



REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City  
**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

-versus-

**SB-11-CRM-0235 to  
0238**

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

**SB-11-CRM-0241**

For: Violation of Sec. 89  
in relation to Sec. 128 of  
P.D. No. 1445

**ALICIA B. MORI,**  
Municipal Mayor,

**STANLEY E. MORI,**  
Municipal Mayor,

**JOSE G. BASOC**  
Municipal Vice-Mayor

**DARIUS O. PELAYO,**  
Municipal Accountant,

**CALIXTO O. LADAO,**  
Municipal Budget Officer,

**GERARDO F. AGUIMOD,**  
Municipal Treasurer,

**JAIME D. LABASANO,**  
Former Municipal Treasurer

**RUBEN B. BURGOS**  
Revenue Collector/Procurement Officer Designate  
(All) of the Local Government Unit of  
Caraga, Davao Oriental, and

**JUANITA G. CASQUEJO,**  
Proprietor, Louievian Mercantile,

*Accused.*

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DE LA CRUZ, J. Chairperson  
ECONG, J. and  
CALDONA, J.

PROMULGATED:

NOV 23 2018

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## DECISION

*Econg, J.:*

The prosecution charged **Alicia B. Mori**, then Municipal Mayor, **Stanley E. Mori**, the incumbent Municipal Mayor, **Jason G. Basoc**, Municipal Vice-Mayor, **Darius Pelayo y Ortiza**, Municipal Accountant, **Calixto O. Ladao**, Municipal Budget Officer, **Gerardo F. Aguimod**, Municipal Treasurer, and **Jaime D. Labasano**, then Municipal Treasurer, all of the Local Government of the Municipality of Caraga, Davao Oriental, and **Juanita G. Casquejo**, private individual, of violation of Section 3(e) of R.A. No. 3019, under the following Informations:<sup>1</sup>

(SB-11-CRM-0235)

That on 31 July 1999, prior or subsequent thereto, in the Municipality of Caraga, Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who are public officers, **Alicia Mori y Benitez**, being then Municipal Mayor, **Stanley Mori y Ege**, the incumbent Municipal Mayor, **Darius Pelayo y Ortiza**, Municipal Accountant, **Calixto O. Ladao**, Municipal Budget Officer, **Gerardo Aguimod y Ferrando**, Municipal Treasurer, and **Jaime Labasano y Dasalia**, then Municipal Treasurer, all of the Municipality of Caraga, Davao Oriental, while in the performance of their official functions, taking advantage of their official positions, and committing the crime in relation to their office, conspiring and confederating with each other, through manifest partiality, evident bad faith, or gross inexcusable negligence, did then and there willfully, unlawfully, and criminally authorize, approve, grant, process, and release the retirement gratuity of Calixto O. Ladao on 31 July 1999 in the amount of Four Hundred Seventy-Six Thousand Four Hundred Sixty-Three Pesos and

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

*WJL*

Thirty-Five Centavos (P476,463.35), knowing fully well that he is not entitled thereto since he was recalled from service on 27 July 1999 as reflected in the Recall Order, accused public officers subsequently reneged on their duties to demand, collect, and ask for a refund of the said amount from Calixto O. Ladao, as he is not entitled to it and despite the fact that later, a recommendation from the Sangguniang Bayan (SB) Committee Report in October 2001, and a (SB) Resolution No. 54, Series of 2003 were issued that ordered Calixto O. Ladao to refund the said amount, and in spite of the fact that Calixto O. Ladao failed to refund the said amount, he was issued a clearance dated 06 January 2003, and this was compounded by the accused's failure to furnish the GSIS with the record of his collected advance retirement benefits in 1999, which is required under the law, thereby public respondents made it easy for Calixto O. Ladao to collect his retirement pay with GSIS in January 2003, thus, causing undue injury to the government and public interest in the amount of Four Hundred Seventy-Six Thousand Four Hundred Sixty-Three Pesos and Thirty Five Centavos (P476,463.35).

Contrary to Law.<sup>2</sup>

(SB-11-CRM-0236)

That on 19 January 2001 to 29 January 2001, and 21 February 2001, prior or subsequent thereto, in the Municipality of Caraga, Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who are public officers, **Alicia Mori y Benitez**, being then Municipal Mayor, **Darius Pelayo y Ortiza**, Municipal Accountant, **Calixto O. Ladao**, Municipal Budget Officer, **Gerardo Aguimod y Ferrando**, Municipal Treasurer, all of the Municipality of Caraga, Davao Oriental, while in the performance of their official functions, taking advantage of their official positions, and committing the crime in relation to their office through manifest partiality evident bad faith or gross inexcusable negligence, conspiring and confederating with each other and together with private respondent **Juanita G. Casquejo**, Proprietor of Louievian Mercantile, did then and there willfully, unlawfully and criminally cause undue injury to the Government by disbursing public funds in the total amount of **Four Thousand Four Hundred Sixty-Three Pesos (P4,463.00)** as payment to Louievian Mercantile represented by accused Juanita G. Casquejo, for items/supplied such as the three sacks of rice, one dozen corned beef, two dozens of tinapa, two kilos of dried fish, two kilos of bolinao, five packs of Nescafe (100 grams each), three kilos brown sugar, six

<sup>2</sup> Id. at 88.

pieces of AA battery, one ream of cigarettes, three dozens of noodles, one bottle of rubbing alcohol, without conducting any canvass of prices of at least three (3) suppliers, as mandated by law, to afford the municipality of a fair chance to get the lowest prevailing prices of the said items in the market, in violation of the government accounting and auditing rules and without due regard to the accused public officers' duties to safeguard public funds from wastage and to ensure that the municipality can get the lowest and fair price of said items, thereby giving unwarranted benefit to Louiebian Mercantile, to the damage and prejudice of the Government in the aforesaid amount of **Four Thousand Four Hundred Sixty Three (p4,463.00) Pesos.**

CONTRARY TO LAW.

(SB-11-CRM-0237)

That on 19 January 2001 to 29 January 2001, and 21 February 2001, prior or subsequent thereto, in the Municipality of Caraga, Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who are public officers, **Alicia Mori y Benitez**, being then Municipal Mayor, **Darius Pelayo y Ortiza**, Municipal Accountant, **Calixto O. Ladao**, Municipal Budget Officer, **Gerardo Aguimod y Ferrando**, Municipal Treasurer, all of the Municipality of Caraga, Davao Oriental, while in the performance of their official functions, taking advantage of their official positions, and committing the crime in relation to their office through manifest partiality evident bad faith or gross inexcusable negligence, conspiring and confederating with each other, did then and there willfully, unlawfully and criminally disburse public funds in the total amount of TWENTY THREE THOUSAND TWO HUNDRED TWENTY SEVEN PESOS AND SIXTY FOUR CENTAVOS (P23,227.64) for the catering services of the employees of the Municipality of Caraga who rendered regular office functions in the accounting division and treasurer's office, knowing full[y] well that as financial managers of the LGU, the said disbursement has no legal basis and in violation of the government accounting and auditing rules and regulations without due regard or slight care to safeguard the LGU's funds from wastage, thereby causing undue injury to the government and to public interest in the total amount of TWENTY THREE THOUSAND TWO HUNDRED TWENTY SEVEN PESOS AND SIXTY FOUR CENTAVOS (P23,227.64).

CONTRARY TO LAW.

(SB-11-CRM-0238)

That on 22 February 2001 to 29 June 2001, prior or subsequent thereto, in the Municipality of Caraga, Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who are public officers, **Alicia Mori y Benitez**, being the Municipal Mayor, **Jason Basoc y Guisongan**, the Municipal Vice-Mayor, **Darius Pelayo y Ortiza**, the Municipal Accountant, **Calixto O. Ladao**, the Municipal Budget Officer, **Gerardo Aguimod y Ferrando**, Municipal Treasurer, all of the Municipality of Caraga, Davao Oriental, while in the performance of their official functions, taking advantage of their official positions, and committing the crime in relation to their offices, conspiring and confederating with each other and together with private respondent Juanita G. Casquejo, Proprietor of Louievian Mercantile, through manifest partiality, evident bad faith or gross inexcusable negligence, did then and there willfully, unlawfully and criminally conduct simulated biddings for the purchase of construction and plumbing, brush cutter, dry goods and grocery supplies, motorcycle spare parts, and Hand Set radios with battery packs and chargers, with the objective of giving manifest partiality and unwarranted benefits to Juanita G. Casquejo, thus, cause undue injury to the government and public interest by allowing payment in the total amount of One Hundred Fifty Four Thousand Five Hundred Sixty Nine Pesos & 80/100 (P154,569.80), on the purchases made with Louievian Mercantile, an establishment which is not a bona-fide bidder.

CONTRARY TO LAW.

A charge for violation of Section 89, in relation to Section 128 of P.D. No. 1445 was also filed against Alicia Mori, Darius Pelayo, Calixto Ladao, Gerardo Aguimod, and Ruben Burgos, under the following Information docketed as Case No. SB-11-CRM-0241:

That on 22 February 2001 to 13 June 2001, prior or subsequent thereto, in the Municipality of Caraga, Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who are public officers, **Alicia Mori y Benitez**, being the Municipal Mayor, **Darius Pelayo y Ortiza**, the Municipal Accountant, **Calixto O. Ladao**, the Municipal Budget Officer, **Gerardo Aguimod y Ferrando**, the Municipal Treasurer, and **Ruben B. Burgos**, the Revenue Collector/Procurement Officer Designate, all of the Municipality of Caraga, Davao Oriental, while in the performance of their official functions, taking advantage of their official positions, and committing the crime in relation

to their office through manifest partiality evident bad faith or gross inexcusable negligence, conspiring and confederating with each other, did then and there willfully, unlawfully and criminally grant, allow and use the cash advances of Ruben Burgos in the total amount of Five Hundred Thousand Eight Hundred Seventy Nine Pesos and Thirty Centavos (P500,879.30) for no specific purpose, and which were authorized, processed and released on different dates without the previous cash advances given to Ruben Burgos having been first settled, liquidated, or a proper accounting thereof having been made, with the objective of circumventing the law on procurement of goods/bidding, to the damage and prejudice of the government.

CONTRARY TO LAW.

On July 4, 2011, the Court issued Hold Departure Orders<sup>3</sup> and Warrants of Arrest<sup>4</sup> against all accused. On July 21, 2011, accused Darius Pelayo posted a cash bond for SB-11-CRM-0241 and a property bond for SB-11-CRM-0235 to 0238 before the Regional Trial Court – Branch 6 of Mati, Davao Oriental.<sup>5</sup> Before the same court, accused Jose Basoc also posted a cash bond on July 22, 2011 for his temporary liberty.<sup>6</sup> On the same day, accused Alicia Mori, Stanley Mori, Jaime Labasano, and Ruben Burgos, posted bail through a surety bond before the Office of the Executive Judge in the Regional Trial Court (11<sup>th</sup> Judicial Region) of Davao City.<sup>7</sup> Accused Juanita Casquejo also posted a cash bond before the same court on September 28, 2011.<sup>8</sup>

The Returns of Arrest<sup>9</sup> for accused Calixto Ladao states that he is already deceased, per Certificate of Registry No. 2008-05067,<sup>10</sup> while Gerardo Aguimod remains at large. During the presentation of the evidence of the defense however, it was claimed that Aguimod already passed away too.<sup>11</sup>

On April 19, 2012, accused Alicia Mori, Stanley Mori, Jose Basoc, Darius Pelayo, Jaime Labasano, Juanita Casquejo, were arraigned. On August 6, 2012, Ruben Burgos

<sup>3</sup> Id. at Volume II, p. 17-18, and 59-61.

<sup>4</sup> Id. at 19-21.

<sup>5</sup> Id. at 47-53.

<sup>6</sup> Id. at 113.

<sup>7</sup> Id. at 40, 42-44.

<sup>8</sup> Id. at 116.

<sup>9</sup> Id. at 109 and 119.

<sup>10</sup> Id. at 117.

<sup>11</sup> TSN dated October 5, 2015, p. 9.

was arraigned. They all pleaded Not Guilty to the charges against them.<sup>12</sup>

During the Pre-trial held on February 12, 2013,<sup>13</sup> the following matters were stipulated upon by the parties:

1. That Darius O. Pelayo was the Municipal Accountant;
2. That Ruben Burgos was the Revenue Collector/Procurement Officer; and
3. That Jose Basoc was the Municipal Vice-Mayor.

The proposed issued to be resolved, as proposed by the prosecution, are as follows:

1. Whether or not all the named accused in SB-11-CRM-0235 to 0238 could be criminally and civilly liable for violation of Section 3(e) of R.A. No. 3019, and
2. Whether or not all named accused in SB-11-CRM-0241 could be held criminally and civilly liable for violation of Section 89, in relation to Section 128 of P.D. 1445.

For accused Alicia and Stanley Mori and accused Jaime Labasano, the proposed issued to be resolved are:

1. In Criminal Cases No. SB-11-CRM-0235 to 0238 – Whether or not the accused are liable for violation of Section 3(e) of R.A. No. 3019,
2. In SB-11-CRM-0241 – Whether or not the accused are liable for violation of Section 89, in relation to Section 128 of P.D. 1445.

Finally, for accused Pelayo, Basoc and Burgos, the proposed issue for resolution is whether or not the charge for violation of Section 3(e) of R.A. No. 3019 against the accused will prosper.

<sup>12</sup> Records, Volume II, pp. 186-193, 222 to 222-A

<sup>13</sup> *Id.* at Volume III, p. 22.

On April 15, 2013, the prosecution started presenting its evidence. It called to the witness stand Felipe P. Provideo and Lilma A. Paguyan.

In the course of the presentation of evidence, this Court issued a Resolution dated February 28, 2014, suspending accused Alicia B. Mori as Municipal Mayor, Stanley E. Mori as Secretary to the Mayor, and Jaime Labasano as Municipal Treasurer, for a period of ninety (90) days.<sup>14</sup> The three accused sought a reconsideration of this, which the Court denied in a Resolution dated July 7, 2014.<sup>15</sup> The said Resolution was elevated by the accused to the Supreme Court, but was dismissed on September 8, 2014, and which dismissal became final on October 31, 2014.<sup>16</sup>

### EVIDENCE FOR THE PROSECUTION

**Felipe P. Provideo** is the State Auditor III of the Commission on Audit. In October 2002, pursuant to a written order<sup>17</sup> from his Cluster Supervisor and endorsement<sup>18</sup> from the Office of the Ombudsman, Provideo conducted a Special Audit Examination on the grant and release of retirement pay to Calixto Ladao (Ladao), the purchase of personal items by the Municipality of Caraga, the contracting of catering services without basis by the said Municipality, the conduct of a simulated bidding with a non-bonafide bidder, and the grant of cash advances to Ruben Burgos (Burgos).<sup>19</sup>

In the course of his audit, he asked for the documents related to the above-mentioned transactions from Municipal Treasurer Gerardo Aguimod (Aguimod) and Municipal Accountant Darius Pelayo (Pelayo). He was told that these documents have been forwarded to the Provincial Auditor. He then requested from the said Provincial Auditor the documents, which were provided to him. Among these are the disbursement vouchers and other documentary attachments for the payment of retirement benefits of Ladao, the purchase of items for personal purpose, catering services, purchases without public bidding, and cash advances of Burgos. He

<sup>14</sup> *Id.* at Volume II, p. 369.

<sup>15</sup> *Id.* at Volume V, p. 37.

<sup>16</sup> *Id.* at 294.

<sup>17</sup> Exhibit A.

<sup>18</sup> Exhibit B.

<sup>19</sup> TSN dated April 15, 2013, pp. 12-20.

evaluated these documents and summarized his findings in the Summary Report.<sup>20</sup>

SB-11-CRM-0235

In his report, Provideo noted several deficiencies and irregularities in the disbursements. In relation to the grant and release of retirement pay to Ladao,<sup>21</sup> he identified Disbursement Voucher No. 101-9907-1356, and a corresponding check both for the amount of Three Hundred Twenty Six Thousand Four Hundred Sixty Three Pesos and Thirty Five Centavos (P326,463.35),<sup>22</sup> representing cash advance for the gratuity pay of Ladao.<sup>23</sup> From the documents, it could be seen that Ladao requested for the said cash advance,<sup>24</sup> that Alicia Mori approved the disbursement vouchers,<sup>25</sup> that Pelayo as Municipal Accountant, certified the availability of funds,<sup>26</sup> and that Ladao eventually received<sup>27</sup> the amount of P326,463.35 indicated in the check.<sup>28</sup>

In addition to the P326,463.35 cash advance, Provideo noted there are other several cash advances made by Ladao. The payment of Fifty Thousand Pesos (P50,000.00) each were approved by Alicia Mori and certified by Pelayo as additional cash advances of Ladao.<sup>29</sup> A second payment of Fifty Thousand Pesos (P50,000.00) was again received by Ladao, and approved by Alicia Mori.<sup>30</sup> However, Provideo could not tell who signed above the name of Pelayo in the Disbursement Voucher, claiming that it is not the customary signature of Pelayo.<sup>31</sup> Attached to the Disbursement Voucher for this payment is a Request for Obligation of Allotment (ROA). The availability of funds for this obligation was certified to by accused Labasano.<sup>32</sup> These payments were soon followed by the sums of Forty-Five Thousand Pesos (P45,000.00) and Five Thousand Pesos (P5,000.00) as "full payment of retirement

<sup>20</sup> Exhibit G.

<sup>21</sup> Exhibit G, items 22 to 26, p. 8.

<sup>22</sup> Exhibit P-1 and P-2.

<sup>23</sup> TSN dated April 15, 2013, p. 29.

<sup>24</sup> Exhibit P-1-b.

<sup>25</sup> Exhibit P-1-c.

<sup>26</sup> Exhibit P-1-d.

<sup>27</sup> Exhibit P-1-e.

<sup>28</sup> Id. at 29-35.

<sup>29</sup> Exhibit N and submarkings.

<sup>30</sup> Exhibit O and submarkings.

<sup>31</sup> TSN dated April 15, 2013 (P.M.), pp. 5-6.

<sup>32</sup> Exhibit O-1-e.

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gratuity."<sup>33</sup> These payments were approved by Alicia Mori, certified to by Pelayo, and its corresponding ROA was certified to by Labasano.<sup>34</sup>

The payment of above-mentioned amounts, totaling Four Hundred Seventy-Six Thousand Four Hundred and Sixty-Three Pesos and Thirty-Five Cents (P476,463.35), was observed by Provideo to be irregular, noting that there is no legal authority or basis for the advance payment of retirement gratuity because advance payments are prohibited by the Accounting and Auditing Rules and Regulations.<sup>35</sup> Provideo also observed that Ladao retired on July 31, 1999, as shown by his retirement letter<sup>36</sup> addressed to the Municipal Mayor. This retirement letter was approved on August 2, 1999. However, he did not actually retire but continued to stay in service, by virtue of the Recall Order<sup>37</sup> of Mayor Alicia Mori dated July 27, 1999. Provideo claims that since Ladao stayed in service, he should have refunded to the Municipality the P476,463.35 that he received.<sup>38</sup>

Finally, the amounts of Thirty Six Thousand Nine Hundred Seventy Three and Ninety Seven Centavos (P36,973.97)<sup>39</sup> and Twenty Seven Thousand Thirty-Nine Pesos and Eighteen Centavos (P27,039.18)<sup>40</sup> were paid to Ladao as "advance payment of terminal leave effective July 31, 1999." Provideo testified that these were requested by Ladao, approved by Alicia Mori, and certified to as to the availability of funds by Pelayo. The ROA for the P27,039.18 was also certified to by accused Labasano, as to the availability of funds.

As with the retirement gratuity payments, Provideo claims that there are irregularities too with the disbursements, since payment for terminal leaves is not among those items authorized to be paid under cash advances in accordance with existing Auditing Rules and Regulations.<sup>41</sup>

Provideo then summarized his findings in the Audit Observation Memorandum<sup>42</sup> and called the attention of the

<sup>33</sup> Exhibit Q and submarkings.

<sup>34</sup> TSN dated April 15, 2013 (P.M.), pp. 12-13.

<sup>35</sup> TSN dated April 15, 2013 (P.M.), pp. 14-15.

<sup>36</sup> Exhibit K.

<sup>37</sup> Exhibit R.

<sup>38</sup> TSN dated April 15, 2013 (P.M.), pp. 15-17.

<sup>39</sup> Exhibit M and submarkings.

<sup>40</sup> Exhibit L and submarkings.

<sup>41</sup> TSN dated April 15, 2013 (P.M.), p. 28.

<sup>42</sup> Exhibit H.

Municipality to it. He received a letter reply<sup>43</sup> from Mayor Stanley Mori. After evaluation, he found that the reply and the documents submitted to him are not acceptable, and he then proceeded to make the Final Audit Report.<sup>44</sup> Provido also stated that the Municipality of Caraga suffered damages or losses by reason of the irregular payments, it appearing that there was double payment of these benefits, first from the Municipality, and second from the Government Service Insurance System (GSIS).<sup>45</sup>

On cross-examination by the counsel of accused Labasano, Provido stated that he did not see any conspiracy on the part of accused Labasano.<sup>46</sup> However, he said that the municipal officials who participated in the transaction caused undue injury to the government. Provido claims that each has to share in the responsibility of seeing to it that the funds of the municipality are utilized in accordance with internal rules and regulations. As to accused Labasano, Provido opined that accused was negligent in failing to check the completeness or the nature of the documents being processed.<sup>47</sup> He acknowledged, however, that Labasano's signature does not appear in any of the documents except for the checks that were issued to Ladao.<sup>48</sup>

Provido explained the processing of the checks for the retirement of Ladao: it was first prepared by the HRMO, after which it will pass to the Municipal Accountant and the Internal Auditor. The Municipal Treasurer will then prepare the check, without signature first, then forward the same to the Municipal Mayor. Once the Municipal Mayor signs it in approval, it will be returned to the Municipal Treasurer, for his signature. The ROA, on the other hand, is prepared by the Budget Office.<sup>49</sup> In this case, it was Labasano who signed the check last. It presupposes the same had been examined already by the internal auditor. Although Provido still found the issuance of the check to be irregular because payment of terminal leaves should not be in the form of cash advance, he nevertheless acknowledged that the propriety of a

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<sup>43</sup> Exhibit I.

<sup>44</sup> Exhibit F.

<sup>45</sup> TSN dated April 15, 2013 (P.M.), p. 32.

<sup>46</sup> TSN dated April 16, 2013 (P.M.), p. 3.

<sup>47</sup> Id. at pp. 7-8.

<sup>48</sup> Id. at 15.

<sup>49</sup> Id. at 16-18.

disbursement is determined by another department of the municipality, and not by Labasano.<sup>50</sup>

Provido also admitted that he did not furnish Labasano a copy of his report because he is not required to do so. He, however, conducted an exit conference with the Municipal Mayor, the Municipal Treasurer, and Municipal Accountant, among others, to inform them of his audit findings and of the irregularities discovered, and to give the officials a chance to explain why the transaction was done. In this case, the officials were asked to submit documents to support their explanation, which the municipal officials did.<sup>51</sup>

Provido believes that the government paid Ladao twice for his retirement benefits, first through the Municipality of Caraga, and second through the GSIS. Although these are two different agencies, they belong to the same government. When asked who has the obligation to pay Ladao's retirement benefits, Provido answered that it depends under what law Ladao chose to be paid. In this case, Ladao chose R.A. No. 1616, which means that the municipal government should pay. He said that the Municipality of Caraga paid Ladao his retirement gratuity and terminal leave, while GSIS paid Ladao his final retirement gratuity in 2003. According to Provido, if Ladao is paid by the LGU, he should no longer be paid by GSIS. Provido also did not inform GSIS about this, because it should have been the obligation of the LGU, through the Municipal Mayor or the Municipal Treasurer, to inform GSIS.<sup>52</sup> During the continuation of his cross-examination the following day however, Provido stated that he cannot say if it is the duty of the Municipal Treasurer to inform the GSIS of retirement matters.<sup>53</sup>

During re-direct examination, it was again stated by Provido that there was an advance payment of retirement benefits to Ladao, when he was given his retirement gratuity when he retired on July 31, 1999. He did not however retire but continued in service until January 2003. He also opined that it is the responsibility of the Municipal Mayor to inform the GSIS of the retirement of Ladao.<sup>54</sup>

<sup>50</sup> *Id.* at 24-28.

<sup>51</sup> *Id.* at 30-41.

<sup>52</sup> TSN dated April 16, 2013 (P.M.), pp. 74-79.

<sup>53</sup> TSN dated April 17, 2013 (A.M.), p. 47.

<sup>54</sup> TSN dated April 17, 2013 (A.M.), pp. 61-64.

The parties then stipulated that the accused in these cases are all public officials of Caraga, Davao Oriental, with the exception of Casquejo who is a private individual. It was also stipulated upon that Labasano's participation in these transactions were his signatures on the checks, and that the vouchers were prepared by another Treasurer, accused Aguimod.<sup>55</sup>

A re-cross examination was then conducted by the counsel of accused Labasano, during which Provido confirmed that the only role of the Treasurer is the preparation and the signing of the check, because all the signatories have already signed and that it has been certified to by the Internal Accountant of the Municipality.<sup>56</sup>

The prosecution then presented its next witness, **Lilma A. Paguyan**, Human Resource Management Officer III of Caraga, Davao Oriental. She testified only for Case No. SB-11-CRM-0235.

Paguyan testified that in 1999, Calixto Ladao, then the Municipal Budget Officer of Caraga, asked him to compute his retirement benefits. Her computation was made under R.A. No. 1616, and placed in the retirement gratuity form.<sup>57</sup> In the approval portion appears the signature of accused Alicia Mori. In CSC Form No. 6,<sup>58</sup> Paguyan also computed the terminal leave of Ladao. Paguyan likewise identified the Notice of Salary Adjustment<sup>59</sup> and the Service Record<sup>60</sup> which she used as basis for her computation of the last salary received by Ladao. Ladao then took these documents from her.<sup>61</sup>

After she gave the documents to Ladao, she was no longer updated on any development on the matter until she was invited to the committee hearing in October 2001.<sup>62</sup> It was then that she learned of the recall order<sup>63</sup> by the Mayor on the retirement of Ladao and asked for a copy of the same from the latter. Ladao, however, did not give her a copy, so she

<sup>55</sup> TSN dated April 17, 2013 (A.M.), pp. 81-83.

<sup>56</sup> TSN dated April 17, 2013 (P.M.), p. 4.

<sup>57</sup> Exhibit Q-1.

<sup>58</sup> Exhibit M-3

<sup>59</sup> Exhibit K-3

<sup>60</sup> Exhibit K-2

<sup>61</sup> TSN dated February 10, 2014, pp. 15-21.

<sup>62</sup> Exhibit S-1.

<sup>63</sup> Exhibit R.

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obtained one from the Municipal Accountant. The recall order for Ladao was signed by Alicia Mori.<sup>64</sup>

During cross-examination, Paguyan stated that there was no gap of service between Ladao's retirement and his re-assumption to office as the Office of the Municipal Budget Officer did not become vacant. During the committee hearing, Paguyan affirmed that Ladao promised to pay back the gratuity that was paid to him. From 1999 to 2003, she received no report of discrepancies regarding the retirement of Ladao.<sup>65</sup>

Paguyan also confirmed that Alicia Mori served as Mayor of Caraga from 1998 to 2001, and was replaced by Stanley Mori from 2001 to 2004. She also knew that the two mayors and the local officials have been verbally urging Ladao to return the money paid to him. Specifically, Stanley Mori formally demanded the payment of money, and the Municipal Treasurer verbally reminded Ladao again. In 2003, Ladao finally retired because of his health problems and reiterated that he will pay back the money so he can be cleared from any accountability.<sup>66</sup> Paguyan also claimed that she was not present when the COA did an exit conference regarding the retirement of Ladao.<sup>67</sup>

#### SB-11-CRM-0236

Provido identified Disbursement Voucher No. 101-0102-0516<sup>68</sup> in the amount of Four Thousand Four Hundred Sixty-Three Pesos (P4,463.00) for the payment of "supplies used in the office of the Municipal Mayor..." The voucher was approved by Alicia Mori and certified to by Pelayo as to the availability of funds. Its supporting documents include the Purchase Request<sup>69</sup> signed by Alicia Mori, the Abstract of Canvass<sup>70</sup> signed by Alicia Mori, Burgos, Ladao, Aguimod, and Pelayo, Purchase Order<sup>71</sup> with the recommending approval of Aguimod and the approval of Alicia Mori, Inspection Report<sup>72</sup> signed by

<sup>64</sup> TSN dated February 10, 2014, pp. 22-26.

<sup>65</sup> Id. at pp. 29-32.

<sup>66</sup> Id. at 32-34.

<sup>67</sup> Id. at 36.

<sup>68</sup> Exhibit Z.

<sup>69</sup> Exhibit AA

<sup>70</sup> Exhibit BB

<sup>71</sup> Exhibit CC

<sup>72</sup> Exhibit DD

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Alicia Mori, Burgos and Aguimod, and the Acceptance Report<sup>73</sup> signed by Blas Andoyo, a Utility Worker.

For this disbursement, Provideo noted that the items purchased are rice, corned beef, *tinapa*, *daing*, coffee, sugar, batteries, cigarette, noodles, and rubbing alcohol. He stated in his report that these "are not necessary for regular functions/duties of the Office of the Mayor." According to him, this is tantamount to use of government funds for private purpose as the nature of the items are for personal needs only.<sup>74</sup>

Another observation is that there is "no Inspection Report of designated inspection committee and no Acceptance Report." Although there is a document labeled "Inspection Report," Provideo claims that this is not the "proper" Inspection Report as it was not signed by the persons authorized by existing regulations. The only signatures appearing therein are those who prepared and endorsed for approval the said report, namely, Alicia Mori, Burgos, and Aguimod. Provideo also claims that the Acceptance Report<sup>75</sup> attached to the Disbursement Voucher is not valid.<sup>76</sup>

Provideo's third observation on this disbursement is that the winning bidder, Louievian Mercantile, has no existing business establishment. He found the bidder's address from the official receipt of its Business Permit<sup>77</sup> attached to the Disbursement Voucher, and paid the address a visit. He found that the business establishment does not exist, and took pictures<sup>78</sup> of the vicinity where Louievian Mercantile is supposed to be located. Louievian Mercantile also does not have a business permit license for the line of business that it is engaged in. Another observation is that there was no canvass of at least three suppliers, but only an abstract of canvass with the canvass sheets.<sup>79</sup> Provideo stated in his report that there was also no BIR VAT/EVAT deduction made on the purchase, when auditing regulation requires that the VAT or EVAT be deducted when the transaction is with the government.<sup>80</sup>

<sup>73</sup> Exhibit EE

<sup>74</sup> TSN dated April 16, 2013 (A.M.), pp. 16-17.

<sup>75</sup> Exhibit EE

<sup>76</sup> Id. at 17-19.

<sup>77</sup> Exhibit RR

<sup>78</sup> Exhibit SS-1

<sup>79</sup> Exhibit BB, BB-1, and BB-2.

<sup>80</sup> TSN dated April 16, 2013 (A.M.), pp. 17-28.

On cross-examination by the counsel of accused Casquejo, Provido stated that he did not invite Casquejo, the proprietor of Louievian Mercantile, to the exit conference. He acknowledged that during his visit to the business address of Louievian Mercantile in October 2002, he took a photo. The photo shows that there are two structures, with the other one bearing the signage "G.M. Press." Provido further admitted that the address supplied to him, he was told that Louievian is located near G.M. Press. He claims he limited his inspection within the vicinity of G.M. Press, and that he no longer looked farther because there is no establishment of Louievian Mercantile that can be seen in the area. He also did not inquire from any person there, nor did he go to G.M. Press to verify if there is a Louievian Mercantile beside it. He also did not feel it necessary to peep through the glass wall of G.M. Press because he just wanted to be assured that there is an establishment that is conspicuous.<sup>81</sup>

On the finding in his report that the business permit provided to him was "not consistent with the contents of the application for Mayor's Permit [and] makes the authenticity of the submitted document doubtful," Provido explains that this is because he was only given a machine copy and not the original copy.<sup>82</sup>

Upon questions propounded by the Court, Provido stated that he believes there was an actual purchase of the goods and that payment was made therefore. He could not however say if prices of the goods were fair prices because he ran out of time to conduct that kind of evaluation.<sup>83</sup>

Still on cross-examination, Provido stated that public bidding is not the only mode of procurement, and that canvassing can also be resorted to. In canvassing, at least three suppliers should submit a quotation of their prices. Provido admitted that he did not ask the accused why they resorted to canvassing.<sup>84</sup> As to the goods purchased from Louievian Mercantile, he did not verify from the Municipality or from the Mayor who are the end-users of these goods. He was also not aware that there were Philippine Army and Philippine National Police contingents in Caraga at that time

<sup>81</sup> TSN dated April 16, 2013 (P.M.), pp. 47-51.

<sup>82</sup> *Id.* at 52-54.

<sup>83</sup> *Id.* at 55.

<sup>84</sup> TSN dated April 17, 2013 (A.M.), pp. 4-6.

to safeguard the community. Provideo argued that he could not conclude that the goods were for a public purpose because there are no documents to show this fact. As an example, he cited that there should be a Program of Work, or an acknowledgment receipt by the people who received the items.<sup>85</sup>

On the reason why he did not invite Casquejo to the exit conference, Provideo explained that he could not locate her and he does not know her personally.<sup>86</sup> On locating Louievian Mercantile, Provideo stated that he did not inspect the whole stretch of L. Guerrero Street because the area was confined only to the vicinity of G.M. Press, which location was made known to him by the Municipal Treasurer during the exit conference. The address of No. 20 Leon Guerrero Street was also indicated in the business permit. It is by the fact that he could not locate the address that he concluded the non-existence of Louievian Mercantile. He also could not establish that the purchases made were from Louievian.<sup>87</sup>

On re-cross by the counsel of accused Casquejo, Provideo stated that he did not verify who the owner of G.M. Press is.<sup>88</sup>

#### SB-11-CRM-0237

Another transaction evaluated by Provideo was the contracting of the catering services. The parties entered into stipulations as to the identity of the documents consisting of the Disbursement Voucher and its supporting papers, and to the existence and execution, but not the truth of the contents, of the Summary Report,<sup>89</sup> the Audit Observation Memorandum,<sup>90</sup> and the Final Audit Report<sup>91</sup> incorporating Provideo's findings and observations.<sup>92</sup>

When cross-examined, Provideo admitted that he did not talk to the owner of RV Eatery, accused Casquejo, or accused Ladao.<sup>93</sup> Provideo acknowledges that there was no irregularity

<sup>85</sup> Id. at 7-10.

<sup>86</sup> TSN dated April 17, 2013 (A.M.), pp.65.

<sup>87</sup> TSN dated April 17, 2013 (A.M.), pp. 69-72.

<sup>88</sup> TSN dated April 17, 2013 (P.M.), p 5.

<sup>89</sup> Exhibit G

<sup>90</sup> Exhibit H

<sup>91</sup> Exhibit F

<sup>92</sup> TSN dated April 16, 2013 (A.M.), pp. 30-37.

<sup>93</sup> TSN dated April 16, 2013 (P.M.), pp. 70-72.

as to the mode of canvassing, stating that his concern was only as to the nature or purpose of the catering done. He affirmed that R.V. Eatery was the only qualified caterer at that time, but only because it was given some advantage. He did acknowledge that the other caterers were coming from Manay, which is 20 to 25 kilometers away from Caraga, and from Baganga, which is about 40 kilometers away, and it would be impractical to request these caterers to serve in Caraga.<sup>94</sup>

#### SB-11-CRM-0238

Provido testified that he also audited transactions by the Municipality for the purchase of items, without bidding. He examined eight Disbursement Vouchers and their supporting documents, and incorporated them in his Summary Report, under Items No. 1 to 8.

As with the previous case, the defense admitted to the existence of the aforementioned documents and the fact of examination and evaluation by Provido of the same, but not as to correctness of his findings.<sup>95</sup>

On the charge of an alleged simulated bidding (SB-11-CRM-0238), Provido claims that he did not consider the Certification submitted by Davao Cathay Parts & Hardware and Narel's Bookstore, Inc., because the certifications are mere photocopies. He also did not invite them to the exit conference, nor did he inform them that they might be involved in anomalous transactions. Provido admitted that he based his findings only on the documents given to him and did not ask parties to submit more documents.<sup>96</sup>

During cross-examination by the counsel of accused Alicia and Stanley Mori, Basoc, Pelayo, and Burgos, Provido stated that at the time he investigated these transactions, the same were already consummated. Hence, there were no suspensions of payments or disallowances from COA. When asked about Evelyn Ronquillo, the complainant of this case, Provido claims that he did not meet her or looked for her, and that he merely concentrated on the issues of the case. He again admitted that he did not notify the parties of the results

<sup>94</sup> TSN dated April 17, 2013 (A.M.), pp.21-24.

<sup>95</sup> TSN dated April 16, 2013 (A.M.), pp. 37-51.

<sup>96</sup> TSN dated April 16, 2013 (P.M.), pp. 56-59.

of his findings, but claimed that he notified the Mayor, and he believes it is the Mayor's responsibility to notify the department heads.<sup>97</sup>

As for the items purchased consisting of handset radios and office supplies, he did not check if these were delivered. However, he found that while the mode of procurement was through bidding, the documents were incomplete to support the bidding conducted. Provido also claims that one of the canvass forms for the purchase of a bush cutter was denied by one of the alleged participating, albeit losing, supplier. He no longer bothered to talk to accused Casquejo because he could not locate her or her store. The other suppliers in this case could not also be identified.<sup>98</sup> On the purchase of spare parts for a BMX motorcycle, Provido could not conclude that the purchase of the motorcycle parts are for a public purpose because there are no documents to show that it is an official motorcycle of the LGU. He cited the necessity of a pre-inspection report where the motorcycle is indicated or specified as to the plate number and end-user. However, he did not go to Caraga to verify if the two motorcycle units were indeed owned by the LGU; nor did he ask the municipality to provide him copies of the Certificate of Registration and other lacking documents, as he was working within a limited time frame. He merely noted these deficiencies in his Audit Observation Memorandum, and furnished the mayor a copy of the same. During the exit conference in 2003, the officials informed him that they will submit the documents. However, months passed without the missing documents being submitted, so he finalized his report.<sup>99</sup>

#### SB-11-CRM-0241

Provido testified that he also conducted an audit on the cash advances granted and released to Ruben Burgos. He reported this under Items 13 and 18 of his Summary Report. For these transactions, he examined four Disbursement Vouchers,<sup>100</sup> and a Certification<sup>101</sup> from the Municipal Accountant (Pelayo) that Acting Supply Officer Burgos already

<sup>97</sup> TSN dated April 16, 2013 (P.M.), pp. 60-68.

<sup>98</sup> TSN dated April 17, 2013 (A.M.), p. 12-16.

<sup>99</sup> *Id.* at 25-30.

<sup>100</sup> Exhibit RRRR and submarkings, SSSS and submarking, TTTT and submarkings, and VVVV, and submarkings.

<sup>101</sup> Exhibit PPPP

g/s

liquidated the cash advances. The prosecution, however manifested that the cash advances were not properly liquidated, notwithstanding the existence of the Certification above-mentioned.

The defense stipulated as to the existence of these documents, that Provideo executed a Summary Report incorporating his findings, and later issued an Audit Observation Memorandum, and finally, a Final Audit Report containing his final findings, observations, and recommendations. The Final Audit Report was then submitted to COA Regional Office No. XI by way of a Memorandum dated May 20, 2004.<sup>102</sup> Provideo also executed an Affidavit<sup>103</sup> in relation to his audit.<sup>104</sup>

Provideo reported that this case involves four Disbursement Vouchers covering a total of six checks, with one voucher being disbursed through three checks, representing the cash advances of Ruben Burgos. Provideo admitted to receiving a Certification dated January 15, 2003<sup>105</sup> issued by Municipal Accountant Pelayo, certifying the Acting Supply Officer Ruben Burgos already liquidated his cash advance of P500,879.30. Provideo, however, noted that certain documents are lacking so he informed Pelayo, through a letter, that the Certification is not in order. Provideo did not receive any reply from Pelayo. Provideo also stated that in the absence of the missing supporting documents, he could not conclude that the P500,879.30 were indeed paid for the items stated in the certification.<sup>106</sup>

On the re-cross of the counsel of the other accused (Spouses Mori, Basoc, Pelayo, and Burgos), Provideo affirmed that it is the department heads that are responsible for the documentation and that the municipal mayor merely signs off after the said documents are prepared. In the case of the liquidation of cash advances of Mr. Burgos, Provideo agreed with the defense counsel that it is the responsibility of the department heads to check if the money was spent properly. If the said money was not liquidated properly, it is the responsibility of the mayor to follow up the same with the accountable officer. He also confirmed that the municipal

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<sup>102</sup> Exhibit D

<sup>103</sup> Exhibit E

<sup>104</sup> TSN dated April 16, 2013 (A.M.), pp. 52-68

<sup>105</sup> Exhibit PPP

<sup>106</sup> TSN dated April 17, 2013 (A.M.), pp. 31-42.

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mayor only affixes his or her signature upon seeing that the supporting documents are complete.<sup>107</sup>

On November 4, 2013 the Court allowed further cross-examination of Provide based on a reservation made by the counsel of Alicia Mori. Provide stated that in doing a financial and compliance audit, he is required to report any irregularities found.<sup>108</sup> He admitted that when he submitted his report to the COA Regional Director, minor revisions were made to his report. He also acknowledged that he submitted his working paper<sup>109</sup> together with his report.<sup>110</sup> In the preparation of the voucher, Provide explained that it is the Budget Officer who signed as to the budgetary requirements, the Municipal Treasurer as to the availability of funds, and the Municipal Accountant as to the legality, propriety, and completeness of the documents. After this, the Mayor should review the documents before affixing his/her signature.<sup>111</sup>

After presenting the two witnesses, the prosecution made its Formal Offer of Documentary Exhibits.<sup>112</sup> It offered in evidence Exhibits A, B, C and submarkings, D and submarkings, E and submarkings, F and submarkings, G and submarkings, H and submarkings, I, J for all cases.

Specifically for Case No. SB-11-CRM-0235, it offered Exhibits K and submarkings, L and submarkings, M and submarkings, N and submarkings, O and submarkings, P and submarkings, Q and submarkings, R and submarkings, S and submarkings, T, U, V, W, X, and Y.

For Case No. SB-11-CRM-0236, the prosecution offered Exhibits Z and submarkings, AA and submarkings, BB and submarkings, CC, DD, and EE.

For Case No. SB-11-CRM-0237, the prosecution offered Exhibit FF and submarkings, GG, HH, II, JJ and submarkings, KK, LL and submarkings, MM, NN, OO and submarkings, PP, and QQ.

<sup>107</sup> TSN dated April 17, 2013 (P.M.), p 6-8.

<sup>108</sup> TSN dated November 4, 2013, pp. 23-27.

<sup>109</sup> Exhibit G

<sup>110</sup> TSN dated November 4, 2013, pp. 33-37.

<sup>111</sup> *Id.* at 37-41.

<sup>112</sup> Records, Volume IV, p. 17

For Case No. SB-11-CRM-0238, the prosecution offered Exhibits RR, SS and submarkings, TT and submarkings, UU and submarkings, VV, WW and submarkings, XX, YY, ZZ, AAA, BBB and submarkings, CCC, DDD and submarkings, EEE, FFF, GGG, HHH and submarkings, III, JJJ and submarkings, KKK, LLL, MMM, NNN and submarkings, OOO, PPP and submarkings, RRR, SSS, TTT and submarkings, UUU, VVV and submarkings, WWW, XXX and submarkings, YYY, ZZZ and submarkings, AAAA, BBBB, CCCC, DDDD and submarkings, EEEE, FFFF and submarkings, GGGG, HHHH, IIII, JJJJ and submarkings, KKKK, LLLL, MMMM and submarkings, and NNNN.

For Case No. SB-11-CRM-0241, the prosecution offered Exhibits OOOO, PPPP, QQQQ, RRRR and submarkings, SSSS and submarkings, TTTT and submarkings, UUUU, VVVV and submarkings.

The Court, in its May 21, 2014 minute resolution,<sup>113</sup> resolved to admit in evidence all the documentary exhibits offered in the tenor that they were testified to by the witnesses.

Following this, accused Alicia Mori, and Stanley Mori, Darius Pelayo, Jose Basoc, and Ruben Burgos separately filed Motions for Leave of Court to File Demurrer to Evidence.<sup>114</sup> These motions were denied by the Court in a Resolution dated July 25, 2014.<sup>115</sup>

### EVIDENCE FOR THE DEFENSE

In view of the denial of the Motions for Leave of Court to File Demurrer to Evidence, the defense, on February 9, 2015, presenting their witnesses. They presented accused Jose Basoc, Jaime Labasano, Ruben Burgos, Darius Pelayo, Juanita Casquejo, Stanley Mori and Alicia Mori as witnesses.

#### SB-11-CRM-0235

Before accused **Jaime D. Labasano** gave his testimony, the prosecution entered into a stipulation that Labasano was

<sup>113</sup> Records, Volume IV, p. 477-A

<sup>114</sup> Id. at Volume V, pp. 35, 58.

<sup>115</sup> Id. at 61.

the Municipal Treasurer of Caraga only until January 2, 2001. Also, it was stipulated by the parties that Labasano participated only in the signing of the check subject matter of this case.<sup>116</sup>

Labasano testified that he became the OIC Municipal Treasurer of Caraga when Ladao retired in 1999. He described the steps in processing the retirement of an employee: First, the employee would fill up the application form and submit the supporting documents to the Human Resource Management Officer (HRMO). The HRMO would then compute the total number of leave credits that the retiring employee earned. After the computation, the HRMO endorses the documents to the Municipal Budget Officer, who in turn verifies from his records if there is an existing budget for the payment of the retirement gratuity. The documents are then endorsed to the Mayor for approval. Once it has the signature of the Municipal Accountant, Municipal Budget Officer, and the Municipal Mayor, the Municipal Treasurer will then prepare the check.<sup>117</sup>

In the case of the retirement of Ladao, before Labasano signed the check, he found that there was a recall order issued for Ladao. He then asked the Mayor to allow him to travel to Mati, Davao Oriental to refer the matter with the Provincial Auditor. After meeting with the Provincial Auditor Veronica Lawas, he was told that he can sign the check because the documents were complete, proper, and legal. When the second claim for retirement was presented by Ladao, Labasano was no longer connected with the government service.<sup>118</sup>

Labasano explained that the terminal leave payments he advanced to Ladao represented the earned credit of accused while still in government, and what Ladao should rightfully receive.<sup>119</sup> Labasano also confirmed that he issued a Certificate of Clearance<sup>120</sup> dated March 30, 1999 to Ladao.<sup>121</sup>

On cross-examination, Labasano admitted that when he issued the check, he also examined the signatures on vouchers and the ROAs and that he believes the signatories performed their functions regularly and in order.<sup>122</sup>

<sup>116</sup> TSN dated February 10, 2015, pp. 12-15.

<sup>117</sup> *Id.* at 18-21.

<sup>118</sup> *Id.* at 21-22.

<sup>119</sup> *Id.* at 25-26.

<sup>120</sup> Exhibit K-7.

<sup>121</sup> TSN dated February 10, 2015, pp. 43-44.

<sup>122</sup> *Id.* at 63-66.

Labasano also affirmed that for the July 1999 retirement of Ladao, he issued checks payable to Ladao, one dated May 10, 1999,<sup>123</sup> June 28, 1999,<sup>124</sup> June 14, 1999,<sup>125</sup> and July 6, 1999,<sup>126</sup> July 22, 1999,<sup>127</sup> and November 17, 1999.<sup>128</sup>

On the advice given to her by Provincial Auditor Veronica Lawas, Labasano stated that it was a merely verbal advice and was not reduced to a written authority or letter permission. He claimed that he signed the checks because he was able to examine the attached Disbursement Vouchers and found it to be regular, in addition to having consulted the Provincial Auditor. He also reiterated that the amount received by Ladao is his final payment, for the gratuity benefits based on the total earned leave credits, and not a cash advance.<sup>129</sup>

On re-direct, he stated if all the documents are complete and if all the required signatories have affixed their signatures, he would sign the check. As to the advice given to him by the Provincial Auditor, he informed Mayor Alicia Mori of the same, and she did not object to it, as shown by her signature on the check.<sup>130</sup> As for the signature appearing in the ROA,<sup>131</sup> he confirmed the initials to be his and affirmed his certification that there are available funds for the retirement of Ladao.<sup>132</sup>

The defense next presented accused **Stanley E. Mori** as witness for Case No. SB-11-CRM-0235. Stanley Mori is married to Alicia Mori, the present Mayor of Caraga. Stanley Mori served as the Mayor of Caraga too, from 2001 to 2004, and at present, serves as a private secretary of Mayor Alicia Mori.<sup>133</sup> He testified that he came to know of the retirement of Ladao a few months after assuming office, when Vice-Mayor Samuel Dominguez came into his office, asking if they can invite Ladao to a committee hearing. He said yes and gave them permission to investigate him. He was then furnished a report of the said committee hearing.<sup>134</sup> He called Ladao to his

<sup>123</sup> Exhibit M-2

<sup>124</sup> Exhibit L-1.

<sup>125</sup> Exhibit N-2

<sup>126</sup> Exhibit O-2

<sup>127</sup> Exhibit P-2

<sup>128</sup> Exhibits Q-3 and Q-4.

<sup>129</sup> TSN dated February 10, 2015, pp. 69-71.

<sup>130</sup> *Id.* at 75-76.

<sup>131</sup> Exhibit M-1

<sup>132</sup> *Id.* at 80-81

<sup>133</sup> TSN dated October 5, 2015, pp. 5-12.

<sup>134</sup> *Id.* at 17-21.

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office and asked him why he is already collecting gratuity payments. Ladao said that he is about to retire.<sup>135</sup>

On January 6, 2003, Ladao wrote him a letter, informing him that he (Ladao) is retiring on March 6, 2003, because he will be 65 years old by then. Stanley Mori then approved it, stating that 65 is the mandatory retirement age.<sup>136</sup> On the same date, Stanley Mori also approved the Certificate of Clearance for the retirement of Ladao. He explained that at that time, he has no notice from COA of any irregularity, no notice of suspension or disallowance, and when the Certificate of Clearance arrived in his office, it was already signed by the Municipal Treasurer and the Municipal Accountant. At that time, their municipality was a third class municipality which cannot afford a General Service Officer, and it was the Municipal Treasurer who performed the functions of the GSO. The Municipal Treasurer therefore would have first knowledge if a retiree has previous or current accountabilities with the government. At the same time, the Municipal Treasurer checks the validity and orderliness of financial documents. These officers also knew of the gratuity payments previously received by Ladao which were disbursed by the previous administration. Seeing their signatures on the Certificate of Clearance, he no longer felt the need to question them about the accountabilities of Ladao, believing that Ladao had been cleared of all accountabilities.<sup>137</sup>

The Certificate of Clearance also stated that it was being issued to Ladao in connection with his application for retirement with GSIS. Stanley Mori believes that it should be the duty of the Municipal Treasurer to inform the GSIS of Ladao's accountabilities, if any. As to the overpayment of gratuities that the Municipality of Caraga paid to Ladao, there was an agreement that Ladao would pay it back in full, and the Sangguniang Bayan tasked the Municipal Treasurer to collect this. Stanley Mori admitted that he signed the resolution embodying this. He was of the opinion however that Ladao was entitled to his gratuity pay under the Local Government Code. Their local finance official also believes the same thing. He explains that the problem is not the propriety or legality of Ladao's entitlement to the gratuity pay, but the amount that was paid, which was more than what he was entitled to. It was the excess that Ladao should return to the

<sup>135</sup> *Id.* at 21-22.

<sup>136</sup> *Id.* at 23-24.

<sup>137</sup> *Id.* at 24-28.

municipality. The amount of overpayment to Ladao, however, was not determined. To pay for this, Ladao told him that he would pay the municipality once he gets payment from GSIS.<sup>138</sup>

Stanley Mori also opines that a retiring employee can collect both from the local government unit and from the GSIS, and that these retirement benefits are separate from each other. He reiterated that the controversy was only on the overpayment of gratuity pay to Ladao.<sup>139</sup>

On December 9, 2003, he wrote Ladao a letter<sup>140</sup> asking him to refund the overpaid amount, per report of Auditor Provido. On December 17, 2003, Ladao wrote a reply<sup>141</sup> confirming that he received the amount of P341,181.28 from GSIS, but that this is not enough to cover the P476,463.35 that he is supposed to return to the Municipality of Caraga. According to Stanley Mori, he could no longer recall how Ladao arrived at the amount of his accountability, but believes that the computation of the exact amount to be paid back by Ladao should have been the duty of the Municipal Accountant. Stanley Mori also claims that State Auditor Provido was furnished a copy of the reply of Ladao, but was no longer informed if there were developments after that. When his term as Mayor ended, he would sometimes meet Ladao and he would remind him of his accountability, to which Ladao would reply that he is already sickly. Stanley Mori also followed it up with Municipal Treasurer Aguimod, but the latter was already on sick leave that time, and eventually went into retirement.<sup>142</sup>

Stanley Mori also testified that he was not a signatory to the checks and disbursement vouchers for the gratuity pay to Ladao. He also did not receive any notice of disallowance or suspension regarding the retirement of Ladao from COA during his term.<sup>143</sup> He also denied conspiring with his co-accused in this case, stating that the gratuity pay was received by Ladao prior to his assumption of office. When he asked his wife, Alicia Mori, about it, she told him that the payment to Ladao was legal, and that it was a real claim supported by documents.<sup>144</sup>

<sup>138</sup> TSN dated October 5, 2015, pp. 29-39.

<sup>139</sup> *Id.* at 39.

<sup>140</sup> Exhibit W

<sup>141</sup> Exhibit X

<sup>142</sup> TSN dated October 5, 2015, pp. 44-48.

<sup>143</sup> *Id.* at 48-

<sup>144</sup> *Id.* at 53-54, 59-60.

Stanley Mori also stated that there were lapses in procedure when the Sangguniang Bayan dealt directly with Ladao, a member of the executive office. Stanley Mori however took this to mean that Ladao waived his right to question his agreement with the Sangguniang Bayan. Stanley Mori also did not expressly give his imprimatur or consent to the Sangguniang Bayan on the order to Ladao to pay the excess amount of gratuity pay, but just left the situation that way.<sup>145</sup> He also maintains that he did not conspire with anyone in signing Ladao's Certificate of Clearance, and stated that he found nothing wrong with it. He is also of the opinion that the government did not suffer damage because Ladao was entitled to his gratuity pay.<sup>146</sup>

On cross-examination, Stanley Mori admitted that he noted the recommendations in the Sangguniang Bayan Committee Report stating that Ladao should refund the amount he advanced as retirement benefit, and for the Treasurer not to issue clearance with respect to the retirement of Ladao.<sup>147</sup> Stanley Mori also confirmed that when he signed the Certificate of Clearance, he no longer inquired from the recommending officers if Ladao had already paid back the money that was advanced. He also confirmed that there were no attachments to the Certificate of Clearance, but saw that it was already signed by Pelayo and Aguimod, so there was no reason for him not to sign it.<sup>148</sup>

Stanley Mori stated that he is not aware of the requirements of R.A. No. 1616 or the Retirement Law, nor of the requirements of the GSIS under R.A. No. 8291. He agrees with the prosecution however, that as Municipal Mayor, it is his duty to ensure that the employees abide by the Civil Service Rules and Regulations and the GSIS Law. When asked if he knows that the GSIS requires a clearance for the receipt of any retirement benefit from any agency, Stanley Mori replied that it is the direct responsibility of their Treasurer and Accountant, and unless they come forward to him, he has no duty to inquire from them regarding the disbursement of funds for the retirement payment of employees.<sup>149</sup>

<sup>145</sup> Id. at 60-63.

<sup>146</sup> Id. at 64-65.

<sup>147</sup> TSN dated October 6, 2015, pp. 4-6

<sup>148</sup> Id. at 8-9.

<sup>149</sup> Id. at 9-10.

On re-direct examination, Stanley Mori claims that although the agreement to pay between Ladao and the Sangguniang Bayan does not bind his office, he nevertheless sent a demand letter to Ladao as suggested by Provido. According to Stanley Mori, it was the HRMO Head who was responsible for the computation of retirement benefits, length of service, computation of benefits, and gratuity pay, and since the office of the HRMO holds the records of the employees, he merely relied on them.<sup>150</sup>

Accused **Darius Pelayo** also took the stand and testified that Ladao gave his Notice of Retirement on April 28, 1999, stating that he is going to retire on July 31, 1999. However, on July 27, 1999, Mayor Alicia Mori recalled his retirement and ordered him to remain in service. Ladao then continued serving as Municipal Budget Officer and continued receiving his salaries for the next 44 months until his retirement in March 2003. Prior to this however, he was able to collect the total amount of P476,463.35 representing advances on his gratuity pay. Pelayo did not object to this because at that time, there was already a computation from the HRMO as to the amount that Ladao should receive, and there was already a definite date of retirement – July 31, 1999.<sup>151</sup> He also issued Ladao a Certificate of Clearance<sup>152</sup> dated March 30, 1999 because there were no pending accountabilities, disallowances, or unreturned cash advance from Ladao.<sup>153</sup>

Pelayo states that all the original documents were forwarded to COA. At that time, the municipality has no photocopying machine, the nearest one being in Mati, a town three hours away from Caraga.<sup>154</sup>

Pelayo also clarified that the computation of the gratuity pay of P476,463.35 represents only the benefits that Ladao is supposed to get if he served up to July 1999. As far as he knows, Ladao no longer collected any additional benefits that would have accrued to him from July 1999 until his retirement in March 2003. There was therefore no injury caused to the government.<sup>155</sup>

<sup>150</sup> Id. at 12-14.

<sup>151</sup> Id. at 22-24.

<sup>152</sup> Exhibit K-7

<sup>153</sup> TSN dated October 6, 2015, pp. 33-34.

<sup>154</sup> Id. at 37-38.

<sup>155</sup> Id. at 27-31.

When Ladao was investigated by the Sangguniang Bayan in 2001, Pelayo declared that he was not invited to shed light on the matter.<sup>156</sup> There was also no reason for him to refuse the issuance of a second Certificate of Clearance<sup>157</sup> for Ladao's final retirement in 2003. Ladao had no liability or obligation with the COA in terms of disallowances. He stated that it would only be a COA decision that could oblige them to take into account the receivable disallowances of Ladao. Pelayo claimed he was not furnished a copy of the Audit Observation Memorandum of the COA, or any notice of the exit conference. There was likewise no order from the Mayor to withhold the issuance of the clearance of Ladao, or any resolution from the Sangguniang Bayan ordering him to do the same. Pelayo also avers that what the Sangguniang Bayan came up with was only a Committee Report and not a resolution. The directive of the Sangguniang Bayan to Treasurer Aguimod to collect payment from Ladao did not involve his office, and he once more reiterated that only a COA decision could oblige them to look into their records.<sup>158</sup>

Pelayo claims that there was no communication from GSIS if Ladao was able to collect from the latter. He also does not know if the LGU furnished GSIS the retirement papers of Ladao.<sup>159</sup> Pelayo again insists that Ladao was entitled to the gratuity pay he received because it represents a commutation of an employee's creditable years in service, which he is entitled to under R.A. No. 1616. This payment should come from the LGU, and is different from the retirement benefits under the GSIS, which consists of refunds of his paid premiums.<sup>160</sup>

Pelayo maintains that there was no conspiracy between him and his co-accused. He did not talk to Stanley Mori about this since he was not yet the Mayor at that time. His functions as Municipal Accountant was also different from that of the Municipal Treasurer. This matter also passed through the Local Finance Committee composed of the Municipal Treasurer, Municipal Accountant, Budget Officer, the SB Committee Chair on the Appropriation, and the Municipal Planning and Development Office (MPDO), as the budget for

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<sup>156</sup> Id. at 36-

<sup>157</sup> Exhibit U

<sup>158</sup> TSN dated October 6, 2015, pp. 36-43.

<sup>159</sup> Id. at 44-45.

<sup>160</sup> Id. at 47-48.

the gratuity pay would be coming from the regular funds.<sup>161</sup> As far as he knows, the Sangguniang Bayan did not seek advice from the Local Finance Committee with respect to its findings on the matter of the retirement of Ladao.<sup>162</sup>

Upon questions propounded by the Court, Pelayo claims that they paid Ladao through cash advance because they often use this mode to disburse payments. Pelayo admitted that there is no express law allowing this, but insisted that they even use cash advance customarily for the payroll or salaries of the employees. However, he confirms that no one is allowed to make an advance on his or her salaries because it is illegal.<sup>163</sup>

Pelayo also claims that there are only three disbursement vouchers<sup>164</sup> representing the cash advance of Ladao, and this amounts only to Four Hundred Twenty-Six Thousand Four Hundred Sixty-Three and Thirty-Five Cents (P426,463.35) and not Four Hundred Seventy-Six Thousand Four Hundred Sixty-Three and Thirty-Five Cents (P476,463.35) as stated in the Information.<sup>165</sup> However, Pelayo also mentioned that the LGU paid the remaining amount of his gratuity pay.<sup>166</sup>

On cross-examination, Pelayo avers that he came to know of the Sangguniang Bayan's order to collect the gratuity pay advanced to Ladao after these cases were already filed.<sup>167</sup> Pelayo also maintained that he submitted all pertinent documents to COA, but could not say what date.<sup>168</sup>

On re-direct examination, Pelayo stated that he granted the cash advances to Ladao on May, June, and July 1999 because as far as he is concerned, Ladao was sure to retire on July 31, 1999. He also disclosed that there were instances when employees were paid ahead of time, citing as example the Sangguniang Bayan members whose salaries were paid on the first or second session, for the first 15<sup>th</sup> of the month. He again mentioned that the use of cash advance for the payroll was a means of facilitating the payment. As to the terminal leave and gratuity pay of Ladao, these were processed by

<sup>161</sup> Id. at 51-52.

<sup>162</sup> Id. at 55-56.

<sup>163</sup> Id. at 65-68.

<sup>164</sup> Exhibits 3, 4, and 5.

<sup>165</sup> TSN dated October 6, 2015, pp. 63, 69-70.

<sup>166</sup> Id. at 71-72.

<sup>167</sup> Id. at 74.

<sup>168</sup> Id. at 76-77.

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means of vouchers, and that this was allowed, as the intention of everyone is to facilitate the payment, given the limited cash available to the LGU. Ladao further explained that being a third-class municipality, if they pay Ladao in bulk the sum of P400,000.00plus in one month, it would disrupt the municipality's cash flow.<sup>169</sup>

On August 8, 2016, accused **Alicia Mori** testified for the defense. Alicia Mori is the incumbent Mayor of Caraga and was a three-term Mayor from 1992 to 2001.<sup>170</sup> She stated that she received notice of retirement of Ladao and approved this on July 27, 1999, but recalled the same on August 2, 1999. The documents however show that the dates were interchanged, showing that she recalled his retirement on July 27, 1999, and the approval of the retirement on August 2, 1999. According to Alicia Mori, this is a mere clerical error resulting from a mix-up of documents being typed and prepared by her staff.<sup>171</sup> On a given day, she needs to sign voluminous documents consisting of vouchers, purchase requests, purchase orders, travel requests, etc., and this is in between meeting people who visit her office.<sup>172</sup>

Alicia Mori explained her reason for recalling the retirement of Ladao. She said that at that time, she really needed his services because of the financial problems of the municipality, and she was unable to find another person to replace him, there being no qualified applicants to the position that Ladao is vacating.<sup>173</sup>

She also avers that when she was presented with Ladao's notice of retirement, it was accompanied by all the necessary documents such as Ladao's service record, Certificate of Clearance, Clearance from the Ombudsman, SALN, etc., and these became her basis for approving his retirement on July 27, 1999.<sup>174</sup> She also recalled that prior to his retirement, Ladao made several cash advances against his gratuity pay. Alicia Mori identified her signatures in all the disbursement vouchers<sup>175</sup> and the checks for the cash advance requested by Ladao, stating that she did so because the documents already contains all the necessary signatures including the signature

<sup>169</sup> Id. at 78-85.

<sup>170</sup> TSN dated August 8, 2016, pp. 6-7

<sup>171</sup> Id. at 9-13.

<sup>172</sup> TSN dated August 9, 2016, pp. 9-10

<sup>173</sup> TSN dated August 8, 2016, p. 13.

<sup>174</sup> TSN dated August 9, 2016, pp. 6-8.

<sup>175</sup> Exhibits 1-5.

of their Municipal Accountant, Darius Pelayo. She contends that she is the last person to sign, and when the document has all the required signatures, it becomes ministerial for her to sign as well. She emphasized that without the other required signatures, she would not sign the documents at all. It is also because of the signatures of Ladao and Pelayo that she considered the cash advance valid, because their signatures signified that there are available funds for it and there was a budget allotted for that purpose. Prior to this, Alicia Mori avers that there had been no cash advances of this nature made by other employees.<sup>176</sup>

In December 1999, Alicia Mori discovered that Ladao was able to make advances on his retirement gratuity. She became mad at him and verbally demanded that he refund the whole amount. Ladao promised to pay, but did not comply. Other than the verbal demand, Alicia Mori also filed a case against him, but it was "overtaken" by the expiration of her term of office in June 2001.<sup>177</sup>

Alicia Mori testified that for these transactions, she did not receive any Notice of Suspension or Disallowance from COA, or any Notice of Demand to refund the amount advance by Ladao.<sup>178</sup>

At that time, Alicia Mori claims that it was not made known to her if Ladao was retiring under R.A. No. 8291 or R.A. No. 1616. He only informed her that he is retiring early because he will be using his retirement money for his daughter who will take the bar examinations. As a mother, she allowed him to retire. She is also not aware that when Stanley Mori was already the Mayor of Caraga, Ladao wrote him informing him that he was availing of R.A. No. 8291 and not R.A. No. 1616. Alicia Mori stated that this matter was not discussed with the COA during their annual exit conference. She also maintains that she does not doubt her department heads and officers, and when documents are presented to her for her signature, she has the impression that all the supporting documents are legal and proper and regular.<sup>179</sup>

On cross-examination, Alicia Mori claims that when she recalled the retirement of Ladao, Municipal Accountant Pelayo

<sup>176</sup> TSN dated August 9, 2016, pp. 12-22.

<sup>177</sup> Id. at 25-27.

<sup>178</sup> Id. at 28.

<sup>179</sup> Id. at 29-42.

and Municipal Treasurer Aguimod were informed of it. However, they did not inform her that Ladao already got his retirement benefits.<sup>180</sup> Alicia Mori also explained that he got mad at Ladao upon learning of the cash advances because he should not have done that. She agreed with the prosecution that retirement benefits cannot be cash advanced.<sup>181</sup>

On re-direct examination, Alicia Mori claims that even if Ladao was not given the cash advance, he would still get the gratuity pay from the LGU upon his retirement, as this is mandated by law.<sup>182</sup>

#### SB-11-CRM-0236 and 0238

The testimonies of the witnesses under this section are for both SB-11-CRM-0236 and 0238, except for the testimony of Vice-Mayor Jose Basoc who only testified for SB-11-CRM-0238.

Procurement and Supply Officer **Ruben Burgos** testified for both Case Nos. SB-11-CRM-0236 and 0238. On the Abstract of Canvass for the purchase of rice, corned beef, tinapa, etc., Burgos identified the signature above his name as his. He also identified the other canvasser as Ladao, and the requesting party as Alicia Mori. He testified that the goods purchased were delivered to the Philippine Army contingent that was in their municipality at that time.<sup>183</sup> According to Burgos, the mode of procurement for this case was through canvassing. He was only sent to Louiebian Mercantile to get their price quotations for the items to be purchased. As for the other bidders, it was the Municipal Treasurer who handled the canvassing. Burgos claims that he personally went to the establishment of Louiebian Mercantile at Guerrero Street, Davao City and that the establishment was being managed by David Casquejo and his wife, Juanita. He knew them personally because they introduced themselves to him.<sup>184</sup>

According to Burgos, he was able to transact with Louiebian Mercantile for the purchase of handset radios. In addition to the radios, several heads of office also requested

<sup>180</sup> TSN dated August 10, 2016, pp. 12.

<sup>181</sup> Id. at 16-17.

<sup>182</sup> Id. at 23-25.

<sup>183</sup> TSN dated May 25, 2015, pp. 22-23.

<sup>184</sup> Id. at 24-30.

items that were supplied by Louiebian Mercantile. These heads of office are Dra. Larosa (Municipal Health Office), Jovy Abarca (Municipal Social Welfare Development), Marvin Burgos (Engineering Office) and Rebecca Constantino. Burgos also stated that he signed the Inspection Report because the delivery of the items was completed.<sup>185</sup>

Burgos explained that the items listed in the Abstract of Canvass<sup>186</sup> (pipes, couplings, adaptors, etc.) were for the water works that the municipality is supplying to the different barangays. The requisitioning officer for this is Marvin Burgos, the Water Works Supervisor. According to him, the Committee on Awards was composed of Alicia Mori, Aguimod, and Pelayo. Burgos claims that the mode of procurement for this is canvassing, and that he was one of the canvassers for this purchase, together with Ladao. He testified that there were other bidders, but that Louiebian turned out to be the lowest bidder. Burgos also signed the Inspection Report<sup>187</sup> after inspecting the delivered items. The Acceptance Report, on the other hand, was signed by Napoleon Loginsa, the Barangay Captain of Barangay San Jose, but Burgos was also present at the time the items were delivered.<sup>188</sup>

For the purchase of the bush cutter, Burgos stated that there were three suppliers: Louiebian Mercantile, Davao Cathay Parts, and Unibrus Hardware. Among the three, Louiebian offered the lowest bid at P16,700.00, whereas Davao Cathay Parts gave a price of P17,500, and Unibrus, P18,500.00.<sup>189</sup> As for the other purchases where the name of Burgos appears, he testified that he conducted the canvassing, that Louiebian Mercantile exists, that it offered the lowest price, and that the items were delivered to the municipality.<sup>190</sup>

On cross-examination, Burgos stated that he personally made a canvass at Louiebian Mercantile. Louiebian is located in Davao City, which is about five hours by bus from Caraga. He affirmed that Louiebian is a supplier of all the items in his canvass including rice, hand-held radios, bush cutter, and toilet cleaners.<sup>191</sup> Burgos claims that Louiebian deals in mixed

<sup>185</sup> TSN dated May 25, 2015, pp. 30-35.

<sup>186</sup> Exhibit WW

<sup>187</sup> Exhibit YY

<sup>188</sup> TSN dated May 25, 2015, pp. 38-46.

<sup>189</sup> Id. at 46-48.

<sup>190</sup> Id. at 48-65.

<sup>191</sup> Id. at 68-74.

merchandise.<sup>192</sup> He also admitted that all the items he canvassed were not subjected to public bidding.<sup>193</sup>

During re-direct, Burgos mentions that some items to be purchased can be found in Caraga, while some have to be sourced in Davao, such as the pipes and motor parts. When he goes to Davao, there are also other errands he attends to in addition to canvassing. He again testified that when he went to the other bidders to canvass, either the Municipal Treasurer or the Municipal Budget Officer would be with him.<sup>194</sup>

The next witness presented is **Juanita G. Casquejo**, and she also testified for both Case Nos. SB-11-CRM-0236 and 0238, of which she is an accused. Casquejo used to be a government employee, having worked at the Department of Public Works and Highways (DPWH). She retired in 1995, and became a dealer of various goods and merchandise. Her business establishment is Louiebian Mercantile and it is located at #20 Leon Maria Guerrero Street, Davao City.<sup>195</sup> As proof of business, she presented her DTI Registration,<sup>196</sup> a business occupation permit issued Davao City,<sup>197</sup> clearances issued by the Health Insurance Corporation, Social Security System and Barangay Captain of Brgy. 24-C<sup>198</sup> and the BIR,<sup>199</sup> and a Business Permit for 2005.<sup>200</sup> In the same year of 2005, she applied for the retirement of her business.<sup>201</sup> During the time that Louiebian Mercantile was still operating, it was her husband, David Casquejo, Sr. who was managing it.

Casquejo testified that Louiebian participated in the bidding and canvassing for the supply of goods to the Municipality of Caraga. However, she denied having conspired with the other accused for the sale of various items without conducting canvass, thereby causing injury to the government. She testified that it was the procurement officer who made the canvass, after which her husband would receive the Purchase Order, and they would deliver the items.<sup>202</sup>

<sup>192</sup> Id. at 79.

<sup>193</sup> Id. at 80.

<sup>194</sup> Id. at 83-84.

<sup>195</sup> TSN dated May 26, 2015 (A.M.), pp.5-

<sup>196</sup> Exhibit 2

<sup>197</sup> Exhibit 3

<sup>198</sup> Exhibit 4 to 4A

<sup>199</sup> Exhibit 7

<sup>200</sup> Exhibit 5.

<sup>201</sup> Exhibit 6

<sup>202</sup> TSN dated May 26, 2015 (A.M.), pp. 10-11.

For Case No. SB-11-CRM-0236, Casquejo identified her signature on the check,<sup>203</sup> the Official Receipt of Louievian Mercantile,<sup>204</sup> and the Charge Invoice,<sup>205</sup> as proof that they supplied and delivered the items listed in the Purchase Order given to them.

Casquejo denied the charges under Case No. SB-11-CRM-0236, stating that they were merely informed that they were the lowest bidder for the purchases subject of this case.<sup>206</sup> Casquejo also stated that the first time she saw State Auditor Felipe Provideo was the time he was already testifying in court. She belied the claim of Provideo that Louievian Mercantile does not exist, explaining that the photo he took was across the signboard of G.M. Press, while Louievian Mercantile was located at the inner area of the shop. Using the photos<sup>207</sup> presented by Provideo, she pointed to the location of Louievian, whose signboards cannot be seen from the point where Provideo took the photos. Casquejo further stated that G.M. Press is owned by her son. Casquejo claims that residents of that area would be able to say where Louievian Mercantile is.<sup>208</sup>

According to Casquejo, she did not receive any invitation from Provideo for an exit conference, and came to know of these cases against her only in October 2006. In reply to the allegations against her, she submitted her Counter-Affidavit<sup>209</sup> to the Office of the Ombudsman-Mindanao.<sup>210</sup>

Upon questions by the counsels of her co-accused, Casquejo testified that the business was in her name, but she was only assisting her husband in the operation of their business. She also stated that G.M. Press was previously owned by her husband, but it is owned by her son now. She reiterated that Louievian Mercantile is located in the same building as G.M. Press. Casquejo also confirmed that when she applied for a business permit, she was required to put a signage on the establishment, and she put a medium-sized one.<sup>211</sup>

<sup>203</sup> Exhibit Z-1

<sup>204</sup> Exhibit Z-2

<sup>205</sup> Exhibit Z-3

<sup>206</sup> TSN dated May 26, 2015 (A.M.), pp. 13.

<sup>207</sup> Exhibit SS and submarkings

<sup>208</sup> TSN dated May 26, 2015 (A.M.) pp. 14-17.

<sup>209</sup> Exhibit I

<sup>210</sup> TSN dated May 26, 2015 (A.M.) pp. 17-19.

<sup>211</sup> *Id.* at 20-22.

At the time these transactions were entered into, she had not met Alicia Mori. Only her husband met Alicia Mori. It was only during the hearings before this Court in Quezon City that she met Alicia Mori.<sup>212</sup>

Casquejo again confirmed that they submitted quotes to the LGU, and that their quotes were the lowest bids, which is why the contract for the supplies were awarded to their business. These supplies were delivered and paid for by the municipality.<sup>213</sup>

During cross-examination, Casquejo admitted that in her Official Application for DTI Registration, the purpose for the business was to be a dealer of "general merchandise, such as light and heavy equipment, parts, construction materials and supplies; other agricultural products and supplies; xxx paints; xxx traffic signs; bills, panels and accessories; electrical appliances and supplies, office supplies and equipment, printed forms, textile materials, sporting good, concrete products, lumber, and other food products and dry goods."<sup>214</sup>

When confronted by the Business Permit where her name appears, Casquejo insisted that she is not the "manager" of Louievian Mercantile, but only its "proprietor." She also claims that dried fish and cigarette are included in the term "general merchandise" and that they can also deal with vehicles because they pay taxes for that. Louievian Mercantile did not display heavy equipment in their establishment though, because they would only source these items from other suppliers in Davao City, and when they get a good price, they would submit their quotation to the procurement officer.<sup>215</sup>

For the items subject of Case No. SB-11-CRM-0236, Casquejo stated that they canvassed the prices of the items from other suppliers and then submit the lowest price to the Municipality of Caraga. For big volume transactions, they would deliver the items to Caraga, but in the case of SB-11-CRM-0236, the items were picked up by the procurement officer using a service vehicle. They were paid for these items in check, which her husband would usually claim in Caraga, but for these items, her husband requested that the check be

<sup>212</sup> *Id.* at 22.

<sup>213</sup> *Id.* at 23-24.

<sup>214</sup> Exhibit 2/SS-3

<sup>215</sup> TSN dated May 26, 2015 (A.M.) pp. 26-33.

brought to them since it was only for the amount of P4,460.00. On the official receipt issued for this purchase, no VAT amount was reflected.<sup>216</sup>

On re-direct examination, Casquejo showed a Special Power of Attorney<sup>217</sup> as proof that although the business was in her name, it was actually her husband who was actively managing their business. She also explained that in her Business Permit, some portions in the "Kind of Business" section were computerized and some were typewritten because the computer system can only input up to five lines of words, and the rest have to be typewritten. On the matter of sourcing out the suppliers, Casquejo explained that when the officers of the municipalities in Davao Oriental come to them for canvass, they take note of the items to be procured and they will look for suppliers who can give the lowest price.<sup>218</sup> By "general merchandise," she means that they dealt with various kinds of goods, from Nescafe to *bolinao*, to heavy and light equipment parts. Louievian Marketing is engaged not in production but in marketing and merchandising. She also disclosed that other municipalities other than Caraga would buy from them.<sup>219</sup> She testified that in applying for a business permit for her Louievian Mercantile, government officials conducted an ocular inspection of their establishment, as shown by the approval of the Chief of the Fire department.<sup>220</sup>

Accused **Darius O. Pelayo** was next presented as witness for Case Nos. SB-11-CRM-0236 and 0238. Pelayo served as the Municipal Accountant of Caraga from 1993 to 2010. Presently, he is a Municipal Councilor of Caraga.<sup>221</sup>

Pelayo testified that the original copies of documents, from Disbursement Vouchers, to ROAs, and checks, were submitted to the Commission on Audit. The Office of the Municipal Accountant would only keep the journals and the duplicates, if there are any.<sup>222</sup>

For SB-11-CRM-0236, Pelayo stated that purchases subject of this case did not follow R.A. No. 9184, because it was not in force yet at that time. The modes of procurement

<sup>216</sup> *Id.* at 33-37.

<sup>217</sup> Exhibit 9

<sup>218</sup> TSN dated May 26, 2015 (P.M.), pp. 9-12.

<sup>219</sup> *Id.* at 14-17.

<sup>220</sup> Exhibit 55, p. 2

<sup>221</sup> TSN dated May 26, 2015 (P.M.), pp. 21-22.

<sup>222</sup> *Id.* at 23-24, 34-35.

*Handwritten signature/initials*

then were the emergency purchase, canvassing, competitive bidding, negotiated purchase, and repeat orders. As to which mode of procurement should be used is decided either by the Sangguniang Bayan, the BAC Head, or by the situation or circumstance itself. The amount would also be considered. For the amount involved in this case – P4,463.00 – competitive bidding was not necessary so canvassing was resorted to. For this purchase, Louievian Mercantile gave the lowest price.<sup>223</sup> There were also no complaints from the other prospective suppliers at that time.<sup>224</sup> Pelayo explained that one of the reasons why they would resort to canvassing instead of competitive bidding is because Caraga is very far from Davao and that there are no business establishments in Caraga which can readily provide it with the supplies and materials they need. The municipality is also ninety-seven (97) kilometers away from the nearest bank.<sup>225</sup>

The funds for the items purchased in SB-11-CRM-0236 (rice, *tinapa*, corned beef, etc.) were sourced from the Municipal Peace and Order (MPOC) Fund, and were intended for a military operation.<sup>226</sup>

For SB-11-CRM-0238 involving the purchase of construction supplies, plumbing materials, grass cutter, etc., Pelayo testified that no simulation took place in the canvassing. A canvass was held, and they checked the records of the suppliers, and saw that they are included in the rolls of bidders. After verifying that the prices quoted are within the allowable range, they chose the lowest bidder, which happened to be Louievian Mercantile. During the BAC deliberation, they also reviewed the credentials and documents of Louievian.<sup>227</sup>

According to Pelayo, all the supporting documents for the Disbursement Voucher subject of this case are in order. He also testified to the delivery of the items listed in the purchase order.<sup>228</sup> He also explained that as the Municipal Accountant, he would certify as to the availability of funds, while the Municipal Treasurer certifies the availability of cash, the Budget Officer certifies the availability of appropriation, and

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<sup>223</sup> *Id.* at 24-28

<sup>224</sup> *Id.* at 35.

<sup>225</sup> *Id.* at 47-48.

<sup>226</sup> *Id.* at 29-30.

<sup>227</sup> TSN dated May 26, 2015 (P.M.), pp. 35-37.

<sup>228</sup> *Id.* at 37-40, 45-46.

the requesting official certifies as to the legality, propriety, necessity, and correctness of the transaction.<sup>229</sup>

Pelayo denies the allegation that he conspired with his co-accused in the procurements subject of these cases. He said that it is highly improbable for him to be in conspiracy because the disbursement process entails a lot of stages and each stage is being handled by an officer with a unique mandate, and each handling officer can only stick to his/her functions. He neither coerced nor influenced the Mayor or the other officers to sign the documents, and vice-versa.<sup>230</sup>

For these transactions, Pelayo said that no notice of suspension was given. However, the irregularities were pointed out to them in the Audit Observation Memorandum. He was also invited to, and attended, the exit conference called for by Provideo. He was made to believe that they were able to convince the COA that they complied with all the requirements for the procurement. The general feeling after the said conference was that they were able to meet the expectations of the COA.<sup>231</sup> They were also able to give Provideo the additional documents when they submitted their explanation/compliance.<sup>232</sup>

When asked what triggered the investigation of the COA, Pelayo replied that it was from a letter of a certain Nacar Salvador and Evelyn Ronquillo, both of which he believes to be non-existent.<sup>233</sup> Pelayo also testified that as Caraga's Municipal Accountant, there were times when he would not sign the documents if he notices that the requirements were not followed by the PBAC or the LGU of Caraga. In those cases, the documents would no longer be forwarded to the Mayor, but would be returned to the requesting official.<sup>234</sup>

On cross-examination, Pelayo confirmed that as Municipal Accountant, it is his duty to certify as to the availability of allotment, the propriety of the purpose of the disbursement, and the completeness of the supporting documents of each disbursement voucher.<sup>235</sup> When confronted

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<sup>229</sup> Id. at 40-42.

<sup>230</sup> Id. at 48-50.

<sup>231</sup> Id. at 58.

<sup>232</sup> Id. at 60.

<sup>233</sup> Id. at 61.

<sup>234</sup> Id. at 66-70.

<sup>235</sup> TSN dated May 27, 2015, pp. 10-11.

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with the Disbursement Voucher<sup>236</sup> subject of Case No. SB-11-CRM-0236, he explained that only the price quotation submitted by Louievian Mercantile was attached to the voucher because it was the supplier with the lowest price. The rest of the canvass forms were submitted to the Auditor as part of their compliance report when they were given the Audit Observation Memorandum.<sup>237</sup>

For the vouchers subject of Case No. SB-11-CRM-0238, Pelayo denied that there was only one submitted price quotation for the purchases made under each voucher. He maintained that for each procurement, there were three canvass forms. In one purchase, they have in fact three suppliers: Louievian Mercantile, Davao Cathay Parts, and Unibrus Hardware. He is not aware that Davao Cathay Parts and Unibrus Hardware denied participation in their transaction.<sup>238</sup> For the purchase of handset radios, Pelayo stated that there were three suppliers: Louievian, Narel's Bookstore, and Prince Educational Supply. The canvasser for this purchase was Ruben Burgos, but someone from the office could have accompanied him when doing the canvass. He could not however say who it was.<sup>239</sup> Pelayo again maintained that when he signed the vouchers, he ascertained first that the supporting documents were complete. The fact that they were later asked to submit additional documents by the Provincial Auditor does not mean that the supporting documents were incomplete, but that the Provincial Auditor may need other documents to enable him to make a comprehensive report.<sup>240</sup>

**Alicia Mori** was next to testify, and stated that she authorized the purchase of items consisting of rice, corned beef, *tinapa*, etc. amounting to P4,640.00 between January 19-29, 2001 and February 21, 2001. She admitted to making the request, after which, it passed through the Office of the Municipal Treasurer, and Treasurer Aguimod then referred the matter to the Bids and Awards Committee and the Supply Officer. She was not informed by BAC how the canvass was conducted or who the winning supplier was, and that she has no participation in the canvass. She came to know only that Louievian Mercantile was the supplier when she signed the

<sup>236</sup> Exhibit Z

<sup>237</sup> TSN dated May 27, 2015, pp. 13-18.

<sup>238</sup> *Id.* at 23-24.

<sup>239</sup> *Id.* at 24-26.

<sup>240</sup> *Id.* at 27-28.

Purchase Order.<sup>241</sup> She does not personally know its proprietor, Juanita Casquejo, and has not met her.<sup>242</sup>

According to Alicia Mori, the items purchased were intended as aid to the military and police on operation, because at that time, there was a presence of the New People's Army in their town. She considered it an emergency purchase, and considering the price involved, necessitates canvassing only. Alicia Mori also said that as to the disbursement voucher, she would not have signed the same if it does not have the signatures of the Municipal Treasurer (Aguimod) and the Municipal Accountant (Pelayo). She also claims that no prejudice to the government was caused by the said purchase.<sup>243</sup>

Alicia Mori also states that the LGU is allowed to assist the national government agencies within its municipality, as it in fact gives *honoraria* to judges and prosecutors. In this case, it only gave assistance to the Armed Forces of the Philippines and the PNP. The groceries given for the police operation was for a public purpose. The municipality also has its own Municipal Peace and Order Fund under the Office of the Mayor, and this is where the funding for this expense was sourced from.<sup>244</sup> Alicia Mori also confirmed that these items were delivered to her office, after which the military and police picked it up.<sup>245</sup>

On cross-examination, it was pointed out to Alicia Mori that there was no emergency report attached to the supporting documents of the voucher. She replied that she "bas[ed] it only on the documents."<sup>246</sup> When asked if she is aware that Louievian is a supplier of construction supplies, Alicia Mori answered that there was a permit given to Louievian stating that it is also involved in general merchandise. As to whether or not cigarettes are included in an emergency purchase, Alicia Mori said that it is because it was needed by the military.<sup>247</sup>

For Case No. SB-11-CRM-0238, **Alicia Mori** testified that she authorized payment for various construction materials,

<sup>241</sup> TSN dated February 20, 2017, pp. 9-15.

<sup>242</sup> Id. at 27-28.

<sup>243</sup> Id. at 16-20.

<sup>244</sup> Id. at 21-23.

<sup>245</sup> Id. at 26-27.

<sup>246</sup> Id. at 31.

<sup>247</sup> Id. at 35.

Handwritten signature or initials.

bush cutter, grocery, office supplies, radio with battery chargers and motorcycle spare parts for the Municipality of Caraga.<sup>248</sup> She identified the signature of Pelayo as the Accountant and Engr. Marvin Burgos of the Caraga Waterworks Office as the requisitioner on the documents<sup>249</sup> and stated that she would not sign the same documents if the required signatures of the requisitioner, the treasurer, and the accountant and other parties are not on it. She also said that the supporting documents to the disbursement vouchers are complete, signifying that the transaction is "intact."<sup>250</sup> She made the same statement for the rest of the disbursement vouchers subject of this particular case.<sup>251</sup>

In this case, Alicia Mori stated that the Purchase Request was brought to the PBAC, which will then conduct a canvass and look for the supplier with the lowest price. She would not know who the winning supplier is until such time that the documents are brought to her office. She has no participation in the canvass. She also denied being related to Juanita Casquejo, the proprietor of Louievian Mercantile.<sup>252</sup>

Alicia Mori also identified the private complainant in this case, which is Evelyn Ronquillo, the maid of her sister-in-law.<sup>253</sup> She again stated that all the items listed in the purchase order were delivered. There were also no Notice of Suspension or Disallowance from COA regarding these transactions.<sup>254</sup>

On cross-examination for SB-11-CRM-0238, it was pointed out to Alicia Mori that she was the Chairman of the Bids and Awards Committee. However, she could no longer remember if any of the items purchased under these cases discussed the qualifications of the bidders who offered the prices for the items. Alicia Mori stated that there was no bidding held, and they instead conducted a canvass, where they look for the lowest price available.<sup>255</sup> She also confirmed that some of the vouchers<sup>256</sup> were undated, except for the checks effecting their payment.<sup>257</sup> Alicia Mori also reiterated

<sup>248</sup> TSN dated February 22, 2017, pp. 4-5

<sup>249</sup> Exhibits UU to AAA.

<sup>250</sup> TSN dated February 22, 2017, pp. 6-8

<sup>251</sup> *Id.* at 11-19. *See also*, TSN dated May 2, 2017, pp. 4-40.

<sup>252</sup> TSN dated February 22, 2017, pp. 19-21.

<sup>253</sup> TSN dated May 2, 2017, p. 43.

<sup>254</sup> *Id.* at 47-48.

<sup>255</sup> TSN dated August 30, 2017, pp. 7-11.

<sup>256</sup> Exhibits UU, BBB, HHH, NNN, XXX, JJJJ

<sup>257</sup> TSN dated August 30, 2017, pp. 13-18.

that no notices of suspension or disallowance was sent to them but admitted to not knowing that the reason no such notices was sent by COA is because there were findings already that the transactions are illegal.<sup>258</sup>

**Jose G. Basoc** was the elected Vice Mayor of Caraga for two terms, from 1995 to 2001. As such, he served as the head of the Sangguniang Bayan. He identified the Purchase Order<sup>259</sup> dated February 19, 2001 for five handset radios and five chargers. He explained that these radios would enable the members of the LGU to communicate with each other. Basoc also explained that the Provincial Law Enforcement Communication System (PLECS) was already implemented in the municipality, which would allow it to communicate with other LGUs from the province. This makes the purchase of the radios a necessity. At that time, there were still no cellphones, and handheld radios are the only means of communication. Basoc added that as head of the Sangguniang Bayan, he requested for the radios in behalf of the Sangguniang Bayan members who have no radios yet, and because his office already has an appropriation for this particular purchase.<sup>260</sup>

The Purchase Order was then submitted to the Office of the Municipal Treasurer, which at that time, was the General Service Office. It was the Office of the Municipal Treasurer which purchased the radios and delivered the same to him. At that time, the Municipal Treasurer was accused Gerardo Aguimod. He received the handset radios and signed the Inspection and Acceptance Report.<sup>261</sup> He received no complaint or report of irregularity regarding the purchase of the radios, and he was not aware that the supplier was Louiebian Mercantile, until such time that the case was filed in Court. Basoc was not a member of the BAC or the Committee on Awards that facilitated the purchase.<sup>262</sup>

When his term ended in 2001, he returned the handset radios to the Office of the Municipal Treasurer. In 2007, Basoc was again elected, but as a Sangguniang Bayan member this time. The handset radios were not mentioned. He was then

<sup>258</sup> Id. at 18-22.

<sup>259</sup> Exhibit GGGG

<sup>260</sup> TSN dated February 9, 2015, pp. 6-13.

<sup>261</sup> Exhibit HHH

<sup>262</sup> TSN dated February 9, 2015, pp. 19-22.

issued a Certificate of Clearance<sup>263</sup> dated June 30, 2010 by the LGU, both as Vice Mayor and Municipal Kagawad, and cleared of any liability.<sup>264</sup>

Basoc claims that other department heads, such as the head of the Department of Social Welfare and Development, the Office of the Municipal Engineer, and the Municipal Health Office, also requested for some materials. Some of them were also charged by the COA before the Office of the Ombudsman for the deliveries made by Louiebian Mercantile. However, it was only him who was charged in court.<sup>265</sup>

On cross-examination, Basoc admitted that the description of the item as it appears on the Purchase Request came from him (ICOM-V68). He patterned it after the same handset models that the local government unit is already using. He is not aware that he has to seek permission first from the National Telecommunication Commission.<sup>266</sup>

When asked who the members of the Inspection Committee were, Basoc answered that it includes the Office of the Municipal Treasurer, whose Treasurer at that time was accused Aguimod.<sup>267</sup>

As to the purpose of the purchase of the radios, Basoc claims that they are for the Sangguniang Bayan officials. Their radios will communicate with PLECS, and PLECS will be the one to communicate with the province. He could no longer remember who among the Sangguniang Bayan officials were given the radios. Basoc also claims that he was not the one who recommended the supplier for the radios.<sup>268</sup>

As for his Certificate of Clearance signed by Cashier III, ICO Arnold Samon and Municipal Accountant Pelayo, Basoc claims that to his knowledge, Samon and Pelayo know there is a present charge against him. He admitted that he was the one who requested for the Certificate of Clearance, and that it was based on his representation that he has no pending criminal charge.<sup>269</sup>

<sup>263</sup> Exhibit 1.

<sup>264</sup> TSN dated February 9, 2015, pp. 23-26.

<sup>265</sup> Id. at 15-17.

<sup>266</sup> Id. at 28-31.

<sup>267</sup> Id. at 33.

<sup>268</sup> Id. at 40-41.

<sup>269</sup> Id. at 42-44.

During re-direct, Basoc stated that the base of the communication of the handset radios is the PLECS, and PLECS has its base of operation in the province, particularly in Mati. He is not aware who has the permit from NTC but claims that PLECS has been in operation in Caraga even before he became Vice-Mayor. Basoc also claims that he did not receive any notice from COA regarding any irregularity in the purchase of the handset radios and chargers, or any notice of suspension or disallowance.<sup>270</sup>

Basoc also testified that the mayor at that time, Mayor Alicia Mori, has no participation in the preparation of the Purchase Request or even in the delivery of the items, and that Alicia Mori came to know of the same only when the payment was made. On re-cross examination however, Basoc admitted that when Alicia Mori signed the check for the payment of the handset radios, she signed the checks based on the Purchase Request, Purchase Orders and other supporting documents, thereby apprising her of the purpose for the issuance of the check.<sup>271</sup>

SB-11-CRM-0237

The same witness, accused **Darius Pelayo**, was again called to the stand to testify for the defense in Case No. SB-11-CRM-0237. According to Pelayo, there were two sets of catering services availed off, one in the amount of Four Thousand Two Hundred Pesos (P4,200.00)<sup>272</sup> for the Office of the Treasurer, and the other in the amount of Twenty-Three Thousand Two Hundred Twenty-Seven Pesos and Sixty-Seven Cents (P23,227.67) for the Accounting Office. It was pointed out that if the two amounts for the catering services are added, it would amount to more than Twenty-Seven Thousand Pesos (P27,000.00). However, the Information for Case No. SB-11-CRM-0237 states a different amount, which is Twenty-Three Thousand Two Hundred Twenty-Seven Pesos and Sixty-Four Cents (P23,227.64).<sup>273</sup>

For the P4,200.00 disbursement, Pelayo testified that it was requested by Treasurer Aguimod for the conference for the turnover of the incoming treasurer. There was a re-shuffling of

<sup>270</sup> Id. at 45-48.

<sup>271</sup> Id. at 49-52.

<sup>272</sup> Exhibit FF

<sup>273</sup> TSN dated October 7, 2015, pp. 7-8.

treasurers going on that time and the outgoing treasurer would turnover the office, the personnel, properties and other equipment the Treasurer's Office to the incoming treasurer. In fact, the activity is entitled "Inventory and Audit of the Physical Properties of the LGU." The Purchase Order<sup>274</sup> for this called for the catering of two meals and two snacks for twenty persons, and was approved by the Mayor. This disbursement, however, did not pass through Pelayo's office.<sup>275</sup> Nevertheless, Pelayo avers that the payment for this activity was in order and allowed by the LGU whenever there are seminars, assemblies, and conferences.<sup>276</sup>

It was also shown that Ladao did the canvass<sup>277</sup> for the catering services, and this expense was charged against the Maintenance and Other Operating Expenses (MOOE) of 2001 of the Municipal Treasurer.<sup>278</sup> Pelayo explains that the meals are necessary as support to the activity being requested.<sup>279</sup> He testified that the conference took place and that the food was received by Arnold Samson, Cashier III of the Municipal Treasurer's Office. It was attended by him and around twenty persons, including some COA personnel who were invited as guests.<sup>280</sup>

For the disbursement of P23,227.64, Pelayo states that after deducting the withholding tax, the amount paid for catering amounted to Nineteen Thousand Nine Hundred and Twenty Pesos (P19,920.00) only. This was requested by Pelayo's Office for the closing of accounts from January 22-29, 2001. He explains that it is a yearly activity undertaken by the Office of the Municipal Accountant, necessitating them to work overtime to meet the deadline of February 14, 2001. For this activity, their work would usually start at seven in the morning, and last until they can still work. To enable them to do their job well, they needed twenty-four (24) meals and twenty-seven (27) snacks for eight people who would be working for twelve (12) days. He confirms that the meals and snacks were delivered.<sup>281</sup>

<sup>274</sup> Exhibit HH

<sup>275</sup> TSN dated October 7, 2015, pp. 9-15.

<sup>276</sup> *Id.* at 24-25.

<sup>277</sup> Exhibit JJ

<sup>278</sup> TSN dated October 7, 2015, pp. 17-20.

<sup>279</sup> *Id.* at 23.

<sup>280</sup> *Id.* at 24-26.

<sup>281</sup> *Id.* at 27-34.

The canvasser for this case was Ladao and the documents were signed by him, the Mayor, and Treasurer Aguimod.<sup>282</sup> Pelayo added that this procurement was done through canvassing and not through competitive bidding because the latter would be more laborious and expensive, and the amounts involved here are small, such as the P4,200.00 catering.<sup>283</sup> The budget for this expense was taken from the MOOE of their office.<sup>284</sup>

On cross-examination, Pelayo admits that after deducting value added tax (VAT), the amount of P4,200.00 became P4,032.00, while P19,920.00 became P19,195.64. Adding these new amounts, they would yield the sum of P23,227.64.<sup>285</sup> He also confirms that although the catering activities were done in January 2001, the caterers were only paid on April 17, 2001.<sup>286</sup> According to Pelayo, the canvass consists of three caterers. However, upon checking, they found that of the three, only one has a business permit.<sup>287</sup>

Upon questions propounded by the Court, Pelayo claims that he has been requesting for catering services yearly since 1993, every time there is a closing of the books. And that every year, it was provided for, but it was only for this case that he was criminally charged because of it.<sup>288</sup>

For Case No. SB-11-CRM-0237, **Alicia Mori** testified that she approved two catering services, one for the Office of the Treasurer and one for the Accountant's Office. She could not however recall the amounts because of the voluminous documents she signs.<sup>289</sup> She identified the signatures of Treasurer Aguimod and Accountant Pelayo on the vouchers and said that she signed them because all the supporting documents are intact and legal. She also declared that she would not have signed the papers if one of the required signatures is lacking.<sup>290</sup> Alicia Mori also said that in this case, there were 3 bidders for the catering, but they other two were disqualified because they do not have business permits.<sup>291</sup>

<sup>282</sup> Id. at 36-37.

<sup>283</sup> Id. at 38-40.

<sup>284</sup> Id. at 46.

<sup>285</sup> Id. at 48-50.

<sup>286</sup> Id. at 52-53.

<sup>287</sup> Id. at 55.

<sup>288</sup> Id. at 57-59.

<sup>289</sup> TSN dated February 21, 2017, pp. 7.

<sup>290</sup> Id. at 12-21.

<sup>291</sup> Id. at 22.

Alicia Mori testified that the catering requested by Treasurer Aguimod was because the latter was being assigned to Malaybalay and there will be a new Treasurer (Jaime Labasano). For the catering requested by Pelayo, there will be a closing of accounts by the accounting office. The food here was actually delivered to the respective offices. She also does not think it prejudiced the government because she only looked after the needs of the offices.<sup>292</sup> She mentioned that it is customary to serve coffee to visitors and employees who are requested to do some extra service during off hours. They can provide food for as long as there is an appropriation for it. The budget for these caterings were taken from the respective budgets of the two departments, specifically the MOOE. In this case, it was certified by the Budget Officer that there was an appropriation for it. She also did not take advantage of her office.<sup>293</sup>

SB-11-CRM-0241

Accused **Ruben B. Burgos** testified that he has been a government employee from 1980 to 2010 and has served as a Revenue Collection Clerk in the Office of the Municipal Treasurer. He was also designated as the Procurement and Supply Officer<sup>294</sup> in the same office by Mayor Alicia Mori, and acted as member of the Secretariat Services to the Committee on Awards. His immediate supervisor was Municipal Treasurer Gerardo F. Aguimod.

According to Burgos, he would always liquidate the cash advances he took. He also followed the directive in their office that before he can be granted additional cash advances, the previous cash advances must be liquidated first.<sup>295</sup> Burgos avers that the purchases that time was made by the Municipal Treasurer's Office, since at that time, there was no GSO in the municipality. The checks were issued in his name because he was the designated Procurement Officer. In making the purchase, he would first prepare a canvass of prices of the bonafide dealers. Then he would make a cash advance for the amount indicated in the canvass, purchase the equipment or materials being requested by the Office of the Municipal Mayor, Municipal Accountant, Department of Agriculture, and

<sup>292</sup> Id. at 26-28.

<sup>293</sup> Id. at 29-38.

<sup>294</sup> Exhibit 0000

<sup>295</sup> TSN dated February 11, 2015, pp. 10-

DSWD, and delivered them to the respective offices. The list of materials purchased appears in the Purchase Request, Abstract of Canvass, and in the Acceptance and Inspection Report.<sup>296</sup>

On April 4, 2001, he obtained a cash advance in the amount of One Hundred Seventy-Six Thousand Seven Hundred Sixty Pesos (176,760.00) covered by a Disbursement Voucher.<sup>297</sup> The voucher indicated that its purpose is to defray payment of patrol car engine and spare parts, office supplies for COMELEC office, office supplies for Municipal Budget Office, and payment of remaining balance to SSHF Transceiver. Burgos explains that the patrol car belongs to the Chief of Police. The materials purchased under this voucher were indicated in the Purchase Request, which were prepared by the heads of offices aforementioned. When asked who determines what mode of procurement should be followed, Burgos replied that it is the Municipal Treasurer, who, at that time was accused Aguimod.<sup>298</sup> Burgos also acknowledged that he is a member of the BAC Secretariat, but not a regular member.<sup>299</sup>

Burgos claims that after he delivered the items to the respective offices, he would submit the documents to the Municipal Accountant. There were no copies of these documents and he did not retain any copies for himself. When this matter became subject of an investigation, he inquired from the office of the Municipal Accountant who informed him that they were submitted to Provincial Auditor Felipe Provido.<sup>300</sup> The parties then entered into a stipulation that the vouchers and the checks were submitted to Provido.<sup>301</sup>

As to the six checks issued to him, Burgos claims that he liquidated all of them and submitted the supporting documents to the Municipal Accountant. These include the Liquidation Report, Acceptance Report, Official Receipts, and Certificates of Acceptance. In particular, he claims to have liquidated the first three checks, otherwise, he would not be issued the fourth check. He also did not receive any notice from COA asking him to submit additional documents, or any

<sup>296</sup> Id. at 12-16.

<sup>297</sup> Exhibit SSSS

<sup>298</sup> TSN dated February 11, 2015, pp. 17-21.

<sup>299</sup> Id. at 44.

<sup>300</sup> Id. at 23-24.

<sup>301</sup> Id. at 30.

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notice of suspension or disallowance.<sup>302</sup> Neither did he hear any complaint from any supplier who were allegedly left out in the canvass.<sup>303</sup>

When Burgos was asked why his cash advances were exact amounts and were not rounded-off, he stated that the amounts were based on the prices that are indicated in the canvass. He was not issued a check first and buy anything, but rather, he would have a canvass first of the items to be bought, determine the exact amount, and request for the check.<sup>304</sup>

Burgos also testified that in making the cash advances, he was always under the direct supervision of the Municipal Treasurer. He also claims that the Mayor has no participation in the first few stages of securing the cash advances, but gets involved only when the Disbursement Vouchers and other documents are already presented to her for her signature.<sup>305</sup>

During cross-examination, Burgos reiterated that in making the purchase, he would make a canvass, take a cash advance, and pay the suppliers directly. These cash advances also have the approval of the Mayor.<sup>306</sup> He also confirmed that he was furnished an Audit Observation Memorandum<sup>307</sup> dated March 20, 2003, as shown by the signature appearing above the name Ruben Burgos.<sup>308</sup>

Accused **Darius Pelayo** testified for this case, and admitted to giving cash advances to Ruben Burgos, the designated Supply Officer, in four transactions covered by six different checks.<sup>309</sup> Pelayo explained that cash advances are not given for purchases that are subject to bidding, but is usually given to those subject of a canvass or for an emergency purchase to facilitate payment.<sup>310</sup> Pelayo claims that a cash advance is the most practical way as they could facilitate payment for very far establishments, such as those in Davao City. There is likewise no bank in Caraga, and the

<sup>302</sup> Id. at 25-41.

<sup>303</sup> Id. at 45.

<sup>304</sup> Id. at 45-47.

<sup>305</sup> Id. at 51-53.

<sup>306</sup> Id. at 55-

<sup>307</sup> Exhibit UUUU

<sup>308</sup> TSN dated February 11, 2015, pp. 61-63.

<sup>309</sup> TSN dated January 25, 2016, pp. 8-9.

<sup>310</sup> Id. at 12.

nearest one is in Mati, which is ninety-eight kilometers away from Caraga.<sup>311</sup>

According to Pelayo, a cash advance is usually initiated by the Municipal Treasurer, and in his absence, the Supply Officer. In this case, it was Burgos who requested for the cash advance. Burgos then coursed his request to the Municipal Treasurer, who determines the validity of his request. The next step is the preparation of the Request for Obligation of Allotment or ROA, and the Purchase Order. In the ROA, the purpose for the cash advance is indicated, together with an accounting code. Pelayo said that if the code is "1001," it refers to the Municipal Mayor's Office. If it is "1091," it refers to the Accounting Office, and "200" refers to Maintenance and Other Operating Expenses (MOOE).<sup>312</sup> Once the ROA is completed the voucher will now be prepared by the Municipal Treasurer. It is one of the documents that Pelayo would sign.<sup>313</sup>

One of the vouchers subject of this case is the cash advance for the payment of patrol car engine and spare parts, office supplies for the COMELEC Office, MBO Office, and the remaining balance for the SSS HF process/radio, since there are no cellphones yet in Caraga at that time.<sup>314</sup> He also identifies the purposes for the rest of the other ROAs, and characterizes the expenses as those falling under the MOOE. Pelayo affirms that these are all for a lawful purpose.<sup>315</sup>

Once the documents are signed by the Mayor, the check would be given to the payee, which in this case is Ruben Burgos. Burgos will then encash the check with the bank and with the money, pay for the items to be purchased. Burgos will then be required to liquidate. Pelayo claims that he submitted a Liquidation Report to Provideo, and disputes the testimony of Provideo that there were no liquidation reports received from them for these purchases.<sup>316</sup>

Pelayo next identified his signature on a Certification<sup>317</sup> dated January 15, 2003, stating that Burgos liquidated his cash advances in the amount of P500,000.00 plus. Pelayo

<sup>311</sup> Id. at 19-20.

<sup>312</sup> Id. at 13-18.

<sup>313</sup> Id. at 21-22.

<sup>314</sup> Exhibit S<sup>4</sup>

<sup>315</sup> TSN dated January 25, 2016, pp. 22-26.

<sup>316</sup> Id. at 27-32.

<sup>317</sup> Exhibit P<sup>4</sup>

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submitted this Certification, together with the Liquidation Reports to Provido. He also submitted the Official Receipts, but was not able to make a copy of them because there was no photocopying machine in Caraga at that time. He did not receive any communication thereafter from Provido, informing him that his Certification is incorrect.<sup>318</sup>

On the allegation that Burgos did not liquidate his cash advances, Pelayo contends that this is untrue, because as the Municipal Accountant, he was the one who determines if a cash advance has been liquidated, and repeated again that he submitted Liquidation Reports to Provido. Pelayo also points out that if the COA finds that the cash advances were not liquidated, they should have been given a Notice of Suspension, and if the transaction is not settled on time, it will be disallowed. In this case however, they received no notice of suspension or disallowance.<sup>319</sup>

Pelayo likewise asserts that the cash advances were authorized, processed and released on different dates. However, before the next check is released to Burgos, the previous check would already be liquidated.<sup>320</sup>

On cross-examination, Pelayo was confronted by two cash advances<sup>321</sup> that were made on the same day, April 4, 2001. He stated that he does not have a copy of the liquidation document for this, having submitted them to Provido already.<sup>322</sup> When asked for the basis for his issuance of the Certification dated January 15, 2003, Pelayo replied that it was the accounting records in the Office of the Municipal Accountant.<sup>323</sup>

For Case No. SB-11-CRM-0241, **Alicia Mori** testified that she authorized the cash advances made by Ruben Burgos, the Supply Officer for the Municipality of Caraga. The cash advance were payment for purchases for the various maintenance and operating expenses of the different offices in their municipality. She identified the signatures appearing in the documents subject of this case and stated that without these signatures, she would not have affixed her own

<sup>318</sup> TSN dated January 25, 2016, pp. 33-35.

<sup>319</sup> Id. at 36-38.

<sup>320</sup> Id. at 41, 43.

<sup>321</sup> Exhibits O<sup>4</sup>-2 and V<sup>4</sup>-1.

<sup>322</sup> TSN dated January 25, 2016, pp. 47-48.

<sup>323</sup> Id. at 50-51.

signature on the vouchers and checks. She also said that it is her responsibility to pay all the expenses incurred in the LGU. She did not participate in the purchase and canvassing and her involvement is limited only to signing off on the payments for the purchases.<sup>324</sup>

Alicia Mori also disputed the allegation in the Information that the cash advances did not specify a particular purpose, stating that the items were for the COMELEC and other offices, and this is reflected on the vouchers.<sup>325</sup> She also testified that these cash advances were liquidated as shown by the Certification issued by Pelayo. As for the supporting documents that Auditor Provido claims to have not been submitted, Alicia Mori reasoned that they did not receive any communication from COA calling their attention to this and she took it to mean that the Certification by Pelayo was duly accepted by COA.<sup>326</sup>

On cross-examination, Alicia Mori confirms that the cash advances were for the purchase of items in various offices of the municipality, such as the water system office, the Department of Agriculture, the Tourism Office, and the Engineering Office. She disagreed with the prosecution that these items should be purchased through public bidding, and stated that the COA is not too strict so they process the purchase through canvass.<sup>327</sup> She also acknowledged that the canvass forms were not attached to the disbursement vouchers<sup>328</sup> subject of this case, because these vouchers were for cash advances.<sup>329</sup> She also admitted that the vouchers did not itemize the commodities subject of the purchase.<sup>330</sup>

After the presentation of its last witness, accused Stanley Mori, Darius Pelayo, Jose Basoc, and Ruben Burgos jointly filed their Formal Offer of Evidence<sup>331</sup> on May 31, 2018.

For Case No. SB-11-CRM-0235 (for accused Stanley E. Mori and Darius O. Pelayo), it offered Exhibit Nos. 1, 2, 3, 4, 5, 6; for Case No. SB-11-CRM-0236 (for accused Darius O.

<sup>324</sup> TSN dated August 29, 2017, pp. 7-21.

<sup>325</sup> *Id.* at 22-23.

<sup>326</sup> *Id.* at 25-26.

<sup>327</sup> TSN dated August 30, 2017, pp. 24-25.

<sup>328</sup> Exhibits RRR, SSS, and TTT.

<sup>329</sup> TSN dated August 30, 2017, pp. 26-27.

<sup>330</sup> *Id.* at 33.

<sup>331</sup> Records, Volume VI, p. 187.

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Pelayo) Exhibit Nos. 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19; for case No. SB-11-CRM-0237 (for accused Darius O. Pelayo) Exhibit Nos. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40; for Case No. SB-11-CRM-0238 (for accused Jose Basoc and Darius O. Pelayo) Exhibit Nos. 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125; for Case No. SB-11-CRM-0241 (for accused Darius O. Pelayo and Ruben Burgos) Exhibit Nos. 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, and 137.

Accused Alicia Mori, on June 13, 2018, also filed her separate Formal Offer of Evidence.<sup>332</sup> She offered in evidence for case No. SB-11-CRM-0235, Exhibit Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13; for case No. SB-CRM-0236, Exhibit Nos. 1, 2, 3, 4, 5; for case No. SB-11-CRM-0237, Exhibit Nos. 1, 1-A, 1-B, 1-C, 2, 3, 3-A, 3-B, 3-C, 4, 4-A, 4-B, 4-C; for case No. SB-11-CRM-0238, Exhibit Nos. 1, 1-A, 1-B, 1-C, 1-D, 2, 3, 3-A, 4, 5, 6, 7, 7-A, 7-B, 7-C, 8, 9, 9-A, 9-B, 9-C, 9-D, 10, 11, 11-A, 12, 12-A, 12-B, 12-C, 13, 14, 14-A, 14-B, 15, 16, 17, 18, 18-A, 18-B, 19, 20, 20-A, 20-B, 20-C, 20-D, 21, 22, 23, 24, 24-A, 24-B, 24-C, 24-D, 25, 26, 26-A, 26-B, 26-C, 26-D, 27, 28, 28-A, 28-B, 28-C, 28-D, 29, 30, 30-A, 30-B, 31, 32, 33, 34, 34-A, 34-B, 34-C, 34-D, 35, 36, 36-A, 36-B, 36-C, 37, 38, 39, 40, 40-A, 40-B, 40-C, 40-D, 41, 42, 43, 43-A, 43-B, 43-C, 43-D, 44; for case No. SB-11-CRM-0241, Exhibit Nos. 1, 1-A, 1-B, 2, 2-A, 2-B, 3, 3-A, 3-B, 4, and 4-A.

Accused Jaime Labasano, on June 8, 2018, also filed his own Formal Offer of Evidence.<sup>333</sup> He offered in evidence for Case No. SB-11-CRM-0235, Exhibit Nos. 1, 1-1-A, 1-1-B, 1-1-C, 1-1-D, 1-1-E, 1-1-F, 2, 2-1-A, 2-1-B, 2-1-C, 2-1-D, 2-10, 2-1-E, 2-1-F, 3, 3-1-A, 3-1-B, 3-1-C, 3-1-D, 3-1, 3-1-E, 3-1-F, 3-1-G, 3-2, 3-2-A, 3-2-B, 3-2, 3-2-A, 3-2-B, 4, 4-1-A, 4-1-B, 4-1-C, 4-1-D, 4-1, 4-1-E, 4-1-F, 4-1-G, 4-2, 4-2-B, 5, 5-1-A, 5-1-B, 5-1-C, 5-1-D, 5-1, 5-1-E, 5-1-F, 5-1-G, 5-2, 5-2-A, 5-2-B, 6, 6-1-A, 6-1-D, 6-2, 6-2-A, 6-2-B, 6-3, 6-3-A, and 6-3-B.

<sup>332</sup> *Id.* at Volume VII, p. 17.

<sup>333</sup> *Id.* at 52.

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The Court, in a resolution dated July 6, 2018,<sup>334</sup> resolved to:

"XXX

b) To ADMIT accused Pelayo's Exhibit 7, 8, and 15, accused Basoc and Pelayo's Exhibits 15, 44, 45, 73, 89 and 100, in the tenor that they were testified on by the defense witnesses, over the objection of the prosecution; and

c) To ADMIT all the rest of the exhibits offered by all the accused, over the objection of the prosecution to the purposes for the offer, but subject to the observation made by the Court below.

xxx."

On October 8, 2018, Darius Pelayo, Stanley Mori, and Jose Basoc submitted separate Memoranda for each Criminal Case. Accused Labasano, on the other hand, submitted his own Memorandum on October 10, 2018, while Alicia Mori submitted her Memorandum on October 24, 2018.

### THE COURT'S FINDING OF FACTS

The five (5) Informations filed against the accused in these cases stemmed from an initially anonymous letter complaint<sup>335</sup> dated August 2, 2002 sent to the Deputy Ombudsman for Mindanao. Later, the sender was identified as a certain Evelyn D. Ronquillo. The letter complaint gave a detailed account of the alleged anomalous transactions and purchases of the Municipality of Caraga during the terms of Mayors Alicia and Stanley Mori.

Caraga is a third-class municipality located in the Province of Davao Oriental. From 1992 to 2001, its Mayor was Alicia Mori, and from years 2001 to 2004, its Mayor was Stanley Mori.

Acting on the letter complaint, the Deputy Ombudsman for Mindanao,<sup>336</sup> through the COA Regional Director, tasked

<sup>334</sup> *Id.* at 99.

<sup>335</sup> Exhibit C

<sup>336</sup> Exhibit B

State Auditor III Felipe Provideo to conduct a financial and compliance audit on the complained transactions.<sup>337</sup>

After his investigation, Provideo came up with an Audit Observation Memorandum, listing the irregularities he found with the complained transactions. On September 17, 2003, he sent the concerned officials of Caraga a copy of Audit Observation Memorandum No. 2003-001-101 (AOM)<sup>338</sup> to given them an opportunity to explain and comment on his findings and observations. An exit conference was held by Provideo together with the concerned officials of the LGU to discuss the said transactions and for the officials to explain their side. Thereafter, a letter reply dated January 20, 2004,<sup>339</sup> to the AOM was submitted by then Mayor Stanley Mori. However, according to Provideo, the explanations given failed to justify the complained transactions.

Thus, on May 20, 2004,<sup>340</sup> Provideo submitted the results of his financial and compliance audit in a report titled "Report on the Financial and Compliance Audit on the Complained Transactions of the Municipality of Caraga" (Final Audit Report).<sup>341</sup> Attached to this Audit Report is a Summary of Deficiencies and Irregularities<sup>342</sup> found on the complained transactions, which became the basis for the filing of these cases.

#### *SB-11-CRM-0235*

##### *Retirement of Budget Officer Calixto Ladao*

On April 28, 1999, Municipal Budget Officer Calixto Ladao gave notice to Mayor Alicia Mori that he will be retiring effective July 31, 1999.<sup>343</sup> Attached to his letter are his service records, notice of salary adjustment, GSIS Certificate of Clearance, Ombudsman Certificate of Clearance, SALN, and Certificate of Clearance<sup>344</sup> from Caraga's OIC Municipal Treasurer Jaime Labasano, and Municipal Accountant Darius Pelayo.

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<sup>337</sup> Exhibit A

<sup>338</sup> Exhibit H

<sup>339</sup> Exhibit I

<sup>340</sup> Exhibit D

<sup>341</sup> Exhibit F

<sup>342</sup> Exhibit G

<sup>343</sup> Exhibit K

<sup>344</sup> Exhibit K-7

On August 2, 1999, Mayor Alicia Mori sent Ladao a computation of his retirement gratuity under R.A. No. 1616, showing his total gratuity pay to be Four Hundred Seventy-Six Thousand Four Hundred Sixty-Three Pesos and Thirty-Five Cents (P476,463.35).<sup>345</sup> Attached to this is the breakdown of the computation<sup>346</sup> of the gratuity pay prepared by HRM Officer Lilma Paguyan, and approved by Alicia Mori.

It appears, however, that prior to the August 2, 1999 letter of Alicia Mori, she issued a recall order<sup>347</sup> on July 27, 1999 on the retirement of Ladao, stating that her administration *"is on the verge of moving towards financial stability"* and that *"it is only proper and legal on [her] part as Chief Executive to invoke [her] wide latitude of discretion, to recall [Ladao's] application for retirement, on the basis of [his] performance, and the capability to establish collaborative teamwork among heads of office..."*<sup>348</sup>

Alicia Mori explains that the dates between the two documents were interchanged due to a clerical error of her staff. According to her, the letter approving the gratuity pay of Ladao should be dated July 27, 1999, and the recall order letter should be dated August 2, 1999.<sup>349</sup>

From the documents presented in evidence, it appears that even before the retirement of Ladao was recalled, Ladao was already able to receive most of his gratuity pay through cash advances made under the following Disbursement Vouchers:

	Disbursement Voucher	Date	Particulars	Amount (Php)
1	101-9905-1016 <sup>350</sup>	June 14, 1999	Cash advance chargeable to Gratuity Pay	50,000.00
2	101-9907-1193 <sup>351</sup>	July 6, 1999	Cash advance chargeable to Gratuity Pay	50,000.00
3	101-9907-1356 <sup>352</sup>	July 22, 1999	Cash advance	326,463.35

<sup>345</sup> Exhibit Q

<sup>346</sup> Exhibit Q-1

<sup>347</sup> Exhibit R

<sup>348</sup> Id.

<sup>349</sup> TSN dated August 8, 2016, pp. 9-13.

<sup>350</sup> Exhibit N

<sup>351</sup> Exhibit O

<sup>352</sup> Exhibit P

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			chargeable to Gratuity Pay	
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Total 426,463.35

The first three cash advances of Ladao amounted to Four Hundred Twenty-Six Thousand Four Hundred and Sixty-Three Pesos and 35/100 (P426,463.35). This is still short of the amount of Fifty Thousand Pesos to complete the total gratuity pay of Four Hundred Seventy-Six Thousand Four Hundred Sixty-Three Pesos and Thirty-Five Cents (P476,463.35), as computed by HRMO Lilma Paguyan. Thus, a fourth disbursement was made November 17, 1999 for Fifty Thousand Pesos (P50,000.00), completely releasing the full amount of gratuity to Ladao, as follows:

	Disbursement Voucher	Date	Particulars	Amount (Php)
1	101-9905-1016	June 14, 1999	Cash advance chargeable to Gratuity Pay	50,000.00
2	101-9907-1193	July 6, 1999	Cash advance chargeable to Gratuity Pay	50,000.00
3	101-9907-1356	July 22, 1999	Cash advance chargeable to Gratuity Pay	326,463.35
4	101-9911-2242 <sup>353</sup>	Nov. 17, 1999	Commutation of Gratuity Pay as Municipal Budget Officer	50,000.00

Total 476,463.35

The signatories to the above vouchers and their corresponding ROAs are the following officials:

	Disbursement Voucher	Date	Signatories	ROA Signatories
1	101-9905-1016	June 14, 1999	1. Budget Officer Calixto Ladao 2. Mun. Accountant Darius Pelayo 3. Mayor Alicia Mori	1. Budget Officer Calixto Ladao 2. Mun. Accountant Darius Pelayo 3. Mun. Treasurer Jaime Labasano

<sup>353</sup> Exhibit Q-2

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2	101-9907-1193	July 6, 1999	1. Budget Officer Calixto Ladao 2. Mun. Accountant Darius Pelayo 3. Mayor Alicia Mori	1. Budget Officer Calixto Ladao 2. Mun. Accountant Darius Pelayo 3. Mun. Treasurer Jaime Labasano
3	101-9907-1356	July 22, 1999	1. Budget Officer Calixto Ladao 2. Mun. Accountant Darius Pelayo 3. Mayor Alicia Mori	1. Budget Officer Calixto Ladao 2. Mun. Accountant Darius Pelayo 3. Mun. Treasurer Jaime Labasano
4	101-9911-2242	Nov. 17, 1999	1. Budget Officer Calixto Ladao 2. Mun. Accountant Darius Pelayo 3. Mun. Treasurer Jaime Labasano	1. Budget Officer Calixto Ladao 2. Mun. Accountant Darius Pelayo 3. Mun. Treasurer Jaime Labasano

In addition to his gratuity pay, Ladao was also able to receive his terminal leave in the form of cash advances, prior to the recall of his retirement, as shown by the following disbursements:

	Disbursement Voucher	Date	Particulars	Amount (Php)
1	101-9905-0769 <sup>354</sup>	May 10, 1999	Cash advance of terminal leave	36,973.97
2	101-9906-1135 <sup>355</sup>	June 28, 1999	Payment of terminal leave	27,039.18

Total **64,013.15**

Meanwhile, Ladao continued to serve as Caraga's Budget Officer and continued to receive his monthly salaries and allowances.<sup>356</sup>

By 2001, Mayor Alicia Mori already served three terms as Mayor. Her husband, Stanley Mori, ran for elections and won as Caraga's new Mayor. A few months after assuming office,

<sup>354</sup> Exhibit M

<sup>355</sup> Exhibit L

<sup>356</sup> Exhibit Y

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Stanley Mori was informed by Vice-Mayor Samuel Dominguez that the Sangguniang Bayan will be investigating the matter of retirement of Ladao, to which Stanley Mori gave permission. On October 1, 2001, The Sangguniang Bayan issued a Committee Report,<sup>357</sup> with the following findings:

1. That the disbursement of Mr. Ladao's retirement benefits was not in accordance with CSC rules and regulations based on the opinion of the CSC Regional Director;
2. That those people behind the disbursement are likewise accountable xxx;
3. That Mr. Ladao is committed to pay back the amount collected upon retirement.

Based on these findings, the Sangguniang Bayan recommended that:

1. Mr. Ladao be made to pay in full the amount he had claimed as retirement benefits;
2. That the settlement of the same be done with the Municipal Treasurer and same shall serve as a Compromise Agreement to be signed by Mr. Ladao, and that no clearance shall be issued by the Municipal Treasurer upon the retirement of Ladao, as the same is a requisite for [the] GSIS claim, without first settling in full the amount he collected in advance.

On January 6, 2003, as Ladao was about to approach the mandatory retirement age of sixty-five (65), he again gave notice of his retirement to Mayor Stanley Mori, stating that he would be retiring on March 6, 2003, and this time, he would be retiring under R.A. No. 8291.<sup>358</sup> On same date, January 6, 2003, a Certificate of Clearance was issued to Ladao, stating that Ladao *"made a full and complete accounting of funds and properties for which he is accountable or responsible..."*<sup>359</sup> It was signed by Municipal Accountant Darius Pelayo, Municipal Treasurer Gerardo Aguimod, and Mayor Stanley Mori.

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<sup>357</sup> Exhibit S

<sup>358</sup> Exhibit T

<sup>359</sup> Exhibit U

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As the gratuity pay advanced by Ladao remain unpaid even after he retired, the Sangguniang Bayan of Caraga passed Resolution No. 54<sup>360</sup> on August 18, 2003. The Resolution stated that Ladao has opted this time to retire under R.A. No. 8291 and left behind the unpaid amount of P476,463.35. It then authorized Municipal Treasurer Aguimod to collect the said amount from Ladao.

Shortly thereafter, on September 17, 2003, Auditor Provideo gave Mayor Stanley Mori the Audit Observation Memorandum<sup>361</sup> which noted that the gratuity payment remain unpaid, and that there were other deficiencies and irregularities involved in the disbursements of his cash advances. On December 9, 2003, Mayor Stanley Mori wrote a demand letter<sup>362</sup> to Ladao for the payment of the gratuity pay. Ladao replied in a letter dated December 17, 2003<sup>363</sup> that he is unable to pay back the gratuity pay advanced, as the retirement benefits he received from GSIS amounted only to P343,181.28, which is insufficient to cover his liabilities.

As of the filing of this case, Ladao is already deceased.<sup>364</sup>

*SB-11-CRM-0236*

*Purchase of Grocery Items from  
Louievan Mercantile*

On January 19, 2001, Mayor Alicia Mori made a Purchase Request<sup>365</sup> for the following items to be delivered to the Office of the Municipal Mayor:

	Items	Quantity
1	Rice	2 sacks <sup>366</sup>
2	Corned Beef	1 dozen
3	Tinapa (Assorted)	2 kilos
4	Daing	2 kilos
5	Bolinao	2 kilos
6	Nescafe (100 grams)	5 packs
7	Sugar (brown)	3 kilos
8	Battery (AA)	6 pieces

<sup>360</sup> Exhibit V

<sup>361</sup> Exhibit H

<sup>362</sup> Exhibit W

<sup>363</sup> Exhibit X

<sup>364</sup> Records, Volume II, p. 117.

<sup>365</sup> Exhibit AA

<sup>366</sup> This later on became three (3) sacks of rice in the Purchase Order and succeeding documents.

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9	Cigarette (Hope, Winston)	1 ream
10	Noodles (Assorted)	3 dozens
11	Rubbing Alcohol	1 bottle

For this Purchase Request, Disbursement Voucher No. 101-0102-0516<sup>367</sup> was processed for the amount of Four Thousand Four Hundred and Sixty-Three Pesos (P4,463.00). Attached to the Disbursement Voucher are the check payable to Louievian Mercantile, a Charge Invoice dated February 23, 2001 enumerating the same items sold to the Municipality of Caraga, the ROA indicating the obligation as "supplies," the aforementioned Purchase Request, the Abstract on Canvass, two Canvass Forms, and the Purchase Order.

The Abstract of Canvass<sup>368</sup> reflects only the prices of the items as quoted by Louievian Mercantile. It was signed by Ruben Burgos as canvasser, Mayor Alicia Mori as requisitioner and Chairman of the Committee on Award, and Treasurer Aguimod and Accountant Pelayo as members of the Committee on Award.

As to the two Canvass Forms attached, only one form<sup>369</sup> was filled up with prices quoted by Louievian Mercantile. The other form bears the signatures of Mayor Alicia Mori and Treasurer Aguimod, but was left in blank as to the prices of the items and the name of the bidder/supplier.<sup>370</sup>

The items were delivered to the Office of the Mayor and an Inspection Report<sup>371</sup> was signed by Alicia Mori, Burgos, and Aguimod. The Acceptance Report,<sup>372</sup> on the other hand, was signed by Utility Worker Blas Andoyo. According to Mori and Pelayo, there was an ongoing police/military operation in Caraga at that time to combat the presence of the NPAs in the area. These items/supplies subject of the disbursement vouchers were given to the police/military.

Auditor Provido, in his AOM,<sup>373</sup> observed that Louievian is a non-existing business enterprise and that the conduct of canvass was merely simulated. In response<sup>374</sup> to this, Mayor

<sup>367</sup> Exhibit Z

<sup>368</sup> Exhibit BB

<sup>369</sup> Exhibit BB-1

<sup>370</sup> Exhibit BB-2

<sup>371</sup> Exhibit DD

<sup>372</sup> Exhibit EE

<sup>373</sup> Exhibit H

<sup>374</sup> Exhibit I

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Stanley Mori furnished provided a copy of the Business Permit of Louiebian Mercantile, together with its Certificate of Registration and Barangay Clearance. To dispute the allegations of Provided that his ocular inspection of the purported address of Louiebian at #20 L. Ma. Guerrero Street, Louiebian's proprietor Juanita Casquejo explained that it was inside a compound and could not readily be seen from the streets, as it was being partly blocked by G.M. Press, a business establishment owned by her son.

### SB-11-CRM-0237

#### Catering Services

On January 19, 2001, Municipal Accountant Darius Pelayo made a Purchase Request<sup>375</sup> for catering services to be provided to them for the Closing of Accounts that his office performs yearly. This was approved by Mayor Alicia Mori. For that year (2001), it was held from January 22 to 29 at the Accounting Office of the Municipality of Caraga. According to Pelayo, this activity would entail him and his staff to work overtime to meet the deadline of February 14, 2001.

The Abstract of Canvass<sup>376</sup> shows that there were three suppliers who gave their price quotations for 24 meals and 27 snacks for 8 persons, with RV Eatery giving the lowest price. Attached to the Abstract are the three Canvass Forms dated January 19, 2001.<sup>377</sup>

	RV Eatery		J&B Eatery		Mabandos Eatery	
	Per Meal (Php)	Total (Php)	Per Meal (Php)	Total (Php)	Per Meal (Php)	Total (Php)
24 Meals for 8 persons	70.00	<b>13,440.00</b>	72.00	13,824.00	75.00	14,400.00
7 Snacks for 8 persons	30.00	<b>6,480.00</b>	32.00	6,912.00	35.00	7,560.00
Total		<b>19,920.00</b>		20,736.00		21,960.00

The Local Bids and Awards Committee (LBAC) issued a Certification<sup>378</sup> dated January 15, 2001 that the only licensed eatery in the Municipality is RV Eatery, and the other caterers

<sup>375</sup> Exhibit MM

<sup>376</sup> Exhibit OO

<sup>377</sup> Exhibit OO-1 to OO-3.

<sup>378</sup> Exhibit QQ

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who participated in the canvass/bidding are disqualified for not having the necessary permits and licenses. The Certification was signed by LBAC Members Ladao, Aguimod, Pelayo, and approved by Alicia Mori. RV Eatery was then chosen as the caterer.

The Purchase Order<sup>379</sup> was then signed by Aguimod and Alicia Mori, and the meals and snacks were delivered to the Accounting Office, as signified in the Acceptance Report<sup>380</sup> signed by Pelayo.

On April 16, 2001, Disbursement Voucher No. 101-0104-0966<sup>381</sup> was made for the amount of Nineteen Thousand Nine Hundred Twenty Pesos (P19,920.00), which, after the deduction of Value Added Tax, became Nineteen Thousand One Hundred Ninety-Five Pesos and Sixty Four Cents (P19,195.64) as payment to RV Eatery for the catering services during the January 22 to 29, 2001 Closing of Accounts. Attached to it are the ROA signed by Pelayo, Ladao, and Aguimod, a check in the name of RV Eatery owner Rebecca Latorre, and an RV Eatery Sales Invoice.<sup>382</sup>

The second transaction under this Information is the catering services requested by Treasurer Aguimod through Purchase Request dated February 19, 2001. This was for a Conference of all Treasury Officers. The attached Activity Design<sup>383</sup> describes the activity as the turnover of the assets, liabilities and properties by the outgoing treasurer to the incoming treasurer, and includes the conduct of inventory of properties/supplies, an audit of financial resources and the reconciliation of all cash and bank records.

The Abstract of Canvass<sup>384</sup> (with the Canvass Forms<sup>385</sup> attached) shows that RV Eatery is the still the supplier with the lowest price quote, as shown below, and was chosen as the provider of catering services:

RV Eatery		J&B Eatery		Mabandos Eatery	
Per Meal (Php)	Total (Php)	Per Meal (Php)	Total (Php)	Per Meal (Php)	Total (Php)

<sup>379</sup> Exhibit NN

<sup>380</sup> Exhibit PP

<sup>381</sup> Exhibit LL

<sup>382</sup> Exhibit LL-1 to LL-3.

<sup>383</sup> Exhibit II

<sup>384</sup> Exhibit JJ

<sup>385</sup> Exhibits JJ-1 to JJ-3

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2 Meals for 20 persons	70.00	<b>2,800.00</b>	72.00	2,880.00	75.00	3,000.00
2 Snacks for 20 persons	35.00	<b>1,400.00</b>	37.00	1,480.00	38.00	1,520.00
Total		<b>4,200.00</b>		4,360.00		4,520.00

A Purchase Request<sup>386</sup> dated February 21, 2001 was then made for the above meals, which were delivered<sup>387</sup> to the Office of the Treasurer. On April 17, 2001, Disbursement Voucher No. 101-0104-0965<sup>388</sup> was processed for the amount of Four Thousand Thirty-Two Pesos (P4,032.00) (P4,200.00 less VAT) as payment to RV Eatery. Attached to the voucher are the ROA signed by Aguimod and Alicia Mori, the RV Eatery Sales Invoice for P4,032.00, and the check whose amount was P4,200.00.<sup>389</sup>

In sum, the amounts disbursed under the two vouchers subject of this Information are as follows:

	Disbursement Voucher No.	Date	Amount (Php)
1	101-104-0965	April 17, 2001	4,032.00 <sup>390</sup>
2	101-104-0966	April 17, 2001	19,195.64
	Total		<b>23,227.64</b>

#### *SB-11-CRM-0238*

#### *Various Purchases from Louievian Mercantile*

There are eight transactions subject of this Information, all of which involves the purchase of items from Louievian Mercantile, as the supplier offering the lowest price. These are as follows:

	Disbursement Voucher No.	Particulars	Amount before VAT (Php)	Amount after VAT deduction (Php)
1	101-0102-0511	Payment of Construction materials	49,786.00	47,794.56

<sup>386</sup> Exhibit HH

<sup>387</sup> Exhibit KK, "Acceptance Report" signed by Arnold H. Samson.

<sup>388</sup> Exhibit FF

<sup>389</sup> Exhibits FF-1 to FF-3

<sup>390</sup> The check issued pursuant to this voucher indicates the amount of P4,200.00.

*[Handwritten signature]*

x-----x

		for Spring Development		
2	101-0104-1024	Bush Cutter for use in the Office of the Municipal Engineer	16,700.00	16,092.73
3	101-0102-0515	Supplies for use at Tourism Office	2,480.00	2,480.00 <sup>391</sup>
4	101-0103692	Payment of motorcycle spare parts for RHU Office	9,584.40	9,235.88
5	101-01013-701	Payment for Motorcycle spare parts for two motorcycles at the Office of the Municipal Engineer	4,714.50	4,543.06 <sup>392</sup>
6	101-01012-0516 <sup>393</sup>	Payment of supplies for use in the Office of the Mayor	4,463.00	4,463.00 <sup>394</sup>
7	101-0102-0296	Payment of Purchases for use in the Office of the Sangguniang Bayan (handset radios and chargers)	69,375.00	66,852.27
8	101-01016-1757	Payment of Materials used in the Municipal Health Building	3,225.60	3,108.30
		<b>Total</b>	<b>160,328.50</b>	<b>154,569.80</b>

In Provido's Audit Report,<sup>395</sup> he concluded that the canvassing for these transactions were simulated as the other suppliers canvassed certified that they did not participate in any bidding or canvass, or that they do not produce or supply the items being purchased. Other suppliers also turned out to be fictitious. The findings per voucher are summarized as follows:

	Supplier/Bidder	Amount Canvassed	Irregularities Noted
1	DV No. 101-0102-0511 <sup>396</sup> (Construction materials for Spring Development)		
	Louievian Mercantile	49,786.00	
	No 2 <sup>nd</sup> supplier		No canvass forms attached, and Abstract of Canvass shows only one supplier
	No 3 <sup>rd</sup> supplier		

<sup>391</sup> No VAT deducted

<sup>392</sup> The check issued however is the cost of the spare parts before VAT deduction, or P4,714.50.

<sup>393</sup> This is the same voucher/transaction subject of SB-11-CRM-0236

<sup>394</sup> No VAT deducted.

<sup>395</sup> Exhibit F

<sup>396</sup> Exhibit UU

X-----X

2	DV No. 101-0104-1024 <sup>397</sup> (Bush Cutter for the Office of the Municipal Engineer)		
	Louiebian Mercantile	16,700.00	
	Davao Cathay Parts and Hardware, Inc.	17,500.00	Certification <sup>398</sup> from Rogelio "Boy" Yan of Davao Cathay states that they have not participated in any bidding or canvass conducted by the Municipality of Caraga, and that the signatures appearing in the canvass forms are not his signature nor that of his authorized representative.
	Unibrus Hardware	18,500.00	Could not be located or identified
3	DV No. 101-0102-0515 <sup>399</sup> (Supplies for use at Tourism Office)		
	Louiebian Mercantile	2,480.00	
	No 2 <sup>nd</sup> supplier		Two extra canvass forms were attached, but they were blank
	No 3 <sup>rd</sup> supplier		
4	DV No. 101-0103-692 <sup>400</sup> (Motorcycle spare parts for RHU Office)		
	Louiebian Mercantile	9,584.40	
	Davao Cathay Parts and Construction Supplies	10,310.85	Certification <sup>401</sup> from Rogelio "Boy" Yan of Davao Cathay states that they have not participated in any bidding or canvass conducted by the Municipality of Caraga, and that the signatures appearing in the canvass forms are not his signature nor that of his authorized representative.
	Unibrus Hardware	10,723.60	Could not be located or identified
5	DV No. 101-01013-701 <sup>402</sup> (Spare parts for two motorcycles at the Office of the Municipal Engineer)		
	Louiebian Mercantile	4,714.50	No VAT deducted on the check issued to Louiebian
	Davao Cathay Parts and Construction Supplies	4,942.00	Certification <sup>403</sup> from Rogelio "Boy" Yan of Davao Cathay states that they

<sup>397</sup> Exhibit BBB

<sup>398</sup> Exhibit TT

<sup>399</sup> Exhibit HHH

<sup>400</sup> Exhibit NNN

<sup>401</sup> Supra.

<sup>402</sup> Exhibit TTT

<sup>403</sup> Exhibit TT

			have not participated in any bidding or canvass conducted by the Municipality of Caraga, and that the signatures appearing in the canvass forms are not his nor that of his authorized representative.
	Unibrus Hardware	5,078.60	Could not be located or identified
6	DV No. 101-01012-0516 <sup>404</sup> (Payment of supplies for use by the Office of the Mayor)		
	Louievian Mercantile	4,463.00	
	No 2 <sup>nd</sup> Supplier		An extra canvass form was attached but it was in blank. The Abstract of Canvass also show only one supplier
	No 3 <sup>rd</sup> Supplier		
7	DV No. 101-0102-0296 <sup>405</sup> (Handset radios and chargers)		
	Louievian Mercantile	69,375.00	
	Narel's Bookstore, Inc.	78,375.00	Certification <sup>406</sup> from Narel's proprietor Juanita Fernandez, that they did not participate in any bidding or canvass, and that any signature therein is not hers or that of her representative. She added that their store does not sell handset radios or chargers.
	Prince Educational Supply	83,550.00	Certification <sup>407</sup> from proprietor Minerva Sy, that they did not participate in any bidding or canvass, and that any signature therein is not hers or that of her representative. She added that their store does not sell handset radios or chargers.
8	DV No. 101-01016-1757 <sup>408</sup> (Materials used in the Municipal Health Building)		
	Louievian Mercantile	3,225.60	
	Unibrus Hardware	5,860.80	Could not be located or identified
	New Kings Hardware	5,869.60	Could not be located or identified

<sup>404</sup> Exhibit XXX<sup>405</sup> Exhibit DDDD<sup>406</sup> Exhibit TT-1<sup>407</sup> Exhibit TT-2<sup>408</sup> Exhibit [ ]

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*[Handwritten signature]*

During the exit conference, it was made known to the accused that some of the suppliers denied participation in the canvass/bidding. In the written reply/compliance submitted by the LGU officials, they presented photocopies of Certifications of Narel's Bookstore<sup>409</sup> and Davao Cathay Parts,<sup>410</sup> both stating that they participated in the bidding and canvass for the purchases made by the Municipality of Caraga.

Provido's findings also state that Louievian Mercantile has no permit or license for the line of business it is engaged in. He noted that in the "Kind of Business" portion of Louievian's Business Permit,<sup>411</sup> the computerized section only states:

"Dealer of Gen. Merchandise such as light/heavy equipts./parts/const.mils/supplies/plumbing/agri-prods/sup/reflectorized traffic signs/"

After this part, the following entries were no longer in computerized form but only typewritten, and appear to have been inserted or added only:

"EWD's traffic signs, bailey panels & accessories, electrical appliances and supplies, office supplies & equipment, printed forms, textile materials & sporting good, concrete products, lumber w/o yard, sand & gravel & other dry goods, products & grocery goods & supplies."

To address this, Juanita Casquejo, proprietor of Louievian Mercantile, explained that this was because the computer system for the business permit would only accept a limited amount of lines/characters, hence the rest had to be typewritten.

On the finding of Provido that Louievian has no physical business establishment, he presented photos<sup>412</sup> taken during his ocular inspection of the purported address of Louievian, showing that only a "G.M. Press" could be found on the said address. To this, Casquejo stated that her son owns G.M. Press and that Louievian is inside the compound, but is not visible from the street where Provido took pictures.

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<sup>409</sup> Exhibit 43

<sup>410</sup> Exhibit 44

<sup>411</sup> Exhibit RR

<sup>412</sup> Exhibit SS-1

*SB-11-CRM-0241*  
*Unliquidated Cash Advances*

In Audit Observation Memorandum No. 2003-001-101 dated March 11, 2003<sup>413</sup> and Audit Observation Memorandum No. 2003-002-101 dated March 20, 2003,<sup>414</sup> both addressed to Municipal Accountant Darius Pelayo, Provided noted that there were several cash advances made by Ruben Burgos that had not yet been liquidated, in violation of Section 179 of GAAM, Vol. 1 and COA Circular No. 97-002 dated February 10, 1997.

The following Disbursement Vouchers and their corresponding checks disbursed the total amount of Five Hundred Thousand Eight Hundred Seventy Nine Pesos and Thirty Centavos (P500,879.30) to Ruben Burgos:

	Disbursement Voucher No.	Particulars	Check No.	Date	Amount (Php)
1	Unnumbered <sup>415</sup>	Cash advance to defray payments of various purchase used in the Office of the Mayor, Account, DA and MSWD			55,729.00
2	Unnumbered <sup>416</sup>	Cash advance to defray payments of Patrol car engine and spare parts, office supplies of COMELEC Office and MBO, and payment of remaining balance of SSS HF Transceiver	023254 <sup>417</sup>	April 4, 2001	176,760.00
3	Unnumbered <sup>418</sup>	Cash advance to defray payments of various maintenances and other operating expenses of the	037488 <sup>419</sup>	June 13, 2001	132,990.30
			037489 <sup>420</sup>	June 13, 2001	38,400.00
			037490 <sup>421</sup>	June 13,	50,000.00

<sup>413</sup> Exhibit QQQQ

<sup>414</sup> Exhibit UUUU

<sup>415</sup> Exhibit RRRR. No corresponding check was attached, but the AOM indicated that it was Check No. 015334.

<sup>416</sup> Exhibit SSSS

<sup>417</sup> Exhibit SSSS-1

<sup>418</sup> Exhibit TTTT

<sup>419</sup> Exhibit TTTT-2

<sup>420</sup> Exhibit TTTT-3

<sup>421</sup> Exhibit TTTT-4

*MSB*

		Municipality		2001	
4	Unnumbered <sup>422</sup>	Cash advance to defray payments of gasoline, motorcycle spare parts, Lite Ace spare parts, used in the Office of the Sangguniang Bayan of Caraga	023255 <sup>423</sup>	April 4, 2001	47,000.00
				<b>Total</b>	<b>500,879.30</b>

A Certification<sup>424</sup> issued by Pelayo dated January 15, 2003 states that Ruben Burgos has liquidated the above cash advances, in accordance with the provisions of Section 89 of P.D. 1445. Despite the said Certification, Provido maintains that the above cash advances have not been liquidated. Burgos, on the other hand, claims that he submitted his liquidation reports and documents to Pelayo, and Pelayo insists that he has submitted these to Provido. Pelayo also claims that he does not have duplicates of the documents because there is no photocopying machine in Caraga at that time, and the nearest photocopying machine is in Mati, a town three hours away from Caraga.<sup>425</sup>

### ISSUES

Whether or not all the named accused in SB-11-CRM-0235 to 0238 could be criminally and civilly liable for violation of Section 3(e) of R.A. No. 3019, and

Whether or not all named accused in SB-11-CRM-0241 could be held criminally and civilly liable for violation of Section 89, in relation to Section 128 of P.D. 1445.

### RULING

The first four charges against herein accused (SB-11-CRM-0235 to 0238) are all violations of Section 3(e) of R.A. No. 3019, under which the following elements must concur for one to be found guilty:

<sup>422</sup> Exhibit VVVV

<sup>423</sup> Exhibit VVVV-1

<sup>424</sup> Exhibit PPPP

<sup>425</sup> TSN dated October 6, 2015, p. 38.

1. The accused must be a public officer discharging administrative, judicial, or official functions;
2. The accused must have acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and
3. His/her action caused undue injury to any party, including the Government, or gave any party unwarranted benefits, advantage, or preference in the discharge of his/her functions.<sup>426</sup>

This Decision will separately discuss the presence or absence of the above elements for each case. Given the fact that Calixto Ladao already passed away prior to the filing of this case, his criminal liability would no longer be discussed.

#### *SB-11-CRM-0235*

##### *Retirement of Budget Officer Calixto Ladao*

For the first element of Section 3(e), R.A. No. 3019, it is undisputed that all six accused in this case are public officers discharging their official functions at the time of the commission of the crime. Alicia B. Mori was the Municipal Mayor of Caraga when Ladao first gave notice of his retirement in 1999, while Stanley E. Mori was Municipal Mayor when Ladao finally retired in 2003. Darius Pelayo was then the Municipal Accountant and Jaime Labasano was the OIC Municipal Treasurer. When Ladao retired in 2003, the Municipal Treasurer was already Gerardo Aguimod.

For the second element of the offense, this Court finds that the prosecution was able to show that accused Alicia Mori, Ladao, Pelayo, and Labasano took advantage of their official positions when they, through manifest partiality, evident bad faith, or gross inexcusable negligence, authorized, granted, and released the retirement gratuity pay of Ladao on July 31, 1999, although his retirement was recalled by Mayor Alicia Mori on July 27, 1999. It should be emphasized that the amounts released to Ladao were released as cash advance payments of which will be chargeable to his gratuity pay. By allowing Ladao to advance his retirement benefits and charge the entire amount later to his future receivable constitutes manifest partiality.

In the case of *Sison v. People of the Philippines*,<sup>427</sup> the

<sup>426</sup> *Reyes v. People*, G.R. Nos. 177105-106, August 12, 2010.

<sup>427</sup> G.R. Nos. 170339 and 170398-403, 9 March 2010, 614 SCRA 670.

Court explained what partiality, bad faith and gross negligence mean in the context of Section 3(e) of R.A. No. 3019:

"Partiality is synonymous with bias which excites a disposition to see and report matters as they are wished for rather than as they are. Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud. Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property."<sup>428</sup>

In this case, the Court finds that accused Alicia Mori, Ladao, Pelayo, and Labasano, acted with evident bad faith and gross negligence when they signed the ROAs, Disbursement Vouchers, and checks, for the advance payment of the retirement gratuity pay of Ladao. This Court notes that Ladao elected to retire under R.A. No. 1616, where the law gives to the retiree his retirement benefits in two parts: 1) the gratuity pay, to be paid by his last employer, which in this case is the Municipality of Caraga, and 2) the refund of his premiums, to be paid by GSIS. However, regardless of what retirement mode or scheme Ladao elected to retire, he becomes entitled to his retirement benefits only upon his actual retirement.

In the case at bar, Ladao signified his intention to retire from government service effective July 31, 2009. A month before this however, he was already receiving portions of his retirement gratuity pay -- first on June 14, 1999, then on July 6, 1999, and on July 22, 1999. It needs to be pointed out that the release of the gratuity pay to Ladao is illegal, not because his retirement was recalled by Alicia Mori, but because on June 14, 1999, July 6, 1999, and July 22, 1999, Ladao is not yet entitled to receive these benefits. With all more reason should the fourth payment on November 17, 1999 be disallowed, because at that time, it was already certain that Ladao would not be retiring anytime soon, as he in fact continued serving as Caraga's Budget Officer until 2003. Yet all these disbursements of funds were made possible because Ladao himself, accused Alicia Mori, Pelayo, and Labasano


<sup>428</sup> Id., citing *Fonacier v. Sandiganbayan*, G.R. No. 50691, 5 December 1994, 238 SCRA 655.

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signed off on the ROAs, Disbursement Vouchers and checks payable to Ladao.

The illegality of this payment was certainly not lost on the accused, as shown by Municipal Treasurer Labasano asking permission from Alicia Mori to consult with Provincial Auditor Veronica Lawas. The fact that he saw the need to refer to an auditor indicates that he knows the payment to be, at the very least, irregular. Irrespective however of whatever verbal advice the Provincial Auditor gave to Labasano, which advice this Court can neither ascertain nor confirm, the act of allowing the release of payment to Ladao remains to be illegal. This Court cannot likewise give any credit to the justifications given by Municipal Accountant Pelayo that there was already a definite computation from the HRMO of the amount of gratuity to be received by Ladao, and a definite date of retirement. Anything less than actual retirement from service will not entitle one to receive his or her retirement benefits. The evident bad faith of accused was established by the mere fact that they knew Ladao has not yet retired, but they already allowed him to collect his retirement pay. As Municipal Treasurer and Municipal Accountant, Labasano and Pelayo also ought to know that retirement benefits are not allowed to be cash-advanced under existing auditing rules and regulations.

There is also evident bad faith and gross inexcusable negligence on the part of Mayor Alicia Mori when she simply signed the documents for the release of retirement gratuity pay, for the reasons that she 1) signs voluminous documents on a daily basis and that she 2) relied on the presence of the signatures of her department heads. While a head of office has the right to presume regularity in the conduct of duties of her subordinates, her duty to give final approval to any matter is far from ministerial. Although she is not expected to go down to the nitty-gritty of every document she signs, the clear import of the particulars appearing on the face of the disbursement vouchers alone should have put her on notice that the purposes for the disbursements are illegal. In this case, the first three vouchers were described as "*cash advance chargeable to Gratuity Pay.*" At that time, Alicia Mori knows that Ladao has yet to retire and is not therefore entitled to any gratuity pay. The following testimony of Alicia Mori shows that she fully knows that the payment of gratuity pay is not one of the items allowed to be cash-advanced.



x-----x

PROSECUTOR BOCO-MATE:

Q: Now, you also testified yesterday that you g[ot] mad upon learning that Calixto Ladao cash advanced his retirement benefits and gratuity pay, is that correct?

THE WITNESS:

A: Yes, ma'am.

Q: Because you knew that it is not legal to cash advance retirement benefits, is it not? You g[ot] mad because you knew that it is not legal to cash advance?

ATTY AQUINO:

Objection, Your Honors, that is calling for a conclusion of law, Your Honors.

JUSTICE DE LA CRUZ:

Reform.

Why did you get mad?

PROSECUTOR BOCO-MATE:

Q: Why did you get mad upon learning that the accused Ladao cash advanced his retirement benefits?

THE WITNESS:

A: *Galit na galit ako, ma'am, sa kanya kasi yun nga, itong mga nag-cash advance siya na dapat hindi.*

Q: So, you would agree with us that the retirement benefits cannot be cash advanced, is that correct?

A: Yes, ma'am.<sup>429</sup>

On the third element of causing undue injury to the government, it is the contention of accused Pelayo that no damage was caused to the government, because Ladao was only given what was due to him under the law. Under R.A. No.

<sup>429</sup> TSN dated August 10, 2016, pp. 16-17.

1616, the Municipality of Caraga is supposed to pay Ladao the amount computed according to the number of total creditable service of Ladao. In addition to this, Ladao should also receive from GSIS the refund of the premiums he paid. At the time he was supposed to retire in July 31, 1999, his gratuity pay already amounted to P476,463.35. However, since he extended his service to March 2003, Pelayo believes that Ladao's gratuity pay should even be more than this. Ladao, however, no longer collected from the LGU this additional gratuity pay.

While it may be true that Ladao was not able to collect the full gratuity pay due him, this does not mean that no injury was sustained by the government in 1999. Pelayo himself mentioned that the Municipality of Caraga was a third-class municipality, and that a one-time release of gratuity pay to Ladao would result to a disruption of the municipality's cash flow, thereby implying that the municipality does not have a lot of cash on hand. It is precisely for this reason that it becomes even more important that disbursements are made only for those obligations that are already due and demandable. When the retirement gratuity pay was prematurely released to Ladao years ahead of his retirement, the Municipality of Caraga was effectively deprived of the use of its funds. As pointed out by the Court during Pelayo's testimony:

ATTY. AQUINO (to WITNESS DARIUS PELAYO):

Q: Tell us directly, why did you or the LGU allow Ladao to collect cash advances through the voucher mode for the months of May, June, and July before his retirement dated in July?

A: Because there was already a definite date of retirement, sir. So, in order to facilitate the payment, in order to refrain also from paying...because of the limited cash that the LGU had during that time, that is why...

AJ PONFERRADA

You mean to say, because of the limited cash, you paid in advance Mr. Ladao? We

cannot see the logic of that *ha*. If the municipality has limited cash, they will pay something which is not yet an obligation, and not reserve it for all obligations? Is that what you are telling us?

WITNESS

Your Honor, what I am telling is that, in order to facilitate the payment of his gratuity pay, the cash flow of the municipal government is so important, because we are [a] third class LGU, and then we were to pay in bulk the P400,000.00 in one month, that would affect the financial condition of the municipality.

AJ PONFERRADA:

So because the cash flow is very important, you paid in advance what is not yet an obligation of the municipal government, and did not reserve it for the obligations of the municipality? Is that what you are saying? No logic!

CHAIRMAN:

With more reason that you should not pay it because your cash flow will not allow it, right?

AJ PONFERRADA:

Precisely.<sup>430</sup>

Further, any availment of retirement benefits under R.A. No. 1616 requires that the employer or the office of the retiree first pass the necessary appropriation law from its savings:

**Section 1.** Section Twelve of Commonwealth Act Numbered One Hundred Eighty-Six, as Amended, is hereby further amended by adding two new paragraphs after paragraph (a) which reads as follows:

xxx

"(c) Retirement is likewise allowed to a member, regardless of age, who has rendered at least twenty years of service. The benefit shall, in addition to the return of his personal

<sup>430</sup> TSN dated October 6, 2015, pp. 84-85.

contributions plus interest, be only a gratuity equivalent to one month salary for every year of service, based on the highest rate received, but not to exceed twenty-four months. This gratuity is payable by the employer or office concerned which is hereby authorized to **provide the necessary appropriation or pay the same from savings in its appropriations.**" (Emphasis supplied)

There being no showing that an appropriation law was passed by the Municipality of Caraga for purposes of allocating funds for Ladao's retirement, Ladao could not be entitled to any gratuity pay.

As for accused Stanley Mori and Gerardo Aguimod, the Court finds no liability on their part. The offense of taking advantage of their office and causing injury to the government was already consummated and completed when the gratuity pay was released to Ladao. Stanley Mori, who became Mayor after this payment was completed, and Aguimod who replaced Labasano as Municipal Treasurer, have no participation in the release of the retirement gratuity pay.

*SB-11-CRM-0236*

*Purchase of Grocery Items from  
Louievian Mercantile*

The transaction subject of this Information and one of the eight transactions under Criminal Case No. SB-11-CRM-00238 refer to one and the same disbursement of fund. They both involve the same Purchase Request dated January 19, 2001, Disbursement Voucher No. 101-01012-0516 for the amount of Four Thousand Four Hundred and Sixty-Three Pesos (P4,463.00), Charge Invoice dated February 23, 2001, and the Abstract of Canvass with the two Canvass Forms attached. Both Case Nos. SB-11-CRM-0236 and SB-11-CRM-0238 allege that the accused public officials took advantage of their positions and committed the crime through manifest partiality, evident bad faith, and gross inexcusable negligence by disbursing funds to Louievian Mercantile for the purchased items, without conducting a canvass of at least three suppliers/conducting simulated biddings, thereby causing undue injury to the government.

There being an identity of causes of action between the two Informations filed, and with public policy being firmly set

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against unnecessary multiplicity of suits, the Information in Criminal Case No. SB-11-CRM-0236 is DISMISSED. The Court will make its pronouncement as to this disbursement only in Criminal Case No. SB-11-CRM-0238.

*SB-11-CRM-0237*  
*Catering Services*

For the first element of Section 3(e), R.A. No. 3019, it is again undisputed that all four accused in this case are public officers discharging their official functions at the time of the commission of the crime. Alicia B. Mori was the Municipal Mayor of Caraga and Ladao was the Municipal Budget Officer when the disbursement was approved, and Darius Pelayo was then the Municipal Accountant and Gerardo Aguimod was the Municipal Treasurer who requested for the catering and approved the payment for the same as well.

For the second element of the offense, this Court finds that Alicia Mori, Ladao, Pelayo, and Aguimod took advantage of their official positions when they, through manifest partiality, evident bad faith, or gross inexcusable negligence, requested for the catering, and authorized the disbursement of funds as payment for the said catering services in the amount of Twenty-Three Thousand Two Hundred Twenty-Seven Pesos and Sixty-Four Cents. (P23,227.64).

In this case, there was no irregularity noted as to the canvassing of the suppliers for the meals and snacks, or in the determination of the supplier that gave the lowest price quote. What the COA objected to was the purpose for which the catering services were procured. For the catering services requested by accused Pelayo, he claims that it is for the meals and snacks to be consumed by his staff at the Municipal Accountant Office while they render overtime work as they close the accounts of the LGU for the year 2000. On the other hand, the catering service requested for by accused Aguimod was for the meals and snacks to be consumed by his staff from the Office of the Municipal Treasurer as they conduct the inventory and turn-over the office to the incoming Municipal Treasurer. However, as correctly pointed out by COA Auditor Provideo, these activities comprise the regular duties and functions of the employees of their respective offices for which they are already compensated for, through their salaries and

*Y. Mori*

overtime pay. There is no provision in law that entitles them to meal and snack allowances for these activities. As the Municipal Budget Officer, Accountant, and Treasurer, accused Ladao, Pelayo, and Aguimod ought to know that catering services are not among the allowable expenses that can be sourced from Maintenance and Other Operating Expenses (MOOE) of their respective offices, or from any available fund of the LGU. It was therefore manifest partiality, evident bad faith, and gross inexcusable negligence on their part to request for such services, and approve the payment therefor.

Alicia Mori shares equal responsibility as well for giving final approval to the purchase request and the subsequent disbursement of funds to pay for such services, knowing fully well that these expenses are not authorized by any rules or regulation. The Court cannot give merit to her defense that she merely relied on the signatures of her subordinates on the purchase documents, as she was clearly apprised of the purposes of the said disbursements on the face of the documents she signed. As held by the Supreme Court in the case of *Alfonso v. Office of the President*,<sup>431</sup> a head of office cannot reasonably rely on the regularity of the performance of duties of his/her subordinates when he/she already has knowledge of an irregularity in the transaction, which in this case, she readily could have gathered from the purposes of the disbursements indicated in the documents.

As for the third element of undue injury to the government, it was clearly shown that the Municipality of Caraga sustained the damage to its funds in the amount of Twenty-Three Thousand Two Hundred Twenty-Seven Pesos and Sixty-Four Cents. (P23,227.64), when it was disbursed from the funds of the municipality for an unauthorized purpose.

#### *SB-11-CRM-0238*

#### *Various Purchases from Louieviaan Mercantile*

As in the previous cases, the first element of Section 3(e) of R.A. No. 3019 has been established, it not being disputed that all the accused in this case, with the exception of accused Juanita Casquejo, were public officials at the time of the

<sup>431</sup> G.R. No. 150091, April 2, 2007, 520 SCRA 64.

gjh  
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commission of the offense. Accused Casquejo, although a private individual, is charged as a conspirator in the present case.

For the second element of Section 3(e), R.A. No. 3019, this Court finds accused Alicia Mori, Pelayo, Ladao, Aguimod and Basoc to have taken advantage of their office and acted with manifest partiality, evident bad faith, and gross inexcusable negligence when they conducted simulated biddings for the purchase of the items subject of this case.

This case involves eight transactions, covered by eight disbursement vouchers, for the purchase of various office supplies, construction supplies, a bush cutter, dry goods and groceries, motorcycle spare parts, and handset radios with chargers. In all these transactions, the mode of procurement resorted to was not bidding but canvassing, where the canvassers looked for the lowest price possible for each item.<sup>432</sup> However, out of the eight transactions, three transactions appear to have only one supplier -- Louievian Mercantile -- instead of the required three suppliers. These are the following:

	Disbursement Voucher No.	Particulars	Amount before VAT (Php)	Amount after VAT deduction (Php)
1	101-0102-0511	Payment of Construction materials for Spring Development	49,786.00	47,794.56
2	101-0102-0515	Supplies for use at Tourism Office	2,480.00	2,480.00 <sup>433</sup>
3	101-01012-0516 <sup>434</sup>	Payment of supplies for use in the Office of the Mayor (groceries given to the PNP/Philippine Army)	4,463.00	4,463.00 <sup>435</sup>

It must also be noted that the last two transactions from the above table did not deduct the required amount of VAT from the total payment made to the Louievian. For these three transactions, the supporting documents show that there is only one canvass form<sup>436</sup> attached per disbursement voucher, all from Louievian Mercantile. The prices indicated in these

<sup>432</sup> TSN dated August 30, 2017, pp. 7-11.

<sup>433</sup> No VAT deducted

<sup>434</sup> This is the same voucher/transaction subject of SB-11-CRM-0236

<sup>435</sup> No VAT deducted.

<sup>436</sup> Exhibits WW-1, JJJ-1, and ZZZ-1.

*[Handwritten signature]*

canvass forms were replicated in the three Abstracts of Canvass,<sup>437</sup> which does not show any other prices from other suppliers. These Abstracts of Canvass were signed by Ladao and the members of the Committee on Award, namely, accused Alicia Mori, Aguimod, and Pelayo. The manifest partiality, evident bad faith, and gross inexcusable negligence of accused Alicia Mori, Ladao, Aguimod, and Pelayo were unmistakable when they proceeded to sign the Disbursement Vouchers, despite their knowledge that there was only one supplier canvassed and not three.

Pelayo claims that there were really three suppliers canvassed, and that all three canvass forms, per disbursement voucher, were forwarded to the COA Auditor. In the absence of any evidence to support this claim, the Court cannot give consideration to the same. It must also be mentioned that in Disbursement Voucher No. 101-01012-0516, a second canvass form<sup>438</sup> was attached, but the same was in blank, and does not indicate any quoted price by any supplier. Despite the said canvass form being blank, it was still signed by Aguimod, and "approved" by Alicia Mori.

Alicia Mori, on the other hand, contradicts the statement of Pelayo and acknowledged that there was only one supplier canvassed and not three. However, she reasoned that for Disbursement Voucher No. 101-01012-0516 in particular, the purchase of dry goods and groceries was actually an emergency purchase. Nevertheless, no Certificate of Emergency Purchase or any evidence in support of this claim was produced. Moreover, providing the Philippine Army or the PNP with grocery supplies just because they were stationed in Caraga at that time can hardly be considered an emergency.

For the remaining five transactions, the supporting documents for each disbursement voucher would show three price quotes from three suppliers. However, upon verification conducted by COA Auditor Provido, it was found that three suppliers did not actually participate in the canvass or bidding for any procurement by the Municipality of Caraga. The owners and proprietors of Davao Cathay Parts and Hardware, Inc., Narel's Bookstore, Inc., and Prince Educational Supply, all executed Certifications that they did not participate in the said canvass and disavowed any signatures purporting to be

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<sup>437</sup> Exhibits WW, III, and ZZZ

<sup>438</sup> Exhibit ZZZ-Z.

theirs on the vouchers' supporting documents. Narel's Bookstore and Prince Educational Supply, which were made to appear as suppliers in the procurement of handset radios, further stated that they do not sell these items in the first place.

In addition, two more purported suppliers, Unibrus Hardware and New King's Hardware, could not be located or identified.

When these matters were brought to the attention of the accused through the Audit Observation Memorandum, they replied by giving Certifications<sup>439</sup> purportedly executed by the proprietors of Narel's Bookstore and Davao Cathay Parts and Hardware, Inc., both stating that they participated in the canvass and bidding for the purchase of supplies by the Municipality of Caraga. These Certifications, however, are mere photocopies. In any case, no explanation was provided as to the claim of Narel's Bookstore and Prince Educational Supply that they do not engage in the sale of handset radios, or the whereabouts, location, or existence of Unibrus Hardware and New King's Hardware. There is therefore good reason for this Court to believe that these canvasses were indeed simulated just to comply with the rule that there must at least be three suppliers canvassed. The simulated canvass for these purchases shows the evident bad faith of the accused who signed on the disbursement vouchers and their supporting documents, allowing funds to be disbursed.

Although it would appear that Juanita Casquejo, proprietor of Louievian Mercantile, was benefited from being chosen as the supplier with the lowest price for the items purchased, absent any evidence of conspiracy between her and the accused public officials, her criminal liability under Section 3(e) of R.A. No. 3019 cannot be established. It cannot likewise be said that her business establishment is a fictitious one, having shown the necessary permits granted by the LGU of Davao for its operation. As to its physical location, the same was adequately explained by Casquejo in her testimony that Louievian Mercantile was located at the inside of the shop, and its existence could have been easily ascertained had Provido inquired from G.M. Press.

The third element of undue injury to the government was

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<sup>439</sup> Exhibits 43 and 44.

*[Handwritten signature]*

met when funds were disbursed for these transactions, without the proper bidding or canvass required by law. Without a canvass of at least three suppliers, the government was deprived of the opportunity to procure these items at better terms or prices.

*SB-11-CRM-0241*  
*Unliquidated Cash Advances*

Accused Alicia Mori, Gerardo Aguimod, Calixto Ladao, Darius Pelayo and Ruben Burgos are being accused of violation of Section 89, in relation to Section 128 of P.D. No. 1445. Section 89 and Section 128 provide:

**SECTION 89.** *Limitations on Cash Advance.* — No cash advance shall be given unless for a legally authorized specific purpose. A cash advance shall be reported on and liquidated as soon as the purpose for which it was given has been served. No additional cash advance shall be allowed to any official or employee unless the previous cash advance given to him is first settled or a proper accounting thereof is made.

**SECTION 128.** *Penal Provision.* — Any violation of the provisions of Sections 67, 68, 89, 106, and 108 of this Code or any regulation issued by the Commission [on Audit] implementing these sections, shall be punished by a fine not exceeding one thousand pesos or by imprisonment not exceeding six (6) months, or both such fine and imprisonment in the discretion of the court.

The provisions of the law are straightforward and leave little room for interpretation. An employee who has made cash advance shall report and liquidate the same as soon as its purpose has been served. COA Circular 97-022 further provides:

4.1.2 No additional cash advances shall be allowed to any official or employee unless the previous cash advance given to him is first settled or a proper accounting thereof is made.

In this case, there are four Disbursement Vouchers for the cash advance of various purchases and payments, totaling Five Hundred Thousand Eight Hundred Seventy Nine Pesos and Thirty Centavos (P500,879.30), as shown below:

Disbursement	Particulars	Check No.	Date	Amount
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*Handwritten signature/initials*

	Voucher No.				(Php)
1	Unnumbered <sup>440</sup>	Cash advance to defray payments of various purchase used in the Office of the Mayor, Account, DA and MSWD		February 22, 2001 <sup>441</sup>	55,729.00
2	Unnumbered <sup>442</sup>	Cash advance to defray payments of Patrol car engine and spare parts, office supplies of COMELEC Office and MBO, and payment of remaining balance of SSS HF Transceiver	023254 <sup>443</sup>	April 4, 2001	176,760.00
3	Unnumbered <sup>444</sup>	Cash advance to defray payments of gasoline, motorcycle spare parts, Lite Ace spare parts, used in the Office of the Sangguniang Bayan of Caraga	023255 <sup>445</sup>	April 4, 2001	47,000.00
4	Unnumbered <sup>446</sup>	Cash advance to defray payments of various maintenances and other operating expenses of the Municipality	037488 <sup>447</sup>	June 13, 2001	132,990.30
			037489 <sup>448</sup>	June 13, 2001	38,400.00
			037490 <sup>449</sup>	June 13, 2001	50,000.00
				<b>Total</b>	<b>500,879.30</b>

The six checks issued pursuant to the four Disbursement Vouchers were all issued in the name of Acting Supply Officer Ruben Burgos, who admitted to encashing the same, and using the money to pay for the expenses and purchases indicated in the Disbursement Vouchers. According to Burgos, he already submitted his liquidation reports to Municipal

<sup>440</sup> Exhibit RRRR. No corresponding check was attached, but the AOM indicated that it was Check No. 015334.

<sup>441</sup> Date found in Audit Observation Memorandum No. 2003-001-101.

<sup>442</sup> Exhibit SSSS

<sup>443</sup> Exhibit SSSS-1

<sup>444</sup> Exhibit VVVV

<sup>445</sup> Exhibit VVVV-1

<sup>446</sup> Exhibit TTTT

<sup>447</sup> Exhibit TTTT-2

<sup>448</sup> Exhibit TTTT-3

<sup>449</sup> Exhibit TTTT-4

X-----X

Accountant Pelayo, otherwise, he would not have been given subsequent cash advances. Further, on January 15, 2003, Pelayo issued a Certification stating that Burgos' cash advance totaling P500,879.30 had already been liquidated. Burgos, however, did not have receiving copies of the documents he allegedly submitted.

ATTY. AQUINO:

Q: Inspection Report and official receipts.  
Where did you submit these documents?

A: To the office of the Municipal Accountant,  
sir.

Q: Original?

A: Yes, sir.

Q: How many original copies of these  
documents?

A: It's only one (1).

Q: One. No xerox?

A: No Xerox copy, sir.

Q: You did not retain xerox copies for  
yourself?

A: No, I don't have.

Q: You don't retain documents in the  
Treasurer's Office?

A: None, sir.

Q: Why? What office has the custod[y] of the  
records?

A: Because I submitted it already, all  
documents to the office of the Municipal  
Accountant, sir.

Q: When these documents or when this  
check was the subject matter of the  
investigation, did you verify from the office  
of the Municipal Accountant what  
happened to the documents?

X-----X

A: They said they already submitted it to the office of the Provincial Auditor which is Mr. Felipe Provideo.<sup>450</sup>

Municipal Accountant Pelayo also claims that he submitted the liquidation documents to Auditor Provideo, but he also did not retain any receiving copies or duplicates of the documents.

ATTY. AQUINO:

Q: In this Certification, you mentioned Mr. Burgos had liquidated the three (3) transaction mentioned in pars. 1, 2, and 3, do you have copies of the Liquidation Reports?

A: They are with Mr. Provideo, sir.

Q: You mean you submitted this Certification to Mr. Provideo, you also submitted the Liquidation Reports?

A: The original copies, sir.

Q: The originals are with Mr. Provideo?

A: Yes, sir.

Q: You also have duplicate copies?

A: None, sir.

Q: Why? What are the contents?

A: Official receipts, sir.

Q: The official receipts, you don't have duplicate copies?

A: We don't have, sir.

Q: You had machine copier at that time?

A: None, sir.

Q: But you still gave these copies to Mr. Provideo?

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<sup>450</sup> TSN dated February 11, 2015, pp.23-24.

X-----X

A: Yes, sir.<sup>451</sup>

Notwithstanding the statements of Burgos and Pelayo and the Certification by Pelayo, COA Auditor Provido stands firm that there had been no liquidation on the said cash advances. It is for this reason that he sent an Audit Observation Memorandum on March 11, 2003, and a second Audit Observation Memorandum on March 20, 2003. In his possession are only the four disbursement vouchers, the four ROAs, and the six checks, all of which were presented as evidence. Since no other supporting documents could be shown by the accused, the Court can only rely on what evidence are at hand, which are the vouchers, ROAs, and checks presented by the prosecution. From these, the only conclusion that can be drawn was that funds were indeed disbursed, and that these were received by Burgos. As to where the money was spent on, no official receipt, Acceptance Report, or Inspection Report could be shown by the accountable officers. In the absence of any evidence presented by the accused, this Court could not give weight to the bare claims of Burgos and Pelayo that the P500,879.30 had been liquidated.

In *People v. Sandiganbayan*,<sup>452</sup> the Supreme Court made the following pronouncement:

**[T]he mere failure to timely liquidate the cash advance is the gravamen of the offense.** Verily, the law seeks to compel the accountable officer, by penal provision, to promptly render an account of the funds which he has received by reason of his office. (Emphasis supplied)

From the table above, it can also be noticed that the six checks were released in three separate dates, with two checks from two separate disbursement vouchers being issued on the same date of April 4, 2001. It would therefore be near impossible for Burgos to have liquidated the cash advance for the payment of the patrol car engine and spare parts, etc. before he was given the subsequent cash advance for the payment of gasoline and motorcycle spare parts, etc. The same could be said for the three checks issued successively on the same day of June 13, 2001. These go against the rule that no cash advance should be given unless the previous cash

<sup>451</sup> TSN dated January 25, 2016, pp. 34-35.

<sup>452</sup> G.R. No. 174504, March 21, 2011.

advanced has been accounted for.

Alicia Mori, who stands accused here for allowing the cash advances to be released to Burgos, invokes the defense of good faith, stating that she relies on the regularity of the documents before her and the presence of the required signature of her department heads. It must be recalled, however, that whenever Burgos makes a cash advance, he conducts a canvass of prices first so he would know the lowest price for the item to be purchased. This is also how he comes up with the exact amount to be requested in the vouchers and checks. It presupposes, therefore, that when a disbursement voucher is presented to Alicia Mori, there should already be an Abstract of Canvass or canvass forms attached. Since there are no Abstract of Canvass or canvass forms present here, Alicia Mori could not claim that she signed the vouchers in good faith.

PROS. BOCO-MATE:

Q: By signing these disbursement vouchers, you also write the purposes for which these cash advances will be used, is it not?

WITNESS (ALICIA MORI):

A: Yes, ma'am.

Q: Now would you agree with me that purchases of items for the municipality should be conducted through public bidding, is it not?

A: COA before is not too strict so we observed it by canvass.

Q: By canvass?

A: Yes, ma'am.

xxx

Q: These disbursement vouchers pertain to the cash advance granted to Ruben Burgos, is it not?

A: Yes, ma'am.

X-----X

Q: And Ruben Burgos used the cash advance to purchase items for your office, for the DA's office, and what other office, is it not?

A: After the canvass, ma'am.

Q: Now could you tell us if the canvass is attached to these disbursement vouchers?

COURT INTERPRETER:

For the record, the witness is going over Exhibit RRR and series, SSS and series, TTT and series.

PROS. BOCO-MATE:

Q: Is there? There is none? Is it not Mayor Mori that there were no canvass sheets or abstract of canvass attached to this disbursement voucher, is it not?

JUSTICE CALDONA:

Please answer the question.

WITNESS:

A: No canvass attached, ma'am. <sup>453</sup>

The absence of these Abstracts of Canvass and canvass forms should have put Alicia Mori on notice that there are irregularities in the disbursements being requested. Further, she also acknowledged that the purposes indicated in the vouchers were not indicated with particularity and did not itemize the supplies to be purchased. In particular, some vouchers indicate that it is for the "payment of various maintenance and other operating expenses of the Municipality of Caraga," <sup>454</sup> or "office supplies or Comelec office, office supplies of MBO office..." <sup>455</sup> These violate the rule that no cash advance should be allowed unless it is for a specific purpose. <sup>456</sup>

<sup>453</sup> TSN dated August 30, 2017, pp. 25-27.

<sup>454</sup> Exhibit TTTT

<sup>455</sup> Exhibit SSSS

<sup>456</sup> Section 4.1.1 of COA Circular No. 97-002.

### Civil Liability

As a rule, any person held criminally liable is also civilly liable.<sup>457</sup> Criminal liability will give rise to civil liability only if the act or omissions results in damage or injury, in this case, to the government. In the context of Section 3(e) of R.A. No. 3019, the undue injury caused to the government is equated to the civil law concept of actual damage.<sup>458</sup> Thus, as held by the Supreme Court in *Llorente v. Sandiganbayan*:<sup>459</sup>

Unlike in actions for torts, undue injury in Sec. 3(e) cannot be presumed even after a wrong or a violation of a right has been established. Its existence must be proven as one of the elements of the crime. In fact, the causing of undue injury, or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. **Thus, it is required that the undue injury be specified, quantified and proven to the point of moral certainty.**

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

In turn, actual or compensatory damages is defined by Article 2199 of the Civil Code as follows:

Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.

With respect to **Criminal Case No. SB-11-CRM-0235**, a total of Five Hundred Forty Thousand Four Hundred Seventy-Six and Fifty Centavos (Php 540,476.50) was disbursed as cash advance payments to Ladao, broken down as follows:

	Particulars	Amount (Php)
1	Total Gratuity Pay prematurely given to Ladao	476,463.35
2	Total Terminal Leave payments	64,013.15

<sup>457</sup> *Romero v. People*, G.R. No. 167546, July 17, 2009.

<sup>458</sup> *Santos v. People*, G.R. No. 161877, March 23, 2006, 485 SCRA 185, 197. See also *Uriarte v. People*, G.R. No. 169251, December 20, 2006, 511 SCRA 471, 490.

<sup>459</sup> 350 Phil. 820 (1998).

*Handwritten signature*

Total

540,476.50

It was shown by the prosecution that the above amounts should not have been given to Ladao, since he was not yet entitled thereto at that time. However, it must be noted that Ladao did eventually retire, and as a retiree, he is entitled to his gratuity pay under R.A. No. 1616, and payment for his unused terminal leaves.

With respect to the payment of his terminal leaves amounting to Php 64,013.15, there was no evidence presented to show that he should not be entitled to the commutation of his terminal leaves at the time of his actual retirement. Thus, while the same was prematurely given, Ladao was nevertheless entitled to the same. The only undue injury here is that the Municipality of Caraga was deprived for a time of the use of the said amount of money by disbursing the same without yet being due and demandable. However, the prosecution offered no reasonable basis by which the Court can measure this specific injury, and could not thus be quantified by the Court for purposes of imposing civil liability.

With respect to his gratuity pay under R.A. No. 1616, Ladao would have been entitled to the same, had the requirement of R.A. No. 1616 for the availment of this mode of retirement been followed. The law requires that the retiree's employer must first pass the necessary appropriation to allow the payment of gratuity pay from its savings. In this case, it was not shown that an appropriation existed in 1999 when gratuity payments were cash advanced to Ladao, or even in 2003 when he finally retired. Without this required appropriation, it is established that Ladao is not entitled to the gratuity payments at all, and could only retire under other retirement schemes such as R.A. No. 8291, which would not require the Municipality of Caraga to disburse money.

For allowing the disbursement of gratuity pay to Ladao when there is no legal basis for the same, accused Alicia Mori, Pelayo, and Labasano, are jointly and severally liable to return the amount of Four Hundred Seventy-Six Thousand, Four Hundred Sixty-Three Pesos and Thirty-Five Cents (Php 476,463.35), with the legal interest rate of 6% per annum<sup>460</sup> from finality of judgment until the same is fully paid.

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<sup>460</sup> People v. Salahuddin, G.R. No. 206291, January 18, 2016.

For **Criminal Case No. SB-11-CRM-0237**, the prosecution was able to prove that the amount of Twenty-Three Thousand Two Hundred Twenty-Seven Pesos and Sixty-Four Cents (Php 23,227.64) was disbursed from the public coffers, itemized as follows:

	Particulars	Amount (Php)
1	Catering Service for the Turnover of Assets to the Incoming Treasurer	4,032.00
2	Catering Service for the Closing of Accounts	19,195.64

Total: 23,227.64

Such disbursement was shown to have been made without any legal basis, as the purposes for the catering services are without any authority of law or regulation. For this, accused Alicia B. Mori, Pelayo, and Aguimod should be jointly and severally liable for the return of this amount to the Municipality of Caraga, with an interest of 6% per annum from finality of judgment until fully paid.

For **Criminal Case No. SB-11-CRM-0238**, the Municipality of Caraga suffered undue injury when it disbursed funds for purchases that were not subjected to proper canvass and/or bidding. The eight disbursements in this case amounts to One Hundred Fifty-Four Thousand Five Hundred Sixty-Nine and Eighty Cents (Php 154,569.80), which amount needs to be restituted back by accused Alicia B. Mori, Darius O. Pelayo, Jose G. Basoc, Gerardo F. Aguimod and Juanita Casquejo, with an interest of 6% per annum from finality of judgment until fully paid.

	Particulars	Amount after VAT deduction (Php)
1	Payment of Construction materials for Spring Development	47,794.56
2	Bush Cutter for use in the Office of the Municipal Engineer	16,092.73
3	Supplies for use at Tourism Office	2,480.00 <sup>461</sup>
4	Payment of motorcycle spare parts for RHU Office	9,235.88
5	Payment for Motorcycle spare parts for two motorcycles at the Office of the Municipal	4,543.06 <sup>462</sup>

<sup>461</sup> No VAT deducted

<sup>462</sup> The check issued however is the cost of the spare parts before VAT deduction, or P4,714.50.

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	Engineer	
6	Payment of supplies for use in the Office of the Mayor	4,463.00 <sup>463</sup>
7	Payment of Purchases for use in the Office of the Sangguniang Bayan (handset radios and chargers)	66,852.27
8	Payment of Materials used in the Municipal Health Building	3,108.30
	<b>Total</b>	<b>154,569.80</b>

Although Casquejo is acquitted of the criminal charge against her for not having been found to be in conspiracy with the accused public officials, thus failing to prove criminal liability beyond reasonable doubt, she remains civilly liable. It is well-settled that civil liability is not extinguished by acquittal from criminal charges, when acquittal is based on reasonable doubt and not insufficiency of evidence.<sup>464</sup> In this case, Casquejo is jointly and severally liable with her co-accused for the return of the sum disbursed, it having been established that she was the supplier chosen for the items purchased, which were subsequently disallowed by the COA.

For **Criminal Case No. SB-11-CRM-0241**, it was proven that the total amount of Five Hundred Thousand Eight Hundred Seventy Nine Pesos and Thirty Centavos (P500,879.30) was not liquidated at all, and this sum of money remains to be accounted for.

	Particulars	Amount (Php)
1	Cash advance to defray payments of various purchase used in the Office of the Mayor, Account, DA and MSWD	55,729.00
2	Cash advance to defray payments of Patrol car engine and spare parts, office supplies of COMELEC Office and MBO, and payment of remaining balance of SSS HF Transceiver	176,760.00
3	Cash advance to defray payments of various maintenances and other operating expenses of the Municipality	132,990.30
		38,400.00
		50,000.00
4	Cash advance to defray payments of gasoline, motorcycle spare parts, Lite Ace spare parts, used in the Office of the Sangguniang Bayan of Caraga	47,000.00

<sup>463</sup> No VAT deducted.

<sup>464</sup> *Lim v. Mindanao Wine and Liquor*, G.R. No. 175851, July 4, 2012.

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	Total:	500,879.30
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Although the above sums were disbursed for an authorized purpose, it was not shown that these were indeed used to pay for the expenses aforementioned, and in the absence of any official receipt, or other supporting documents, this sum of money should be returned to the coffers of the municipality.

**WHEREFORE**, in view of the foregoing, this Court renders judgment as follows:

1. In Criminal Case No. SB-11-CRM-0235, the Court finds accused Alicia B. Mori, Darius O. Pelayo, and Jaime D. Labasano, **GUILTY** beyond reasonable doubt, and thus sentenced to suffer the indeterminate penalty of imprisonment for six (6) years and one (1) month, as minimum, to ten (10) years, as maximum and perpetual disqualification from public office, for violation of Section 3(e) of R.A. No. 3019;

Accused Alicia B. Mori, Darius O. Pelayo, and Jaime D. Labasano, are also jointly and severally liable to return the amount of Four Hundred Seventy-Six Thousand, Four Hundred Sixty-Three Pesos and Thirty-Five Cents (Php 476,463.35), with the legal interest rate of 6% per annum from finality of this Decision, until the same is fully paid;

For lack of any participation in the pre-mature release of the retirement gratuity pay of Calixto Ladao, this Court **ACQUITS** accused Stanley E. Mori and Gerardo F. Aguimod of the charge against them. The act or omission from which their civil liability might arise does not exists;

2. In Criminal Case No. SB-11-CRM-0236, the criminal charges against all accused are hereby **DISMISSED**, as the transaction complained of is already included in the charges under Criminal Case No. SB-11-CRM-0238;
3. In Criminal Case No. SB-11-CRM-0237, the Court finds accused Alicia B. Mori, Darius O. Pelayo, and

Gerardo F. Aguimod **GUILTY** beyond reasonable doubt, and thus sentenced to suffer the indeterminate penalty of imprisonment for six (6) years and one (1) month, as minimum, to ten (10) years, as maximum and perpetual disqualification from public office, for violation of Section 3(e) of R.A. No. 3019;

Accused Alicia B. Mori, Darius O. Pelayo, and Gerardo F. Aguimod are also jointly and severally liable to return the amount of Twenty-Three Thousand Two Hundred Twenty-Seven Pesos and Sixty-Four Cents (Php 23,227.64) with the legal interest rate of 6% per annum from finality of this Decision, until the same is fully paid;

4. In Criminal Case No. SB-11-CRM-0238, the Court finds accused Alicia B. Mori, Darius O. Pelayo, Jose G. Basoc, and Gerardo F. Aguimod **GUILTY** beyond reasonable doubt, and thus sentenced to suffer the indeterminate penalty of imprisonment for six (6) years and one (1) month, as minimum, to ten (10) years, as maximum and perpetual disqualification from public office, for violation of Section 3(e) of R.A. No. 3019, and **ACQUITS** Juanita G. Casquejo of the charges against her for lack of any finding that she conspired with the accused public officers. Notwithstanding her acquittal, Juanita G. Casquejo, and her co-accused, Alicia B. Mori, Darius O. Pelayo, Jose G. Basoc, and Gerardo F. Aguimod are also jointly and severally liable to return the amount of One Hundred Fifty-Four Thousand Five Hundred Sixty-Nine Pesos and Eighty Cents (Php 154,569.80), with the legal interest rate of 6% per annum from finality of this Decision, until the same is fully paid;
5. In Criminal Case No. SB-11-CRM-0241, the Court finds accused Alicia B. Mori, Darius O. Pelayo, Ruben B. Burgos, and Gerardo F. Aguimod **GUILTY** beyond reasonable doubt, of violation of Section 89 in relation to Section 129 of P.D. No. 1445, and is hereby sentenced to pay a fine of One Thousand Pesos (P1,000.00) with subsidiary imprisonment in case of insolvency and to return to the Municipality

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of Caraga the amount of Five Hundred Thousand Eight Hundred Seventy Nine Pesos and Thirty Cents (P500,879.30) representing unliquidated cash advances, with interest of 6% per annum from finality of this Decision until fully paid.

In the service of their sentences, the duration of the total imprisonment for each accused shall not exceed forty (40) years.<sup>465</sup>

As to accused Calixto Ladao, notice was given to this Court of the fact of his death through the Returns of Arrest<sup>466</sup> by the arresting officers and the accompanying Death Certificate No. 2008-05067.<sup>467</sup> Thus, insofar as accused Ladao is concerned, the cases against him are **DISMISSED** as death extinguishes criminal liability.

With respect to accused Gerardo F. Aguimod, and in view of the testimony of his co-accused that he has already passed away,<sup>468</sup> the prosecution is directed to verify the said information and to submit to this Court the Death Certificate, if any, of the accused.

In view of the acquittal of accused Stanley E. Mori and Juanita G. Casquejo, their cash bonds are hereby ordered released, subject to the usual accounting and auditing procedures. Moreover, the Hold Departure Order dated July 4, 2011 is SET ASIDE and declared *functus officio*, only as to Stanley E. Mori and Juanita G. Casquejo.

**SO ORDERED.**

Quezon City, Metro Manila, Philippines.

*Geraldine Faith A. Econg*  
**GERALDINE FAITH A. ECONG**  
Associate Justice

<sup>465</sup> Article 70, RPC.

<sup>466</sup> Id. at 109 and 119.

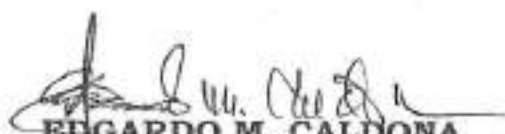
<sup>467</sup> Id. at 117.

<sup>468</sup> TSN dated October 5, 2013, p. 9.

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**WE CONCUR:**

  
**EFREN N. DE LA CRUZ**  
Associate Justice  
Chairperson

  
**EDGARDO M. CALDONA**  
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.

  
**EFREN N. DE LA CRUZ**  
Associate Justice  
Chairperson



CERTIFICATION

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

  
**AMPARO M. CABOTAJE-TANG**  
Presiding Justice

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