



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

THIRD DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

- versus -

**Criminal Cases Nos.
25596-25631 & 25633-
25636**

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

**ANTONIO DELA PEÑA
BELICENA, ULDARICO P.
ANDUTAN, JR., ASUNCION
M. MAGDAET, EVELYN C.
DIFUNTORUM, MA.
CRISTINA S. MONCADA,
ANNABELLE J. DIÑO, MARK
A. BINSOL, CHERRY L.
GOMEZ, SYLVIALINA F.
DAGUIMOL, MEROSE L.
TORDESILLAS, EMELITA T.
TIZON, GEMMA O. ABARA,
GREGORIA V. CUENTO,
RAUL C. DE VERA, PURITA
S. NAPEÑAS, CHARMELLE
P. RECOTER, JAMIE SIA
LING, WILHELMINA ANG
LING, ALBERT SIA LING,
WILBERT SIA LING,
VINALYN SIA LING, ANGEL
O. JIMENEZ, BERNARD T.
SANTOS, and JOHN DOES,**

Present:

CABOTAJE-TANG, P.J.,
Chairperson,
FERNANDEZ, B.R., J. and
MORENO, R.B., J.

Promulgated:

Accused.

AUGUST 11, 2023

X-----X

DECISION

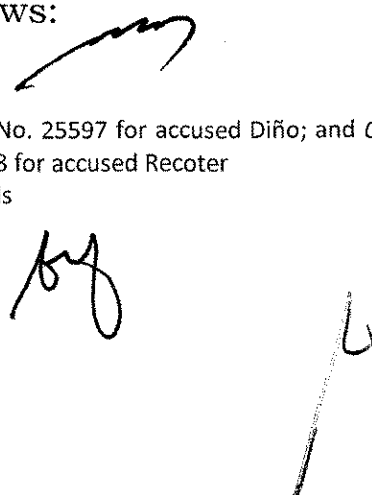
CABOTAJE-TANG, P.J.:

Accused **ANTONIO BELICENA y DELA PEÑA, ULDARICO ANDUTAN, JR. y PONSARAN, ASUNCION MAGDAET y MESA, EVELYN DIFUNTORUM y CEMANES, MA. CRISTINA MONCADA y SAQUITAN, ANNABELLE DIÑO y JANELO, MARK BINSOL y AVISADO, CHERRY GOMEZ y LANUZA, SYLVIALINA DAGUIMOL y FAGARAGAN, MEROSE TORDESILLAS y LOTILLA, EMELITA TIZON y TUSAÑESA, GEMMA ABARA y ORTIZ, GREGORIA CUENTO y VIDALLO, RAUL DE VERA y CLAUREN, PURITA NAPEÑAS y SISON, CHARMELLE RECOTER y PANADERO**, who were officials and employees of the Department of Finance One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center (the “**OSS Center**”), along with **JAMIE LING y ANG, WILHELMINA LING y ANG, ALBERT LING y SIA, WILBERT LING y SIA, VINALYN LING y SIA, ANGEL O. JIMENEZ, BERNARD T. SANTOS**, officers of Scope Industries, Inc., and various **JOHN DOES**, then officers of corporations to whom Scope transferred some of its Tax Credit Certificates (“**TCCs**”), are charged with Violation of Section 3(e) of Republic Act No. 3019, as amended, in separate *Informations* filed by the Office of the Special Prosecutor, Office of the Ombudsman, on **August 24, 1999**, and docketed as aforementioned.

Prior to the arraignment of the accused, except for accused Diño and Recoter who were conditionally arraigned when they were allowed by the Court to travel abroad,¹ the prosecution sought leave of Court to (1) make formal amendments on the *Informations* filed, and (2) withdraw the *Information* in Criminal Case No. 25632.² The Court granted the prosecution’s motion, dismissed Criminal Case No. 25632,³ and admitted the *Amended Informations* filed.⁴

The accusatory portion of the *Amended Information* in Criminal Case No. 25596 reads as follows:

¹ See *Order* dated June 5, 2002, p. 59, Records of Criminal Case No. 25597 for accused Diño; and *Order* dated October 25, 2000, p. 49, Records of Criminal Case No. 25628 for accused Recoter
² *Motion* dated September 9, 2003, pp. 64-312, Volume III, Records
³ *Order* dated September 16, 2003, p. 315, Volume III, Records
⁴ *Resolution* dated January 19, 2004, p. 416, Volume III, Records

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The undersigned Ombudsman Prosecutor, Office of the Special Prosecutor, hereby accuses ANTONIO BELICENA y DELA PEÑA, ULDARICO ANDUTAN, JR. y PONSARAN, ASUNCION MAGDAET y MESA, MA. CRISTINA MONCADA y SAQUITAN, ANGEL O. JIMENEZ, BERNARD T. SANTOS, JAIME SIA LING, WILHELMINA ANG LING, ALBERT SIA LING, WILBERT SIA LING, VINALYN SIA LING, and **JOHN DOES** for Violation of Section 3(e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, committed as follows:

That on or about **June 16, 1995**, and for some time prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused public officers, namely Antonio Belicena y Dela Peña, then Undersecretary; Uldarico Andutan, Jr. y Ponsaran, then Deputy Executive Director; Asuncion Magdaet y Mesa, then Officer-in-Charge - Textile Division assigned as Reviewer; Ma. Cristina Moncada y Saquitán, then Planning Officer III assigned as Evaluator, all of the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance, while in the performance of their official administrative functions, committing the offense in relation to their office, conspiring and confederating with one another and with private accused Angel O. Jimenez, then President and General Manager; Bernard T. Santos, then Assistant General Manager; Jaime Sia Ling, Wilhelmina Ang Ling, Albert Sia Ling, Wilbert Sia Ling, and Vinalyn Sia Ling, then members of the Board of Directors, all of Scope Industries, Inc., and private accused John Does, then officers of the Dragon Textile Mills, Inc., did then and there willfully, unlawfully and criminally, with evident bad faith, manifest partiality and/or gross inexcusable negligence, give unwarranted benefits or advantage to Scope Industries, Inc. and Dragon Textile Mills, Inc. by allowing the illegal processing, approval and issuance of Tax Credit Certificate No. **002593** in the amount of **TWO MILLION TWO HUNDRED SEVENTEEN THOUSAND FOUR HUNDRED NINE PESOS (P2,217,409.00)**, Philippine Currency, in favor of Scope Industries, Inc. without legal basis as the supporting documents thereof are spurious or falsified, thus enabling Scope Industries, inc. to transfer and/or sell the said void Tax Credit Certificate to Dragon Textile Mills, Inc. which in turn utilized the same to pay its taxes and/or custom obligations, to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW.

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The *Amended Informations* in Criminal Cases Nos. **25597** to **25606**, **25614** to **25618**, **25622** to **25630**, and **25635** to **25636** are similarly worded as above, and uniformly indict the accused **Belicena, Andutan, Jr., Magdaet, Jaime Sia Ling, Wilhelmina Ang Ling, Albert Sia Ling, Wilbert Sia Ling, Vinalyn Sia Ling, Angel O. Jimenez, and Bernard T. Santos.** They only differ with respect to the following details:

Crim. Case No.	Name and Position of the additional Accused	TCC No. involved /Amount	Date of Transaction	Transferee of TCC
25597	Annabelle Janeo Diño Tax Specialist II assigned as Evaluator John Does Officers of Dragon Textile Mills	002615 - P2,192,370.00	June 22, 1995	Dragon Textile Mills, Inc.
25598	Mark Avisado Binsol Tax Specialist II assigned as Evaluator John Does Officers of Filsyn Corp.	003149 - P2,521,716.00	Sept. 14, 1995	Filsyn Corp.
25599	Cherry L. Gomez Clerk III assigned as Evaluator John Does Officers of Manila Bay Spinning Mills, Inc.	004234 - P2,591,441.00	February 26, 1996	Manila Bay Spinning Mills, Inc.
25600	Sylvialina Fagaragan Daguimol Senior Tax Specialist assigned as Evaluator John Does Officers of Manila Bay	004233 - P2,645,781.00	February 26, 1996	Manila Bay Spinning Mills, Inc.

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Crim. Case No.	Name and Position of the additional Accused		TCC No. involved /Amount	Date of Transaction	Transferee of TCC
	Spinning Mills, Inc.				
25601	Merose Lotilla Tordesillas	Tax Specialist I assigned as Evaluator	004232 - P2,660,522.00	February 26, 1996	Manila Bay Spinning Mills, Inc.
	John Does	Officers of Manila Bay Spinning Mills, Inc.			
25602	Merose Lotilla Tordesillas	Tax Specialist I assigned as Evaluator	004711 - P2,341,111.00	May 14, 1996	Pacific Mills, Inc.
	John Does	Officers of Pacific Mills, Inc.			
25603	Annabelle Janeo Diño	Tax Specialist II assigned as Evaluator	004958 - P2,073,750.00	June 13, 1996	Pacific Mills, Inc.
	John Does	Officers of Pacific Mills, Inc.			
25604	Emelita Tusañesa Tizon	Clerk III assigned as Evaluator	004954 - P2,022,503.00	June 13, 1996	Pacific Mills, Inc.
	John Does	Officers of Pacific Mills, Inc.			
25605	Emelita Tusañesa Tizon	Clerk III assigned as Evaluator	004953 - P2,258,876.00	June 13, 1996	Wise and Company Inc.
	John Does	Officers of Wise and			

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Crim. Case No.	Name and Position of the additional Accused		TCC No. involved /Amount	Date of Transaction	Transferee of TCC
		Company, Inc.			
25606	Merose Lotilla Tordesillas	Tax Specialist I assigned as Evaluator	004951 - P2,285,679.00	June 13, 1996	Bush Boake Allen Phils., Inc
	John Does	Officers of Bush Boake Allen Phils., Inc			
25614	Raul Clauren De Vera	Acting Deputy Executive Director	009483 - P2,561,067.00	March 13, 1998	Pilipinas Shell Petroleum Corp.
	Gemma Ortiz Abara	Clerk III assigned as Evaluator			
	John Does	Officers of Pilipinas Shell Petroleum Corp.			
25615	Raul Clauren De Vera	Acting Deputy Executive Director	009521 - P2,538,764.00	March 16, 1998	Pilipinas Shell Petroleum Corp.
	Purita Sison Napeñas	Tax Specialist II assigned as Evaluator			
	John Does	Officers of Pilipinas Shell Petroleum Corp.			
25616	Raul Clauren De Vera	Acting Deputy	009522 - P2,670,148.00	March 16, 1998	Pilipinas Shell

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Crim. Case No.	Name and Position of the additional Accused	TCC involved /Amount	No.	Date of Transaction	Transferee of TCC
	Executive Director Gregoria Vidallo Cuento Tax Specialist I assigned as Evaluator John Does Officers of Pilipinas Shell Petroleum Corp.				Petroleum Corp.
25617	Raul Clauren De Vera Acting Deputy Executive Director Gemma Ortiz Abara Clerk III assigned as Evaluator John Does Officers of Pilipinas Shell Petroleum Corp.	009523 - P2,666,809.00		March 16, 1998	Pilipinas Shell Petroleum Corp.
25618	Raul Clauren De Vera Acting Deputy Executive Director Emelita Tusañesa Clerk III assigned as Evaluator John Does Officers of Pilipinas Shell Petroleum Corp.	009524 - P2,593,916.00		March 16, 1998	Pilipinas Shell Petroleum Corp.
25622	Merose Lotilla Tordesillas Tax Specialist I assigned	009675 - P2,664,688.00		March 27, 1998	ACI Phils., Inc.

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Crim. Case No.	Name and Position of the additional Accused	TCC No. involved /Amount	Date of Transaction	Transfer-ee of TCC
	as Evaluator John Does Officers of ACI Phils., Inc.			
25623	Raul Clauren De Vera Acting Deputy Executive Director Gregoria Vidallo Cuento Tax Specialist I assigned as Evaluator John Does Officers of ACI Phils., Inc.	009780 - P2,574,894.00	April 16, 1998	ACI Phils., Inc.
25624	Raul Clauren De Vera Acting Deputy Executive Director Annabelle Janeo Diño Tax Specialist II assigned as Evaluator John Does Officers of ACI Phils., Inc.	009781 - P2,738,955.00	April 16, 1998	ACI Phils., Inc.
25625	Raul Clauren De Vera Acting Deputy Executive Director Gregoria Vidallo Cuento Tax Specialist I assigned as Evaluator John Does Officers of ACI Phils., Inc.	009782 - P2,725,990.00	April 16, 1998	ACI Phils., Inc.

Crim. Case No.	Name and Position of the additional Accused	TCC No. involved /Amount	Date of Transaction	Transferee of TCC
25626	Raul Acting Clauren De Deputy Vera Executive Director Gregoria Tax Vidallo Specialist I Cuento assigned as Evaluator John Does Officers of ACI Phils., Inc.	009783 - P2,558,332.00	April 16, 1998	ACI Phils., Inc.
25627	Raul Acting Clauren De Deputy Vera Executive Director Annabelle Tax Janeo Diño Specialist II assigned as Evaluator John Does Officers of ACI Phils., Inc.	009785 - P2,502,232.00	April 16, 1998	ACI Phils., Inc
25628	Raul Acting Clauren De Deputy Vera Executive Director Charmelle Senior Tax Panadero Specialist Recoter assigned as Evaluator John Does Officers of ACI Phils., Inc.	009784 - P2,534,135.00	April 16, 1998	ACI Phils., Inc
25629	Charmelle Senior Tax Panadero Specialist Recoter assigned as Evaluator John Does Officers of ACI Phils., Inc.	009789 - P2,638,526.00	April 23, 1998	ACI Phils., Inc.

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Crim. Case No.	Name and Position of the additional Accused	TCC No. involved /Amount	Date of Transaction	Transfer-ee of TCC
25630	Annabelle Tax Specialist II assigned as Evaluator John Does Officers of ACI Phils., Inc.	009790 - P2,547,992.00	April 23, 1998	ACI Phils., Inc.
25635	Gemma Clerk III assigned as Evaluator John Does Officers of Pilipinas Shell Petroleum Corp.	009365 - P2,527,522.00	February 19, 1998	Pilipinas Shell Petroleum Corp.
25636	Emelita Clerk III assigned as Evaluator John Does Officers of Pilipinas Shell Petroleum Corp.	009417 - P2,707,250.00	February 26, 1998	Pilipinas Shell Petroleum Corp.

Criminal Cases Nos. **25607** to **25613**, **25619** to **25621**, and **25631** to **25634**, on the other hand, involve the **TCCs which were not transferred by Scope Industries, Inc. to any other entities** but were rather utilized to pay for its own taxes and duties. The accusatory portion of the *Amended Information* in Criminal Case No. **25607** reads as follows:

The undersigned Ombudsman Prosecutor, Office of the Special Prosecutor, hereby accuses ANTONIO BELICENA y DELA PEÑA, ULDARICO ANDUTAN, JR. y PONSARAN, ASUNCION MAGDAET y MESA, MA. CRISTINA MONCADA y SAQUITAN, ANGEL O. JIMENEZ, BERNARD T. SANTOS, JAIME SIA LING, WILHELMINA ANG LING, ALBERT SIA LING, WILBERT SIA LING, and VINALYN SIA LING, for Violation of Section 3(e) of Republic Act No. 3019, otherwise

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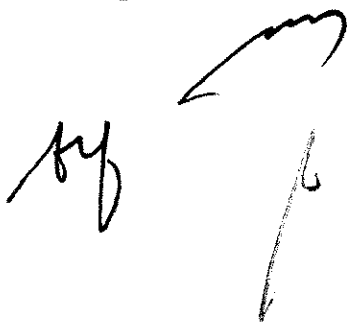
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known as the Anti-Graft and Corrupt Practices Act, as amended, committed as follows:

That on or about **May 23, 1997**, and for sometime prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused public officers, namely Antonio Belicena y Dela Peña, then Undersecretary; Uldarico Andutan, Jr. y Ponsaran, then Deputy Executive Director; Asuncion Magdaet y Mesa, then Officer-in-Charge – Textile Division assigned as Reviewer; and Gemma Abara y Ortiz, then Clerk III assigned as Evaluator, all of the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance, while in the performance of their official administrative functions, committing the offense in relation to their office, conspiring and confederating with one another and with private accused Angel O. Jimenez, then President and General Manager; Bernard T. Santos, then Assistant General Manager; Jaime Sia Ling, Wilhelmina Ang Ling, Albert Sia Ling, Wilbert Sia Ling, and Vinalyn Sia Ling, then members of the Board of Directors, all of Scope Industries, Inc., did then and there willfully, unlawfully and criminally, with evident bad faith, manifest partiality and/or gross inexcusable negligence, give unwarranted benefits or advantage to Scope Industries, Inc., by allowing the illegal processing, approval and issuance of Tax Credit Certificate No. **007431** in the amount of **TWO MILLION FIVE HUNDRED SEVEN THOUSAND AND SIXTY-FOUR PESOS (P2,507,064.00)**, Philippine Currency, in favor of Scope Industries, Inc. without legal basis as the supporting documents thereof are spurious or falsified, thus enabling Scope Industries, inc. to utilize the said void Tax Credit Certificate to pay its taxes and/or custom obligations, to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW

The *Amended Informations* in Criminal Cases Nos. **25608** to **25613**, **25619** to **25621**, and **25631** to **25634** are similarly worded as above, and uniformly indict the accused **Belicena, Andutan, Jr., Magdaet, Jaime Sia Ling, Wilhelmina Ang Ling, Albert Sia Ling, Wilbert Sia Ling, Vinalyn Sia Ling, Angel O. Jimenez**, and **Bernard T. Santos**. They only differ with respect to the following details:

The block contains three handwritten marks. On the left is a signature that appears to be 'Jy'. In the center is a large, stylized signature that looks like 'M'. On the right is a vertical signature that looks like 'P'.

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Crim. Case No.	Name and Position of the Accused	Additional	TCC involved /Amount	No.	Date Transaction	of
25608	Gemma Ortiz Abara	Clerk III assigned as Evaluator	007433 P2,625,620.00	-	May 23, 1997	
25609	Annabelle Janeo Diño	Tax Specialist II assigned as Evaluator	007538 P2,804,086.00	-	June 13, 1997	
25610	Gregoria Vidallo Cuento	Tax Specialist I assigned as Evaluator	007675 P2,573,012.00	-	June 27, 1997	
25611	Annabelle Janeo Diño	Tax Specialist II assigned as Evaluator	008362 P2,530,738.00	-	September 29, 1997	
25612	Annabelle Janeo Diño	Tax Specialist II assigned as Evaluator	008363 P2,613,007.00	-	September 29, 1997	
25613	Annabelle Janeo Diño	Tax Specialist II assigned as Evaluator	008364 P2,680,402.00	-	September 29, 1997	
25619	Raul Clauren De Vera	Acting Deputy Executive Director	009637 P2,634,499.00	-	March 23, 1998	
	Purita Sison Napeñas	Tax Specialist II assigned				

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Crim. Case No.	Name and Position of the Accused	TCC involved /Amount	No.	Date of Transaction
	as Evaluator			
25620	Merose Tax Specialist Lotilla I assigned as Evaluator Tordesillas	009663 P2,702,270.00	-	March 27, 1998
25621	Merose Tax Specialist Lotilla I assigned as Evaluator Tordesillas	009670 P2,672,642.00	-	March 27, 1998
25631	Gemma Clerk III assigned as Evaluator Ortiz Abara	009020 P2,707,229.00	-	January 14, 1998
25633	Emelita Clerk III assigned as Evaluator Tusañesa Tizon	009219 P2,661,820.00	-	January 30, 1998
25634	Emelita Clerk III assigned as Evaluator Tusañesa Tizon	009224 P2,767,896.00	-	February 02, 1998

After the filing of the initial *Informations*, the Court issued *Hold Departure Orders*⁵ dated August 27, 1999, and *Orders of Arrest* dated August 30, 1999, against all the accused. Accused **Belicena**,⁶ **Magdaet**,⁷ **Andutan, Jr.**,⁸ **Difuntorum**, **Diño**,⁹

⁵ p. 224, Volume I, Records

⁶ *Motion for Reduction of Bail* dated August 30, 1990, p. 225, Volume I, Records

⁷ *Urgent Motion for Reduction of Bail* dated September 2, 1999, p. 236, Volume I, Records

⁸ *Urgent Motion for Reduction of Bail* dated September 6, 1999, p. 271, Volume I, Records

⁹ *Omnibus Motion for Reduction of Bail and Early Arraignment* dated August 31, 1999, p. 4, Records of Criminal Case No. 25597

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Binsol,¹⁰ **Gomez**,¹¹ **Daguimol**,¹² **Tordesillas**,¹³ **Tizon**,¹⁴ **Abara**,¹⁵ **Cuento**,¹⁶ **De Vera**,¹⁷ **Napeñas**,¹⁸ and **Recoter**¹⁹ filed separate motions for the reduction of their respective bail, all of which were granted by the Court in separate *Resolutions*.²⁰

Subsequently, various motions for reconsideration and/or reinvestigation were filed by the accused,²¹ all of which were granted by the Court,²² prompting the prosecution to conduct the necessary reinvestigation of the charges filed against the accused.

On September 9, 2001, the prosecution filed a *Manifestation*²³ stating –



¹⁰ *Urgent Motion for Reduction of Bail* dated September 2, 1999, p. 4, Records of Criminal Case No. 25598

¹¹ *Omnibus Motion for Reduction of Bail and Early Arraignment* dated August 31, 1999, p. 4, Records of Criminal Case No. 25599

¹² *Motion to Reduce Bail* dated August 31, 1999, p. 4, Records of Criminal Case No. 25600

¹³ *Motion (For Reduction of Bail)* dated September 2, 1999, p. 5, Records of Criminal Case No. 25601

¹⁴ *Urgent Motion for Reduction of Bail* dated September 2, 1999, p. 4, Records of Criminal Case No. 25604

¹⁵ *Urgent Motion for Reduction of Bail* dated September 2, 1999, p. 4, Records of Criminal Case No. 25607

¹⁶ *Ex-Parte Urgent Motion (For Reduction of Bail)* dated September 6, 1999, p. 4, Records of Criminal Case No. 25610

¹⁷ *Motion to Reduce Bail* dated September 1, 1999, p. 5, Records of Criminal Case No. 25614

¹⁸ *Urgent Motion for Reduction of Bail* dated September 3, 1999, p. 4, Records of Criminal Case No. 25615

¹⁹ *Motion to Reduce Bail* dated August 31, 1999, p. 4, Records of Criminal Case No. 25628

²⁰ See *Resolution* dated August 30, 1999, p. 230, Volume I, Records, for accused Belicena; *Resolution* dated September 7, 1999, p. 277, Volume I, Records, for accused Andutan, Jr.; *Resolution* dated September 3, 1999, p. 253, Volume I, Records, for accused Magdaet; *Resolution* dated September 3, 1999, p. 253, Volume I, Records, for accused Difuntorum; *Resolution* for September 2, 1999, p. 354, Volume I, Records, for accused Diño; *Resolution* dated September 3, 1999, p. 9, Records of Criminal Case No. 25598, for accused Binsol; *Resolution* dated September 2, 1999, p. 354, Volume I, Records, for accused Gomez; *Resolution* dated August 31, 1999, p. 8, Records of Criminal Case No. 25600, for accused Dagumol; *Resolution* dated September 3, 1999, p. 8, Records of Criminal Case No. 25601, for accused Tordesillas; *Resolution* dated September 3, 1999, p. 253, Volume I, Record, for accused Tizon; *Resolution* dated September 3, 1999, p. 253, Volume I, Record, for accused Abara; *Resolution* dated September 7, 1999, p. 8, Records of Criminal Case No. 25610, for accused Cuento; *Resolution* dated September 2, 1999, p. 8, Records of Criminal Case No. 25614, for accused De Vera; *Resolution* dated September 6, 1999, p. 10, Records of Criminal Case No. 25615, for accused Napeñas; and *Resolution* dated August 31, 1999, p. 8, Records of Criminal Case No. 25608, for accused Recoter

²¹ Volume I, Records: accused Belicena's *Motion for Reinvestigation* dated September 4, 1999, pp. 261-270; accused Andutan, Jr.'s *Motion for Leave to File Motion for Reconsideration of Ombudsman Resolution in OMB-0-99-0289 to 0329* dated September 6, 1999, pp. 283-315; accused Magdaet's *Urgent Consolidated Motion for Reinvestigation and Suspension of Arraignment* dated September 8, 1999, pp. 316-329; accused Difuntorum's *Consolidated Urgent Motion for Reinvestigation and Suspension of Arraignment* dated September 8, 1999, pp. 316-348; accused Cuento and Tordesillas' *Joint Omnibus Motion (to Defer Arraignment and Allow the Filing of a Motion for Reinvestigation/Re-evaluation with the Office of the Ombudsman)* dated September 8, 1999, pp. 349-351;

²² *Orders* dated September 9, 10, 1999, pp. 358, 419, Volume I, Records

²³ pp. 469-485, Volume I, Records



“[t]hat in the re-evaluation of the above-entitled cases pursuant to the directive of this Honorable Court, the undersigned, in a Memorandum dated December 15, 1999, recommended to the Honorable Ombudsman **the further prosecution of all the accused charged in the above-entitled cases, except that all the said cases as against Evelyn M. Difuntorum be dismissed.**

That the said Memorandum ... was duly approved by the Honorable Ombudsman on July 13, 2001.”²⁴

It subsequently filed a motion to set the arraignment of the remaining accused in the interest of speedy disposition of cases.²⁵

The Court noted the initial manifestation of the prosecution and sustained the cases against all accused except for accused Difuntorum.²⁶ In a *Resolution* dated June 14, 2002, the Court **dismissed all the cases against accused Difuntorum** on the ground that her functions in relation to the cases were merely ministerial.²⁷ The dates for the arraignment of the other accused were likewise set.²⁸

As earlier stated, the initial *Informations* were formally amended by the prosecution²⁹ after leave for admission of the same was granted by the Court.³⁰ Accused Belicena, Andutan, Jr., Magdaet, Binsol, Gomez, Dagumol, Tordesillas, Tizon, Abara, Cuento, De Vera, Napeñas, and Recoter were subsequently arraigned on different dates.³¹ As for the other accused, despite the warrants of arrest issued against them, they were never arrested, nor have they voluntarily surrendered to the Court. Further, from the filing of the cases

²⁴ Emphasis supplied

²⁵ *Motion to Set Cases for Arraignment* dated February 20, 2002, pp. 486-488, Volume I, Records

²⁶ *Resolution* dated June 14, 2002, p. 7, Volume II, Records

²⁷ p. 7, Volume II, Records

²⁸ *Resolution* dated June 14, 2002, p. 5, Volume II, Records

²⁹ See *Motion* dated September 9, 2003, pp. 64-312, Volume III, Records

³⁰ *Resolution* dated January 19, 2004, p. 416, Volume III, Records

³¹ pp. 15-18, 60-67, Volume IV, Records; p. 43, Records of Criminal Case No. 25614; *Order* dated July 6, 2004, pp. 69-70, Volume IV, Records



in 1999 up to present, they likewise have never entered any appearance for their defense.

Accused Antonio Dela Peña Belicena
=====

On August 30, 1999, accused **Belicena** posted bail for his provisional liberty.³² He was arraigned on May 18, 2004, and he pleaded **not guilty** to the charges against him.³³ He actively participated in the proceedings for the cases at bar but on July 30, 2021, his counsel filed a *Consolidated Motion to Dismiss* dated July 9, 2021,³⁴ informing the Court that accused Belicena passed away on June 2, 2021. Upon order of the Court, the prosecution filed a *Consolidated Compliance* dated May 26, 2022,³⁵ stating that per verification with the Philippine Statistics Authority (“**PSA**”), which submitted to the prosecution an authenticated copy of accused Belicena’s *Death Certificate*,³⁶ accused Belicena died last June 2, 2021 in Quezon City. Per the *Death Certificate*, the immediate cause of the accused’s death was COVID-19 critical pneumonia.

With the confirmation of his death, the Court **dismissed** the charges with **respect to accused Belicena** pursuant to Article 89 of the Revised Penal Code.³⁷

Accused Emelita Tusañesa Tizon
=====

Accused Tizon posted a surety bond for her provisional liberty on September 7, 1999.³⁸ She was arraigned on July 6, 2004, and she pleaded **not guilty** to the charges against her.³⁹

³² pp.231-233, Volume I, Records

³³ pp. 16-20, Volume IV, Records

³⁴ Also filed in Criminal Cases Nos. SB-17-CRM-683 to 727

³⁵ pp. 79-85, Volume XVII, Records

³⁶ p. 84, Volume XVII, Records

³⁷ *Resolution* dated June 16, 2022, pp. 95-96, Volume XVII, Records

³⁸ pp. 17-30, Records of Criminal Case No. 25604

³⁹ pp. 64, 69-70, Volume IV, Records



She again posted a cash bond on April 17, 2007 for her liberty, after the Supreme Court suspended the authority of her previous bondsman, Great Domestic Insurance Company of the Philippines, to write and issue judicial bonds.⁴⁰ Like accused Belicena, she actively participated in the cases at bar.

On July 29, 2019, her counsel filed a *Consolidated Motion to Dismiss* dated July 27, 2019,⁴¹ informing the Court that accused Tizon died on January 28, 2017. On August 27, 2019, the Court in **SB-17-CRM-0683-0727 dismissed** the charges **with respect to accused Tizon** pursuant to Article 89 of the Revised Penal Code on account of her death.⁴² Upon the filing of a *Manifestation* by the prosecution manifesting its adoption in the cases at bar of its *Compliance with Comment on Motion to Dismiss* dated August 23, 2019 in SB-17-CRM-0683-0727, the Court amended the August 27, 2019 *Resolution* to include **the dismissal of the cases at bar (i.e., Criminal Cases No. 25596 to 25631, and 25633 to 25636) with respect to accused Tizon.**⁴³

**Accused Slyvialina
Fagaragan Daguimol**
=====

Accused Daguimol posted a cash bond for her provisional liberty on August 31, 1999.⁴⁴ She was arraigned on July 6, 2004, and she pleaded **not guilty** to the charges against her.⁴⁵ Like accused Belicena and Tizon, she actively participated in the cases at bar.

On May 26, 2022, the prosecution filed a *Consolidated Compliance for the cases at bar and SB-17-CRM-0638 to 0727* stating that upon verification with the PSA, the PSA confirmed the death of accused Daguimol on May 16, 2020 in Cainta, Rizal

⁴⁰ pp. 64, 78, Records of Criminal Case No. 25604

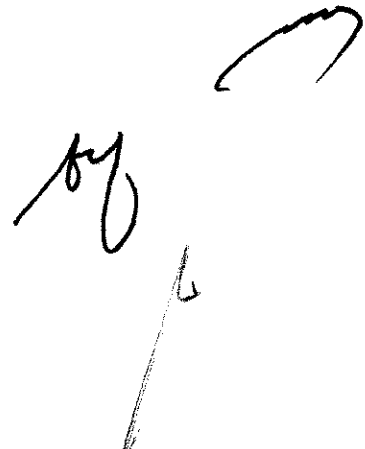
⁴¹ pp. 897-901, Volume XIV, Records

⁴² See *Resolution* dated September 17, 2019, p. 14, Volume XIV

⁴³ *Id*

⁴⁴ pp. 11-12, Records of Criminal Case No. 25600

⁴⁵ pp. 63, 69-70, Volume IV, Records



and submitted an authenticated copy of her *Death Certificate*.⁴⁶ Considering the confirmation of her death, the Court, in a *Resolution* dated May 27, 2022, **dismissed the charges against accused Dagumol** pursuant to Article 89 of the Revised Penal Code.⁴⁷

**Accused Evelyn Cemanes
Difuntorum**
=====

Accused Difuntorum posted a cash bond for her provisional liberty on September 3, 1999.⁴⁸ Prior to the arraignment of the accused, the prosecution filed a *Manifestation* dated August 7, 2001⁴⁹ informing the Court that after a re-evaluation of the cases filed, the Office of the Special Prosecutor has decided to dismiss all the charges against accused Difuntorum. After consideration of the manifestation, the Court issued a *Resolution* dated June 14, 2002 **dismissing all the cases against accused Difuntorum** on the ground that her functions in relation to the cases were merely ministerial.⁵⁰

**Accused Officers of Scope
Industries, Inc.**
=====

Accused **Jaime Sia Ling, Wilhelmina Ang Ling, Albert Sia Ling, Wilbert Sia Ling**, and **Vinalyn Sia Ling** are described in the *Amended Informations* as the members of the board of directors of Scope Industries, Inc. **Angel O. Jimenez** and **Bernard T. Santos**, on the other hand, are the President and General Manager, and Assistant General Manager, respectively, of the said corporation. Despite the warrants of arrest issued against them, none of them was ever arrested nor have they voluntarily surrendered to the Court. From the filing of the cases

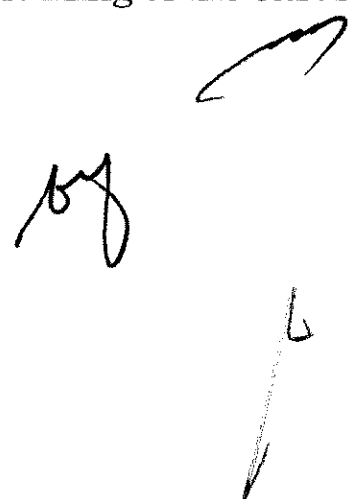
⁴⁶ pp. 47-53, Volume XVII, Records

⁴⁷ p. 56, Volume XVII, Records

⁴⁸ pp. 259, Volume I, Records

⁴⁹ pp. 469-485, Volume I, Records

⁵⁰ p. 7, Volume II, Records

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in 1999 up to present, they have likewise never entered any appearance for their defense.

The Court notes that with respect to accused **Jimenez** and **Santos**, one of the prosecution witnesses⁵¹ alleged that the accused Jimenez is actually a certain "Melchor Tan" while accused Santos is a certain "Bernard Farin." However, none of the *Amended Informations* was further amended by the prosecution to include such allegations.

**Accused Ma. Cristina
Saquitan Moncada**
=====

Accused **Moncada** was described in the *Amended Information* in Criminal Case No. 25596 as a Planning Officer III of the OSS Center assigned as an evaluator in relation to TCC No. 002593. Despite the warrant of arrest issued against her, she was never arrested, nor has she voluntarily surrendered to the Court. From the filing of the cases in 1999 up to present, she likewise never entered any appearance for her defense.

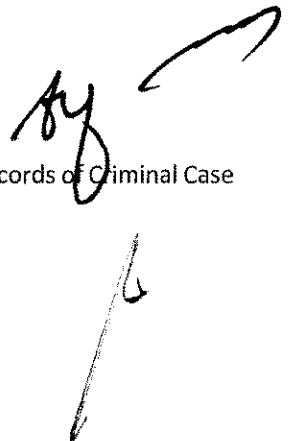
**Accused Annabelle Janeo
Diño**
=====

Accused Diño posted a bail bond for her provisional liberty on September 2, 1999.⁵² Prior to her arraignment, she filed a motion before the Court requesting for leave to travel to England.⁵³ She alleged that she has been recently married to a British National but they have been unable to bear a child as her husband was then stationed in England. Citing her age and fear of not being able to bear children, she asked leniency from the Court to allow her to go abroad. Her travel was ostensibly to seek medical help in England and to increase her chances of

⁵¹ See testimony of witness Rodolfo Del Castillo

⁵² pp. 10-11, Records of Criminal Case No. 25597; p. 354, Volume I, Records

⁵³ *Urgent Motion for Leave to Travel Abroad* dated April 2, 2002, pp. 24-G to 24-V, Records of Criminal Case No. 25597

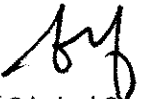

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having a child.⁵⁴ Upon a vehement opposition from the prosecution, the Court initially denied her motion.⁵⁵ However, for humanitarian reasons, it reconsidered the denial and allowed her to travel to England after her conditional arraignment.⁵⁶

She was conditionally arraigned on June 13, 2002, and she pleaded not guilty to the charges against her.⁵⁷ She was then allowed to travel for forty-five (45) days starting June 16, 2002.⁵⁸ After several motions filed on grounds that she had scheduled check-ups in England and that she was still not pregnant, and with her repeated assurances that she has no malicious intention to evade her obligations and responsibilities with the Court,⁵⁹ she was able to travel back and forth from the Philippines to England until May 23, 2003.⁶⁰ She participated in the trial proceedings through her counsel and submitted a *Pre-Trial Brief* dated March 3, 2003.⁶¹

On May 26, 2003, the Court received a letter dated April 17, 2003, signed by a certain Annabelle Diño-Tobyn, begging the indulgence of the Court that she be allowed to stay in England for another ten (10) months or until the end of February 2004 to enable her and her husband to start and raise a family. She said that the trips that she had since June 2002 have been costly on her part and that the condition imposed by the Court for her to return to the Philippines to attend trial has placed her marriage in jeopardy and her chances of being able to conceive a child close to nil.⁶²



⁵⁴ *Id*

⁵⁵ *Order* dated April 9, 2002, p. 30, Records of Criminal Case No. 25597

⁵⁶ *Resolution* dated June 5, 2002, p. 59, Records of Criminal Case No. 25597

⁵⁷ see pp. 65-70, Records of Criminal Case No. 25597

⁵⁸ *Resolution* dated June 13, 2002, pp. 67-68, Records of Criminal Case No. 25597

⁵⁹ *Urgent Motion for Extension* dated August 1, 2002, pp. 78-80, Records of Criminal Case No. 25597; *Urgent Motion for Leave to Travel Abroad* dated October 18, 2002, pp. 90-92, Records of Criminal Case No. 25597; *Urgent Motion for Extension* dated January 9, 2003, pp. 124-126, Records of Criminal Case No. 25597; *Urgent Motion for Another Extension* dated March 17, 2003, pp. 153-156, Records of Criminal Case No. 25597; *Urgent Motion for Last Extension* dated April 3, 2003, pp. 165-167, Records of Criminal Case No. 25597

⁶⁰ See *Order* dated April 8, 2003, p. 169, Records of Criminal Case No. 25597

⁶¹ pp. 147-150, Records of Criminal Case No. 25597

⁶² pp. 174-175, Records of Criminal Case No. 25597



Noting the numerous extensions granted for her travel abroad in the past years, the Court denied the request in her letter, after observing that it was very apparent that accused Diño had no more intention to come back to the Philippines to avoid trial in the cases at bar.⁶³ Accordingly, the Court **forfeited the cash bond which she posted for her provisional liberty, and the travel bond she posted for her travel abroad.** The Court also **ordered the issuance of a warrant of arrest against accused Diño** and furnished the Bureau of Immigration and Deportation a copy of the resolution for guidance and information.⁶⁴

**Accused Uldarico Ponsaran
Andutan, Jr.**
=====

On September 7, 1999, accused Andutan, Jr. posted a bail bond for his provisional liberty.⁶⁵ He was subsequently arraigned on May 18, 2004. He pleaded not guilty to the charges filed against him.⁶⁶ As one (1) of the main accused in the cases at bar, having been indicted in all forty (40) cases, accused Andutan, Jr. initially actively participated during trial. However, on July 16, 2018, his counsel filed a *Motion to be Relieved as Counsel for Accused Uldarico P. Andutan* dated July 13, 2018, praying that the Court relieve the firm Benjamin C. Santos and Ray Montri C. Santos as counsel of accused Andutan, Jr. The motion alleged that for several months, the counsels found it difficult to obtain the cooperation of the accused to appear before the Court. They likewise found it increasingly hard to get in touch with the accused for purposes of preparing for his defense. For these reasons as well as the mounting unpaid fees of the accused since 1999, the counsels said that they are constrained to withdraw from the case.

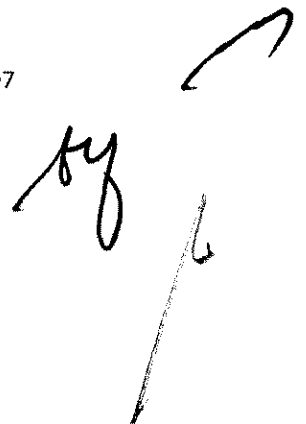
Noting that the motion filed lacked prior conformity from the accused, the Court denied the motion and ordered the

⁶³ Resolution dated December 9, 2003, p. 178, Records of Criminal Case No. 25597

⁶⁴ *Id*

⁶⁵ p. 280, Volume I, Records

⁶⁶ pp. 16, 18, Volume IV, Records

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counsels to continue representing accused Andutan, Jr. in the cases at bar until his consent is obtained.⁶⁷ The Court also denied⁶⁸ the *Motion for Reconsideration* dated August 23, 2018 filed by the firm,⁶⁹ but it directed accused Andutan, Jr. to appear before the Court during the November 7, 2018 hearing. **Accused Andutan, Jr., however, did not appear.**

After the trial ended, on November 23, 2022, the counsel for accused filed a *Manifestation* indicating that he is not in a position to file a formal offer of evidence on behalf of accused Andutan, Jr. due for the same reasons that they alleged in 2018 when they filed a motion to be relieved as counsel for the accused. The manifestation reiterated that the firm has not been able to communicate with the accused since he stopped having any contact with his counsel, thus leaving them unable to make a proper and full representation on his behalf.⁷⁰ The Court, in a *Resolution* dated December 12, 2022, noted the manifestation.⁷¹

With the deaths of accused Belicena, Tizon, and Daguimol, and since accused Ma. Cristina Saquitan Moncada, Jaime Sia Ling, Wilhelmina Ang Ling, Albert Sia Ling, Wilbert Sia Ling, Vinalyn Sia Ling, Angel O. Jimenez, and Bernard T. Santos have not been arraigned and remain at-large, only accused **(1) Andutan, Jr., (2) Magdaet, (3) Diño, (4) Binsol, (5) Gomez, (6) Tordesillas, (7) Abara, (8) Cuento, (9) De Vera, (10) Napeñas, and (11) Recoter are subject of this decision.**

Prior to being arraigned, the accused filed several motions to quash the *Informations* against them,⁷² which were all denied by the Court.⁷³ Their motions for reconsideration were likewise denied by the Court for lack of merit,⁷⁴ and the pre-trial of the cases was set.

⁶⁷ *Resolution* dated August 7, 2018, p. 77, Volume XIV, Records

⁶⁸ *Resolution* dated October 5, 2018, pp. 134-136, Volume XIV, Records

⁶⁹ pp. 98-101, Volume XIV, Records

⁷⁰ pp. 590-594, Volume XVIII, Records

⁷¹ p. 596, Volume XVIII, Records

⁷² Volume II, Records: accused Magdaet, Abara, Tizon, and Binsol's *Urgent Consolidated Motions to Quash* dated September 16, 2002, pp. 51-58; and accused Andutan, Jr.'s *Motion to Quash* dated October 30, 2002, pp. 76-90

⁷³ *Resolution* dated February 14, 2003, pp. 124-128, Volume II, Records

⁷⁴ *Resolution* dated May 5, 2003, p. 366, Volume II, Records



Pre-trial briefs were accordingly filed by the arraigned accused,⁷⁵ while the prosecution filed a consolidated pre-trial brief.⁷⁶ Upon agreement of the parties, they requested for time to submit a joint stipulations of fact which shall be the basis of the pre-trial order for the cases at bar.⁷⁷ Piecemeal joint stipulations of fact were then submitted by the prosecution and (1) accused Cuento and Tordesillas;⁷⁸ (2) accused De Vera;⁷⁹ (3) accused Magdaet;⁸⁰ (4) accused Belicena;⁸¹ (5) accused Andutan, Jr.⁸² Considering the number of cases and the accused involved herein, various preliminary conferences followed.⁸³

Pre-trial proceedings followed and the Court issued separate *Pre-Trial Orders* for the accused.⁸⁴ A *Supplemental/Amended Pre-Trial Order* dated April 12, 2007 was issued with respect to accused Belicena, Andutan, Jr., and Magdaet, upon motion of the prosecution and with the conformity of the accused, to reflect the new markings of documents, corrections, and additional descriptions.⁸⁵

Trial on the merits then ensued.

EVIDENCE FOR THE PROSECUTION

The prosecution presented as evidence the testimonies of the following witnesses: (1) **Philip R. Santiago**, a Records

⁷⁵ Volume IV, Records: Accused Andutan, Jr.'s *Pre-Trial Brief* dated August 5, 2004, pp. 82-190; accused Belicena's *Pre-Trial Brief* dated August 6, 2004, pp. 203-211; accused Magdaet's *Pre-Trial Brief for Accused Asuncion M. Magdaet* dated August 16, 2004, pp.215-217; accused De Vera's *Pre-Trial Brief* dated August 13, 2004, pp. 300-304; accused Binsol's *Pre-Trial Brief* dated August 13, 2004, pp. 305-310; accused Cuento and Tordesillas' *Joint Pre-Trial Brief* dated September 16, 2004, pp. 329-331; and accused Recoter and Daguimol's *Joint Pre-Trial Brief* dated January 17, 2005, pp. 520-524

⁷⁶ *Consolidated Pre-Trial Brief* dated August 16, 2004, pp. 223-299, Volume IV, Records

⁷⁷ *Order* dated October 26, 2004, p. 218, Volume IV, Records

⁷⁸ pp. 437-459, Volume IV, Records

⁷⁹ pp. 533-560, Volume IV, Records

⁸⁰ pp. 40-114, Volume V, Records

⁸¹ pp. 135-209, Volume V, Records

⁸² pp. 210-282, Volume V, Records

⁸³ Per Volume VI and VII of the Records, preliminary conferences for pre-marking of exhibits were held on: June 8, 9, and 21, July 19, and 26, August 23, and 25, October 25 and 27, 2005, January 19 and 26, February 9, March 2 and 7, April 9 and 18, May 9, 10, and 23, June 27, and August 14, 2006

⁸⁴ pp. 12-149, 151-217, Volume VI, Records

⁸⁵ p. 30-44, Volume VIII, Records

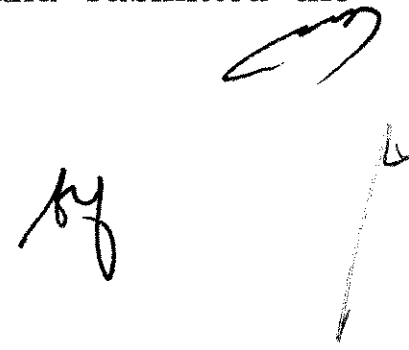
Officer II from the OSS Center; (2) **Rosario C. Fuente**, the Chief Administrative Officer of the Department of Finance; (3) **Rodolfo Del Castillo, Jr.**, a liaison officer in Scope Industries, Inc.; (4) **Emerito del Castillo**, the Tax Credit Section Chief and Accountant III of the Cash and Credit Collection of the Accounting Division, Finance Management Office of the Bureau of Customs; (5) **Edita C. Yambao**, acting Officer-in-Charge and Customs Officer V of the NAIA, TMW-ECCF Unit; (6) **Bimal Chand Bhandari**, a textile engineer; (7) **Leonides Pilapil Rosel**, an employee from the Liquidation and Billing Division of the Bureau of Customs; (8) **Teddy J. Sandan**, the Manager of the Documentation Department of TransMar Agencies, Inc.; (9) **Ester Delgado**, a Supervisor and former Documentation Clerk at K Line Philippines, Inc.; (10) **Loida P. Magsombol**, the Assistant Documentation Manager of Citadel Shipping Service, Inc.; (11) **Maria Theresa S. Yambao**, State Auditor IV at the Commission on Audit; (12) **Atty. Alan A. Ventura**, former Executive Director of the Special Presidential Task Force 156; and (13) **Melquiades Del Carmen Castillo**, the Chief Tax Specialist at the Department of Finance.

PHILIP R. SANTIAGO,
Records Officer,
OSS Center

Philip R. Santiago was presented in all criminal cases to identify the original records of the TCCs issued by the OSS-Center to Scope Industries, Inc., along with their respective supporting documents as found on the official file of the OSS-Center.

As Records Officer of the OSS Center, Santiago testified that he had custody of all approved applications for TCCs filed with the OSS Center.⁸⁶ In connection with his functions, he said that he received a subpoena from the Court directing him to submit the original records of the TCCs subject of the cases at bar, together with their supporting documents. In compliance with the directive of the Court, he said that he took the related files from the OSS Center and submitted the

⁸⁶ p. 12, Transcript of the Stenographic Notes dated November 13, 2006



requested documents to the prosecution. He identified the documents he submitted at the witness stand.⁸⁷

Due to the volume of the documents that Santiago identified,⁸⁸ the Court allowed the prosecution to only mention the exhibit reference letter of the documents since the description of the documents were already listed in the amended pre-trial orders for the accused:

Criminal Case No.	Exhibits
25596	"F-1" onwards Originals except: "F-1", "F-1-a", "F-1-b", "F-2" and "F-3"
25597	"G", "G-1", "G-1-a" to "G-1-n", "G-2", "G-3", "G-3-a", "G-3-b", "G-4" and "G-4-a"
25598	"H-3" Not originals: "H-1", "H-1-a", "H-1-b", "H-1-b-1" to "H-1-b-3", and "H-2"
25599	"I-3", "I-3-a" and "I-3-b" Not originals: "I-1", "I-1-a", "I-1-a-1", "I-1-b", "I-1-b-1", "I-1-b-2", and "I-2"
25600	"J-3", "J-3-a", and "J-3-b" Not originals: "J-1", "J-1-a", "J-1-b", "J-1-b-1", and "J-2"
25601	"K-1", "K-1-a" to "K-1-m", "K-2", "K-3", and "K-3-a"
25602	"L-3", "L-3-a", "L-3-b", and "L-4-a"

⁸⁷ *Id.*, pp. 12-15

⁸⁸ Santiago identified the documents he presented over the course of several trial dates. See TSNs for the November 13, 14, 21, 27, and 28, 2006 trial dates.

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DECISION

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Criminal Case No.	Exhibits
	Not originals: "L-1", "L-1-a", "L-1-b", and "L-2"
25603	"M-1", "M-1-a" to "M-1-k-2", "M-2", "M-3", and "M-3-a"
25604	"N-1", "N-1-a" to "N-1-l", "N- 2", "N-3", "N-3-a", and "N-3- b"
25605	"O-3", "O-3-a", "O-3-b", and "O-4-a" Not originals: "O-1", "O-1-a", "O-1-b", and "O-2"
25606	"P", "P-3", "P-3-a", and "P-3- b" Not originals: "P-1", "P-1-a", "P-1-a-1", "P- 1-b", "P-1-b-1", "P-2", and "P-4"
25607	"Q-1", "Q-1-a" to "Q-1-i", and "Q-2"
25608	"R-1", "R-1-a" to "R-1-m", and "R-2"
25609	"S-1", "S-1-a" to "S-1-m", "S- 2", "S-3", and "S-4" Not original: "S"
25610	"T-1", "T-1-a" to "T-1-m", and "T-2"
25611	"U-1", "U-1-a" to "U-1-n", and "U-2"
25612	"V-1", "V-1-a" to "V-1-m", and "V-2"
25613	"W-1", "W-1-a" to "W-1-m", and "W-2"

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Criminal Case No.	Exhibits
25614	<p>"X-1-a" to "X-1-m", "X-2", "X-3", and "X-3-a"</p> <p>Not originals: "X" and "X-4"</p>
25615	<p>"Y-1", "Y-1-a" to "Y-1-m", "Y-2", "Y-3", "Y-3-a", and "Y-3-b"</p> <p>Not originals: "Y" and "Y-4"</p>
25616	<p>"Z-1", "Z-1-a" to "Z-1-n", "Z-2", "Z-3", "Z-3-a", and "Z-3-b"</p> <p>Not originals: "Z" and "Z-4"</p>
25617	<p>"AA-1", "AA-1-a" to "AA-1-n", "AA-2", "AA-3", "AA-3-a", and "AA-3-b"</p> <p>Not originals: "AA", "AA-4"</p>
25618	<p>"BB-1", "BB-1-a" to "BB-1-n", "BB-2", "BB-3", "BB-3-a", and "BB-3-b"</p> <p>Not originals: "BB" and "BB-4"</p>
25619	<p>"CC-1", "CC-1-a" to "CC-1-n", and "CC-2"</p> <p>Not originals: "CC" and "CC-3"</p>
25620	<p>"DD-1", "DD-1-a" to "DD-1-n", and "DD-2"</p> <p>Not originals: "DD" and "DD-3"</p>
25621	<p>"EE-1", "EE-1-a" to "EE-1-n", and "EE-2"</p> <p>Not originals: "EE" and "EE-3"</p>

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DECISION

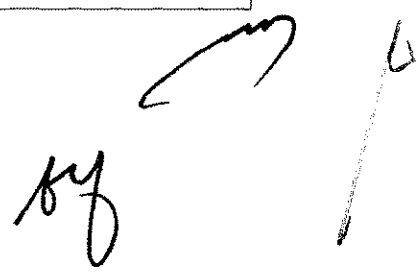
Criminal Case Nos. 25596-25631 & 25633-25636

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Criminal Case No.	Exhibits
25622	"FF-1", "FF-1-a" to "FF-1-n", and "FF-2" Not original: "FF"
25623	"GG-1", "GG-1-a" to "GG-1- d", "GG-1-f" to "GG-1-n", and "GG-2" Not originals: "GG" and "GG-3"
25624	"HH", "HH-1", "HH-1-a" to "HH-2" Not original: "HH"
25625	"II-1", "II-1-a" to "II-2" Not original: "II"
25626	"JJ-1", "JJ-1-a" to "JJ-2" Not original: "JJ"
25627	"KK-1", "K-1-a" to "KK-2" Not original: "KK"
25628	"LL-1", "LL-1-a" to "LL-2" Not original: "LL"
25629	"MM-1", "MM-1-a" to "MM- 2" Not original: "MM"
25630	"NN-1", "NN-1-a" to "NN-2" Not original: "NN"
25631	"OO-1", "OO-1-a" to "OO-2"



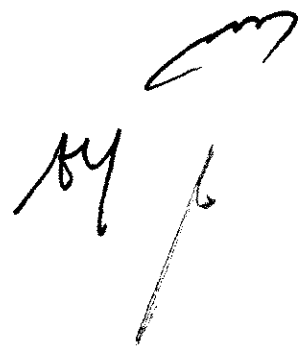
Criminal Case No.	Exhibits
	Not original: "OO" and "OO-3"
25633	"PP-1", "PP-1-a" to "PP-2" Not original: "PP" and "PP-3"
25634	"QQ-1", "QQ-1-a" to "QQ-2" Not original: "QQ" and "QQ-3"
25635	"RR-1", "RR-1-a" to "RR-2" Not original: "RR-3"
25636	"SS-1", "SS-1-a" to "SS-2" Not original: "SS" and "SS-3"

Santiago testified that he was not able to bring the originals of some sets of TCCs and their supporting documents as he could not locate their originals in the files of the OSS Center despite his best efforts. He explained that when he joined the OSS Center in 1999, all of the documents pertinent to the alleged tax credit scam were stored in a restricted room with a combination lock. It was only when he received the subpoena from the Court that he started searching for the documents. However, despite his best efforts to locate he documents for days, he was not able to find all the originals.⁸⁹

On cross-examination, Santiago confirmed that he has no personal knowledge of the facts stated in the documents which he identified before the Court.⁹⁰ He testified that he assumed his post as records custodian of the OSS Center on September 30, 1999. When he assumed his post, he did not conduct an inventory of the records because the OSS Center did not have a records officer who would turn over the documents to him. He added that the executive director then likewise did not order

⁸⁹ pp. 7-8, TSN dated November 28, 2006

⁹⁰ p. 8, TSN dated January 25, 2007



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him to conduct one. As such, he was not aware of the documents which were turned over to him upon his assumption to office.⁹¹ He likewise did not know what happened to the documents prior to his take over, what were missing, and whether some records were added to the files.⁹²

As for his first contact with the cases at bar, he said that he received a subpoena from the Office of the Special Prosecutor around two (2) years earlier requesting for the original records of the applications for TCCs filed by Scope Industries, Inc. Upon query, he related that the Fact-Finding Investigation Bureau of the Office of the Ombudsman never summoned him in relation to any investigation on the cases at bar. He noted, however, that it was the then functioning Economic Intelligence and Investigation Bureau or EIIB which investigated the cases per the records of the OSS Center. The EIIB then subsequently indorsed the investigation to the Office of the Special Prosecutor.⁹³

In relation to some of the documents in their records, Santiago said that a certain Task Force 156 charged him with grave misconduct due to the loss of some records in relation to a company that is not Scope Industries, Inc. He was also the subject of a criminal charge for infidelity in the custody of public documents for which he applied for immunity with the Office of the Ombudsman.⁹⁴

On re-direct examination, Santiago confirmed that he submitted the original records of the TCCs to the prosecution in these cases. He said that the documents were originals based on the records kept by the OSS Center. He likewise said that the documents he submitted are the same documents which were processed by the evaluators named in the corresponding Evaluation Reports for each TCC.⁹⁵

⁹¹ p. 9, TSN dated January 25, 2007

⁹² pp. 14-15, TSN dated January 25, 2007

⁹³ p. 11, TSN dated January 25, 2007

⁹⁴ pp. 12-13, TSN dated January 25, 2007

⁹⁵ pp. 16-17, TSN dated January 25, 2007

ROSARIO C. FUENTE,
Chief Administrative Officer,
Department of Finance

The prosecution intended to present Rosario C. Fuente to establish that she is the official custodian of the personal records of the officials and employees of the Department of Finance, and that she will identify the duplicate original copies of the Position Description Forms, Service Records, and Appointment Papers of accused public officials in these cases. The prosecution likewise intended her to testify on other matters necessary to establish the material allegations in the information including the identification of the signatures of the accused in the Position Description Forms and also the identity of the accused.

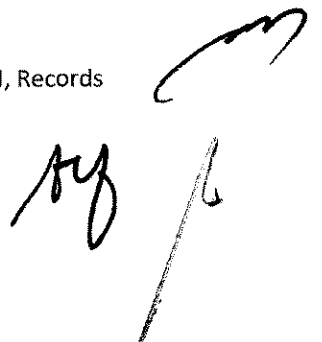
The accused, however, stipulated with the prosecution that at the time material to the *Amended Informations*, the accused were public officials, holding and occupying the respective positions indicated in the *Amended Informations*, and that they are the same accused mentioned in the *Amended Informations*. As such the prosecution dispensed with the further testimony of the said witness.⁹⁶

RODOLFO DEL CASTILLO, JR.,
Liaison Officer,
Scope Industries, Inc.

Castillo, Jr. was presented by the prosecution in all cases to testify regarding the applications and documents submitted by Scope Industries, Inc. to secure the TCCs granted to it by the OSS Center from 1995 to 1998.

He testified that he was the Liaison Officer of Scope Industries, Inc. from 1991 to 1999. As Liaison Officer, his principal functions and duties included (1) reviewing and evaluating documents to be submitted for the application of tax credits; (2) accompanying company representatives to submit

⁹⁶ See TSN dated March 6, 2007 and *Order* dated March 6, 2007, p. 9, Volume VIII, Records

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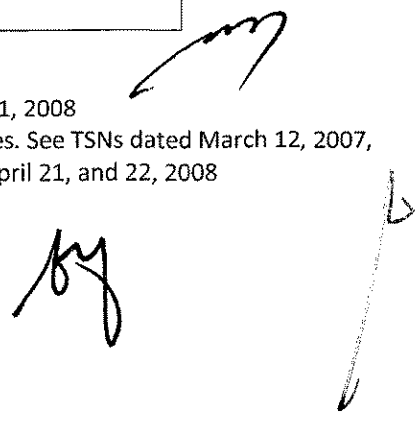
these documents to the OSS Center; (3) facilitating the release of the approved TCCs from the OSS Center; (4) accompanying company representatives to submit necessary papers to transfer the certificates to other companies; (5) working on the processing of the company's Mayor's Permit, BIR registration, and other related tax clearances; and (6) other functions and duties as may be assigned to him by the President and General Manager, Melchor Tan, with assumed name "Angel Jimenez," and by the Assistant General Manager, Bernard Farin, with an assumed name of "Bernard Santos." He confirmed that "Angel Jimenez" who is the named President of Scope Industries, Inc. and one of the accused in the cases at bar, is the same person as Melchor Tan. Similarly, "Bernard Santos," who is the named Assistant General Manager of Scope Industries, Inc., and also accused in the cases at bar, is the same person as Bernard Farin.⁹⁷

He narrated that in connection with his work, he submitted various applications for TCCs on behalf of Scope Industries, Inc. to the OSS Center covering the calendar years 1995 to 1998. In connection with these applications, he said that he submitted the following documents: (1) Claimant Information Sheet; (2) bills of lading for import and export; (3) import entry declaration with customs receipts; (4) company invoices; (5) packing lists; (6) export declarations; (7) Equitable Bank credit advices; (7) computation table for standard rate scheme; (8) schedule of importation; and (9) schedule of export. He identified the following as the same documents which he submitted to the OSS Center in connection with the applications mentioned, as well as the TCCs issued as a result of the applications. Due to the volume of the documents that Castillo, Jr. identified, only the exhibit reference letters of the documents are mentioned here since the description of the documents are already listed in the amended pre-trial orders for the accused:⁹⁸

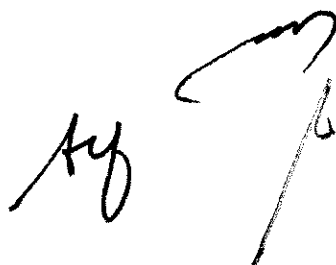
Criminal Case No.	Exhibit
25596	"F-1", "F-1-a" and "F-1-b"

⁹⁷ pp. 8-11, TSN dated March 12, 2007; pp. 35-36, TSN dated January 21, 2008

⁹⁸ Castillo, Jr. identified the exhibits over the course of several trial dates. See TSNs dated March 12, 2007, July 11, 2007, September 18, and 20, 2007, January 21 and 22, 2008, April 21, and 22, 2008

Handwritten signatures and marks are present at the bottom right of the page. There is a large, stylized signature that appears to be 'M' or 'J'. Below it, there is another signature that looks like 'By'. To the right of these signatures, there is a vertical line with a small 'b' at the top and an arrow pointing downwards.

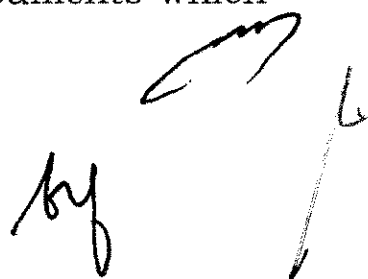
Criminal Case No.	Exhibit
25597	"G-1", "G-1-c" to "G-1-n"
25598	"H-1", "H-1-a" to "H-1-b-3"
25599	"I-1", "I-1-a" to "I-1-b-1"
25600	"J-1", "J-1-a" to "J-1-b-1"
25601	"K-1", "K-1-c" to "K-1-m"
25602	"L-1", "L-1-a" to "L-1-b"
25603	"M-1", "M-1-c" to "M-k-2"
25604	"N-1", "N-1-c" to "N-1-l"
25605	"O-1", "O-1-a" and "O-1-b"
25606	"P-1", "P-1-a" to "P-1-b-1"
25607	"Q-1", "Q-1-a-2" to "Q-1-I"
25608	"R-1" to "R-1-c" to "R-1-m"
25609	"S-1", "S-1-c" to "S-1-m"
25610	"T-1", "T-1-c" to "T-1-m"
25611	"U-1", "U-1-c" to "U-1-j"
25612	"V-1", "V-1-c" to "V-1-m"
25613	"W-1", "W-1-c" to "W-1-m"
25614	"X-1", "X-1-c" to "X-1-m"
25615	"Y-1", "Y-1-c" to "Y-1-m"
25616	"Z-1", "Z-1-c" to "Z-1-n"
25617	"AA-1", "AA-1-c" to "AA-1-n"
25618	"BB-1", "BB-1-c" to "BB-1-n"
25619	"CC-1", "CC-1-c" to "CC-1-n"
25620	"DD-1", "DD-1-c" to "DD-1-n"



Handwritten signature and initials, possibly "Ay" and a stylized flourish.

Criminal Case No.	Exhibit
25621	"EE-1", "EE-1-c" to "EE-1-n"
25622	"FF-1", "FF-1-c" to "FF-1-h-1"
25623	"GG-1", "GG-1-c" to "GG-1-n"
25624	"HH-1", "HH-1-c" to "HH-1-n"
25625	"II-1", "II-1-c" to "II-1-n"
25626	"JJ-1", "JJ-1-c" to "JJ-1-n"
25627	"KK-1", "KK-1-c" to "KK-1-m"
25628	"LL-1", "LL-1-c" to "LL-1-n"
25629	"MM-1", "MM-1-c" to "MM-1-n"
25630	"NN-1", "NN-1-c" to "NN-1-n"
25631	"OO-1", "OO-1-c" to "OO-1-n"
25633	"PP-1", "PP-1-c" to "PP-1-m"
25634	"QQ-1", "QQ-1-c" to "QQ-1-n"
25635	"RR-1", "RR-1-c" to "RR-1-n"
25636	"SS-1", "SS-1-c" to "SS-1-m"

In the course of identifying the preceding exhibits, Castillo, Jr. identified several documents which appeared to be photocopies but bore the original rubberstamp "Certified True Copy," and which were signed by either Angel O. Jimenez or Bernard Santos. He said that aside from the documents with the original rubberstamps, the documents he identified were faithful reproductions of the documents which he submitted to the OSS Center for the TCC applications of Scope Industries, Inc. since he recognized them as the same documents which

by 

he reviewed and evaluated prior to their submission to the OSS Center. He testified that he was able to identify the signatures above the name "Angel O. Jimenez" as Melchor Tan's signature, as well as the signatures above the name "Bernard Santos" as the signature of Bernard Farin because he saw them signing the documents in his presence.⁹⁹

Castillo, Jr. said that over the years, Scope Industries, Inc. submitted **export documents** to support its application for TCCs. He claimed that these export documents, however, were all fabricated as Scope Industries, Inc. was never engaged in the business of exporting textile products. He said that Scope merely imported yarns, knitted gray fabrics from these imported yarns, and then sold these knitted fabrics locally.¹⁰⁰ The export documents which he claimed to have been fabricated were the (1) export declarations stating that the exporter is Scope Industries, Inc.; (2) shipping documents stating that the shipper is Scope Industries, Inc.; (3) sales invoices stating that the shipment came from Manila; (4) sales invoices issued by Scope Industries, Inc. stating that the shipment came from Manila and are polyester knitted fabric; (5) credit advices to Scope Industries, Inc. issued by Equitable Banking Corporation; and (6) letters of credit in favor of Scope Industries, Inc.¹⁰¹ He said that these documents, despite bearing the stamp "Certified True Copy," were merely fabricated since they were only certified by either "Angel O. Jimenez" or "Bernard Santos" of Scope Industries, Inc.

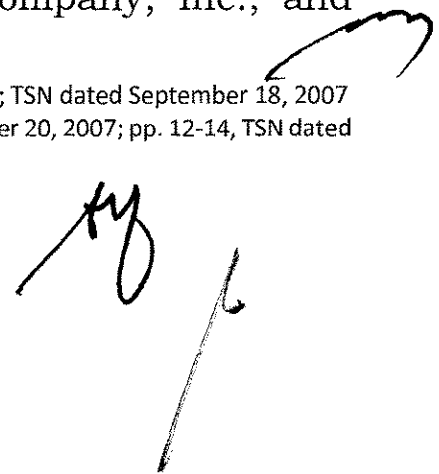
Despite the submission of the fabricated export documents, Castillo, Jr. said that the OSS Center still approved the applications of Scope Industries, Inc. as evidenced by the TCCs issued to it. He said that the TCCs were released by the OSS Center to him and a certain Dondon Pamatmat.¹⁰² He averred that Scope Industries, Inc. utilized some of the TCCs to pay for its own duties and taxes while some TCCs were transferred to other corporations such as Manila Bay Spinning Mills, Inc., Pacific Mills, Inc., Wise & Company, Inc., and

⁹⁹ pp. 13-14, TSN dated March 12, 2007; pp. 8-9, TSN dated July 11, 2007; TSN dated September 18, 2007

¹⁰⁰ pp. 15-16, TSN dated September 18, 2007; pp. 8-9, TSN dated September 20, 2007; pp. 12-14, TSN dated January 21, 2008

¹⁰¹ pp. 17-18, TSN dated January 21, 2008

¹⁰² pp. 9-10, TSN dated April 21, 2008

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Pilipinas Shell Petroleum Corp. He said that he knew the TCCs were either utilized or transferred since these details were indicated at the back portion of the TCCs. As for the transfers, specifically, he knew about these transactions since he was the one who collected the checks from these corporation as payment for the transfer.¹⁰³ He added that the checks he collected for these transactions were deposited at the following banks and corresponding account numbers: (1) Security Bank, Sumulong Branch, 395-000-464-8; (2) Equitable Bank, Cubao, 0174-69588-7; (3) Equitable Bank, 24-616-81-6 and (4) Metro Bank Ayala, 096-212244-4. He said that both Bernard Santos and Melchor Tan maintained various bank accounts to which the proceeds from the transfers would be deposited to.¹⁰⁴

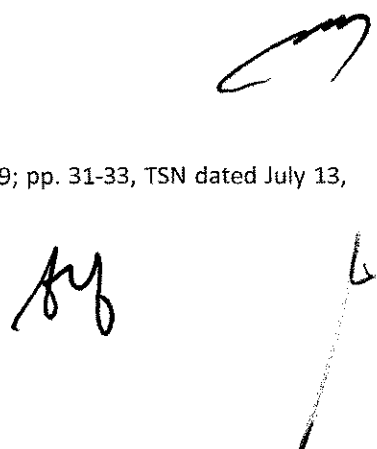
On cross-examination, Castillo, Jr. reiterated that his functions as liaison officer of Scope Industries, Inc. included the processing of the registration papers of the company, depositing of checks with banks, monthly filings with the BIR, as well as accompanying representatives to process papers with the Department of Finance, Board of Investments, Securities and Exchange Commission, and other government offices. When asked to elaborate on the term "process," he explained that processing related to their importation and applications, such as tax credit applications with the Department of Finance. Specifically, he said that his job was to give the required documents to the company representatives for those applications. He likewise accompanied the company representatives in their applications to ensure that the papers they submitted are correct, and to likewise secure any other needed papers.¹⁰⁵ For the TCC applications of Scope, he said that Dondon Pamatmat was the company representative who submitted all the documents to the OSS Center and received all the issued TCCs on behalf of Scope. Per Castillo, Jr., Pamatmat was not a liaison officer nor a regular employee of Scope Industries, Inc., but he worked exclusively with Scope Industries, Inc. for the company's applications for TCC with the OSS Center.¹⁰⁶ When asked what exactly his role was whenever

¹⁰³ pp. 31-46, TSN dated April 22, 2008; p. 9, TSN dated April 23, 2008

¹⁰⁴ p. 14, TSN dated April 23, 2008

¹⁰⁵ pp. 4-6, TSN dated May 11, 2009; pp. 17-18, TSN dated July 13, 2009

¹⁰⁶ pp. 19-20, TSN dated May 11, 2009; pp. 9-13, TSN dated June 1, 2009; pp. 31-33, TSN dated July 13, 2009

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Pamatmat would submit applications on behalf of Scope, Castillo, Jr. clarified that his functions involved delivering documents to Pamatmat and subsequently accompanying him to the OSS Center to make sure that Pamatmat submitted the documents. He said that at the OSS Center, he would stay at the waiting area where he could see the window through which Pamatmat would submit the documents.¹⁰⁷ He confirmed that he never talked to any official or employee at the OSS Center, including the accused, regarding the applications, much less inform them that Melchor Tan was not using his real name whenever he signed documents for Scope.¹⁰⁸

Castillo, Jr. also testified that he started working at Scope Industries, Inc. sometime in 1993.¹⁰⁹ He said that prior to his stint at Scope Industries, Inc., he worked for Maniquin International Corporation, another business owned by Melchor Tan. While Maniquin International Corporation had a separate business registration from Scope Industries, Inc., Castillo, Jr. said that the same people operated the two (2) companies. He listed Melchor Tan as the President, Edgardo Olandez and Bernard Farin as the officers on the operation aspect, Leonardo Ania as the accountant, and Michael Ray Quimpo as the financial advisor.¹¹⁰ He said that he was not formally designated in writing as Scope's liaison officer. Rather, he only had a verbal appointment and earned around eight to nine thousand pesos per month for his work.¹¹¹

He further testified that Scope Industries, Inc. started operating in around 1992 to 1993. The office of Scope was originally located at No. 67 in Quezon Avenue, a place owned by Genoveva Tan, Melchor Tan's mother. Scope eventually moved its offices to No. 4 Kalinga Street in La Vista, likewise, owned by Melchor Tan's mother, but the machines were left at the No. 67 office. He said that while Scope stated that it was involved in textile manufacturing, the machines it owned, and which were installed at the No. 67 office, were only capable of

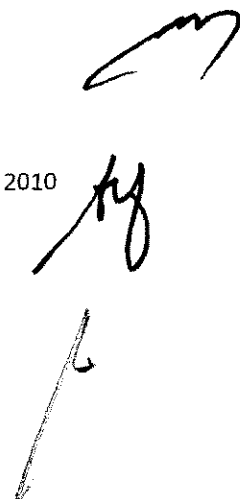
¹⁰⁷ pp. 17-18, TSN dated September 1, 2009

¹⁰⁸ pp. 62-64, TSN dated July 13, 2009

¹⁰⁹ pp. 6, TSN dated May 11, 2009; pp. 7-8, June 15, 2009; p. 8, TSN dated March 10, 2010

¹¹⁰ p. 23, TSN dated May 11, 2009; pp. 9-13, TSN dated June 15, 2009

¹¹¹ pp. 13-14, TSN dated June 15, 2009



knitting yarns. Castillo, Jr. said that the machines were installed and maintained by his brother-in-law.¹¹²

As for Melchor Tan, Castillo, Jr. said that he was the big boss at Scope Industries, Inc. In connection with Scope's application for TCCs, Melchor Tan assumed the name of "Angel O. Jimenez" and signed documents as such. Bernard Farin, another officer of Scope Industries, Inc. likewise assumed another name "Bernard Santos" while signing documents for Scope.¹¹³ He said that he personally witnessed both sign documents under their assumed names. He declared that all officers and employees of Scope back then shared the same office space. The office space had no dividers. Everyone was able to see what the others were doing. Given the short distance of his desk from Melchor Tan's, Castillo, Jr. said that he was able to see Melchor Tan signing as "Angel O. Jimenez." On other occasions, he would usually be the one delivering the documents for Melchor Tan to sign, and while waiting for the documents to be signed, he would stand beside the desk of Melchor Tan and see him signing as "Angel O. Jimenez."¹¹⁴ He said that he could not count how many times he saw Melchor Tan sign as "Angel O. Jimenez," but to his estimate, he personally witnessed Melchor Tan sign as such for around half of the applications involved in the cases at bar. He also said that to his knowledge, only Melchor Tan signed as "Angel O. Jimenez."¹¹⁵ When asked if his co-employees knew Melchor Tan signed as "Angel O. Jimenez," Castillo, Jr. said that they did since it was common knowledge among them that Melchor Tan did so.¹¹⁶

When asked regarding his thoughts on seeing Melchor Tan sign as another person, Castillo, Jr. said that he was shocked when he first witnessed the act but since he was merely an employee, he felt that he did not have the authority to question Melchor Tan regarding such acts. He claimed, however, that he tried distancing himself from Melchor Tan

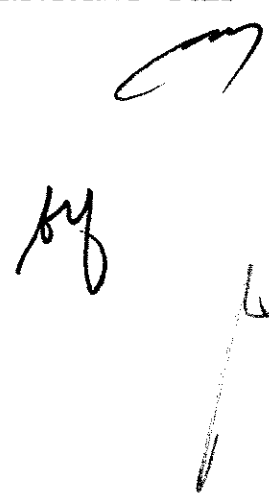
¹¹² pp. 9-12, TSN dated May 11, 2009

¹¹³ pp. 16-17, TSN dated May 11, 2009; pp. 13, 41-44, TSN dated June 1, 2009

¹¹⁴ pp. 16-20, TSN dated June 15, 2009; pp. 34-36, 53-54, TSN dated July 13, 2009

¹¹⁵ pp. 41-44, TSN dated June 1, 2009

¹¹⁶ pp. 57-61, TSN dated July 13, 2009

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sometime in 1997, prior to the exposé on the tax credit scams.¹¹⁷

In addition to the documents being signed under false names, Castillo, Jr. added that the export documents they submitted in relation to Scope's TCC applications were spurious since Scope was not capable of nor involved in exporting textile products as it declared in its applications.¹¹⁸

Castillo, Jr. also testified that the employees of Scope were involved in the fabrication since the documents came from their office and it was the secretary of Melchor Tan who handed those documents to him. Additionally, documents like the Claimant Information Sheet were prepared in their office, specifically by Melchor Tan's secretaries such as Alicia Bautista and Elena Buenaventura. He clarified that he was not involved in the preparation of these documents since he was only concerned with checking if the documents handed to him by Melchor Tan's secretaries were complete based on the checklist issued by the OSS Center. Once he has checked the documents, he would turn them over to Pamatmat who would submit the documents.¹¹⁹ Castillo, Jr. added that Pamatmat, as well as the other employees of Scope Industries, Inc. knew that some of the documents that they were submitting to the OSS Center were not authentic.¹²⁰

Castillo, Jr. further averred that he was not the only person employed as liaison officer in Scope Industries, Inc. He said that a certain Jerry Gudoy, a Boyet, and a Rading were also liaison officers at Scope. As liaison officers, they were supervised by the Executive Secretary of Scope, Alicia Bautista, who in turn reported to Melchor Tan. There were times, however, when Melchor Tan would directly call Castillo, Jr. to report to him.¹²¹

¹¹⁷ pp. 45-47, TSN dated June 1, 2009; p. 34, TSN dated June 15, 2009

¹¹⁸ p. 9, TSN dated May 11, 2009; pp. 20, 48, TSN dated June 1, 2009; pp. 27-28, TSN dated October 5, 2009

¹¹⁹ pp. 18-19, 26-29, TSN dated May 11, 2009; pp. 17-19, 48-50, TSN dated June 1, 2009; pp. 41-44, TSN dated June 15, 2009; pp. 42-48, TSN dated July 13, 2009; pp. 19-20, TSN dated December 8, 2009

¹²⁰ pp. 19-20, TSN dated May 11, 2009

¹²¹ pp. 20-24, TSN dated July 13, 2009

When asked regarding his relationship with Melchor Tan, Castillo, Jr. disclosed that the father of his half-sister was the first cousin of the mother of Melchor Tan. For some years, he said that he and his half-sister stayed at the house of Melchor Tan in La Vista. He added that at some point, the mother of Melchor Tan filed an *estafa* case against his half-sister. He said that his sister was aware that he had a falling out with Melchor Tan since he informed her about it.¹²² As for Melchor Tan's whereabouts, Castillo, Jr. said that he heard that Melchor Tan had been in Canada since 1998 or 1999, and that he came back to the Philippines sometime in 2000, after the investigation regarding the tax credit scams began. He said that they never talked about the investigations, nor the cases filed in connection with Scope Industries Inc. since Melchor Tan only talked about the cases with the managers. Whenever he and Melchor Tan had the occasion to talk, Castillo, Jr. said that they only talked about personal matters.¹²³

As for the other accused in the cases at bar, he said that he knew accused Belicena and Andutan, Jr., because their names and signatures appeared in the TCCs issued to Scope Industries, Inc.¹²⁴

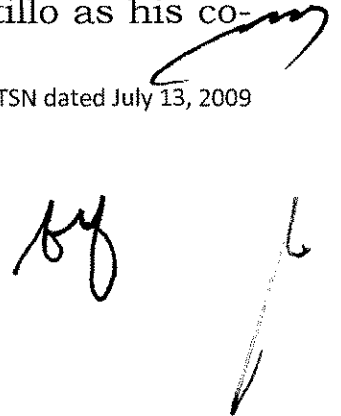
Castillo, Jr. also testified that he was called by a task force sometime in 2002-2003 to testify regarding the tax credit scams involving Maniquin International Corporation, which was owned by Melchor Tan, and had more or less the same modus operandi as Scope regarding the TCCs. For the cases at bar, he said that he was only asked to be a witness sometime in 2006. He declared that the prosecution offered him immunity as he was informed that he may be answering questions that might incriminate him.¹²⁵ As for the task force's investigation, Castillo, Jr. said that he told them about the participation of the other employees in Scope and submitted their names to the task force. He has no knowledge, however, if his co-employees were ever summoned by the task force. He listed the names Alicia Bautista, Elene Buenaventura, Leonardo Rana, Bernard Marin, and Cristy Castillo as his co-

¹²² pp. 9-10, TSN dated June 1, 2009; pp. 25-28, TSN dated June 15, 2009; pp. 6-7, TSN dated July 13, 2009

¹²³ pp. 29-32, TSN dated June 15, 2009

¹²⁴ pp. 7-8, TSN dated May 11, 2009; pp. 9-10, TSN dated March 10, 2010

¹²⁵ pp. 20-22, 26-27, 30-32, 38-39, TSN dated June 1, 2009

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employees in Scope.¹²⁶ When asked if he gave the prosecution the names of these people when he prepared his affidavit in connection with his application for immunity, Castillo, Jr. said that he could not recall if he did.¹²⁷

On redirect examination, Castillo, Jr. said that Scope transacted with the OSS Center for the issuance of TCCs from 1994 to 1997. Throughout those years, no one from the OSS Center verified the identify of Angel O. Jimenez.

EMERITO DEL CASTILLO,
Tax Credit Section Chief
Accountant III, Cash
and Credit Collection –
Accounting Division
Bureau of Customs

Emerito Del Castillo was presented to identify the Bureau of Customs receipts issued to Scope Industries, Inc. in relation to the utilization of the TCCs issued to it and subject of the cases at bar.

He testified that he is the Tax Credit Section Chief and Accountant III of the Cash and Credit Collection of the Accounting Division, Finance Management Office of the Bureau of Customs.¹²⁸ His duties and functions include the recording of all transactions on the issuance and utilization of tax credits, as well as the creation of monthly reports of the issuances of Bureau of Customs' Official Receipts (hereinafter referred to as "**BCORs**"). He said that he likewise safekeeps all records pertaining to the monthly reports as well as the BCOR themselves.¹²⁹

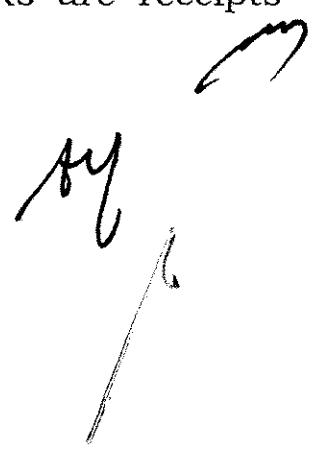
Per the directive of the subpoena which he received from the Court, he brought with him the BCORs, or copies thereof, relating to the utilization of the TCCs issued to Scope Industries, Inc. He explained that the BCORs are receipts

¹²⁶ pp. 50-51, TSN dated June 1, 2009

¹²⁷ *Id.*, pp. 54-55

¹²⁸ p. 5, TSN dated November 10, 2008

¹²⁹ *Id.*

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issued by the Bureau of Customs whenever an importer uses TCCs to pay for their duties or taxes for importation.¹³⁰ He said that the documents came from the files kept by the Accounting Division of the Bureau of Customs.¹³¹

The prosecution marked the certified true photocopies of the BCORS as its exhibits upon confirmation by the accused that the photocopies are faithful copies.¹³² In the BCORs he identified, it was noted that the indicated payor is Scope Industries, Inc., and that the tax obligation to the Bureau of Customs was paid by way of a tax credit.¹³³

It was clarified that the documents he brought are the quadruplicate original copy of the BCORs. He identified copies of the BCORs involved in Criminal Cases Nos. **25598, 25599, 25600, 25601, 25602, 25603, 25604,**¹³⁴**25607, 25608, 25609, 25610, 25611, 25612, 25613,**¹³⁵**25619, 25620, 25621, 25623, 25631, 25633** and **25634.**¹³⁶

On cross-examination, Del Castillo reiterated that his functions as Chief of the Tax Credit Section of the Accounting Division included the recording of transactions on the issuance and utilization of tax credits and the safe-keeping of records, files, and other documents related to TCCs.¹³⁷

He clarified that the BCORs which he identified were accomplished by employees in the Cash Division of the Bureau of Customs. As Chief of the Tax Credit Section, the receipts are submitted to him by the Cash Division on a monthly basis. Upon receipt, he records the same in the books of accounts of the Bureau of Customs.¹³⁸

He said that he became the Chief of the Tax Credit Section sometime in January 2000. Since the BCORs of the TCCs

¹³⁰ pp. 5-6, TSN dated November 10, 2008

¹³¹ p. 36, TSN dated November 24, 2008

¹³² p. 20, TSN dated November 12, 2008

¹³³ pp. 6-7, TSN dated November 10, 2008

¹³⁴ pp. 22-24, TSN dated November 24, 2008

¹³⁵ pp. 6-7, TSN dated November 10, 2008

¹³⁶ pp. 6-15, TSN dated November 12, 2008

¹³⁷ p. 5, TSN dated February 17, 2009

¹³⁸ pp. 14-21, TSN dated February 17, 2009

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involved in these cases were issued from 1997 to 1998, he was not the one who personally received the BCORs he identified when the Cash Division submitted them for recording. However, he clarified that his certification that the documents which he identified were certified true copies of the original BCORs is based on the fact that he personally located the documents in the files kept by his division, and then made photocopies of said original documents.¹³⁹

EDITA C. YAMBAO,
Acting Collecting Officer
Cash Division of the
Port of Manila Bureau of
Customs

Yambao testified that she has been with the Bureau of Customs since December 1981. From 1995 to 2001, she was designated as an Acting Collecting Officer at the Cash Division of the Port of Manila, Bureau of Customs.¹⁴⁰ As Acting Collecting Officer, she testified that she issued Bureau of Customs official receipt or BCORs for the application or utilization of the TCCs involved in the cases at bar.¹⁴¹

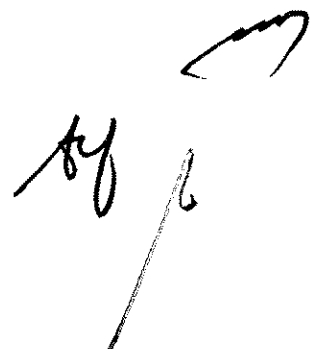
Yambao initially narrated the process that goes into the issuance of BCORs. She said that she first receives from the Tax-Exempt Industry Division of the Bureau of Customs a certificate of endorsements of tax credits or tax debit certificates. Appended to the certificate of endorsement is the pink copy of the TCC to be used as well as the corresponding tax debit memo for the endorsement. Afterwards, she receives from the importer or the assigned broker the import entry declaration along with the supporting documents of the TCC. Once the TCC has been applied to the duties of the importer, she would issue a BCOR – which is the BOC Form 38A.

Per Yambao, a BCOR is executed in four (4) copies. The first copy would be issued to the importer or consignee. The second copy, which is a green copy, would be attached to the

¹³⁹ *Id.*, pp. 22-25

¹⁴⁰ pp. 7-8, TSN dated June 21, 2010

¹⁴¹ *Id.*, p. 8

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import documents submitted to by the importer. The third copy, which is the yellow copy, would be forwarded to the Accounting Division of the Bureau of Custom, while the fourth or last copy, which is the blue copy, would be retained for file with the Bureau.¹⁴² She explained that these copies are “carbonized” copies, and as such, made or filled out at the same time. Whatever is written in the first or original copy would be reflected on all other copies.¹⁴³

She recalled that as Acting Collecting Officer, she issued BCORs in relation to the utilization of TCCs issued to Scope Industries, Inc. She then identified the **yellow copies of BCOR** which bore her signatures, or the signatures of other collecting officers whose signature she is familiar with, and the **corresponding tax debit memo**, which were marked as exhibits for the prosecution. Yambao testified that when she executed the BCORs, she indicated in some of the BCORs the name of the entity to which the TCC was issued, as stated in the pink copy of the tax credit certificate and the tax debit memo accompanying the tax credit certificate which she received. In some of these exhibits, the name “Scope Industries, Inc.” was written as the assignor (*i.e.*, the entity to which the tax credit certificate was issued). The BCORs she identified likewise indicated the identification number of the TCC utilized in the payment of duties and taxes to the Bureau of Customs as well as the assignee of the TCCs in instances where the certificate appears to have been transferred. She also identified **her signatures at the back of the pink copies of TCCs** which were submitted to her and which she used as basis for issuing the BCORs.

Criminal Case No.	Exhibit/s
25598	“H-3” “H-4-t” series
25599	“I-4” “I-5-d” series
25600	“J-4” “J-5-a” “J-6”

¹⁴² *Id.*, pp. 8-9

¹⁴³ pp. 14-15, 21, TSN dated October 5, 2010

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Criminal Case No.	Exhibit/s
25601	"K-4" "K-5-d" series "K-6"
25602	"L-4" "L-5-a" "L-6"
25603	"M-4" "M-5-a" "M-6"
25604	"N-4" "N-5-c" "N-5-c-1" "N-6"
25634	"QQ-4-h"

On cross-examination, she testified that she had no participation in the determination of the authenticity of the documents endorsed or submitted to her prior to her issuance of a BCOR. She said that she merely relied on the endorsement of the Tax-Exempt Industry Division in conducting her functions.¹⁴⁴

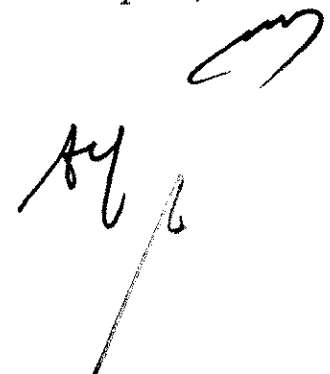
As for the import documents submitted to her, she relayed that these usually consisted of the import entry declaration, invoices, packing lists, as well as bills of lading.¹⁴⁵

When asked regarding the yellow copies of the BCORs, she said that as collecting officers, they are required to report their collections to the Accounting Division. This reporting is done at the end of the month and the yellow copies of the BCORs evidence their collection. Once submitted to the Accounting Division, the collecting officers would no longer have access to these copies.¹⁴⁶ As for the blue copies that are retained on file, Yambao said that there is no one person assigned to safe-keep these copies. Rather, they are stored on the mezzanine floor of the building which serves as the bodega of the Port of Manila. With regard to the green copies, she

¹⁴⁴ pp. 5-6, TSN dated September 15, 2010

¹⁴⁵ *Id.*, p. 7

¹⁴⁶ *Id.*, pp. 9-10



testified that these copies would be attached to the import entry declaration and would be used by the Liquidation Division as basis for the further processing of the importation.¹⁴⁷ She confirmed that the yellow copies of the BCORs which she identified are supposed to be with the Accounting Division of the Bureau of Customs. She said that these copies were already with the prosecution when she was asked to testify. She also said that she did not provide the blue, green, or gray copies of the BCORs to the prosecution.¹⁴⁸

Yambao also testified that a BCOR by itself would not be sufficient to show that there was an effective or full availment of the tax credit benefit in a TCC since several BCORs may be issued with respect to one TCC.¹⁴⁹ She said that a TCC may be used several times until its balance is fully utilized. She explained that prior to issuing a BCOR copy to the importer or its agent, she would first post the utilized amount and details of the transaction at the dorsal portion of the pink copy of the TCC that was used by the importer. Once she has posted the transaction, she would sign the TCC, and then detach the original copy of the BCOR from the booklet and then issue the same to the taxpayer.¹⁵⁰

BIMAL CHAND BHANDARI,
Textile Engineer/Used
Textile Machine Dealer
at Sundari Enterprises

Bhandari testified that he is a textile engineer and used textile machine dealer for Sundari Enterprises. From 1990 to 1998, his professional services were engaged by Scope Industries, Inc. He said that he helped Scope Industries, Inc. locate knitting machines and subsequently installed them at the premises kept by Scope. After installing the machines, he supervised their maintenance on a consultancy basis.¹⁵¹

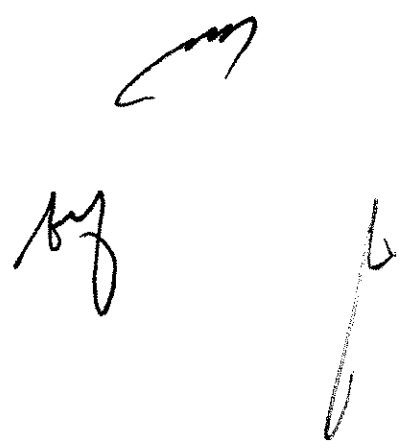
¹⁴⁷ *Id.*, pp. 11-13

¹⁴⁸ *Id.*, pp. 24-25

¹⁴⁹ *Id.*, pp. 19-24

¹⁵⁰ pp. 16-17, TSN dated October 5, 2010

¹⁵¹ pp. 8-9, TSN dated January 20, 2011

The image shows three handwritten signatures or initials in black ink. One is at the top right, another is in the middle left, and the third is at the bottom right. They appear to be stylized and somewhat illegible.

He explained that the machines he installed for Scope are circular knitting machines that are operated by built-in electronic motors which did not need any petroleum oil. The machines could produce gray or unfinished knitted fabrics that are meant for local sale. He said that the fabrics produced by the machines are very inferior and by no means would pass the criteria for export quality fabrics. He confirmed that Scope did not use any other machine aside from the knitting machines he installed in their premises.¹⁵²

On cross-examination, he testified that he is an Indian citizen, but he has been a permanent resident of the Philippines since 1978 or 1979. He is not a registered engineer in the Philippines, but he has a diploma as knitting engineer from Germany. Prior to becoming a consultant, he worked for a German company here in the Philippines.¹⁵³ He also testified that his wife is Lorna Briones, the half-sister of Rodolfo Del Castillo, Jr., who was one of the previous witnesses of the prosecution in the cases at bar. He confirmed that he knew Rodolfo Del Castillo, Jr. was also an employee of Maniquin Garments Corporation, a corporation owned by Melchor Tan of Scope Industries, Inc, and which he similarly supplied machines to.¹⁵⁴ He said that it was Bernard Farin and Melchor Tan who hired him as consultant for Scope Industries, Inc.¹⁵⁵ They had no written agreement covering the consultancy services, as he only had an oral agreement with Melchor Tan regarding the matter.¹⁵⁶ He said that he received his payment from Melchor Tan.¹⁵⁷ He likewise relayed that did not know who Bernard T. Santos or Angel O. Jimenez were. The only persons he knew who were in the top management of Scope were Melchor Tan and Bernard Farin.¹⁵⁸

Bhandari confirmed that he and his wife currently live in the same residence as Castillo, Jr. He also said that he knew Castillo, Jr. was employed by Scope and that he interacted with

¹⁵² *Id.*, pp. 10-11

¹⁵³ pp. 22-23, TSN dated February 16, 2011

¹⁵⁴ pp. 12-16, TSN dated January 20, 2011

¹⁵⁵ pp. 5-6, TSN dated February 16, 2011

¹⁵⁶ *Id.*, pp. 20-22

¹⁵⁷ *Id.*, pp. 45-46

¹⁵⁸ *Id.*, pp. 20-22

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Castillo, Jr. whenever he needed to request for spare parts for the machines from Scope's management.¹⁵⁹

Bhandari also testified that as far as he can recall, Melchor Tan was the son of Genoveva Tan. He said that his wife, Lorna, had a relationship with Genoveva Tan but he is not certain if his wife was the niece of Genoveva or not. He recalled that he and his wife were allowed by Genoveva to stay in their guest house in La Vista, Quezon City, sometime in 1999, for about two (2) years. However, they were subsequently evicted by Genoveva after she had a falling out with his wife. He said that his wife confronted Genoveva after his wife became a co-accused of the whole Tan family in a case involving tax credits filed by the Bureau of Customs. He narrated that his wife asked Genoveva about her involvement in the cases and why she was not given an attorney to defend her case.¹⁶⁰

When asked if he is currently the subject of a criminal case, Bhandari confirmed that he is one of the accused in Criminal Case No. 03-122609 filed before the RTC of Quezon City, along with his wife.¹⁶¹

With respect to the machines he installed for Scope, Bhandari clarified that these were second-hand machines which he sourced locally from another factory in Malinta or Valenzuela. He recalled installing ten (10) to twelve (12) circular knitting machines within the production area of Scope, as the main business of Scope then was the production of circular knitted fabrics.¹⁶² These knitted fabrics per Bhandari were totally unfinished products that were at a stage that there was no possibility for their export.¹⁶³

LEONIDES PILAPIL ROSEL,
Customs Operation
Officer III, Liquidation
and Billing Division Port

¹⁵⁹ *Id.*, pp. 12-13, 40-41

¹⁶⁰ *Id.*, pp. 5-6, 12-13

¹⁶¹ *Id.*, pp. 9-10

¹⁶² *Id.*, pp. 46-48

¹⁶³ *Id.*, pp. 29-31



of Manila, Bureau of
Customs

Rosel was presented by the prosecution as a witness for Criminal Cases Nos. Cases Nos. **25607 to 25613, 25619 to 25623, 25631, 25633** and **25634**.¹⁶⁴

He testified that he is a Customs Operation Officer III at the Bureau of Customs, assigned at the Liquidation and Billing Division, Port of Manila. He has been with the Bureau of Customs since 1982, and in 1994 to 1998, he was a Customs Clerk II designated as Special Collecting Officer at the Tax Credit Unit of the Cash Division of the Port of Manila. As Special Collecting Officer, he issued BCORs to importers or their brokers who utilized TCCs to pay for their duties.¹⁶⁵ He testified that prior to issuing BCORs, he first receives the pink copies of the TCCs to be used along with the corresponding original copy of the Tax Debit Memo from the Tax-Exempt Division, and the relevant import documents from the importer or their broker. He would then evaluate the documents he received and subsequently prepare four (4) copies of a BCOR to be distributed as follows: the original would be given to the importer or broker, while the duplicate green copy would be attached to the import document; another copy, which is yellow in color, would be submitted to the Accounting Division of the Bureau, while the fourth blue copy would be retained for their files.¹⁶⁶ In the course of his testimony, he declared that he entered the contents of the BCOR he issued at the back of the pink copy of the TCC used for the transaction involved in the BCOR. After entering such contents, he would put his initial or signature at the dorsal portion of the TCC.

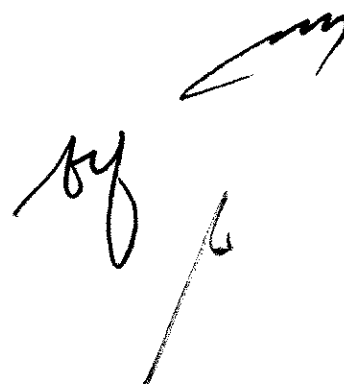
He also testified that he recalls having issued BCORs relating to the importation of goods or articles which utilized TCCs issued to Scope Industries, Inc. He identified the BCORs he issued relative to Scope's TCCs, as well as his signatures on the said receipts.¹⁶⁷ He also identified the TCCs used in the issuance of the BCORs as well his initials or signatures on the

¹⁶⁴ p. 8, TSN dated February 17, 2011

¹⁶⁵ *Id.*, pp. 10-12

¹⁶⁶ *Id.*, pp. 12-13

¹⁶⁷ pp. 13-41

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dorsal portion of the pink copies of the TCCs to prove that he was the one who issued the BCORs and entered the contents of the relevant BCORs at the dorsal portion of the TCCs involved. He similarly identified the tax debit memos submitted for the TCCs.

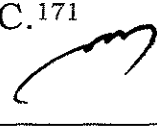
Criminal Case No.	Exhibit/s
25607	"Q-3", "Q-4-5", "Q-4-i", "Q-4-i-1", "Q-4-i-2", "Q-4-i-3", "Q-4-i-4", "Q-4-i-5", "Q-4-i-6", "Q-4-i-7", "Q-4-i-8"
25608	"R-3", "R4-g", "R-4-g-1", "R-4-g-2", "R-4-g-3", "R-4-g-4", "R-4-g-5", "R-4-g-6"
25609	"S-5-e", "S-5-e-1", "S-5-e-2", "S-5-e-3", "S-5-e-4"
25610	"T-3", "T-4-h", "T-4-h-1", "T-4-h-2", "T-4-h-3", "T-4-h-4", "T-4-h-5", "T-4-h-6"
25611	"U-3", "U-4-c", "U-4-c-1", "U-4-c-2"
25612	"V-3", "V-4-k", "V-4-k-1", "V-4-k-2", "V-4-k-4", "V-4-k-5", "V-4-k-7", "V-4-k-8", "V-4-k-9"
25613	"W-3", "W-4-m-1", "W-4-m-2", "W-4-m-3", "W-4-m-4", "W-4-m-5", "W-4-m-6", "W-4-m-7", "W-4-m-8", "W-4-m-9", "W-4-m-10", "W-4-m-11" and "W-4-m-12"
25619	"CC-4-k", "CC-4-k-1", "CC-4-k-2", "CC-4-k-3", "CC-4-k-4", "CC-4-k-5", "CC-4-k-6", "CC-4-k-7", "CC-4-k-8", "CC-4-k-9" and "CC-4-k-10"
26521	"EE-4-g", "EE-4-g-1", "EE-4-g-2", "EE-4-g-4", "EE-4-g-5", "EE-4-g-6"
25624	"GG-4-m", "GG-4-m-1", "GG-4-m-2", "GG-4-m-3", "GG-4-m-4", "GG-4-m-5", "GG-4-m-6", "GG-4-m-7", "GG-4-m-8",

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Criminal Case No.	Exhibit/s
	"GG-4-m-9", "GG-4-m-10", "GG-4-m-11", and "GG-4-m-12"
25631	"OO-4-g", "OO-4-g-1", "OO-4-g-2", "OO-4-g-3", "OO-4-g-4", "OO-4-g-5", "OO-4-g-6"
25633	"PP-4-h", "PP-4-h-1", "PP-4-h-2", "PP-4-h-3", "PP-4-h-4"
25634	"QQ-4-h-1", "QQ-4-h-2", "QQ-4-h-3", "QQ-4-h-4", "QQ-4-h-5", "QQ-4-h-6", "QQ-4-h-7"

On cross-examination, he confirmed that he was not the one who brought to the Court the yellow copies of the BCORs which he identified during his direct testimony. Rather, these copies were already with the prosecution and were shown to him during his direct testimony.¹⁶⁸ When confronted with the pink copies of the TCCs which he earlier identified, he was able to point out which entries in the dorsal portion of the TCCs corresponded to the BCORs which he issued.¹⁶⁹


As for the process of receiving the TCCs and the tax debit memos, he explained that the tax debit memo would come from the Department of Finance and would be received by the Bureau of Customs through its Receiving Division. The Receiving Division would then forward the tax debit memo to the Tax-Exempt Division. The importer would then surrender the original copy of the TCC to the Tax-Exempt Division so that the division would be able to check and evaluate the Tax Debit Memo against the TCC.¹⁷⁰ As for the import documents, Rosel said that these documents would reflect the computation of the dues and taxes that the importer would pay via the utilization of the TCC – basically the amount to be debited from the TCC.¹⁷¹



¹⁶⁸ pp. 7, TSN dated October 19, 2011

¹⁶⁹ *Id.*, pp. 14-15

¹⁷⁰ *Id.*, pp. 17-18

¹⁷¹ *Id.*, p. 23


When asked regarding the details which he annotates at the dorsal portion of the TCCs, he said that he would write the number of the receipt which he issued, the date that it was issued, and the amount involved.¹⁷²

Rosel also testified that he prepared Utilization of Tax Certificates Reports as part of his monthly report to the Accounting Division. The yellow copies of the BCORs would be submitted as part of the report.¹⁷³

For the TCC involved in Criminal Case No. 25608, he noted that some of the entries at the back of the TCC were made by the MICP or the Manila International Container Port. He explained that this is because not all matters of TCC utilization are made in their office.¹⁷⁴

TEDDY J. SANDAN,
Documentation Manager
K Line Philippines, Inc.

Sandan was presented by the prosecution as a witness in Criminal Cases Nos. **25596, 25598, 25599, 25600, 25602, 25605,** and **25606.**

He testified that he is a Documentation Manager for “K” Line Philippines, Inc., and he has been with the company since 1999. As Documentation Manager, he oversees the custody of the company’s documents such as bills of lading.¹⁷⁵

In connection with his work, he received a subpoena from the Office of the Special Prosecutor directing him to issue a certification on whether or not the copies of the bills of lading which were marked as evidence in these cases were genuine or not. He said that he issued a communication letter sometime in 2004 regarding his verification. He identified the letter dated April 27, 2004, which was marked as Exhibit “UU-1” for the prosecution, as the letter he signed and sent to the Office of the

¹⁷² p. 12, July 24, 2012

¹⁷³ *Id.*, pp. 12-13

¹⁷⁴ pp. 14-15, TSN dated October 10, 2012

¹⁷⁵ pp. 4, TSN dated February 18, 2013



Special Prosecutor. He likewise confirmed his statement in the letter that "K" Line never issued the bills of lading which the Office of the Special Prosecutor asked him to verify since the bills of lading given by the said office indicated **different vessel names, shippers, and destinations** as compared to the bills of lading with the same serial number noted in "K" Line's logbooks. He then produced the original logbooks where the bills of lading issued by the company are logged. The pages where he based his findings on were marked as exhibits by the prosecution.¹⁷⁶

His findings regarding the bills of lading are summarized as follows:

Criminal Case No.	Exhibit	Bill of Lading Number
25596	Exhibit "F-1-a"	"K" Line Bill of Lading No. KKL 8442320668 - Logbook of "K" Line for this numbered bill of lading indicate that the shipper is TDH and not Scope Industries, Inc. ¹⁷⁷
25598	Exhibit "H-1-a-1"	"K" Line Bill of Lading No. KKL 844300589 - Logbook of "K" Line for this numbered bill of lading indicate that the shipper is Accord Trading and not Scope Industries, Inc. ¹⁷⁸
25598	Exhibit "H-1-a"	"K" Line Bill of Lading No. KKL 844300560 - Logbook of "K" Line for this numbered bill of lading indicate that the shipper is New Chua Eng and not Scope Industries, Inc. ¹⁷⁹
25599	Exhibit "I-1-a"	"K" Line Bill of Lading No. KKL 844300913 - Logbook of "K" Line for this numbered bill of lading indicate

¹⁷⁶ See Exhibit "F-5," Exhibit "H-5-a," Exhibit "H-5-b," Exhibit "I-6," Exhibit "I-6-a-1," Exhibit "J-6," Exhibit "L-6," Exhibit "O-6," and Exhibit "P-5"

¹⁷⁷ *Id.*, pp. 9-10

¹⁷⁸ *Id.*, pp. 14-15

¹⁷⁹ *Id.*, pp. 11-12

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Criminal Case No.	Exhibit	Bill of Lading Number
		that the shipper is AgroTrends and not Scope Industries, Inc. ¹⁸⁰
	Exhibit "I-1-a-1"	"K" Line Bill of Lading No. KKL 844300928 - Logbook of "K" Line for this numbered bill of lading indicate that the shipper is JM's Agro Mart and not Scope Industries, Inc. ¹⁸¹
25600	Exhibit "J-1-a"	"K" Line Bill of Lading No. KKL 844300914 - Logbook of "K" Line for this numbered bill of lading indicate that the shipper is AgroTrends and not Scope Industries, Inc. ¹⁸²
25602	Exhibit "L-1-a"	"K" Line Bill of Lading No. KKL 844300927 - Logbook of "K" Line for this numbered bill of lading indicate that the shipper is JM's AgroMart and not Scope Industries, Inc. ¹⁸³
25605	Exhibit "O-1-a"	"K" Line Bill of Lading No. KKL 844300973 - Logbook of "K" Line for this numbered bill of lading indicate that the shipper is PMS and not Scope Industries, Inc. ¹⁸⁴
25606	Exhibit "P-1-a"	"K" Line Bill of Lading No. KKL 844300972 - Logbook of "K" Line for this numbered bill of lading indicate that the shipper is JM's and not Scope Industries, Inc. ¹⁸⁵
	Exhibit "P-1-a-1"	"K" Line Bill of Lading No. KKL 844300971 - Logbook of "K" Line for this numbered bill of lading indicate

¹⁸⁰ *Id.*, pp. 15-16

¹⁸¹ *Id.*, p. 16

¹⁸² *Id.*, pp. 15-16

¹⁸³ p. 13, TSN dated February 19, 2013

¹⁸⁴ *Id.*, pp. 14-15

¹⁸⁵ *Id.*, p. 16





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Criminal Case No.	Exhibit	Bill of Lading Number
		that the shipper is JM's and not Scope Industries, Inc. ¹⁸⁶

On cross-examination, Sandan confirmed that he became the Documentation Manager for “K” Line in 1999. Thus, at the time the bills of lading were issued, or from 1994 to 1995, he was not yet the Documentation Manager for “K” Line. For the verification, he said that when he received the subpoena from the Office of the Special Prosecutor, he asked his secretary to check the logbooks to determine whether the bills of lading mentioned in the subpoena were issued by “K” Line.¹⁸⁷ He confirmed that he was not the one who personally made the entries in the logbook which he presented during his direct examination.¹⁸⁸ However, the entries were made in the regular course of business of the shipping company,¹⁸⁹ and the logbook was kept by the company for monitoring purposes;¹⁹⁰ hence, he knew what the entries meant in the logbook.¹⁹¹

It was noted that Exhibit “UU” was signed by Sandan in his capacity as manager of the Documentation Department of “Transmar Agencies, Inc.” Sandan explained that Transmar Agencies was the former agent of Kawasaki Kishen Kaisa, Ltd. in the Philippines. Its role was later taken over by “K” Line Philippines, Inc. When “K” Lines took over, it absorbed all the employees of Transmar Agencies as well as its records.¹⁹²

Sandan also testified that the basis for the entries in the logbooks of “K” Line were the pro-forma bills of lading which the shipper submitted to them prior to shipment. He explained that a pro-forma bill of lading is a document which contains the shipper’s name, the consignee, the vessel, the destination, the packages, and description of the cargo and is prepared by the shipper.¹⁹³ Per Sandan, a shipper prepares only one (1) pro-forma bill of lading. If there are changes to the pro-forma bill of

¹⁸⁶ *Id.*, pp. 18-19

¹⁸⁷ pp. 9-10, 20-21, TSN dated April 15, 2013

¹⁸⁸ *Id.*, pp. 10-12

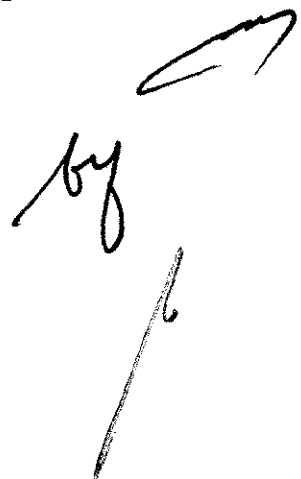
¹⁸⁹ pp. 25-26, TSN dated April 16, 2013

¹⁹⁰ p. 17, TSN dated April 15, 2013

¹⁹¹ *Id.*, p. 21

¹⁹² pp. 4-10, TSN dated April 16, 2013

¹⁹³ *Id.*, p. 12

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lading, an amended bill of lading would be submitted by the shipper. He said that once a pro-forma bill of lading is received, the company will usually prepare **triplicate** original copies of the bill of lading. They will also prepare several copies of non-negotiable bills of lading.¹⁹⁴ He said that one (1) set of bills of lading will typically consist of three (3) original bills of lading and five (5) non-negotiable bills of lading. This set would be given to the shipper, and it is up to the shipper to decide how to distribute these copies.¹⁹⁵

Sandan further testified that the company retains one (1) copy of the non-negotiable bill of lading for its file.¹⁹⁶ However, at the time of his testimony, the company no longer had its copies of the bills of lading involved in these cases because they only keep their copies for around three (3) years from issuance and afterwards dispose them for economical purposes.¹⁹⁷

He reiterated that during his verification, he looked for the numbers of the bills of lading in the logbooks maintained by "K" Line. Per the subpoena, the bills of lading which the prosecution asked him to verify indicated that Scope Industries, Inc. was the shipper. However, per their logbooks, none of the shipments for the bills of lading they issued, and which bore the same bills of lading numbers as those in the subpoena, was from Scope Industries, Inc.

When he was asked if it was possible that their office issued other bills of lading with the same number which could have indicated Scope Industries, Inc. as the shipper, Sandan said that such a situation is not possible since each of their bills of lading has its own unique bill of lading number and they do not allow the duplication of bill of lading numbers even for bills of lading with different prefixes. As an example, he said that it is impossible for Bill of Lading 8442300668 to be different from Bill of Lading KKLK 8442300668. He clarified that even if the logbooks do not indicate the prefix "KKLU" as found in the exhibits marked by the prosecution, it is understood that the prefix for the bills of lading listed in the

¹⁹⁴ *Id.*, pp. 14-15

¹⁹⁵ pp. 14-15, TSN dated April 16, 2013

¹⁹⁶ *Id.*, pp. 16-17

¹⁹⁷ p. 18, TSN dated April 15, 2013; pp. 18-19, TSN dated April 16, 2013

particular logbook which he identified were “KKLU” since they were all bound for Nagoya as stated in the logbook.¹⁹⁸

When asked if the bills of lading marked as exhibits for the prosecution could easily pass as the bills of lading issued by the company to the eyes of a layman, Sandan said that he supposed they could.¹⁹⁹

As for the entries in the logbook, Sandan explained that the first column in the logbook referred to the number of the bill of lading, the second column referred to the vessel’s name but abbreviated, the third column is the destination, the fourth column is the shipper’s name, while the last column pertained to the date. In the third column for exhibit “F-5”, it was noted that the letters “NG” were written. He explained that “NG” means “Nagoya.”²⁰⁰ He confirmed that the top portion of each of the logbook he identified bore the name “Ester R. Delgado, Documentation Department.”²⁰¹ He said that the entries in the logbook appear to have been made by Ester Delgado since he recognized her handwriting. He said that he knew Delgado’s handwriting since she has been working in their office for more or less twenty (20) years.²⁰²

ESTER R. DELGADO
Supervisor
K Line Philippines, Inc.

Delgado was presented by the prosecution as a witness in Criminal Cases No. **25596, 25598, 25599, 25600, 25602, 25605** and **25606** to testify on the entries she made in the logbooks of “K” Line Philippines, Inc. The logbook was the one mentioned in the communication letter dated April 27, 2004, marked as Exhibit “UU-1” of the prosecution,²⁰³ and which was earlier identified by witness Sandan.

¹⁹⁸ pp. 25-30, TSN dated April 16, 2013

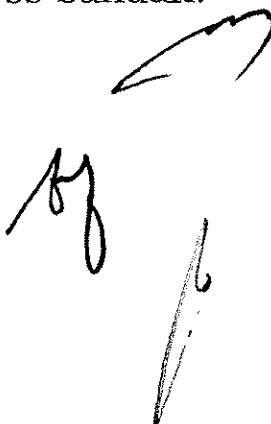
¹⁹⁹ pp. 45-46, TSN dated July 1, 2013

²⁰⁰ *Id.*, pp. 55-56

²⁰¹ p. 10, TSN dated April 15, 2013

²⁰² pp. 48-49, TSN dated July 1, 2013

²⁰³ pp. 5-6, TSN dated November 11, 2013



She testified that from 1988 to 1998, she worked as a Documentation Clerk and as such, was assigned to enter details from the pro-forma bills submitted by the shipper to the logbooks maintained by the company. In connection with her duties as Documentation Clerk, she received a subpoena from the prosecution directing her to bring with her the logbooks which became the basis for the issuance of the communication letter dated April 27, 2004, marked as Exhibit "UU-1" for the prosecution. As directed, she brought two (2) logbooks with the caption "Ester R. Delgado, Documentation Department".²⁰⁴ She testified that she personally encoded the entries found in the logbook and identified the entries in the photocopies of the logbook marked as Exhibit "F-5," "F-5-a," "H-5," "H-5-b," "H-5-a-1," "I-6," "I-6-a," "J-6," "J-6-a," "L-6," "O-6" and "P-5" as the entries she made based on the pro-forma bills of lading submitted to them by the shipper, bearing the assigned bills of lading numbers found in the first column of the entries.²⁰⁵

Explaining the entries in the logbooks, she said that the first column indicates the assigned bill of lading number for the bill of lading, the second column shows the assigned vessel's name and voyage number, the third column shows the destination of the cargo, the fourth column indicates the shipper's name, and the fifth column states the date when "K" Line received the pro-forma bills of lading from the shipper.²⁰⁶

On cross-examination, she testified that she, Claire Manabat, and Sam Ayo are in charge of the custody of the logbooks. She said that the logbooks are stored in their table at the offices of "K" Line. Per Delgado, the logbooks are official records of the company.²⁰⁷

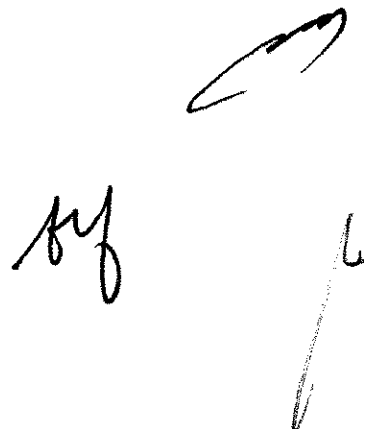
She corroborated the earlier testimony made by Sandan as to the entries in the logbook being based on the pro-forma bills of lading submitted by the shipper. She explained that once she receives a pro-forma bill of lading from a shipper, she would enter the details supplied by the shipper into the computer of "K" Line and print the bill of lading. The pro-forma

²⁰⁴ *Id.*, pp. 8-9

²⁰⁵ *Id.*, pp. 9-17

²⁰⁶ *Id.*, pp. 10-11

²⁰⁷ *Id.*, pp. 19-21

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bill of lading would be attached to a copy of the printed-out bill of lading and would then be kept in their files. When asked if the details in the bills of lading could be changed, she said that this would only be done if requested by the shipper, through the submission of an amended pro-forma bill of lading. If a bill of lading is changed, they include a copy of the amended bill of lading in their file.²⁰⁸ She testified that the company only keeps copies of the bills of lading for five (5) years, after which they are disposed.²⁰⁹

LOIDA P. MAGSOMBOL

Assistant Documentation
Manager, Citadel
Shipping Service, Inc.

Magsombol was presented for Criminal Cases Nos. **25607, 25609, 25611, 25612, 25613, 25620, 25621, 25622, 25623, 25626, 25629** and **25630** to establish that the Shanghai Shipping Company bills of lading which were marked as prosecution evidence in the said cases were not issued by Citadel Shipping Service Inc. ("**Citadel Shipping**").

Magsombol testified that she has been the Assistant Documentation Manager of Citadel Shipping since 2003. She said that Citadel Shipping acts as a general agent of principals involved in the shipping of cargoes. Some of the principal shipping companies for which Citadel Shipping acts as agents for are Shanghai Shipping Company (or "**SHS**") and Hyundai Merchant Marine Company Limited.²¹⁰

As Assistant Documentation Manager, she said that she prepares bills of lading for the principal shipping companies. She likewise issues certificate of genuineness of shipping documents as requested by government agencies or private companies. She also supervises the day-to-day activities or operations in the Documentation Shipping Department of Citadel Shipping.²¹¹

²⁰⁸ *Id.*, pp. 23-30

²⁰⁹ *Id.*, pp. 33-34

²¹⁰ p. 10, TSN dated February 19, 2014


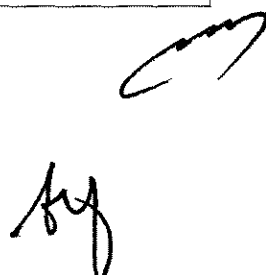
²¹¹ *Id.*, pp. 10-11



She testified that she received a subpoena from the Office of the Special Prosecutor directing her to issue a certification as to whether the copies of the SHS bills of lading, which were attached to the subpoena, were genuine or not. After receiving the subpoena, she said that she examined the attached bills of lading and determined that they were not genuine. She said that she concluded that the bills of lading were not genuine because at that time, **Scope Industries, Inc. was not one of their shippers**. Moreover, she noted that the bills of lading which they issued were printed using a manual computer while the bills of lading attached to the subpoena were printed using an electronic computer. She said that after examining the documents attached to the subpoena, she issued a letter dated April 15, 2004, to the Office of the Prosecutor advising that the documents she examined were not genuine.²¹² This document was marked as Exhibit "VV" for the prosecution. In addition to Exhibit "VV," she identified the following exhibits **as the bills of lading which she determined were not genuine**:

Criminal Case No.	Exhibit/s
25607	"Q-1-d" "Q-1-d-1"
25609	"S-1-h" "S-1-h-1"
25611	"U-1-i" "U-1-i-1"
25612	"V-1-h" "V-1-h-1"
25613	"W-1-h" "W-1-h-1" "W-1-h-2"
25620	"DD-1-i" "DD-1-i-1" "DD-1-i-2"
25621	"EE-1-i" "EE-1-i-1"
25622	"FF-1-i"

²¹² *Id.*, pp. 11, 15



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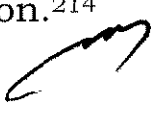


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Criminal Case No.	Exhibit/s
	"FF-1-i-1"
25623	"GG-1-i" "GG-1-i-1"
25626	"JJ-1-i" "JJ-1-i-1"
25629	"MM-1-i" "MM-1-i-1" "MM-1-i-2"
25630	"NN-1-i" "NN-1-i-1"

On cross-examination, Magsombol testified that she has been with Citadel Shipping since 1994. She started as a documentation clerk and was later on promoted to supervisor of the Documentation Department. At present, she is the Assistant Documentation Manager of Citadel. As Documentation Manager, she said that she double-checks the documents issued by their department. She likewise checks the loading point, shippers, and details of loading as stated in the export documentation. She confirmed that she had no actual participation in the preparation, evaluation, and signing of the documents but they were eventually passed on to her for custody.²¹³

Magsombol confirmed that the documents attached to the 2004 subpoena from the Office of the Special Prosecutor were mere photocopies. However, on February 19, 2014, after she received the subpoena dated January 20, 2014, which required her to appear before the Court, she personally appeared at the Office of the Prosecutor and had the occasion to compare the photocopies to the original bills of lading. She noted that after comparison, the documents were the same except for the markings in the originals denominating them as exhibits for the prosecution.²¹⁴

²¹³ pp. 7-11, TSN dated February 24, 2014

²¹⁴ pp. 6-7, TSN May 5, 2014

MA. TERESA S. YAMBIO
State Auditor IV
Commission on Audit



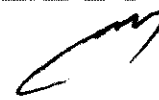
Yambao was presented as a witness by the prosecution in Criminal Cases Nos. **25599, 25600, 25601, 25602, 25603, 25604, 25605, 25607, 25608, 25610, 25611, 25612** and **25613**.

She testified that she is a State Auditor IV at the Commission on Audit ("**COA**"). She has been with the COA since November 23, 1983 to present. From 2007 to 2012, she was assigned at the COA - Bureau of Customs, where she audited the financial transactions of the Bureau of Customs and acted as the custodian of the original documents such as Tax Credit Certificates and Tax Debit Memos.²¹⁵

She said that in connection with her work, she received a subpoena requiring her to submit certain TCCs and tax debit memos to the Office of the Ombudsman. She identified the following TCCs and tax debit memos marked as exhibits for the prosecution:

Criminal Case No.	Exhibit
25599	"I-4"
25600	"J-6" "J-4"
25601	"K-6" "K-4"
25602	"L-6" "L-4"
25603	"M-4-a"
25604	"N-6" "N-2" "N-4"
25605	"O-6" "O-6-a"

²¹⁵ p. 12-13, TSN dated May 19, 2014



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Criminal Case No.	Exhibit
25607	"Q-3"
25608	"R-5" "R-2"
25610	"T-5" "T-3"
25611	"U-6"
25612	"V-5" "V-3"
25613	"W-5" "W-3"

As for the other TCCs and tax debit memos involved in these cases aside from those which she identified, she said that she checked their bodegas and files to locate the other documents but despite exerting efforts, they could no longer find them.²¹⁶

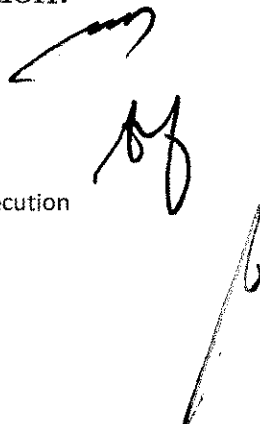
On cross-examination, Yambao testified that she is no longer assigned to the Bureau of Customs as she was re-assigned to the Bureau of Treasury.²¹⁷ She relayed that from 2009 to 2012, her supervisor at the Bureau of Customs was Myrna Monzon. Cora Lea Dela Cruz, to whom the initial Subpoena Duces Tecum dated September 2, 2009 was addressed, was her supervisor prior to August 2009. Yambao said that for the Subpoena dated September 2, 2009, she was actually authorized by Myrna Monzon, who at that time, was already her supervisor, to act on the subpoena. She identified a routing slip dated 9-11-09 with the handwritten note "Tess,"²¹⁸ which she said pertained to her. She said that for the documents listed in the Subpoena dated September 2, 2009, a previous member of their team already segregated the documents in their file, after which she submitted the document to the prosecution.²¹⁹

²¹⁶ *Id.*, p. 25

²¹⁷ pp. 5-6, TSN dated May 29, 2014

²¹⁸ Marked as Exhibit "WW-2" for the prosecution

²¹⁹ pp. 11-16, TSN dated June 30, 2014

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She clarified that for the TCCs she identified, which were dated 1994-1995, she was not yet the auditor for the Bureau of Customs. Accordingly, when she received the subpoena in 2009, she was merely the custodian of the documents.²²⁰ As for the audit work which she conducted for the Bureau of Customs, she said that the TCCs or tax debit memos were not the focus of her work. She confirmed that the TCCs she submitted to the prosecution were originals and seemingly pink in color. She said that she had no knowledge of where the documents originated except that they were on file in their office. She confirmed that the documents were originals since it is part of their functions to keep the originals of the documents and since the previous custodian told her that they were originals.²²¹

ALAN A. VENTURA
Former Executive Director
Special Presidential Task
Force 156

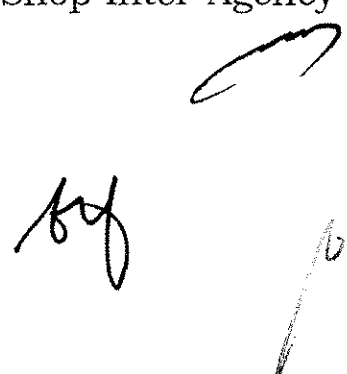
Alan A. Ventura testified that he previously worked at the Office of the President. From 2001 to 2004, he was designated as the Executive Director of the Special Presidential Task Force 156 ("**SPTF 156**"), a task force primarily assigned with investigating the so-called "tax credit scam" committed at the Department of Finance from 1994 to 1999. As its Executive Director, Ventura said that he investigated several companies that were listed to have engaged in the scam. He assigned particular cases to specific lawyers of the SPTF and then validated the Investigation Reports submitted by these lawyers. Afterwards, he submitted the reports, together with the supporting documents, to the Executive Committee for their approval. After the reports were approved, he represented the task force in filing the appropriate cases with the Office of the Ombudsman.²²²

He said that per their investigation, the tax credit scam was committed specifically at the One Stop Shop Inter-Agency

²²⁰ *Id.*, pp. 20-21

²²¹ *Id.*, pp. 21-30

²²² pp. 10-11, TSN dated September 5, 2014

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Tax Credit and Duty Drawback Center or the OSS Center. Thus, he coordinated with the Director of the OSS Center, who in turn toured him at the OSS office and showed him the different departments of the office. He was given a flow chart²²³ which outlined the procedure followed by the OSS Center in processing applications for TCC, from the receipt of an application until the issuance of a TCC. He was also given an organizational chart²²⁴ of the center.²²⁵

Ventura testified that he was able to determine the procedure followed by the OSS Center in granting TCCs to applicants as follows: an applicant first submits an application for tax credit, together with the supporting documents with OSS Center and pays a filing fee. An administrative staff of the center would then validate or check whether the supporting documents conform with the check list of the center. Once the documents are found to be complete, the applicant is required to pay the processing fee after which the application would then be evaluated by an evaluator. Ventura said that monitoring and verification of the supporting documents are part of the evaluation process followed by the Center. After evaluation, the same documents would be forwarded to the Reviewer. Once the review is completed, its result would be forwarded to the Deputy Director of the Center who would recommend the approval of the application for tax credit to the Assistant Secretary of the Department of Finance. Once approved, the TCC would be signed by the Assistant Secretary and then released to the applicant.²²⁶

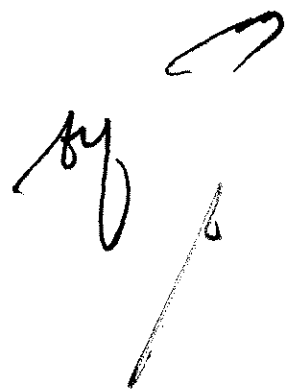
When asked about the monitoring and verification process, he explained that this phase involved the actual inspection by the center of the warehouses and machineries of the applicants in cases involving textile companies like Scope Industries, Inc. The verification also involved the validation of the genuineness of the supporting documents submitted to the Center. For applicants which are textile companies, the agencies that were required to comment or validate the supporting documents were the Bureau of Internal Revenue,

²²³ Marked as Exhibit "B-2" for the prosecution

²²⁴ Marked as Exhibit "B-1" for the prosecution

²²⁵ *Id.*, pp. 11-12

²²⁶ *Id.*, pp. 12-13

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Bureau of Customs and the Garments and Textiles Export Board. Ventura said that at the time he was toured by the Center's Director, there was a Monitoring and Verification Division in the center, as reflected in the organizational set up²²⁷ of the Center.²²⁸

On cross-examination, Ventura testified that at the time the alleged offenses were committed in 1995 and when the *Informations* in these cases were filed in 1999, he was not yet the Executive Director of SPTF 156. He reiterated that he only became the Executive Director sometime in 2001 and served as such until 2004. He clarified that while he investigated the tax credit scam, he was not the one who approved the filing of the complaints for these particular cases. Further, while he was able to investigate Scope Industries, Inc., along with other corporations, he said that he is not certain if the TCCs he investigated are the same TCCs involved in the cases at bar.²²⁹

He confirmed that he had no participation in the processing of applications for TCCs. However, during his investigation of the tax credit scam, the then Director of the OSS Center, Director Hiansen, familiarized him with the procedure of the OSS Center regarding the applications. He clarified that per Director Hiansen, the process for the evaluation of the application for TCCs remained the same since the OSS Center started its operation up to the time that Ventura investigated the same.²³⁰

Ventura also testified that per his investigation, it was the Monitoring and Verification Division of the Center which was tasked with verifying the existence of warehouses and machineries of applicants which are textile companies. The division was also tasked with validating the genuineness of the documents used by the applicants in securing the tax credits.²³¹ When asked if he was aware that the Monitoring and Verification Division is only concerned with the first applications of textile companies, he said that he was not aware

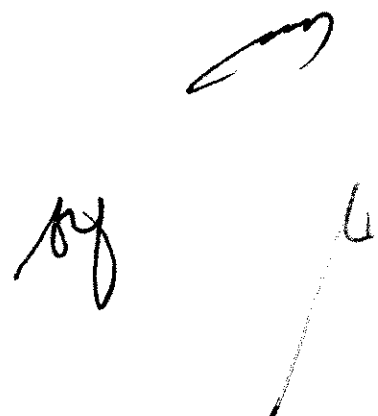
²²⁷ See Exhibit "B-1"

²²⁸ pp. 14-15, TSN dated September 5, 2014

²²⁹ pp. 12-18, 28, TSN dated November 25, 2014

²³⁰ *Id.*, pp. 13-15

²³¹ *Id.*, pp. 23-24

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of that matter nor does he know if such matter was true or not. He also testified that he was not told that there were special types of businesses and applicants which were specifically under the control of Monitoring and Verification Division.²³²

As for the flow chart and the organizational chart which he identified during his direct testimony, he said that these documents were handed to him by Director Hiansen and were not transmitted to him via any transmittal letter. He confirmed that the documents themselves do not indicate that they were furnished by Director Hiansen. He likewise confirmed that he does not know who prepared the documents or when they were prepared. Specifically for the flow chart, he confirmed that the document itself does not state that the documents submitted in support of an application must first be verified by the Monitoring and Verification Division. As for the organizational chart, he also agreed that it does not state the functions of the Monitoring and Verification Division. However, he was informed by Director Hiansen of the functions of the division and he was likewise able to validate the process during his investigation.²³³

MELQUIADES DEL CARMEN

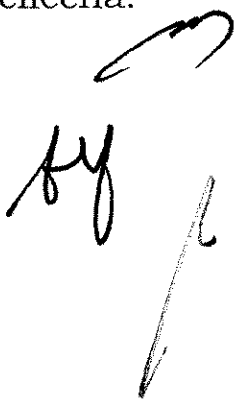
CASTILLO

Chief Task Specialist
and Head of the Claims
and Evaluation Division
OSS Center,
Department of Finance

Castillo testified that he is currently working at the OSS Center as Chief Tax Specialist. He has been with the Center since 1995. He testified that when he started working at the OSS Center, the director was accused Uldarico Andutan, Jr., and the Undersecretary in-charge of supervising the Center was accused Antonio Belicena.

²³² *Id.*, pp. 25-26

²³³ *Id.*, pp. 30-35

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He said that his entry position in the OSS Center was Tax Specialist. He was then promoted to Tax Specialist II and served as such from 1995 to 1997. In 1997, he was promoted to Senior Tax Specialist and functioned as such to 2000. Initially, as Tax Specialist, he only received the docket applications for tax credit claims and performed messengerial and other related functions at the OSS Center. Afterwards, as Senior Tax Specialist, he was already engaged in the evaluation and computation of the application.²³⁴

He testified that in 1995, when he worked as Tax Specialist, after receiving application for tax credit claims, he would log the application in their logbook and then forward the same to the concerned divisions, such as the textile division, forest base division, chemical division, or mining division. He testified that at that time, no verification was conducted in relation to applications. Rather, after receiving the application, they would immediately evaluate and compute the tax credit applied for based on the formula given to evaluators of the Center for computation of claims. He said that the process of not having a verification lasted until 2000 or 2001, when new administrators came to the Center and developed a procedure for verification.²³⁵

Castillo also testified that he is the current head of the Claims and Evaluation Division of the OSS Center. He said that at present, the OSS Center has five (5) divisions: the Pre-Evaluation Division, the Financial Validation Evaluation Division, the Verification and Authentication Division, the Claim Evaluation Division, and the Tax Credit Certificate Issuance Division. These divisions were created sometime in 2000 or 2001, after new administrators or officers came to the Center. He explained that the Pre-Evaluation Division is involved in checking the completeness of the application as to the documents required for such application. The Financial Validation Division, on the other hand, checks the books of accounts of the claimant by going to the company and meeting the heads of accounting of the claimant as well checking their books of accounts. As for the Verification and Authentication

²³⁴ pp. 7-8. TSN dated May 19, 2015

²³⁵ *Id.*, pp. 9-12

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Division, they go to the relevant offices to verify the documents submitted with the application. They go to banks, the Bureau of the Internal Revenue, and the Bureau of Customs to verify if the transactions involved in the documents are really in the logbooks of these banks and agencies. After all the procedures have been conducted by the previously mentioned divisions, he said that the application would then be entrusted to the Claim and Evaluation Division for analysis of the previous reports and evaluation of the application for the allowable tax credit.²³⁶

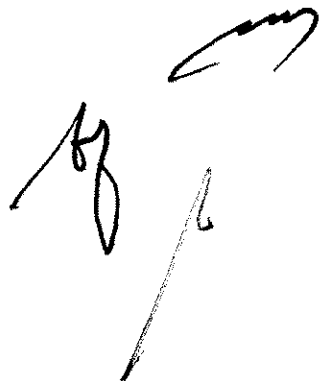
He explained that the current set up which he identified is called process-based structure, while the pre-2000 set up was called an industry-based structure. With the industry-based structure, he said that it was akin to a table audit where an evaluator would have to check the completeness of the documents submitted by the applicant based on a checklist, and then check the computation set by previous evaluators. There was also only one evaluator per one claim procedure. He testified that when he said that they did not conduct verification pre-2000, he meant that the evaluators never went to the proper offices or agencies to verify the authenticity of the documents submitted by the applicant and just evaluated the application based on the documents submitted to the OSS Center. As for the process-based structure, an application would first have to go through several divisions for inspection, checking, pre-evaluation, verification, authentication before it can be evaluated, and before a certificate is issued to the applicant.²³⁷

When asked regarding the pre-2000 structure, he said that the evaluators themselves prepared the evaluation report. He also confirmed that part of the documents which evaluators used then in evaluating applications was the Claimant Information Sheet. He testified that pre-2000, the evaluators merely relied on the declaration made by the applicants that the documents they submitted are true and correct, and they were not required to validate, confirm, or verify whether the declaration made by the applicant was true or not.²³⁸

²³⁶ *Id.*, pp. 13-15

²³⁷ *Id.*, pp. 16-21

²³⁸ *Id.*, pp. 22-24

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PROSECUTION'S FORMAL OFFER OF EVIDENCE

On November 25, 2015, the prosecution filed its *Formal Offer of Evidence with Motion for Re-Marking of Exhibits*,²³⁹ to which accused Diño,²⁴⁰ Andutan, Jr.,²⁴¹ De Vera,²⁴² Napeñas,²⁴³ Magdaet, Abara, and Tizon,²⁴⁴ filed their respective comments and opposition. In its *Resolution* dated May 16, 2016, the Court granted the motion for re-marking of exhibits and resolved to admit the exhibits offered by the prosecution over the objections of the accused.²⁴⁵

DEMURRERS TO EVIDENCE

With the admission of the formally offered evidence of the prosecution, accused Magdaet, Abara, and Tizon filed a *Consolidated Motion for Leave of Court to File Demurrer to Evidence* dated June 4, 2016.²⁴⁶ Accused Andutan, Jr.,²⁴⁷ De Vera,²⁴⁸ and Napeñas²⁴⁹ followed suit with their separate motions for leave to file such demurrer, to which the prosecution filed a *Consolidated Opposition* dated June 21, 2016.²⁵⁰ The Court denied all the motions of the accused, without prejudice to the filing by the said accused of a demurrer to evidence without prior leave of court, subject to the legal consequence provided under Rule 119, Section 23 of

²³⁹ pp. 448-603, Volume XI, Records

²⁴⁰ *Opposition/Comment (Re: Formal Offer of Evidence for the Prosecution)* dated December 15, 2015, pp. 608-618, Volume XI, Records

²⁴¹ *Comment/Opposition (To Prosecution's Formal Offer of Evidence)* dated January 29, 2016, pp. 22-281, Volume XII, Records

²⁴² *Comment/Opposition (To the Formal Offer of Evidence)* dated January 29, 2016, pp. 289-393, Volume XII, Records

²⁴³ *Comment (on the Formal Offer of Evidence with Motion for Remarking)* dated March 23, 2016, pp. 438-441, Volume XII, Records

²⁴⁴ *Manifestation* dated March 25, 2016, pp. 413-414, Volume XII, Records

²⁴⁵ pp. 481-485, Volume XII, Records

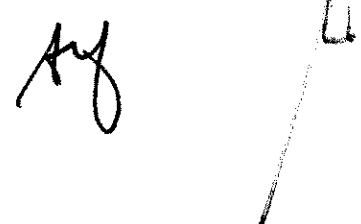
²⁴⁶ pp. 520-528, Volume XII, Records

²⁴⁷ *Motion for Leave of Court to File Demurrer to Evidence* dated June 10, 2016, pp. 544-547, Volume XII, Records

²⁴⁸ *Motion for Leave to File Demurrer to Evidence* filed on June 13, 2016, pp. 548-552, Volume XII, Records

²⁴⁹ *Motion for Leave of Court to File Demurrer to Evidence* dated June 15, 2016, pp. 556-558, Volume XII, Records

²⁵⁰ pp. 572-574, Volume XII, Records



the Revised Rules of Criminal Procedure.²⁵¹ Motions for reconsideration were filed by the accused²⁵² but they were all similarly denied by the Court.²⁵³

Thereafter, presentation of defense evidence ensued.

EVIDENCE FOR THE ACCUSED


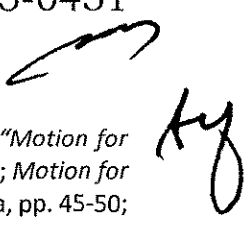
The accused presented as evidence the testimonies of the following witnesses: (1) accused **Charmelle P. Recoter**; (2) accused **Raul C. De Vera**; (3) accused **Cherry L. Gomez**; (4) accused **Merose L. Tordesillas**; (5) accused **Purita S. Napeñas**; (6) **Ernesto Q. Hiansen**, Deputy Executive Director of the OSS Center; (7) **Majidi John Rufo Bola**, Tax and Accounting Manager of HAVI Logistics Philippines, Inc., and former Supervising Tax Specialist at the OSS Center; (8) **Lourdes Emilita A. Arante**, Supervising Tax Specialist at the OSS Center; (9) **Carlo V. Baloloy**, Supervising Tax Specialist at the OSS Center; (10) **Maria Ney B. Poculan**, Supervising Administrative Officer at the Central Records Management Division of the Department of Finance; (11) **Melania D. Dingayan**, Records Custodian at the Bureau of Investments; (12) **Carmelo T. Casibang**, Jr., former Deputy Executive Director of the OSS Center; and (13) **Agnes B. Padilla**, Director IV at the CSC.

In addition to the above, **Maila O. Rosas**, the Chief Human Resource Specialist of the Integrated Records Management Office of the CSC, was called to the witness stand as a witness for accused De Vera. However, her testimony was dispensed with after the accused and the prosecution stipulated on her position and duties, and after the prosecution admitted that the certified copy of CSC Resolution No. 95-0451

²⁵¹ Resolution dated July 29, 2016, pp. 7-8, Volume XIII, Records

²⁵² Volume XIII, Records: *Motion for Reconsideration of the 29 July 2016 Order of Denial of "Motion for Leave to File Demurrer to Evidence"* dated August 24, 2016 by accused Andutan, Jr., pp. 33-38; *Motion for Reconsideration (Re: Resolution dated 29 July 2016)* dated August 25, 2016 by accused De Vera, pp. 45-50; *Consolidated Motion for Reconsideration (On the Resolution dated on July 29, 2016)* dated August 26, 2016 by accused Magdaet, Abara, and Tizon, pp. 51-58

²⁵³ Resolution dated October 4, 2016, p. 157, Volume XIII, Records



which she brought with her to Court was a faithful reproduction of the original.²⁵⁴

CHARMELLE P. RECOTER

Accused

Recoter was presented as a witness for Criminal Cases No. **25628** and **25629**. On direct examination, she testified that she graduated with a Bachelor of Science in Commerce, with majors in Accounting and Financial Management at St. Scholastica's College in 1988. In 2007, she earned a master's degree in business administration from Keio University in Tokyo, Japan and a master's degree in public administration with major in fiscal administration from the University of the Philippines in Diliman.²⁵⁵ She is currently employed in the Engineering and Architectural Consultancy Firm, Schema Konsult, Inc. but she previously worked for the government, particularly the Department of Finance. From June 9, 1995 to September 23, 1999, she said that she worked at the OSS Center, under its Wearable Textiles Division as an Evaluator. As an evaluator, she was assigned to "evaluate" tax credit claims by BOI registered companies, or to check on the completeness of the documents submitted by applicants and subsequently compute their tax credit claims.²⁵⁶

When shown Exhibit "LL," she identified the exhibit as a TCC. She explained that a tax credit is an investment incentive granted by the government to BOI registered companies based on Administrative Order No. 266. It is granted when a company imports raw materials and then processes such imported materials into goods or products that are subsequently exported outside the country.²⁵⁷ Accused Recoter said that to apply for tax credits, entitled companies must submit to the OSS Center two (2) sets of documents, an original set and certified photocopies, of the following: **import documents** such as the bills of lading, commercial invoices, import entry and internal revenue declaration, and Bureau of Customs Official

²⁵⁴ Order dated January 25, 2018, p. 665, Volume XIII, Records

²⁵⁵ pp. 8-9, TSN dated April 20, 2017

²⁵⁶ *Id.*, pp. 9-11

²⁵⁷ *Id.*, pp. 11-12



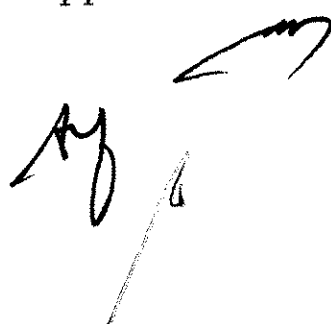
Receipts; and **export documents** such as the bills of lading, invoices, bank credit memos and export declarations. Accused Recoter declared that applications are first submitted to the Information Division of the OSS Center. They are then segregated per industry and assigned to appropriate divisions such as the Textile Division, Garments Division, Metals and Mining Division, Chemicals and Agro-Base Division, and Packaging Division. Once assigned, the Division supervisor would randomly distribute the application to an evaluator, who would check the documents and evaluate the claim.²⁵⁸

Accused Recoter was then shown Exhibit “LL-1.” She said that she recognized the document as a Claimant Information Sheet and described it as a document accomplished by the applicant, detailing the information on the applicant’s registered products, its registered capacity, the quantity as well as the amount of raw materials purchased by the applicant vis-à-vis the products exported by the applicant and the value of the exported products. In Exhibit “LL-1,” she said that the applicant declared that it exported knitted products, and that the application fell under the direct investment incentive scheme. Accused Recoter noted the attestation found in the bottom part of the Claimant Information Sheet and said that the attestation signified the applicants’ declaration that the documents they submitted are authentic and that the claims applied for are legitimate.²⁵⁹

As for the process of evaluating the application, accused Recoter testified as follows: once an application has been accepted by the OSS Center and assigned to her for evaluation, she first checks if the applicant is registered with the Securities and Exchange Commission and the Department of Trade and Industry, and if it has a business permit. Afterwards, she would check if the documents submitted by the applicant to support the application are complete. Since an applicant is required to submit the original documents, along with a set of certified copies, she would also compare the details in the certified copies with the originals. She would then check the date in the bill of lading submitted to determine if the application was

²⁵⁸ *Id.*, pp. 13-14

²⁵⁹ pp. 6-7, TSN dated June 28, 2017

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made within one (1) year from exportation. Accused Recoter noted that the tax credit would be partly based on the quantity of exported goods that are indicated in the bill of lading multiplied by a rate provided by the OSS Center. Thus, she would note the amount of goods indicated in the bill of lading and countercheck it with the amount indicated in the commercial invoices. After determining the quantity of the exported goods, she would check the commercial invoices to determine the amount of duty value paid for such exports. She said that if she finds a discrepancy between the quantity exported and the amount of duty paid for, she would prepare a communication to the applicant regarding the matter. If there are no such issues, she would then determine the amount of raw materials that were imported or used by the applicant by checking the sales invoices for the imports.²⁶⁰ After determining the imports and exports related to the application, she would compute the tax credit allowed based on the rates provided by the OSS Center. For direct exportations, she explained that there is a fixed percentage based on the standard rates scheme provided by the StarCom. The StarCom, per accused Recoter, is composed of representatives from the Department of Finance, Board of Investments, Bureau of Customs, Bureau of Internal Revenue, and other affiliated government agencies depending on the division involved in the processing of the TCC application.²⁶¹

After computing the tax credit entitlement based on the standard rates, accused Recoter said that she would prepare an Evaluation Report and submit it to her supervisor, along with the documents submitted by the applicant.²⁶² Once the evaluation report for the application is completed and finalized, a TCC would be prepared and issued to the applicant. The originals of the documents which the applicant submitted would be given back to the applicant, together with the TCC so that the applicant can use the documents for other tax purposes. The certified copies, on the other hand, are retained by the OSS Center. Accordingly, all the records that remain with the Center are certified copies.²⁶³

²⁶⁰ pp. 15-17, 21, TSN dated April 20, 2017; pp. 13-17, June 28, 2017

²⁶¹ pp. 13-17, TSN June 28, 2017

²⁶² pp. 18-21, TSN dated April 20, 2017

²⁶³ *id.*, pp. 22-23



Per accused Recoter, an evaluator is given thirty (30) days from the date the application was received within which to evaluate the application and prepare a TCC.²⁶⁴

On cross-examination, accused Recoter was again confronted with the Exhibit “LL-1” or the Claimant Information Sheet submitted by Scope Industries, Inc. for the TCC involved in Criminal Case No. 25628. In the Claimant Information Sheet, it was noted that Scope Industries, Inc. indicated that its address was No. 67 Agno Extension, Quezon City. When asked if she verified or if she saw any reports indicating that the address in the Claimant Information Sheet was indeed the address of Scope Industries, Inc., accused Recoter replied in the negative. She explained that at that time, Scope Industries, Inc. had already submitted previous claims or applications covering the years 1995, 1996, and 1997; hence, she knew Scope Industries, Inc. was a manufacturing company. She also said that Scope Industries, Inc. was registered with the Board of Investments since there were “initial documents” which Scope submitted to the OSS Center indicating such fact, like its BOI registration, DTI registration, and audited financial statements. She explained that these “initial documents” are on file with the OSS Center and are no longer submitted or attached by the applicants in their subsequent claims. She said that whenever she evaluates a claim, she usually refers to the “initial documents” of the applicant.²⁶⁵

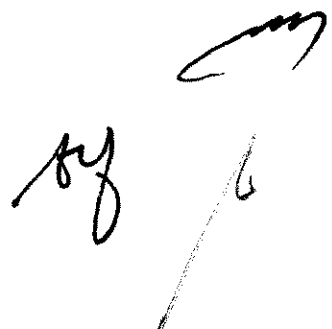
Accused Recoter confirmed that the Claimant Information Sheet was signed by “Angel O. Jimenez.” When she was similarly asked if she verified if Angel O. Jimenez was a real person or not, accused Recoter said no because it was not her duty to verify such fact. She also said that she does not know who Angel O. Jimenez was, or if Angel O. Jimenez was required to personally appear at the OSS Center.²⁶⁶

When confronted with the documents attached to the claim for Criminal Case No. 25628, particularly the export and import documents, it was noted that some of the documents,

²⁶⁴ pp. 25-27, TSN dated June 28, 2017

²⁶⁵ pp. 8-11, 33-35, TSN dated July 26, 2017

²⁶⁶ *Id.*, pp. 12-13

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DECISION

Criminal Case Nos. 25596-25631 & 25633-25636

People v. Belicena, et al.

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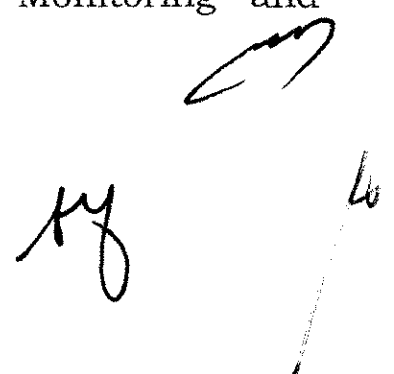
particularly a bill of lading, a packing list, an export declaration, and a commercial invoice, were photocopies certified by Angel O. Jimenez, while the other bill of lading and credit memo were originals. When asked why there were originals retained by the OSS Center when she previously testified that the original documents are claimed by the applicant once the TCC is granted, accused Recoter said that it is the choice of the applicant whether to claim the originals or not. In this case, since there are original documents left with the OSS Center in relation to the claim by Scope, accused Recoter said that it means Scope opted not to claim the said documents.²⁶⁷

In the course of her testimony, accused Recoter also said that she did not verify with the issuer or source of the documents if the documents attached by Scope to its application were actually issued by them or not. She likewise did not verify if the transactions involved in the documents actually happened, *i.e.*, whether there was an actual importation or exportation done by Scope as stated in the bills of lading and commercial invoices. She said that she did not know that Scope had no capacity to export finished products or that Angel O. Jimenez was a fictitious person. She reiterated that when she evaluated the claim, she merely referred to the documents submitted and computed the tax credit based on those documents.²⁶⁸

She confirmed that the evaluation report she prepared for the claim was reviewed by accused Magdaet and signed by accused Andutan, Jr. She testified that accused Andutan, Jr., did not ask her whether she verified the veracity of the documents attached to the claim or ask about Angel O. Jimenez. She said that once she submitted the report to accused Magdaet, she no longer had any knowledge as to what happened to it afterwards. She reiterated that she did not verify the documents attached as it was not part of her duties. However, there is no proscription in the OSS Center prohibiting evaluators from verifying the documents attached by the applicants in their claims. As for the Monitoring and

²⁶⁷ *Id.*, pp. 18-20

²⁶⁸ *Id.*, p. 23

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Verification Division, she confirmed that she testified that OSS Center had such division, but she had no idea if the division actually existed or if there was group which verified and monitored claims.²⁶⁹

When confronted with her Position Description Form, particularly with the listed duty of a Senior Tax Specialist “to evaluate the effectiveness of the Financial policies” of the OSS Center, she said that the description of her position was just to evaluate tax credit applications. As such, she never submitted any policies or suggested any changes to the Center with respect to the evaluation of TCC applications. She said that none of the officials during her time suggested any such changes or policies.²⁷⁰

On redirect examination, accused Recoter testified that Scope Industries, Inc. applied for a tax credit for the first time in 1995. She said that this was prior to the constitution of the OSS Center and as such, the claim was filed with the Board of Investments. She said that because of this, the OSS Center no longer conducted a plant inspection when Scope submitted a claim before the OSS Center because the Board of Investments already did such inspection. She also testified that to protect the integrity of the CIS, the evaluators never had personal contact with the claimant.²⁷¹

As for the Monitoring and Verification Division, she said that she testified about the division because she saw it in the organizational chart of the OSS Center.²⁷²

RAUL C. DE VERA
Accused

Accused Raul C. De Vera was presented as a witness for Criminal Cases Nos. **25614, 25615, 25616, 25617, 25618, 25619, 25623, 25624, 25625, 25626, 25627** and **25628**.

²⁶⁹ *Id.*, pp. 27-28

²⁷⁰ *Id.*, pp. 28-30, 42-43

²⁷¹ pp. 7-11, TSN August 17, 2017

²⁷² *Id.*, pp. 17-19

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On direct examination, he confirmed that he is the same Raul C. De Vera, one (1) of the accused in the abovementioned cases. He testified that he started working for the government in 1981. He initially joined the Department of Finance as a laborer with the General Services Division and was later promoted to Tax Specialist II in the Revenue Operations Group headed by accused Belicena in 1991. Sometime in 1995, he was promoted to Supervising Tax Specialist at the newly established One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center or the OSS Center. He said that he was promoted to Deputy Executive Director in 1998 but he never took the Oath of Office and, as such, remained a Supervising Tax Specialist until he left the Center in 1998.²⁷³

Accused De Vera testified that as Supervising Tax Specialist, he supervised the tax credit applications processed by his subordinates. He said that he did this by signing and approving their evaluation reports. He testified that whenever he reviewed the evaluation reports submitted to him, he looked at the contents of the reports, particularly the information on the applicant. He also browsed the documents to check the prescription period for the claim and checked the attachments to see if they are complete. With respect to the documents submitted for the claims, he said that he personally did not check whether the documents are lacking or not. Rather, he relied on the tables presented by the evaluators in their report. He said that if ever there are documents which are lacking, he would presume that the evaluator would require the applicant to complete the same. In addition to the documents, he would also check if the mathematical computation performed by his subordinates are correct. If the computation were incorrect, he would send back the report for correction.²⁷⁴

When asked regarding the legal basis of his and the evaluators' functions, accused De Vera identified Administrative Order No. 266, series of 1992, and pointed to Section 3 (b) thereof. Section 3 (b) of A.O. No. 266 states that one (1) of the duties and functions of the Center is to "accept applications for tax credits and/or duty drawbacks and finish

²⁷³ pp. 8-10, TSN dated September 20, 2017

²⁷⁴ *Id.*, pp. 10-13

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evaluation thereof within thirty (30) working days from date of acceptance of complete applications.” Per accused De Vera, the thirty-day period stated in Section 3 was usually complied with by the OSS Center since it is part of its mandate. In cases when the period is not observed, he said that such non-observance would theoretically subject the evaluators to administrative sanctions if the exporter/claimant files a complaint.²⁷⁵

He recalled that during his time at the OSS Center, he would evaluate or review around ten (10) to fifteen (15) evaluation reports per day. He said that after finishing the review of the reports, he would sign the reports and submit them to the Deputy Executive Director for appropriate recommendation. At that time, the Deputy Executive Director was accused Andutan, Jr. He averred that accused Andutan, Jr. reported directly to the Administrator, accused Belicena, because at that time, the position of Executive Director was not filled up.²⁷⁶

When confronted with the TCCs for Criminal Cases Nos. **25619, 25623, 25624, 25625, 25626, 25627** and **25628**,²⁷⁷ he confirmed that his signature appears on top of the name of accused Andutan, Jr., which is found at the left bottom portion of the TCCs. He said that he signed for and on behalf of accused Andutan, Jr. because he has been given previous orders to do so. He added that it has become the policy or practice in their office that whenever one of the officials are unavailable and the TCCs are about to reach the thirty-day period, the next senior officers would sign for the absent officers to comply with the mandate of the OSS Center.²⁷⁸ Aside from the TCCs, he confirmed that he also signed the (1) requests for transfer of tax credit certificates on behalf of accused Andutan, Jr., and the (2) tax debit memos on behalf of accused Belicena.²⁷⁹ To prove that he was given orders to sign for and on behalf of accused Andutan, Jr., and Belicena, accused De Vera presented and identified *Central Office Order No. 97-03*,²⁸⁰

²⁷⁵ *Id.*, pp. 13-14

²⁷⁶ *Id.*, pp. 14-15

²⁷⁷ See Exhibits “CC” and “GG” to “LL”

²⁷⁸ pp. 15-17, TSN dated September 20, 2017; p. 5, 16 TSN dated November 6, 2017

²⁷⁹ pp. 17-20, TSN dated September 20, 2017; pp. 15-16, TSN dated November 6, 2017

²⁸⁰ Marked as Exhibit “3-De Vera”

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*Department Order No. 96-02 dated October 18, 1994,*²⁸¹ and *Office Order No. 94-04, dated August 27, 1994,*²⁸² which, while not the exact orders authorizing him to sign the TCCs, requests for transfers, and tax debit memos involved, nonetheless, express the tenor that accused De Vera was indeed previously authorized to sign for the two (2) other accused within the periods mentioned in the orders. When asked what a tax debit memo is, accused De Vera explained that whenever a claimant uses its TCC, a tax debit memo would be issued as a memorandum entry in its ledger account to indicate that the TCC's value or portions of it has been used.²⁸³

Accused De Vera also testified that he did not verify whether the documents attached to the TCCs and the tax debit memos were authentic or correct because it was not his duty to do so. He said that as part of the "frontline offices," he and the evaluators only "checklisted" and evaluated applications for tax credit as mandated under Section 3 (b) of A.O. No. 266. Per accused De Vera, the duty of verification or validation was performed by another office called the "backline group of offices," based on Section 3 (e) of A.O. No. 266.²⁸⁴ Accused De Vera explained that in the Organizational Chart of the OSS Center,²⁸⁵ the groups found on the left side are the frontline group or offices, while the ones at the right side are the backline or support group. Specifically, the frontline group consists of the (1) Forest and Agro-Based Division, (2) Chemical and Oil Division, (3) Metals and Mining Division, (4) Packaging and Services Division, (5) Toys, Gifts & Housewares Division, (6) Construction & Electronics Division, and (7) Wearables Division. The backline group, on the other hand, consists of the (1) Monitoring & Verification Division, (2) Planning & Research Division, (3) Management Information Systems Division, and (4) Administrative Staff.²⁸⁶ Given these divisions, accused De Vera said that the verification, specifically the post-audit duty mentioned in Section 3 (e) of A.O. No. 266, is supposed to be performed by the Monitoring & Verification Division and the

²⁸¹ Marked as Exhibit "4-De Vera"

²⁸² Marked as Exhibit "5-De Vera"

²⁸³ pp. 17-18, TSN dated November 6, 2017

²⁸⁴ *Id.*, pp. 6-9

²⁸⁵ Exhibit "B-1"

²⁸⁶ p. 17, TSN dated November 7, 2017



Management Information System Division.²⁸⁷ Despite such duties to verify or conduct post-audit, accused De Vera said that per his recollection, the Monitoring and Verification Division never functioned.²⁸⁸ Only a certain John Bola/Boladen was appointed as head of the division.²⁸⁹

As for the frontline group, accused De Vera said that under Section 3(b) of A.O. No. 266, they have to finish the evaluation within thirty (30) days from acceptance of the application. He relayed that during the deliberations for A.O. No. 266, he and accused Andutan, Jr., as Senior Officers of the DOF, initially wanted the period to be sixty (60) or one hundred (100) days so that they would be able to perform verification or validation prior to the release of a TCC to the claimant. However, the exporters along with the Presidential Management Staff placed thirty (30) days in the A.O. specifically to expedite the release of the claims and make the export industry more competitive in the market.²⁹⁰

When asked regarding the Monitoring and Verification Division, accused De Vera said that the creation of the division and its plantilla was approved by the Department of Budget and Management in 1994. However, to fill the plantilla, the OSS Center still had to seek the approval of the Civil Service Commission (CSC). Accused De Vera said that the CSC only gave its approval in 1995.²⁹¹

Accused De Vera was then asked if the OSS Center still exercised control over a TCC once it has been issued to an applicant. He replied that the OSS Center no longer had control over the TCC except that the TCC can be the subject of a post-audit. He said that this is expressly stated on the face of the TCC, particularly its lower portion which reads:

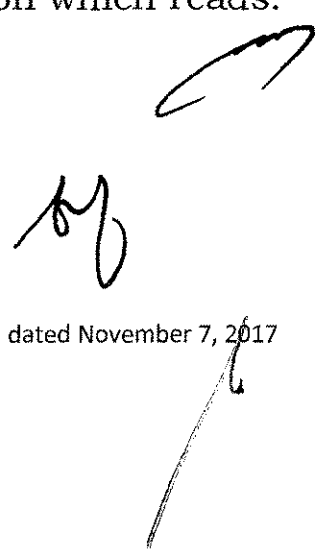
²⁸⁷ *Id.*, p. 10

²⁸⁸ *Id.*, p. 18

²⁸⁹ p. 11, TSN dated November 6, 2017; pp. 15-16, TSN dated November 7, 2017

²⁹⁰ *Id.*, pp. 8-9

²⁹¹ *Id.*, pp. 11-12

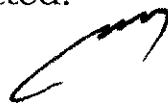
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“This Tax Credit Certificate is subject to:

1. Audit and subsequent adjustment in the event of computational discrepancy.”

When asked if the audit has a prescriptive period, accused De Vera said that during his term, there was no concern with regard to the deadline or prescriptive period for the audit. He said that the period for the audit was open ended because the OSS Center initially intended that the Commission on Audit take over the audit at some point. He added that putting a prescriptive period might defeat the purpose of the post audit. He said that no audit has taken place for the TCCs involved in these cases because it took the OSS Center some time to fill up the positions in the Monitoring and Verification Division.²⁹²

On cross-examination, accused De Vera confirmed that the OSS Center was mandated under Section 3 of A.O. No. 266 to issue a TCC within thirty (30) days from the time the application was filed with the OSS Center by the applicant. After having been shown the TCCs which he admitted having signed on behalf of accused Andutan, Jr., accused De Vera noted that the TCCs themselves state the date when the (1) application was accepted, and (2) TCC was issued. It was then pointed out by the prosecution, and accused De Vera agreed, that the TCCs for the following criminal cases show that they were actually issued more than thirty (30) days after the applications were submitted.²⁹³



²⁹² pp. 13-14, TSN dated November 6, 2017; pp. 12-14, TSN dated November 7, 2017

²⁹³ pp. 7-12, TSN dated January 8, 2018



DECISION

Criminal Case Nos. 25596-25631 & 25633-25636

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Criminal Case No.	TCC No.	Date Application Accepted (as stated in TCC)	Date TCC was Issued (as stated in TCC)	Period lapsed from date of acceptance to issuance
25619	009637	December 16, 1997	March 23, 1998	Ninety-seven (97) days
25623	009780	January 23, 1998	April 16, 1998	Eighty-three (83) days
25624	009781	January 26, 1998	April 16, 1998	Eighty (80) days
25625	009782	January 13, 1998	April 16, 1998	Ninety-three (93) days
25626	009783	January 23, 1998	April 16, 1998	Eighty-three (83) days
25627	009785	January 23, 1998	April 16, 1998	Eighty-three (83) days
25628	009784	January 26, 1998	April 16, 1998	Eighty (80) days

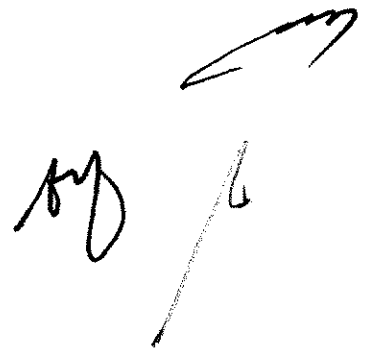
When he was asked if he saw any verification reports attached to the TCCs prior to signing them, accused De Vera confirmed that there were no such verification reports. He said that despite such knowledge, he did not insist on conducting a verification before recommending the issuance of the TCC. He also testified that he never checked the identity of Scope Industries, Inc., or Bernard Santos, nor did he require the applicant to personally appear before the OSS Center. He also never confirmed the address of Scope Industries, Inc. nor ordered the verification of the veracity of the bank statements attached by Scope to its application.²⁹⁴

Accused De Vera likewise confirmed his previous statement that he never checked whether the documents attached to the applications were lacking or not because he presumed that the evaluators would require the applicants to complete them. He said that he did this because the evaluators are competent. He also confirmed that he only relied on the summary of documents and evaluation reports whenever he signed TCCs.²⁹⁵

When asked if he called out the attention of the evaluators as to the lack of verification, he said that he did not as there

²⁹⁴ pp. 5-8, 17, TSN dated January 8, 2018

²⁹⁵ pp. 18, 21, TSN dated January 10, 2018



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was no need for him to do that. He maintained that verification was the function of the Monitoring and Verification Division. He also said that they were not instructed to perform independent verification. As far as he was concerned, his function was to validate the claim with respect to the mathematical computation done by the evaluators as well as checking the prescriptive period of the claim since the core function of their division pertained to the appropriateness of the amount due to each claimant. He added that at that time, the OSS Center was "inter-agency" and as such, whenever they released certificates, all agencies are supposed to check on each other. For Scope Industries, Inc., he said that it was a BOI-registered firm and as such, it was under the direct supervision and regulation of the BOI. While A.O. No. 266 did not prevent them from conducting an independent verification, accused De Vera said that he interpreted the lack of authority to verify as a legal proscription for them to conduct such verification.²⁹⁶

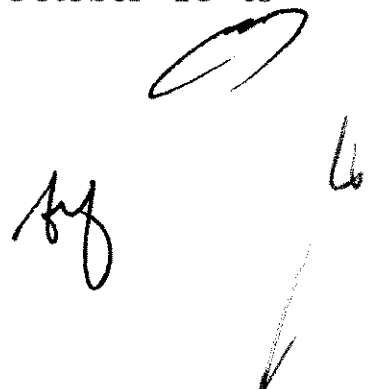
As for the Monitoring and Verification Division, accused De Vera maintained that the verification function was lodged in this division. However, he was not aware if the division was operational or not. He confirmed that he knew that the CSC already approved the filling up of the positions in the Monitoring and Verification Division way back in 1995 but he never called the attention of the Human Resource Office regarding the vacancies because he had no authority to do so. He said that he also never proposed any policy for the conduct of actual verification since it was not within his authority to impose. He clarified, however, that during the pre-organizational meetings in 1992, he and accused Andutan, Jr. proposed for a longer period for the processing of applications instead of the thirty (30) days indicated in the A.O. No. 266.²⁹⁷

With respect to his authority to sign for and on behalf of accused Andutan, Jr. and Belicena, accused De Vera confirmed that the office orders which he earlier identified²⁹⁸ were issued way before 1998. Specifically, they only covered the periods from August 30 to October 26, 1994, and October 16 to

²⁹⁶ *Id.*, pp. 20-23

²⁹⁷ *Id.*, pp. 16-24

²⁹⁸ Exhibits "3-De Vera", "4-De Vera", and "5-De Vera"

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November 7, 1997. However, he said that while on paper he was not authorized to sign the TCCs, requests for transfers, and tax debit memos in 1998, by function and by practice in the OSS Center, as the next senior officer, he signed the mentioned documents to expedite the process and to comply with the mandated thirty-day period whenever the officers required to sign were not available.²⁹⁹

He was then asked if he noticed that in the Requests for Transfer of TCC filed by Scope, the requests were made barely a month after the TCCs were issued in favor of Scope. Accused De Vera said that he noted the fact and still allowed the transfers. He also said that he never called the attention of the evaluators or his superior officers regarding the matter despite the frequency with which Scope transferred its TCCs.³⁰⁰

On redirect examination, accused De Vera testified that the TCCs were prepared by the “backline office,” specifically the Executive Office. Whenever the TCCs would be presented to him for his signature, all the details found on the face of the TCC would already be filled out. The evaluation reports, summary of tables, and invoices would also be attached to the TCCs whenever he signed.³⁰¹

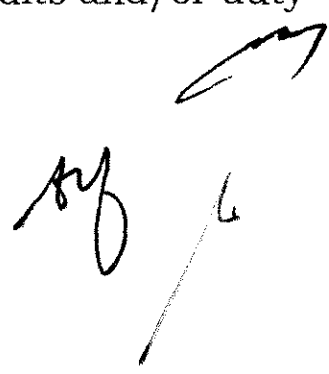
When confronted with the Evaluation Reports for the TCCs which he signed, he was asked to explain the dates indicated in the reports for the items (1) date filed, (2) date accepted, and (3) due date. He explained that the “date filed” referred to the date when the applicant came to the OSS Center and filed the application. “Date accepted,” on the other hand, is the date when the applicant was deemed by the OSS Center to have complied with the requirements for such application after it has been evaluated and “checklisted” by employees at the OSS Center. Lastly, the “due date” is the date when the evaluation is supposed to be completed and the TCC is to be hopefully released within that day.

He then clarified that A.O. No. 266 stated that the OSS Center was to “accept applications for tax credits and/or duty

²⁹⁹ pp. 10-12, TSN dated January 10, 2018

³⁰⁰ *Id.*, pp. 13-16

³⁰¹ *Id.*, pp. 28-30

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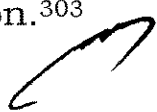
drawbacks and **finish evaluation thereof within thirty (30) working days from date of acceptance of complete applications.**” Thus, the due dates indicated in the reports were to be reckoned from the day when the OSS Center “accepted” the application. Accused De Vera claimed that all of the due dates indicated in the reports were within the mandated thirty-working day period.³⁰²

Criminal Case No.	TCC No.	Date Application Accepted (as stated in the evaluation report)	Due Date (as stated in the evaluation report)	Date TCC was Issued (as stated in TCC)
25619	009637	January 14, 1998	February 25, 1998	March 23, 1998
25623	009780	February 10, 1998	March 24, 1998	April 16, 1998
25624	009781	February 10, 1998	March 24, 1998	April 16, 1998
25625	009782	February 10, 1998	March 24, 1998	April 16, 1998
25626	009783	February 10, 1998	March 24, 1998	April 16, 1998
25627	009785	February 10, 1998	March 24, 1998	April 16, 1998
25628	009784	February 10, 1998	March 24, 1998	April 16, 1998

As for verification, accused De Vera said that the extent of verification that they did was to check the completeness of each application. They did not verify the due execution and authenticity of the documents attached because this was not part of their functions. Rather, it was supposed to be performed by the Monitoring and Verification Division. Similarly, he and his subordinates did not verify the location of the offices of Scope Industries, Inc. since the manual of the OSS Center did not require them to conduct such inspections as Scope was a BOI-registered firm. As such, the OSS Center presumed that Scope had already undergone a series of audit or compliance prior to its registration, and it was not part of their function to duplicate such action.³⁰³

³⁰² *Id.*, pp. 30-37

³⁰³ *Id.*, pp. 37-39





With respect to the fact that Scope frequently transferred the TCCs that were granted to it within a month from issuance, accused De Vera said that it was legal for Scope to do so.³⁰⁴

Accused De Vera also testified that he did not file any falsification cases against Scope because any issue or findings with respect to the authenticity of documents submitted to the OSS Center are part of post-audit activities which all TCCs may be subjected to. The authority to conduct post-audit was designed to be performed by the Monitoring and Verification Division, the Commission on Audit, and the agency where the TCC was used (*i.e.*, the Bureau of Internal Revenue if the TCC was used to pay for internal revenue taxes, or Bureau of Customs for import taxes).³⁰⁵

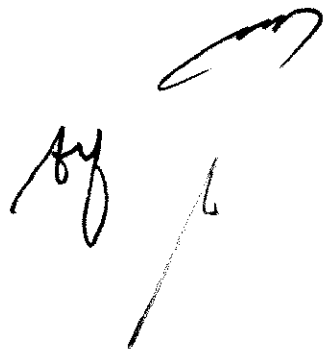
MARIA NEY POCULAN

Supervising Administrative
Officer, Central Records
Management Division,
Department of Finance

Poculan was called to the stand on two (2) separate occasions. On May 3, 2018, her testimony was dispensed with after the prosecution and the accused stipulated on the following: (1) she is the Supervising Administrative Officer of the Central Records Management Division of the Department of Finance; (2) she brought with her the following documents from the records on file, which were turned over to her by the One-Stop Shop Center: *Office Order No. 97-03* dated October 13, 1997, marked as Exhibit “3-De Vera” for accused De Vera, and *Office Order No. 04-94* dated August 27, 1994, which was marked as Exhibit “5-De Vera” for accused De Vera; (3) she also brought a copy of the letter transmitted to her by the Personnel Division of the Department of Finance and the documents that she brought were certified by the Chief Administrative Officer of the CRMB-DOF named Rodoro Reyes; (4) she also brought a copy of the letter dated December 26, 1994, from the Personnel Division of the Department of Finance, Ma. Carmela A.

³⁰⁴ *Id.*, pp. 40-43

³⁰⁵ *Id.*, pp. 43-44

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Romerosa, which was also marked as Exhibit “6-De Vera” for accused De Vera; and (5) she no personal knowledge as to the preparation and execution of the documents submitted to the Court.³⁰⁶

On November 4, 2019, Poculan was called again to testify for accused Magdaet, Abara, and Napeñas. In compliance with the subpoena issued by the Court, she presented to the Court the original and copies of the *Minutes of the 12th Executive Committee Meeting* dated May 5, 2000, and the *Minutes of the 31st Regular Meeting of the Center Executive Committee* held on June 16, 2004, of the Executive Committee of the OSS Center. As for the manuals of operation of the OSS Center which the subpoena required her to bring, Poculan said that she was not able to bring them since they are not in the records which she kept.³⁰⁷

On cross-examination, Poculan said that she had no knowledge of the contents of the minutes which she earlier presented, nor was she aware of the transactions involved in the cases at bar. She also testified that she does not know if the manual of operations took effect in 2000. She said that she has no personal knowledge regarding the issuance of TCCs for the years 1994, 1995, and 1996 since these are not concerns of the division to which she belonged to.³⁰⁸

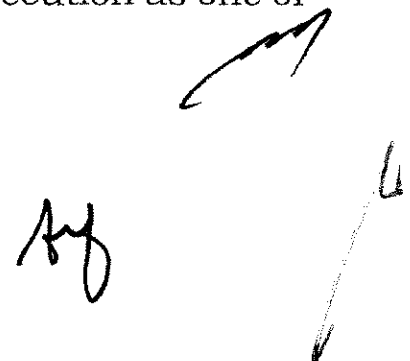
CHERRY L. GOMEZ
Accused

Accused Gomez testified that she started working at the OSS Center in 1994. She was designated as a clerk at the Textile Division, where she was tasked to do the “checklisting” and evaluation of documents such bills of lading, commercial invoices, bank credit memo, import and export entry, terminal revenue declaration, Bureau of Customs official receipt, and export and import declarations. She declared that as an evaluator, she prepared evaluation reports and identified the document marked as Exhibit “I-2” for the prosecution as one of

³⁰⁶ Order dated May 3, 2018, pp. 778-779, Volume XIII, Records

³⁰⁷ p. 11, TSN dated November 4, 2019

³⁰⁸ *Id.*, pp. 11-13

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the evaluation reports she made. She said that in preparing evaluation reports, she first checks the documents submitted by the claimant very carefully, including the claimant's information, the BOI registered number, date of issuance by the BOI, their contact number, and other documents such as the bills of lading, official receipts, and invoices to determine if the documents submitted by the applicant are complete. Afterwards, she returns the documents and submits the evaluation report she prepared to the OIC, who at that time was accused Asuncion Magdaet. Once accused Magdaet signs the report, the report would be submitted to the other signatories, who at that time were the Deputy Executive Director and the Assistant Secretary. Once the evaluation report is signed by the Executive Director, accused Gomez said that it would be brought to the one who prepares the TCC.³⁰⁹

On cross-examination, she confirmed that she was hired as a clerk by the DOF. She testified that the evaluation of the supporting documents for applications for TCCs was the function of a tax specialist. However, as clerk, she was allowed to perform such duties. She said that she performed the duties of a tax specialist for about five (5) years.³¹⁰

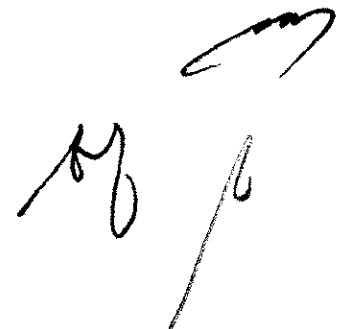
She confirmed that Exhibit "I-1" or the Claimant Information Sheet for Criminal Case No. 25599, was one of the documents which she evaluated and verified. When asked if she was able to communicate with the person who filed the information sheet, she said that she cannot recall. She was then shown, one by one, the supporting documents marked as exhibits for Criminal Case No. 25599 such as Exhibits "I-1-a" or the bill of lading, "I-1-a-1," "I-1-b," and "I-1-b-1," or the credit advices issued by Equitable Banking Corporation and was asked if she communicated with the companies which issued the documents. She said that she was not sure if she did at the time for the bill of lading. As for the credit advices, she said that she did not do so.³¹¹

She then identified the signatures of accused Magdaet and accused Andutan, Jr., in the evaluation report which she

³⁰⁹ pp. 6-12, TSN dated July 2, 2018

³¹⁰ *Id.*, pp. 12-13

³¹¹ *Id.*, pp. 13-16

The image shows three handwritten signatures in black ink. The top signature is a cursive signature that appears to be 'MAGDAET'. Below it are two more signatures, one on the left and one on the right, which appear to be 'ANDUTAN, JR.' and another signature, possibly 'GOMEZ'.

signed³¹² as well as accused Andutan, Jr.'s signature in the TCC marked as Exhibit "I." She confirmed that she was familiar with the signatures of her two (2) co-accused since they were her superiors at that time. She also confirmed that her evaluator's report became the basis for the issuance of Exhibit "I."³¹³

On redirect examination, she explained that in her verification of the documents submitted to her, she asked her superiors if the documents submitted are correct. She further explained that claimants are usually required to submit sets of documents for their application, one (1) set being an original and the other being mere photocopies. Thus, in evaluating the documents, she compares the original with the photocopy to confirm if the information in the original and the photocopy are the same.³¹⁴

MEROSE L. TORDESILLAS

Accused

On direct examination, accused Tordesillas confirmed that she is one of the accused in these cases. She testified that in 1995, her uncle informed her that the OSS Center of the Department of Finance was hiring. She applied and she was hired in October 1995 as a contractual employee for the Textile Division. She was subsequently regularized sometime in March 1996. She said that prior to working at the Center, she had training at the Bureau of Internal Revenue District Office in Taguig.³¹⁵

As Tax Specialist, she said that her duties included "checklisting" the completeness of documents submitted for tax credit claims, computing tax credit claims, preparing communication letters to exporters and evaluation reports. Accused Tordesillas identified her signature in Exhibit "K-2," the Evaluation Report for Criminal Case No. 25601, and confirmed that Exhibit "K-2" was the Evaluation Report she

³¹² Exhibit "I-2"

³¹³ pp. 16-18, TSN dated July 2, 2018

³¹⁴ /d, pp. 19-21

³¹⁵ pp. 8-10, TSN dated July 10, 2018

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prepared for TCC No. 004232 issued to Scope Industries, Inc. She testified that when she prepared Exhibit “K-2,” she first checked if the documents submitted were complete. Afterwards, she compared the photocopies submitted against the originals, and then computed the tax credit based on the schedule.³¹⁶

Accused Tordesillas subsequently identified *Administrative Order No. 266* dated February 7, 1992,³¹⁷ and *Office Order No. 93-07A* dated July 2, 1993, issued by then Administrator of the Center, accused Antonio P. Belicena. She testified that after the issuance of A.O. No. 266, the OSS Center used procedures that the Board of Investments used in the processing of tax credit applications. This process involved checking the completeness of documents submitted based on a checklist given to them (*i.e.*, “checklisting”), preparing a deficiency letter if needed, subsequently computing the tax credit, and preparing an evaluation report, once the claimant has complied with the requirements. She then presented before the Court a document entitled “Department of Finance One-Stop Shop Interagency Tax Credit and Duty Drawback Center Checklist of Document Requirement for Investment, Incentive Group”³¹⁸ and testified that it was the checklist which they used to determine the completeness of the documents submitted by the claimant.³¹⁹ Accused Tordesillas said that per the checklist, an applicant or claimant was to submit a copy of the (1) export declaration, (2) export sales invoice, (3) POs, (4) official receipts, and (5) bills of lading. As evaluator, she compared the photocopies with the original copy submitted by the applicant, as required by *Office Order No. 93-13* dated August 30, 1993,³²⁰ to check the authenticity of the documents. She would then check the entries in the documents to compute the tax credit.³²¹

Accused Tordesillas also identified the other evaluation reports she made in connection with the TCCs issued to Scope

³¹⁶ *Id.*, pp. 8-11

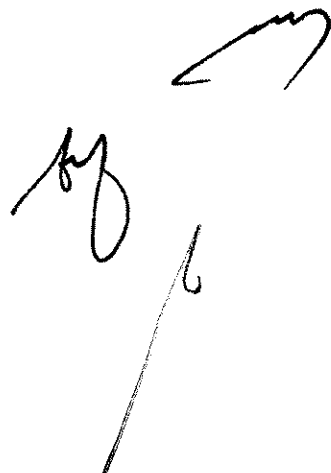
³¹⁷ Marked as Exhibit “1-Tordesillas”

³¹⁸ Marked as Exhibit “3-Tordesillas”

³¹⁹ pp. 11-15, TSN dated July 10, 2018

³²⁰ Marked as Exhibit “4-Tordesillas”

³²¹ pp. 5-6, TSN dated September 12, 2018

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Industries, Inc., specifically Exhibits “K-2,” “L-2,” “P-2,” “DD-2,” “EE-2” and “FF-2,” as well as her signatures in the said documents. She said that she submitted the evaluation reports she prepared to her superior, accused Magdaet. Per her testimony, it was the Executive Director, accused Andutan, Jr., who would approve the issuance and release of a tax credit certificate. She also narrated that per A.O. No. 266, the OSS Center only has thirty (30) days within which to process a tax credit application.³²²

On cross-examination, she identified the Position Description Form she signed when she was regularized by the OSS Center.³²³ She confirmed that the Position Description Form for Tax Specialist I stated that her duties and responsibilities include the “evaluation and verification of supporting documents to determine their authenticity, regularity, and sufficiency.” However, she said that the only kind of verification she conducted during her stint at the OSS Center was the comparison of the photocopied documents with the original copies submitted by the applicant. She never did any field investigation, nor did she send confirmation letters to the issuers of the documents to verify the transactions.³²⁴ She subsequently identified the signatures of accused Magdaet and Andutan, Jr., in the evaluation reports she made, adding that she was familiar with their signatures because they were her superiors.³²⁵

When shown Exhibit “B-2,” she confirmed that the procedure outlined in the flowchart was the procedure that she followed in the conduct of her evaluation. She also testified that they were not trained to do field investigation back then.³²⁶

PURITA S. NAPEÑAS
Accused



³²² *Id.*, pp. 8-10

³²³ Marked as Exhibit “C-4-h” and her signature as “C-4-h-1” by the prosecution

³²⁴ pp. 11-15, TSN dated September 12, 2018

³²⁵ *Id.*, pp. 17-19


³²⁶ *Id.*, pp. 21-22




Accused Napeñas testified on direct examination through her *Judicial Affidavit (in lieu of Direct Testimony)* dated December 3, 2018.³²⁷


She testified that she started working at the OSS Center of the Department of Finance in August 1992 as a contractual employee and became a permanent employee in March 1995. She was designated as an evaluator and part of her duties included the “checklisting” of documents submitted by an applicant for tax credit. Napeñas explained that “checklisting” was the act of checking if the documents submitted by an applicant are complete based on the checklist of documents and requirements of the OSS Center. She testified that she also computed tax credit claims based on a computation table for standard rates provided by the OSS Center to evaluators, and she also prepared evaluation reports which she submitted to her superior officer, accused Magdaet, for review and approval.³²⁸

Accused Napeñas also testified that aside from computing tax credit claims and preparing evaluation reports, she was also involved in the conduct of plant inspections for first time applicants of tax credit claims. She was subsequently shown Exhibit “3-Tordesillas,” or the “Checklist of Document Requirements” earlier identified and presented in Court by accused Tordesillas. Accused Napeñas said that the Exhibit “3-Tordesillas” was the checklist which she used as an evaluator for “checklisting” the documents submitted by tax credit applicants. She was likewise shown Exhibit “B-2” of the prosecution which was identified as the “Flow Chart” for the procedure which the OSS Center followed in processing applications for tax credit, and she said that the procedure outlined in Flow Chart, specifically the sequence of actions from numbers one (1) to five (5), was the same procedure she followed in evaluating claims. She declared that this procedure was taught to them by representatives from the Board of Investments.³²⁹



³²⁷ pp. 197-215, Volume XIV, Records


³²⁸ pp. 2-3, *Judicial Affidavit-Napeñas*, pp. 198-199, Volume XIV, Records

³²⁹ pp. 3-4, *Judicial Affidavit-Napeñas*, pp. 199-200, Volume XIV, Records


For TCC applications, she said that the OSS Center required the submission of a duplicate original and two (2) photocopies of the supporting documents, following *Office Order No. 93-07A* dated July 2, 1993³³⁰ and *Office Order No. 93-17* dated November 3, 1993.³³¹ She subsequently identified the Evaluation Reports marked as Exhibits “Y-2” and “CC-2” as the reports which she made after she evaluated the tax credit applications involved. She reiterated that in preparing the evaluation reports, she followed the sequence of actions from numbers one (1) to five (5) of the Flow Chart for the OSS Center. She then identified the following exhibits and requested for their additional marking as her own exhibits.

Document	Exhibit (Prosecution/Other Accused)	Marking for Napeñas
Position Description Form and her signature on the Form	“C-4-b”	“1-Napeñas” to “1-a-1-Napeñas”
Organizational Chart	“B-1”	“2-Napeñas”
Checklist of Document Requirements	“3-Tordesillas”	“3-Napeñas”
Flow Chart	“B-2”	“4-Napeñas”
Office Order No. 93-07A dated July 2, 1993	“C-1”	“5-Napeñas”
Office Order No. 93-17 dated November 3, 1993	“C-2”	“6-Napeñas”
Evaluation Report for Application No. 98-I-0103	“Y-2”	“7-Napeñas”
Evaluation Report for Application No. 98-I-0069	“CC-2”	“8-Napeñas”

On cross-examination, she confirmed that she has a degree in Bachelor of Science in Accounting. As part of her undergraduate studies, she said that she took up an auditing subject and learned about the audit procedure called “verification.”³³² When confronted with Exhibit “C-4-b,” or the Position Description Form for her position at the OSS Center,

³³⁰ Exhibit “C-1”

³³¹ Exhibit “C-2”

³³² p. 14, TSN dated January 30, 2019

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she confirmed that the document states that her responsibilities and duties include “the evaluation and verification of supporting documents to determine their authenticity, regularity, and sufficiency.” She also confirmed that she read and understood the statements in her Position Description Form.³³³ She was then asked if, in the evaluation of applications for TCCs as well as the supporting documents for the application, she sent confirmation letters to the issuers of the documents to verify whether the documents were indeed issued by the issuer. She replied that she did not conduct verification in that manner because it was not part of her duty to do so as an evaluator.³³⁴

As for the supporting documents in the applications, she confirmed that the documents are first received by the Receiving Section of the OSS Center and then eventually forwarded to her for evaluation. She said that once she has finished her evaluation of the application, she would forward the documents to her superiors along with the Evaluation Reports that she prepared. She said that the documents no longer pass through any other division such as the Monitoring and Verification Division once they are submitted to her superiors.³³⁵

On redirect examination, she clarified that for her work as evaluator of tax credit claims, she would only “checklist” the supporting documents submitted by an applicant, compute the corresponding tax claim based on those documents, and subsequently prepare evaluations reports. She said that the actual or physical verification of the authenticity of the documents are not part of her “checklisting” duty since “checklisting” only involves seeing to it that the documents submitted are complete.³³⁶

The Court then asked her if her Position Description Form indeed listed as part of her job description the evaluation and verification of supporting documents to determine their authenticity, regularity, and sufficiency. She confirmed that

³³³ *Id.*, pp. 21-22

³³⁴ *Id.*, pp. 26-27

³³⁵ *Id.*, pp. 27-28

³³⁶ *Id.*, pp. 33-34

Handwritten signatures and initials in black ink, including a large flourish at the top right, a signature that appears to be 'My', and a vertical line at the bottom right.

the Position Description Form indeed included such duties as part of her job description. When asked how she evaluated and verified documents as part of her job, she explained that she checked if the documents submitted are complete, which is a process called “checklisting.” She was then asked how she verified the documents and she replied that it was not part of her duties to verify the documents. She explained that while the Position Description Form stated that “verification” was part of her job, she only relied on the process outlined in the Flow Chart issued by the OSS Center as well as the process taught by the representatives from the Board of Investments who trained them as evaluators in performing her job. She added that as evaluators, they were not taught how to conduct verification. She also testified that she was assigned to the Wearables Division, but she cannot recall who designated her there or if her designation to the Division was written or a mere verbal directive.³³⁷

ERNESTO Q. HIANSEN
Executive Director,
OSS Center

Ernesto Q. Hiansen testified on direct examination through his *Judicial Affidavit* dated April 10, 2019.³³⁸

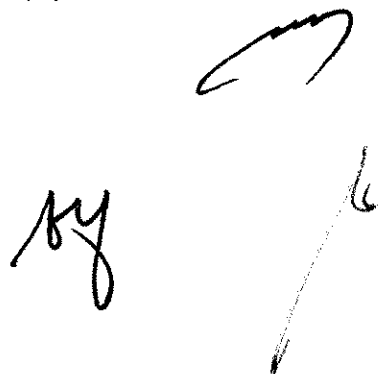
He declared that he is the Executive Director of OSS Center. He first started working at the OSS Center as an Executive Assistant at the Office of the Chairman of the Executive Committee on August 19, 1998. He resigned in 2008 and was rehired by the OSS Center on December 2, 2016 for the same position.³³⁹

Hiansen said that when he joined the OSS Center in 1998, the existing procedure in the processing of applications for tax credit was the “industry-based system.” Under this system, only one evaluator and the Division Head are involved in the processing of the application for tax credit certificates. He explained that the evaluator’s role is to (1) evaluate the

³³⁷ *Id.*, pp. 35-45

³³⁸ pp. 568-614, Volume XIV, Records

³³⁹ pp. 1-2, *Judicial Affidavit-Hiansen*, pp. 568-569, Volume XIV, Records

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acceptability and completeness of the submitted documents and their adherence to policies, guidelines, and requirements of the OSS Center, and (2) compute the tax credit of the applicant. Hiansen said that “checklisting” is the process of determining the completeness and acceptability of the claim documents. When shown Exhibit “3-Napenas,” he confirmed that the exhibit shows the checklist of the required documents from the applicant. He explained that an evaluator would put a check on the list corresponding to the document submitted by the applicant.³⁴⁰

After evaluating a claim, Hiansen said that an evaluator would submit his or her findings to the Division Head for review and signature. Upon concurrence of the Division Head on the findings, the entire application will be forwarded for signature of the Deputy Executive Director, who in turn would recommend the approval of the same. Once the application is approved, the corresponding TCC will be prepared. Afterwards, the approved application, together with the TCC will be forwarded for the signature of the Undersecretary for Revenue Operations Group.³⁴¹

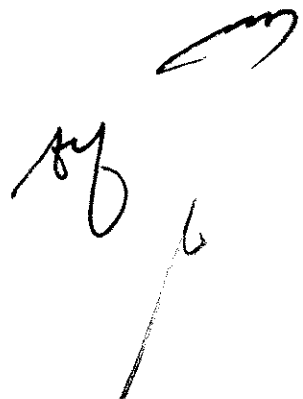
In the case of applicants in the textile industries such as Scope Industries, Inc., Hiansen said that their applications for TCCs are processed under the Direct Export-Standard Scheme which require the following documents:³⁴²

- a) Fully accomplished and notarized Claimant Information Sheet with Documentary Stamp;
- b) Proof of Importation (if applicable) such as Import Entry and Internal Revenue Declaration, Bill of Lading, Import Invoice, IED (if applicable);
- c) Proof of Local Purchase (if applicable) such as Purchase Invoice and Official Receipt;
- d) Proof of Exportation such as Sales Invoice, Export Declaration, amendment of ED (if applicable), Bill of Lading/Airway Bill and copy of Bank Credit Memo; and

³⁴⁰ pp. 3-4, *Judicial Affidavit-Hiansen*, pp. 570-571, Volume XIV, Records

³⁴¹ p. 3, *Judicial Affidavit-Hiansen*, p. 570, Volume XIV, Records

³⁴² *Id*

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- e) Abstract of Records such as computation table using Standard Scheme, schedule of direct exports, schedule of importation and schedule of local purchases.

During his testimony, Hiansen also confirmed that Exhibit "B-2" is the flow chart for the industry-based procedure of evaluating tax credit claims, and that this was the procedure followed at the OSS Center when he took over in 1998.

When he was asked regarding the evaluation reports for the applications, Hiansen said that an evaluation report would usually contain the following information: (1) data about the applicant; (2) data about the exportation; (3) list of documents submitted; and (4) the computation of the tax credit. Evaluation reports are prepared by the assigned evaluator who conducted a "table audit" on the documents submitted by an applicant. A "table audit," per Hiansen, means that the documents and information presented to the evaluator would be evaluated without verification from third party sources of the documents.³⁴³

Hiansen also testified that the step of verification of documents was only introduced in the processing of application for TCCs when the OSS Center shifted from the industry-based procedure to a process-based system. He said that the procedure shift introduced changes to the process which were incorporated in the Manual of Operations in 2000. One such change was the creation of the Verification and Authentication Division, which was established to determine the authenticity of the transactions reported or declared by the applicants by securing confirmation from third-party sources. In addition to the Verification and Authentication Division, Hiansen said that the process-based system also introduced an "assembly line concept" of evaluation where an application for tax credit is assigned to at least ten (10) evaluators, and four (4) reviewers before reaching the desk of approving authorities. He said that this arrangement integrated the necessary check and balance in the system so that only a collusion in the entire evaluation chain would allow a fraudulent claim to enter the system. He said that the 2000 Manual of Operation which

³⁴³ p.5, *Judicial Affidavit-Hiansen*, p. 572, Volume XIV, Records

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introduced the process-based system was approved on May 5, 2000.³⁴⁴

When asked about the divisions existing at the OSS Center in August 1998, Hiansen said that there were ten (10) divisions then. He was then shown Exhibit "B-1" and he confirmed that the organizational chart shown in Exhibit "B-1" outlined the internal structure of the organization and relationships of the divisions and individuals in the OSS Center at the time that he joined. He said that he was not sure when the organizational chart was implemented but he assumed that it was put into place after *Administrative Order No. 138*, dated July 19, 1994³⁴⁵ was signed by then President Fidel V. Ramos and Executive Secretary Teofisto T. Guingona, Jr. When pointed out, he confirmed that there was a Monitoring and Verification Division in the Organizational Chart or Exhibit "B-1."³⁴⁶

He was then shown a document entitled *Manual of Operations for the Center*, which was admitted by the Court as Exhibit "D" for the prosecution. Hiansen testified that Exhibit "D" primarily reflected the system in place when he took over the OSS Center in 1998, but he is not sure if the marked exhibit was approved by the Executive Committee. He further testified that based on his reading of Exhibit "D," it is the verifier who makes the verification of the documents and prepares a report. The report from the verifier is then signed by the Division Chief and then forwarded to the evaluator, as shown in d.4 on page twenty-one (21) of the Manual. Per Hiansen, the verifier is different from the Evaluator. Hiansen said that at present, the OSS Center uses an updated version of the 2000 Manual, which is the 2004 Manual of Operations.³⁴⁷

On cross-examination, Hiansen testified that he joined the Department of Finance and was assigned to the OSS Center on August 19, 1998. At that time, the Executive Director was Alberto R. Salanga. Per records of the OSS Center, the Deputy Executive Director prior to Salanga was accused Uldarico

³⁴⁴ pp. 6-8, *Judicial Affidavit-Hiansen*, pp. 573-575, Volume XIV, Records

³⁴⁵ Marked as Exhibit "9-Napenas"

³⁴⁶ pp. 6-7, *Judicial Affidavit-Hiansen*, pp. 573-574, Volume XIV, Records

³⁴⁷ pp. 7-8, *Judicial Affidavit-Hiansen*, pp. 574-575, Volume XIV, Records

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Andutan, Jr., while the Executive Director was Undersecretary Maria Cecilia Soriano. However, the approving authority for TCCs was Undersecretary Antonio Belicena.³⁴⁸

Hiansen testified that he became the Executive Director of the Center in March 2003. He explained that the Executive Director is like the Chief Operating Officer of the Center. The Executive Director handles the overall supervision of the operations of the Center, in particular to ensure the faithful compliance of the office to its primary mandate as defined under Administrative Order No. 266.³⁴⁹

As for his knowledge regarding the accused, Hiansen said that when he joined the OSS Center in 1998, accused Magdaet, Abara, Tizon, Binsol, Tordesillas, Cuento, Daguimol, Recoter, Napeñas, and Diño were already working at the OSS Center. Accused De Vera, on the other hand, was no longer at the Center, while he cannot recall if accused Gomez was there although he has heard her name. He confirmed that all of the mentioned accused were evaluators, except for accused De Vera, and accused Magdaet, who was then a Division Head.³⁵⁰

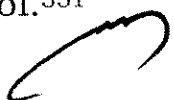
When confronted with Exhibit "D," or the Manual of Operations which he identified during his direct testimony, accused Hiansen said that he and other employees at the OSS Center found the manual in the records some months after he joined the OSS Center, or around the first quarter of 1999. He confirmed that the said manual must have existed prior to his employment at the OSS Center. He also confirmed that he was not involved in the drafting of the manual. Hiansen further testified that when he became the Executive Director of the OSS Center, he reviewed the procedures observed by the OSS Center in the processing of TCCs and he read the manual as well. He confirmed that the manual required the verification of documents, as discussed in pages seventeen (17) to twenty-three (23) thereof.³⁵¹

³⁴⁸ pp. 5-6, TSN dated April 29, 2019

³⁴⁹ *Id*

³⁵⁰ pp. 7-8, TSN dated April 29, 2019

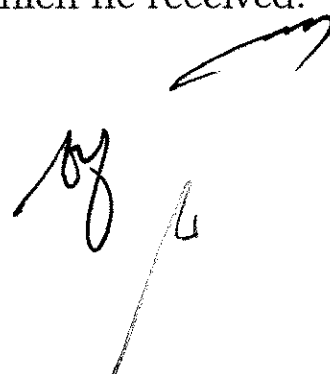
³⁵¹ *Id*, pp. 8-10



As for the existing procedure in 1998, he relayed that a receiving clerk would first receive an application for TCC. Once received, the application and its supporting documents would be forwarded to the division where the particular applicant or industry belongs. The division head would then assign an evaluator to the application and forward the documents to the selected evaluator. The evaluator, in turn, would first check if the documents submitted are complete or not. If the documents are complete, the claim will be evaluated. If not, then the evaluator would issue a deficiency letter. After evaluating the claim, the evaluator would then prepare an Evaluation Report which the division head would review and subsequently submit for approval of the Deputy Executive Director. It is the Undersecretary, however, who gives the final approval for the application. When asked if he noticed the lack of verification in the procedure which he just outlined, Hiansen confirmed that there was no verification in the steps.³⁵²

When asked if he ever came across the Position Description Form for the position of a Tax Specialist when he served as Executive Director of the OSS Center, Hiansen said that he was able to, and confirmed that the form listed “evaluation and verification of the supporting documents to determine their authenticity, regularity, and sufficiency” as one of the functions of a Tax Specialist. He noted, however, that while the manual provided for a delineation between the function of verification of documents and the evaluation of a claim, he was not able to ascertain if the process under the manual was actually implemented. He added that while the manual provided for a Monitoring and Verification Division and while the existing plantilla positions for the Monitoring and Verification Division were all filled, the persons assigned to the Monitoring and Verification Division were all moved out to other units after their appointment. As such, the function of the Monitoring and Verification Division was never performed by the office. He likewise testified that when he assumed the position as Executive Director, there were no verification reports attached to the Evaluation Reports which he received.

³⁵² *Id.*, pp. 10-12

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He also reiterated that when he took over the OSS Center, the Monitoring and Verification Division was not functioning. He declared that when the OSS Center had a re-organization, the Monitoring and Verification Division was renamed to Verification and Authentication Division.³⁵³

When asked, Hiansen testified that the mandate of the OSS Center was (a) to develop an orderly and expeditious process for tax credits and (b) prevent recurrence of undue claims. The two (2) mandates go hand-in-hand and without verification, he said that problems like the cases at bar would naturally crop up because if companies submit fictitious documents, it will pass through the system.³⁵⁴

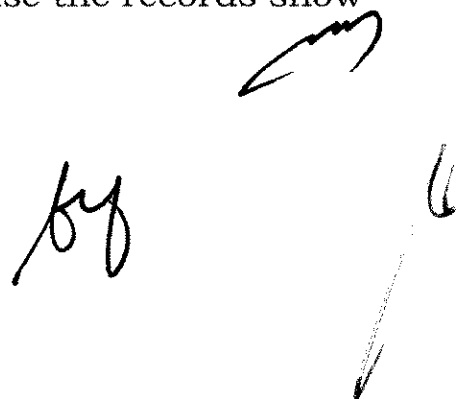
On redirect examination, Hiansen confirmed that he said that verification was required in the evaluation of applications for TCCs based on the manual. He also confirmed that the plantilla positions for the Monitoring and Verification Division were filled up when he joined the OSS Center. He reiterated that while the positions in the Monitoring and Verification Division were filled, the persons appointed to such positions were not functioning as verifiers. Per his recollection, the persons in the Monitoring and Verification Division were transferred to the Tax and Revenue Group, which was the BIR Section of the Center.³⁵⁵

When asked by the Court regarding his testimony, Hiansen said that he was testifying based on records found at the OSS Center since he only joined the Center in 1998 while the acts alleged in the *Amended Informations* were committed from 1995 to 1998. He testified that per records, the procedure in place at the OSS Center from 1995 to 1998 was the industry-based system which he outlined previously, wherein applications are assigned per Division and under each Division, only one evaluator would do all the work. He also confirmed that Exhibit "B-1" outlined the existing organizational structure in 1995 to 1998. He said that he testified on direct and cross-examination regarding the existence of the Monitoring and Verification Division because the records show

³⁵³ *Id.*, pp. 13-16

³⁵⁴ *Id.*

³⁵⁵ pp. 17-18, TSN dated April 20, 2019

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that there was an approved plantilla of ten (10) persons for that Division. He also said that this was why he insisted on saying that verification was mandatory, because otherwise the OSS Center would not have created a division for verification.³⁵⁶ As for the manual marked as Exhibit "D," he said that he has no personal knowledge if the same was officially approved. However, when he spoke to all the Divisions that were operating when he took over, the personnel appeared to follow the process outlined in the manual except for verification. He also reiterated that while the Monitoring and Verification Division existed and while the plantilla for the Division were filled out, the personnel appointed to the Division were all transferred to another division. He said that he found a memorandum to the effect that the personnel of the Monitoring and Verification Division were transferred to another division.³⁵⁷

Hiansen also testified that when he took over, there was no compliance with the verification procedure outlined in the manual, specifically the process outlined in page twenty-one (21) thereof. While the manual required a verifier from the Monitoring and Verification Division to prepare a verification report and for the Monitoring and Verification Division Chief to approve such report before an evaluation should be made on the application by the Division involved, the Division Chiefs of the industry groups allowed or proceeded with the evaluation of the applications without such verification.³⁵⁸

MAJIDI JOHN RUFO BOLA
Tax and Accounting
Manager
HAVI Logistics Philippines,
Inc.


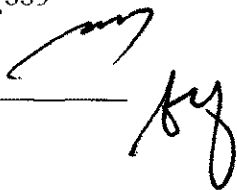
Majidi John Rufo Bola testified on direct examination through his *Judicial Affidavit (in lieu of Direct Testimony)* dated May 17, 2019.³⁵⁹

³⁵⁶ *Id.*, pp. 19-24

³⁵⁷ *Id.*, pp. 24-26

³⁵⁸ *Id.*, pp. 27-28


³⁵⁹ pp. 690-700, Volume XIV, Records



Bola declared that he is the current Tax and Accounting Manager of HAVI Logistics Philippines, Inc. However, he previously worked at the OSS Center of the Department of Finance as a Supervising Tax Specialist from 1993 to 1996.³⁶⁰

He explained that the OSS Center was an inter-agency office under the DOF. It was created by virtue of Administrative Order No. 266 for the purpose of achieving an orderly and expeditious processing of tax credits and duty drawbacks in one office. He said that the office processed all the tax credits and duty drawbacks that were previously processed by different agencies such as the Board of Investments, Bureau of Customs, Bureau of Internal Revenue, and the Department of Finance.³⁶¹ As Supervising Tax Specialist for the OSS Center, he was assigned to evaluate and process tax credit applications for various agencies. He also helped develop the draft of the Manual of Operations for the OSS Center.³⁶²

Bola explained that the draft Manual of Operations was supposed to be a guideline that all evaluators could use in evaluating or processing tax credit applications. Since the OSS Center was composed of different agencies such as the Board of Investments, Bureau of Internal Revenue, and Bureau of Customs, the intention for the manual was to create a uniform procedure for the processing tax credit applications within the OSS Center. Bola said that he developed the draft manual, together with a representative from the Board of Investments. The draft was submitted to the Deputy Executive Director and Executive Director, who approved the same. It was then presented to the Executive Committee of the OSS Center sometime in 1994 or 1995, but the draft was not approved. Bola said that since the draft was not approved, the OSS Center adopted procedures and regulations applied by the Board of Investments, Bureau of Internal Revenue, and Bureau of Customs in processing and evaluating tax credit applications.³⁶³





³⁶⁰ p. 2, *Judicial Affidavit-Bola*, p. 691, Volume XIV, Records


³⁶¹ *Id*

³⁶² p. 3, *Judicial Affidavit-Bola*, p. 692, Volume XIV, Records

³⁶³ pp. 3-4, *Judicial Affidavit-Bola*, pp. 692-693, Volume XIV, Records



Aside from drafting the Manual of Operations, Bola said that he was also assigned to evaluate and process tax credit applications under the provisions on VAT refunds on exports of the Tax Code. He followed the Bureau of Internal Revenue's procedure in evaluating and processing the tax credit applications since there was no manual from the OSS Center. He averred that the general process in evaluating and processing tax credit applications was as follows: the process starts when an applicant files the application for tax credit and pays the application fee. The applicant is required to file an application and its supporting document (which, together, are called the whole docket) in two (2) sets, one original and one photocopy, with the Receiving Division. The Receiving Division, in turn, sorts the applications according to the tax credit applied for and then forwards the applications to the divisions assigned to handle specific tax credit claims. The division assigned, upon receiving the application, would first check if the supporting documents are complete, depending on the specific checklist for the type of application filed. If the division finds the supporting documents to be complete, then the applicant would be asked to pay the processing fee. Once paid, the application would be assigned to an evaluator who would compute the allowable tax credit for the application. After such computation, the evaluator would prepare an evaluation report which would be submitted to the division chief for review. Once reviewed, the evaluation report would be finalized, signed by the evaluator and the division chief, and then forwarded to the Deputy Executive Director for approval. Bola clarified that while he was assigned to only evaluate applications for VAT refunds from the Bureau of Internal Revenue, he was trained to evaluate all various tax credit applications, including those claimed under the Bureau of Customs and the Board of Investments. As such, he said that the procedure he outlined was the same general procedure which was adopted by the OSS Center in the processing and evaluation of tax credit applications under those agencies. Further, he said that the whole procedure was actually based on adopted procedures from the Board of Investments, Bureau of Internal Revenue, and Bureau of Customs. When asked regarding the difference in the procedures among the agencies as to the different types of applications which they receive, Bola said that the difference mainly lie on the supporting documents required and the

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computation used for computing the allowable tax credit for each application.³⁶⁴

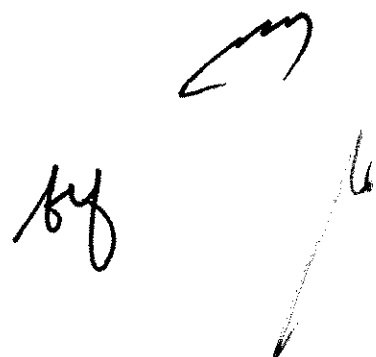
Bola said that aside from evaluating tax credit applications, he was also assigned as the Head of the Monitoring and Verification Audit Division of the OSS Center. Per Bola, the Monitoring and Verification Audit Division audited, processed and evaluated tax credit applications by verifying the documents submitted in support of the application. Bola said that the Division performed a “table audit” of the documents, which consisted of comparing the originals with the photocopies submitted by the applicant to the OSS Center. After such a comparison, they would verify the export invoices against bank remittances paid for the particular export. In cases involving importation, Bola said that the importation would be validated against the bank statements submitted by the applicant. As Head of the Division, Bola said that he was tasked to (1) audit the processed tax credit applications under the Tax Revenue Group, (2) review evaluated applications for duty drawback under the Tariff and Customs Code, and (3) review processed tax credit applications under the Investment Incentive Group. Bola added that if the Division encountered applications from first time or new applicants, then they would likewise conduct an ocular inspection. He clarified that the Division would only come in **after** the application has been processed and once the tax credit has already been released, in an activity called “post-audit.”³⁶⁵

In instances when the Division would find discrepancies in the documents submitted by the applicant after an audit, Bola said that they would report the matter to the Executive Director or Deputy Executive Director either for the adjustment or cancellation of the tax credit certificate. The Office of the Executive Director would then write to the applicant to notify it about the deficiencies and to require it to remedy the same.

As for the duties of the evaluators to verify the documents submitted by the applicant, Bola said that “verification” is a

³⁶⁴ pp. 4-6, *Judicial Affidavit-Bola*, pp. 693-695, Volume XIV, Records

³⁶⁵ pp. 6-8, *Judicial Affidavit-Bola*, pp. 695-697, Volume XIV, Records

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general term. As far as he can recall, an evaluator would only “verify” the completeness of the supporting documents submitted by the applicants, the accuracy of the computation of the tax credit, and if the application was submitted within the prescribed period for such applications. He said that the evaluators would not immediately know if the supporting documents are spurious or fabricated since that would require a detailed examination which evaluators are not required to do under the procedure in effect or being followed at the time. He added that verifying the authenticity of documents was the role of the Audit and Verification Division but at the time material to the cases, there was no clear-cut procedure on how the Division would implement its function.³⁶⁶

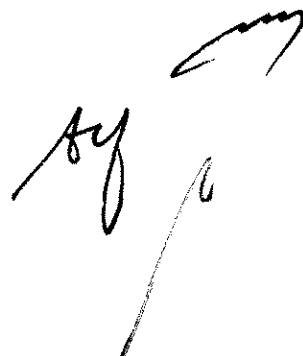
On cross-examination, Bola confirmed that a TCC is similar to cash in the sense that they can be used to pay the taxes imposed upon its holder. As such, given its nature, the processing of an application for a TCC requires a thorough evaluation of the supporting documents submitted by the applicant to ensure that such documents are valid and authentic. As for his knowledge regarding the cases at bar, he said that he is aware that the subject TCCs were processed by the Textile Division. He confirmed that he was never assigned to the Textile Division and that when he was connected with the OSS Center, he handled the Audit and Monitoring Division and was under the VAT Refund Division for the Bureau of Internal Revenue as well.³⁶⁷ He confirmed that the Audit and Monitoring Division is sometimes also called the Monitoring and Verification Division.³⁶⁸

Bola also confirmed his earlier testimony that he was tasked to draft the Manual of Operations for the Center. When he prepared the draft, Bola said that he aligned the processes in the manual with the processes of the Board of Investments, Bureau of Internal Revenue, and Bureau of Customs for uniformity and consistency. Particularly, he adopted the processes from the manuals of the three (3) agencies, provided minor revisions, and then consolidated them for the draft Manual of the OSS Center. Given this, he said that even if the

³⁶⁶ p. 9, *Judicial Affidavit-Bola*, p. 698, Volume XIV, Records

³⁶⁷ pp. 12-13, 16, TSN dated July 13, 2019

³⁶⁸ *Id.*, pp. 40-41

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draft Manual was not approved, the procedures followed by the OSS Center at the time material to the cases were consistent with or similar to the procedures outlined in the draft Manual. When asked for proof, he said that he had no written proof of his designation to draft the manual or proof to show that the draft was not approved by the Executive Committee when it was presented to them in 1994 or 1995.³⁶⁹

As for his other tasks at the OSS Center, Bola reiterated that he processed and evaluated tax credit applications for the VAT Refund Division of the Bureau of Internal Revenue in the OSS Center. He was also assigned to the Audit and Monitoring Division/Monitoring and Verification Division, and thus performed dual roles for two (2) divisions during his tenure. He said that per his recollection, the OSS Center only established the Monitoring and Verification Division when he was assigned to draft the Manual of Operations to determine the processes at the Center.³⁷⁰

He reiterated that with respect to the process involving TCCs, the Audit and Monitoring Division/Monitoring and Verification Division only came in once the TCC has already been released, specifically to conduct post-audit. During the post-audit, he confirmed that they do verify the authenticity and due execution of the documents submitted by the applicant. When asked why this step was conducted only after the TCC has been issued and not prior to its issuance, Bola said that since the OSS Center was supposed to release a TCC to an applicant within thirty (30) days after the acceptance of its application, they were not sure if the verification regarding the authenticity and due execution can be conducted within that period due to the volume of applications processed at that time. Hence, they do it post-audit. He also said that the verification of the authenticity of the supporting documents is vital to ensure that no spurious documents are submitted to the OSS Center to support an application for a TCC. With respect to the TCCs involved in these cases, Bola said that they were not part of the post-audit which he conducted since at that time, the Monitoring and Verification Division only

³⁶⁹ *Id.*, pp. 14-15, 24-27

³⁷⁰ *Id.*, pp. 16-17

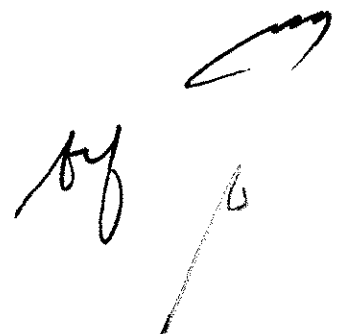
conducted audit and verification on a sample basis. He said that they only conducted audit on a sample basis then because the manpower of the Monitoring and Verification Division was limited and did not enable them to conduct a post-audit of all processed applications. He also confirmed that per the processes of the OSS Center at the time material to the cases at bar, no verification reports from the Monitoring and Verification Division were attached to the Evaluation Reports which were used to approve applications for the issuance of TCCs.³⁷¹

Regarding his earlier testimony on verification, Bola clarified that some supporting documents like export invoices may be verified against bank remittances. This is usually done by the OSS Center by requiring applicants to produce a credit memo from the bank. Due to the prevailing bank secrecy laws at that time, the verification was done through the applicant and not in direct communication with the bank. He said that per his recollection, there were no incidents when an evaluator would directly request a bank for verification. With respect to deficiencies in the application, he said that in cases where the Office of the Executive Director would require an applicant to correct the deficiencies in its application, the application would be suspended until the applicant corrects the deficiencies. He said that in these instances, the Office of the Executive Director would directly deal with the issue and would not remand the application back to an evaluator. It is only once the deficiency is corrected that the Office of the Executive Director would approve the release and issuance of a TCC. He said that if deficiencies were noticed by the Office of the Executive Director, they merely issue Office Orders to require improvement in the procedures. He said that he cannot recall any instance where individuals were reprimanded for such deficiencies.³⁷²

When asked if the OSS Center accepted applications wherein the applicant did not attach the originals of the supporting documents, Bola said that the OSS Center does not accept such applications. He said that in evaluating an application, the evaluator has the obligation of determining

³⁷¹ *Id.*, pp. 19-24

³⁷² *Id.*, pp. 35-39, 42-45

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whether the document submitted was indeed an original. As such, if the applicant submits a document which was made to pass as an original but later turned out to be fictitious, and the evaluator accepted it, then there would be negligence on the part of the evaluator. Bola also confirmed that the originals submitted by an applicant may be retrieved by the applicant once the TCC has been issued by the OSS Center. He said that this was the policy because the original documents are considered as the “property” of the applicants. The applicants themselves also retrieve the originals for their accounting records. Once retrieved, he said that the OSS Center does not keep any certified copy of the originals.³⁷³

LOURDES A. ARANTE
Supervising Tax Specialist
OSS Center, DOF

Lourdes A. Arante testified on direct examination partially through her *Judicial Affidavit (in lieu of Direct Testimony)* dated July 11, 2019,³⁷⁴ which she identified in open court on July 15, 2019. In her affidavit, Arante testified that she is currently a Supervising Tax Specialist at the OSS Center of the Department of Finance. She started working at the OSS Center in 1992 and was appointed as Senior Tax Specialist on March 23, 1995. Sometime around 2000 or 2001, she was promoted to Supervising Tax Specialist.³⁷⁵

In 1995, when she worked as a Senior Tax Specialist, she was assigned to the Construction and Electronics Division of the OSS Center. As Senior Tax Specialist, she evaluated applications for tax credits following the guidelines or procedures used by the Board of Investments in processing such applications. She said that when she joined the OSS Center in 1992, the Board of Investments personnel were already at the OSS Center training the employees therein on the process for evaluating tax credit applications. The Board of Investments’ procedure was followed at the OSS Center until 2000, when the Manual of Operations was adopted by the OSS

³⁷³ *Id.*, pp. 28-34

³⁷⁴ pp. 877-882, Volume XIV, Records

³⁷⁵ p. 2, *Judicial Affidavit-Arante*, p. 878, Volume XIV, Records

Center and shifted the procedure from industry-based to a process-based one.³⁷⁶

Arante said that the Board of Investments' procedure was applied to all types of tax credit applications. She then narrated the general process in evaluating and processing the tax credit applications. She said that the Receiving Section of the OSS Center first receives the applications for tax credit and then distributes the applications to the divisions concerned. The division assigned, upon receiving the application, would assign an evaluator to check if the documents attached to the application are complete. If the evaluator finds the supporting documents to be complete, then the processing fee would be paid by the applicant. Once paid, the application would be assigned to an evaluator who would assess and match the details of the documents submitted. The evaluator would then prepare an evaluation report which would include the computations made and the documents submitted with the application. The report would first be submitted to the division head for review, and then forwarded to the Deputy Executive Director for approval. The Deputy Executive Director would then forward it to the Executive Director for final approval.³⁷⁷

Arante testified that as evaluator, she would receive more or less three (3) dockets per day for "checklisting" of the completeness of the documents submitted, "table audit" of documents, and evaluation. Per Arante, "table audit" was the process through which evaluators would check if the details provided in the submitted documents vis-à-vis the "schedule" prepared by the applicants are correct. Arante added that evaluators did not verify the documents submitted because another person was responsible for the verification of documents.

As for the changes introduced by the new Manual of Operations, Arante said that the Manual created new divisions such as the (1) Claimant Registration and Pre-Qualification Division, which determines the qualification of the applicants to claim for tax credit; (2) Receiving and Pre-Evaluation

³⁷⁶ p. 3, *Judicial Affidavit-Arante*, p. 879, Volume XIV, Records

³⁷⁷ pp. 3-4, *Judicial Affidavit-Arante*, pp. 879-880, Volume XIV, Records

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Division, which receives and checks the documents and other requirements for the tax credit applied for; (3) Financial Validation Division, which validates the claim in the claimant's books of accounts, the sales of the claimants and their importation and local purchases; (4) Verification Division, which verifies the authenticity of the documents submitted; (5) Claim Evaluation Division, which summarizes the reports from the different divisions as to the qualification, documentary requirements, status of validation of claims and verification of documents; and (6) Tax Credit Certificate Issuance and Application Division, which prepares the TCC and releases the same.³⁷⁸

Arante claimed that at the Claim Evaluation Division, they compute the tax credits due to an applicant based on the claim evaluation. After the computation, an Evaluation Report would be prepared and forwarded to the Deputy Executive Director and Executive Director for approval. If both approved the report, then the TCC shall be issued by the Tax Credit Certificate Issuance and Application Division. The TCC would then be signed by the Deputy Executive Director and Executive Director and then released to the claimant.³⁷⁹

As part of her direct testimony, she was asked in open court what her responsibilities were with respect to the verification from the source of the documents submitted by the applicant. She said that she had no participation with regard to such verification because the procedure that she followed in the OSS Center had no verification process.³⁸⁰

On cross-examination, she confirmed that she is a holder of a masteral degree in public administration. She said that one (1) of her subjects in public administration involved the safeguarding of public funds.³⁸¹ As Senior Tax Specialist, Arante reiterated that she was only assigned at the Construction and Electronics Division of the OSS Center, and that she was never assigned to the Textile Division.³⁸²

³⁷⁸ p. 4, *Judicial Affidavit-Arante*, p. 880, Volume XIV, Records

³⁷⁹ p. 5, *Judicial Affidavit-Arante*, p. 881, Volume XIV, Records

³⁸⁰ pp. 13-14, TSN dated July 15, 2019

³⁸¹ *Id.*, pp. 15-18

³⁸² *Id.*

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Arante also confirmed her earlier testimony that the OSS Center adopted a new manual in 2000 and changed the procedure from industry-based to process-based. When asked for proof regarding this shift, she said that she does not have any documentary evidence to show that the manual was only adopted in 2000. She also confirmed having testified that as evaluator, they were only assigned to do “table audit” of the documents submitted by the applicants. However, she likewise has no documentary evidence to show that her functions as evaluator were limited to table audit.³⁸³

She testified that in 1995 to 1998, it was the Deputy Executive Director, accused Andutan, Jr., and the Assistant Secretary, accused Belicena, who signed the TCCs issued by the OSS Center.³⁸⁴

On redirect examination, Arante clarified that when she earlier said that she has no documentary evidence regarding the manual, she meant that she was not requested to present it during the taking of her judicial affidavit. However, she has a photocopy of the manual which she undertook to present to the Court. When confronted with a sample evaluation report for the TCCs involved in the cases at bar, specifically Exhibit “F-2,” Arante testified that Exhibit “F-2” is different from the reports which she prepared because she would attach computation tables and schedules to her versions.³⁸⁵

CARLO V. BALOLOY
Supervising Tax Specialist
OSS Center, DOF

Carlo V. Baloloy testified on direct examination through his *Judicial Affidavit (in lieu of Direct Testimony)* dated July 12, 2019,³⁸⁶ which he identified in open court on July 18, 2019.³⁸⁷ In his affidavit, Baloloy testified that he is currently a

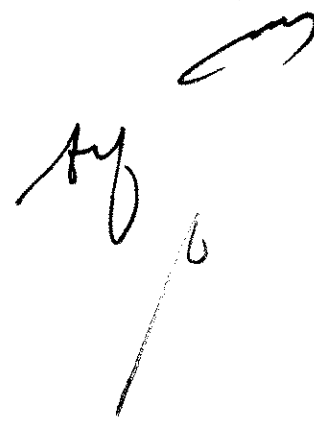
³⁸³ pp. 24-26, TSN dated July 15, 2019

³⁸⁴ *Id.*, p. 2

³⁸⁵ *Id.*, pp. 31-33

³⁸⁶ pp. 910-917, Volume XIV, Records

³⁸⁷ *Order* dated July 18, 2019, p. 925, Volume XIV, Records

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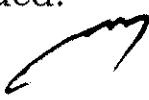
Supervising Tax Specialist at the OSS Center under the Department of Finance. He said that he has a degree in Civil Engineering and a master's degree in public administration. He started working with the Department of Finance in 1989 and has been with the OSS Center since May 8, 1992. At the OSS Center, he was assigned to the Metals, Mining, and Engineering Division where he "checklisted" and evaluated applications for tax credit.³⁸⁸

He said that in evaluating tax credit applications, the OSS Center followed the guidelines or procedures prescribed by the Board of Investments. He said that he knew that the OSS Center followed the Board of Investments' procedure because when he entered the OSS Center in 1992, Board of Investments personnel trained the employees of the Center on how to evaluate tax claims.³⁸⁹ Per Baloloy, all applications for TCCs, regardless of the industry, followed the Board of Investments' procedures and guidelines for processing which he narrated as follows: first, upon receipt of an application for TCC, the receiving section of the OSS Center would distribute the applications to the concerned division. The head of the concerned division, in turn, would assign an evaluator who would check if the documents submitted with the application are complete based on the OSS Center's checklist of documents. If the documents submitted are complete, then the applicant would pay the processing fee. Once paid, the whole docket – composed of the original documents, together with two (2) photocopies of the same – would be returned to the head of the concerned division. The head would then assign and forward the whole docket to an evaluator for assessment. After assessment, the evaluator would prepare an evaluation report which would contain the computations for the claim. The draft report, together with the docket, would then be submitted to the head of the division for review. The reviewed and finalized report would afterwards be submitted to the deputy executive director and the executive director for final approval. Once approved, the TCC would be issued.³⁹⁰

³⁸⁸ p. 2, *Judicial Affidavit-Baloloy*, p. 911, Volume XIV, Records

³⁸⁹ p. 3, *Judicial Affidavit-Baloloy*, p. 912, Volume XIV, Records

³⁹⁰ pp. 3-4, *Judicial Affidavit-Baloloy*, pp. 912-913, Volume XIV, Records



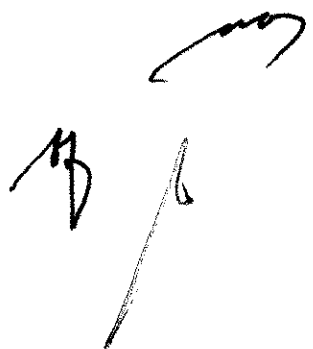
Baloloy added that per A.O. No. 266, the OSS Center has thirty (30) days from acceptance of the application within which to process the said application and issue the corresponding TCC. Per his recollection, an evaluator in the Metal, Mining, and Engineering Division would usually receive around to three (3) to five (5) dockets per week for checklisting and evaluation, while the Wearables Division would receive about three (3) dockets per day.³⁹¹

When it comes to verification, Baloloy testified that the evaluators have no duty to verify documents from the source, as they are only tasked with conducting “table audit.” He explained that applicants usually submit a “schedule,” together with their applications. The “schedule” summarizes the details provided in the supporting documents which the applicant submitted. In the table audit, as evaluators, they would check the details of the submitted documents to make sure that those details match the details specified by the applicants in the “schedule.” As for verification, he said that he does not know who is responsible for verifying whether the documents were indeed issued by the claimed source of the documents.³⁹²

Baloloy also testified that the OSS Center followed the BOI procedures until 2000, when the center adopted a new manual of operations. Under the new manual, the process for evaluation shifted from industry-based to process-based. Additionally, the new manual established the following new divisions: (1) Claimant Registration and Pre-Qualification Division, which ascertains the qualification of the applicants to claim for tax credit; (2) Receiving, Pre-Evaluation and Documentation Division, which receives and checks the documents and other requirements for the tax credit applied for; (3) Financial Validation Division, which validates the claim or transactions in the claimant’s books of accounts, the sales of the claimants and their importation and local purchases; (4) Verification Division, which verifies the authenticity of the documents submitted from third-parties (such as the supplier, buyers, BOC, etc.); (5) Claim Evaluation Division, which consolidates and analyzes the reports from the different

³⁹¹ *Id*

³⁹² pp. 4-5, *Judicial Affidavit-Baloloy*, pp. 913-914, Volume XIV, Records

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divisions as to the qualification, documentary requirements, status of validation of claims and verification of documents; and (6) Tax Credit Certificate Issuance and Application Division, which prepares the TCC and releases the same.³⁹³

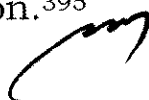
On cross-examination, Baloloy confirmed that he has a master's degree in public administration and that he took up subjects on the safeguarding of public funds and verification of documents.³⁹⁴

As Tax Specialist, Baloloy said that he recalled having signed a Position Description Form which stated the duties and responsibilities of the position. However, per Baloloy, the signing of a Position Description Form is a mere formality. He said that when a person is assigned to a certain division, they do not function based on the description of the position to which they are designated to, but based on the function of the division to which they are assigned. In his case, he said that he signed a Position Description Form but via office orders issued by accused Belicena, he was designated to a different division and performed different functions. Initially, he was assigned to the Administrative Division where he formed logistics to procure computers and supplies. Afterwards, he was assigned to the MIS and created programs for the OSS Center. Then he was assigned to the Mining and Metals Engineering Division where he performed actual evaluation. Further, as evaluator, he said that he attended certain orientations where he was taught how to reconcile documents and assess information from the documents prior to recalculating the corresponding taxes and duties. He said that as evaluator, he was never ordered or instructed to verify documents given by claimants. Baloloy further testified that each position - a Tax Specialist II, Senior Tax Specialist, and a Supervising Tax Specialist - would have different Position Description Forms. He also said that the responsibilities of an employee at the OSS Center would depend on the division to which they would be assigned. For verification, he said that this would be performed by the Monitoring and Verification Division.³⁹⁵

³⁹³ pp. 3-6, *Judicial Affidavit-Baloloy*, pp. 912-915, Volume XIV, Records

³⁹⁴ pp. 9-10, TSN dated July 18, 2019

³⁹⁵ *Id.*, pp. 11-14



He also confirmed that the OSS Center followed the procedures and guidelines of the Board of Investments in the processing of tax credit applications. He said that at the time material to the cases at bar, no verification of documents was conducted by anybody in the processing of such applications.³⁹⁶

As regards his earlier testimony that the OSS Center adopted a new manual in 2000, he said that he has not attached any documentary evidence in his judicial affidavit to show that the manual was only adopted in 2000. He likewise has no documentary evidence to show that his functions as evaluator were limited to table audit.³⁹⁷

On redirect examination, Baloloy presented a photocopy of the *Manual of Operations of the Center Investment Incentive Group under the Process-Based System*.³⁹⁸ When asked where the original manual was, he said that he does not know where the actual signed original copy was since their office only kept a soft copy of the scanned original. He explained that the manual was adopted by the OSS Center in 2000, as evidenced by the resolution in the Minutes of the 12th Executive Meeting Held on May 5, 2000,³⁹⁹ signed by then Director Hiansen and Director Salanga, which stated that the manual has been presented to the Executive Committee in 2000.⁴⁰⁰

As regards the difference between the industry-based and process-based procedures, Baloloy explained that in the industry-based procedure, only one division handled all the claims for that particular industry. Specifically, the division concerned would handle everything from “checklisting” of the supporting documents up to the recommendation of tax credit claims. There was also no verification of documents in this procedure. In contrast, the process-based procedure is more exhaustive and the work is divided into several divisions, such as the Receiving, Pre-Evaluation and Documentation Division, the Financial Validation Division, and the Verification Division,

³⁹⁶ *Id.*, pp. 15-16

³⁹⁷ *Id.*, pp. 16-17, 25-26

³⁹⁸ Marked as Exhibit “12-Napenas”

³⁹⁹ Marked as Exhibit “13-Napenas”

⁴⁰⁰ pp. 7-9, July 31, 2019

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among others. He also confirmed that the process-based system was adopted by the OSS Center sometime in 2000, with the Manual of Operations, following the scam that transpired prior to 2000. He said that the shift was done to put control and safety nets in the process.⁴⁰¹

As for the flow of procedure indicated in Exhibit “B-2,” Baloloy said that this was the process followed under the industry-based system. While step five (5) of the procedure indicates “review,” he said that the review merely entails assessment by the division head of the report and does not include verification of documents. When he was shown Exhibit “B-1,” or the organizational chart of the OSS Center, Baloloy confirmed that the Monitoring and Verification Division already existed when the OSS Center was still under the industry-based system. He said, however, that the function of the division was not followed.⁴⁰²

MELANIA D. DINGAYAN
Records Custodian
Board of Investments



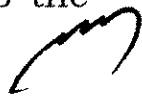
Melania D. Dingayan testified that she is the Records Custodian of the Board of Investments. She presented in Court a document entitled “*Certificate of No Record*”⁴⁰³ which stated that per a subpoena issued by the Court, she conducted a search in the actual file and record of the Board of Investments for the document requested, “*Certificate of Registration No. EP 90-054*,” supposedly issued in favor of Scope Industries, Inc. Her search, however, yielded “No Results.” She added that based on the general monitoring database of the BOI for registered projects from 1968 to January 2021, the *Certificate of Registration No. EP 90-054* with registered activity “knitted projects” has already been cancelled.

Considering that the Certificate of Registration was issued in 1990, or more than thirty (30) years ago, Dingayan said that the physical folder containing the documents relevant to the

⁴⁰¹ *Id.*, pp. 19-21

⁴⁰² *Id.*, pp. 22-25

⁴⁰³ p. 738, Volume XV, Records



said registration was deposited at the basement area of the BOI for record-keeping. However, the basement was flooded in 2009 due to Typhoon Ondoy leading to the destruction of the deposited files at the basement.⁴⁰⁴

CARMELO T. CASIBANG, JR.
Former Deputy Executive
Director, OSS Center,
DOF

Carmelo T. Casibang, Jr. testified on direct examination through his *Judicial Affidavit (in lieu of Direct Testimony)* dated November 8, 2021.⁴⁰⁵

He testified that he was a former employee of the DOF and the OSS Center. He started working for the DOF, particularly its Corporate Affairs Group, in 1993 and he was subsequently transferred to the OSS Center on June 16, 1999. He stayed at the OSS Center until his retirement on September 24, 2019. Prior to his retirement, he held the position of Deputy Executive Director, and assisted the Executive Director in carrying out the mandate of the OSS Center in processing tax credit and duty drawback applications. He likewise helped oversee the day-to-day operations of the OSS Center.⁴⁰⁶

Casibang, Jr. said that when he was transferred to the OSS Center in 1999, he observed that there were flaws in the system. He relayed that to remedy these flaws, then Executive Director Ernesto Q. Hiansen wrote a letter to the Civil Service Commission-NCR and requested for a system audit and organizational development study. After the CSC-NCR conducted an investigation, the following inefficiencies were observed: (1) the OSS Center had poor records management as evidenced by missing, incomplete, inaccurate, and questionable records; (2) the database for issued tax credit certificates and granted tax debit memos was unavailable; (3) key operation groups such as the Audit and Verification, Management Information System, and Planning and Research

⁴⁰⁴ pp. 7-16, TSN dated July 2, 2021

⁴⁰⁵ pp. 66-472, Volume XVI, Records

⁴⁰⁶ p. 3, *Judicial Affidavit-Casibang, Jr.*, p. 68, Volume XVI, Records

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were non-operational; (4) there was no manual of operations; and (5) the Executive Committee or EXECOM, held irregular meetings.⁴⁰⁷ When asked for proof of these observations, Casibang, Jr. identified copies of the *Organization Development Project for OSS Center Phase I*, and *Books I and II of the Final Reports of the Organization Development Project for the OSS Center*.⁴⁰⁸

When he was asked if he knew of the role of the Monitoring and Verification Division of the OSS Center in 1995 to 1998, Casibang, Jr. said that per his review of the old organizational structure of the OSS Center, the division was supposed to verify the authenticity of documents submitted to support the tax credit application.

On cross-examination, Casibang, Jr. testified that he was designated as the Deputy Executive Director of the OSS Center in 2007. He confirmed that he was transferred to the OSS Center in 1999, and that at that time, the process-based system of processing was implemented at the OSS Center. Regarding his knowledge of these cases, he said that he was aware that it was the Garments Division which handled the applications involved in the cases at bar. He confirmed that he was never assigned to the Garments Division.⁴⁰⁹

With respect to the investigation or audit of the OSS Center conducted by the CSC-NCR, Casibang, Jr. said that he was never part of the fact-finding team of the CSC-NCR team. Nevertheless, he confirmed his statements regarding the flaws observed in the OSS Center, particularly the absence of manuals of operations for different divisions.⁴¹⁰

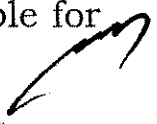
On redirect examination, he testified that prior to his retirement, he was last assigned to the Pre-Evaluation Division of the OSS Center. The duty of the Pre-Evaluation Division was to check the completeness and acceptability of the documents submitted by the applicant to support a tax credit application. The division also checks if the applicants are truly eligible for

⁴⁰⁷ p. 4, *Judicial Affidavit-Casibang, Jr.*, p. 69, Volume XVI, Records

⁴⁰⁸ Marked as Exhibits "29," "30," and "31," respectively for accused Magdaet, Abara, and Napeñas

⁴⁰⁹ pp. 9-10, TSN dated November 15, 2021

⁴¹⁰ *Id.*, pp. 11-12



the tax credit which they are claiming in their applications. He said that the process of pre-evaluation was introduced to the OSS Center in 2000, and that prior to that year, there was no such Pre-Evaluation Division nor a manual of operations for this division. He added that initially, when he joined in 1999, the system observed by the OSS Center was still the industry-based system, under which there were several divisions involving several industries, and each division handled all the applications concerning their designated industry. Then in 2000, the systems-based process was introduced wherein several divisions handled all applications regardless of the industry involved, in an assembly-line like manner. Under the new system, the output of one division would be the input of another division, and as such, one application would go through several evaluators instead of just one evaluator.⁴¹¹

When asked how he knew of the flaws observed by the CSC-NCR team if he was not part of the audit team, he replied that when he joined the OSS Center, three (3) operation groups were not functioning, and they were at a loss as to who would answer their queries regarding the process involving the issuance of TCCs. He said this scenario prompted Hiansen to write the CSC and request for a systems audit and organizational development study.⁴¹²

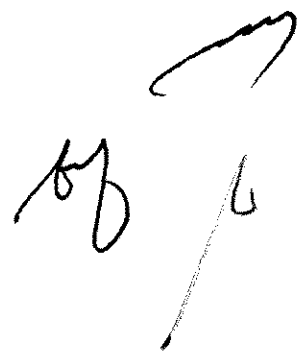
Casibang, Jr. further testified that when he joined the DOF in 1993, he was initially designated as an Information Technology Officer II. He was first promoted in 1999, to Division Chief of the Pre-Evaluation Division of the OSS Center. In 2007, he was again promoted to Deputy Executive Director, and he held that post until he retired in 2019. He said that he has no misgivings against the government for only promoting him twice since he started working in 1993. As for his testimony, he said that the counsel of accused Napeñas and Magdaet requested him to testify and that he testified because he thought that he was only doing the right thing.⁴¹³

He reiterated that when he joined the OSS Center in 1999, everything was disorganized. When asked if he did anything in

⁴¹¹ *Id.*, pp. 13-19

⁴¹² *Id.*, pp. 17-18

⁴¹³ *Id.*, pp. 20-25

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his personal capacity to address the alleged disarray at the OSS Center, Casibang, Jr. said that he was part of the team which re-engineered the processing system and that he also helped draft the manual of operations for the Pre-Evaluation Division. However, he has no documentary evidence to show that he indeed contributed to the introduction of the processed-based system or the manual of the Pre-Evaluation Division.⁴¹⁴

As regards his earlier testimony regarding the Monitoring and Verification Division, he confirmed that the division existed in 1995 to 1998. Per his review, the division was not producing any results regarding verification. When they subsequently re-engineered the system, the Monitoring and Verification Division was renamed to Verification and Authentication Division. Casibang, Jr. also said that they required a more stringent process of verification and introduced some security features. They also required a shorter period of time for the result of a verification request from agencies like the BIR and BOC.⁴¹⁵

AGNES B. PADILLA

Director IV
Civil Service Commission

Agnes D. Padilla testified that she was an Executive Director IV at the Civil Service Commission. She started working for the CSC on May 3, 1973. She said that she was assigned to the CSC National Capital Region (CSC-NCR) from December 22, 2000 to February 20, 2006. On October 29, 2013, she compulsorily retired from service.⁴¹⁶

As a Director at CSC-NCR, she said that she oversaw the entire NCR insofar as personnel administration is concerned, particularly with respect to employee welfare and employee interest. She said that she also approved the appointments of personnel at Salary Grade 24 (such as Division Chiefs) and likewise managed twenty-seven (27) field offices across the NCR. Additionally, she was in charge of conducting personnel

⁴¹⁴ *Id.*, pp. 25-30

⁴¹⁵ *Id.*, pp. 31-34

⁴¹⁶ p. 9-10, TSN dated June 22, 2022

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inspection, audit, and consultancy services for agencies that require the services of the CSC.⁴¹⁷

In connection with these cases, she recalled that she headed an “Organizational Development Project” for the OSS Center, which was basically an audit in two (2) phases. In the audit, she said that her team looked intensively at the organizational structure, systems, processes, as well as customer perception of the OSS Center. Specifically, for the first phase of the audit, they diagnosed the organizational problems of the OSS Center. For the second phase, she and her team submitted and recommended changes to the organization. On August 11, 2003, Padilla said that she submitted the report *Organizational Development Project conducted by the CSC on the OSS Center*. She identified her letter to Executive Director Hiansen of the OSS Center,⁴¹⁸ the report attached to the letter,⁴¹⁹ as well as Books I⁴²⁰ and II⁴²¹ of the final report she rendered.⁴²²

Padilla summarized her observations and findings as follows: on the organizational side: (1) the OSS Center was a very flat organization; (2) at the time of the audit, there was no Executive Director, only an officer-in-charge in the person of Ernesto Hiansen; (3) there were likewise very few personnel, most of whom were occupying contractual positions; and (4) there were several permanent or plantilla positions which were not filled. As for the systems of the OSS Center: (1) the records management system was inorganized, and very inefficiently ran; and (2) there were three [3] divisions which were practically not operating but were supposed to be operating – the Verification and Audit Division, the Management Information System Division, and the Planning and Research Division. On the customer perception side, Padilla observed that there were a lot of complaints from the customers.⁴²³

⁴¹⁷ *Id.*, p. 10

⁴¹⁸ Marked as Exhibit “29-Napenas”

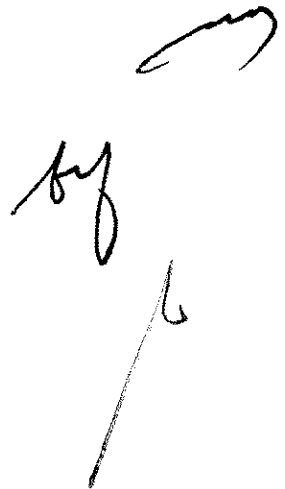
⁴¹⁹ Marked as Exhibit “29-a-Napenas”

⁴²⁰ Marked as Exhibit “30-Napenas”

⁴²¹ Marked as Exhibit “31-Napenas”

⁴²² pp. 11-13, TSN dated June 22, 2022

⁴²³ *Id.*, p. 16

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On cross-examination, she confirmed that one (1) of their observations was that the Verification and Audit Division was not functioning well. She said that since they conducted a system audit, they did not look into the procedure itself, or the workflow from application up to the issuance of a TCC. Her team likewise had no recommendation regarding the verification of documents because the focus of their recommendations was on the way the organization itself worked and how their systems run.⁴²⁴

When she was asked if she knew who was supposed to conduct the verification of documents for the OSS Center, Padilla said that it should have been the supervisors. However, her team noted something lacking with respect to the supervision of different units at the OSS Center. She said that they attributed this to the lack of training or enforcement of skills, particularly of the supervisors, as well as the lack of real interest by the supervisors in running their divisions well.

Padilla also testified that the CSC-NCR conducted the audit because under the Constitution, one (1) of the functions of the CSC was to conduct personnel inspection and audit of organizational systems of government agencies. She added that there was additional justification since the Executive Director of the OSS Center himself requested for the same.⁴²⁵

She confirmed that she would be incompetent to testify regarding the legality of the issuance of the TCCs involved in the cases at bar since she only performed a system audit on the function and systems of the OSS Center.⁴²⁶

As for feedback on the audit that they conducted, Padilla testified that she never received any written feedback from the OSS Center. She said that she only received a verbal reply from the OSS Center saying that something was being done internally. She inferred that changes were being introduced to the OSS Center since the OSS Center subsequently submitted

⁴²⁴ *Id.*, pp. 17-22

⁴²⁵ *Id.*, pp. 25-26

⁴²⁶ *Id.*, p. 27

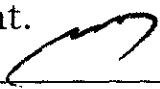
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to their office the names of people they wanted the CSC to train.⁴²⁷

ACCUSED'S FORMAL OFFER OF EVIDENCE

On October 13, 2022, accused **De Vera** filed his *Formal Offer of Exhibits*⁴²⁸ consisting of Exhibits “3,” “4,” “5,” “6,” “7,” and “8.” Accused **Magdaet, Napeñas, Abara, and Tordesillas** followed suit on October 27, 2022 with their *Consolidated Formal Offer of Exhibits*⁴²⁹ consisting of Exhibits “1-Napeñas,” “2-Napeñas,” “3-Napeñas,” “4-Napeñas,” “5-Napeñas,” “6-Napeñas,” “7-Napeñas,” “8-Napeñas,” “9-Napeñas,” “10-Napeñas,” “12-Napeñas,” “13-Napeñas,” “20-Napeñas,” “21-Napeñas,” “22-Napeñas,” “23-Napeñas,” “24-Napeñas,” “25-Napeñas,” “26-Napeñas,” “27-Napeñas,” “28-Napeñas,” “29-Napeñas,” “30-Napeñas,” “31-Napeñas,” inclusive of submarkings. For accused **Tordesillas**, she offered Exhibits “1-Tordesillas,” “2-Tordesillas,” and “3-Tordesillas” as additional exhibits for **Criminal Case No. 25601**.

The prosecution filed a *Manifestation with Motion to Admit Consolidated Comment* on November 16, 2022.⁴³⁰ In its manifestation, the prosecution noted that despite having been given a period of fifteen (15) days from September 5, 2022, within which to file their respective formal offers of evidence,⁴³¹ only accused De Vera, Magdaet, Napeñas, Abara, and Tordesillas filed their respective formal offers of evidence. Since accused (1) Andutan, Jr., (2) Binsol, (3) Diño, (4) Gomez, (5) Cuento, and (6) Recoter have not submitted any formal offer of evidence, the prosecution said that they are deemed to have waived their respective rights to file one. As for the formal offers of evidence filed by accused **De Vera, Magdaet, Napeñas, Abara, and Tordesillas**, the prosecution opposed the offered exhibits of the accused for being misleading, immaterial, and irrelevant.



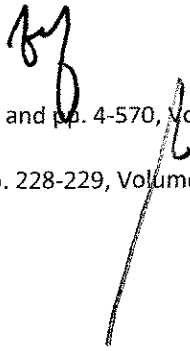
⁴²⁷ *Id.*, pp. 28-30

⁴²⁸ pp. 290-309, Volume XVII, Records

⁴²⁹ pp. 325-698, Volume XVII, Records, and pp. 4-570, Volume XVIII, Records

⁴³⁰ pp. 572-585, Volume XVIII, Records

⁴³¹ *Order* dated September 5, 2022, pp. 228-229, Volume XVII, Records




On November 23, 2022, Atty. Ray Montri C. Santos, who is the counsel on record of accused **Andutan, Jr.**, filed a *Manifestation*⁴³² stating that he is not in a position to file a formal offer of exhibit on behalf of his client. Atty. Santos said that he initially filed a motion before the Court to be relieved as counsel for accused Andutan, Jr. as early as 2018 on the ground that the accused no longer cooperated and communicated with him, leaving him with no means to successfully or at the very least, properly defend his client's cause. Atty. Santos relayed that the Court denied his motion in its *Resolution* dated August 7, 2018, due to the lack of accused Andutan, Jr.'s conformity to Atty. Santos's withdrawal from the case. Given his predicament regarding the accused's non-cooperation, Atty. Santos manifested to the Court that any evidence introduced by the other accused in their defense, and admitted by the Court, that tend to exculpate accused Andutan, Jr., be considered in the latter's favor. This manifestation was noted by the Court in its *Resolution* November 25, 2022.⁴³³

On December 12, 2022, the Court resolved to **admit** accused De Vera's **Exhibits "3," "6," "7," and "8"** over the objection of the prosecution. However, it **excluded Exhibit "4"** for being only provisionally marked as an exhibit with no corresponding original or certified true copy attached to the formal offer of exhibit. Accused De Vera's **Exhibit "5"** was also **excluded** since the signature of Juanita D. Amatong in the attached certified photocopy was different from the signature found on the provisionally marked exhibit. For accused Magdaet, Napeñas, Abara, and Tordesillas, the Court resolved to **admit all** of their offered documentary evidence **except for Exhibit "28," or Scope Industries Inc.'s BOI Certificate of Registration**, since there is evidence on record which shows that the Certificate of Registration had already been cancelled by the BOI. **Exhibit "1-Tordesillas"** or Administrative Order No. 266 was neither admitted nor excluded on the ground that the exhibit was not attached to the formal offer of exhibits.

⁴³² pp. 614-618, Volume XVIII, Records

⁴³³ *Resolution* dated November 25, 2022, p. 620, Volume XVIII, Records



The Court also noted the prosecution's manifestation regarding the failure of the other accused to file their formal offers of evidence and deemed them to have waived their right to file their formal offer of evidence.⁴³⁴

NATURE OF THE CASES AND THE ESTABLISHED FACTS

These cases involve the "tax credit scam" allegedly perpetrated by the officers and employees of the OSS Center, in conspiracy with one another and with numerous private entities, particularly Scope Industries, Inc.

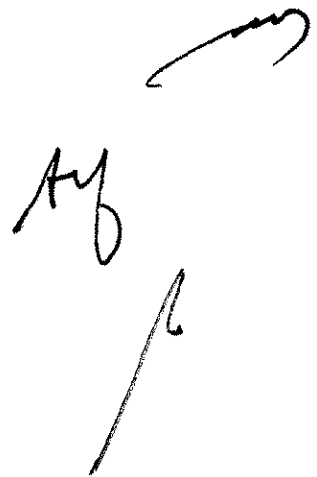
The OSS Center is a unit of the Department of Finance which was created on February 7, 1992, through Administrative Order No. 266, to simplify and streamline the processing of tax credits and duty drawbacks. It was originally administered by different government agencies, namely the Bureau of Internal Revenue, Bureau of Customs, Board of Investments, and the Department of Finance. At the center's inception, accused Belicena and accused Andutan, Jr. were designated as the Officer-in-Charge Administrator and Deputy Administrator, respectively, to oversee the overall operationalization of the center, coordinate its programs and projects for economical, efficient, and effective administration, and to issue the necessary internal rules and procedures for the effective operation of the OSS Center.⁴³⁵

Per Administrative Order No. 266, the OSS Center was mandated to accept applications for tax credit and duty drawback and finish the evaluation thereof within thirty (30) working days from the date of acceptance of complete applications.⁴³⁶ Witnesses who have worked at the OSS Center testified that at the time material to these cases, or from **1994**

⁴³⁴ Resolution dated November 21, 2022, p. 587, Volume XVIII, Records

⁴³⁵ Exhibit "C" or Department Personnel Order No. 51-92, s. 1992

⁴³⁶ Section 3 (b)

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to 1998, applications for tax credits were processed at the center following the “**industry-based system**,”⁴³⁷ as follows:

An applicant first fills out a document called “Claimant Information Sheet,” which contains (1) basic information about the applicant such as its name and address, (2) information regarding its Board of Investments’ registration such as its registration number, its registered products, registered capacity, and (3) the type and amount of incentive claimed.⁴³⁸ The applicant likewise prepares an abstract of records which includes a table of computation of its claims using the standard scheme by the OSS Center, a schedule of its direct exports, and a schedule of its importation.⁴³⁹ An **original copy** and **one (1) or two (2) photocopies** of the CIS, the abstract of records, and documents evidencing a claimant’s importation of raw materials and exportation of finished products, are then submitted by the claimant to the Information Division or Receiving Section of the OSS Center, together with its payment of the application fee.⁴⁴⁰

Applications received by the Receiving Section of the OSS Center are then sorted according to the type of tax credit claimed by the claimants. Once sorted, the applications would be distributed to the division assigned to handle such type of tax credit applications. An example would be the Wearables Division for tax credit applications of claimants belonging to the textile industry.⁴⁴¹ Upon receipt of the application, the Division Head would first assign an evaluator to perform a “checklisting” of the documents forwarded to them. “Checklisting” refers to the process of determining the completeness and acceptability of the documents submitted by the applicant to support its claim for tax credits based on a

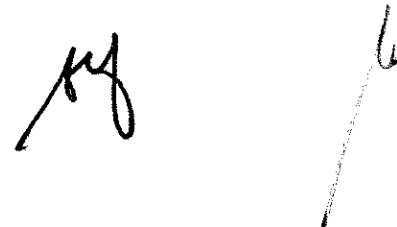
⁴³⁷ See Exhibit “B-2”; pp. 3-4, *Judicial Affidavit-Hiansen*, pp. 570-571, Volume XIV, Records; p. 3, *Judicial Affidavit-Arante*, p. 879, Volume XIV, Records; pp. 9-10, TSN dated July 18, 2019; pp. 9-10, TSN dated November 15, 2021

⁴³⁸ pp. 6-7, TSN dated June 28, 2017; See Exhibits “F-1,” “G-1,” “H-1,” “I-1,” “J-1,” “K-1,” “L-1,” “M-1,” “N-1,” “O-1,” “P-1,” “Q-1,” “R-1,” “S-1,” “T-1,” “U-1,” “V-1,” “W-1,” “X-1,” “Y-1,” “Z-1,” “AA-1,” “BB-1,” “CC-1,” “DD-1,” “EE-1,” “FF-1,” “GG-1,” “HH-1,” “II-1,” “JJ-1,” “KK-1,” “LL-1,” “MM-1,” “NN-1,” “OO-1,” “PP-1,” “QQ-1,” “RR-1,” and “SS-1”

⁴³⁹ p. 3, *Judicial Affidavit-Hiansen*, p. 570, Volume XIV, Records

⁴⁴⁰ pp. 4-6, *Judicial Affidavit-Bola*, pp. 693-695, Volume XIV, Records; p. 3, *Judicial Affidavit-Hiansen*, p. 570, Volume XIV, Records; pp. 3-4, *Judicial Affidavit-Napeñas*, pp. 199-200, Volume XIV, Records; Exhibit “C-1”; Exhibit “C-2”

⁴⁴¹ pp. 3-4, *Judicial Affidavit-Baloloy*, pp. 912-913, Volume XIV, Records; pp. 3-4, *Judicial Affidavit-Arante*,



check list⁴⁴² prepared by the OSS Center.⁴⁴³ If the evaluator deems the documents to be complete and correct, the applicant would be asked to pay the processing fee and the application would subsequently undergo an evaluation.⁴⁴⁴ In the evaluation, an evaluator would first check if the contents of the original documents match the contents of the photocopies submitted by the applicant. The evaluator would likewise make a preliminary determination of whether the application was made within the period prescribed by law, or within one (1) year from exportation.⁴⁴⁵ Once the evaluator determines that the claim has not yet prescribed, the information presented in the abstract prepared by the applicant would be checked against the original documents. In particular, the evaluator would check the amount and value of the importations vis-à-vis the exportations, noting the amount of goods indicated in the bills of lading, counterchecking the same with the amount indicated in the commercial invoices, and then determine the amount of duty value paid for the goods. Afterwards, the evaluator would compute the tax credit allowed based on the rates provided by the OSS Center and prepare an evaluation report.⁴⁴⁶ The evaluation report would contain the date when the application was filed with the OSS Center, the date when the application was “accepted” or deemed to have complied with the requirements for such application after it has been “checklisted,” and the due date for the processing of the application under Section 3 of A.O. No. 266,⁴⁴⁷ along with the data about the applicant, data about the exportation, list of documents submitted, and the evaluator’s computation of the

⁴⁴² See Exhibits “3-Napeñas” and “3-Tórdesillas”

⁴⁴³ pp. 13-17, TSN dated June 28, 2017; pp. 8-11, TSN dated July 10, 2018; pp. 2-3, *Judicial Affidavit-Napeñas*, pp. 199-200, Volume XIV, Records; pp. 3-4, *Judicial Affidavit-Hiansen*, pp. 570-571, Volume XIV, Records; pp. 10-12, TSN dated April 29, 2019; pp. 4-6, *Judicial Affidavit-Bola*, pp. 693-695, Volume XIV, Records; pp. 3-4, *Judicial Affidavit-Arante*, pp. 879-880, Volume XIV, Records; pp. 3-4, *Judicial Affidavit-Baloloy*, pp. 912-913, Volume XIV, Records; pp. 33-35, TSN dated January 30, 2019

⁴⁴⁴ pp. 3-4, *Judicial Affidavit-Arante*, pp. 879-880, Volume XIV; pp. 3-4, *Judicial Affidavit-Baloloy*, pp. 912-913, Volume XIV, Records; pp. 4-6, *Judicial Affidavit-Bola*, pp. 693-695, Volume XIV

⁴⁴⁵ pp. 15-17, 21, TSN dated April 20, 2017; pp. 13-17, June 28, 2017; pp. 8-10, TSN dated July 10, 2018; pp. 5-6, 17-19, TSN dated September 12, 2018

⁴⁴⁶ pp. 9-11, TSN dated April 20, 2017; pp. 13-17, TSN June 28, 2017; pp. 6-12, TSN dated July 2, 2018; pp. 8-11, TSN dated July 10, 2018; pp. 5-6, TSN dated September 12, 2018; pp. 2-3, *Judicial Affidavit-Napeñas*, pp. 199-200, Volume XIV, Records; pp. 4-6, *Judicial Affidavit-Bola*, pp. 693-695, Volume XIV; pp. 3-4, *Judicial Affidavit-Baloloy*, pp. 912-913, Volume XIV, Records

⁴⁴⁷ pp. 30-37, TSN dated January 10, 2018

DECISION

Criminal Case Nos. 25596-25631 & 25633-25636

People v. Belicena, et al.

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tax credit.⁴⁴⁸ A draft of the report would be submitted to the Division Head or Officer-in-Charge for initial review. Upon concurrence of the Division Head with the findings and computation of the evaluator, the entire application will be forwarded for approval and signature of the Deputy Executive Director.⁴⁴⁹ An approved evaluation report would then be the basis for the issuance of a TCC to the applicant.⁴⁵⁰

Scope Industries, Inc. filed several applications for tax credit with the OSS Center from 1994 to 1998, claiming to be an importer of yarns as raw materials, and an exporter of knitted fabrics as finished products. In its applications, it attached various documents such as bills of lading, import entries, official receipts from the Bureau of Customs, export declarations, sales invoices, and credit advices from Equitable Banking Corporation to support its claims that it imported raw materials and subsequently exported the finished products from these raw materials. However, the **bills of lading** it attached to nineteen (19) of its applications⁴⁵¹ which were supposedly issued by **“K” Line Philippines, Inc.** for **Kawasaki Kisen Kaisha, Ltd.**, and **Citadel Shipping Service Inc.** for the **Shanghai Shipping Company** are **spurious** given that representatives from the documentation department of “K” Line⁴⁵² and Citadel Shipping⁴⁵³ disputed their genuineness. Per “K” Line representatives, the bills of lading submitted by Scope have the same bills of lading numbers as the bills of lading issued by “K” Line. However, Scope’s bills of lading indicate **different vessel name, shipper, and destination** as compared to the bills of lading with the same number noted in “K” Line’s logbooks.⁴⁵⁴ As for the bills of lading purportedly

⁴⁴⁸ pp. 18-21, TSN dated April 20, 2017; pp. 3-4, *Judicial Affidavit-Arante*, pp. 879-880, Volume XIV, Records; pp. 3-4, *Judicial Affidavit-Baloloy*, pp. 912-913, Volume XIV, Records; p. 5, *Judicial Affidavit-Hiansen*, p. 572, Volume XIV, Records

⁴⁴⁹ pp. 14-15, TSN dated September 20, 2017; pp. 10-12, TSN dated April 29, 2019; pp. 2-3, *Judicial Affidavit-Napeñas*, pp. 198-199, Volume XIV, Records; p. 3, *Judicial Affidavit-Hiansen*, p. 570, Volume XIV, Records; pp. 4-6, *Judicial Affidavit-Bola*, pp. 693-695, Volume XIV, Records; pp. 3-4, *Judicial Affidavit-Baloloy*, pp. 912-913, Volume XIV, Records

⁴⁵⁰ p. 5, *Judicial Affidavit-Arante*, p. 881, Volume XIV, Records; pp. 16-18, TSN dated July 2, 2018

⁴⁵¹ Criminal Cases Nos. 25596, 25598, 25599, 25600, 25602, 25605, 25606, 25607, 25609, 25611, 25612, 25613, 25620, 25621, 25622, 25623, 25626, 25629, and 25630

⁴⁵² Witnesses Teddy J. Sandan and Ester R. Delgado

⁴⁵³ Witness Loida P. Magsombol

⁴⁵⁴ See Exhibit “F-5,” Exhibit “H-5-a,” Exhibit “H-5-b,” Exhibit “I-6,” Exhibit “I-6-a-1,” Exhibit “J-6,” Exhibit “L-6,” Exhibit “O-6,” and Exhibit “P-5”; pp. 9-17, TSN dated November 11, 2013



issued by the Shanghai Shipping Company, the records officer from its local agent, Citadel Shipping, said that bills of lading were not genuine because at the time that the bills of lading were supposedly issued, Scope Industries, Inc. was not one of their shippers. Moreover, Citadel's record officer noted that the bills of lading which they issued during the period relevant to these cases were printed using a manual computer while the bills of lading attached by Scope to its applications were printed using an electronic computer.⁴⁵⁵

In addition to the spurious bills of lading, Bhandari, a local machine dealer, testified that in 1990, at the behest of a certain Melchor Tan, he secured several second-hand circular knitting machines for Scope and subsequently installed these machines at the warehouse of Scope in Quezon City. Per Bhandari, the circular knitting machines he installed and maintained for Scope were only capable of producing fabrics that were considered unfinished products, particularly gray fabrics, whose quality could not possibly be considered for export.⁴⁵⁶

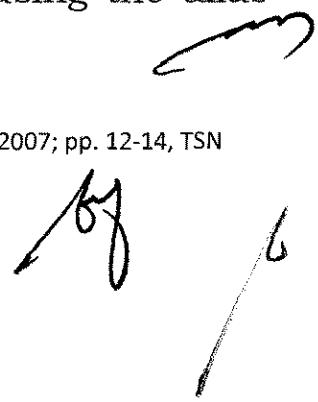
Likewise disputing the claims of Scope that it exported finished products, Rodolfo Del Castillo, Jr., Scope's former liaison officer, testified that Scope was never engaged in the business of exporting textile products. He said that Scope merely imported yarns, knitted gray fabrics from these imported yarns, and then sold these knitted fabrics locally. Thus, all export-related documents that it attached to its applications were fabricated.⁴⁵⁷

Castillo, Jr. also testified that in its applications, Scope submitted photocopies of documents which bore the original rubberstamp "Certified True Copy." These stamps were signed by "Angel O. Jimenez," the purported General Manager of Scope, or "Bernard Santos, its alleged Assistant General Manager, as stated in the face of its Claimant Information Sheets. Castillo, Jr. revealed that the documents were actually signed by Melchor Tan, the owner of Scope, using the alias

⁴⁵⁵ pp. 11-15, TSN dated February 19, 2014

⁴⁵⁶ pp. 8-11, TSN dated January 20, 2011

⁴⁵⁷ pp. 15-16, TSN dated September 18, 2007; pp. 8-9, TSN dated September 20, 2007; pp. 12-14, TSN dated January 21, 2008

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“Angel O. Jimenez.” As for the other documents which was signed by “Bernard T. Santos,” Scope’s alleged Assistant General Manager, and which were likewise submitted to the OSS Center to support Scope’s claim for tax credit, Castillo, Jr. said that these were actually signed by Bernard Santos, another officer at Scope Industries, Inc.

Despite the submission of the spurious bills of lading and documents merely certified by Scope’s General Manager and Assistant General Manager, Scope Industries, Inc., was able to secure at least forty-one (41) TCCs from the OSS Center. Accused Diño, Binsol, Gomez, Tordesillas, Tizon, Abara, Cuento, Napeñas, Daguimol, and Recoter were the evaluators assigned to process the applications filed by Scope, while accused Magdaet reviewed the evaluation reports prepared by the evaluators. Accused Andutan, Jr., signed all the evaluation reports as the approving authority. In the TCCs issued to Scope, accused Andutan, Jr., likewise signed as the one “recommending approval” of the TCC while accused Belicena signed the TCCs by virtue of his authority as the Undersecretary. Accused De Vera, on the other hand, admitted during trial that he signed seven (7) of the TCCs issued to Scope⁴⁵⁸ on behalf of accused Andutan, Jr. The accused who testified during trial all declared that none of them “verified” if the documents submitted by Scope were really issued by the purported issuer – such as Kawasaki Kisen Kaisha, Ltd., and the Shanghai Shipping Company for the bills of lading, Equitable Bank for the credit advices, or the Bureau of Customs for the export declarations. Neither was the identity of “Angel O. Jimenez” verified. According to the accused-witnesses, this is because the procedure then being followed at the OSS Center for the processing of applications for tax credit did not include such verification nor were they taught how to verify such documents from the source.

Of the forty-one (41) TCCs issued to Scope, thirteen (13) TCCs were utilized by it to pay for its own taxes and duties,⁴⁵⁹ while twenty-seven (27) were transferred to various

⁴⁵⁸ For Criminal Cases Nos. 25619, 25623, 25624, 25625, 25626, 25627, and 25628

⁴⁵⁹ TCCs involved in Criminal Cases Nos. 25607 to 25613, 25619 to 25621, and 25631 to 25634

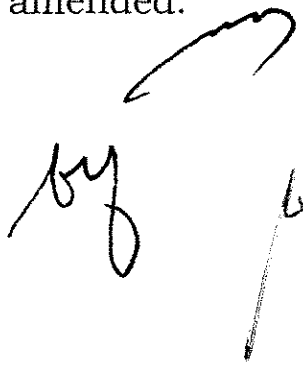
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corporations.⁴⁶⁰ One (1) TCC remained unutilized by Scope;⁴⁶¹ hence, the subject of these cases are only the forty (40) TCCs mentioned above. The transfers were allowed after the OSS Center approved the letter-requests for transfer filed by Scope. The forty (40) TCCs were subsequently utilized by Scope and its transferees for the payment of their taxes and duties as evidenced by the tax debit memos signed by accused Belicena and accused De Vera on behalf of accused Belicena, Bureau of Customs official receipts, and the annotation at the back of the of the TCCs indicating the amount(s) utilized by either Scope or its transferee.

Several years after the issuance of the TCCs to Scope Industries, Inc., the Economic Intelligence and Investigation Bureau (or the EIIB) of the Department of Finance conducted an investigation into the alleged Php60 Billion tax credit scam perpetrated in the OSS Center. In its investigation, Scope emerged as one (1) of the corporations engaged in the scam; hence, the filing of the subject Informations against its officers and stockholders as well as the employees and officers at the OSS Center involved in the processing of its applications for tax credits and eventual transfer and utilization.

ISSUE

Whether or not the prosecution presented sufficient evidence to establish the guilt of the accused beyond reasonable doubt for Violation of Section 3 (e) of R.A. No. 3019, as amended.

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⁴⁶⁰ TCCs involved in Criminal Cases Nos. 25596 to 25606, 25614 to 25618, 25622 to 25630, and 25635 to 25636

⁴⁶¹ TCC involved in Criminal Case No. 25632; the non-utilization of the TCC led to the dismissal of said case

THE RULING OF THE COURT

A. *The crimes charged against the accused and their elements.*
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The subject forty (40) *Amended Informations* at bar charge the accused with Violation of Section 3 (e) of R.A. No. 3019.




To sustain a conviction for the above-mentioned crime, jurisprudence requires that the prosecution prove beyond reasonable doubt the existence of **all** the following elements, to wit:

- (1) The accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers);
- (2) That he/she acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and,
- (3) That his/her action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his/her functions.⁴⁶²

B. *The presence/absence of the elements of the crimes charged.*
=====

1. The first element – that the accused be a public officer discharging

⁴⁶² *Fuentes v. People*, 822 SCRA 509 (2017)

administrative, judicial, or official functions.

It is not disputed that at the time material to these cases, the accused were public officers discharging administrative and/or official functions. Accused Gomez testified that she has been with the OSS Center since 1994, while accused Recoter and Napeñas both testified that they became evaluators for the OSS Center beginning in 1995. Accused De Vera similarly testified that he started working at the OSS Center in 1995 as Supervising Tax Specialist. Accused Tordesillas, on the other hand, testified that she was regularized as a Tax Specialist for the OSS Center in 1996. For the accused who did not testify during trial, they stipulated that at the time material to these cases, they were public officials who were holding and occupying the respective positions indicated in the *Amended Informations*.⁴⁶³ Additionally for accused Andutan, Jr., *Department Personnel Order No. 51-92, series of 1992*, issued by then DOF Acting Secretary Cecilia G. Soriano,⁴⁶⁴ shows that he was designated as the OIC Deputy Administrator for the OSS Center since April 28, 1992.

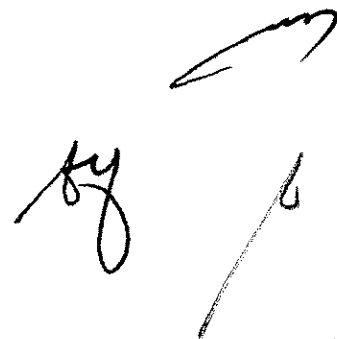
2. The second element - that the accused acted with manifest partiality, gross inexcusable negligence, or evident bad faith.

The cases at bar were litigated on the premise that the accused should not have granted any of Scope's applications for tax credit since the documents it submitted to support its claim of entitlement to the tax credits were spurious and fabricated.

The evidence presented by the prosecution established that Scope Industries, Inc. filed at least forty (40) applications for tax credits with the OSS Center, alleging that it was a BOI-registered firm which imported raw materials that were used in the manufacturing, processing, and production of knitted

⁴⁶³ Order dated March 6, 2007

⁴⁶⁴ Exhibit "C"

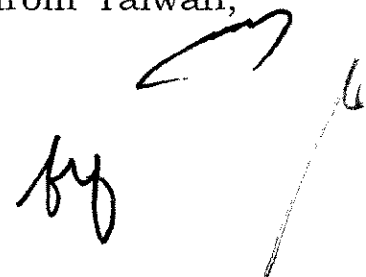
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fabrics which it subsequently exported to various buyers abroad. Its applications were prefaced by forty (40) Claimant Information Sheets ("**CIS**") which indicated the abovementioned details as well as the name of its authorized representative, Angel O. Jimenez, who is ostensibly its General Manager. In some of these applications, Bernard T. Santos, the Assistant General Manager, was the designated representative. The CIS **were all signed by either Angel O. Jimenez or Bernard Santos**, as seen in the lower right portion of each sheet.

Following or attached to the CIS were the documents which supposedly supported the fact of importation by Scope Industries, Inc. of raw materials, its subsequent exportation of knitted fabrics using such raw materials as well as the receipts for the duties it paid for such importation. Documents for the importation and exportation activities included bills of lading, import entries, export declarations, sales invoices, and credit advices from Equitable Banking Corporation. For its alleged payment of duties, Scope submitted documents purporting to be official receipts from the Bureau of Customs. **Notably, not all of the documents submitted by Scope in each of its applications were original documents.** Interspersed with a few original documents were **photocopied documents bearing the original rubber-stamped mark stating the words "Certified True Copy."** Upon further scrutiny of the documents bearing the rubber stamp mark, a signature could be found beside the word "By" and above words "Position Title" and "Authorized Signature." In some documents, the stamped words would be the names "Bernard T. Santos, Assistant General Manager," or "Angel O. Jimenez, General Manager." This indicates that the photocopied document was certified as a true copy by the signatory, who was either Bernard T. Santos or Angel O. Jimenez. As stated in the various CIS submitted by Scope, **to which these photocopied documents were attached**, Bernard T. Santos and Angel O. Jimenez **were the officers of Scope - the applicant.**

Notably, a perusal of the photocopied "certified" documents would show that they were issued by various **private entities** - which included transportation companies, forwarding agents, and shippers or consignees from Taiwan,

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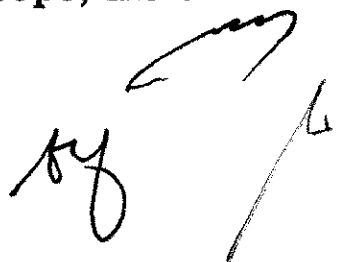


Singapore, Hong Kong, Thailand, as well as **public entities** like the Bureau of Customs. However, **despite having been issued by different public and private entities, only one signatory “certified” the photocopies as true copies**, either Bernard T. Santos or Angel O. Jimenez. Significantly, the **signatures found in the photocopied documents certified by Angel O. Jimenez or Bernard Santos were similar to the signatures found in the right lower portion of the CIS.**

It is not a stretch of imagination to say that a person, who is exercising mere prudence or ordinary diligence, would have **easily noted or flagged the abovementioned instances as irregularities attending the certification of these photocopied documents.** No special skill would have been needed to notice that despite having been issued by various entities, the certification in the photocopied documents were **uniform.** Additionally, no further investigation – other than looking at the faces of the documents – would have been needed **to recognize that the names and signatures appearing in the certifications belonged to authorized representative/s of the applicant Scope, as shown in the CIS – the very first document prefacing all of the photocopied supporting documents.**

Predictably, as shown by the evidence presented by the prosecution in Criminal Cases Nos. **25596, 25598, 25599, 25600, 25602, 25605, 25606, 25607, 25609, 25611, 25612, 25613, 25620, 25621, 25622, 25623, 25626, 25629** and **25630**, the **bills of lading which Scope attached to nineteen (19) of its applications**, and which were supposedly issued by “K” Line Philippines, Inc. for Kawasaki Kisen Kaisha, Ltd., and Citadel Shipping Service Inc. for the Shanghai Shipping Company, **turned out to be spurious as representatives from the documentation department of “K” Line and Citadel Shipping disputed their genuineness and presented proof to show that these bills of lading, as submitted by Scope, were not issued by them.**

Additionally, for all the forty (40) cases at bar, testimony from Scope’s liaison officer, Rodolfo Del Castillo, Jr., reveals that **Angel O. Jimenez was not actually a real person but was rather the alias used by the owner of Scope, Melchor**

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Tan.⁴⁶⁵ Melchor Tan's ownership of Scope was substantiated by the testimony of Bimal Chand Bhandari, the textile engineer who provided Scope with its knitting machines.⁴⁶⁶ Bhandari's wife was related to Melchor Tan, being a relative of Melchor Tan's mother, Genoveva Tan.⁴⁶⁷ Both Castillo, Jr. and Bhandari also testified that **Scope did not actually export knitted fabrics, contrary to the claims it made in its tax credit applications.** They both stated that Scope did not have the capacity to export such fabrics since the knitting machines it owned were only capable of producing "gray fabrics" which were considered unfinished products with a quality which could not possibly be considered for export.⁴⁶⁸

It bears stressing that tax credits are incentives given by the government to boost the competitiveness of locally manufactured products by allowing manufacturers or exporters to reasonably enjoy their credits for taxes and duties paid on their raw materials and other inputs used in their products.⁴⁶⁹ As described by defense witness Bola, the certificates for tax credits are akin to cash since they may be used by the holder to pay for other duties or taxes which may be imposed upon it.⁴⁷⁰ **Clearly, these incentives must only be given to entities entitled to them.**

As the agency mandated to process applications for such claims, the OSS Center has the responsibility of simplifying the availments of said tax credits **but not at the expense of safeguarding the system from the occurrence of undue claims.**⁴⁷¹ **Reasonable caution must be observed by its employees and officers whenever they process applications since these tax credits must not be granted to just anyone applying for them, in order to avoid undue damage and prejudice to the government.** As such, the OSS Center should have adopted policies and procedures that balance both the interests of the government and the entitled claimants.

⁴⁶⁵ pp. 8-11, TSN dated March 12, 2007; pp. 35-36, TSN dated January 21, 2008

⁴⁶⁶ p. 15, TSN dated January 20, 2011; pp. 22-23, TSN dated February 16, 2011

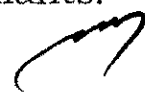
⁴⁶⁷ pp. 12-16, TSN dated January 20, 2011; pp. 5-6, TSN dated February 16, 2011

⁴⁶⁸ pp. 10-11, TSN dated January 20, 2011; pp. 29-31, TSN dated February 16, 2011

⁴⁶⁹ Administrative Order No. 266, s. 1992

⁴⁷⁰ pp. 12-13, TSN dated July 13, 2019

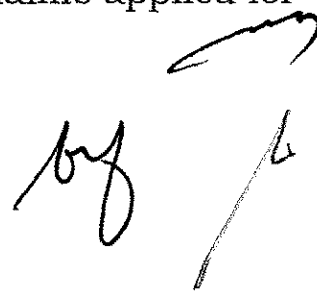
⁴⁷¹ Administrative Order No. 266, s. 1992



The accused do not deny that they evaluated and processed Scope's tax credit applications, and that the applications were subsequently approved due to the evaluation reports that they respectively authored, reviewed, and signed. They claim, however, that they cannot be faulted for anything since they merely followed the procedure adopted at the OSS Center in the processing of tax credit applications. Specifically for the evaluators, they claim that their responsibilities and duties only included the following:

- (1) "checklisting" the supporting documents, *i.e.*, checking if the documents required by the OSS Center for each particular claims, as indicated in its checklist for applicants, were submitted;
- (2) preparing correspondence and other communication letters to exporters or claimants should there be deficiencies found in the documents they submitted after checklisting; and
- (3) preparing evaluation reports and computing the allowable tax credit based on the documents submitted.

Against the prosecution's claim that they allowed the grant of TCCs to Scope despite its submission of spurious and falsified documents, the accused who testified uniformly claim that "verifying" the authenticity or genuineness of the supporting documents submitted by an applicant was not part of their duties nor was it a part of the process that was taught to them with respect to processing and evaluation of tax credit claims. They assert that their duties with respect to the supporting documents mainly involved "checklisting" which only demanded that they compare the originals with the photocopied documents submitted. They likewise aver that they only checked the details indicated in the summary table or "schedule" submitted by the applicant to make sure that its contents are the same as those indicated in the supporting documents. With respect to the authenticity of the supporting documents, they put emphasis on the fact that the CIS submitted by applicants like Scope are notarized and contain an attestation by the applicant's representative that the documents submitted are authentic and the claims applied for are legitimate.

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The accused and their witnesses likewise claim that the duty to verify the authenticity or genuineness of the supporting documents submitted by applicants like Scope is reposed on the Monitoring and Verification Division of the OSS Center. However, none of them could categorically state that the Monitoring and Verification Division was functioning at the time the applications of Scope were processed and evaluated at the OSS Center. Only one (1) witness testified that at the time material to these cases, the Monitoring and Verification Division was indeed functioning, albeit it only performed random or “sample basis” verifications of supporting documents and only after a TCC has been issued to a claimant due to lack of manpower at the Division.⁴⁷²

From the foregoing, it is clear that negligence attended the actions of the accused with respect to the processing and issuance of the tax credit certificates issued to Scope. The question now is: may such negligence be characterized as *gross inexcusable negligence* so as to establish the second element of violation of Section 3(e) of R.A. No. 3019, as amended.

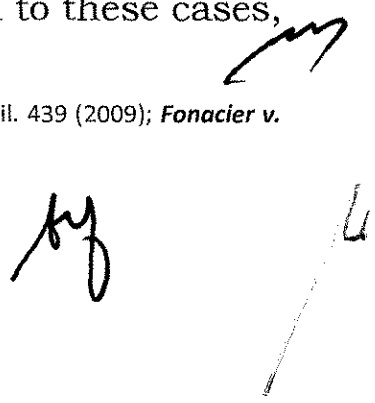
The Court finds that the accused indeed acted with gross inexcusable negligence.

Unlike “manifest partiality” or “evident bad faith,” committing a Violation of Section 3 (e) of R.A. No. 3019 through the mode of “gross inexcusable negligence” does not require proof of some fraudulent motive, self-interest, or ill will. Rather, jurisprudence requires that it must be shown by the prosecution that the negligence of the accused is characterized “by want of even the slight care; acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to consequences in so far as other persons may be affected.”⁴⁷³

Based on the facts and circumstances established by the evidence on record, it is clear that in the process leading up to the issuance of a TCC at that the time material to these cases,

⁴⁷² pp. 19-24, TSN dated July 13, 2019

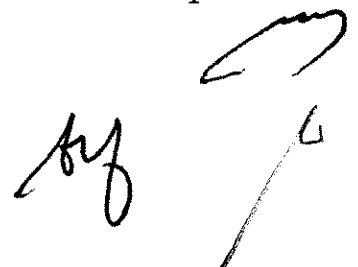
⁴⁷³ *Fuentes v. People*, 822 SCRA 509 (2017); *Albert v. Sandiganbayan*, 599 Phil. 439 (2009); *Fonacier v. Sandiganbayan*, 235 SCRA 655 (1994)

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no one in the chain of employees and officers involved determined the authenticity, validity, or at the very least, the regularity of the documents submitted by Scope to support its claim that it is entitled to a tax credit. Rather, as can be inferred from the testimonies of the defense witnesses, **the documents submitted by the applicants to support their claims were taken on their face as genuine and authentic, or at the very least, regular, and, without any verification, were used and relied upon as the basis for the issuance of the TCCs.**

The accused claim that they “checklisted” the documents submitted. **However, none of the accused evaluators and reviewers flagged the dubious circumstances surrounding the “certified” documents submitted by Scope Industries, Inc.** to support its applications which resulted in the issuance of forty (40) TCCs which Scope was able to subsequently utilize or transfer. **This is a mute but eloquent demonstration of the extent – or lack – of caution and diligence observed at the OSS Center with respect to the tax credit claims, as well as indictment of the effectiveness of any safeguard that it employed to protect the incentive system and the government from undue claims.** Evidently, gross inexcusable negligence attended the issuance of forty (40) TCCs worth Php103,042,663.00 when the accused evaluators and reviewers alike **simply accepted the documents submitted before them as authentic and without flaws, without further verifying the same to determine their worth.**

As public officers involved with processing applications for tax credits, the accused are surely cognizant of the need to make sure that the claims presented by applicants for tax credits are legitimate to protect the government from unwarranted and spurious claims. Even without specifically having the duty to verify for authenticity, the circumstances extant in these cases had badges that should have pricked their curiosity and prompted inquiries by the accused into the documents because of the **obvious defect in the certification of the submitted photocopied documents.** The accused could likewise not have been unaware of the basic precept that documents can only be certified as true copies by the agency or entity which issued them, specifically by the officer or person

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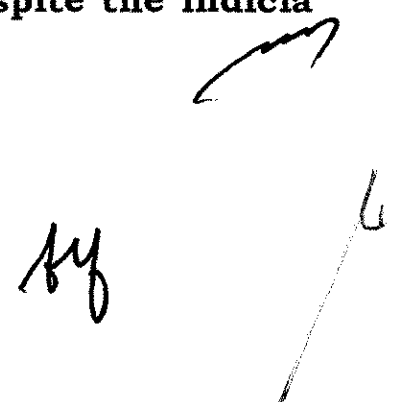
having custody of such documents. In this regard, as early as the stage of “checklisting” the documents, the accused evaluators **should have already asked Scope or its representative to explain why the photocopied documents – which were a mix of purportedly commercial and public documents – were certified by a single person, who also happened to be connected with the applicant.** The accused should have *at the very least*, questioned Scope as to why the documents were irregular, without having to determine, at that time, the genuineness or authenticity of the documents by coordinating with the entities which purportedly issued the documents. The accused who reviewed the work of the accused-evaluators should have likewise noted these irregularities when they were not flagged by the evaluators.

Moreover, while the Monitoring and Verification Division existed in the organizational chart of the OSS Center, the duty to verify the genuineness or regularity of the supporting documents was not within this Division’s sole purview. Specifically for accused **Magdaet, Napeñas, Binsol, Cuento, Tordesillas, and Diño**, their **Position Description Forms**, which they all signed while employed at the OSS Center, indicate that their **actual duties and functions** include **“verification to determine the genuineness and/or regularity and completeness of the documents submitted in support to (sic) request for tax credits.”**⁴⁷⁴ The forms also state that the processing of requests for tax credit, among others, include the **“evaluation and verification of the supporting documents to determine their authenticity, regularity, and sufficiency.”**⁴⁷⁵

The failure of the accused to flag the irregularities in the documents presented by Scope allowed it to acquire forty (40) TCCs worth Php103,042,663.00 despite the submission of spurious bills of lading, and despite not having the capacity to produce, much less export, knitted fabrics. It was grossly negligent for them to have simply accepted the documents *as they were* despite the indicia

⁴⁷⁴ Exhibit “C-4-a”

⁴⁷⁵ Exhibits “C-4-b,” “C-4-e,” “C-4-g,” “C-4-h,” and “C-4-i”

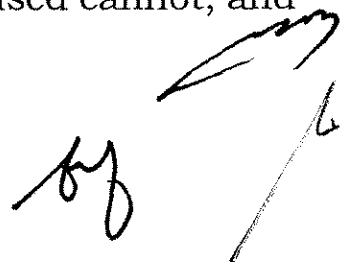
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of irregularities on the very face of the documents which should have put them on guard.

For accused Andutan, Jr., he did not only review the evaluation reports. He was also the Deputy Administrator of the OSS Center. As Deputy Administrator, he had the duty, among others, to assist deceased accused Belicena in overseeing the overall operationalization of the OSS Center and issuing the necessary internal rules and procedures for the effective operation of the OSS Center. However, as shown by the evidence on record, there were clear lapses in the administration and operation of the center resulting in applications for tax credits being repeatedly granted over the course of several years despite being supported by questionable documents, which were subsequently shown to be spurious.

Despite the substantial amount of money in the form of tax credits involved in each of Scope's forty (40) applications, the accused contend that they believed that the documents were regular, valid, or authentic since the applicant attested and declared in the CIS that the documents it submitted were authentic and that the claims applied for were legitimate. However, as employees of the only unit then processing tax credit claims and duty drawbacks, the accused should have further examined the submitted documents since, as mentioned earlier, the documents, on their faces, appeared irregular. By taking the supporting documents as is, without flagging its irregularities, accused were grossly negligent for "acting or omitting to act in a situation where there is a duty to act." When they disregarded their duty to act, the accused allowed the OSS Center to be the hotbed of a scam that amounted to billions of pesos of losses to the government and the erosion of public confidence.

To be clear, the blatant omission of the accused to flag the defects in Scope Industries, Inc.'s application betrays their failure to observe the diligence required of them by law with respect to safeguarding the system of tax credits and duty drawbacks against spurious claims. Such utter disregard of their duty paved the way for the consummation of forty (40) high-valued irregular issuances of TCCs to Scope which was not actually qualified to receive the same. Accused cannot, and

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should not, be allowed to trivialize their role in the safeguarding of the system of availments of credits on taxes and duties from the occurrence of undue claims, particularly since they are the first line of defense of the system against such spurious claims.

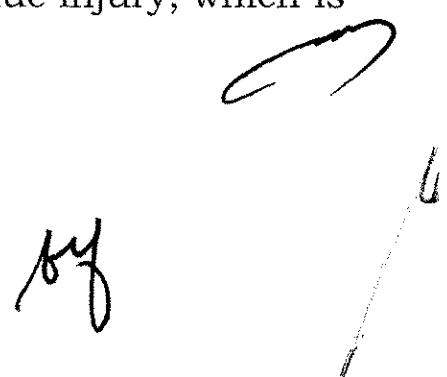
3. The third element – that the action of the accused caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of their functions.

Anent the last element, in order to hold a person liable for Violation of Section 3 (e) of R.A. No 3019, it is required that the act constituting the offense consists of either (1) causing undue injury to any party, including the government, or (2) giving any private party any unwarranted benefits, advantage, or preference in the discharge by the accused of his official, administrative, or judicial functions. In the cases at bar, the *Amended Informations* charged the accused of committing the violation under both modes.

In jurisprudence, “undue injury” is consistently interpreted as “actual damage.” **Undue** has been defined as “more than necessary, not proper, [or] illegal,” while **injury** is “any wrong or damage done to another, either in his person, rights, reputation or property; that is, the invasion of any legally protected interest of another.”⁴⁷⁶ Being in the nature of actual damages, jurisprudence requires that the undue injury imputed against the accused be specified, quantified, and proven to the point of moral certainty.

Causing, on the other hand, means “to be the cause or occasion of, to effect as an agent, to bring into existence, to make or to induce, to compel.” Causing is, therefore, not limited to positive acts only. Even passive acts or inaction may cause undue injury. What is essential is that undue injury, which is

⁴⁷⁶ *Llorente, Jr. v. Sandiganbayan*, 350 Phil. 820 (1998)



quantifiable and demonstrable, results from the questioned official act or inaction.⁴⁷⁷

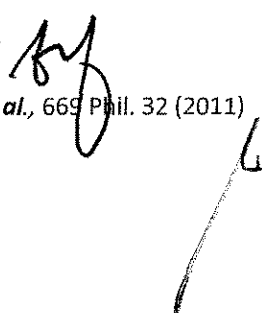
As for the second mode, it suffices that the accused has given unjustified favor or benefit to another in the exercise of his official, administrative, or judicial functions. The word **unwarranted** means “lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason.” **Advantage** means “a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action.” **Preference** signifies “priority or higher evaluation or desirability; choice or estimation above another.”⁴⁷⁸

In these cases, the evidence presented by the prosecution shows that **forty (40)** TCCs totaling **Php103,042,663.00** were issued to Scope after the accused evaluated and approved its applications for tax credits. As discussed earlier, the supporting documents submitted by Scope were irregular since they were only certified as photocopies by its General Manager or Assistant General Manager. Evidence likewise show that the bills of lading submitted by Scope to support nineteen (19) of its applications were spurious, not having been issued by their purported issuer. Further, Scope’s representation in its applications that it exported knitted fabrics using materials it imported was established to be false since Scope did not actually have the capacity to produce export-quality knitted fabrics.

Clearly, there were “unwarranted benefits” given in favor of Scope Industries, Inc. since it would not have obtained the TCCs, which it subsequently utilized or transferred, were it not for the gross inexcusable negligence committed by the accused, as employees and officers of the OSS Center. As Scope Industries, Inc. neither had the capacity to export the knitted fabrics it claimed nor submitted documents that could validly support its claims for tax credits, it should not have been granted any TCCs by the OSS Center.



⁴⁷⁷ *Id*

⁴⁷⁸ *Ambil, Jr. v. Sandiganbayan, et al.*, 669 Phil. 32 (2011)


The actions of the accused **likewise caused undue injury to the government since the TCCs represented tax credits used by Scope and its transferees for payments of taxes and duties which the government was not able to collect from them because of the credits in the TCCs.**

The **tax debit memos** signed by accused Belicena, **official receipts issued by the Bureau of Customs** and the **dorsal portion of the TCCs evidence the transfer of the TCCs and their utilization for payment of duties and taxes** on importation of materials and supplies by Scope or its transferees. The tax debit memos themselves state that the OSS Center authorized the debit of tax credit on the TCCs for the payment of duties and taxes on importation of raw materials and supplies, while the official receipts from the Bureau of Customs substantiate the amounts debited from the TCCs as payment for duties and taxes by either Scope or its transferees.

Evidently, the prosecution was able to show that the government sustained actual damage that was quantifiable and demonstrable, resulting from the questioned acts or inactions of the accused.

However, the evidence on record is **not sufficient to sustain a finding of unwarranted benefits or undue injury for the following sixteen (16) criminal cases** due to the lack of supporting evidence to establish the utilization by Scope of the TCCs or its transfer to other private companies such as the tax debit memos and official receipts from the Bureau of Customs:

Crim. Case No.	TCC No.	Amount
25596	002593	2,217,409.00
25615	009521	2,538,764.00
25616	009522	2,670,148.00
25617	009523	2,666,809.00
25618	009524	2,593,916.00
25620	009663	2,702,270.00
25622	009670	2,664,688.00
25624	009781	2,738,955.00
25625	009782	2,725,990.00
25626	009783	2,558,332.00

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DECISION

Criminal Case Nos. 25596-25631 & 25633-25636

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Crim. Case No.	TCC No.	Amount
25627	009785	2,502,232.00
25628	009784	2,534,135.00
25629	009789	2,638,526.00
25630	009790	2,547,992.00
25635	009365	2,527,522.00
25636	009417	2,707,250.00
Total:		Php41,534,938.00

Based on the evidence presented by the prosecution, of the forty (40) TCCs issued to Scope, **only twenty-four (24) resulted in unwarranted benefits to Scope and caused undue injury to the government** in the total amount of **Php61,507,725.00** as shown below:

Crim. Case No.	TCC No.	Amount
25597	002615	2,192,370.00
25598	003149	3,521,716.00
25599	004234	2,591,441.00
25600	004233	2,645,781.00
25601	004232	2,660,522.00
25602	004711	2,341,111.00
25603	004958	2,073,750.00
25604	004954	2,022,503.00
25605	004953	2,258,876.00
25606	004951	2,285,679.00
25607	007431	2,507,064.00
25608	007433	2,625,620.00
25609	007538	2,804,086.00
25610	007675	2,573,012.00
25611	008362	2,530,738.00
25612	008363	2,613,007.00
25613	008364	2,680,402.00
25614	009483	2,561,067.00
25619	009637	2,634,499.00
25621	009670	2,672,642.00
25623	009780	2,574,894.00
25631	009020	2,707,229.00
25633	009219	2,661,820.00
25634	009224	2,767,896.00
Total:		Php61,507,725.00

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PENALTIES

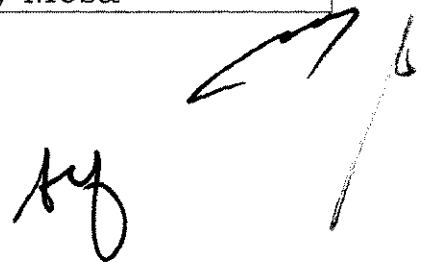
On the proper penalty to be imposed upon the accused, Section 9 (a) of R.A. No. 3019, as amended, states that the prescribed penalties for a violation of the said crime includes, inter alia, **imprisonment for a period of six (6) years and one (1) month to fifteen (15) years and perpetual disqualification from public office.** Taking into consideration the provision of the Indeterminate Sentence Law, which states that “in imposing a prison sentence for an offense punished by acts of the Philippine Legislature, otherwise than by the Revised Penal Code, the court shall order the accused to be imprisoned for a minimum term, which shall not be less than the minimum term of imprisonment provided by law for the offense, and for a maximum term which shall not exceed the maximum fixed law,” the Court deems it proper to sentence the accused to imprisonment for an indeterminate period of **six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification to hold public office.**

In fine, the Court finds that the prosecution was able to establish all the elements of the crime of Violation of Section 3 (e) of R.A. No. 3019, as amended, for twenty-four (24) criminal cases as discussed above, through the documentary and testimonial evidence on record.

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In the following criminal cases, the following accused are **GUILTY BEYOND REASONABLE DOUBT** of Violation of Section 3(e) of R.A. No. 3019, as amended:

Criminal Case No.	Name of the Accused
25597	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Annabelle Diño y Janeo
25598	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa



DECISION

Criminal Case Nos. 25596-25631 & 25633-25636

People v. Belicena, et al.

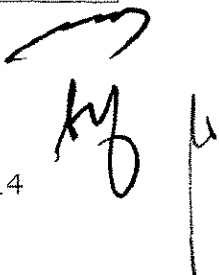
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Criminal Case No.	Name of the Accused
	Mark Binsol y Avisado
25599	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Cherry Gomez y Lanuza
25600	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa
25601	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Merose Tordesillas y Lotilla
25602	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Merose Tordesillas y Lotilla
25603	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Annabelle Diño y Janeo
25604	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa
25605	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa
25606	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Merose Tordesillas y Lotilla
25607	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Gemma Abara y Ortiz
25608	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Gemma Abara y Ortiz
25609	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa

Criminal Case No.	Name of the Accused
	Annabelle Diño y Janeo
25610	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Gregoria Cuento y Vidallo
25611	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Annabelle Diño y Janeo
25612	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Annabelle Diño y Janeo
25613	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Annabelle Diño y Janeo
25614	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Gemma Abara y Ortiz
25619	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Purita Napeñas y Sison
25621	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Merose Tordesillas y Lotilla
25623	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Gregoria Cuento y Vidallo
25631	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Gemma Abara y Ortiz

*To include accused Raul De Vera y Clauren in Criminal Case No. 25614



Criminal Case No.	Name of the Accused
25633	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa
25634	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa

Accordingly, they are hereby sentenced to suffer the indeterminate penalty of **imprisonment of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum**. They are likewise sentenced to suffer perpetual disqualification from holding public office.

2. In the following criminal cases, the following accused are hereby **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt:

Criminal Case No.	Name of the Accused
25596	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa
25615	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Purita Napeñas y Sison
25616	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Gregoria Cuento y Vidallo
25617	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Gemma Abara y Ortiz
25618	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren
25620	Uldarico Andutan, Jr. y Ponsaran

Criminal Case No.	Name of the Accused
	Asuncion Magdaet y Mesa Merose Tordesillas y Lotilla
25622	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Merose Tordesillas y Lotilla
25624	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Annabelle Diño y Janeo
25625	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Gregoria Cuento y Vidallo
25626	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Gregoria Cuento y Vidallo
25627	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Annabelle Diño y Janeo
25628	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Raul De Vera y Clauren Charmelle Recoter y Panadero
25629	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Charmelle Recoter y Panadero
25630	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa Annabelle Diño y Janeo
25635	Uldarico Andutan, Jr. y Ponsaran

Handwritten signatures and initials, including a large stylized signature and a smaller one below it, located at the bottom right of the page.

Criminal Case No.	Name of the Accused
	Asuncion Magdaet y Mesa Gemma Abara y Ortiz
25636	Uldarico Andutan, Jr. y Ponsaran Asuncion Magdaet y Mesa

The bail bond posted by the **aforementioned accused EXCEPT for accused ULDARICO ANDUTAN, JR. Y PONSARAN and ANNABELLE DIÑO Y JANEÓ**, for their provisional liberty in Criminal Cases Nos. **25596, 25615, 25616, 25617, 25618, 25620, 25622, 25624, 25625, 25626, 25627, 25628, 25629, 25630, 25635**, and **25636** are ordered **RELEASED** subject to the usual auditing and accounting procedures. For having jumped their bail during the trial of the cases at bar, the bail bond posted by **accused ULDARICO ANDUTAN, JR. Y PONSARAN and ANNABELLE DIÑO Y JANEÓ** are hereby declared forfeited in favor of the government.

Moreover, the *Hold Departure Orders* dated August 27, 1999, issued against the said accused in Criminal Cases Nos. **25596, 25615, 25616, 25617, 25618, 25620, 25622, 25624, 25625, 25626, 25627, 25628, 25629, 25630, 25635**, and **25636** are hereby **LIFTED** and **SET ASIDE**.

3. Since the Court has not acquired jurisdiction over the persons of the following accused because they remain at-large, the specific cases against them are hereby ordered **ARCHIVED**:

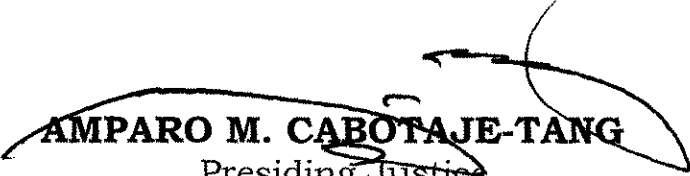
Criminal Case Nos.	Name of the Accused
25596-25631 25633-25636	Jaime Sia Ling Wilhelmina Ang Ling Albert Sia Ling Wilbert Sia Ling Vinalyn Sia Ling Angel O. Jimenez Bernard T. Santos

Criminal Case Nos.	Name of the Accused
25596	Ma. Cristina Saquitan Moncada.

The aforesaid cases are to be revived upon their arrest. Let *alias* warrants of arrest be issued against the above-named accused.

SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

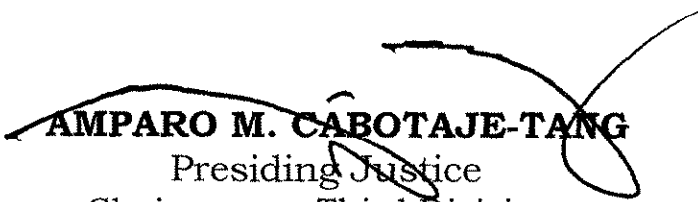
WE CONCUR:


BERNELITO R. FERNANDEZ
Associate Justice


RONALD B. MORENO
Associate Justice

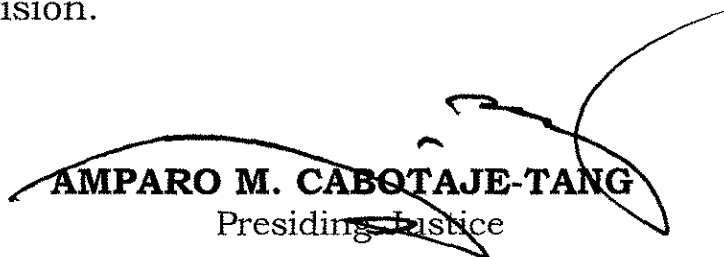
ATTESTATION

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


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson, Third Division

CERTIFICATION

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


AMPARO M. CABOTAJE-TANG
Presiding Justice

