



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

SPECIAL THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-12-CRM-0016

For: *Estafa through
Falsification of Public
Documents*

-versus-

SB-12-CRM-0017-0018

For: *Malversation of Public
Funds*

SB-12-CRM-0019-0020

For: *Falsification*

SYLVIA P. BINARAO,

Accused.

SB-12-CRM-0021-0023

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

X-----X

Present:

**CABOTAJE-TANG, P.J.
FERNANDEZ, SJ.¹, J.
TRESPESES, Z.² J.,**

Promulgated:

AUGUST 24, 2018

X-----X

DECISION

CABOTAJE-TANG, P.J.:

¹ This case was submitted for decision when J. Fernandez, now Chairperson of the Sixth Division, was still a senior member of the Third Division.

² Sitting as a special member per Administrative Order No. 227-2016 dated July 26, 2016

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THE CASE

Accused Sylvia P. Binarao stands charged of the crimes of: **(1)** *estafa* through falsification of public documents under Articles 318 and 171 [6], in relation to Article 48, of the Revised Penal Code [RPC], **(2)** *malversation* of public funds under Article 217 of the RPC on two [2] counts, **(3)** falsification of public documents under Article 171 [6] of the RPC on two [2] counts, and **(4)** violation of Section 3 [e] of Republic Act [R.A.] No. 3019, on three [3] counts.

The *Informations* charging the accused of the said crimes respectively read:

SB-12-CRM-0016

Estafa Through Falsification of Public Documents

That on or about the period May 2002 and sometime prior or subsequent thereto, in the City of Zamboanga, and within the jurisdiction of this Honorable Court, accused SYLVIA PANGILINAN BINARAO, City Government Department Head II - City Accountant, Zamboanga City, Philippines; hence, a high ranking public officer, having been duly appointed and qualified as such, with the duty of liquidating her cash advance for her travel expenses incurred, while in the performance of her official functions as such, committing the offense in relation to her office and taking advantage of her official position did then and there, willfully, unlawfully and feloniously falsify Official Receipt No. 47034 issued by Cherry Blossoms Hotel, Manila, by altering "5" to "6", further inserting "1" to the amount stated in the said receipt thereby making it appear that it was issued for the amount of Sixteen Thousand Nine Hundred and Fourteen Pesos (Php16,914.00), when in truth and in fact, the same official receipt was actually issued for the amount of Five Thousand Nine Hundred Fourteen Pesos (Php5,914.00) only, or an over difference of Eleven Thousand Pesos (Php11,000.00) enabling her to collect the said difference from the government to the damage and prejudice of the Government in the aforesaid amount.

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CONTRARY TO LAW.

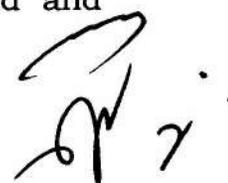
SB-12-CRM-0017
Malversation of Public Funds

That on or about the period November 2001 and sometime immediately prior or subsequent thereto, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, accused, SYLVIA PANGILINAN BINARAO, a high ranking public officer, being then the City Accountant of Zamboanga City, Philippines, and as such, received and collected public funds for which she is accountable by reason of the duties of her office and in such capacity, while in the performance of her official functions as such, and committing the offense in relation to her office with deliberate intent, with intent to defraud and gain, did then and there willfully, unlawfully and feloniously take, misappropriate, embezzle and convert to her personal use and benefit the amount of TEN THOUSAND PESOS (Php10,000.00) which was paid to her by way of cash advance for her travel to Cagayan de Oro City by submitting for liquidation purposes Official Receipt No. 4800345 in the amount of Fourteen Thousand Eight Hundred Pesos (Php14,800.00) when in truth and in fact, the true amount of said Official Receipt was merely Four Thousand Eight Hundred Pesos (Php4,800.00), to the damage and prejudice of the government, specifically the said city, in the amount afore-stated.

CONTRARY TO LAW.

SB-12-CRM-0018
Malversation of Public Funds

That on or about the period December 2001 and sometime immediately prior or subsequent thereto, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, accused, SYLVIA PANGILINAN BINARAO, a high ranking public officer, being then the City Accountant of Zamboanga City, Philippines, and as such, received and



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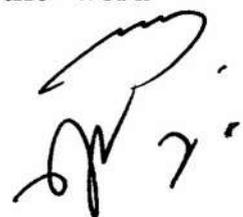
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collected public funds for which she is accountable by reason of the duties of her office and in such capacity, while in the performance of her official functions as such, and committing the offense in relation to her office with deliberate intent, with intent to defraud and gain, did then and there willfully, unlawfully and feloniously take, misappropriate, embezzle and convert for her personal use and benefit the amount of THREE THOUSAND NINE HUNDRED SEVENTY PESOS (Php3,970.00) which was paid to her by way of cash advance for her travel to Roxas City, by submitting for liquidation purposes Official Receipt No. 123429 in the amount of Five Thousand Eight Hundred Pesos (Php5,800.00) when in truth and in fact, the true amount of said Official Receipt was merely One Thousand Eight Hundred Thirty Pesos (Php1,830.00), to the damage and prejudice of the government, specifically the said city, in the amount aforesated.

CONTRARY TO LAW.

SB-12-CRM-0019**Falsification of Public Document**

That on or about the period November 2001, and sometime prior or subsequent thereto, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused SYLVIA PANGILINAN BINARAO, an accountable public officer, being then the City Government Department Head II - City Accountant of Zamboanga City; hence, a high ranking public officer, having been duly appointed and qualified as such, and taking advantage of her official position, while in the performance of her official functions as such, and committing the offense in relation to her office did then and there willfully, feloniously and unlawfully falsify the original of Official Receipt No. 4800345 issued by Ethel Dixie Gerodiaz, Dormitory Supervisor, Commission on Audit Region X Training Center and Dormitory, Cagayan de Oro, by inserting "1" to the amount Four Thousand Eight Hundred Pesos (Php4,800.00) to make it appear as Fourteen Thousand Eight Hundred Pesos (Php14,800.00), further adding the word



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“teen” to the word “four” in the words portion thereby making it appear that it was issued for the amount of Fourteen Thousand Eight Hundred Pesos (Php14,800.00), when in truth and in fact, the same official receipt was actually issued for the amount of Four Thousand Eight Hundred Pesos (4,800.00) only, or a difference of Ten Thousand Pesos (Php10,000.00) from the original amount, thereby making alteration in a genuine document which changes its meaning.

CONTRARY TO LAW.

SB-12-CRM-0020**Falsification**

That on or about the period December 2001, and sometime prior or subsequent thereto, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, accused SYLVIA PANGILINAN BINARAO, City Government Department Head II- City Accountant, Zamboanga City; hence, a high ranking public officer, having been duly appointed and qualified as such, while in the performance of her official functions as such, committing the offense in relation to her office and taking advantage of her official position, did then and there willfully, feloniously and unlawfully falsify the original of Official Receipt No. 123429 issued by First Hotel, Binondo, Manila in the original amount of One Thousand Eight Hundred Thirty Pesos (Php1,830.00) by superimposing the numeric “5” to the numeric “1” stated in the said receipt and further altering the numeric “3” to “0” thereby making it appear that it was issued for the amount of Five Thousand Eight Hundred Pesos (Php5,800.00), when in truth and in fact, accused knew fully well that the same official receipt was actually issued for the amount of One Thousand Eight Hundred Thirty Pesos (Php1,830.00) or a difference of Three Thousand Nine Hundred Seventy Pesos (Php3,970.00) from the original amount, thereby making alteration in a genuine document which changes its meaning.

CONTRARY TO LAW.

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SB-12-CRM-0021

Violation of Section 3 (e) of R.A. No. 3019

That on or about the period November 2001 and sometime immediately prior or subsequent thereto, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a high ranking public officer, being then the City Accountant of Zamboanga City, while in the performance of her official functions as such, and committing the offense in relation to her office, acting with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there unlawfully, willfully and criminally cause undue injury to the government by making it appear in her liquidation relative to her official travel in Cagayan de Oro that she spent the amount of Fourteen Thousand Eight Hundred Pesos (Php14,800.00) as per the original Official Receipt No. 4800345 dated November 1, 2001, issued by Ethel Dixie Gerodiaz of the Commission on Audit Region X Training Center and Dormitory, which she submitted as supporting document in her liquidation voucher, when in truth and in fact, accused very well knew that the amount spent and paid for under Official Receipt No. 4800345 was only Four Thousand Eight Hundred Pesos (Php4,800.00), thereby leaving a difference of Ten Thousand Pesos (Php10,000.00) which said accused was paid by way of cash advance then liquidating the same by submitting a falsified receipt thereby resulting to the damage and injury to the Government in the aforesaid sum of TEN THOUSAND PESOS (Php10,000.00).

CONTRARY TO LAW.

SB-12-CRM-0022

Violation of Section 3 (e) of R.A. No. 3019

That on or about the period December 2001 and sometime immediately prior or subsequent thereto, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a high ranking public officer, being then the City Government Department Head II-City Accountant of Zamboanga City, while in the performance of her official functions as such, and committing



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the offense in relation to her office, acting with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there unlawfully, willfully and criminally cause undue injury to the government by making it appear in her liquidation relative to her official travel in Roxas City on December 5-6, 2001 that she spent the amount of Five Thousand Eight Hundred Pesos (Php5,800.00) for her accommodations as per the original Official Receipt No. 123429 dated December 9, 2001 issued by First Hotel, Binondo, Manila which she submitted as supporting document in her liquidation voucher, when in truth and in fact, accused very well knew that the amount spent and paid for under Official Receipt No. 123429 was only One Thousand Eight Hundred Thirty Pesos (Php1,830.00), thereby leaving a difference of Three Thousand Nine Hundred Seventy Pesos (Php3,970.00) which said accused was paid by way of cash advance then liquidating the same by submitting a falsified receipt thereby resulting to the damage and injury to the Government in the aforesaid sum of Three Thousand Nine Hundred Seventy Pesos (Php3,970.00).

CONTRARY TO LAW.

SB-12-CRM-0023

Violation of Section 3 (e) of R.A. No. 3019

That on or about the period May 2002 and sometime prior or subsequent thereto, in Zamboanga City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused SYLVIA PANGILINAN BINARAO, a high ranking public officer, being then the City Government Department Head II- City Accountant of Zamboanga City, while in the performance of her official functions as such, and committing the offense in relation to her office, acting with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there unlawfully, willfully and criminally cause undue injury to the government by making it appear in her liquidation relative to her official travel in Manila on May 12-19, 2002 that she spent the amount of Sixteen Thousand Nine Hundred Fourteen Pesos (Php16,914.00) as per the original Official Receipt No. 47034 dated May 15, 2002 issued by Cherry Blossoms Hotel, Manila

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which she submitted as supporting document in her liquidation voucher, when in truth and in fact, accused very well knew that the amount spent and paid for under Official Receipt No. 47034 was only Five Thousand Nine Hundred Fourteen Pesos (Php5,914.00), thereby leaving a difference of Eleven Thousand Pesos (Php11,000.00) which said accused was able to collect by falsifying her official receipt thereby resulting to the damage and injury to the Government in the aforesaid sum of Eleven Thousand Pesos (Php11,000.00).

CONTRARY TO LAW.

In its *Minute Resolution* dated May 22, 2012, the Court granted the accused's motion for reduction of bail bond and directed her to post a reduced cash bail bond in the amount of twenty thousand pesos (P20,000.00) for each case.³

During her arraignment on July 30, 2012, the accused, with the assistance of counsel, entered a plea of "NOT GUILTY" to the aforesaid charges.⁴

Upon motion of the prosecution,⁵ the Court issued a *Resolution* promulgated on November 9, 2012, preventively suspending the accused for ninety (90) days pursuant to Section 13 of R.A. No. 3019.⁶ Accused filed a motion for a reconsideration of the said resolution,⁷ which was denied by the Court in its *Resolution* promulgated on May 2, 2013.⁸

Meanwhile, on September 19, 2012, the prosecution submitted its *Pre-Trial Brief* dated September 17, 2012.⁹ The Court admitted the same in its *Minute Resolution* dated September 24, 2012.¹⁰

³ p. 201, Vol. I, Record

⁴ Order dated July 30, 2012; p. 236, Vol. I, Record

⁵ Motion to Suspend Accused Sylvia P. Binarao Pendente Lite dated September 6, 2012; pp. 242-246, *id*

⁶ pp. 302-305, *id*

⁷ Motion to Reconsider (9 November 2012 Resolution of the Honorable Sandiganbayan) dated December 17, 2012; pp. 308-313, *id*

⁸ pp. 331-333, *id*

⁹ pp. 251-270, *id*

¹⁰ p. 271, *id*

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On the other hand, accused submitted her *Pre-Trial Brief* dated October 10, 2012 on October 11, 2012.¹¹ This was admitted by the Court in its *Minute Resolution* dated October 15, 2012.¹²

Thereafter, or on January 27, 2014, the prosecution and the accused submitted their "*Joint Stipulation of Facts*" dated January 23, 2014,¹³ where the parties entered into the following stipulations:

1. That at the time material and relevant to the cases at hand, accused SYLVIA P. BINARAO (accused for brevity) is the City Government Head II – City Accountant of Zamboanga City.

2. Accused requested the City Mayor of Zamboanga City in a letter dated May 10, 2002 that she be authorized to travel to Metro Manila to follow-up official matters in the Commission on Audit.

3. Accused travelled to Cagayan de Oro from October 27-31, 2001 to attend the seminar on *Barangay* Accounting and Auditing along with six (6) *Barangay* Bookkeepers and a driver and they stayed at the COA Dormitory in the said city occupying three (3) rooms.

4. Accused traveled to Roxas City on December 5-6, 2001 to attend the quarterly meeting of the Philippine League of Local Budget Officers. Since there is no direct flight to Roxas City from Zamboanga City, accused took the Manila route and traveled to Roxas City from December 4-9, 2001 to attend the said meeting.

5. Accused refunded the amount of Ten Thousand Pesos (Php10,000.00) of the amount of Fourteen Pesos (Php14,000.00) per Official Receipt Number 0130867 dated November 25, 2002.¹⁴

Handwritten signature and initials, possibly 'S. Binarao' and '7'.

¹¹ pp. 287-297, *id*

¹² p. 298, *id*

¹³ pp. 373-395, *id*

¹⁴ pp. 1-2, *Joint Stipulations of Facts* dated January 23, 2014; pp. 373-374, *id*

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With the submission of the said joint stipulations of fact, the Court issued its *Pre-Trial Order* dated February 27, 2014.¹⁵

Trial ensued. Thereafter, or on January 9, 2015, the prosecution filed its *Formal Offer of Exhibits* dated January 7, 2015,¹⁶ consisting of the following documentary exhibits:

For all cases:

Exhibit	Description
A (including annexes)	<i>Letter-Complaint</i> dated August 25, 2003 addressed to the Deputy Ombudsman-Mindanao from Vilma R. Agias, Attorney IV, Regional Cluster Director, Commission on Audit Regional Office IX
G	<i>1st Indorsement</i> dated March 11, 2003 from Vilma R. Agias, Attorney IV, Regional Cluster Director, to Mobin Abdula, State Auditor IV, Audit Team Leader.
H	Letter dated May 29, 2003 from Mobin Abdula, State Auditor IV, addressed to Estrella Avila, Regional Cluster Director, Commission on Audit.

*For **SB-12-CRM-0016** (Estafa Through Falsification of Public Documents) and **SB-12-CRM-0023** (Violation of Section 3 [e] of R.A. No. 3019)*

Exhibit	Description
L	<i>Disbursement Voucher No. 101-020507914</i> dated May 23, 2002 for the amount of PhP26,065.00
M	<i>Allotment and Obligation Slip No. 101-02-05853</i>
N	<i>Request to Travel to Manila</i> dated May 10, 2002 from the accused addressed to Mayor Maria Clara L. Lobregat

¹⁵ pp. 412-426, *id*

¹⁶ pp. 62-82, Vol. II, Record

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O	Certificate of Travel Completed of the accused addressed to Mayor Maria Clara L. Lobregat
P	<i>Certification</i> dated May 22, 2002 signed by Mayor Maria Clara L. Lobregat
Q	<i>Official Receipt Number 47034</i> dated May 15, 2002 in the amount of PhP16,914.00 issued by Cherry Blossoms and submitted by the accused for her liquidation of her cash advance
R	Domestic Passenger Terminal Fee
S	<i>Compliance and Manifestation</i> dated May 25, 2004 filed by Atty. Francis C. Oco, counsel for CBS Properties and Management Corp. before the Office of the Ombudsman
S-1	<i>Duplicate Original of Cherry Blossoms Hotel Official Receipt No. 47034</i> dated May 15, 2002 in the amount of PhP5,914.00

For **SB-12-CRM-0017** (*Malversation of Public Funds*) **SB-12-CRM-0019** (*Falsification*) and **SB-12-CRM-0021** (*Violation of Section 3[e] of R.A. No. 3019*)

Exhibit	Description
U	<i>Disbursement Voucher No. 101-011219515</i> in the amount of PhP24,700.00 with the accused named as claimant for the liquidation of the cash advance for the travel expenses incurred while attending a seminar on <i>Barangay Accounting and Auditing</i> in Cagayan de Oro on October 29 to November 2, 2001
V	Request for Allotment with the accused as the payee, as payment for cash advance for travel on October 27 – November 2, 2001
W and W-1	<i>Official Receipt No. 4800345</i> dated November 1, 2001 in the amount of PhP14,800.00 submitted by the accused for liquidation

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X	Certificate of <i>Barangay</i> Accounting and Auditing dated October 31, 2001
Y	Itinerary of Travel prepared by the accused for her travel to Cagayan de Oro to attend the <i>Barangay</i> Accounting and Auditing seminar on October 29-31, 2001
Z and Z-2	<i>Audit Observation Memorandum No. 2003-006</i> dated March 31, 2003
BB and BB-1	<i>Official Receipt No. 4800345</i> dated November 1, 2001 in the amount of PhP4,800.00
CC	Summary of Dorm Check-In from October 27-31, 2001 prepared by Ethel Dixie Gerodiaz
DD	Dormitory Registration Form of Ruben Graciano, Jr.
EE	Dormitory Registration Form of the accused
FF	Dormitory Registration Form of Cesar A. Inting
GG	Dormitory Registration Form of Jesus Ceo Jauculan
HH	Dormitory Registration Form of Aireen Atilano
II	Dormitory Registration Form of Carol E. Lacastesantos
JJ	Dormitory Registration Form of Jossilyn E. Agan
KK	Dormitory Registration Form of Ofelia Dadule
LL	<i>Affidavit</i> dated March 20, 2003 executed by Ethel Dixie C. Gerodiaz
MM	Confirmation Letter dated February 12, 2003 made by Mobin A. Abdula, State Auditor IV, Commission on Audit, Zamboanga City
MM-1	Reply/Comment of Nora N. Patriana, Special Collecting Officer, to the Confirmation Letter dated February 12, 2003
NN - NN-2	<i>Affidavit</i> dated May 26, 2003 of the accused
OO	Letter dated May 29, 2003 of Mobin Abdula, State Auditor IV, addressed to the accused

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PP	<i>Official Receipt No. 0130867</i> in the amount of PhP10,000.00 with the accused as payor
GGG	National Archives of the Philippines, Authority to Dispose Records with Authority No. A-2012-389
HHH and sub-markings	National Archives of the Philippines Certificate of Disposal issued to the Commission on Audit, Regional Office No. X with Authority No. A-2012-389, April 26, 2012

For **SB-12-CRM-0018** (*Malversation of Public Funds*) **SB-12-CRM-0020** (*Falsification*) **SB-12-CRM-0022** (*Violation of Section 3[e] of R.A. No. 3019*)

Exhibit	Description
QQ	<i>Disbursement Voucher No. 101-011220440</i> in the amount of PhP28,992.00 with the accused as claimant
RR	Certificate of Travel Completed for the period December 4-9, 2001 submitted by the accused to Mayor Maria Clara Lobregat
SS	Letter dated November 29, 2001 addressed to the accused authorizing her travel
TT	Certificate of Appearance of the accused in the 4 th Quarterly Meeting for CY 2001
UU	<i>Certification</i> dated December 4, 2001 issued by Atty. Janet B. Abuel to the accused
VV	<i>Certification</i> dated January 23, 2002 issued by Mayor Maria Clara Lobregat in connection with the travel of the accused to Roxas City
WW	<i>Roxas President's Inn Official Receipt No. 7114</i> dated December 7, 2001 issued to the accused
XX	<i>Cherry Blossom Hotel Official Receipt No. 41842</i> dated December 5, 2001 issued to the accused

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YY and sub-markings	<i>First Hotel Official Receipt No. 123429</i> dated "December 9" in the amount of PhP5,800.00
ZZ	Itinerary of Travel prepared and certified by the accused
CCC	<i>Subpoena duces tecum</i> dated May 6, 2004 addressed to the Manager, First Hotel, Manila from the Office of the Ombudsman-Mindanao
DDD	<i>Compliance-Letter</i> dated May 27, 2004 of Atty. Benito Ching, Jr., counsel of First Hotel, to the Office of the Ombudsman-Mindanao
EEE	<i>First Hotel Official Receipt No. 123429</i> issued by First Hotel, Manila

On March 30, 2015, the accused filed her *Comment/Objections (To the Prosecution's Formal Offer of Documentary Exhibits)* dated March 29, 2015.¹⁷

In its *Minute Resolution* dated April 7, 2015, the Court resolved to admit all the aforesaid documentary exhibits of the prosecution.¹⁸

With admission of the said documentary exhibits, the accused presented evidence. The accused,¹⁹ together with Carol Lacastesantos,²⁰ testified in her defense.

After the testimony of Lacastesantos on January 26, 2016, the Court gave the accused a period of fifteen (15) days from the said date within which to file her formal offer of exhibits and the same period of time for the prosecution to file its comment/objection thereto. The Court likewise directed the parties to simultaneously submit their respective memoranda within thirty (30) days from receipt of the Court's Resolution on the accused's formal offer of exhibits.²¹

¹⁷ pp. 238-245, Vol. II, Record

¹⁸ pp. 246-247, *id*

¹⁹ Order dated January 25, 2016; p. 312, *id*

²⁰ Order dated January 26, 2016; p. 314, *id*

²¹ *id*

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Pursuant to the Court's aforesaid directive, the accused filed her *Formal Offer of Exhibits* dated March 25, 2016 on April 2, 2016,²² consisting of the following documentary exhibits:

Exhibit	Description
1 and 1-A	Counter-Affidavit of the accused
2 and 2-A	Affidavit of the accused
3 and 3-A	Joint Affidavit of Carol Lacastesantos

The prosecution filed its *Comment and/or Opposition (To the Accused's Formal Offer of Exhibits dated 25 March 2016)* on April 18, 2016.²³

In its *Minute Resolution* dated May 2, 2016, the Court resolved to admit all the aforesaid documentary exhibits offered by the accused.²⁴

Thereafter, or on June 13, 2016, the Court received a copy of the prosecution's *Memorandum for the Plaintiff* dated June 10, 2016.²⁵ The accused did not submit her memorandum despite notice.²⁶

THE FACTS

VERSION OF THE PROSECUTION

To prove the material averments in the subject *Informations*, the prosecution presented the following witnesses, whose respective testimonies are hereunder summarized:

²² pp. 320-321, *id*

²³ pp. 324-328, *id*

²⁴ p. 329, *id*

²⁵ pp. 333-365, *id*

²⁶ *Minute Resolution* dated July 29, 2016; p. 371, *id*

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1. **Mobin A. Abdula** – State Auditor IV, Commission on Audit (COA) Provincial Office No. 9, Zamboanga City.

Prior to Abdula's testimony, the parties stipulated that he held the position of State Auditor IV from July 31, 2002 to September 28, 2005, and that in 2003, he was assigned and/or designated as Audit Team Leader in Zamboanga City.²⁷

Abdula testified that as a former State Auditor IV and at the same time Audit Team Leader of Zamboanga City, his duties included the examination, audit and settlement of accounts pertaining to the receipts of travel expenditures and uses of funds and property of the local government of Zamboanga City.²⁸

Sometime in 2003, as part of the financial audit of the accounts of the City of Zamboanga, Abdula and his team conducted an audit examination, or post audit, on Disbursement Voucher (D.V.) No. 101-011219515, together with its supporting documents, in the amount of PhP54,700.00²⁹ pertaining to the liquidation of the accused's official travel as City Accountant of Zamboanga City covering the period October 29, 2001 to November 2, 2001.³⁰

The said post audit revealed that *Official Receipt (O.R.) No. 4800345* dated November 1, 2001, issued by the collecting officer of the COA in Cagayan de Oro City, Region X, was tampered with or altered. The team concluded that the said receipt was altered or tampered with because originally, the same receipt was in the amount of PhP4,800.00 only. However, it now appears that the same was issued in the amount of PhP14,800.00 (**Exhibit "W"**). According to Abdula, they were able to confirm that *O.R. No. 4800345* dated November 1, 2001, was issued only for PhP4,800.00 by sending a confirmation letter (**Exhibit "MM"**) addressed to the COA's Collecting Officer in Cagayan de Oro City. In the portion of the same letter under the heading "REPLY/COMMENT," Nora N. Patriana, Special Collecting Officer of the COA Region 10, stated that: "*Per records on file with this Office, Official Receipt No. 4800345 T was issued for the amount of Four Thousand Eight Hundred (P4,800.00)*"

²⁷ p. 5, TSN, March 25, 2014

²⁸ p. 6, *id*

²⁹ The amount is actually P24,700.00 (Annex C to Exhibit "A")

³⁰ pp. 6-7, *id*

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*Pesos Only. Attached, please see Ms. Ethel Dixie Gerodiaz' affidavit, and a copy of the above-mentioned official receipt certified as true copy by me (Exhibit "MM-1").*³¹

Abdula then identified the *Affidavit* dated March 20, 2003, executed by Ethel Dixie C. Gerodiaz (**Exhibits "LL" and "LL-1"**), who was the Dormitory Supervisor of the COA Region 10 Training Center and Dormitory, and the certified true copy of O.R. No. 4800345 dated November 1, 2001 (**Exhibit "BB"**).³²

After discovering that O.R. No. 4800345 dated November 1, 2001 was altered or tampered with, Abdula prepared an Audit Observation Memorandum (AOM) (**Exhibit "Z"**) addressed to then Mayor Ma. Clara Lobregat. Abdula recommended that the accused, as Chief Accountant of Zamboanga City, should immediately refund the amount of Php10,000.00 in favor of the City Government of Zamboanga and the appropriate charges be filed against her.³³

According to Abdula, the accused responded to the AOM by submitting her *Affidavit* dated May 26, 2003 (**Exhibit "NN-2"**) where she admitted that she falsified the official receipt. He then identified the said affidavit and the accused's signature appearing on page 3 thereof.³⁴

In response to the said affidavit, Abdula sent a letter dated May 29, 2003 (**Exhibit "OO"**) to the accused requesting her to substantiate her allegations that some of her people were engaged in illegal or improper activities. However, the accused did not respond to this request.³⁵

On the other hand, the City Government of Zamboanga sent to Abdula's office the same affidavit of the accused as its comment on the AOM. After this, Abdula submitted the documents he was able to gather to the COA's Regional Cluster Director, Ms. Estrella B. Avila, as evidenced by his letter dated May 29, 2003 (**Exhibit "H"**). He transmitted the said documents to their director pursuant to the letter dated March 11, 2003, issued by Vilma R. Agias, Attorney IV, Regional

³¹ pp. 7-8, *id*

³² pp. 12-13, *id*

³³ pp. 13-16, *id*

³⁴ pp. 16-18, *id*

³⁵ pp. 18-20, *id*

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Cluster Director (**Exhibit "G"**).³⁶ Among the documents that were transmitted by Abdula to his Regional Cluster Director were original copies of DV Nos. 101-011220440 and 101-010507914 and their respective supporting documents.³⁷

On cross-examination, Abdula testified that DV No. 101-0112-19515 was prepared by the management and not by the auditors of COA; hence, he does not have any personal knowledge on how the same document was prepared. He likewise admitted that he had no personal knowledge on how the Request for Allotment was prepared.³⁸

According to Abdula, the AOM (**Exhibit "Z"**) that he issued was a product of a regular financial audit; as the audit team leader in the City of Zamboanga at that time, there was no need for his superior to first issue a special order to him before he could conduct an audit. All the transactions of the concerned government agency are subject to their audit. This is their constitutional mandate.³⁹

Abdula confirmed that his Regional Director issued a memorandum to him to conduct an investigation relative to the liquidations submitted by the accused. According to him, there was a complaint against the accused; hence, they were requested by their Regional Director to forward the documents to the latter. However, even prior to their receipt of the said memorandum, they already conducted their audit. Abdula identified again the *1st Indorsement* dated March 11, 2003 (**Exhibit "G"**), issued by Vilma R. Agias. He then clarified that he issued the AOM as a result of their regular audit and that they did not conduct any special audit regarding the same transaction. Their regional director merely required them to submit the documents but they already audited the subject transaction. Abdula insisted that they did not conduct the investigation because of the order from their Regional Office.⁴⁰

Abdula stated that even prior to their receipt of the memorandum (*1st Indorsement*) from their Regional Office, they have already audited the subject transactions of the accused

³⁶ pp. 20-24, *id*; the said document is actually a "*1st Indorsement*" and not merely a letter.

³⁷ pp. 25-28, *id*

³⁸ pp. 10-12, TSN, May 22, 2014

³⁹ pp. 17-18, *id*

⁴⁰ pp. 19-25, *id*

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since it was inherent in their job as auditors to examine, audit and investigate disbursements of funds and properties of the government office subject of the audit.⁴¹

The AOM was issued in connection with their investigation of DV No. 101-011219515. With regard to the other disbursement vouchers, they no longer conducted an investigation thereon considering that in the meantime, they were already required by their Regional Director to submit the said documents, including the AOM, because there was a letter-complaint sent to their Regional Office.⁴²

The documents Abdula forwarded to their Regional Office were submitted to their office, the City Auditor's Office. The vouchers subject matter of these cases, including their supporting documents, were submitted to their office for the conduct of the audit. They are the custodians of the said vouchers. Abdula could no longer remember when the disbursement vouchers subject matter of these cases were turned over to him. Based on experience, the date of submission of the disbursement vouchers varies. In the national government, the vouchers are submitted one month from the completion of the transaction. However, for local government units, disbursement vouchers are submitted five (5) to six (6) months from the completion of the transaction. Based on Abdula's experience in the City of Zamboanga, the vouchers were turned over to them for audit two (2) to three (3) months from the completion of the transaction.⁴³

Abdula could not confirm if D.V. No. 101-011219515 was submitted to their office for audit from November 2, 2001 to January 2002. His AOM was dated March 31, 2003; hence, they could have received the vouchers two (2) to three (3) months before he issued the AOM.⁴⁴

As a city auditor, Abdula conducts a regular audit on a monthly basis. They conduct their audit as soon as the vouchers are submitted to their office. They conduct their audit by examining the voucher in their custody.⁴⁵

⁴¹ p. 26, *id*

⁴² p. 28, *id*

⁴³ pp. 29-33, *id*

⁴⁴ pp. 33-35, *id*

⁴⁵ pp. 35-36, *id*

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Abdula explained that they usually conduct their audit on a monthly basis but it would depend on the receipt and submission of the vouchers and their supporting documents. Thus, if the transaction is completed in November but the documents pertaining thereto are submitted to their office in March of the following year, they would conduct the audit in March. The transactions completed in a particular year are audited monthly because the government agency usually submits the documents on a monthly basis. For transactions the supporting documents of which are submitted in November, the conduct of the audit would not necessarily be made in December since it is dependent on the submission of the vouchers. Abdula clarified that the government agency usually submits to them a disbursement report on a monthly basis. The supporting documents of the said report consist of the disbursement vouchers for the whole month and this is the reason why the vouchers are usually submitted to them two (2) to three (3) months after the completion of the transaction. Abdula reiterated that he had no participation in the preparation of the disbursement vouchers subject matter of these cases.⁴⁶

Abdula clarified that it was the Legal Officer of the Commission on Audit, Regional Cluster 10, who filed the complaint against the accused. He explained that a disbursement voucher is a document used to claim for reimbursement.⁴⁷

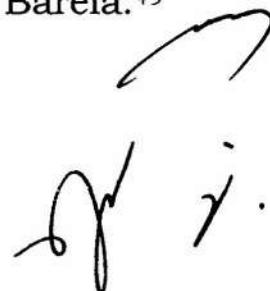
He also explained that it is the accused's name which appears in Disbursement Voucher No. 101-011219515 (**Exhibit "U"**). Although the name of Daniel Barela⁴⁸ appears therein, it does not mean that he already prepared the said document. The signature of the mayor in the disbursement voucher is important because the latter is the approving official. It is the approving official who will approve the voucher for payment. Daniel Barela was a staff or the Assistant Accountant of the City of Zamboanga. As such, the accused simply directed him to prepare the voucher for her. It appears from the disbursement voucher that the same was prepared for payment and approval of the City Mayor of Zamboanga by Daniel Barela.⁴⁹

⁴⁶ pp. 36-42, *id*

⁴⁷ pp. 4-5, TSN, August 27, 2014

⁴⁸ spelled Varela in the disbursement voucher [Exhibit "U"]

⁴⁹ pp. 5-6, *id*



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On re-direct examination, Abdula testified that the claimant of Disbursement Voucher No. 101-011219515 (**Exhibit "U"**) was the accused and the one who prepared the same was Daniel Barela. The accused in the said disbursement voucher claimed the reimbursement of the expenses she incurred in Cagayan de Oro City when she attended the *Barangay* Accounting Seminar. It was the accused who had the responsibility of attaching the proper or necessary documents to support the disbursement of the funds stated in the voucher.⁵⁰

Abdula explained that in case of cash advance, the claimant thereof who will attend a seminar could get a cash advance. However, in case of travel, a disbursement voucher is enough. After the conclusion of such travel, he/she has to present all the necessary supporting documents, *i.e.*, official receipts, certificate of appearance and the certificate of training.⁵¹

2. Atty. Hilde C. Dela Cruz-Likit – Graft Investigation and Prosecution Officer II of the Office of the Ombudsman for Mindanao (OMB-Mindanao).

Prior to the testimony of Atty. Likit, the parties stipulated that the former is a Graft Investigation and Prosecution Officer II employed by the OMB-Mindanao from October 1999 up to the time she testified in Court and the duties and functions she performs as such officer. These duties and functions include: (1) conduct preliminary investigations, "*criminal cases and administrative adjudication in administrative cases filed before the OMB-Mindanao,*" (2) issue *subpoena* for purposes of conducting preliminary investigation in cases filed before the OMB-Mindanao, and (3) to do other duties that may be delegated by her superiors.⁵²

Atty. Likit testified that as a Graft Investigation and Prosecution Officer II of the OMB-Mindanao, she issued a *subpoena* sometime in 2004 to the manager of the Cherry Blossoms Hotel of CBS Properties and Development

⁵⁰ pp. 7-8, *id*

⁵¹ pp. 8-9, *id*

⁵² pp. 4-5, TSN, July 22, 2014

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Corporation and to the manager of the First Hotel. She issued the *subpoena* to the manager of the Cherry Blossoms Hotel directing the latter to submit the original of O.R. No. 47034 which the said hotel issued to the accused. The purpose of the request was to validate or to confirm the official receipt that was submitted by the accused as one of the supporting documents of D.V. No. 101-020507914, covering the latter's reimbursement for her travel expenses for her trip to Manila on May 12 to 19, 2002. The validation was for the purpose of conducting the preliminary investigation in the criminal and administrative cases filed against the accused before the OMB-Mindanao. These cases pertained to the falsification of O.R. No. 47034 issued by Cherry Blossoms Hotel to the accused.⁵³

Pursuant to the said *subpoena*, the Cherry Blossoms Hotel submitted a written compliance attaching therewith the original copy of O.R. No. 47034 which it issued to accused. Based on the compliance submitted by Cherry Blossoms Hotel, Atty. Likit found out that the amount indicated in the receipt submitted by the said hotel was different from the amount indicated in the receipt submitted by the accused as one of the supporting documents to D.V. No. 101-020507914. Atty. Likit clarified that the Cherry Blossoms Hotel submitted to them the duplicate original copy of O.R. No. 47030. She concluded that the amounts stated in the two (2) receipts are different because she saw the original and the duplicate original copies of the same receipt. She then identified O.R. No. 47030 (**Exhibit "Q"**), which the accused submitted as a supporting document for the liquidation of her travel expenses, and the duplicate original copy thereof which was submitted by the Cherry Blossoms Hotel (**Exhibit "S-1"**).⁵⁴

The two (2) receipts are different because the one submitted by the Cherry Blossoms Hotel indicated the amount of PhP5,914.00 only, while the amount indicated in the receipt submitted by the accused is for PhP16,914.00, or a difference of PhP11,000.00.⁵⁵

Atty. Likit recounted that a *subpoena* was issued to the manager of First Hotel for the latter to submit the original copy

⁵³ pp. 6-7, *id*

⁵⁴ pp. 8-12, *id*

⁵⁵ p. 13, *id*

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of Official Receipt No. 123429 which it issued to the accused. According to Atty. Likit, they wanted to validate or confirm O.R. No. 123429 which was submitted by the accused as one of the supporting documents to DV No. 101-011220440, which pertained to the accused's liquidation of her actual expenses for her travel to Roxas City *via* Manila from December 4 to 9, 2001. There was a need for the validation of the subject receipt as part of the preliminary investigation being conducted by the OMB-Mindanao relative to the complaint for falsification of O.R. No. 123429 by the accused.⁵⁶

The First Hotel complied with the subpoena by submitting a written compliance with the attached copy of O.R. No. 123429. Atty. Likit then identified the *Subpoena Duces Tecum* dated May 6, 2004, which she issued to the manager of First Hotel (**Exhibit "CCC"**). She likewise identified a copy of O.R. No. 123429, the letter dated May 27, 2004, which was submitted by the counsel of First Hotel (**Exhibit "DDD"**), and the photocopy of O.R. No. 123429 (**Exhibit "EEE"**) which was attached to the said letter.⁵⁷

Based on the document submitted by First Hotel, Atty. Likit found out that the amount indicated in O.R. No. 123429, which was submitted by First Hotel, is different from the amount indicated in the same receipt which was submitted by the accused as one of the supporting documents to D.V. No. 101-01122-0440. The amount indicated in the receipt submitted by the accused is PhP5,800.00, while the amount appearing on the receipt submitted by First Hotel was only for PhP1,830.00, or a difference of PhP3,917.00. The amount of PhP5,800.00 appearing on **Exhibit "YY"** was then identified by Atty. Likit and was marked by the prosecution as its **Exhibit "YY-1."** Atty. Likit admitted that she was not able to see the duplicate original copy of O.R. No. 123429. As stated in the letter dated May 27, 2004, submitted by the counsel of First Hotel, the receipt it submitted "*is a copy of the duplicate original on file.*"⁵⁸

According to Atty. Likit, the duplicate original of the said receipt was not in the case record for First Hotel from the time she handled the case until it was re-assigned to another lawyer.

⁵⁶ pp. 14-15, *id*

⁵⁷ pp. 15-18, *id*

⁵⁸ pp. 18-19, *id*

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She, however, explained that she saw the original of the receipt which was submitted by the accused and the intercalations therein are apparent. The number 8, after the number 5, was clearly changed. The official receipt that was submitted by the accused was for PhP5,800.00 and the copy of the receipt submitted by the First Hotel was for PhP1,830.00, or a difference of PhP3,970.00. The number "3" was changed to "0" by the accused. She reiterated that she saw the original receipt that was submitted by the accused and that there is an intercalation therein.⁵⁹

After the submission by the Cherry Blossoms Hotel and First Hotel of their respective compliances, Atty. Likit no longer conducted the preliminary investigation of the case against the accused since the same was re-assigned to another graft investigation and prosecution officer, Atty. Sulayca Lopez.⁶⁰

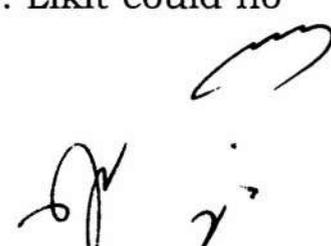
On cross-examination, Atty. Likit explained that she investigated the complaint for falsification that was filed by the COA against the accused relative to the official receipts which were submitted by the latter as part of the supporting documents to the disbursement voucher relative to the reimbursement of her travelling expenses. The complaint that was filed by the COA before their office was based on an anonymous complaint. This complaint was about the falsification of three (3) official receipts, two (2) of which were identified by Atty. Likit during the previous hearing.⁶¹

Atty. Likit explained that the anonymous complaint that was filed before the COA merely mentioned about the falsified official receipts but the same were not attached thereto. However, another anonymous complaint was filed before the OMB with the attached photocopies of the official receipts. It was the COA which investigated the complaint. The complaint that was filed before the OMB was assigned to a fact-finding unit in Atty. Likit's office and it was this unit which indorsed the complaint to the COA. After the investigation of the COA, it submitted an Audit Investigation Report to the OMB. This Audit Investigation Report was forwarded to Atty. Likit for preliminary investigation after the same was docketed. Atty. Likit could no

⁵⁹ pp. 20-22, *id*

⁶⁰ p. 23, *id*

⁶¹ pp. 4-5, TSN, July 23, 2014



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longer remember if the Audit Investigation Report contained the original or photocopies of the official receipts.⁶²

Atty. Likit then identified the said Audit Investigation Report (**Exhibit "A"**) and the photocopies of *Official Receipt No. 123429* dated "12/9" issued by First Hotel, which is attached as Annex "K" to the said report, and the photocopy of the receipt issued by Cherry Blossoms Hotel, which is attached to the report as Annex "N."⁶³

After receiving the Audit Investigation Report, Atty. Likit conducted a preliminary investigation. She issued an order to the accused to file her counter-affidavit and for the complainant to file its reply thereto. She explained that she issued a subpoena *duces tecum* in the course of her investigation because she found out that the COA had a problem securing the originals of the two (2) official receipts from Chery Blossoms Hotel. Thus, she issued the subpoena *duces tecum* to validate and confirm whether the official receipts submitted by the accused were falsified or not. Atty. Likit does not know who prepared the official receipts she identified during the previous hearing.⁶⁴

Atty. Likit then explained that based on *D.V. No. 101-011220440* (**Exhibit "QQ"**), the same was certified by the accused, approved by then Mayor Maria Clara Lobregat and the amount stated therein was received by the accused. Atty. Likit admitted that she missed reading the name of one Daniel R. Varela, who certified that the expenses and cash advance were necessary and were incurred under his direct supervision. She reiterated that she does not know who prepared the official receipts from Cherry Blossoms Hotel and First Hotel.⁶⁵

On re-direct examination, Atty. Likit stated that the "*original copies of the documents of this case...*" were subsequently submitted to her. Thus, she had a chance to

⁶² pp. 5-8, *id*

⁶³ In the transcript of stenographic notes, the said receipt was referred to as Annex "B" of the Audit Investigation Report. However, Annex "B" of the said report is a photocopy of the *1st Indorsement* dated March 11, 2003 of Atty. Vilma R. Agias, Regional Cluster Director of the COA in Region IX; pp. 9-11, TSN, July 23, 2014

⁶⁴ pp. 11-12, *id*

⁶⁵ pp. 14-17, *id*

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compare the photocopies with the originals. The original copies of the documents came from the COA.⁶⁶

Atty. Likit further explained that attached to *D.V. No. 10180112129515* was a photocopy of the official receipt issued by the COA in Cagayan de Oro City. When she was investigating the case, Atty. Likit requested to see the original copies of the receipts. However, the copies which she kept in her record were merely photocopies. The Cherry Blossoms Hotel submitted the duplicate original of the receipt while the First Hotel indicated in its letter that what it submitted was merely a photocopy of the duplicate original. The Cherry Blossoms Hotel and the First Hotel are not the same.⁶⁷

Atty. Likit did not ask clarificatory questions during the preliminary investigation because the case was re-assigned to another investigator. Since the case was re-assigned to another investigator, Atty. Likit was not the one who prepared the resolution/recommendation. However, she was able to see the counter-affidavit that was submitted by the accused because she was still handling the case when the same was filed by the latter. She was able to compare the original receipts submitted by the COA to her office from the photocopies submitted by the Cherry Blossoms Hotel and First Hotel. Atty. Likit likewise clarified that at the time she issued the order to the accused to file her counter-affidavit, it was the COA which was the complainant.⁶⁸

3. **Atty. Franco C. Oco** – Legal Officer, TLC Group of Companies.

Before Atty. Oco could be presented, the prosecution and the defense counsel stipulated on the following:

1. That the witness Atty. Franco C. Oco is the legal officer of Santiago Arevalo Asuncion and Associates since 2002; and

⁶⁶ pp. 18-19, *id*

⁶⁷ pp. 21-23, *id*

⁶⁸ pp. 23-25, *id*

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2. That in 2004, Santiago Arevalo Asuncion and Associates was legal counsel of CBS Properties and Management Corporation, which operates Cherry Blossoms Hotel.⁶⁹

Atty. Oco testified that as a legal officer of Santiago Arevalo Asuncion and Associates, he handled cases from various companies owned by AC Antonio Cabahug. These companies include hotels, dealerships and insurance companies. One of these companies is the CBS Properties and Management, which owns and operate the Cherry Blossoms Hotel located in Robinsons Manila.⁷⁰

Sometime in 2014, Atty. Oco remembers receiving a *subpoena* from the OMB requesting Cherry Blossoms Hotel to produce two (2) official receipts. After receiving the said *subpoena*, the hotel rummaged through their records but they did not find any of the receipts mentioned in the subpoena. The hotel then referred the same to Atty. Oco and asked him what they could do since they could not find the official receipts. Atty. Oco advised them to look for the receipts again. Luckily, the hotel was able to find the receipts. After finding the receipts, Atty. Oco drafted the Compliance, attached the receipts therewith and he filed it with the OMB.⁷¹

Atty. Oco then identified the said compliance (**Exhibit "S"**) and his signature appearing thereon (**Exhibits "S-1-b"**). He likewise identified the duplicate original of *Official Receipt No. 4703* dated May 15, 2002 (**Exhibit "S-1"**), issued by Cherry Blossoms Hotel in the amount of PhP5,914.00.⁷²

On cross-examination, Atty. Oco admitted that he was not the one who issued *Official Receipt No. 4703* dated May 15, 2002. Neither does he know who executed the said receipt nor can he identify the handwriting appearing therein. Atty. Oco has no knowledge of the said receipt.⁷³

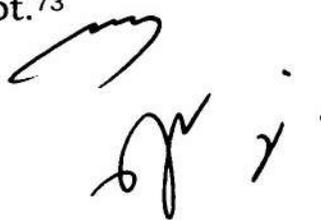
⁶⁹ pp. 4-5, TSN, August 28, 2014

⁷⁰ pp. 6-7, *id*

⁷¹ pp. 7-9, *id*

⁷² pp. 9-11, *id*

⁷³ pp. 12-13, *id*



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On re-direct examination, Atty. Oco testified that it was Assistant Manager Romeo who handed him the subject receipt, the same person who exerted efforts to locate the same.⁷⁴

Upon questioning from the Court, Atty. Oco testified that he did not have the chance to compare the receipts he attached to his compliance with the receipts subject matter of these cases. At the time of his testimony, he merely assisted his client in complying with the order of the OMB. He merely submitted the receipts as ordered by the OMB.⁷⁵

4. **Rodney Robosa** – General Manager, Manila Grand Opera Hotel.

Before Robosa testified, the prosecution and the defense counsel stipulated on the following:

1. At present, Robosa is the General Manager of the Manila Grand Opera Hotel; and
2. In February 2002 up to August 2006, he was the Assistant Hotel Manager of Cherry Blossoms Hotel owned and operated by CBS Properties and Management Corporation located at 550 George Bocobo Extension, Ermita, Manila.⁷⁶

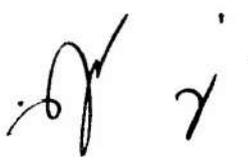
Robosa testified that as the former Assistant General Manager of Cherry Blossoms Hotel, he had to comply with the *subpoena* issued by judicial courts, the Department of Justice, the OMB and other government agencies. Sometime in 2004, the Cherry Blossoms Hotel received a *subpoena* from the OMB directing it to submit the original copy of Official Receipt No. 47034. After receiving the same, the hotel referred the *subpoena* to Atty. Oco, who was the counsel of CBS Properties and Management Corporation. Atty. Oco then instructed them to look for the original copy of the said receipt and to exert extra efforts to find it.⁷⁷

⁷⁴ p. 14, *id*

⁷⁵ pp. 15-17, *id*

⁷⁶ pp. 4-6, TSN, September 23, 2014

⁷⁷ pp. 7-8, *id*



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Robosa supervised the search of the duplicate original copy of Official Receipt No. 47034. He instructed his accounting department to find the duplicate original copy of the said receipt. Eventually, they found the duplicate original of the receipt, checked it and handed the same to Atty. Oco. Atty. Oco then submitted the same to the OMB-Mindanao. Robosa then identified the duplicate original of Official Receipt No. 47034 (**Exhibit "S-1"**).⁷⁸

Robosa explained that they submitted only the duplicate original of the receipt although the *subpoena* required them to submit the original thereof because the said original copy was already issued to the client and the hotel only retained the duplicate original and the triplicate copy. He knows that the duplicate original of Official Receipt No. 47034 was the one issued by Cherry Blossoms Hotel to Room 304 on May 15, 2002. This is so because there could only be one Official Receipt No. 47034 since the hotel could not have issued any other receipt with the same series number because it is illegal to do so.⁷⁹

On cross-examination, Robosa testified that as the former assistant general manager of Cherry Blossoms Hotel, he had many responsibilities. As the former assistant general manager, one of his duties was to comply with the *subpoena*. He mentioned this responsibility because he is present in Court. Aside from his duty to obey the *subpoena*, among his duties as the assistant general manager was to conduct meetings with his department heads regarding issues pertaining to operations. He likewise conducted seminars for all employees with regard to their standard operating procedure. It was his first time to appear in court but he already encountered some *subpoena* before so he was familiar with it.⁸⁰

5. **Kenyon Tan** – Manager of First Hotel.

Before Tan was presented by the prosecution, the parties informed the Court that they already stipulated that Tan was the Hotel Manager of First Hotel from 1991 up to the time he testified in Court.⁸¹

⁷⁸ pp. 9-10, *id*

⁷⁹ p. 11, *id*

⁸⁰ pp. 12-14, *id*

⁸¹ p. 4, TSN, October 21, 2014

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Tan testified that as the manager of First Hotel, he overlooks and supervises the hotel operation. It was likewise his duty to comply with the *subpoena* issued by a court. In the performance of his duty as manager of the said hotel, he received a *subpoena* from the OMB. The said *subpoena* directed the First Hotel to present the original receipt it issued to the accused. Tan then identified the *subpoena* issued by the OMB (**Exhibit "CCC"**).⁸²

After receiving the said *subpoena*, Tan sent the same to their counsel, Atty. Benito Ching. It was Atty. Ching who assisted them in submitting the photocopy of the receipt to the OMB. After it was received by Atty. Ching, the latter instructed them to look for the duplicate original of the Official Receipt No. 123429. After they were able to locate the said receipt, they photocopied it and sent the same to Atty. Ching. The said receipt was located by Vicky Bernas, who is a counter staff and a cashier in their hotel. The duplicate original of the subject receipt was kept by Bernas in one of the secured drawers in their hotel. Unfortunately, the duplicate original was damaged and destroyed by Typhoon *Ondoy* and it is already beyond restoration. Atty. Ching submitted the photocopy of the receipt to the OMB. Tan then identified the photocopy of Official Receipt No. 123429 as the one that was photocopied and sent to Atty. Ching. He knows that the same is the photocopy of the duplicate original copy of the receipt because before it was photocopied, it was shown to him.⁸³

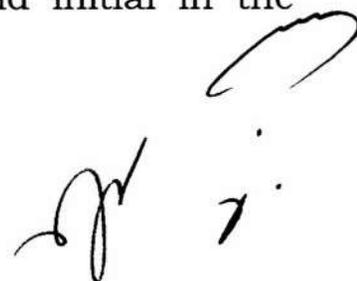
On cross-examination, Tan testified that they kept looking for the duplicate original of the receipt but they could not find it because it was placed in one of the drawers that had been damaged. Most of the booklets of their receipts were damaged. These booklets were kept in their drawers and were damaged by Typhoon *Ondoy*. They no longer kept the receipts because those have been damaged and are already beyond restoration.⁸⁴

Tan further testified that it was Bernas who issued the invoice. Bernas migrated already to Australia and is no longer connected with their hotel. He knows that it was issued by Bernas because he saw her penmanship and initial in the

⁸² pp. 5-6, *id*

⁸³ pp. 6-8, *id*

⁸⁴ pp. 9-10, *id*

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receipt. According to Tan, the cashier who issues the receipt has to write her/his initial therein. The photocopy of Official Receipt No. 123429 is marked as the prosecution's **Exhibit "EEE."** When asked if the name of the accused appears in the said receipt, Tan replied: "*I don't know what happened but it is for Ms. Binarao, because this is the receipt that was shown to me by the Ombudsman Mindanao that asked for a copy...*" When the same question was asked of him, Tan answered: "*It is written here but I don't (sic) why she put this. I don't know ... but it (sic) Sylvia Binarao who owned this receipt.*" Tan has no idea who made the writings beside the entry "Received from" in the subject receipt.⁸⁵

When Tan was asked if it was Bernas who wrote the writings in the receipt, he could not give a definitive answer. He further clarified that he did not say that he was present when Bernas actually prepared the receipt. The original duplicate copy of the receipt was only shown to him before it was photocopied. He further clarified that he did not say that he was present when Bernas affixed her initials on the receipt. He only stated that the initials appearing therein are Bernas' "*because of her penmanship and initial.*" Based alone on appearance of the photocopy of the official receipt, Tan could not tell to whom it was issued because he could not read the name written therein.⁸⁶

On re-direct examination, Tan clarified that the official receipt he identified is the same because the *subpoena* of the OMB asked them to give a copy of the receipt with the corresponding number, *i.e.*, 123429. The First Hotel only issued one receipt with number 123429 since it does not issue two (2) receipts with the same serial number because it would be illegal.⁸⁷

Upon questioning from the Court, Tan testified that insofar as he was concerned, the identity of the receipt will be established by its number. The OMB requested their company to produce the receipt with the corresponding receipt number without mentioning the name. They had the duplicate original of the receipt but they only sent the photocopy to the OMB.⁸⁸

⁸⁵ pp. 10-12, *id*

⁸⁶ pp. 12-13, *id*

⁸⁷ p. 14-, *id*

⁸⁸ p. 15, *id*

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6. **Ethyl Dexie C. Gerodiaz** – former Dormitory Supervisor of COA Region X Training Center and Dormitory.

The parties stipulated that Gerodiaz was the designated Dormitory Supervisor of COA Region X Training Center and Dormitory from 2000 to 2007.⁸⁹

Gerodiaz testified that as the dormitory supervisor, her duties include the collection of dormitory payments and other dormitory charges on behalf of Nora Pastrana, the Special Collecting Officer of COA Region X. She likewise issued official receipts for payment of dormitory and other charges.⁹⁰

On November 1, 2001, Gerodiaz issued Official Receipt No. 4800345 in favor of accused Sylvia Binarao, *et al.* for lodging and dormitory fees. The said receipt was issued for their stay at the COA Dormitory during their *Barangay* Accounting Seminar. Gerodiaz then identified Official Receipt No. 4800345, which is marked as the prosecution's **Exhibit "BB."** The amount indicated in the receipt is PhP4,800,00 (**Exhibit "BB-2"**). Gerodiaz likewise identified the signature of "*Nora N. Patriana*" which appears above the printed words "*Certified True Copy*" in the subject receipt. According to her, Patriana is the Special Collecting Officer of COA, Region X and that she is familiar with the latter's signature because she came across Pastrana's signature in her job as dormitory supervisor. It was Pastrana who certified the document because she was the one who had custody of the original copies of the said document.⁹¹

Gerodiaz then identified her *Affidavit* dated March 20, 2003 (**Exhibit "LL"**), which she executed in relation to Official Receipt No. 4800345, the signature of Atty. Celso N. Bocal, Chief Legal Officer of COA Region X (**Exhibit "LL-2"**). She explained that she executed the said affidavit because the COA in Zamboanga City sent a confirmation letter to COA Dormitory Region X asking it to confirm the official receipt issued to the accused. In response to the said request, the COA Dormitory Region X sent a certified true copy of Official Receipt No. 4800345 and Gerodiaz's affidavit. They collected dormitory fees from the accused for the period October 27 to 31, 2001, because

⁸⁹ p. 3, TSN, October 22, 2014

⁹⁰ pp. 4-5, *id*

⁹¹ pp. 5-7, *id*

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she stayed at the COA Dormitory Region X for their seminar on *barangay* accounting. The dormitory registration form proves that the accused and her companions stayed at the COA Dormitory Region X for the said period of time. Gerodiaz then identified the said dormitory registration forms which are marked as the prosecution's **Exhibits "DD," "EE," "FF," "GG," "HH," "JJ," and "KK."** She likewise identified the signatures of Patriana, the person who certified that the said documents as true copies of the original, appearing on the said forms.⁹²

Aside from the dormitory registration form, the Summary of Dormitory Stay likewise proves that the accused and her companions stayed at the COA Dormitory Region X. Gerodiaz then identified the Summary of Dorm Check-in for October 27 to 21, 2001 issued by COA Region X Training Center and Dormitory which is marked as the prosecution's **Exhibit "CC."**⁹³

On cross-examination, Gerodiaz clarified that although Patriana was the collecting officer of the COA Region X Dormitory and Training Center, she was also designated to collect dormitory fees on her behalf. The said designation is in writing. However, Gerodiaz does not have the written designation when she testified in Court. Her authority to receive payments is part of her function as dormitory supervisor.⁹⁴

The receipt that Gerodiaz issued was not only for the accused but also for her companions. The said companions could be as many as 100 participants. The daily rate of the dorm is PhP400.00 per day for one (1) to two (2) persons. The seminar which was attended to by the accused and her companions was for five (5) days. The COA Dormitory have rooms for two (2), three (3) and four (4) persons.⁹⁵

Gerodiaz explained that the number "174" appearing on the Dormitory Summary pertains to the *Dormitory Registration Form Number*. She remembers that the accused and her companions occupied three (3) rooms from October 27 to 31, 2001. According to her, the accused was with other people, numbering fifty (50) or more, during their stay in the dormitory.

⁹² pp. 8-11, *id*

⁹³ pp. 11-12, *id*

⁹⁴ pp. 14-18, *id*

⁹⁵ pp. 18-20, *id*

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When asked why she only charged PhP4,800.00 when the rate of the room is PhP400.00 per day and the accused and her companions stayed for four (4) days, Gerodiaz replied: *“Ms. Binarao and Ms. Lacastesantos stayed in one room. Their rate was PhP400.00 per day, per room. So PhP400.00, it will be divided among them. So that would be PhP200.00 per head, per day. So times four days, that is PhP800.00, per each participant.”* Gerodiaz presented only the receipt for the PhP4,800.00 *“but there are other persons, two persons stayed in another room, their rate was PhP500.00 per day, per room. Then, these other three persons, this three, none-aircon (sic) rooms with the rate of PhP100.00 per day, per person, for four days.”* Gerodiaz did not issue any receipt to the other participants because she remembers the accused telling her to just issue one (1) official receipt for all of them, for her companions.⁹⁶

The dormitory registration forms are filled-up by the guests upon their check-in and before a room is assigned to them. The amount of PhP4,800.00 in the summary in the official receipt represents only the room rate. The payment for the meals consumed by the participants were already included in the seminar fee which were paid to the COA. They did not issue receipts for the meals. It was Patriana, the special collecting officer of the COA, who issued the receipts for the meals.⁹⁷

7. Arlene Z. Reyes – Director III, Commission on Audit Region XI.

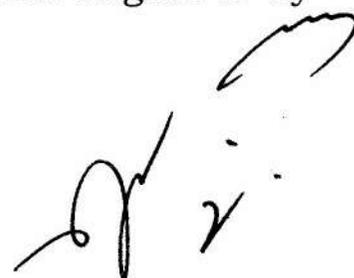
The parties stipulated that Reyes was: (1) the Service Chief of the Administration Training and Finance Services of the COA, Region X in 2012, and (2) Reyes was designated as officer-in-charge Assistant Regional Director of COA Region X in 2012 per COA Reassignment Order No. 015 dated June 1, 2012.⁹⁸

As the former officer-in-charge and Assistant Regional Director of COA Region X in 2012, Reyes assisted the Regional Director on matters pertaining to administrative and technical matters of the Regional Office. In administrative matters, Reyes supervised the disposal of the records of COA Region X by

⁹⁶ pp. 20-22, *id*

⁹⁷ pp. 22-24, *id*

⁹⁸ 5-7, TSN, November 11, 2014



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coordinating with the National Archives of the Philippines (“National Archives”). In 2012, she supervised the disposal of the records destroyed by the onslaught of Typhoon *Sendong*. The said typhoon made landfall on December 16, 2011. The records of COA Region X were disposed of in 2012 because they were damaged by the said typhoon. The said disposal was made under the *Authority to Dispose Records with Authority No. A-2012-3* dated April 26, 2012, issued by the National Archives. Reyes then identified the said authority which is marked as the prosecution’s **Exhibit “GGG.”** The records that were disposed of under the said authority include disbursement vouchers, payrolls, and official receipts issued in September 2011 and below. The *Certificate of Disposal* dated October 23, 2012, issued by the National Archives proves that the said documents were indeed disposed of under the authority to dispose records. Reyes likewise identified the said certificate which is marked as the prosecution’s **Exhibit “HHH.”**⁹⁹

Reyes explained that the COA disposes its records after the expiration of the required retention period. According to her, the National Archives has this schedule of disposition of records. In that schedule of disposition, there are some number of years prescribed after which the records may already be disposed of. For official receipts, the prescribed retention period is ten (10) years, *e.g.*, it was issued in 2001 it may already be disposed of by 2011. Thus, for an official receipt that was issued in November 2001, it is required to be retained until ten (10) years thereafter, *i.e.*, 2011. Reyes could no longer recall the most recent disposal made by the COA immediately preceding the 2012 disposal. She is sure that there was no disposal made in 2011.¹⁰⁰

On cross-examination, Reyes confirmed that the authority to dispose that was issued by the National Archives gave them the authority to dispose the documents stated therein. Because of the said authority, they performed their function and disposed the records. It is the duty of the National Archives to issue the *Certificate of Disposal* because prior to the actual disposal, a representative from the National Archives will have to come to their office and inspect the documents subject for disposal. They disposed the records in the presence of the

⁹⁹ pp. 10-19, *id*

¹⁰⁰ pp. 19-21, *id*

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representative from the National Archives. It was not Reyes who issued the Certificate of Disposal but it was issued by the National Archives. It was the said government agency which filled-up the certificate and Reyes signed it only as the representative of the requesting agency. Reyes knows that the documents were disposed because she was present when the said documents were thrown into the landfill in Cagayan de Oro City.¹⁰¹

On re-direct examination, Reyes testified that they recommended to the National Archives the mode of disposal of their record. The National Archive approved their recommendation that the subject records be disposed of by burying them in a landfill. They chose the said method because the records were hazardous to their health because of the mud stuck to the records. Before the documents were buried in the landfill, they had to dig a hole on the ground per the instruction of the National Archives. The office of Reyes is in Carmen, Cagayan de Oro City, which is right beside the Cagayan River.¹⁰²

THE VERSION OF THE DEFENSE

The defense presented the accused and Carol L. Del Socorro, who testified as follows:

1. **Accused Sylvia Binarao** – City Accountant of Zamboanga City.

The accused identified the counter-affidavit and affidavit that she executed in connection with these cases and her signatures therein (**Exhibits “1” and “2”**).¹⁰³

She affirmed the statements in her counter-affidavit that she refunded the amount of P10,000.00 as evidenced by Official Receipt No. 0130867 dated November 25, 2002; that she had liquidated her cash advance in relation to her travel to Cagayan

¹⁰¹ pp. 22-24, *id*

¹⁰² pp. 25-26, *id*

¹⁰³ p. 7-9, TSN, January 25, 2016

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de Oro City on October 29, 2001; that she refunded the amount even before the anonymous complaint against her was filed before the Office of the Ombudsman; that the COA had no adverse finding in relation to her said travel; and, that the AOM of Abdula came only after the said anonymous complaint.¹⁰⁴

The accused testified that the amount of ten thousand pesos (P10,000.00) she returned/refunded referred to the excess of the cash advance that was given to her.¹⁰⁵ She would not be able to attend subsequent seminars if she had not fully liquidated her prior cash advance.¹⁰⁶ She denied having falsified any official receipts subject of these cases. According to her, she submitted all the receipts and liquidation papers pertaining to her travel to Cagayan de Oro, Roxas City and Manila to their Administrative Division which is in-charge of preparing the liquidation papers.¹⁰⁷ She was not able to see whether the receipts that were submitted during the investigation of these cases were genuine because they were attached to the voucher that was submitted to the COA.¹⁰⁸

The accused also testified that the cases against her were brought by some employees who were affected by the re-shuffle of the employees she effected in her office and by her former superior Rosalio Regondolo, who was not appointed to the position which she now holds.¹⁰⁹ The re-shuffle affected the Division Chiefs of the Bookkeeping, the Audit as well as the Administrative Division.¹¹⁰

On cross-examination, the accused declared that the official receipt she submitted in support of her liquidation for her travel in Cagayan de Oro City was in the amount of Four Thousand Eight Hundred Pesos (P4,800.00). When confronted with her counter-affidavit (**Exhibit "1"**) where she stated that there was no malice or bad faith in including the amount of P10,000.00 in *Official Receipt No. 480345* dated November 1, 2001 for the total amount of Fourteen Thousand Eight Hundred Pesos (P14,800.00) because the said amount was actually

¹⁰⁴ pp. 10-13, *id.*

¹⁰⁵ p. 15, *id.*

¹⁰⁶ p. 17, *id.*

¹⁰⁷ pp. 18-22,24-25, *id.*

¹⁰⁸ p. 28, *id.*

¹⁰⁹ pp. 23-24, *id.*

¹¹⁰ pp. 26-27, *id.*

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incurred by the participants concerned, the accused answered that she was not the one who prepared the counter-affidavit. The accused agreed that the said official receipt corresponds only to the dormitory fees.¹¹¹

For her travel to Roxas City on December 9, 2001, she recalled having stayed at the First Hotel in Binondo, Manila. She remembered submitting *Official Receipt No. 123429* as among the supporting documents in connection with her liquidation. However, she cannot recall the amount stated in the said official receipt.¹¹²

Regarding her travel to Manila on May 12, 2002 to May 19, 2002, the accused likewise declared that she cannot recall the amount she paid for her accommodation in the Cherry Blossoms Hotel in Ermita. When confronted with *Official Receipt No. 47034* dated May 15, 2002, in the amount of P16,950.00, the accused claims that the said receipt is questionable because her name was not written on it.¹¹³

The accused also testified that an employee who has been granted cash advance for purposes of official travel is also responsible for liquidating the said cash advance.¹¹⁴

2. **Carol Lacastesantos del Socorro** – Bookkeeper, City Accountant’s Office, City Government of Zamboanga City.

Del Socorro identified the Joint Affidavit she executed and her signature (**Exhibits 3 and 3-a**) and affirmed the statements therein.¹¹⁵

On cross-examination, del Socorro declared that she was assigned to the Office of the City Accountant in January 2001 and that the accused was her immediate department head. She also declared that she was with the accused during their seminar in Cagayan de Oro City and that the accused shouldered their expenses because the travel allowance given to

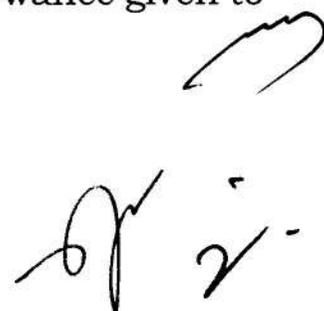
¹¹¹ pp. 32-35, *id.*

¹¹² pp. 36-37, *id.*

¹¹³ pp. 37-39, *id.*

¹¹⁴ pp. 40-41, *id.*

¹¹⁵ pp. 3-6, TSN, January 26, 2016



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them was not sufficient.¹¹⁶ She cannot recall the amount given to them for their expenses in the seminar because it happened a long time ago. She only remembered that they did not return any amount because there was no excess in the cash advance given to them. In fact, the amount was not sufficient to cover for all their expenses. They submitted all the supporting documents for liquidation purposes which they forwarded to the administrative division for preparation of their liquidation report.¹¹⁷

She testified that because the accused shouldered their expenses incurred in the said seminar, they promised to pay the accused upon receiving their salary. While they paid the accused on different dates, she was able to pay accused in 2002 only, or after almost a year in the amount of P1,200.00.¹¹⁸ She also testified that the accused also paid for her accommodation and travelling expenses in coming to the Court to testify.¹¹⁹

On re-direct examination, del Socorro declared that they forwarded the supporting documents/papers to the Administrative Division which prepares the liquidation report to be submitted to the COA.¹²⁰

On questions from the Court, del Socorro said that while they submit the papers to the Administrative Division for the preparation of the liquidation report, the same are returned to them for their examination and signature.¹²¹

On re-cross examination, del Socorro declared that insofar as she is concerned, she only submitted a certificate of appearance and attendance as proof that she attended the seminar. She had not seen the official receipt issued by the COA for their accommodation in the COA dormitory. Only the head of the Division is given the expenses for the accommodation but they were given *per diem* which they have to liquidate. She gave the supporting papers to their Administrative Division for the preparation of the liquidation report and submission to the COA. She does not know if their

¹¹⁶ pp. 7-9, *id.*

¹¹⁷ pp. 10-13, *id.*

¹¹⁸ pp. 14-15, *id.*

¹¹⁹ p. 16, *id.*

¹²⁰ p. 18, *id.*

¹²¹ pp. 18-19, *id.*



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Administrative Division had already submitted the liquidation papers. She only knows that they cannot travel again if they failed to liquidate the previous cash advance.¹²²

THE RULING OF THE COURT

In every criminal case, the accused is entitled to acquittal unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind.¹²³ The burden of proof is on the prosecution to establish the guilt of the accused beyond reasonable doubt. It has the duty to prove each and every element of the crime charged in the Information to warrant a finding of guilt for the said crime.¹²⁴

After a judicious evaluation of the evidence presented in these cases, the Court finds that except in Criminal Case No. SB-12-CRM-0021, the prosecution has discharged its bounden duty to establish the guilt of the accused for the crimes charged beyond reasonable doubt.

To begin with, the Court reiterates the following undisputed facts:

1. At the time material to these cases, the accused is a public officer - the City Government Head II – City Accountant of Zamboanga City.
2. The accused requested the City Mayor of Zamboanga City that she be authorized to travel to Metro Manila to follow-up official matters in the COA.
3. The accused travelled to Cagayan de Oro from October 27-31, 2001 to attend the seminar on *Barangay*

¹²² pp. 21-25, *id.*

¹²³ *Lamsen vs. People*, G.R. No. 227069, November 22, 2017

¹²⁴ *Lim vs. People*, 806 SCRA 1 (2016)

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Accounting and Auditing along with six (6) *Barangay* Bookkeepers and a driver and they stayed at the COA Dormitory in the said city occupying three (3) rooms.

4. The accused traveled to Roxas City on December 5-6, 2001 to attend the quarterly meeting of the Philippine League of Local Budget Officers. There is no direct flight to Roxas City from Zamboanga City; hence, accused took the Manila route and traveled to Roxas City from December 4-9, 2001 to attend the said meeting.

5. Accused refunded the amount of Ten Thousand Pesos (Php10,000.00) of the amount of Fourteen Pesos (Php14,000.00) per Official Receipt Number 0130867 dated November 25, 2002.¹²⁵

6. The accused stayed in First Hotel in Binondo, Manila when she travelled to Roxas City on an official business on December 4, 2001 to December 9, 2001.¹²⁶

7. The accused stayed in Cherry Blossoms Hotel in Ermita Manila when she was on official business in Manila from May 12, 2002 to May 19, 2002.¹²⁷

1. In **Criminal Case No. SB-12-CRM-0016**, the accused is charged with *estafa* through falsification of a public document under Articles 318¹²⁸ and 171 (6),¹²⁹ in relation to Article 48,¹³⁰ of the RPC.

¹²⁵ pp. 1-2, *Joint Stipulations of Facts* dated January 23, 2014; pp. 373-374, *id*

¹²⁶ pp. 35-36, TSN, January 25, 2016

¹²⁷ pp. 37-38, TSN, January 25, 2016

¹²⁸ ART. 318. Other deceits. — The penalty of *arresto mayor* and a fine of not less than the amount of the damage caused and not more than twice such amount shall be imposed upon any person who shall defraud or damage another by any other deceit not mentioned in the preceding articles of this Chapter.

Any person who, for profit or gain, shall interpret dreams, make forecasts, tell fortunes, or take advantage of the credulity of the public in any other similar manner, shall suffer the penalty of *arresto mayor* or a fine not exceeding Forty thousand pesos (P40,000).

¹²⁹ ART. 171. Falsification by public officer, employee or notary or ecclesiastic minister. — The penalty of *prisión mayor* and a fine not to exceed One million pesos (P1,000,000) shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

- ...
6. Making any alteration or intercalation in a genuine document which changes its meaning;

¹³⁰ Art. 48. Penalty for complex crimes. — When a single act constitutes two or more grave or less grave felonies, or when an offense is, a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

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For an accused to be convicted of the complex crime of *estafa* through falsification of public document, all the elements of the two (2) crimes of *estafa* or other deceits and falsification of public document must exist.¹³¹

For one to be liable for "other deceits" under the law, it is required that the prosecution must prove the following essential elements:¹³²

1. false pretense, fraudulent act or pretense other than those in the preceding articles;
2. such false pretense, fraudulent act or pretense must be made or executed prior to or simultaneously with the commission of the fraud; and
3. as a result, the offended party suffered damage or prejudice.

On the other hand, the elements of falsification by a public officer or employee or notary public as defined in Article 171 of the Revised Penal Code are that:¹³³

1. the offender is a public officer or employee or notary public;
2. the offender takes advantage of his official position; and
3. he or she falsifies a document by committing any of the acts mentioned in Article 171 of the Revised Penal Code.

Further, under Article 171(6) of the RPC, the "making of alteration or intercalation in a genuine document" requires a showing that: (1) there be an alteration [change] or intercalation

¹³¹ **Ansaldo vs. People**, 616 SCRA 556 (2010)

¹³² **Guinhawa vs. People**, 468 SCRA 278 (2005)

¹³³ **Malabanan vs. Sandiganbayan**, G.R. Nos. 186239, 186584-86 & 198598, August 2, 2017

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[insertion] on a document; (2) it was made on a genuine document; (3) the alteration or intercalation has changed the meaning of the document; and (4) the change made the document speak something false.¹³⁴

The Court finds that the prosecution had proved beyond reasonable doubt all the above elements of “other deceits” and falsification under Article 171(6).

Based on the evidence presented, the City Government of Zamboanga disbursed the amount of twenty-six thousand sixty-five pesos (P26,065.00) for the actual travel expenses which the accused incurred when she went to Manila on official business (**Exhibit “L”**). In liquidating the said amount, the accused attached, among other documents, *Official Receipt No. 47034* dated May 15, 2002, issued by the Cherry Blossoms Hotel in the amount of sixteen thousand nine hundred fourteen pesos [P16,914.00] (**Exhibit “Q”**).

Rodney Robosa, Assistant Hotel Manager of Cherry Blossoms Hotel, presented the duplicate original copy of Official Receipt No. 47034 dated May 15, 2002. This receipt shows that the amount paid for the room occupied by the accused was only five thousand nine hundred fourteen pesos (P5,914.00) [**Exhibit “S-1”**].

A careful examination of *Official Receipt No. 47034* (**Exhibit “Q”**) submitted by the accused shows that there is an alteration in the amount of P16,914.00. The number “5” was changed to “6” and the number “1” was inserted before the number “5.”

In defense, the accused merely denied making any alteration in the amount indicated in Official Receipt No. 47034. She claims that she gave *Official Receipt No. 47034* to their Administrative Division which is supposed to prepare the liquidation report.¹³⁵ She also declared that although the said official receipt bears her room accommodation, the same is questionable because it does not bear her name.¹³⁶

¹³⁴ *Typoco, Jr. vs. People*, G.R. Nos. 221857 & 222020, August 16, 2017

¹³⁵ pp. 19-22, TSN, January 25, 2016

¹³⁶ p. 39, TSN, January 25, 2016

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The Court finds the denial of the accused bereft of evidentiary weight.

Section 3.1.2 of COA Circular No. 96-004 dated April 19, 1996, provides:

3.1.2 LIQUIDATION OF CASH ADVANCE

3.1.2.1 The cash advance for travel shall be liquidated by the official/employee concerned strictly within (30) days after his return to his official station as required under Section 16 of EO 248 as amended otherwise, payment of his salary shall be suspended until he complies therewith.

Thus, it is incredible that the accused, who is the City Government Head II – City Accountant of Zamboanga City, would not even know that the employee concerned is responsible for the liquidation of a cash advance released to him or her.

Granting that she gave *Official Receipt No. 47034* to their Administrative Division supposedly for the preparation of the liquidation report, she admitted that an employee who was given a cash advance is the one responsible for the liquidation thereof by submitting all the documents.¹³⁷

Further, the accused's own witness, Del Socorro, admitted that while they gave the supporting documents to their Administrative Division for the preparation of the liquidation report, the report is returned to them for their signature and that they can call the attention of their Administrative Division should there be any difference in the amounts in the receipts they submitted.¹³⁸

Such inconsistent and illogical testimonies on a material aspect raise doubt on the credibility of the testimonies of the accused and her witness.

As a rule, self-contradictions and contradictory statement of witnesses should be reconciled, it being true that such is

¹³⁷ pp. 40-41, TSN, January 25, 2016

¹³⁸ p. 19, TSN, January 26, 2016

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possible since a witness is not expected to give error-free testimony considering the lapse of time and the treachery of human memory. However, this principle, learned from lessons of human experience, applies only to minor or trivial matters — innocent lapses that do not affect witness' credibility. They do not apply to self-contradictions on material facts. Where these contradictions cannot be reconciled, the Court has to reject the testimonies.¹³⁹

In falsification of public document, the offender is considered to have taken advantage of his official position when (1) he has the duty to make or prepare or otherwise to intervene in the preparation of a document; or (2) he has the official custody of the document which he falsifies.¹⁴⁰

In this case, as a public officer, the accused took advantage of her position when she falsified *Official Receipt No. 47034* dated May 15, 2002, issued by Cherry Blossoms Hotel in Binondo, Manila since it was her duty to prepare the liquidation report of the cash advance released to her in connection with her official travel to Manila on May 12-19, 2002.

Also, *Official Receipt No. 47034* is a public document having been printed in accordance with the standard forms required by the government.¹⁴¹

There can be no question that the alteration in the amount constitutes falsification of public document because it affected not only the authenticity of the official receipt but it also changed the amount to make the documents speak something false.

The prosecution evidence clearly established that the accused falsified *Official Receipt No. 47034*, a public document, by making it appear that the amount she paid for her hotel accommodation was P16,914.00 when in truth the amount paid was only P5,914.00. The accused submitted the said *Official Receipt No. 47034* to liquidate her cash advance for her travel. The said falsified receipt enabled the accused to collect the amount of P11,000.00 from the government. Because of the

¹³⁹ *People vs. Mirandilla, Jr.*, 654 SCRA 761 (2011)

¹⁴⁰ *Corpuz, Jr. vs. People*, 810 SCRA 345 (2016)

¹⁴¹ *Legaspi vs. Court of Appeals*, 142 SCRA 82 (1986)

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accused's act, the government suffered damage in the amount of P11,000.00. Indeed, the falsification of *Official Receipt No. 47034* was a necessary means to commit *estafa*. When the offender commits on a public, official or commercial document any of the acts of falsification enumerated in Article 171 as a necessary means to commit another crime like *estafa*, theft or malversation, the two (2) crimes form a complex crime.¹⁴²

2. In **SB-12-CRM-0017** and **SB-12-CRM-0018**, the accused is charged with *malversation* of public funds.

The elements of malversation of public funds under Article 217 of the RPC are as follows:¹⁴³

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

Article 217 establishes a presumption that when a public officer fails to have duly forthcoming any public funds with which he is chargeable, upon demand by any duly authorized officer, it shall be *prima facie* evidence that he has put such missing funds to personal uses.¹⁴⁴

To have custody or control of the funds or property by reason of the duties of his office, a public officer must be a cashier, treasurer, collector, property officer or any other officer

¹⁴² *Tanenggee vs. People*, 699 SCRA 639 (2013)

¹⁴³ *Hernan vs. Sandiganbayan*, G.R. No. 217874, December 5, 2017

¹⁴⁴ *Tanenggee vs. People*, *supra* note 141

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or employee who is tasked with the taking of money or property from the public which they are duty-bound to keep temporarily until such money or property are properly deposited in official depository banks or similar entities; or until they shall have endorsed such money or property to other accountable officers or concerned offices.¹⁴⁵

Under the Government Auditing Code of the Philippines, an accountable public officer is a public officer who, by reason of his office, is accountable for public funds or property.¹⁴⁶ The Local Government Code expanded this definition with regard to local government officials. Section 340 of the LGC reads:

Section 340. Persons Accountable for Local Government Funds. — Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this title. Other local officials, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

Thus, local government officials become accountable public officers either (1) because of the nature of their functions; or (2) on account of their participation in the use or application of public funds.

In SB-12-CRM-0017, the amount of P24,700.00 was released to the accused as cash advance in connection with her official travel to Cagayan de Oro City to attend the seminar on *Barangay* Accounting and Auditing on October 29-November 2, 2001 (**Exhibit "V"**). In SB-12-CRM-0018, the accused submitted a liquidation report of the cash advance for her official travel to Roxas City to attend the Philippine League of Local Budget Officers, Inc. from December 5-6, 2001 in the amount of twenty-eight thousand nine hundred ninety-two (P28,992.00) [**Exhibit "QQ"**].

¹⁴⁵ *Tanenggee vs. People, id.*

¹⁴⁶ *Zoleta vs. Sandiganbayan*, 764 SCRA 110 (2015)

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Thus, the accused had custody of the cash advances released to her for her official travels until she had rendered a liquidation of the said public funds; the accused is accountable for the cash advances for her official travels which were released to her on account of her use of the said public funds.

In liquidating the said amount, she attached, among others, *Official Receipt No. 4800345* dated November 1, 2001, issued by the COA Region X, in the amount of fourteen thousand eight hundred pesos (P14,800.00) representing dormitory fees (**Exhibits "U" and "W"**) and *Official Receipt No. 123429* dated December 9, 2001 issued by the First Hotel in Binondo, Manila in the amount of five thousand eight hundred pesos (P5,800.00). [**Exhibit "YY"**]

The evidence shows that Official Receipt No. 4800345 dated November 1, 2001, issued by the COA-Region X, is in the amount of four thousand eight hundred pesos only (P4,800.00) [**Exhibit "MM"**]. According to Ethel Gerodiaz, Special Collecting Officer of COA-Region 10, she issued the said receipt to the accused as payment for their dormitory fees when they attended the *Barangay Accounting Seminar*. Gerodiaz identified her signature in Official Receipt No. 4800345.¹⁴⁷

Also, Kenyon Tan, the manager of the First Hotel, testified that they located the duplicate original copy of Official Receipt No. 123429, photocopied it and gave it to their lawyer who submitted the same to the Office of the Ombudsman in compliance with the *subpoena* it issued (**Exhibit "CCC"**). He identified the said official receipt when shown to him in Court [**Exhibit "EEE"**].¹⁴⁸ According to Tan, the identity of the said receipt will be established by its number¹⁴⁹ and that the First Hotel issued only one (1) receipt with number 123429 since it does not issue two (2) receipts with the same serial number as it is illegal.¹⁵⁰

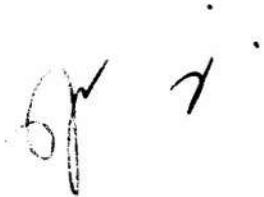
The photocopy of the duplicate original of Official Receipt No. 123429 dated December 9, 2001, submitted by the First Hotel, is in the amount of P1,830.00 (**Exhibit "EEE"**) and not P5,800.00.


¹⁴⁷ pp. 5-6, TSN, October 22, 2014

¹⁴⁸ pp. 5-10, TSN, October 21, 2014

¹⁴⁹ p. 15, *id.*

¹⁵⁰ p. 14, *id.*



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There is a difference of ten thousand pesos (P10,000.00) and three thousand nine hundred seventy pesos (P3,970.00) when the receipts attached by the accused to her liquidation report were compared with the duplicate originals of the said receipts presented by the COA Region X and the First Hotel.

Again, there is no dispute that the accused was on official travel in Cagayan de Oro City from October 27-November 2, 2001 and from December 4 to 9, 2001 in Roxas City. Because there was no direct flight from Zamboanga City to Roxas City, the accused had to take the Zamboanga-Manila-Roxas flight. Thus, she stayed at the Cherry Blossoms Hotel, Ermita, Manila on December 5, 2001 (**Exhibits "XX"**) and in First Hotel, Binondo, Manila on December 9, 2001 (**Exhibit "YY"**).

In both cases, the accused merely offered the defense of denial and claims that she submitted all the liquidation papers to their Administrative Division.¹⁵¹

Such bare denial, however, fails given the documentary and testimonial evidence of the prosecution.

As the Court earlier found, it is incredible that the accused would deny any responsibility in the liquidation of her cash advances; that her inconsistent and illogical testimony on a material aspect raise doubt on her credibility and that of her witness.

Moreover, in her Affidavit dated May 26, 2003, which she executed in answer to the Audit Observation Memorandum (AOM) NO. 20013-006 dated March 31, 2002 (**Exhibit "Z"**) in connection with Official Receipt No. 4800345 dated November 1, 2001, the accused admitted altering the receipt for liquidation purposes and that she already refunded the amount of P10,000.00 pesos on November 25, 2002. Portions thereof read (**Exhibit "NN-2;" Exhibit "2"**):¹⁵²

That I, as a Department Head and in-charge with the group, I practically spend all and even more than the

¹⁵¹ p. 21, TSN, January 25, 2001

¹⁵² This was also marked as Exhibit 2 by the accused; pp. 7-8, TSN, January 25, 2016

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amount of the Cash Advance intended for the travel. Three of the personnel, the male ones, Mr. Inting, Mr. Graciano and Mr. Jauculan, even borrowed P1,000.00 each when we were still in Cagayan de Oro City as they ran out of cash during the travel;

... ..

That I have refunded the amount of Ten Thousand Pesos (P10,000.00) per Official Receipt No. 0130867 dated November 25, 2002 hereto attached, even if the same amount was all spen[t] during the travel;

That there was no damage or injury cause the City Government by the act, as the money was already in my possession by virtue of the legal claim of Cash Advance. **That the alteration was resorted to, for liquidation purpose and that there was no personal gain or profit obtained by me;**

That if altering the receipt to cover the cost of expenses made for other people is wrong and illegal what then can COA do for people assisting in the barangay transactions with a fix monthly fee and increasing their bank account, as long as the IRA is being granted to all the barangays?

In her Counter-Affidavit dated November 24, 2003 (**Exhibit "1"**), the accused made similar statements:

2. I had previously executed an affidavit dated May 26, 2003 in answer to the Audit Observation Memorandum No. 2003-006 dated March 31, 2003 issued by the City Auditor Mobin A. Abdula, and for which I am adopting likewise the said affidavit to show the circumstances of the official trip or travel to Cagayan de Oro City where several barangay bookkeepers and myself attended a seminar on barangay accounting and auditing at the Commission on Audit, Regional Office No. X Cagayan de Oro City; copy of the Affidavit is marked as **ANNEX "1"**;

2. I hereby state that even prior to the audit made by the Commission on Audit, I already had liquidated my travel and expenses incurred wherein I also

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refunded the amount of P10,000.00 for the disallowance made wherein I was issued the Official Receipt No. 0130867 dated November 25, 2002 for the said refund; copy of the Official Receipt No. 0130867 is attached as **ANNEX "2"**:

3. The amount refunded was in consonance with the amount reflected in the receipt issued by the COA Dormitory in charge in Cagayan de Oro wherein the sum of Php14,800.00 was indicated therein as the other amount incurred for food, and other items incurred during the seminar and while going home to Zamboanga City where the group had been stranded along the way, had been included therein and for which it had received been agreed among the participants concerned that they would refund the subject sum received by them and was spent in the trip, when they had the money, which they did, and they had the money on November 25, 2002 and same was turned over to the Office of the Treasurer on the same date. (**ANNEX "2"**)

4. **There was no malice or bad faith committed in including the amount of Php10,000.00 in the Official Receipt No. 4800345 dated November 1, 2001 for the total sum of Php14,800.00** as these were actually incurred by the participants concerned, namely, Jossilyn Agan, Aireen Atilano, Carol Lacastesantos, Ofelia Dadule, Cesar Inting, Leo Jauculan and Ruben Graciano, the last two having already worked with the Air Transportation Office in Manila and having already dies, respectively.

During her cross-examination, however, the accused contradicted the statement in her affidavits. She declared that she attached to her liquidation report *Official Receipt No. 4800345* dated November 1, 2001, in the amount of P4,800.00 which represents her payment for the dormitory fees in connection with her official travel to Cagayan de Oro City.¹⁵³ When confronted with the conflicting statements in her affidavits, she claimed that she did not prepare the said affidavits.¹⁵⁴

¹⁵³ pp. 30-32, TSN, January 25, 2016

¹⁵⁴ pp. 32-33, *id.*

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The accused's testimony fails to persuade the Court.

As a general rule, contradictions and discrepancies between the testimony of a witness and his/her statements in an affidavit do not necessarily discredit him/her. An exception to this rule is when the omission in the affidavit refers to a very important detail of the incident that one relating the incident as an eyewitness would not be expected to fail to mention, or when the narration in the sworn statement substantially contradicts the testimony in court.¹⁵⁵

In this case, the conflicting statements refer to the amount indicated in the official receipt. It is a material point as it involves the very act the accused is being charged with. Moreover, the accused identified her affidavits during her direct examination.¹⁵⁶

Likewise, if indeed, the accused spent more than the cash advance given to her because they were stranded, she could have requested for a reimbursement of additional travel expenses pursuant to Section 3.1.2.4 of COA Circular No. 96-004 dated April 19, 1996, to wit:

3.1.2.4 When a trip exceeds the approved itinerary, the additional travel expenses due shall be paid upon satisfaction of the following requirements: a. Submission of a written justification satisfactory to the agency head or his authorized representative and an additional itinerary for the extension of the trip. b. Where the whole travel exceeds one (1) calendar month, approval of the President shall first be secured before the additional payment shall be made.

Insofar as SB-12-CRM-0018 is concerned, the accused merely denies misappropriating the amount of three thousand nine hundred seventy pesos (P3,970.00) and claims that she gave the liquidation papers to their Administrative Division for the preparation of the liquidation report.¹⁵⁷

¹⁵⁵ *People vs. Alvarado*, 242 SCRA 464 (1995)

¹⁵⁶ pp. 7-10, TSN, January 25, 2016

¹⁵⁷ pp. 18-19, TSN, January 25, 2016

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The Court reiterates its finding that it is incredible that the accused, a city accountant head, would not even know that the employee concerned is responsible for the liquidation of a cash advance released to him or her.

In sum, the accused failed to give an acceptable excuse for the disappearance of the amounts that she had not spent in her official travels to Cagayan de Oro City and Roxas City. Clearly, the presumption arises that the accused misappropriated and converted to her personal benefit the amounts of ten thousand pesos (P10,000.00) and three thousand nine hundred seventy pesos (P3,970.00), by falsifying the official receipts issued by the COA-Region X and First Hotel.

An accountable officer may be convicted of malversation even in the absence of direct proof of misappropriation so long as there is evidence of shortage in his account which he is unable to explain. Demand to produce public funds under a public officer's custody is not an essential element of the felony. The law creates a *prima facie* presumption of conversion if the public officer fails to produce public funds under his custody upon demand therefor.¹⁵⁸

Although the accused refunded the amount of P10,000.00, which pertains to the payment for the COA dormitory subject of *Official Receipt No. 4800345*, the same does not exonerate her from criminal liability.

In malversation of public funds, payment, indemnification, or reimbursement of funds misappropriated, after the commission of the crime, does not extinguish the criminal liability of the offender which, at most, can merely affect the accused's civil liability thereunder and be considered a mitigating circumstance being analogous to voluntary surrender.¹⁵⁹



¹⁵⁸ *Pondevida vs. Sandiganbyan*, 467 SCRA 219 (2005)

¹⁵⁹ *Kimpo vs. Sandiganabayan*, 232 SCRA 53 (1994)

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3. In **Criminal Cases Nos. SB-12-CRM-0019 and 0020**, the accused is charged with falsification under Article 171(6)¹⁶⁰ on two (2) counts for falsifying the amounts indicated in Official Receipt No. 4800345 issued by the COA-Region X Training Center and Dormitory and Official Receipt No. 123429 issued by the First Hotel, Binondo, Manila.

The elements of falsification by a public officer or employee or notary public as defined in Article 171 of the Revised Penal Code are that:

1. the offender is a public officer or employee or notary public;
2. the offender takes advantage of his official position; and
3. he or she falsifies a document by committing any of the acts mentioned in Article 171 of the Revised Penal Code.

In falsification of public document, the offender is considered to have taken advantage of his official position when (1) he has the duty to make or prepare or otherwise to intervene in the preparation of a document; or (2) he has the official custody of the document which he falsifies.¹⁶¹

An accused is guilty of falsification of public documents under Article 171(6) of the RPC by making alteration or intercalation in a genuine document which changes its meaning. The "making alteration or intercalation in a genuine document" requires a showing that: (a) there be an alteration (change) or intercalation (insertion) on a document; (b) it was made on a genuine document; (c) the alteration or intercalation has changed the meaning of the document; and (d) the change made the document speak something false.¹⁶²



¹⁶⁰ ART. 171. Falsification by public officer, employee or notary or ecclesiastic minister. — The penalty of *prisión mayor* and a fine not to exceed One million pesos (P1,000,000) shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

6. Making any alteration or intercalation in a genuine document which changes its meaning;

¹⁶¹ **Corpuz, Jr. vs. People**, *supra* note 139

¹⁶² **Typoco, Jr. vs. People**, *supra* note 133



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In these cases, the accused, as public officer, took advantage of her official position when she falsified Official Receipt No. 4800345 issued by the COA Region X Training Center and Dormitory and Official Receipt No. 123429 issued by First Hotel since it is her duty to prepare the liquidation report of the cash advances she received and to attach the said receipts in support of her liquidation report.

There can be no question that the alteration in the amounts on the said official receipts by changing the amounts from P4,800.00 to P14,800.00 and from P1,830.00 to P5,800.00 constitute falsification of public documents because it affected not only the authenticity of the official receipts but also changed the amounts to make the documents speak something false.

Again, the accused can only offer the defense of denial and claims that she submitted all the liquidation papers to their Administrative Division supposedly for the preparation of the liquidation report.¹⁶³

As the Court found earlier, the accused's bare denial and incredible testimony cannot prevail over the credible testimonial and documentary evidence of the prosecution.

4. In Criminal Cases Nos. **SB-12-CRM-0021, 0022 and 0023**, the accused is charged with violation of Section 3(e) of R. A. No. 3019, on three [3] counts, which requires that the following requisites concur in order to be liable:¹⁶⁴

1. the accused must be a public officer discharging administrative, judicial or official functions;
2. he must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
3. that his action caused any undue injury to any party, including the government, or giving any private party unwarranted

¹⁶³ p. 21, TSN, January 25, 2001

¹⁶⁴ **Saunar vs People**, G.R. No. 186502, December 13, 2017

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benefits, advantage or preference in the discharge of his functions.

First. It is undisputed that the accused is a public officer. Also, she was discharging administrative functions when she submitted her liquidation report.

Second. The second element provides the different modes by which the crime may be committed, that is, through manifest partiality, evident bad faith or gross inexcusable negligence.

In order to determine whether any of these circumstances attends a case, the following parameters should be considered:¹⁶⁵

There is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "Evident bad faith" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. . . . [It] contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purposes. "Gross inexcusable negligence" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

The Information in these cases allege that the accused acted with manifest partiality, evident bad faith or gross inexcusable negligence (1) "by making it appear in her liquidation relative to her official travel in Cagayan de Oro that she spent the amount of Fourteen Thousand Eight Hundred Pesos (Php14,800.00) as per the original Official Receipt No. 4800345 dated November 1, 2001, issued by Ethel Dixie Gerodiaz of the Commission on Audit Region X Training Center and Dormitory, which she submitted as supporting document

¹⁶⁵ Araullo vs. Office of the Ombudsman, 731 SCRA 346 (2014)



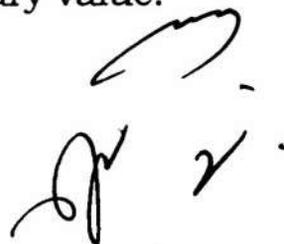
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in her liquidation voucher, when in truth and in fact, the accused very well knew that the amount spent and paid for under Official Receipt No. 4800345 was only Four Thousand Eight Hundred Pesos (Php4,800.00);” (2) “by making it appear in her liquidation relative to her official travel in Roxas City on December 5-6, 2001, that she spent the amount of Five Thousand Eight Hundred Pesos (Php5,800.00) for her accommodations as per the original Official Receipt No. 123429 dated December 9, 2001, issued by First Hotel, Binondo, Manila which she submitted as supporting document in her liquidation voucher, when in truth and in fact, accused very well knew that the amount spent and paid for under Official Receipt No. 123429 was only One Thousand Eight Hundred Thirty Pesos (Php1,830.00);” and (3) “by making it appear in her liquidation relative to her official travel in Manila on May 12-19, 2002 that she spent the amount of Sixteen Thousand Nine Hundred Fourteen Pesos (Php16,914.00) as per the original Official Receipt No. 47034 dated May 15, 2002, issued by Cherry Blossoms Hotel, Manila which she submitted as supporting document in her liquidation voucher, when in truth and in fact, accused very well knew that the amount spent and paid for under Official Receipt No. 47034 was only Five Thousand Nine Hundred Fourteen Pesos (Php5,914.00).”

The accused’s bad faith is evident when she made it appear in her liquidation report that she spent fourteen thousand eight hundred pesos (P14,800.00) for their accommodation in the COA Region X dormitory in connection with their official travel to Cagayan de Oro City when the payment made for their accommodation was only four thousand eight hundred pesos (P4,800.00); that she spent the amount of five thousand eight hundred pesos (P5,800.00) for their accommodation in First Hotel, Binondo, Manila in connection with her official travel to Roxas City when in truth she spent only P1,830.00; and, that she spent P16,914.00 for their accommodation in Cherry Blossoms Hotel in connection with her official travel in Manila when in truth she only spent P5,914.00, by falsifying the said receipt.

Notably, the accused can only offer denial as a defense. Such bare denial is bereft of ant evidentiary value.

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Third. The term "undue injury" in the context of Section 3 (e) of the Anti-Graft and Corrupt Practices Act punishing the act of "causing undue injury to any party," has a meaning akin to that civil law concept of "actual damage." Actual damage, in the context of these definitions, is akin to that in civil law.¹⁶⁶

The evidence show that Official Receipt No. 4800345 dated November 1, 2002, issued by the COA Training Center and Dormitory, is in the amount of P4,800.00 only. The accused, however, falsified the said receipt by indicating the amount of P14,800.00 when she liquidated her cash advance. Thus, there is a difference of ten thousand pesos (P10,000.00). Also, Official Receipt No. 123429 dated December 9, 2001, issued by First Hotel is in the amount of P1,830.00 only. The accused likewise falsified it by making it appear that the amount indicated therein is P5,800.00 resulting in a difference in the amount of three thousand nine hundred seventy pesos (P3,970.00). Finally, Official Receipt No. 47034 dated May 15, 2002, is in the amount of P5,914.00 only but the accused submitted *Official Receipt No. 47034* dated May 15, 2002 in the amount of P16,914.00.

It is undisputed, however, that the accused refunded the amount of ten thousand pesos (P10,000.00), or the difference in the Official Receipt No. 4800345 subject of Criminal Case No. SB-12-CRM-0021. Since the amount was returned, there was no actual injury to the government.

In any criminal prosecution, it is necessary that every essential ingredient of the crime charged must be proved beyond reasonable doubt in order to overcome the constitutional right of the accused to be presumed innocent.¹⁶⁷ In this case, the prosecution failed to prove the presence of undue injury; hence, the accused's constitutional right of presumption of innocence until the contrary is proved has not been overcome; hence, she is entitled to an acquittal¹⁶⁸ for the charge of violation of Section 3(e) of R. A. No. 3019.

On the other hand, the accused's acts of falsifying Official Receipt No. 123429 dated December 9, 2001 and Official Receipt No. 47034 dated May 15, 2002 in support of her

¹⁶⁶ *Alvarez vs. People*, 653 SCRA 52 (2011)

¹⁶⁷ *People vs. De Castro*, 413 SCRA 171 (2003)

¹⁶⁸ *People vs. Wagas*, 705 SCRA 17 (2013)

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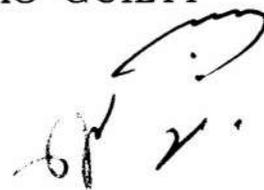
liquidation reports caused undue injury to the government in the amounts of P3,970.00 and P11, 000.00, respectively.

WHEREFORE, the Court renders judgment as follows:

1. In Criminal Case No. SB-12-CRM-0016, the Court finds accused SYLVIA PANGILINAN BINARAO GUILTY beyond reasonable doubt of *estafa* through falsification of a public document and she is hereby sentenced to an indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum, and to pay a fine of P100,000.00. In addition, the accused shall further pay the City of Zamboanga the amount of P11,000.00, plus interest thereon at the rate of 6% per annum, reckoned from the finality of this decision until the amount is fully paid;

2. In Criminal Case No. SB-12-CRM-0017-0018, the Court finds accused SYLVIA PANGILINAN BINARAO GUILTY beyond reasonable doubt of malversation of public funds on two (2) counts, and she is hereby sentenced to an indeterminate penalty of one (1) year and one (1) day of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, as minimum, to two (2) years, four (4) months and one (1) day of *prision correccional* in its medium period, as maximum, taking into account the mitigating circumstance of restitution in SB-12-CRM-0017; and one (1) year and one (1) day of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, as minimum, to three (3) years, six (6) months and twenty one (21) days of *prision correccional* in its medium period, as maximum, and to pay a fine of P3,970.00 and to pay the City of Zamboanga the amount of P3,970.00, plus interest thereon at the rate of 6% per annum, reckoned from the finality of this decision until the amount is fully paid in SB-12-CRM-0018. The accused is further sentenced to suffer perpetual special disqualification in both cases;

3. In Criminal Cases Nos. SB-12-CRM-0019-0020, the Court finds accused SYLVIA PANGILINAN BINARAO GUILTY



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beyond reasonable doubt of falsification of a public document on both counts, and she is hereby sentenced to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, and to pay a fine of five thousand pesos (P5,000.00) for each case;

4. In Criminal Cases Nos. SB-12-CRM-0022-0023, the Court finds accused SYLVIA PANGILINAN BINARAO **GUILTY** beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, on two (2) counts, and she is hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from public office, for each case; and

5. In Criminal Case No. SB-12-CRM-0021, accused SYLVIA PANGILINAN BINARAO is **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt.

Considering that the act or omission from which the civil liability might arise does not exist, no civil liability may be assessed against the accused in SB-12-CRM-0021.

The hold departure order issued against her by reason of Criminal Case No. SB-12-CRM-0021 is hereby LIFTED and SET ASIDE, and her bond ordered RELEASED subject to the usual auditing and accounting requirements.

SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

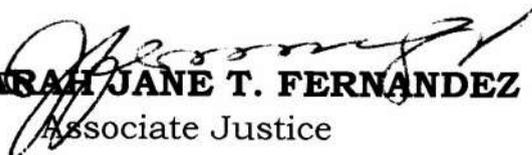


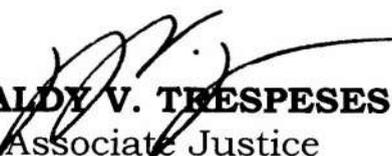
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WE CONCUR:


SARAH JANE T. FERNANDEZ
 Associate Justice


ZALDY V. TRESPESES
 Associate Justice

A T T E S T A T I O N

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


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

C E R T I F I C A T I O N

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


AMPARO M. CABOTAJE-TANG
 Presiding Justice