No. 2005-26-SC, November 22, 2006, 537 PHIL 634-655*

<sup>108</sup> G.R. No. 221049, December 7, 2022

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- a. He was not present during the conduct of the special audit.

He was immediately asked to move away from his cubicle; he was ordered to go to the kitchen, and he stayed there for 3 days. On the fourth day, he was ordered to stay at the entrance of the PRC. He stayed there for at least 2 weeks. On the third week, he was placed in the confidential room.<sup>109</sup>

He was placed under preventive suspension and was not allowed to enter his office.<sup>110</sup>

Auditor Gamatero told him to bring the official receipts from PRC to the National Statistics Office. He asked the driver on call to do the same because he was under preventive suspension.<sup>111</sup>

- b. Other than giving the *Reports of Collection*, he had no participation in the audit.<sup>112</sup>
- c. He was not given an opportunity to explain.<sup>113</sup>

He regularly submits a collection report. Semestral audits were consistently conducted. Also, under the *Revised Manual on Cash Examination*, a cash examination is conducted at least twice year.<sup>114</sup> There was no prior report of a deficit that would have prompted Dr. Balaqui to file a formal request for a special audit.<sup>115</sup>

There is no evidence of the formal request of Director Balaqui for the COA to conduct a special audit.<sup>116</sup>

- d. His service record was changed when he was under investigation.<sup>117</sup>

Accused-appellant Llapitan fails to point to any law or rule that requires a person accountable to be physically present while the audit is being conducted. Further, the laws allow the preventive suspension of a person suspected of a wrongdoing precisely to allow the investigators to conduct its

<sup>109</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, pp. 86 - 87.

<sup>110</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 87.

<sup>111</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 87.

<sup>112</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 91.

<sup>113</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 87.

<sup>114</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 90.

<sup>115</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 89.

<sup>116</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 88.

<sup>117</sup> Appellant's Brief dated October 8, 2020, p. 13; Records, Volume 1, p. 88.



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investigation or audit freely, and without giving the subject of the investigation any opportunity to tamper with the evidence, or to influence potential witnesses. Specifically, Section 25, Rule 7, of Civil Service Commission (CSC) *Resolution No. 1101502* provides:

Section 25. Preventive Suspension, Nature. Preventive Suspension is not a penalty. It is designed merely as a measure of precaution so that the official or employee charged may be removed from the scene of his or alleged misfeasance/ malfeasance/nonfeasance while the same is being investigated.

Besides, as previously discussed, the a) *Schedule of Collections from October 30, 2002 to January 3, 2008* (Exhibit D) b) *Schedule of Unrecorded, Unreported and Unremitted Collections for CYs 2006 and 2007* (Exhibit E); c) *Schedule of Remittances for the period October 30, 2002 to January 3, 2008* (Exhibit I); and, d) *Analysis of Collections and Deposits* (Exhibit J) made reference to specific documents, and accused-appellant Llapitan could have easily refuted the accuracy of the reports if he is convinced that the references, interpretation or analysis made thereon were wrong.

Verily, accused-appellant Llapitan failed to present competent and credible evidence to sufficiently explain the shortage in the amount of P17,139,108.80, and to overturn the *prima facie* presumption that he appropriated and malversed the subject amount. The verdict of conviction is, thus, warranted.

### **Penalty**

The RTC, applying *Republic Act. No. 10951*,<sup>118</sup> imposed the following penalties:

- a. *Reclusion Perpetua*; and,
- b. Perpetual disqualification from holding public Office.

The RTC also directed accused-appellant Llapitan to retribute to the government the amount malversed, or Php17,139,108.80.

<sup>118</sup> *An Act Adjusting the Amount of the Value of Property and Damage on Which a Penalty is Based and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as "The Revised Penal Code," as Amended.* Signed by the President on August 29, 2017. Published in the Official Gazette, Vol. 113, No. 37, p. 6767 on September 11, 2017.

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The RTC erroneously applied R.A. No. 10951 and, therefore, erroneously imposed the penalty of *reclusion perpetua*. Further, the RTC erred in not imposing a fine.

The acts constituting the offense were committed sometime in 2002 to 2008. At that time, the maximum penalty imposable for *Malversation* under Article 217 of the *Revised Penal Code* was *Reclusion Temporal* in its maximum period to *Reclusion Perpetua*.

In 2017, R.A. No. 10951 was enacted amending, among others, Article 217 of the *Revised Penal Code* by increasing the thresholds of the amounts malversed. It also added the straight penalty of *Reclusion Perpetua*, as the maximum imposable penalty. The penalties under Article 217 of the *Revised Penal Code*, prior to and after the enactment of R.A. No. 10951, are shown below:

Article 217 of the Revised Penal Code, as amended by R.A. No. 1060	Article 217 of the Revised Penal Code, as amended by R.A. No. 10951
<p>Art. 217. Malversation of public funds or property.— Presumption of malversation. — x x x</p> <ol style="list-style-type: none"> <li>1. The penalty of <i>prision correccional</i> in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed two hundred pesos.</li> <li>2. The penalty of <i>prision mayor</i> in its minimum and medium periods, if the amount involved is more than two hundred pesos but does not exceed six thousand pesos.</li> <li>3. The penalty of <i>prision mayor</i> in its maximum period to <i>reclusion temporal</i> in its minimum period, if the amount involved is more than six thousand pesos but is less than twelve thousand pesos.</li> <li>4. The penalty of <i>reclusion temporal</i> in its medium and maximum periods,</li> </ol>	<p>Art. 217. <i>Malversation of public funds or property.— Presumption of malversation.—</i> x x x</p> <ol style="list-style-type: none"> <li>1. The penalty of <i>prision correccional</i> in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed Forty thousand pesos (P40,000).</li> <li>2. The penalty of <i>prision mayor</i> in its minimum and medium periods, if the amount involved is more than Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000).</li> <li>3. The penalty of <i>prision mayor</i> in its maximum period to <i>reclusion temporal</i> in its minimum period, if the amount involved is more than One Million Two Hundred Thousand Pesos (P1,200,000) but does not exceed Two million four hundred thousand pesos (P2,400,000).</li> <li>4. The penalty of <i>reclusion temporal</i>, in its medium and maximum</li> </ol>

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<p>if the amount involved is more than twelve thousand pesos but is less than <u>twenty-two thousand pesos</u>. <b>If the amount exceeds the latter, the penalty shall be <u>reclusion temporal in its maximum period to reclusion perpetua</u>.</b></p> <p>In all cases, persons guilty of malversation shall also suffer the <u>penalty of perpetual special disqualification</u> and a <u>fine equal to the amount of the funds malversed</u> or equal to the total value of the property embezzled.</p> <p>The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal use. (As amended by R.A. No. 1060)</p>	<p>periods, if the amount involved is more than Two Million Four Hundred Thousand Pesos (P2,400,000) but does not exceed Four million four hundred thousand pesos (P4,400,000).</p> <p>5. The penalty of <i>reclusion temporal</i> in its maximum period, if the amount involved is more than Four Million Four Hundred Thousand Pesos (P4,400,000) but does not exceed <u>Eight million eight hundred thousand pesos (P8,800,000)</u>. <b>If the amount exceeds the latter, the penalty shall be <u>reclusion perpetua</u>.</b></p> <p>In all cases, persons guilty of malversation shall also suffer the <u>penalty of perpetual special disqualification</u> and a <u>fine equal to the amount of the funds malversed</u> or equal to the total value of the property embezzled.</p> <p>The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses.</p>
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Since the amount malversed by accused-appellant Llapitan is PhP17,139,108.80, the maximum penalty provided under Article 217 is imposable.

In *Candao v. People*,<sup>119</sup> a case involving for *malversation*, the Supreme Court clarified how the penalty of *reclusion temporal* in its maximum period to *reclusion perpetua* is to be fixed. *Viz:*

However, the suggestion of our esteemed colleague, Justice Lucas P. Bersamin to correct the *maximum* of the indeterminate sentence, which our decision erroneously fixed at 17 years and 4 months of *reclusion temporal* medium, is well-taken. Justice Bersamin explained the matter as follows:

<sup>119</sup> G.R. No. 186659-710 (Resolution), February 1, 2012



The penalty of imprisonment prescribed for malversation when the amount involved exceeds P22,000.00 is **reclusion temporal in its maximum period to reclusion perpetua**. Such penalty is *not composed* of three periods. Pursuant to Article 65 of the *Revised Penal Code*, when the penalty prescribed by law is not composed of three periods, the court shall apply the rules contained in the articles of the *Revised Penal Code* preceding Article 65, dividing into three equal portions of time included in the penalty prescribed, and forming one period of each of the three portions. Accordingly, reclusion perpetua being indivisible, is at once the maximum period, while reclusion temporal in its maximum period is divided into two to determine the medium and minimum periods of the penalty.

Conformably with Article 65, therefore, the periods of **reclusion temporal in its maximum period to reclusion perpetua** are the following:

- *Minimum period* — **17 years, 4 months, and 1 day to 18 years, 8 months;**
- *Medium period* — **18 years, 8 months, and 1 day to 20 years;**
- *Maximum period* — **Reclusion perpetua**

To be sure, it must be emphasized that the maximum penalties under Article 217, prior to (*reclusion temporal in its maximum period to reclusion perpetua*), and subsequent to (*reclusion perpetua*) its amendment by R.A. No. 10951, are not the same. The latter is the graver and more onerous penalty, as shown in the succeeding discussion.

First, *reclusion perpetua* is not divisible; it will be imposed in its entirety, regardless of the presence of any mitigating or aggravating circumstance.<sup>120</sup> Second, as a consequence, the accused will not enjoy the benefits afforded by the *Indeterminate Sentence Law*.<sup>121</sup> Third, he will lose the right to be admitted on bail while on appeal, just as accused-appellant Llapitan was

<sup>120</sup> Article 63, *Revised Penal Code*.

<sup>121</sup> Please see *People v. Ramos*, G.R. No. 136398, November 23, 2000

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committed to the Cagayan Provincial Jail immediately after *Judgment* was promulgated in the present case.

Sec. 100 of R.A. No. 10951, which provides for the retroactive effect of the said law, reads:

**Sec. 100. *Retroactive Effect.*** – This Act shall have retroactive effect to the extent that it is favorable to the accused or person serving sentence by final judgment.

As shown above, the amendment effected by R.A. No. 10951 is not favorable to accused-appellant Llapitan. Hence, it must not be applied retroactively. The imposition of the penalty of *reclusion perpetua* is, thus, improper. The penalty under Article 217 of the *Revised Penal Code* prior to its amendment by R.A. No. 10951 shall apply.

Accused-appellant Llapitan is entitled to the mitigating circumstance of voluntary surrender.<sup>122</sup> He voluntarily appeared before RTC, Branch 5, in Tuguegarao City and posted the necessary bail for his provisional liberty<sup>123</sup> even before he was arrested. Hence, the imposable penalty is in the minimum period, or from 17 years, 4 months and 1 day to 18 years and 8 months of *reclusion temporal*. Applying the *Indeterminate Sentence Law*,<sup>124</sup> the minimum of the indeterminate sentence of accused-appellant Llapitan shall be within the range of 10 years and 1 day of *prision mayor*, to 17 years and 4 months of *reclusion temporal*.

#### Penalty of Fine

Article 217 of the *Revised Penal Code*, by using the word *shall*, mandates the imposition of a fine equivalent to the amount malversed. Hence, accused-appellant Llapitan shall also be meted the penalty of fine in the amount of Php17,139,108.80.

To summarize, the RTC correctly convicted accused-appellant Llapitan of *Malversation of Public Funds* penalized under Article 217 of the *Revised Penal Code*. However, the

<sup>122</sup> Casiloc vs. People, G.R. No. 238436, February 17, 2020

<sup>123</sup> Order dated September 11, 2015; Records, Vol. 1, p. 313.

<sup>124</sup> Act No. 4103, as amended.

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penalties imposed by the RTC must be modified to conform with the said law and the relevant jurisprudence.

*Commitment Order*

Since accused-appellant Llapitan is a national prisoner, and considering the withdrawal of his bail bond, he must be transferred and committed to the *National Penitentiary*.

Sections 1739 (d), 1740 (b) and 1741 of the *Administrative Code of 1917*,<sup>125</sup> as amended by *Presidential Decree No. 29*, provide:

**Section 1739.** *Persons Deemed to be Municipal Prisoners.* – The following persons are to be considered municipal prisoners:

x x x

(d) Persons who by reason of their sentence may be deprived of liberty for not more than six months. The imposition of subsidiary imprisonment shall not be taken into consideration in fixing the status of a prisoner hereunder except when the sentence imposes a fine only.

**Section 1740.** *Persons Deemed to be Provincial Prisoners.* – The following persons, not being municipal prisoners, shall be considered provincial prisoners:

x x x

(b) Persons who by reason of their sentence may be deprived of liberty for not more than three years or are subjected to a fine of not more than one thousand pesos, or are subjected to both penalties; but if a prisoner receives two or more sentences in the aggregate exceeding the period of three years, he shall not be considered a provincial prisoner. The imposition of subsidiary imprisonment shall not be taken into consideration in fixing the status of a prisoner hereunder except when the sentence imposes a fine only.

<sup>125</sup> Act No. 2711



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X X X

**Section 1741.** *(Insular) National Prisoners.* – Prisoners who are neither municipal nor provincial prisoners shall be considered (insular) national prisoners, among whom shall be reckoned, in any event, all persons sentenced for violation of the Customs Law or other law within the jurisdiction of the Bureau of Customs or enforceable by it.

In view of his conviction for *Malversation of Public Funds* under Article 217 of the *Revised Penal Code*, with a maximum imposable prison term of 17 years, 4 months and 1 day to 18 years and 8 months of *reclusion temporal*, and the withdrawal of his bail bond, accused-appellant Llapitan is a national prisoner.

In *Basilonia v. Villaruz*,<sup>126</sup> the Supreme Court held that where the accused is a detention prisoner, the trial court must immediately issue a *mittimus* or commitment order after the promulgation of judgment as long as the penalty imposed requires the service of sentence in the National Penitentiary. *Viz.:*

In cases where the accused is a detention prisoner, i.e., those convicted of capital offenses or convicted of non-capital offenses where bail is denied, or refused to post bail, a mittimus or commitment order should be immediately issued after the promulgation of judgment by the trial court as long as the penalty imposed requires the service of sentence in the National Penitentiary. The filing of a motion for reconsideration, motion for new trial, or notice of appeal should not stop the lower court from performing its ministerial duty in issuing the commitment order, unless a special order has been issued by the Court in specific cases – to the effect that the convicted accused shall remain under detention in the provincial jail or city jail while the motion is being heard or resolved.

With his conviction and the withdrawal of his bail bond, accused-appellant Llapitan must be committed to the National Penitentiary.

<sup>126</sup> G.R. Nos. 191470-71, August 10, 2015

WHEREFORE, judgment is hereby rendered as follows:

1. The appeal of accused-appellant Llapitan is **DISMISSED**. The **Judgment** dated November 29, 2019 of the Regional Trial Court, Branch 5, in Tuguegarao City, finding him guilty of *Malversation of Public Funds*, or *Violation of Article 217 of the Revised Penal Code*, is **AFFIRMED**;
2. The penalty imposed by the RTC is modified, thus:
  - a. Accused-appellant Llapitan is sentenced to ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months, and one (1) day of *reclusion temporal*, as maximum; and,
  - b. Accused-appellant Llapitan is likewise sentenced to pay a fine equivalent to the amount malversed, or PhP17,139,108.80.
3. The penalty of perpetual disqualification, and the civil liability imposed in the amount malversed are maintained. Accused-appellant Llapitan is directed to restitute the *Professional Regulation Commission, Region 2*, the amount malversed, or PhP17,139,108.80, with legal interest of 6% per annum reckoned from the finality of the *Judgment*, until full payment, by way of his civil liability.

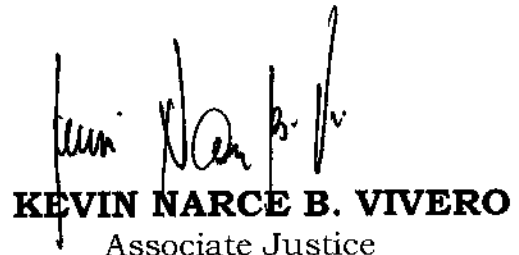
Let the necessary *Commitment Order* be issued. The Division Clerk of Court is directed to make the necessary arrangements for the transfer of accused-appellant Llapitan to the *New Bilibid Prison*.

SO ORDERED.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice



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**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.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**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



