



Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

**THIRD DIVISION**

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

-versus-

**CRIM. CASE NO.**  
**SB-13-CRM-0130**

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

**JESUS A. VERZOSA,  
BENJAMIN A. BELARMINO, JR.,  
JEFFERSON P. SORIANO,  
LUIZO C. TICMAN,  
ROMEO C. HILOMEN,  
HEROLD G. UBALDE,  
RONALD D. RODEROS and  
VILLAMOR A. BUMANGLAG,**  
*Accused.*

X-----X

*Present:*

**CABOTAJE-TANG, A.M.,**  
*P.J./Chairperson*  
**FERNANDEZ, B. R., J.**  
**MORENO, R. B., J.**

*Promulgated:*

JUNE 25, 2021

X-----X

**DECISION**

**FERNANDEZ, B. R., J.**

Accused Jesus A. Verzosa; Benjamin A. Belarmino, Jr.; Jefferson P. Soriano; Luizo C. Ticman; Romeo C. Hilomen; Herold G. Ubalde; Ronald D. Roderos; and, Villamor B. Bumanglag, stand charged before this Court for violation of

*by [signature]*

Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, the accusatory portion of the Amended Information against them reads, as follows - -

That on or about 18 December 2009, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, above-named accused **JESUS A. VERZOSA**, being then the Head of Procuring Entity (HOPE) as Chief of the PNP, **JEFFERSON P. SORIANO**, being then the Police Deputy Director General and the PNP-NHQ BAC Chairman; **LUIZO C. TICMAN**, being then Police Director, PNP-NHQ BAC Vice-Chairman; **ROMEO C. HILOMEN**, being then Police Director and PNP-NHQ BAC member, **HEROLD G. UBALDE**, being then Police Chief Superintendent and PNP-NHQ BAC member; **RONALD D. RODEROS**, being then Police Director and PNP-NHQ BAC member; and **VILLAMOR A. BUMANGLANG**, being then Police Chief Superintendent, Director of the PNP Maritime Group and PNP-NHQ BAC ex-officio member, all public officers, while in the performance of their official functions, conspiring and confederating with one another, acting with evident bad faith, manifest partiality, or at the very least gross inexcusable negligence did then and there willfully, unlawfully, and criminally cause the separate or piecemeal procurements of police rubber boats (PRBs) and outboard motors (OBMs) and the corresponding award of contracts to different suppliers, namely, EnviroAire, Inc. Geneve SA Philippines, Bay Industrial Philippines Corp., who were NOT technically, financially, and legally capable, by abandoning the requisite public bidding and resorting to unjustified and unlawful negotiated procurement of PRBs and OBMs, thereby giving unwarranted benefit or advantage to the three (3) suppliers, which separate procurements and absence of public bidding led to the functional incompatibility and non-usability of the PRBs with the OBMs, and causing the government undue injury in the total paid contract prices of ONE HUNDRED THIRTY ONE MILLION

FIVE HUNDRED FIFTY THOUSAND PESOS  
(P131,550,000.000)

**CONTRARY TO LAW.**

When arraigned and assisted by their respective counsels, all the accused, except for accused Bumanglag, individually and separately pleaded not guilty (Order, October 3, 2013). For his part, accused Bumanglag, refused to enter a plea, hence, this Court entered a not guilty plea for him (Order, *ibid.*). Thereafter, the case proceeded to preliminary conference and pre-trial (Order, October 1, 2014).

During the pre-trial, the parties agreed to stipulate on the following - -

With accused Jesus A. Verzosa - -

(1) That accused Jesus A. Verzosa admits his personal identity in the subject case;

(2) That the standard specifications for police rubber boats were approved by the NAPOLCOM in a Resolution No. 2009-223 dated April 16, 2009; and,

(3) That the Philippines was inundated by typhoons Ondoy and Pepeng in September and October, 2009, respectively.

With accused Benjamin A. Belarmino, Jr. - -

(1) That accused Benjamin A. Belarmino admits his personal identity.

(2) That accused Benjamin A. Belarmino, Jr. is not a signatory of NHQ-BAC Resolution No. 2009-61 dated October 19, 2009.

With accused Jefferson P. Soriano - -

(1) That accused Jefferson P. Soriano admits his personal identity in the subject case.

(2) That at times material to the instant case; accused Jefferson P. Soriano was a public officer holding the rank of Police Deputy Director General and the Chairman of the National Headquarters Philippine National Police, Bids and Awards Committee.

(3) That accused Jefferson P. Soriano as the Chairman of the National Headquarters Philippine National Police, Bids and Awards Committee, in

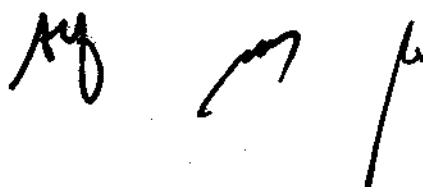
NHQ-BAC Resolution no. 2009-61 dated October 19, 2009, along with the other members of NHQ-BAC, recommended to the Head of the Procuring Entity, the following: (a) discontinuance of the bidding process insofar as the procurement of 75 units of police rubber boats and 18 spare engines for police rubber boats; (b) in lieu of public bidding, the procurement of the said equipment be made through negotiation and (c) and that the negotiation be handled by the Negotiation Committee chaired by TDL.

(4) That accused Jefferson P. Soriano as Chairman of the National Headquarters Philippine National Police, Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-76 dated November 24, 2009, along with the other members of the NHQ-BAC, recommended to the Head of the Procuring Entity the further revision of the Annual Procurement Program CY 2008 relative to the procurement of police rubber boats and spare engines of rubber boats and recommended the separate procurement of the outboard motors from the police rubber boats. (5) That accused Jefferson P. Soriano as the Chairman of the National Headquarters Philippine National Police, Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-93 dated December 18, 2009, along with the other members of the NHQ-BAC, recommended to the Head of the Procuring Entity the adoption of the recommendation of the Negotiation Committee that Purchase Orders and Contracts for the delivery of police rubber boats without engines and outboard motors for police rubber boats should be awarded to Enviro-Aire Incorporated, Geneve SA Philippines, Incorporated and Bay Industrial Philippines.

With accused Luizo C. Ticman - -

(1) That accused Luizo C. Ticman admits his personal identity in the subject case.

(2) That at times material to the instant case, accused Luizo C. Ticman was a public officer holding the rank of Police Deputy Director General and the Vice Chairman of the National Headquarters Philippine National Police Bids and Awards Committee.



(3) That accused Luizo C. Ticman, as the Vice Chairman of the National Headquarters Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-61 dated October 19, 2009, along with the other members of NHQ-BAC, recommended to the Head of Procuring Entity, the following: (a) discontinuance of the bidding process insofar as the procurement of 75 units of police rubber boats and 18 spare engines for police rubber boats; (b) in lieu of public bidding, the procurement of the said equipment be made through negotiation and (c) and that the negotiation be handled by the Negotiation Committee chaired by TDL.

(4) That accused Luizo C. Ticman, as the Vice Chairman of the National Headquarters, Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-76 dated November 24, 2009, along with the other members of NHQ-BAC, recommended to the Head of Procuring Entity the further revision of the Annual Procurement Program CY 2008 relative to the procurement of police rubber boats and spare engines of rubber boats, and recommended the separate procurement of the outboard motors from the police rubber boats.

(5) That accused Luizo C. Ticman, as the Vice Chairman of the National Headquarters Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-93 dated December 18, 2009, along with the other members of NHQ-BAC, recommended to the Head of Procuring Entity the adoption of the recommendation of the Negotiation Committee the Purchase Orders and contracts for the delivery of police rubber boats without engines and outboard motors for police rubber boats should be awarded to Enviro-Aire Incorporated, Geneve SA Philippines, Incorporated and Bay Industrial Philippines. (Exh. Q)

With accused Romeo C. Hilomen - -

(1) That accused Romeo C. Hilomen admits his personal identity in the subject case.

(2) That at times material to the instant case, accused Romeo C. Hilomen was a public officer and

a member of the National Headquarters, Philippine National Police Bids and Awards Committee.

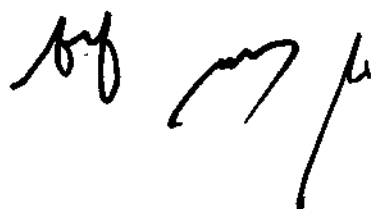
(3) That accused Romeo C. Hilomen, as member of the National Headquarters Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-61 dated October 19, 2009, along with the other members of NHQ-BAC, recommended to the Head of the Procuring Entity, the following: (a) discontinuance of the bidding process insofar as the procurement of 75 units of police rubber boats and 18 spare engines for police rubber boats; (b) in lieu of public bidding, the procurement of said equipment be made through negotiation; and (c) that the negotiation be handled by the Negotiation Committee chaired by TDL.

(4) That accused Romeo C. Hilomen, as a member of the National Headquarters, Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-76 dated November 24, 2009, along with the other members of NHQ-BAC, recommended to the Head of Procuring Entity the further revision of the Annual Procurement Program CY 2008 relative to the procurement of police rubber boats and spare engines of rubber boats, and recommended the separate procurement of the outboard motors from the police rubber boats.

(5) That accused Romeo C. Hilomen, as a member of the National Headquarters Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-93 dated December 18, 2009, along with the other members of NHQ-BAC, recommended to the Head of Procuring Entity the adoption of the recommendation of the Negotiation Committee the Purchase Orders and contracts for the delivery of police rubber boats without engines and outboard motors for police rubber boats should be awarded to Enviro-Aire Incorporated, Geneve SA Philippines, Incorporated and Bay Industrial Philippines.

With accused Herold G. Ubalde - -

(1) That accused Herold G. Ubalde admits his personal identity in the subject case.

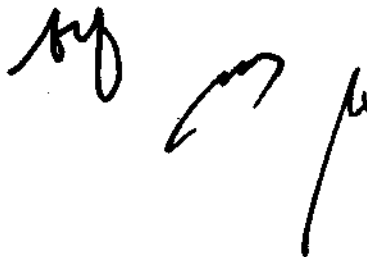


(2) That at times material to the instant case, accused Herold G. Ubalde was a public officer, holding the rank of Police Chief Superintendent and a member of the PNP NHQ-BAC.

(3) That Herold G. Ubalde, as member of the National Headquarters Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-61 dated October 19, 2009, along with the other members of NHQ-BAC, recommended to the Head of the Procuring Entity, the following: (a) discontinuance of the bidding process insofar as the procurement of 75 units of police rubber boats and 18 spare engines for police rubber boats; (b) in lieu of public bidding, the procurement of said equipment be made through negotiation; and (c) and that the negotiation be handled by the Negotiation Committee, chaired by TDL.

(4) That Herold G. Ubalde, as a member of the National Headquarters, Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-76 dated November 24, 2009, along with the other members of NHQ-BAC, recommended to the Head of Procuring Entity the further revision of the Annual Procurement Program CY 2008 relative to the procurement of police rubber boats and spare engines of rubber boats, and recommended the separate procurement of the outboard motors from the police rubber boats.

(5) That accused Herold G. Ubalde, as a member of the National Headquarters Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-93 dated December 18, 2009, along with the other members of NHQ-BAC, recommended to the Head of Procuring Entity the adoption of the recommendation of the Negotiation Committee the Purchase Orders and contracts for the delivery of police rubber boats without engines and outboard motors for police rubber boats should be awarded to Enviro-Aire Incorporated, Geneve SA Philippines, Incorporated and Bay Industrial Philippines.

Handwritten signature and initials in black ink, appearing to be 'My' followed by a stylized flourish and the letter 'u'.

With accused Ronald D. Roderos - -

(1) That accused Ronald G. Roderos admits his personal identity in the subject case.

With accused Villamor A. Bumanglag - -

(1) That accused Villamor A. Bumanglag admits his personal identity.

(2) That accused Villamor A. Bumanglag, as an ex-officio member of the National Headquarters, Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-76 dated November 24, 2009, along with the other members of NHQ-BAC, recommended to the Head of Procuring Entity the further revision of the Annual Procurement Program CY 2008 relative to the procurement of police rubber boats and spare engines of rubber boats, and recommended the separate procurement of the outboard motors from the police rubber boats.

(3) That accused Villamor A. Bumanglag, as an ex-officio member of the National Headquarters Philippine National Police Bids and Awards Committee, in NHQ-BAC Resolution No. 2009-93 dated December 18, 2009, along with the other members of NHQ-BAC, recommended to the Head of Procuring Entity the adoption of the recommendation of the Negotiation Committee the Purchase Orders and contracts for the delivery of police rubber boats without engines, and outboard motors for police rubber boats should be awarded to Enviro-Aire Incorporated, Geneve SA Philippines, Incorporated and Bay Industrial Philippines. (Pre-Trial Order, October 1, 2014).

Thereafter, trial commenced.

The prosecution presented its first witness, **SPO1 Rosalie Recuenco Pascual**, a Senior Police Officer I assigned to the Personnel Accounting and Information System Records Management Division, Directorate for Personnel and Records of the Philippine National Police (PNP).

Her testimony was dispensed with after the parties agreed to stipulate on the authenticity and due execution of the following documents, namely - - General Information Sheet (GIS) of PDG Jesus A. Verzosa (Exh. "A"); GIS of



Jefferson P. Soriano (Exh. "B"); GIS of Luizo C. Ticman (Exh. "C"); GIS of Benjamin A. Belarmino, Jr. (Exh. "D"); GIS of Romeo C. Hilomen (Exh. "E"); GIS of Herold G. Ubalde (Exh. "F"); GIS of Ronald D. Roderos (Exh. "G"); and, GIS of Villamor A. Bumanglag (Exh. "H").

The second prosecution witness was **Sofia M. Echano**, an Administrative Officer V of the Records Management Division, Directorate for Personnel and Records Management of the PNP. She served as the Chief, Storage Section, Records Management Division, Directorate for Personnel and Records Management of the PNP, tasked, among others, of issuing general orders pertaining to accused Verzosa, Belarmino, Bumanglag, and Roderos from 2008 to 2010.

Her testimony was likewise dispensed with after the parties agreed to the authenticity and due execution of the following exhibits, namely - - General Order (G.O.) No. 1901, NHQ PNP, dated September 13, 2010, (Exh. "C<sup>9</sup>"); G.O. No. 1088, NHQ PNP, dated May 15, 2009 (Exh. "U<sup>9</sup>"); G.O. No. 960, NHQ PNP, dated April 27, 2009 (Exh. "T<sup>9</sup>"); G.O. No. 1869, NHQ PNP, dated October 16, 2009 (Exh. "S<sup>9</sup>"); G.O. No. 1659, NHQ PNP, dated August 10, 2010 (Exh. "J<sup>9</sup>"); G.O. No. 1884, NHQ PNP, dated October 16, 2009 (Exh. "I<sup>9</sup>"); GIS for the year 2009 of EnviroAire, Inc. (Exh. "Z<sup>9</sup>"); G.O. No. 286, NHQ PNP, dated February 11, 2009 (Exh. "R<sup>9</sup>"); G.O. No. 1257, NHQ PNP, dated September 27, 2008 (Exh. "B<sup>9</sup>"); and G.O. No. 1257, NHQ PNP, dated September 27, 2008 (Exh. "A<sup>9</sup>").

Thereafter, the prosecution called on **Edgardo Acuña**, the Director, Directorate for Personnel and Records Management, PNP, from July 2007 to March 3, 2009. As Director, he is tasked to issue and sign general orders to implement decisions of higher authorities.

After being confronted with and examined four (4) General Orders, witness Acuña explained their individual purposes, to wit - - (1) General Order No. 1216 dated September 7, 2008 (Exh. "A<sup>9</sup>") - pertains to the designation of Police Deputy Director General (accused) Verzosa as Chief of the Philippine National Police (PNP) by authority of the President; (2) General Order No. 1204 dated September 24, 2008 (Exh. "Z<sup>8</sup>") - pertains to the termination of Police Deputy Director General (accused) Verzosa as the Executive Director and the Core Manager of the PNP Project Management Office;

(3) General Order No. 286 dated February 11, 2009 (Exh. "R<sup>9</sup>") - pertains to the designation of Police Superintendent (accused) Ronald Roderos as Acting Director, Directorate for Research and Development of the PNP; and, (4) General Order No. 1257 dated September 27, 2009 (Exh. "B<sup>9</sup>") - pertains to the implementing order for the promotion of Police Deputy Director General (accused) Jesus Verzosa to Police Director General.

The next prosecution witness was **Ronald Allan Tolosa**, the designated Record Custodian of the Bids and Awards Committee (BAC) Secretariat, per Office Order No. 2013-01 dated September 24, 2013 (Exh. "H<sup>12</sup>").

Witness Tolosa identified photocopies of the following - (1) Minutes and Opening and Evaluation of the Bids dated September 9, 2009 (Exh. "N"); (2) BAC Resolution No. 2009-61 dated October 16, 2009 (Exh. "O"); (3) BAC Resolution No. 2009-76 dated November 24, 2009 (Exh. "P"); (4) BAC Resolution No. 2009-93 dated December 18, 2009 (Exh. "Q"); (5) Supply Contract between the PNP and Geneve SA Philippines, Inc. dated December 21, 2009 (Exh. "V"); and, (6) Supply Contract between the PNP and Bay Industrial Philippines dated December 21, 2009 (Exh. "W"). He further testified that he saw the originals of the documents he identified and returned them to the BAC Secretariat Office after he certified the photocopies thereof.

When cross-examined, witness Tolosa admitted that there was no original for Exh. "N". However, there were originals for Exhs. "O", "P", "Q", "V" and "W" but he did not certify that he had the originals when he prepared the certification. He also admitted that he did not submit the originals of these documents despite the subpoena issued to him because he was re-assigned to Region 8 and was no longer with the PNP-BAC. He also admitted that the name of accused Bumanglag does not appear on the documents he certified.

On re-direct examination, witness Tolosa testified that he certified the subject documents as true copies from available records in the custody of the BAC Secretariat. On re-cross examination, he admitted having no written proof that the BAC Secretariat had custody of the documents.

Prosecution witness **Angelino P. Cardinez** was then called to the witness stand. He is the Group Executive Senior Police Officer, Maritime Group, PNP. From 2011 to 2012, he was the Chief Clerk, Logistics Section, Maritime Group, PNP, tasked, among others, to checking all communications, preparing periodic reports and other requirements for submission to the Headquarters and authenticating documents submitted to the Logistics Section.

He identified photocopies of both Resolutions Nos. 2008-001 dated May 27, 2008 (Exh. "M<sup>3</sup>"; Exh. "318-Ubalde"; Exh. "203-Hilomen") and 2008-01 (Revised) dated October 20, 2008 (Exh. "N<sup>3</sup>"; Exh. "319-Ubalde"; Exh. "204-Hilomen"). He also admitted that he failed to locate the originals of these Resolutions after searching for them in the Records Section.

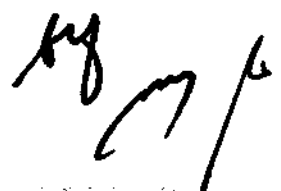
On cross-examination, witness Cardinez confirmed that from 2011 to 2012, while assigned at the Logistics Section, the Chief of the Philippine Maritime Group at that time was Chief Superintendent Montenegro, Director of the Maritime Group. When asked if General Bumanglag was no longer there during that time, he said he (witness Cardinez) was not yet there at that time.

He added that Chief Supt. Angelo Sunglao approved the said two (2) Resolutions, being the Chief, Maritime Group, in 2008.

Thereafter, **Luzviminda Masangcay**, an Administrative Officer V of the National Police Commission (Napolcom) testified. As Administrative Officer V (Exh. "I<sup>12-1</sup>") she supervises the functions of the Records Section, which has custody of Napolcom issuances. In August 11, 2005 up to the time she testified, she held the position of Records Officer III, later renamed Administrative Officer V ( Exh. "J<sup>12</sup>").

In response to a subpoena from the Office of the Ombudsman, witness Masangcay submitted a certified true copy of Resolution No. 2009-223 dated April 16, 2009 (Exhs. "K" and "P<sup>3</sup>") entitled "Approving the Standard Specifications for Police Rubber Boat (PRB)".

On cross-examination, witness Masangcay identified the signatures appearing in Resolution No. 2009-223 as those of Chairman/Secretary Ronaldo Puno, Vice Chairman Eduardo Escueta, Commissioner Luis Mario General, and *Ex Officio*



Commissioner Jesus Verzosa. This was attested to by Adelmalyne Munieza. She also admitted that she is aware that only accused Verzosa was charged in this case and not the other signatories in Resolution No. 2009-223.

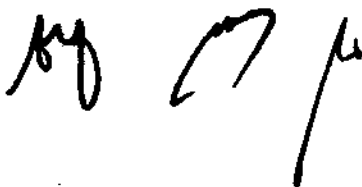
The next prosecution witness was **Marlon Rivera**, an Account Manager, Classified Ads Department of the Philippine Star publication. Representing his Manager, Arlyn Servañes, witness Rivera brought and identified the original newspaper clipping of the Philippine Star dated May 12, 2009, showing an Invitation to Bid for Eligibility and to Bid dated May 12, 2009 (Exh. "L") and an Invitation to Apply for Eligibility and to Bid for the Public Bidding of seventy-five (75) units of public rubber boats and 18 units of 40hp Spare Engines for PRB, published in the Philippine Star Classifier on August 5, 2009, which states, among others, that the submission/opening of bid was to be held on August 27, 2009 at 9:00 o'clock in the morning (Exh. "Q<sup>8</sup>").

The next prosecution witness was **Adelmalyne Munieza**, a Board Secretary V and the Chief, Secretariat, Napolcom, responsible for providing secretarial services to the meetings and conferences of the Napolcom.

She identified Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exh. "P<sup>3</sup>") pertaining to the specifications of the PRBs and authenticated that the document shown to her was an original and signed by the members of the Napolcom *en banc*. She further identified and was familiar with the signature of accused Verzosa (Exh. "P<sup>3</sup>-1") as well as those of Luis Mario General, Eduardo Escueta, and Ronaldo Puno appearing thereon.

Upon a cross-examination, witness Munieza testified that she was initially investigated on the PRBs and claimed her signing Napolcom Resolution No. 2009-223 did not prove her involvement in an alleged conspiracy. She also denied being furnished a copy of PNP-UESB Resolution No. 2008-34 dated November 7, 2008 (Exh. "O<sup>3</sup>").

On re-direct examination, witness Munieza added that the Ombudsman dismissed the complaint against her, citing Ombudsman Resolution dated September 4, 2012. She also explained that she need not look into UESB Board Resolution No. 2008-34 dated November 7, 2008 (Exh. "O<sup>3</sup>") as this is the responsibility of the Logistics.



The next prosecution witness was **P/Supt. Veronica Agusin**, the Chief, Administrative Section, Directorate for Research and Development, National Headquarters, PNP.

The parties agreed to stipulate on the following - - that the witness was the Chief, Administrative Section from March 2, 2015 up to the present; that prior to March 2, 2015, she was the OIC, Administrative Section, Directorate for Research and Development from February 2 to March 1, 2015; and, that the witness can identify and authenticate the following documents - - (1) Memorandum dated February 1, 2010 (Exh. "HH-9"); (2) WTCD Report No. T2010-02 dated January 21, 2010 (Exh. "HH-8"); (3) Memorandum dated February 12, 2010 (Exh. "HH-13"); (4) WTCD Report No. T2010-03 dated February 3, 2010 (Exh. "HH-12") ; (5) Memorandum dated February 10, 2010 (Exh. "F3"); (6) WTCD Report No. T2010-04 (Exh. "HH-4"); and, (7) Memorandum dated March 18, 2010 (Exh. "H3").

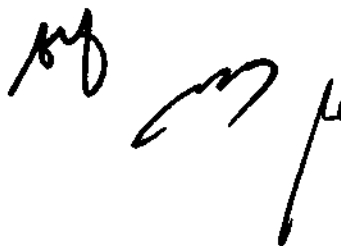
Accused Hilomen admitted to the existence and due execution of the said documents and that Exhs. "B3", "G3", and "I3" are common exhibits. For his part, accused Belarmino also admitted the existence of the said exhibits and manifested that Exhs. "B3", "C3", "D3", "E3", "F3", "G3", "H3" and "I3" are common exhibits. Accused Ticman and accused Soriano admitted to the existence and due execution of Exhs. "B3", "C3", "F3" and "H3" while Exhs. "D3", "E3", "G3" and "I3" are common exhibits. On the other hand, accused Bumanglag and accused Verzosa admitted the existence of Exhs. "B3" and "I3", inclusive. Accused Ubalde admitted to the existence of all the exhibits and manifested that these are common exhibits.

**Gerardo F. del Rosario** was the next prosecution witness. He is the Assistant Director, Corporate Filing, Records Division, Company Registration and Monitoring Department of the Securities and Exchange Commission (SEC) (Exh. "K12"). From October 13, 2014, he was designated OIC, Human Resources, Administrative Department. As Assistant Director, his functions include storing official records of the SEC, ensuring that official records of the SEC are available upon request and complying with requests for documents from other government agencies.

The parties agreed to stipulate on the following certified true copies brought by witness del Rosario, as follows - - (1) the 2009 General Information Sheet of Geneve S.A. Phils. Inc.

dated May 21, 2009 (Exh. "L<sup>11</sup>"); (2) the Certificate of Filing of Amended Articles of Incorporation of Bay Industrial Phils. Corporation dated September 4, 2009 (Exh. "P<sup>11</sup>"); (3) the 2009 General Information Sheet of Bay Industrial Phil. Corporation dated November 25, 2009 (Exh. "R<sup>11</sup>"); (4) the Certificate of Incorporation of Bay Industrial Phils. Corp. dated April 21, 2009 (Exh. "N<sup>11</sup>"); (5) the Articles of Incorporation of Bay Industrial Phils. Corp. filed with the SEC on April 20, 2009 (Exh. "O<sup>11</sup>"); (6) the Certificate of Filing of Amended Articles of Incorporation of Stoneworks Specialist International Corp. (Exh. "S<sup>11</sup>"); (7) the Amended Articles of Incorporation of Stoneworks Specialist International Corp. (Exh. "T<sup>11</sup>") dated; (8) the 2009 General Information Sheet of Stoneworks Specialist Corp. (Exh. "U<sup>11</sup>"); (9) the Certificate of Filing of the Amended Articles of Incorporation of EnviroAire, Inc. dated 30 July 2007 (Exh. "V<sup>9</sup>"); (10) the Amended Articles of Incorporation of EnviroAire, Inc. dated July 18, 2007 (Exh. "W<sup>9</sup>"); (11) the Certificate of Filing of Amended Articles of Incorporation of EnviroAire, Inc. dated May 8, 2008 (Exh. "X<sup>9</sup>"); (12) the Amended Articles of Incorporation of EnviroAire, Inc. dated March 26, 2008 (Exh. "Y<sup>9</sup>"); (13) the 2009 General Information Sheet of EnviroAire, Inc. (Exh. "Z<sup>9</sup>"); (14) Certificate of Incorporation of Geneve S.A. Philippines, Inc. dated February 27, 1998 (Exh. "M<sup>10</sup>"); (15) the Certificate of Filing of Amended Articles of Incorporation of Geneve S.A. Phils., Inc. dated September 18, 1998 (Exh. "O<sup>10</sup>"); (16) the undated Amended Articles of Incorporation of Geneve S.A. Philippines, Inc. (Exh. "P<sup>10</sup>"); (17) Affidavit of Undertaking to Change Name of Sukill Kang dated (Exh. "G<sup>11</sup>"); and, (18) Compliance dated November 12, 2013 of Ferdinand B. Sales Acting Director, Company Registration and Monitoring Department, SEC (Exh. "K<sup>11</sup>").

Thereafter, **Police Superintendent Lurimer B. Detran**, the Division Chief, PNP-National Headquarters (NHQ) Bids and Awards Committee (BAC) Secretariat from April 1, 2009 to March 23, 2012 (Exhs. "N<sup>12</sup>"; N<sup>12</sup>-1"; and "M<sup>12</sup>") was called to testify. He was principally responsible, among others, for providing administrative assistance to the BAC, preparing reports, minutes of conferences and BAC Resolutions, taking custody of different BAC documents, advertising the invitations to bid, assisting in the management of the procurement process, and monitoring the different procurement activities of the PNP.



He testified that, in 2009, he assisted in the procurement of seventy-five (75) units of police rubber boats (PRBs) for the PNP and that an Invitation to apply for eligibility and to bid was published in the Philippine Star on May 12, 2009. However, the opening of bids did not proceed because accused Bumanglag, the then Director, Maritime Group, informed the PNP-BAC that the price or the Approved Budget for the Contract (ABC) for the procurement of the seventy-five (75) PRBs was too high. Hence, a re-canvass was conducted resulting in the reduction of the original amount of P180 Million ABC to P127,425,000. Consequently, an additional eighteen (18) units of 40hp spare outboard motor (OBMs) for the PRBs were now intended to be procured, with an ABC of around P9 million.

The foregoing led to another publication on August 5, 2009 (Exh. "Q<sup>8</sup>") scheduling the submission or the opening of the bids to August 27, 2009. However, this again did not proceed.

Eventually, the opening of bids proceeded on September 9, 2009 and the joint venture of EnviroAire and Stoneworks won the public bidding as shown in the Minutes of the same day (Exhs. "N"; "15"; "24"; "62"; "216"; "333").

However, during the pendency of the post-qualification, PNP-NHQ-BAC Resolution No. 2009-61 dated October 19, 2009 (Exhs. "O"; "12"; "28"; "63"; "222"; "337"; and "433") was issued recommending to discontinue the public bidding and to resort instead to negotiated procurement. This same PNP NHQ-BAC Resolution was approved by the HOPE, accused Verzosa. Thereafter, a Negotiation Committee was organized, composed of accused Ticman as Director for Logistics; accused Hilomen as Comptroller; accused Belarmino of the Directorate for Research and Development; and other representatives from the end user. Accused Bumanglag was tasked to undertake the negotiation.

The issuance of PNP-NHQ-BAC Resolution No. 2009-61 dated October 19, 2009 was also prompted by the onset of typhoon *Ondoy* on September 26, 2009. Since search and rescue operations were being conducted by the PNP-Maritime Group (PNP-MG), it did not have the water assets to proceed. Hence, accused Bumanglag, the then Director of the PNP-MG, issued a Memorandum dated October 2, 2009 (Exhs. "196-Ticman/Soriano"; "220-Hilomen"; "334-Ubalde"; and, "497-

Bumanglag”), requesting for the emergency procurement of PRBs for the expected occurrence of more typhoons.

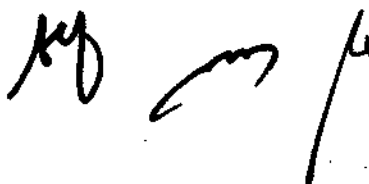
Witness Detran further testified that, during the negotiation, none of the three (3) suppliers indicated that they would be able to deliver the seventy-five (75) units of PRBs and the eighteen (18) units of spare OBMs. Instead, they proposed to deliver the following: Geneve SA - forty-one (41) units of PRBs; Bay Industrial - ten (10) units of PRBs; and, EnviroAire - twenty-four (24) units of PRBs, all without engines. On the other hand, EnviroAire was awarded to supply the ninety-three (93) units OBMs. These proposals were accommodated by the Negotiation Committee.

Consequently, the PNP-NHQ-BAC issued Resolution No. 2009-76 dated November 24, 2009 (Exh. “P”) for an *addendum* of the Annual Procurement Plan (APP). After the HOPE approved the said Resolution (Exhs. “P”; “13”; “44”; “66”; “227”; “343”; and “435”), the corresponding awards, supply contracts and notices to proceed were issued by the NHQ-BAC.

Witness Detran added that the following were the corresponding awards and the amount involved, to wit: EnviroAire - twenty-four (24) units of PRBs without OBMs for the contract price of P27,960,000.00 and ninety-three (93) units of OBMs with 60hp engine for the contract price of P44,175,000.00; Geneve SA - forty-one (41) units of PRBs without OBMs for the contract price of P47,765,000.00; and, Bay Industrial - ten (10) units of PRBs without engine for the contract price of P11,650,000.00. The delivery period was within two (2) weeks from the issuance of the notice to proceed.

He identified NHQ-BAC Negotiation Committee Resolution No. 2009-13 (Recommending the Award of Contract and Purchase Order for the Delivery of Seventy-Five Units of Police Rubber Boats and Ninety-Three Outboard Motors for Police Rubber Boats) dated December 18, 2009 (Exhs. “R”; “11”; “46”; “73”; “229”; “350”; and, “439”) and the signatures thereon.

Also identified was NHQ-BAC Resolution No. 2009-93 dated December 18, 2009 (Exhs. “Q”; “14”; “45”; “228”; “274”, “351”; and, “440”), adopting the recommendation of the Negotiation Committee.






Witness Detran further identified the following Notices to Proceed (NTP) and Supply Contracts issued and executed and the signatures thereon, namely: (1) NTP dated December 18, 2009 issued to Harold Ong, Vice-President of EnviroAire, Inc., by accused Verzosa (Exhs. "U"; "S"); (2) NTP dated December 19, 2009 issued to Alex S. Tayao, Vice-President of Bay Industrial Philippines by accused Verzosa (Exh. "T"); (3) Supply Contract executed by accused Ticman, as PNP representative and Bay Industrial Philippines Corp. dated December 21, 2009 (Exh. "W"); and, (4) Supply Contract executed by accused Ticman, as PNP representative, and Geneve S.A. Philippines Inc. dated December 21, 2009 (Exh. "V").

Relative to the opening of the bids on September 9, 2009, witness Detran testified that three (3) suppliers participated, namely: (1) joint venture of Geneve SA and FABMIK Construction and Equipment Co.; (2) joint venture of EnviroAire and Stoneworks Specialist International Inc; and, (3) joint venture of ACMI Office System and Qinhuando Yaohuan RFP. However, the bid documents of the joint venture of Geneve SA and FABMIK Construction were not accepted by the PNP-NHQ-BAC because they were submitted late while the bid of the joint venture of ACMI and Qinhuando was disqualified because most of their bid documents were written in Chinese.

On cross examination, witness Delran testified that the HOPE did not participate in the deliberations in the PNP-NHQ-BAC but only signed the latter's recommendations; that, aside from the PNP-NHQ-BAC Secretariat, there were other committees or groups involved in the procurement process, *i.e.* Negotiation Committee, Technical Working Group, the Inspection and Acceptance Committee (IAC), and the Maritime Group (MG); that accused Bumanglag is the *ex-officio* member of the PNP-NHQ-BAC, as Director of the MG, the end-user; that it was his office that prepared the drafts of PNP-NHQ-BAC Resolutions Nos. 2009-61, 2009-76, and 2009-93 (Exhs. "O", "P" and "Q") for the signatures of the member of the PNP-NHQ-BAC; that accused Verzosa signed these Resolutions based on the signatures of the members of the PNP-NHQ-BAC; that the savings from the procurement was included in the Memorandum dated June 5, 2009 (Exhs. "3", "58", "208", "330" and "428") of accused Bumanglag; that the representatives of the Napolcom and COA did not oppose the conduct of negotiated procurement based on an



emergency; that he remembers a conversation between accused Bumanglag and Mr. Ong, the representative of the joint venture of EnrivoAire and Stoneworks, where the latter stated that he cannot deliver the seventy-five (75) units of PRBs; that accused Ticman told Mr. Ong that they will resort to negotiated procurement; and, that the first option then was to proceed with the public bidding but because of the emergency, negotiated procurement was agreed upon.

When asked by the Court, witness Delran testified that, while the Chief, PNP did not participate in the PNP-NHQ-BAC deliberations, his approval is still required in the resolutions. However, resolutions of the Inspection and Acceptance Committee and other committees are forwarded to the Chief, PNP for his information and update.

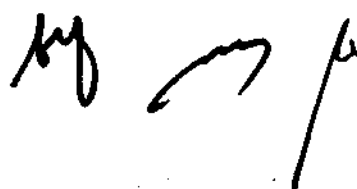
The next prosecution witness was **Dr. Vicente B. Malano**, the Acting Administrator, Philippine Atmospheric Geophysical and Astronomical Service Administration (PAGASA), since December 2013.

He testified that he received a letter-inquiry from the Office of the Ombudsman dated November 25, 2013 (Exh. "D<sup>12</sup>") requesting data on Tropical Cyclones *Ondoy* and *Pepeng*. The same letter was referred to his Executive Assistant, Elena Tan, for coordination with the Weather Division (WD), Climatology and Agrometeorology Division (CAD), and the Hydro-Meteorological Division (HMD) (Exh. "D<sup>12</sup>-B"). Thereafter, the said letter was further referred to Edna Juanillo, Chief of the CAD (Exh. "F<sup>12</sup>").

When cross-examined, witness Dr. Malano testified that PAGASA is capable of determining the strength of any storm that enter the Philippine area of responsibility (PAR) and forecast typhoons like *Ondoy* and *Pepeng* in 2009, with the estimated amount of rainfall at 85% accuracy.

He added that Typhoon *Pepeng* was an extraordinary typhoon because it entered the PAR at least three times. On the other hand, Typhoon *Ondoy* surpassed the normal amount of rainfall in just six (6) hours.

Thereafter, prosecution witness **Edna Juanillo** was called to testify. She is the Assistant Weather Services Chief and concurrent OIC of the Climatology and Agrometeorology Division (CAD) of PAGASA.



She confirmed receipt of the letter-inquiry (Exh. "D<sup>12</sup>") of the Office of the Ombudsman dated November 25, 2013, requesting for the dates of the occurrences of Tropical Storm *Ondoy* and Typhoon *Pepeng*. She forwarded the letter to Rosa Barba, the Senior Weather Specialist, Climate and Agro-Data Section, for proper action (Exh. "D-<sup>12</sup>-D"). Thereafter, witness Juanillo prepared a letter-reply dated 02 December 2013 addressed to the Office of the Ombudsman (Exh. "F<sup>12</sup>").

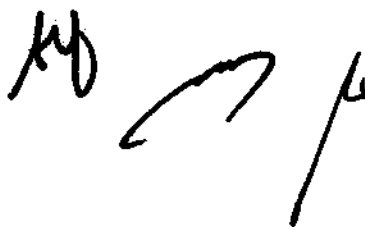
On cross-examination, witness Juanillo testified that PAGASA knew a week prior to the entry of any typhoon into the Philippine area of responsibility (PAR). She added that after typhoon *Pepeng* in October, several typhoons, namely: Quidan, Ramil, Santi and Vinta, and tropical depressions Tinio and Urduja arrived between October and November 2009.

The next prosecution witness was **Rosa S. Barba**, a Senior Weather Specialist of PAGASA. On October 28, 2013, she received a directive from Edna Juanillo to act on the letter inquiry of the Office of the Ombudsman dated November 25, 2013, particularly, to provide the dates when tropical storm *Ondoy* and typhoon *Pepeng* were within the PAR.

After retrieving the tropical cyclone tracks of typhoons *Ondoy* and *Pepeng*, she prepared a report (Exhs. "F<sup>12</sup>-A-1 and F<sup>12</sup>-A-2"; "F<sup>12</sup>-B-1 and F<sup>12</sup>-B-2), attached to the reply of PAGASA to the letter-inquiry of the Office of the Ombudsman.

Witness Barba further testified that, based on the summary of tropical cyclones, typhoon *Ondoy* poured heavy rains and remained over the National Capital Region (NCR) and other parts of Central and Southern Luzon for almost ten (10) hours, resulting to floods and landslides (Exh. "X<sup>12</sup>"). On the other hand, typhoon *Pepeng* stayed inside the PAR from September 30 to October 10, 2009 (Exh. Y<sup>12</sup>). Its second landfall at the northern tip of Ilocos Norte caused heavy downpour over Northern and Central Luzon which also resulted to flash floods and landslides in these areas.

On cross-examination, witness Barba testified that, based on PAGASA records, twenty (22) typhoons entered the PAR in 2009, in the following order: No. 15-Ondoy; 16-Pepeng; 17-Quedan; 18-Ramil; 19-Santi; 20-Tinio; 21-Urduja; and 22-Vinta.



**Reneto Barcelona Paciente**, a PAGASA Senior Weather Specialist, was then called to testify. He was tasked to supervise the weather forecasters in the information, issuance and dissemination of weather bulletins; prepare typhoon summaries; and, supervise various weather forecasts, shipping forecasts and gale warnings, among others.

He testified that he prepared Tropical Cyclone Summaries for *Ondoy* (Exh. "X<sup>12</sup>") and *Pepeng* (Exh. Y<sup>12</sup>") in 2009 and identified the same in open Court. He explained his graphical illustration (Exh. "Y<sup>12</sup>-10"), showing that typhoons *Ondoy* and *Pepeng* affected most part of Luzon.

On cross-examination, witness Paciente confirmed that the PNP was warned of the coming of typhoon *Pepeng*. He added that the earlier presented Tropical Cyclone Summaries were specific only for typhoons *Ondoy* and *Pepeng* and that they prepared other summaries for the other typhoons that entered the PAR in 2009.

The next prosecution witness was **Eduardo Umali Escueta**. Prior to March 2010, he was the acting Commissioner of the National Police Commission (Napolcom), representing the Civilian Sector, and designated as its Vice-Chairman and Executive Officer, principally tasked of taking care of the day-to-day operations of the Commission, including participating in the passage of programs and projects, reviewing issuances of the Philippine National Police (PNP) and prescribing the minimum standards for arms, uniform and equipment for the PNP.

He explained the standard operating procedure in the passage of a resolution approving the minimum specifications for arms, equipment, and uniforms. Initially, the Office of the Chief, PNP submits a Uniform and Equipment Standardization Board (UESB) Resolution containing the proposed specifications. Upon receipt, the same is referred to their Installation and Logistics Service (ILS) for evaluation and analysis. Thereafter, the ILS, through its Deputy Executive Officer, submits a summary disposition form to the Napolcom for its consideration and appropriate action.

Relative to the instant case, witness Escueta testified that Napolcom received from accused Verzosa, the then Chief PNP, a Letter dated November 8, 2008 (Exh. "C<sup>13</sup>"),

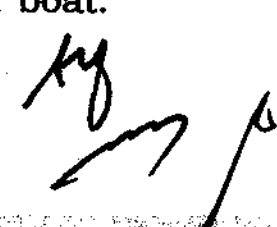
recommending approval of Uniform and Equipment Standardization Board (UESB) Resolution No. 2008-34 dated November 7, 2008 (Exhs. "O3", "205", "320", "499"), containing the proposed specifications for seventy-five (75) police rubber boats (PRB) and eighteen (18) spare outboard motors (OMBs). This same Letter was referred to the ILS for its review, analysis and evaluation, until an ILS Summary Disposition Form was forwarded to the Napolcom for action, as dictated by its procedures.

When cross-examined, witness Escueta confirmed that the Napolcom cannot dictate on the PNP on the mode or manner of procurement because this is provided for in R. A. No. 9184; that PNP does not need prior Napolcom approval before conducting any procurement; and, that the Napolcom cannot dictate on the PNP on either the conduct of the procurement or as to the suppliers contracted or awarded.

He added that he is one of the signatories of Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exhs. "K"; "P3") as Napolcom Vice-Chairman and Executive Officer. He also admitted that no actual functional test was conducted on the PRBs and OMBs, as part of the evaluation of the UESB, because this was unnecessary and not part of their mandate. He emphasized that the Napolcom only prescribes minimum standards while the engine quality and performance are determined after the bidding process is conducted.

Witness Escueta further testified that UESB Resolution No. 2008-34 dated November 7, 2008 (Exh. "O3") set the engine size to a minimum of 60hp while Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exhs. "K" and "P3"), approved the reduced engine size to 40hp minimum. He explained that lowering the horsepower to 40 hp was meant to provide a wider range of participants in the bidding process because maintaining it at 60hp may be considered as tailor-fitting with only one winning bidder. He also noted from the specifications that the size of the rubber boat can accommodate a maximum of 12 persons.

When queried by the Court, witness Escueta testified that a horsepower higher than 40hp is better suited for a rubber boat with a configuration of twelve (12) persons. However, if it exceeds 60hp, the rubber boat will tilt due to the power of the engine. He further explained that a 40hp engine should be matched with a smaller-sized rubber boat.



With the minimum standard of "40hp or better" engine, Napolcom Resolution No. 2009-223 gave potential suppliers a chance to participate in the bidding. He also clarified that the word "better" is not related to the horsepower, rather to its efficiency or better technology as in electronic fuel ignition.

Witness Escueta added that the specification as to "maximum passenger" was indicated to avoid overloading while the "40hp or better" range was to provide for a wider participation of prospective suppliers. If it remains at 60hp, the bidding may be considered a failure because there could only be one supplier that can comply with the specifications. He further stated that a stronger engine does not necessarily mean a better rubber boat.

As borne out by the subsequent testing conducted by the PNP, the 60hp engine cause the rubber boat to tilt over due to the power of the engine. A 40hp or better range is safe enough to ensure that the police rubber boat will suit the requirements of the Maritime Group, and at the same time allow for more participants in the bidding.

He further clarified to the Court that it was the PNP-BAC that gave some latitude of discretion to determine the type of engine suitable for a particular craft and weather condition. Napolcom was only called upon to provide the minimum standards. The PNP-BAC must then exercise this discretion within these parameters.

Witness Escueta also stressed that the police rubber boat and its outboard motor should be a single unit, and it must be purchased, bidded out, or negotiated as a single unit and not separate from each other. The rubber boats and the engines which came from different suppliers, bearing different specifications became the cause of the mismatch; and the testing conducted by the Technical Working Group of the Maritime Group would prove that such separate procurement was a mistake.

On additional cross-examination, witness Escueta testified that a visual inspection by the Maritime Group (MG), as the end-user, and as part of the Inspection and Acceptance Committee, will not be enough to satisfy the "must pass the PNP test and evaluation" requirement of Napolcom Resolution No. 2009-223 dated April 16, 2009. He agreed that the MG is

under the obligation to conduct test and evaluation, not merely visual.

The next prosecution witness was **Regina Marino**, the OIC, Records Section, Office of Civil Defense, Department of National Defense, National Disaster Risk Reduction and Management Council (NDRRMC). She identified a Letter Inquiry dated November 25, 2013 (Exh. "C<sup>12</sup>") from the Office of the Ombudsman on the Letter Reply dated January 15, 2014 (Exh. "G<sup>12</sup>") of the then Undersecretary Eduardo del Rosario.

She, however, admitted, on cross-examination, that she neither had any participation in the Letter Reply of the NDRMMC nor any knowledge in its preparation or the entries contained therein.

When queried by the Court, witness Marino testified that her Office has records of all the typhoons that visited the country and could provide documents on them. However, the Letter Reply dated January 15, 2014 only focused on Typhoons *Ondoy* and *Pepeng*.

Thereafter, **Gen. Francisco Montenegro**, the Director, PNP Maritime Group (PNP-MG) at the time the deliveries of the subject police rubber boats (PRBs) and outboard motors (OBMs) started, was next called to testify.

He explained that the subject PRBs and OBMs were initially delivered to the Logistics Support Service Warehouse at Bicutan, Taguig. Upon the issuance of a supply directive from the Directorate for Logistics, it would thereafter draw therefrom the specified number of PRBs and OBMs.

When he assumed the post of PNP-MG Director, four (4) PRBs and four (4) OBMs were already sent to the Regional Maritime Group in Cebu while four (4) PRBs were sent to the Headquarters MG and Special Action Group. Based on the records of their Supply Accountable Officer, the PNP-MG received seventy-seven (77) PRBs and one hundred and four (104) OBMs. This took one (1) year and five (5) months to complete.

Witness Montenegro further testified that, upon the delivery of the PRBs and OBMs, no physical inspection was performed because they were delivered in sealed boxes. The

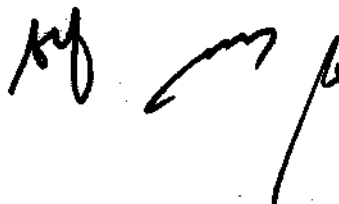


inspection should first be done by the Inspection and Acceptance Committee (IAC) before deliveries are made to the PNP-MG. Nevertheless, upon receipt of the items, the deliveries were already scheduled for the fifteen (15) regional maritime units and the three (3) specialized units of the MG. These field units were tasked to test the delivered PRBs and OBMs.

He noted that several reports and complaints from their various regional field units reached his Office. He also observed while at the Headquarters, Special Boat Unit (SBU) in Puerto Princesa City, that the manufacturer's specification of the Zodiac rubber boats delivered to the SBU indicated a maximum engine of 40hp. Likewise, while visiting the NCR Maritime Building in Pasay, Manila Bay and Navotas Fish Village and during the conduct of the sea trials on the Apex rubber boats, he observed that the rubber boats had the tendency to flipover at high speed, especially when loaded and in rough seas. He added that these rubber boats may also capsize at maximum speed even with only ten (10) passengers.

Witness Montenegro then ordered Atty. Asher Dolina, his Deputy Director for Administration, to constitute a Technical Inspection Committee on Watercrafts (TICW) to conduct technical investigation and sea trials of the issued rubber boats with OBMs. The TICW was also created to verify whether there were indeed deficiencies in the delivered rubber boats particularly as to whether the approved specifications have been complied with and the rubber boats with OBMs are seaworthy.

Upon submission of the finding of the TICW on the PRBs, witness Montenegro prepared a Memorandum addressed to the Chief, PNP entitled "Result of the Technical Inspection and Sea Trial of Police Rubber Boats and Outboard Motors" (Exh. "KK") and the approved TICW's "Result of Deliberations Re: Police Rubber Boats (PRBs) and Outboard Motors (OBMs) delivered to the MG as end user", (Exhs "LL" and "MM"), both dated September 8, 2010. He also recommended the temporary suspension of the use of the PRBs and OBMs by the MG, except only in cases of extreme urgency, pending the validation and subsequent appropriate action of the PNP-NHQ-BAC of the TICW's findings and observations (Exh. "I<sup>8</sup>").





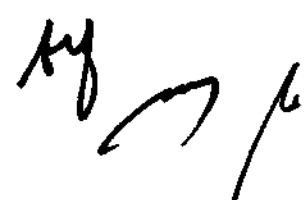
He noted the deficiencies observed by the TICW and its findings of non-compliance to Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exh. "K") and identified the various reports submitted to him by the field units of the Maritime Group (Exhs. "OO", "PP", "QQ", "RR", "SS", "TT", "UU", "VV", "WW", "XX", "YY", "ZZ" and "L<sup>8</sup>") on the defects and deficiencies observed on the delivered PRBs.

Witness Montenegro also identified a Compliance dated August 25, 2011 (Exh. "S<sup>3</sup>") sent to the Office of the Ombudsman, showing his submission of the Memorandum Receipts covering the distribution and assignment of the PRBs acquired in 2009 (Exhs. "N<sup>4</sup>" to "V<sup>5</sup>") and the Assessment/Evaluation made by the MG and/or other end-users on the compatibility of the acquired PRBs and OBMs (Exhs. "G<sup>13</sup>", "NN" to "XX").

When queried by the Court, witness Montenegro noted the report of the Technical Inspection Committee on Watercrafts (TICW) stating several deficiencies, namely: (1) the weight of the rubber boats was lighter than the power delivered by the outboard motors; (2) the required foot pump was not delivered, instead, a handpump was delivered; (3) there were missing paddles; (4) there were at least five (5) rubber boats with holes in them; (5) the life rings were non-compliant; and, (6) the transom bore holes so that the engine would be attached thereat.

He added that out of the seventy-seven (77) rubber boats, fifty (50) Zodiac rubber boats were found to be incompatible with the outboard motors. He further clarified that less than ten (10) PRBs issued to the field units suffered cracks on the transom after field testing and were not allowed to be used. Relative to the Apex and Lodestar rubber boats, these respectively suffered some deficiencies and were non-compliant with the specifications stated in Napolcom Resolution No. 2009-223.

When cross-examined, witness Montenegro testified that he recommended to the PNP-NHQ-BAC to validate the findings and observations of the MG-TICW instead of the Inspection and Acceptance Committee (IAC) because the PNP-MG was not a party to the Contract between the PNP-NHQ-BAC and the suppliers. He wanted the PNP-NHQ-BAC to correct the deficiencies noted by the MG-TICW.



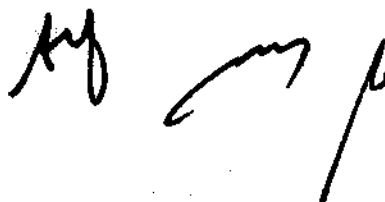
He further testified that the Zodiac FC 470 should be fitted with an outboard motor (OBM) of not more than 40hp, based on the manufacturer's specification of the rubber boat, and that he approved the recommendation of the TICW for the replacement of the 60hp four-strokes EFI to 40hp as far as the Zodiac FC 470 is concerned.

Witness Montenegro also stated that the Zodiac FC 470 had a capacity of only ten (10) persons and that, during the bidding, it was not specified what model would be delivered but only the dimensions of the rubber boat were specified. He added that the Zodiac FC 470 was not compliant to the maximum 12-person capacity requirement of Napolcom Resolution No. 2009-223 because it can only accommodate 10 persons.

He further confirmed that some of the TICW findings on the defects in the samples inspected were apparent and immediately determined by the naked eye. When asked why he did not make a recommendation to the Chief, PNP that the IAC of the PNP explain why deliveries were made despite the noticeable deficiencies, witness Montenegro explained that this did not cross his mind to deal with the IAC. Instead, he intended to ask the NHQ-BAC to correct the deficiencies because the latter dealt with the suppliers and not the IAC. He also did not recommend this because he hoped that the Chief, PNP would require the IAC to explain why it did not inspect the supplies delivered to them.

The next prosecution witness was **P/Supt. Edmund Gonzales**, the Chief of Staff of the Aviation Security Group. From April 10 to May 2010, he was the Regional Chief of the Regional Maritime Unit 6 in Iloilo City and among those who witnessed a sea trial conducted on the Zodiac rubber boats with the 60hp Mercury outboard motors.

He testified that Region XI received five (5) Zodiac police rubber boats (PRBs) and 60hp Mercury outboard motors (OBMs). The five (5) PRBs were for the provinces of Antique, Aklan, Capiz, Iloilo and Negros Occidental. He added that it requires four to five persons to attach an OBM to a PRB. He also identified a Memorandum addressed to the Director, Logistics Division dated April 11, 2011 with the subject "Police Rubber Boat Deficiency during Sea Trial" containing their observations (Exh. "SS").



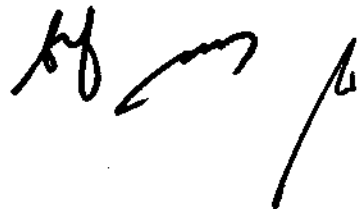
Witness **P/Superintendent Ervin Glenn Provide** was next to testify. Being the Logistics Officer of the PNP-MG in 2010, he recalled distributing police rubber boats (PRBs), outboard motors (OBMs) and PRB accessories to different regional maritime units and identified the Acknowledgement Receipts of Equipment (AREs), signed by their respective representatives (Exhs. "H<sup>4</sup>", "I<sup>4</sup>", "J<sup>4</sup>", "K<sup>4</sup>", "L<sup>4</sup>", "M<sup>4</sup>", "N<sup>4</sup>", "O<sup>4</sup>", "P<sup>4</sup>", "Q<sup>4</sup>", "R<sup>4</sup>", "T<sup>4</sup>", "U<sup>4</sup>", "V<sup>4</sup>", "W<sup>4</sup>", "X<sup>4</sup>", "Y<sup>4</sup>", "Z<sup>4</sup>", "A<sup>5</sup>" and "B<sup>5</sup>").

In 2010, upon a directive from the Directorate for Research and Development, witness Provide, after filling out a Weapon Transport Communication Division (WTCD) Report Form (Exhs. "C<sup>3</sup>", "E<sup>3</sup>", and "G<sup>3</sup>"), he visually inspected two (2) Zodiac PRBs, one (1) Apex PRB, and one (1) Lodestar PRB at the LSS Warehouse.

After distributing the PRBs and OBMs to the different regional maritime groups, witness Provide received reports of defects and deficiencies. This prompted P/Chief Supt. Don C. Montenegro to create a Technical Inspection Committee on Watercraft (TICW) to conduct inspections of all watercraft and OBM. The TICW was composed of himself, P/Sr. Superintendent Dolina as chairman; P/Sr. Superintendent Ferdinand Yuzon as vice-chairman; P/Sr. Superintendent Filart; P/Sr. Superintendent Corpus; P/Sr. Superintendent Opelanio; and, P/ Sr. Superintendent Recto.

Witness Provide remembered being present at a Quarters Maritime Group at Parañaque for the inspection of five (5) Apex and two (2) Lodestar police rubber boats. After the visual inspection and sea trials at Manila Bay, the TICW, of which he is a member, made a Report entitled Result of Deliberation Re: Police Rubber Boats and Outboard Motors delivered to Maritime Group as End-Users dated September 8, 2010 (Exhs. "LL"; "MM" to "MM-31"). This Report was endorsed by Gen. Montenegro and submitted to Chief, PNP (accused) Verzosa. He also identified the said Report and the signatures appearing thereon.

The TICW recommended for the replacement of the Lodestar HKS 480 police rubber boat because it is not a roll-up rubber boat as required by the Napolcom specification to be an aluminum floor board, roll-up type. It also has a keel and five (5) wooden planks as its floorboard.



Further, the TICW also recommended that the Mercury 60hp four-strokes EFI outboard motor (OBM) for the Zodiac FC 470 police rubber boat be replaced with the OBM horsepower of "equal to or not more than 40 hp" in accordance with the manufacturer's specification.

On cross-examination, witness Provido affirmed that he only conducted a visual inspection, not a functional test, before the PRBs and OBMs were distributed to the different maritime group units. He explained that as the end-user, the PNP-MG assumed that when they receive the equipment, these were already tested functionally and visually.

The next prosecution witness was **Zita R. de Guia**, a State Auditor IV of the Commission on Audit (COA), assigned at the Fraud Audit and Investigation Office.

In 2011, she was designated co-team leader in the conduct of a fraud audit investigation on the procurement of police rubber boats (PRBs) by the PNP in 2009. Their Audit Team was composed of co-team leader, Atty. Chona Labrague, and members Carlos Odfina, Carolyn Carranza, Juniel Sadiasa, and Engr. Jaypee Magalad. The conduct of the fraud audit investigation was authorized under COA Office Order No. 2009-864 dated December 29, 2011 (Exh. "X5") signed by the then COA Chairperson Pulido-Tan (Exh. "X5-1").

For the conduct of the fraud audit, the Audit Team prepared the audit program; gathered, examined, and verified the disbursement vouchers including all the supporting documents and pertinent documents related to the procurement; made confirmations with other government agencies; conducted sea trials on the different brands of police rubber boats (PRBs) and outboard motors (OBMs); inventoried and conducted ocular inspections on the PRBs distributed to the different regional offices of the Marine Group; and, conducted exit conferences with the PNP officials.

Initially, the Audit Team, through Director Leonor D. Boado, sent a Letter dated January 16, 2012 (Exh. "Y5") to the P/Director General, Chief, PNP, for an entrance conference (Exhs. "C6" and "A6").

After the fraud audit investigation, the Audit Team submitted its COA Audit Report dated 30 October 2012 (Exh. "V5").



The findings contained in the COA Audit Report were based on NHQ-BAC Resolutions Nos. 2009-61 dated October 19, 2009 (Exh. "O"); 2009-76 dated November 24, 2009 (Exh. "P"); 2009-13 dated December 18, 2009 (Exh. "R"); and, 2009-93 dated December 19, 2009 (Exh. "Q").

The Audit Team found that the PNP failed to comply with Secs. 10 and 53 of R. A. No. 9184, when the public bidding for the procurement of PRBs and OBMs for a total contract cost of P131.55 million, was discontinued during the post-qualification stage and instead proceeded to a negotiated procurement. This move was anchored on the urgent need for the PRBs which were considered as indispensable in the conduct of relief and rescue operation in the flooded areas caused by Typhoons *Ondoy* and *Pepeng*.

She further testified that the PNP Negotiation Committee was composed of accused Ticman, accused Hilomen, accused Belarmino, and accused Bumanglag. The negotiations were conducted with the suppliers of PRBs and OBMs, namely: EnviroAire, Inc., Geneve SA Philippines, Inc. and Bay Industrial Philippines. She also noted that in the earlier public bidding conducted on September 9, 2009, EnviroAire, Inc. and Geneve SA participated but Bay Industrial did not.

She also testified that the Audit Team did not consider the three (3) suppliers as technically, legally and financially capable because they could not deliver the entire seventy-five (75) units of PRBs and eighteen (18) units of OBMs within a period of two (2) weeks from receipt of the notice to proceed. The Audit Team further noted that two (2) of the suppliers requested that they be allowed to supply only PRBs without engines because they had no available stock of rubber boats and outboard motors.

Witness de Guia also stated that the requirement that the negotiated procurement was conducted under extraordinary circumstances of imminent danger to life and property during the state of calamity or arose from natural and man-made calamities or other causes where immediate actions is necessary, was not fulfilled.

She explained that it took two hundred twenty (220) days from the date of the publication of the Invitation to apply for eligibility and to bid on May 12, 2009, until the negotiations on December 18, 2009 and the issuance of the

Notice to Proceed. This was one hundred (100) days more than the maximum period for the procurement process under public bidding as prescribed in Annex C of the IRR of R. A. No. 9184.

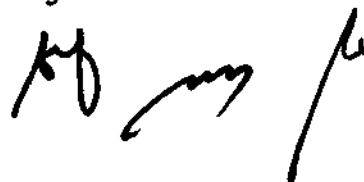
Furthermore, the Audit Team, in its COA Audit Report (Exh. "HH-3-a), also found from the records that the procurement of the PRBs was not only anchored on an emergency need but also on the capability of the regular work of the Maritime Group (MG), as shown in Napolcom Resolution 2009-223 dated April 16, 2009 (Annex "LLL"). Likewise, the delivery of the PRBs was made three (3) months after the occurrence of typhoons *Ondoy* and *Pepeng*. By implication, being beyond the allowable period, this cannot be considered as immediate or an emergency case.

It was likewise found that the Supply Contracts (Exhs. "P<sup>6</sup>", "Q<sup>6</sup>-2", "R<sup>6</sup>-2", and S<sup>6</sup>-1") and Purchase Orders (Exhs. "Q<sup>6</sup>, R<sup>6</sup>, S<sup>6</sup> and T<sup>6</sup>") for the subject procurement were divided among the suppliers because of their inability to deliver the entire procurement requirements which resulted to a splitting of contracts contrary to Sec. 54.1 of R. A. 9184, thereby giving due advantage to the suppliers.

The Audit Team further found that, although the suppliers delivered the procured equipment beyond the periods specified in the Supply Contracts and Purchase Orders, the PNP failed to impose and, accordingly, lost P8,506,100.00 as liquidated damages (Exhs. "U<sup>6</sup>"; "V<sup>6</sup>"; "W<sup>6</sup>"; "X<sup>6</sup>"; "Y<sup>6</sup>"; "Z<sup>6</sup>"; "Z<sup>6</sup>-1"; "A<sup>7</sup>"; "B<sup>7</sup>"; "C<sup>7</sup>-1"; "D<sup>7</sup>"; "E<sup>7</sup>"; "F<sup>7</sup>"; "G<sup>7</sup>"; "H<sup>7</sup>"; and "I<sup>7</sup>).

Finally, the Audit Team found that the PNP failed to comply with requirements under "Standard Specifications" dictated in Napolcom Resolution No. 2009-223 (Exh. "HH-3-a"). Moreover, the procured PRBs and OBMs were not only incompatible but also of doubtful stability and control when operated, hence, resulted to the non-compliance of the speed requirement set in the same Napolcom Resolution. Consequently, the procured equipment was not used for the intended purpose due to their defects and/or incompatibility as noted by the end-users.

When cross-examined, witness de Guia admitted that she equated the inability to deliver the entire procured equipment as technical incapability.



On queries from the Court, witness de Guia testified that not all bidding documents were submitted to the Audit Team and that its findings were based on the criteria provided for in Sec. 53 of R. A. 9184, which described technically, legally, and financially capable suppliers.

The last witness for the prosecution was **Engr. Carlos I. Odfina**, a Mechanical Engineer and a COA Special Investigator IV, who was a member of the COA Audit Team that conducted the fraud audit investigation of the subject procurement particularly on its technical aspect. He was authorized by COA Office Order No. 2011-864 dated December 29, 2011 (Exh. "X<sup>5</sup>").

Relative to the technical aspect of the audit investigation, the COA Audit Team used the specifications stated in Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exh. "HH-3-a") as its guide in the inspection of the subject items and in the preparation of their four (4) working papers (Exhs. "Q<sup>7</sup>", "N<sup>7</sup>", "S<sup>7</sup>" and "U<sup>7</sup>"). These working papers or matrices presented a comparative study between the delivered rubber boats, namely: Apex, Zodiac and Lodestar, and the 60hp Mercury outboard motors *vis-a-vis* the standard specifications as per Napolcom Resolution No. 2009-23.

The first working paper of the Audit Team was attached to their Inspection Report dated February 6, 2012 (Exh. "P<sup>7</sup>") as Annex "DDDD-7")(Exh. Q<sup>7</sup>), pertaining to the forty-one (41) units of Zodiac FC 470 Futura Commando PRBs delivered by Geneve SA. It compared the specifications in the Napolcom Resolution 2009-223 (Exh. "HH-3-a") with the delivered items already deployed in the other regions of the PNP Maritime Group. The tests and evaluations were conducted by Engr. Jaypee Magalad.

The second working paper, marked as Annexes "EEEE-6" and "7" (Exh. "S<sup>7</sup>") of the Inspection Report dated February 6, 2012 (Exh. "R<sup>7</sup>"), was a document showing a comparison between the specifications in the Napolcom Resolution No. 2009-223 (Exh. "HH-3-a") and the ten (10) Lodestar HKS 480 rubber boats delivered by Bay Industrial, already deployed to the other regions of the PNP Maritime Group.

Annex "FFFF-6" (Exh. U<sup>7</sup>), attached to their Inspection Report dated February 6, 2012 (Exh. "T<sup>7</sup>") was the third working paper. This presented a comparison between the

specifications in Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exh. "HH-3-a") and the ninety-three (93) units of 60hp Mercury outboard motors (OBM) delivered by EnviroAire. After their inspection, the Audit Team concluded that the 60hp Mercury brand OBM complied with the Napolcom Resolution No. 2009-223 of 40hp or better.


The last working paper, marked as Annexes "CCCC-6-7") (Exh. "N7"), was attached to their Inspection Report dated February 6, 2012 (Exh. "M7"), pertaining to the inspection of the twenty-four (24) Apex A-47 rubber boats delivered by EnviroAire.

These working papers or matrices were attached to the four (4) Inspection Reports (Exhs. "M7", "P7", "R7", and T7) on the PRB and OBMs delivered. The inspection was conducted at the PNP Maritime Group in Brgy. Galo in Parañaque City from February 1 to 2, 2012.

In the Inspection Report for the Zodiac rubber boats delivered by Geneve SA (Exh. "P7"), the Audit Team found that the said supplier provided only a one (1)-year warranty instead of the three (3)-years as required by the same Napolcom Resolution No. 2009-223. Also, there was no indication whether the rubber boats passed or failed the PNP test and evaluation.

Further, the same findings were found in the Inspection Report for the Apex A-47 rubber boats (Exh. "M7") and Lodestar rubber boats (Exh. "R7"), both dated February 6, 2012 and that their suppliers also provided for only a one (1) year warranty instead of the three (3) year warranty as required by the PNP.

When cross-examined, witness Odfina re-confirmed the basic findings of the Audit Team as a result of its fraud audit investigation, to wit - - (1) that the public bidding was discontinued and that there was an illegal or improper resort to negotiations; (2) that there was an illegal splitting of the contract; (3) that there was a delay and non-payment of liquidated damages; and, (4) that there was a failure to comply with the specifications described in Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exh. "HH-3-a"). These same findings did not mention the technically, financially or legally ineligibility of the suppliers.





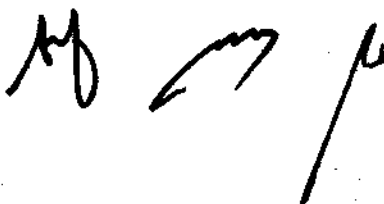
Thereafter, the prosecution filed its Formal Offer of Evidence dated October 16, 2017. After accused Bumanglag, Hilomen, Roderos, Belarmino, Soriano, Ticman, Ubalde, and Verzosa filed their respective Comment/Opposition, this Court ruled (Minutes, February 20, 2018) in this manner, to wit - -

X x x the Court resolves to ADMIT the following exhibits:

Exhibit/s A, B, C, D, E, F, G, H, K, L, M, N, O, P, Q, R, S, T, U, V, W, Y, Z, DD, EE, FF, FF-2, GG, GG-1, HH, HH-3, HH-4, HH-5, HH-8, HH-9, HH-12, HH-13, II, JJ, KK, LL, MM, MM-5, MM-10, MM-14, MM-15, MM-17, MM-24, NN, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, ZZ, B<sup>3</sup>, C<sup>3</sup>, D<sup>3</sup>, E<sup>3</sup>, F<sup>3</sup>, G<sup>3</sup>, H<sup>3</sup>, I<sup>3</sup>, L<sup>3</sup>, M<sup>3</sup>, N<sup>3</sup>, O<sup>3</sup>, P<sup>3</sup>, S<sup>3</sup>, H<sup>4</sup>, I<sup>4</sup>, J<sup>4</sup>, K<sup>4</sup>, L<sup>4</sup>, M<sup>4</sup>, N<sup>4</sup>, O<sup>4</sup>, P<sup>4</sup>, Q<sup>4</sup>, R<sup>4</sup>, S<sup>4</sup>, T<sup>4</sup>, U<sup>4</sup>, V<sup>4</sup>, W<sup>4</sup>, X<sup>4</sup>, Y<sup>4</sup>, Z<sup>4</sup>, A<sup>5</sup>, B<sup>5</sup>, C<sup>5</sup>, D<sup>5</sup>, E<sup>5</sup>, F<sup>5</sup>, G<sup>5</sup>, H<sup>5</sup>, I<sup>5</sup>, J<sup>5</sup>, K<sup>5</sup>, M<sup>5</sup>, N<sup>5</sup>, O<sup>5</sup>, P<sup>5</sup>, V<sup>5</sup>, X<sup>5</sup>, Y<sup>5</sup>, Z<sup>5</sup>, A<sup>6</sup>, B<sup>6</sup>, C<sup>6</sup>, D<sup>6</sup>, E<sup>6</sup>, F<sup>6</sup>, G<sup>6</sup>, H<sup>6</sup>, I<sup>6</sup>, J<sup>6</sup>, K<sup>6</sup>, L<sup>6</sup>, M<sup>6</sup>, N<sup>6</sup>, O<sup>6</sup>, O<sup>6</sup>-1, O<sup>6</sup>-2, O<sup>6</sup>-3, P<sup>6</sup>, Q<sup>6</sup>, R<sup>6</sup>, S<sup>6</sup>, T<sup>6</sup>, U<sup>6</sup>, V<sup>6</sup>, W<sup>6</sup>, X<sup>6</sup>, Y<sup>6</sup>, Z<sup>6</sup>, A<sup>7</sup>, B<sup>7</sup>, C<sup>7</sup>, D<sup>7</sup>, E<sup>7</sup>, F<sup>7</sup>, G<sup>7</sup>, H<sup>7</sup>, I<sup>7</sup>, J<sup>7</sup>, K<sup>7</sup>, L<sup>7</sup>, M<sup>7</sup>, N<sup>7</sup>, P<sup>7</sup>, Q<sup>7</sup>, R<sup>7</sup>, S<sup>7</sup>, T<sup>7</sup>, U<sup>7</sup>, V<sup>7</sup>, W<sup>7</sup>, X<sup>7</sup>, Y<sup>7</sup>, Z<sup>7</sup>, A<sup>8</sup>, B<sup>8</sup>, C<sup>8</sup>, D<sup>8</sup>, E<sup>8</sup>, F<sup>8</sup>, G<sup>8</sup>, H<sup>8</sup>, I<sup>8</sup>, J<sup>8</sup>, K<sup>8</sup>, L<sup>8</sup>, M<sup>8</sup>, M<sup>8</sup>-2, Q<sup>8</sup>, A<sup>9</sup>, B<sup>9</sup>, C<sup>9</sup>, I<sup>9</sup>, J<sup>9</sup>, R<sup>9</sup>, S<sup>9</sup>, T<sup>9</sup>, U<sup>9</sup>, V<sup>9</sup>, W<sup>9</sup>, X<sup>9</sup>, Y<sup>9</sup>, Z<sup>9</sup>, M<sup>10</sup>, O<sup>10</sup>, P<sup>10</sup>, Q<sup>10</sup>, K<sup>11</sup>, L<sup>11</sup>, M<sup>11</sup>, N<sup>11</sup>, O<sup>11</sup>, P<sup>11</sup>, Q<sup>11</sup>, R<sup>11</sup>, C<sup>12</sup>, D<sup>12</sup>, F<sup>12</sup>, G<sup>12</sup>, H<sup>12</sup>, I<sup>12</sup>, J<sup>12</sup>, K<sup>12</sup>, M<sup>12</sup>, N<sup>12</sup>, P<sup>12</sup>, Q<sup>12</sup>, S<sup>12</sup>, T<sup>12</sup>, V<sup>12</sup>, W<sup>12</sup>, X<sup>12</sup>, Y<sup>12</sup>, Z<sup>12</sup>, A<sup>13</sup>, B<sup>13</sup>, C<sup>13</sup>, D<sup>13</sup>, E<sup>13</sup>, F<sup>13</sup>, G<sup>13</sup>, H<sup>13</sup>, I<sup>13</sup>, J<sup>13</sup>, K<sup>13</sup>, L<sup>13</sup>, M<sup>13</sup>, N<sup>13</sup>, O<sup>13</sup>, P<sup>13</sup>, Q<sup>13</sup>, R<sup>13</sup>, S<sup>13</sup>, T<sup>13</sup>, U<sup>13</sup>, V<sup>13</sup>, W<sup>13</sup>, X<sup>13</sup>, Y<sup>13</sup>, Z<sup>13</sup>, A<sup>14</sup>, B<sup>14</sup>, C<sup>14</sup>, D<sup>14</sup>, E<sup>14</sup>, F<sup>14</sup>, G<sup>14</sup>, H<sup>14</sup> and I<sup>14</sup>, together with the RESPECTIVE sub-markings and/or series thereof, considering that the objections of the accused, through counsel/s, refer more to the probative value than their admissibility.

Further, the "Motion to Remark Exhibits" of the prosecution, is GRANTED.

Accordingly, let Exhibit/s GG-1 and GG-1-a, which are the Land Bank Check 0000456018 and the signature of accused Jesus A. Verzosa, respectively, be RE-MARKED as Exhibit/s GG-2 and GG-2.

Handwritten signature and initials, likely of the court clerk or judge, appearing at the bottom of the page.

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Prior to presenting their respective evidence, accused Bumanglag (on May 28, 2018), accused Hilomen (on May 24, 2018), accused Verzosa (on May 15, 2018), accused Ubalde (on May 28, 2018), accused Soriano and accused Ticman (on May 29, 2018), accused Roderos and accused Belarmino (on May 28, 2018), sought leave to file their respective demurrer to the evidence.

However, after the prosecution filed its Consolidated Opposition (dated June 4, 2018; June 19, 2018), this Court ruled to deny all the Motions for leave of the accused concerned (Minutes, June 8, 2018 and June 20, 2018).

Although accused Bumanglag, accused Hilomen, accused Soriano, accused Ticman, accused Roderos, accused Belarmino, Jr., accused Ubalde and accused Verzosa filed individual Motions for Reconsideration, this Court also denied them for lack of merit (Minutes, August 10, 2018).

For their part, the first witness for the defense is **accused Villamor A. Bumanglag**.

Testifying on direct examination, through his sworn Judicial Affidavit dated September 6, 2018 and his sworn Amended Judicial Affidavit dated 8 November 2018, witness-accused Bumanglag testified that, in 2009 and 2010 or during the time material to this case, he was a member of the PNP as the Director of the Maritime Group (MG), designated as such on April 29, 2009 until March 30, 2010. He explained that, within the PNP organization, the MG is basically in charge of the maritime law enforcement and maintenance of peace and order in the high seas, or any body of water, coastal areas and shorelines, as well as with the enforcement of the maritime laws, piracy, smuggling, terrorism, fishery laws and also for relief, rescue and rehabilitation missions during calamities and disasters.

The Maritime Group (MG) was the end-user of the seventy-five (75) units police rubber boats (PRBs) and ninety-three (93) units outboard motors (OBMs) procured in 2009. As Director of the MG, witness-accused Bumanglag was designated as a provisional member of the Bids and Awards Committee (BAC) and later became a member of the Negotiation Committee for the said procurement.



Witness-accused Bumanglag added that the request for the procurement of the PRBs was made by his predecessors in the MG over the past years and was part of the Annual Procurement Program (APP) for calendar year 2008, not for 2009, when he was designated Director of the MG.

He stated that, in accordance with the advertisement published by the PNP-BAC Secretariat on May 12, 2009, the public bidding for the subject procurement of the seventy-five (75) units of PRBs was supposed to take place on June 2, 2009. However, the intended public bidding did not proceed because he requested the other members of the PNP-BAC to postpone the same in order that his Office can conduct a market re-survey of the price of the rubber boats and engines.

As a result of the market re-survey, witness-accused Bumanglag discovered that the set budget of P180 million for seventy-five (75) units of PRBs and P2.4 million per OBM was high. On the other hand, based on the market survey, the price per set of rubber boat and engine should only be P1,699,000.00 and the Approved Budget for the Contract (ABC) for the entire seventy-five (75) units of PRBs and OBMs should only be P127,425,000.00. There was thus a clear overprice of P52,575,000.00 in the ABC set at P180,000,000.00.

Thereafter, witness-accused Bumanglag sent a Memorandum dated June 5, 2009 (Exhs. "58-Ticman/Soriano"; "208-Hilomen"; "330-Ubalde"; and "428-Bumanglag") to the NHQ-BAC Chairman to revised the Approved Budget for Contract (ABC) of the PRBs from P180,000,000.00 to P127,425,000.00 with the excess of P52,575,000.00 to be used instead for the procurement of other watercrafts needed by the MG in its operations.

The said Memorandum was immediately and favorably acted upon by co-accused Luizo C. Ticman, the then Director for Logistics, who also sent a similar Memorandum dated June 8, 2009 (Exhs. "59-Ticman/Soriano"; "209-Hilomen", "331-Ubalde" and "429-Bumanglag") to the PNP-NHQ-BAC Chairman, recommending the amendment of the Addendum to the APP for calendar year 2008 to reflect the revision of the ABC requested by witness-accused Bumanglag

Thereafter, co-accused Jefferson P. Soriano, the then NHQ-BAC Chairman, sent a Memorandum (Exhs. "60-

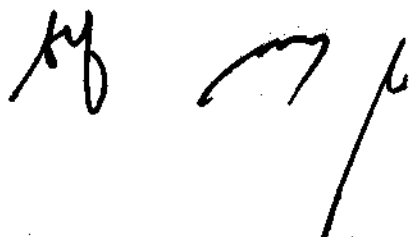
Ticman/Soriano"; "210-Hilomen"; "331-Ubalde"; and "430-Bumanglag") to co-accused Jesus A. Verzosa, the then Chief, PNP, recommending the approval of the revision of the APP for the procurement of the rubber boats for the Maritime Group to reflect the revisions of the ABC for the rubber boats as well as the ABC for the other watercrafts. This recommendation was approved by the Chief, PNP and Head of the Procuring Entity (HOPE), co-accused Verzosa on July 9, 2009 (Exhs. "60-B-Ticman/Soriano"; "210-Hilomen"; "331-Ubalde"; and "430-Bumanglag"). Hence, the new or revised ABC for the seventy-five (75) rubber boats and engines was P127,425,000.00 while the ABC for the eighteen (18) units of spare engines was P9,000,000.00 for a combined ABC of P136,425,000.00 (Exhs. "58", "59", "60-Ticman and Soriano").

Witness-accused Bumanglag added that, after the publication of the required advertisements and postings, the public bidding was scheduled and proceeded on September 9, 2009 (Exhs. "N"; "62-Ticman/Soriano").

Although three (3) joint ventures participated in the public bidding, only the Joint Venture of EnviroAire Inc. and Stoneworks Specialists International, Inc. was considered as the "passing bidder". However, EnviroAire was not awarded with the contract because a post qualification was required to be conducted first. This involved the verification and validation of the eligibility documents submitted and the technical evaluation to be undertaken by a Technical Working Group (TWG) on the brand and the model of the rubber boats and the engines intended to be delivered.

But, the post-qualification process was not completed as Typhoon *Ondoy* made landfall on September 26, 2009, causing severe damage to the country.

Witness-accused Bumanglag further testified that, at that time, the MG had only two (2) rubber boats, both riddled with patches while one was undergoing repairs at a vulcanizing shop. Although the MG was called as one of the agencies to conduct relief and rescue missions as a result of Typhoon *Ondoy*, it, however, lacked the equipment, such as rubber boats, to cope with the emergency, leading to a sense of helplessness.



Considering the dismal state of readiness of the Maritime Group, witness-accused Bumanglag sent a Memorandum dated October 2, 2009 (Exhs. "196-Ticman/Soriano"; "220-Hilomen"; "334-Ubalde", and "497-Bumanglag") to the Chief, PNP requesting for the emergency procurement of the rubber boats in lieu of public bidding. An emergency procurement was requested because the MG wanted to be prepared for the PAGASA-predicted arrival of several typhoons with similar destructive intensities as Typhoon *Ondoy*.

Witness-accused Bumanglag explained that his reason for recommending negotiations for the procurement of the rubber boats, in lieu of public bidding, was to expedite their delivery especially since the PAGASA already forecasted more typhoons to come. He added that, although the process for the public bidding was already on-going, he did not proceed with it because of his assessment of the situation and the advice of the BAC-TWG Legal. He also testified that emergency procurement will not only be more advantageous but also save the PNP precious time. He further noted that the BAC-TWG Legal indicated that the delivery time for public bidding would be approximately ninety (90) days whereas for emergency procurement, this period will be reduced to fourteen (14) days from the issuance of the notice to proceed.

The BAC-TWG Legal also informed witness-accused Bumanglag that with the procurement process already in its post-qualification stage, it would take about 150 days more before delivery can be made. This was based on Annex "C" of the Implementing Rules and Regulations (IRR) of R. A. 9184, which prescribes periods for the completion of each stage of the public bidding and is generally applicable to ordinary procurement of items available in the Philippines. Conversely, procurement of items not available in the Philippines may take longer, as in this case.

Witness-accused Bumanglag further testified that the NHQ-BAC did not immediately agree to his request because he initially considered possible arrangements with EnviroAire for an early delivery. However, in a meeting between co-accused Ticman and EnviroAire representatives, the latter could not commit to an early delivery because the items were imported. Nevertheless, EnviroAire expressed its willingness to give up its "passing bidder" status and agreed to the



proposal of witness-accused Bumanglag for a negotiated procurement.

Convinced that there was no other way to fast track the delivery to address the urgent need of the Maritime Group, the NHQ-BAC recommended to discontinue the bidding process and proceed to negotiated procurement pursuant to Section 53.2 of the Revised IRR of R.A. 9184. This recommendation (Exh. "O") was approved by the Chief, PNP (accused) Verzosa, being the Head of the Procuring Entity (HOPE).

Thus, the Negotiation Committee commenced the negotiated procurement on October 21, 2009, as reflected in the Minutes of Negotiation (Exhs. "64-Ticman/Soriano"; "223-Hilomen") with the total combined ABC for the rubber boats paired with engines and spare engines of P136,425,000.00. Particularly present during the October 21, 2009 negotiation procurement were P/Sr. Supt. Ferdinand Yuzon of the MG, who prepared the specifications for the PRBs and OBMs, being the then Chairman of the TWG-MG. Also present were Napolcom Dir. Conrado Sumanga and COA-PNP representative Ma. Victoria F. Samala (Exh. "64-c-Ticman/Soriano"), as procurement watchdogs, tasked to observe and check whether the procurement proceedings are legal and in order.

Witness-accused Bumanglag further added that the Napolcom and COA-PNP representatives did not find anything wrong with the negotiated procurement based on an emergency as the replacement for the public bidding held on September 9, 2009. Dir. Sumanga even agreed to the alternative mode of procurement through negotiation (Exh. "64-d-Ticman/Soriano").

Eventually, the supply of the seventy-five (75) PRBs and ninety-three (93) OBMs was awarded to EnviroAire, Inc., Geneve SA Phils, Inc, and Bay Industrial Philippines Corp, with a delivery period of strictly two (2) weeks or 14 days from the issuance of the Notices to Proceed.

Notwithstanding, the three (3) suppliers agreed to supply some items earlier than two (2) weeks, as follows: Geneve SA committed to deliver forty-one (41) units of PRBs without engine; EnviroAire committed to deliver twenty-four

(24) PRBs and ninety-three (93) OBMs while Bay Industrial committed to deliver ten (10) PRBs without engine.

Likewise, the suppliers agreed to deliver the PRBs at the unit price of P1,165,000.00 each while EnviroAire quoted P475,000.00 for each 60hp OBM. Comparing the total amount of P131,550,000.00 for the seventy-five (75) units of PRBs and ninety-three (93) units of OBMs to the ABC of P136,425,000.00, there was a savings of P4,875,000.00.

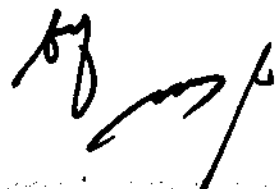
The Notices to Proceed were subsequently issued to the three (3) suppliers on December 18, 2009 with the agreed delivery of two (2) weeks or on January 1, 2010. Witness-accused Bumanglag emphasized that the negotiated procurement had expedited the delivery of the rubber boats by less than two (2) months.

Witness-accused Bumanglag further explained that Napolcom Resolution No. 2009-223 sets the specified engine size as "40hp or better", which meant that the minimum engine size should not be lower than 40hp but the maximum should be the right engine size capable of attaining the speed of 20 knots minimum with 12 passengers.

Citing his experience with the Maritime Group, witness-accused Bumanglag admitted that a 40hp engine cannot attain the speed of 20 knots with 12 passengers on board. He noted their rescue and relief missions during typhoons *Ondoy* and *Pepeng* where they used two (2) units of Zodiac FC 470 rubber boat with 10 passenger capacity paired with 40hp outboard motors. The 40hp engine does not have enough power and is ineffective for use in high swells and big waves.

With these reservations, witness-accused Bumanglag directed the conduct of a speed test at the Manila Bay using a rubber boat fitted with 40 hp engine. It was reported that with only 10 passengers on board, the rubber boat with a 40hp engine on relatively calm waters was only able to gain the maximum speed of seven to nine knots, thus the Napolcom specification cannot be complied with.

Thus, witness-accused Bumanglag and the Maritime Group recommended the purchase of 60hp outboard motors. This recommendation was supported by previous requests from previous MG officers and Resolutions by the MG and the PNP Uniform and Equipment Standardization Board (UESB).



He cited the Memorandum to the Chief, PNP dated December 27, 2006 of C/Supt Angelo H. Sunglao, and also the Memorandum for the Director of Logistics dated October 10, 2008 from then P/Sr. Supt. Freddie O. Panen, Deputy Director for Administration for Administration, Maritime Group (Exhs. "496", "57" and "317").

Witness-accused Bumanglag also referred to MG Resolution No. 2008-01 (Revised) dated October 20, 2008 and a UESB Resolution No. 2008-34 dated November 7, 2008 (Exh. "N<sup>3</sup>"; Exhs. "204-Hilomen", "204-a-Hilomen", "317-a-Ubalde") as well as UESB Resolution No. 2008-34 dated November 07, 2008, entitled "Approving the Standard Specifications for Police Rubber Boat (PRB)" (Exh. "O<sup>3</sup>"; Exhs. "195-Ticman/Soriano": "205"-Hilomen", "320-a-Ubalde").

The MG thus recommended to the Negotiation Committee the purchase of a 60hp EFI 4-stroke OBM of the same brand, which was approved.

Witness-accused Bumanglag further testified that the rubber boat manufacturer always specified the range of the engine that could be properly mated or fitted with the rubber boat.

Although no longer with the Maritime Group on March 30, 2010 or before the deliveries were made, witness-accused Bumanglag learned the brands and models of the PRBs, as follows: Geneve SA Phils, delivered Zodiac rubber boat, model FC 470; EnviroAire delivered Apex rubber boats, model A-47 A1; and, Bay Industrial Philippines Corp. delivered Lodestar rubber boat, model HKS 480.

Witness-accused Bumanglag noted that the Zodiac rubber boat, model FC 470, from Geneve S.A. Phils. was compliant with the Napolcom specifications as to brand and material but, the model, FC 470, was not. The Zodiac FC 470 is a small boat and can accommodate only ten (10) persons. Further, the Zodiac rubber boat model FC 470 was not compatible with a 60hp outboard motor. This is clearly indicated in the manufacturer's specification that the outboard motor should not be more than 40hp (Exhs. "181-Ticman/Soriano" and "278-Hilomen").

On the other hand, the Lodestar rubber boat model HKS 480 was not compliant with the Napolcom specifications as it



was not only undersized but only carried a maximum passenger capacity of ten (10) persons. The Lodestar HKS 480 was likewise not compatible with a 60hp outboard motor.

However, the Apex rubber boat, model A-47 A1 delivered by EnviroAire was compliant with the Napolcom specifications. According to its manufacturer's specification, it has a maximum passenger capacity of twelve (12) persons and is compatible with a 60hp outboard motor.

Witness-accused Bumanglag also stated that the suppliers were fully aware of the Napolcom specifications during the negotiations. These same specifications were also indicated in their respective Supply Contracts (Exhs. "64-e-Ticman/Soriano"; "16"; "75"; "291"; "354"; "488"; "17"; "77"; "293"; "356"; and, "490").

He also emphasized the requirement in the Napolcom Resolution that the PRBs and OBMs "must pass PNP tests and evaluation" (Item II) in order to ensure that they were truly compatible and could function properly. The PRBs and OBMs must first pass the evaluation tests conducted by the Inspection and Acceptance Committee (IAC) before the equipment can be accepted and paid by the PNP.

Witness-accused Bumanglag further noted from and was surprised to see the WCTD Reports Nos. T2010-03 (Exhs. "E3"; "49-B", "86", "360" and "449"), T-2010-04 (Exhs. "G3"; "50-B", "88", "314", "359" and "447") and T2010-07 (Exhs. "I3"; "51-B", "89", "315" and "451") that the IAC merely conducted a "visual inspection", and worse, did not perform the requisite tests and evaluation and determine the functional compatibility of the PRBs with the OBMs.

He added that separate procurement was necessary because time was of the essence and, with the rubber boats and outboard motors being imported equipment, the supply and delivery could not be handled by just one supplier and that there was no known manufacturer of both rubber boats and outboard motors or of rubber boats with the attached outboard motors.

Witness-accused Bumanglag explained that MG Resolution No. 2008-01 re: Types and Standard Specification of Watercraft for the Maritime Group Modernization Program and Napolcom Resolution No. 2009-223, both prescribed

technical specifications for rubber boats and that the said MG Resolution was the basis for the latter Napolcom Resolution.

He also explained that the technical specifications for any equipment is initially generated by the end-user, passing through the UESB, until it reaches the Napolcom for the preparation of the final resolution providing for the technical specification in compliance with law. He noted that the Napolcom revised the initial specifications of the MG and UESB on the engine size from 60hp to 40hp and increased the passenger capacity from ten (10) to twelve (12) persons.

Witness-accused Bumanaglag also enumerated the causes of the reported functional incompatibility of the PRBs and OMBs, as follows: (1) failure of the Inspection and Acceptance Committee (IAC) to immediately reject Zodiac FC 470 and Lodestar HKS 480 rubber boats that were not compliant with the Napolcom specifications not only on passenger capacity but also on engine size; (2) failure of the IAC to conduct the tests and evaluation required by Napolcom Resolution 2009-223; and, (3) failure of suppliers Geneve S.A. Phils. and Bay Industrial Phils. Corp. to deliver the appropriate rubber boats compatible with the desired or preferred 60hp engine.

He further observed that No. 1.18 of Napolcom Resolution 2009-223 contains a three (3) year complete maintenance services and support in case of breakdown or damage. This provision in the same Napolcom Resolution was different from a warranty because the latter is a guarantee given by a supplier to the purchaser that the equipment or item sold will function and perform as promised or represented, and to repair or replace the equipment or item should it fail.

Nevertheless, witness-accused Bumanglag adds that the rubber boats can still be used even without an outboard motor.

On cross-examination, witness-accused Bumanglag admitted that the Zodiac Futura Commando FC 470 rubber boat was not compatible with the 60hp outboard motor; that he did not inform Geneve SA not to deliver the said brand as he did not know beforehand that this was the model to be delivered; that he did not inquire from the suppliers about the brands of PRBs and OMBs they would deliver as this was



against the procurement law; that he was aware that the Negotiation Committee was guided by the technical specifications in Napolcom Resolution No. 2009-223; that he did not inform the other NHQ-BAC members about the information given by Atty. Loreto regarding the period of 150 days from post-qualification up to the delivery of the boats, had public bidding proceeded; and, that the Maritime Group was not the lead agency in the search and rescue operations during Typhoon *Ondoy*.

He likewise added that a post-qualification for negotiated bidding was unnecessary, yet a post-qualification was still conducted on EnviroAire. However, he did not recommend a similar post-qualification for Geneve SA and Bay Industrial. He maintains that post-qualification is between the supplier and the Technical Working Group as he was only a provisional member of the BAC, being the end-user.

Witness-accused Bumanglag substantially reiterated his testimony on re-direct examination.

The second defense witness was **Roman E. Loreto**. He testified on direct testimony, through his sworn Judicial Affidavit dated February 4, 2009. He was the BAC-Legal Officer and a member of the Technical Working Group (TWG), as its legal expert, to assist the PNP-BAC in their procurement activities. He was also designated member of the TWG-Legal on specific procurements in 2009, which included the procurement of the subject PRBs and OBMs.

After explaining the procurement process within the PNP, he added that, as a police officer, he is familiar with the Napolcom exercising administrative control over the PNP as provided for in R. A. No. 6975 as well as R. A. No. 9184, where the approval of the Chief, PNP, as the PNP HOPE, is required to make the ABC and the APP effective.

Witness Loreto emphasized that the Napolcom cannot require the rubber boats and the outboard motors to be procured as a single attached unit as this would exceed its authority under the law. He cited paragraph (m), Section 14 of R. A. 6975, limiting the authority of Napolcom to only prescribing the minimum standards for arms, equipment and uniforms. These minimum standards refer to the technical specifications of the supplies or equipment to be procured.



He also cited the Manual of Procedures for the Procurement of Goods and Services of the Government Procurement Policy Board (GPPB), defining "technical specifications" as the physical description of the goods or services, as well as the procuring entity's requirements in terms of the function, performance, environmental interface and design standard requirements for the goods to be manufactured or supplied, or the services to be rendered. It also includes the testing parameters for the goods.

Citing the PNP Procurement Manual, witness Loreto enumerated the persons involved in the procurement process, namely: the Head of the Procuring Entity (HOPE); the PNP-NHQ-BAC; the Inspection and Acceptance Committee (IAC); and, the Finance Division. He adds that the HOPE neither reviews nor approves the IAC's inspection report. The HOPE also does not accept the deliveries or approves the IAC's acceptance of the delivered goods. However, the HOPE approves the payments processed by the Finance Division.

Witness Loreto also noted that, before acceptance, a mere visual inspection is conducted by the IAC if the items procured are common use supplies, i.e. office supplies, consumables and those of similar kind because the quality and quantity can already be ascertained. However, if the subject of the procurement is an equipment, vehicle, firearm, machine, or other non-common use supplies, the inspection should be both visual and functional.

In this case, the PRBs and OBMs being non-common use supplies, both visual and functional inspections are required since their functionality, performance and design have to be determined before acceptance. Witness Loreto added that this can be seen in Napolcom Resolution No. 2009-223 (Exhs. "K", "P3"; "61", "206", "321", "426"), specifically Item II thereof, where the Napolcom required that the PRBs must pass PNP tests and evaluation to be determined only through a functional inspection.

The rest of the testimony of witness Loreto substantially corroborated the testimony of accused Bumanglag particularly on the narration of events that transpired leading to the discontinuance of the public bidding and the resort instead to negotiated procurement as well as the eventual outcome of the negotiations.



Witness Loreto also stated that, as TWG-Legal, he was tasked to conduct an eligibility screening as required by Sec. 23 of R. A. 9184. However, he maintains that a negotiated procurement based on an emergency is discretionary because the law and rules are silent on this, citing Memorandum Circular No. 213 dated May 8, 2006 and GPPB Circular No. 03-2006 dated December 6, 2006. He further noted the opinion of the Government Procurement Policy Board (GPPB) in NPM 142-2012, where it was stated that the law is indeed silent as to the applicability of the requirements of Sec. 23 of R. A. 9184 in negotiated procurement based on emergency and that it is discretionary on the part of the procuring agency to require its submission.

He further testified that the negotiated procurement held on October 21, 2009 was not advertised because this was not required. Nevertheless, the BAC Secretariat still sent invitations to six (6) suppliers from a registry of suppliers, manufacturers and contractors maintained by the PhilGEPS. However, only three (3) suppliers appeared, namely: Enviro Aire Inc, Geneve SA Phils Inc. and Bay Industrial Phils. Corp. The PNP also selects from its own list of accredited suppliers and verified with the registry of PhilGEPS or GPPB, if these suppliers are either registered or blacklisted.

Aside from the PhilGEPS and GPPB verifications, the suppliers who participated during the October 21, 2009 negotiated procurement were also required to submit minimum legal, financial and technical documents even if this requirement was discretionary.

Although it is ideal to procure the PRBs and OBMs from one supplier, during the negotiation, the three (3) suppliers were unanimous in claiming that the seventy-five (75) rubber boats and ninety three (93) outboard motors cannot be delivered in fourteen (14) days by just one supplier because these items are imported.

As the BAC Legal Officer, witness Loreto and one Atty. Villafuerte prepared the Supply Contracts (Exhs. "75"; "76"; and, "77") for the three (3) suppliers in accordance with the approved Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exhs. "K" "P3", "2", "61", "206", "321", "426" ), including therewith the other matters agreed upon during the negotiation. This also included naming the Maritime Group (being the end-user) Headquarters in Camp Crame as the site

of the delivery of the procured equipment and their accessories and a three (3) year integrated logistics support and an after-sales service for maintenance and availability of spare parts within the Philippines since the PRBs and OBMs are imported.

On the warranty, witness Loreto testified that the Napolcom cannot prescribe a warranty because this will exceed its authority over PNP procurement matters. Nevertheless, a warranty of one (1) year was provided for in the Supply Contract, particularly Article VIII thereof and in accordance with Section 62.1 of the IRR of R. A. 9184, which provides for a minimum warranty period of three (3) months for expendable goods and a maximum of one (1) year for nonexpendable goods.

Witness Loreto further testified that he did not encounter any document indicating that the PRBs procured were incompatible with the OBMs.

When cross-examined, witness Loreto confirmed that accused Soriano and accused Ubalde, aside from being BAC members, are lawyers with sufficient knowledge on procurement laws.

He also confirmed that the post-qualification process can be done in less than thirty (30) days and that, based on Annex C of the IRR of R. A. 9184, the earliest allowable time for post-qualification is one (1) calendar date. He further testified that a post-qualification process was conducted by the TWG on transportation after the negotiation between the PNP Negotiation Committee and the chosen suppliers. and that his participation in the functional test was only as a passenger on the rubber boat.

On re-direct testimony, witness Loreto reiterated that the TWG on transportation conducted a functional test on the items delivered by the suppliers during the post-qualification stage.

The third and last witness for the defense was accused **Benjamin Azares Belarmino, Jr.**, who testified, on direct examination, through his sworn Judicial Affidavit dated April 24, 2019.




After enumerating his various positions (Exhs. "36"; "37"; "39"; and, "I<sup>9</sup>"), he testified that, during the time material to this case, he was the Director of the Directorate for Research and Development (DRD), tasked, among others, to conduct research and study on the latest technology and materials, determine and develop specifications and standards for all PNP equipment and to conduct test and evaluation of clothing material, vehicles, and equipment procured by the PNP.

Witness-accused Bumanglag stated that the division in charge of conducting test and evaluation of procured vehicles and other modes of transportation of the PNP is the Weapons, Transportation and Communications Division (WTCD) of the DRD. The WTCD uses the visual and functional methods in the tests. During the conduct of the functional test and evaluation on the procured PRBs and OBMs, PSSupt. Joel Crisostomo Garcia was the head of the WTCD.

He further identified the following documents prepared during the conduct of the visual and functional tests on the subject PRBs and OBMs, namely: (1) Memorandum dated November 16, 2009 addressed to the Chief PNP about "After Product Presentation Report on Lodestar Rubber Boat (Disaster Preparedness: Rescue Exercises" certified photocopy from the original (Exhs. "43" to "43-A-3-Belarmino"); (2) Resolution No. 2009-76 dated November 24, 2009 (Exhs. "44" to "44-A-Belarmino"; "P"); (3) Memorandum dated February 1, 2010 (Exhs. "48-Belarmino"; "B<sup>3</sup>"); (4) WTCD Report Number T2010-02-A dated January 21, 2010 (Exh. "48-A"; "C<sup>3</sup>"); (5) Memorandum dated February 12, 2010 (Exhs. "49-Belarmino"; "D<sup>3</sup>"); (6) WTCD Report Number T2010-03 dated February 3, 2010 ((Exhs. "49-B-Belarmino"; "E<sup>3</sup>"); (7) Memorandum dated February 12, 2010 (Exhs. "49-Belarmino"; "D<sup>3</sup>"); (8) WTCD Report Number T2010-03 dated February 10, 2010 (Exhs. "50-Belarmino:"; "D<sup>3</sup>"); (9) WTCD Report Number T2010-04 dated February 2, 2010 (Exh. "50-B-Belarmino"; "G<sup>3</sup>"); (10) Memorandum dated March 18, 2010 (Exhs. "51-Belarmino"; "H<sup>3</sup>"); and, WTCD Report Number T2010-07 dated March 8, 2010 (Exhs. "51-B-Belarmino"; "I<sup>3</sup>").

Witness-accused Belarmino Jr. added that he was not a member of the Inspection and Acceptance Committee (IAC) and that the WTCD was not part of the IAC.



On cross-examination, witness-accused Belarmino Jr. confirmed his approval of the WTCD Reports.

Upon queries by the Court, witness-accused Belarmino Jr. admitted that he was not a signatory to the Resolution that allowed for a negotiated procurement because he was not yet part of the DRD and confirmed that the PRBs and the OBMs were procured separately.

He, however, maintained that the three (3) subject suppliers, namely: EnviroAire, Geneve SA and Bay Industrial, were not only technically capable because they were able to previously deliver some items to the PNP but also financially capable as shown by the documents they submitted. He also claimed that the same three (3) suppliers were legally capable because they were not blacklisted by the PNP and in good standing.

Although witness-accused Belarmino Jr. was not aware of the technical specification after the items have been delivered, he insists that the PRBs and OBMs were functionally compatible even if procured separately. The post-qualification evaluation supported this. He added that the PRBs and OBMs were functional at the time the WTCD tested them and that sea trials were also conducted by the inspection team. He, however, was not part of the Inspection and Acceptance Committee (IAC).

Witness-accused Belarmino Jr. stated that the IAC will trigger the process towards payment as required by the Comptrollership and that the IAC is different from the WTCD. He explained that the WTCD first inspects the deliveries and then submits a report to the requesting party, normally the end-user. Thereafter, the IAC will conduct its own inspection and submits a report to the Comptrollership then to the PNP Chief. If the reports of the WTCD and IAC are contrary to each other, the latter report will prevail for payment.

He further clarified that the DRD is not a member of the IAC and that the WTCD conducts only a visual inspection. He also relies on the recommendation of his subordinates regarding the inspected items.

Upon the separate filing of the respective Formal Offers of Evidence from each accused and with the Consolidated Comment/Opposition of the prosecution, this Court resolved



to admit and rule in the following manner (Minutes, October 22, 2019) - -

1) For Accused Romeo C. Hilomen:

Exhibit/s 203 (Exhibit M<sup>3</sup>), 204 (Exhibit N<sup>3</sup>), 205 (Exhibit O<sup>3</sup>), 205-a (Exhibit O<sup>3</sup>-1), 206 (Exhibit K), 207 (Exhibit E<sup>6</sup>), 208 (Exhibit 58 - Ticman and Soriano), 208-a, 208-b, 209 (Exhibit 59 -Ticman and Soriano), 209 (Exhibit F<sup>6</sup>) - Ticman and Soriano), 210-a, 210-b, 211 (Exhibit F<sup>6</sup>), 211-a (Exhibit C), 212 (Exhibit Q<sup>8</sup>), 213 (Exhibit J<sup>6</sup>), 214 (Exhibit M), 215 (Exhibit K<sup>6</sup>), 216(Exhibit N), 217 (Exhibit L<sup>6</sup>), 218 (Exhibit R<sup>8</sup>), 219 (Exhibit T<sup>8</sup>), 220, 222 (Exhibit O), 223, 227 (Exhibit P), 228 (Exhibit Q), 229 (Exhibit R), 230 (Exhibit S), 231 (Exhibit T), 232 (Exhibit U), 233, 234,240 to 240-e, 241, 242, 243, 244 (Exhibit V<sup>9</sup>), 245 to 245-f(Exhibits W<sup>9</sup> to W<sup>9</sup>-6), 246, 247, 248 (Exhibit X<sup>9</sup>) 249 to 249-e (Exhibits Y<sup>9</sup> to Y<sup>9</sup>-5), 250, 251, 252, 253, 254, 255, 258, 259, 260, 262 (Exhibit M<sup>10</sup>), 271, 272 to 272-e (Exhibit L<sup>11</sup>), 273 (Exhibit O<sup>10</sup>), 274 (Exhibit P<sup>10</sup>), 275 (Exhibit Q<sup>10</sup>), 277, 278, 281 to 281-f (Exhibit O<sup>11</sup>), 282 (Exhibit N<sup>11</sup>), 288 (Exhibit P<sup>11</sup>), 289 to 289-e Exhibit Q<sup>11</sup>), 290, 291 to 291-e, 292 to 292-e (Exhibit P<sup>6</sup>), 293,294 (Exhibit E<sup>7</sup>), 295 (Exhibit V<sup>6</sup>), 296 (Exhibit W<sup>6</sup>), 297 (Exhibit X<sup>6</sup>), 298 (Exhibit Z<sup>6</sup>), 299 (Exhibit F<sup>7</sup>), 300(Exhibit G<sup>7</sup>),301 (Exhibit B<sup>7</sup>), 302 (Exhibit H<sup>7</sup>), 303 (Exhibit C<sup>7</sup>), 304 (Exhibit I<sup>7</sup>), 310 (Exhibit C<sup>3</sup>), 312, 313 (Exhibit E<sup>3</sup>), 314 (Exhibit G<sup>3</sup>) and 315 (Exhibit I<sup>3</sup>);

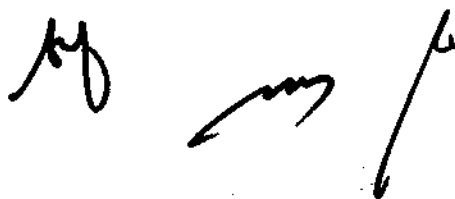
2) For Accused Benjamin A. Belarmino, Jr.:

Exhibit/s 36, 37, 39 (Exhibit I<sup>9</sup>), 42 (Exhibit J<sup>9</sup>), 43, 44 (Exhibit P), 48 (Exhibit B<sup>3</sup>), 48-A (Exhibit C<sup>3</sup>), 49 (Exhibit D<sup>3</sup>), 49-B (Exhibit E<sup>3</sup>), 50 (Exhibit F<sup>3</sup>), 50-B (Exhibit G<sup>3</sup>), 51 (Exhibit H<sup>3</sup>) and 51-B (Exhibit I<sup>3</sup>);

3) For Accused Ronald D. Roderos:

Exhibit/s 23, 21 - Roderos (38 - Belarmino) and 26 - Roderos (40 - Belarmino);

4) For Accused Luizo C. Ticman, Jefferson P. Soriano, Herold G. Ubalde and Villamor A. Bumanglag:



Exhibit/s 56 - Ticman/Soriano, 45- Bumanglag, 56-a -Ticman/Soriano, 495-a - Bumanglag, 56-b - Ticman/Soriano, 495-a-Bumanglag 56-c - Ticman/Soriano, 57 - Ticman/Soriano, 317-Ubalde, 496 - Bumanglag, 57-a - Ticman/Soriano, 317-b - Ubalde, 496-a- Bumanglag, 57-b - Ticman/Soriano, 57-c-Ticman/Soriano, 317-a - Ubalde, 496 - Bumanglag, 317-b-1 - Ubalde, 317-b-2 - Ubalde, 317-b-3 - Ubalde, 496-b - Bumanglag, 58 - Ticman/Soriano, (208 - Hilomen, 3-Verzosa), 330 - Ubalde, 428 - Bumanglag, 330-a - Ubalde (3-a - Verzosa), 58-a - Ticman/Soriano, 428-a - Bumanglag, 58-b - Ticman/Soriano (208-b - Hilomen), 428-a-1 - Bumanglag, 58-b - Ticman/Soriano, 330-b-1 - Ubalde, (208-a - Hilomen), 330-b - Ubalde, 59 - Ticman/Soriano (209 - Hilomen), 331 - Ubalde, 429 - Bumanglag, 429-a-Bumanglag, 331-a - Ubalde, 59-a -Hilomen), 331-b-Ubalde, 59-b- Ticman/Soriano, 429-a-1-Bumanglag (4 - Verzosa), 60 - Ticman/Soriano (210- Hilomen), 332-Ubalde, 430 - Bumanglag, 60-a - Ticman/Soriano, 430-a -Bumanglag, 60-b - Ticman/Soriano (210-a - Hilomen), 332-a -Ubalde, 430-b-Bumanglag, 61-Ticman/Soriano (206 - Hilomen),321 Ubalde, (K-prosecution, 2-Versoza), 62 -Ticman/Soriano, 333 - Ubalde, (216 - Hilomen, N to N-4 - prosecution, 15 - Verzosa, 24 - Roderos/Belarmino), 63 - Ticman/Soriano, 337 - Ubalde, 433 - Bumanglag, (222-Hilomen, O-prosecution, 12 Verzosa, 28 - Roderos/Belarmino), 64 -Ticman/Soriano (7 - Verzosa, 36-c - Roderos/Belarmino), 223-Hilomen), 338-Ubalde, 434 - Bumanglag, 64-a - Ticman/ Soriano, 434-a - Bumanglag, 64-b-Ticman/Soriano,434-b-Bumanglag, (36-d- Roderos/ Belarmino), 64-c - Ticman/Soriano, 64-d -Ticman/Soriano, 7-a - Verzosa, 64-e - Ticman/Soriano, 64-f - Ticman/Soriano, (7-a - Verzosa, 64-h) - Ticman/Soriano, 64-i- Ticman/Soriano, 434-b - Bumanglag (7-d - Verzosa), 75 -Ticman/Soriano, 354 - Ubalde, 488 - Bumanglag (16 - Verzosa, 291 - Hilomen), 75-a - Ticman/Soriano, 354-a - Ubalde, 488-a -Bumanglag (291-a - Hilomen), 75-b - Ticman/Soriano, 354-a - Ubalde, 488-b - Bumanglag, (291-b - Hilomen), 75-c - Ticman/Soriano, 354-c - Ubalde, 488-c -

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5) For Accused Jesus A. Verzosa:

Exhibit/s 2 - Verzosa (H<sup>3</sup> - prosecution, 61 -  
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We now rule.

As could be culled from the records, the following is the factual milieu of the instant case - -

For the year 2008, the Annual Procurement Plan (APP) of the Philippine National Police (PNP), under the Capability Enhancement Program Fund, included the procurement of seventy-five (75) police rubber boats (PRBs) and eighteen (18) spare engines or outboard motors (OBMs) for the use of the PNP Maritime Group (PNP-MG). The PNP-MG, as the end-user of the PRBs and spare OBMs, thus created a Technical Working Group (MG-TWG), to "determine the best suited watercraft for maritime law enforcement and maritime security mandates".

Subsequently, the PNP-MG issued Resolution No. 2008-01 dated May 27, 2008 (Exhs. "M<sup>3</sup> to M<sup>3-4</sup>"), recommending the standard specifications for the PRBs to be procured, as follows - -

Item	Specifications
Measurement:	
LOA	4-6 meters



BOA	2-3 meters
Capacity	12 persons
Engine	Single OBM Min 40HP/4 stroke EFI
Speed (minimum)	20-25 knots

On October 20, 2008, the MG-TWG revised its earlier recommended specification (Exh. "N<sup>3</sup>"), to wit - -

Item	Specifications
Measurement:	
Length	4.5-5.5 meters
Breadth	1.7-2.5 meters
Inside Length	3.2-5.2 meters
Inside Breadth	0.7-1.5 meters
Capacity	10 persons minimum
Engine	Single OBM Min 60 HP/4 stroke EFI
Speed (minimum)	20 knots

Both MG-TWG Resolution No. 2008-01 dated May 27, 2008 (Exhs. "M<sup>3</sup> to M<sup>3</sup>-4") and its subsequent revision dated October 20, 2008 (Exh. "N<sup>3</sup>") were signed and approved by Angelo Sunglao, the then Director of the PNP-MG.

The revised October 20, 2008 MG-TWG Resolution (Exh. "N<sup>3</sup>") was submitted to the PNP Uniform and Equipment Standardization Board (PNP-UESB), tasked to evaluate and deliberate on the standards for arms, equipment and uniform in accordance with the needs and requirements of the PNP, as basis for prescribing specifications/standards thereto, subject to the approval by the National Police Commission (Napolcom), as provided for in UESB Resolution No. 2008-34 dated November 7, 2008 (Exh. "O<sup>3</sup>").

Thereafter, the PNP-UESB, in its Resolution No. 2008-34 dated November 7, 2008, adopted *in toto* the standard specifications recommended by the MG-TWG for the PRBs. This same PNP-UESB Resolution was endorsed to the Napolcom for final approval.

Acting on the PNP-UESB Resolution, the Napolcom then issued Resolution No. 2009-223 dated April 16, 2009 (Exhs. "K" and P<sup>3</sup>"), providing for the standard specifications for the PRBs, as follows - -

Item	Specifications
<b>Measurement:</b>	
Length	4.5-5.9 meters
Breadth	1.7-2.7 meters
Inside Length	3.2-5.2 meters
Inside Breadth	0.7-1.6 meters
Capacity	12 persons maximum
Engine	Single OBM, 40 horsepower (min) 4-stroke EFI or <b>BETTER</b>
Speed (minimum)	20 knots (minimum)

Napolcom Resolution No. 2009-223 dated April 16, 2009 reduced the engine requirement "for the UESB proposal of 60hp minimum engine requirement for the outboard motor (OBM) appears too high to the common engine specifications." The minimum capacity of ten (10) persons in the UESB proposal was changed to twelve (12) persons "for the reason that reference to a minimum capacity may not limit the number passengers of the boat."

This Napolcom Resolution was signed and approved by Ronaldo V. Puno as Chairman; Eduardo U. Escueta as Vice Chairman and Executive Officer; Luis Mario M. General, Commissioner; and, Jesus A. Verzosa, *ex-officio* Commissioner; and attested to by Ademalyn A. Munieza, Chief of the Secretariat.

On September 9, 2008, the PNP Bids and Awards Committee (NHQ-BAC) conducted the opening of bids for "1 lot for 75 units of PRBs and 18 units of 40HP spare engines". The members of the NHQ-BAC are accused Jefferson P. Soriano as Chairman; accused Luizo C. Ticman as Vice-Chairman; accused Romeo O. Hilomen; accused Ronald D. Roderos; accused Herold G. Ubalde; as members, and, accused Villamor A. Bumanglag as provisional member.

Three (3) supplies participated during the September 9, 2009 public bidding, namely: 1) joint-venture of EnviroAire Inc. and Stoneworks Specialist International Corporation; 2) joint venture of ACMI Office Systems and Qinhuando Yaohuan RFP; and, 3) joint venture of FABMIK Construction and Equipment Co. and Geneve SA Phils., Inc.

Only the joint venture of EnviroAire Inc. and Stoneworks Specialist International Corporation passed the eligibility

check and its bid of P134,550,000.00 was found to be within the approved budget of the contract, hence, the said Joint Venture was set for post-qualification.

During the post-qualification process, typhoons *Ondoy* and *Pepeng* struck the country.

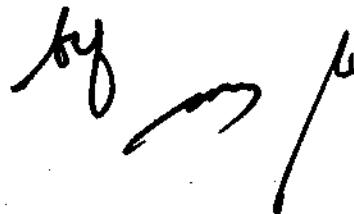
Citing the emergency situation brought by the typhoons, the NHQ-BAC, in its Resolution No. 2009-61 dated October 19, 2009 (Exh. "O"), recommended to the Chief PNP that the public bidding process for the PRBs and OBMs be discontinued and instead a resort to negotiated procurement be made, pursuant to Section 53.2 of the Revised IRR of R.A. 9184. This NHQ-BAC Resolution was signed by accused Soriano, accused Ticman, accused Roderos, accused Hilomen and accused Ubalde; and approved by accused Verzosa as the PNP Chief.

A PNP Negotiation Committee was subsequently created, composed of accused Ticman as chairman; accused Belarmino, Jr. as vice-chairman; accused Hilomen as member; and, accused Bumanglag as provisional member.

Thereafter, the PNP Negotiation Committee conducted the negotiation for the procurement of seventy-five (75) PRBs and eighteen (18) spare OBMs on October 21, 2009 and invited suppliers, namely: EnviroAire, Inc.; Geneve SA Philippines; Bay Industrial Philippines Corp.; and ACMI.

During the negotiation, the PNP Negotiation Committee required that: a) the delivery of the PRBs and spare engines for the PRBs should be made within two (2) weeks from receipt of the notice to proceed or earlier; b) the items offered must conform to the Napolcom approved technical specifications; and, c) the price must be the same with the price submitted during the public bidding held on September 9, 2009, or lower.

However, the Negotiation Committee found that none of the suppliers could deliver the entire seventy-five (75) PRBs and eighteen (18) spare OBMs within a period of two (2) weeks. The suppliers claim that their respective principals do not have sufficient stock of rubber boats consistent with the specifications of the PNP and that they could only deliver within two (2) weeks, the following - -



Supplier	Item	Quantity
EnviroAire	PRB	24
	OBM	93
Geneve	PRB	41
Bay Industrial	PRB	10

To address the aforementioned situation, the NHQ-BAC issued Resolution No. 2009-76 dated November 24, 2009 (Exh. "P"), recommending for the revision of the PNP Annual Procurement Plan for calendar year 2008, with respect to the procurement of PRBs in order to reflect a separate purchase of OBMs from the PRBs, as follows- -

Items	ABC/Unit	Total ABC
75 units PRBs	P1,199,000.00	P89,925,000.00
93 units OBMs	P500,000.00	P46,500,000.00

The same NHQ-BAC Resolution No. 2009-76 was signed by accused Soriano, accused Ticman, accused Hilomen, accused Ubalde, accused Belarmino, Jr. and accused Bumanglag; and approved by accused Verzosa as PNP Chief.

On December 18, 2009, the NHQ-BAC Negotiation Committee issued Resolution No. 2009-13 (Exh. "R"), recommending the award of contracts and purchase orders to the following suppliers- -

Supplier	Units	Amount
EnviroAire	24 PRBs without engine	P27,960,000.00
	93 60 HP OBMs	P44,175,000.00
Geneve SA	41 PRBs without engine	P47,765,000.00
Bay Industrial	10 PRBs without engine	P11,650,000.00
<b>Total</b>		<b>P 131,550,000.00</b>

The same recommendation was adopted by the NHQ-BAC in its Resolution No. 2009-93 dated December 18, 2009 (Exh. "Q") and approved by accused Verzosa as Chief, PNP.

Thereupon, the PNP, represented by accused Ticman, entered into four (4) separate Supply Contracts all dated December 18, 2009 with the following suppliers - -

- 1) EnviroAire Inc. - represented by Harold Ong for the supply of ninety-three (93) units of OBM Mercury 60 horsepower with a total contract price of P44,175,000.00 (Exh. "S<sup>6</sup>-1");
- 2) EnviroAire Inc. - represented by Harold Ong for the supply of twenty-four (24) units of PRBs without engine with a total contract price of P27,960,000.00 (Exh. "P<sup>6</sup>");
- 3) Geneve SA Philippines - represented by Senen Arabaca for the supply of forty-one (41) units of PRBs with a total contract price of P47,765,000.00 (Exhs. "V"; "Q<sup>6</sup>-2"); and,
- 4) Bay Industrial Philippines Corp. - represented by Alex Tayao for the supply of ten (10) units of PRBs with a total contract price of P11,650,000.00 (Exhs. "W"; "R<sup>6</sup>-2").

After the Supply Contracts were approved by accused Verzosa as Chief PNP (HOPE), the Notices to Proceed, signed by accused Verzosa also dated December 18, 2009 (Exhs. "U", "S" and "T") were issued to the suppliers. The deliveries of the PRBs and OBMs are as follows - -

(1) Geneve SA Philippines delivered forty-one (41) units of Zodiac FC 470 Futura Commando police rubber boats (PRBs) to the PNP on December 29, 2009 (Delivery Receipt No. 0059, Exh. "Z<sup>6</sup>"). It also partially delivered PRBs accessories on March 29, 2010 (Delivery Receipt No. 0067, Exh. "Z<sup>6</sup>-1").

The Directorate for Comptrollership (DC) conducted an inspection of the delivered items on January 19, 2010. The DC indicated in its Inspection Report dated January 19, 2010 (Exh. "HH-10") that the PRBs were found to be in "good order/condition and in accordance/conforming to the approved NAPOLCOM specifications."

On the other hand, the PNP Directorate for Research and Development (DRD) conducted an ocular inspection of the units delivered and issued Weapons Transportation and Communication Division (WTCD) Report No. T2010-02-A dated January 21, 2010 (Exh. "HH-8"), which stated that the delivered items conformed to the Napolcom-approved specifications.

The Inspection and Acceptance Committee (IAC) accepted the forty-one (41) units of PRBs delivered by Geneve



SA in its Resolution No. 2010-09 dated February 15, 2010 (Exh. "HH-11").

The payment of P47,756,000.00 to Geneve SA was covered by Disbursement Voucher No. O(M)-281209-129 dated February 16, 2010 (Exh. FF-1").

(2) EnviroAire Inc. delivered twenty-four (24) units of PRB to the PNP, covered by Delivery Receipt Nos. 09-016, 09-017 and 09-019 dated December 29, 2009 (Exhs. "W6"; "V6"; and, "X6").

The Directorate for Comptrollership (DC) inspected the units on January 27, 2010 and its Inspection Report Form (Exh. "HH-6") stated that the PRBs were found to be in good order/condition and in accordance/conforming to the approved Napolcom specifications.

The PNP DRD also conducted an ocular inspection of the twenty-four (24) units on the same day and issued WTCD Report No. T2010-04 dated February 3, 2010 (Exh. "HH-4") and approved by accused Belarmino. This same Report indicated that the delivered items conformed to the Napolcom-approved specifications for the PRBs.

The IAC accepted the twenty-four (24) units of PRBs delivered by EnviroAire as shown in its Resolution No. 2010-10 dated February 15, 2010 (Exh. "HH-7").

The payment of P27,960,000.00 to EnviroAire was covered by Disbursement Voucher No. O(M)-160210-36 dated February 16, 2010 (Exh. "EE"), approved by accused Verzosa.

(3) Bay Industrial Philippines Corp. delivered ten (10) units of Lodestar HKS-480 PRBs to the PNP covered by Delivery Receipt No. 0010 dated January 4, 2010 (Exh. "B7").

An Inspection Report issued by the PNP DC indicated that the goods were in good condition. Bay Industrial also delivered the accessories to the ten (10) PRBs covered by Delivery Receipt No. 0016 dated February 17, 2010 (Exh. "C7") and the trailers for the PRBs covered by Delivery Receipt No. 0019 dated April 14, 2010 (Exh. "C7-1").

The DRD, which conducted an ocular inspection of the units on January 22, 2010, concluded in WTCD Report No.

T2010-03 dated February 3, 2010 (Exh. "HH-12"), that the PRBs conformed to the Napolcom-approved PNP specifications.

The IAC accepted the ten (10) units of PRBs delivered by Bay Industrial in its Resolution No. 2010-11 dated February 24, 2010 (Exh. "HH-15") while the payment of P11,650,000.00 to Bay Industrial was covered by Disbursement Voucher No. O(M)-150110-031 dated April 15, 2010 (Exh. "DD-1") was approved by accused Verzosa.

(4) EnviroAire Inc. delivered to the PNP thirty-three (33) sets of Mercury OBMs on December 29, 2009 covered by Delivery Receipt Nos. EADR-09-015, EADR-09-018, and EADR-09-008 (Exh. "F7", "G7", and "E7"); fifty (50) sets on February 11, 2010 covered by Delivery Receipt No. EADR-10-003 (Exh. "H7"); and ten (10) sets on March 2, 2010 covered by Delivery Receipts No. EADR-10-004 (Exh. "I7").

The DRD conducted ocular and technical inspections of the OBMs on March 5, 2010 and subsequently issued WTCD Report Number T2010-07 dated March 8, 2010 (Exh. "J7"). The Report stated that all the OBMs conformed to the Napolcom-approved specifications, with a notation that ten (10) units with 40hp, "will be replaced with 60hp OBM upon arrival of the same from Singapore by early May 2010". The same WTCD Report was approved by accused Belarmino, Jr.

In its Resolution No. 2010-18 dated March 29, 2010 (Exh. "L7-1"), the IAC accepted the ninety-three (93) units Mercury OBMs delivered by EnviroAire.

The payment of P44,175,000.00 to EnviroAire was covered by Disbursement Voucher No. O(M)-290310-052 dated March 30, 2010 (Exh. "GG-1") and approved by accused Verzosa.

Overall, the PNP accepted the following items from the three (3) suppliers and paid each of them the following amounts- -

Supplier	Item	Quantity	Date of Delivery	Gross Amount (Php)
EnviroAire	Apex A-47 A1 Rubber Boats	24	29 Dec. 2009	P27,960,000.00

EnviroAire	Mercury 60 HP Outboard Motor	93	29 Dec. 2009; 11 Feb 2010; 2 March 2010	P44,175,000.00
Geneve	Zodiac FC 470 Rubber Boats	41	29 Dec 2009 6 April 2010 (delivery for accessories)	P47,765,000.00
Bay Industrial	Loadstar HKS 480 Rubber Boats	10	4 Jan 2010	P11,650,000.00

On the other hand, the PNP-MG, through its Technical Inspection Committee on Watercrafts (MG-TICW), conducted an inspection and sea trial on the PRBs and OBMs and discovered various deficiencies which could make their use risky to the end-users. This was shown in the Memorandum re: Result of the Technical Inspection and Sea Trial of Police Rubber Boats (PRBs) and Outboard Motors (OBMs) dated September 8, 2010 (Exh. "KK").

Specifically, the MG-TICW discovered that when the Apex A-47 A1 rubber boat supplied by EnviroAire was operated at full speed using the OBM Mercury 60hp delivered by the same supplier, the OBM pulled back the transom of the rubber boat causing irregular water fill-up at the stern.

This same defect was found with the Lodestar HKS 480 rubber boat delivered by Bay Industrial. When operated at full speed using the Mercury 60hp OBM, supplied by EnviroAire, the said OBM also pulled back the transom of the PRB causing irregular water fill-up at the stern.

With regard to the test conducted on the Zodiac FC 470 PRB, supplied by Geneve SA, and the OBM, supplied by EnviroAire, the MG-TICW reported that the weight and the battery of the OBM negated the flexibility and the very purpose of the rubber boats in a commando configuration.

Further, the prescribed weight of the OBM for the Zodiac rubber boat is equal or not more than 95 kilograms (210 pounds) while the entire weight of the Mercury 60hp outboard



motors is 112 kilograms (247 pounds) or a difference of 17 kilograms (37.5 pounds).

It was also observed that "the Mercury sixty (60) Horsepower four-strokes EFI Outboard Motor engine caused longitudinal stress and unpredictable pitching during moderate or heavy swell, depending on the number of crew or passenger at high speed (above 20 knots) to the roll-up design of Zodiac FC 470 rubber boats because the engine is over powered. The manufacturer's specification requires that the engine to be mounted to the Zodiac FC 470 must only be equal to or not more than forty (40) horsepower".

All the accused are charged for violation of Sec. 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended.

The relevant provision is cited hereunder as - -

Section 3. *Corrupt practices of public officers.*  
In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

X X X

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

The elements necessary to find an accused criminally liable for the crime charged, are as follows - - (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 benefits, advantage, or preference in the

discharge of his functions (Ambagan, Jr. vs. People, G. R. Nos. 233443-44, November 28, 2018, citing Consigna vs. People).

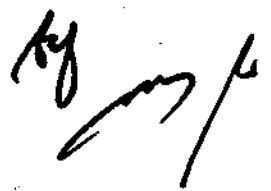
On the first element, it is undisputed that all the accused were public officers, being then officers of the Philippine National Police (PNP) at the time material to this case.

Anent the second element, the Supreme Court has enunciated in Fuentes vs. People (G. R. No. 186421, April 17, 2017 citing Coloma vs. Sandiganbayan), the definition of terms under Section (e), as follows - -

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

In other words, there is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. On the other hand, "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 or self-interest or ill will or for ulterior purposes.

Furthermore, as described in the Information, the accused are alleged to be in conspiracy with each other, for acting with evident bad faith, manifest partiality, and/or



gross negligence, by causing the separate or piecemeal procurements of police rubber boats (PRBs) and outboard motors (OBMs) and the corresponding award of contracts to different suppliers, namely: EnviroAire, Inc., Geneve SA Philippines, and Bay Industrial Corp., even if the accused knew that these same suppliers were not technically, financially and legally capable and not in good standing, by abandoning the requisite public bidding and resorting to unjustified and unlawful negotiated procurement of PRBs and OBMs.

Initially, We took note that, during the opening of the bids for the procurement of seventy-five (75) units of PRBs with OBMs, EnviroAire was not the one who passed the eligibility check.

This is shown by the following - - (1) Minutes on Opening and Evaluation of Bid dated September 9, 2009 (Exh. "N"); (2) NHQ-BAC Resolution No. 2009-61 dated October 19, 2009 - Recommending the Procurement of Police Rubber Boats Through Negotiation pursuant to Section 53.2 of the Revised IRR of RA 9184 in Lieu of Public Bidding Held on September 9, 2009) (Exh. "O"); and, (3) NHQ-BAC Resolution No. 2009-76 dated November 24, 2009 - Recommending the Further Revision of the Annual Procurement Program for CY 2008 Insofar as the Procurement of Police Rubber Boats and Spare Engines for Police Rubber Boats is Concerned (Exh. "P")

Rather, it was the joint venture of EnviroAire and Stoneworks Specialist International Inc. that passed the eligibility tests and not EnviroAire as a sole entity.

Let us now individually consider the three (3) suppliers.

A closer look at the Amended Articles of Incorporation of EnviroAire Inc. (Exh. "W<sup>9</sup>") show that its primary purpose is for the business of opening testing stations for compliance with smoke belching rules and regulations issued by the Land Transportation Office (LTO) and the Department of Transportation and Communication (DOTC). Nothing pertains to the selling of PRBs and OBMs.

Likewise, on the face of the Statement of All Government and Private Contracts Completed/Ongoing (Exhs. "104-Ticman/Soriano"; "57-Y-Roderos/Belarmino"; "258-

Hilomen"; "379-Ubalde"; "534-Bumanglag"), EnviroAire Inc. has not completed any contract for the supply and delivery of PRBs with OBMs.

Thus, EnviroAire Inc. failed to comply with one of the technical requirements under Sec. 23.5.1.3 of the 2009 Revised Implementing Rules and Regulations (IRR) of R. A. 9184, which mandates that the prospective bidder must have completed, within the period specified in the Invitation to Bid, a single contract that is similar to the bid contract, and whose value, adjusted to the prices using the National Statistics Office (NSO) consumer price indices, must be at least 50% of the Approved Budget for the Contract (ABC).

Additionally, the Mayor's Permit dated January 18, 2007 (Exhs. "247"; "247-A"; "247-B"; "247-C"; and, "247-D") to prove the purported eligibility of EnviroAire Inc. was valid only up to December 31, 2007. This clearly shows that during the public bidding and negotiations in 2009, EnviroAire Inc. had no valid mayor's permit or had not submitted a current one to the procuring entity. Thus, EnviroAire Inc., failed anew to comply with one of the legal documents required under the 2009 Revised IRR of R.A. No. 9184, particularly, Section 23.1 (a) (ii) thereof.

Further, the Tax Clearance dated June 7, 2007 of EnviroAire (Exhs. "117-Ticman/Soriano"; "57-nn-Roderos/Bumanglag" "243-Hilomen", and "519-Belarmino"), showing its financial capacity, was only valid up to December 31, 2007.

Moreover, the submitted Financial Statement of EnviroAire Inc. was "as of December 31, 2006" only, or earlier than the dates of the opening of bids in September 2009 and the negotiations in October 2009. Again, not compliant with Section 23 (1) (a) (vi) of the 2009 Revised IRR of R. A. 9184, wherein one of the required financial documents is the prospective bidder's audited financial statements, showing the prospective bidders total and current assets and liabilities x x x for the preceding calendar year, not earlier than two years before the date of the date of submission.

Despite the foregoing deficiencies, the accused, then the PNP-NHQ-BAC officials, recommended the award of the contracts to accused Verzosa, the then PNP Chief and Head of the Procuring Entity (HOPE), who approved the same and



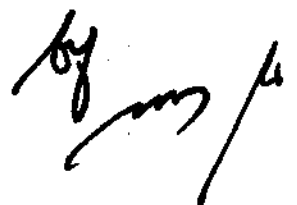
issued the corresponding Notices of Award and Notices to Proceed.

Similar to EnviroAire Inc., Bay Industrial Philippines Corp. did not pass the eligibility test during the opening of the bids for the subject procurement. There is thus no basis to consider it eligible or a supplier of good standing, to justify its inclusion and participation in the negotiated procurement for the delivery of the PRBs with OBMs.

Moreover, the Certificate of Incorporation of Bay Industrial dated April 21, 2009 (Exh. "N<sup>11</sup>"), which eventually became known as Bay Industrial Philippines, shows that it was only incorporated on April 21, 2009 with a paid-up capital of Three Hundred Twelve Thousand Five Hundred Pesos (P312,500.00). Hence, Bay Industrial was not only existing less than a year old but also had a paid-up capital of less than P500,000.00, when the accused-members of the Negotiation Committee negotiated with Bay Industrial and that the accused, who were NHQ-BAC officials, caused the eventual award of the contract amounting to P11,025,892.87. These shows that Bay Industrial lacked the legal, technical, and financial qualifications to be awarded the supply contract for the delivery of the ten (10) PRBs.

Geneve SA Philippines did not likewise pass the eligibility requirements during the opening of the bids for the subject procurement. Moreover, the Certificate of Existence dated September 3, 2009, executed by its General Manager, Senen I. Arabaca, did not show that it had completed a contract for the supply and delivery of the PRBs with OBMs prior to the public bidding in September 2009 and negotiated procurement in October 2009 (Exhs. "177-Ticman/Soriano"; "271-Hilomen"; "547-Bumanglag").

Further, the Joint Certification of Bidder's Responsibilities dated September 3, 2009 (Exh. "178-Ticman/Soriano") signed by Senen I. Arabaca of Geneve SA and Valdemor Enrique Aguilar of FABMIK Construction and Equipment Co., Inc. (FABMIK) was executed on behalf of the joint venture of FABMIK Construction and Equipment Co., Inc. and Geneve S.A. Phils., Inc.. Thus, the prescribed legal, financial, and technical qualifications of the said Joint Venture, including all the commitments and undertakings made in the Joint Certification, cannot and



should not extend to Geneve SA alone, being a separate and distinct legal personality from the said Joint Venture.

Additionally, the Implementing Rules and Regulations (IRR) of R. A. 9184, particularly Section 53 thereof, provides that even in emergency procurements, the procuring entity must ensure that it is dealing with a supplier that is technically, legally, and financially capable, thus- -

**Sec. 53. Negotiated Procurement.**  
Negotiated Procurement is a method of procurement of goods, infrastructure projects and consulting services, whereby the procuring entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant only in the following cases: x x x.

From the foregoing, it is clear that, even for emergency purchases, the BAC is still required to evaluate the eligibility of the participating supplier.

Furthermore, Sec. 23.6 of the IRR-A of R. A. 9184 also require, among others, that the supplier must have a valid business name or mayor's permit, a valid Bureau of Internal Revenue (BIR) taxpayer's identification number, and a Department of Trade and Industry (DTI) business name registration or a Securities and Exchange Commission (SEC) registration certificate.

We must remember that Republic Act No. 9184, otherwise known as the Government Procurement Act, provides, as a general rule, that all procurements must undergo competitive bidding.

Specifically, Section 10, Article IV of the said Act provides- -

**Section 10. Competitive Bidding.** All Procurement shall be done through Competitive Bidding, except as provided for in Article XVI of this Act.

In the instant case, the initial mode of procurement used was public bidding which already reached the post-



qualification stage. During the opening of bids on September 9, 2009, the joint venture of EnviroAire Inc. and Stoneworks Specialist was the only bidder that passed the eligibility test and whose offer was within the Approve Budget for the Contract (ABC), thus, making it eligible for post-qualification.

However, on October 19, 2009, the accused, PNP-NHQ-BAC members, recommended instead that the public bidding be discontinued and negotiated procurement be adopted. This recommendation was approved by accused Verzosa, the then HOPE and Chief, PNP.

The alleged justification for the negotiated procurement was due to an emergency situation brought about by typhoons *Ondoy* and *Pepeng*, pursuant to Section 53 (b) of R. A. No. 9184, which reads - -

Section 53. *Negotiated Procurement.* -  
Negotiated Procurement shall be allowed only in the following instances:

X X X

b. In case of imminent danger to life or property during a state of calamity or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities.

X X X

Herein, accused Bumanglag alleged that the PNP Maritime Group (PNP-MG) was then at the forefront of the rescue operations. However, when cross-examined, he admitted that the PNP-MG was not the lead agency and that other groups were involved in the search and rescue operations, such as the National Disaster Coordinating Council (NDCC). Hence, the claim of urgency of the PNP's procurement of PRBs, supposedly to prevent damage or loss of life or property, was unlikely. The situation then was not as if the search and rescue operations for the victims and would-be victims of typhoons would be impossible without the intended PRBs with OBMs. In fact, it was neither claimed nor shown by the accused that the victims and would-be victims of typhoons could only be saved through the PRBs.

It must be underscored that, at the time the negotiated procurement was resorted to by the accused, the public bidding was already in its post-qualification stage.

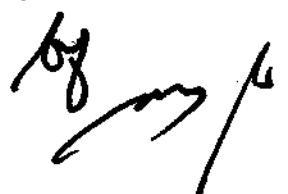
Noted further and based on the Period of Action on Procurement Activities (Annex "C", 2009 Revised IRR of R. A. 9184), the "Earliest Possible Time" for the conduct of post-qualification for "Goods" is one (1) calendar day while the period for the approval of the resolution and the issuance of notice of award is two (2) days. Likewise, the contract preparation and signing is one (1) day each or two (2) days for the said activities while the period of approval of the contract is one (1) day. The issuance of the notice to proceed is one (1) calendar day.

With the foregoing time requirements, the shift to negotiated procurement at the post-qualification stage, purportedly to expedite the procurement and delivery of the PRBs, was unjustified.

The rest of the accused merely relied on the recommendation of MG Director Bumanglag, who in turn merely depended on the information given by a BAC Secretariat Member, Atty. Roman Loreto - who supposedly opined that, should the public bidding be continued the post-qualification up to the delivery of the PRBs would take a total period of 150 days. Notably, accused Bumanglag took the information provided by Atty. Loreto at face value and did not ask the latter whether or not a concerned officer/s could perform a certain procurement activity in a lesser number of days or shorter period of time than that provided for by the 2009 Revised IRR of R. A. 9184.

As pointed out by the prosecution, due to the lack of prior and proper study, the procurement process had become instead lengthy and circuitous, so much so that at the time the Notices to Proceed were issued, it was already December 18, 2009, or more than 90 days (three months) from the opening of the bids on September 9, 2009, thereby defeating the very purpose of shifting to negotiated procurement - that is to expedite the procurement and delivery.

Furthermore, contrary to the insistence of the accused, the PRBs and the OBMs are to be procured as a single lot or unit. The approved standard specifications set in Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exh. "P3") are





for "new Police Rubber Boat" - meaning a rubber boat with an engine or outboard motor.

Commissioner Eduardo Escueta, who was one of the signatories in the said Napolcom Resolution testified, thus -

DPS Soriano:

Q: Mr. Witness, I am calling your attention to this dispositive portion of the Resolution, which read '*NOW THEREFORE, the Commission in the exercise of its statutory powers to administer and control the PNP has RESOLVED to APPROVE as it hereby APPROVES the Standard Specifications for new Police Rubber Boat to read as follows.*' Now my question is, when you signed this Resolution, sir, what was your understanding of these words 'Police Rubber Boat'?

A: The Police Rubber Boat mentioned in our Resolution is - actually the police rubber boat that the UESB contained the specifications of which they seek our approval. This police rubber boat is understood to be a single unit that should be procured as one. As a police rubber boat with complete accessories, attachment and other necessary items that were enumerated in the specifications.

It would be recalled that, prior to resorting to negotiated procurement, a public bidding was conducted where an advertisement or an Invitation to apply for Eligibility to Bid was published on May 12, 2009 (Exh. "L"). This advertisement made no reference to the OBMs, but merely mentioned 75 units of Police Rubber Boats. Moreover, during the opening and evaluation of the bids on September 9, 2009 (Exh. "N"), there was neither any reference to separate bids for the PRBs and OBMs. Hence, the PRBs and OBMs were treated, even at the onset, as one complete unit.

This procurement of the PRBs and OBMs as one integrated unit became even clearer when the accused BAC officials decided otherwise, by recommending to the HOPE, accused Verzosa, for a separate procurement and funding. Thus, when the Invitations to Apply for Eligibility and to Bid was published, the Approved Budget for the Contract (ABC)

was for seventy-five (75) units PRBs and eighteen (18) units 40hp spare engines.

Even accused Hilomen admitted in his Formal Offer of Documentary Exhibits that the original intention was to procure PRBs with OBMs.

This can be gleaned from the purposes stated by him in a Memorandum from the Director of the Maritime Group with the subject "Revised Approved Budget for the Contract (ABC) of Police Rubber Boats (PRB) dated June 5, 2009 (Exh. "208"); the Invitation to Apply for Eligibility and to Bid of 75 units PRBs and 20 units fast boat (Type II) to be held on June 2, 2009 (Exh. "211"); the Conference Notice for Opening of Bid Opening dated August 10, 2009 (Exh. "213"); the Programme of Bid Opening Conference dated August 27, 2009 (Exh. "214"); the Conference Notice for Bid Opening, August 28, 2009 (Exh. "215"); the Minutes on Opening and Evaluation of Bid dated September 9, 2009 (Exh. 216"); the Programme of Bid Opening Conference dated September 9, 2009 (Exh. "217"); the Invitation to Apply for Eligibility and to Bid of 75 units of Police Rubber Boats and 18 units of 40 HP Spare Engines (Exh. "218"); and, the Abstract of Bids for the Supply and Delivery of 1 Lot (75 units of Police Rubber Boats and 18 units of 40 HP Spare Engines) (Exh. "219").

It is clear that the separate procurement of the PRBs and OBMs from different suppliers was prompted by the fact that none of the suppliers with whom the accused negotiated with could deliver the needed PRBs with OBMs within two (2) weeks from the issuance of the Notices to Proceed. This is evidenced by NHQ-BAC Resolution 2009-76 dated November 24, 2009 with the subject "Recommending the Further Revision of the Annual Procurement Program for CY 2008 insofar as the Procurement of Police Rubber Boats and Spare Engines for Police Rubber Boats is Concerned" (Exh. "P").

Although the accused claim that the shift to negotiated procurement was not only due to an emergency but also because the joint venture of EnviroAire and Stoneworks Specialist, which allegedly passed the eligibility test, could not deliver the 75 PRBs with engines and 18 spare engines within two (2) weeks from receipt of the Notice to Proceed, the same NHQ-BAC Resolution No. 2009-76 reveals that, at the time of the negotiation, the accused already knew that not even one of the chosen suppliers, EnviroAire, Bay and Geneve, was

capable of making the complete delivery within the targeted period.

Clearly, the inability of the suppliers to comply with the delivery period defeated the BAC's alleged purpose/s for resorting to negotiated procurement - urgently needed and indispensable in the ongoing rescue, relief, and rehabilitation.

Moreover, the separate procurement led to the functional incompatibility of the PRBs and OBMs, as there was no prior determination whether the PRBs and the OBMs to be delivered by different and ineligible suppliers were compatible.

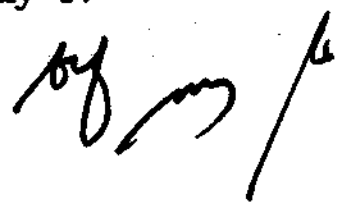
Thus, NHQ-BAC Resolution No. 2009-76, among others, clearly reflected the accused' partiality and preference in favor of the three (3) ineligible suppliers.

Notably, one of the supplier who attended the negotiation on October 21, 2009 was one Ryan Uy of ACMI/Qinhuangdao, as indicated in the Attendance Sheet (Exh. "N<sup>6</sup>") of the Negotiation Conference of even date. However, the Resolutions of the accused concerning the negotiation (Exhs. "Q" and "R") did not mention the presence of Ryan Uy or of ACMI/Qinhuangdao. Only mentioned were the three (3) suppliers, EnviroAire, Geneve, and Bay Industrial, and their representatives as proponents.

In fact, the accused presented a materially different version of the Minutes of Negotiation dated October 21, 2009 (Exhs. "7"-Verzosa", "36-c"-Roderos/Belarmino, "64"-Ticman/Soriano", and "223"-Hilomen) from the one presented by the prosecution (Exh. "L<sup>3</sup>"). Unlike the copy of the prosecution, the copy of the defense did not mention Ryan Uy of ACMI/Qinhuangdao, as one of the suppliers who attended.

Furthermore, the copy of the defense curiously omitted to state the proposal of Ryan Uy, to wit - -

The last proponent was from ACMI represented by Ryan Uy. TDL informed Mr. Uy on the items subject for procurement as well as its immediate delivery for a maximum period of two (2) weeks from date of negotiation in order to response (*sic*) the present disaster. The proponent manifested that their company can offer only 17



units of PRB within the required period of delivery with unit price of P1,665,000.00. D, MG also informed the proponent that the price includes Integrated Logistics System (ILS) and the required working floatation vest within the specifications approved by the NAPOLCOM to which the proponent acceded.

The Attendance Sheet (Exh. "N<sup>6</sup>") for the October 21, 2009 negotiation submitted by the prosecution, which was not disputed by the accused, undoubtedly show that Ryan Uy was present during the negotiation. In fact, his name, signature, organization (ACMI/Qinhuangdao), address (San Juan), and telephone number appeared on the first line of page 3 thereof.

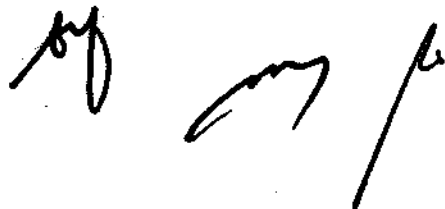
This non-reference only shows an evident preference of the accused to award the contracts to the three (3) ineligible suppliers.

Hence, there exists manifest partiality on the part of the of the accused.

On the last element, We find that the accused had caused undue injury to the government.

Evidence shows that the PNP disbursed the total amount of One Hundred Thirty One Million Five Hundred Fifty Thousand Pesos (P131,550,000.00) in favor of the three (3) ineligible suppliers. It was also established that the procured items delivered by the three (3) suppliers failed to comply with the standard specifications under Napolcom Resolution No. 2009-223 dated April 16, 2009 (Exhs. "K", P<sup>3</sup>"). Furthermore, the PRBs and the OBMs were likewise not functionally compatible with each other.

Our Supreme Court has consistently guided us that there are two (2) modes by which a public official violates Section 3 (e) of R. A. No. 3019 in the performance of his functions, namely: (1) causing undue injury to any party, including the Government; or (2) by giving any private party any unwarranted benefit, advantage or preference. (*Tiongco vs. People of the Philippines*, November 14, 2018, G.R. Nos. 218709-10 citing *Rivera vs. People*).



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An accused may be charged with either mode or both. The disjunctive term "or" connotes that either act qualifies as a violation of Section 3 (e) of R. A. No. 3019. In other words, the presence of one would suffice for conviction (Braza vs. Sandiganbayan, G. R. No. 195032, February 20, 2013).

Further, the term "undue injury" in the context of Section 3 (e) of the R. A. No. 3019, punishing the act of "causing undue injury to any party," has a meaning akin to the civil law concept of "actual damage" (Coloma vs. Sandiganbayan, G. R. No. 205561, September 24, 2014).

On the other hand, the word "unwarranted" means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. "Advantage" means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. "Preference" signifies priority or higher evaluation or desirability; choice or estimation above another. (Ampil vs. The Hon. Office of the Ombudsman, G. R. No. 192685, July 31, 2013).


With the foregoing parameters, it is clear that the accused gave the three (3) suppliers unwarranted benefits, advantage and/or preference when they (accused) awarded the Supply Contracts to them (suppliers) in the total and collective amount of P131,550,000.00 despite their failure to comply with the legal, financial and technical requirements.

This finding alone is enough to satisfy the third element for a violation of Section 3 (e) of R. A. 3019, with or without undue injury caused to the government.

However, the accused also caused undue injury to the government in the total amount of P131,550,000.00 when the PNP disbursed the same amount in favor of the three (3) ineligible suppliers.

Additionally, it was further established that the items delivered by the three (3) ineligible suppliers failed to comply with the specifications indicated in Napolcom Resolution No. 2009-223. Worst, the PRBs and the OBMs were not functionally compatible with each other.

To recall, after the PNP Maritime Group Technical Inspection Committee on Watercrafts (PNP-MG-TICW)



conducted a technical inspection on the Zodiac FC 470 Futura Commando rubber boats received by the Maritime Group, it found that - - *As regards x x x engine, NAPOLCOM Standard Specification requires a single OBM, forty (40) Horsepower (minimum) four stroke EFI or better. However, what was delivered was a Mercury 60hp four-stroke EFI, although the manufacturer's specification for the said rubber boats indicates that the engines should be mounted on the transom of the rubber boats must be equal to or not more than forty (40) horsepower.*

Consequently, when sea trials were conducted on the Zodiac FC 470 rubber boats with a mounted Mercury 60hp outboard motor, the MG-TICW further noted that - - *the Mercury sixty (60) horsepower four-stroke EFI outboard motor engine caused longitudinal stress and unpredictable pitching during moderate or heavy swell, depending on the number of crew or passenger at high speed (above 20 knots) to the roll-up design of the Zodiac FC 470 rubber boats because the engine is overpowered. The manufacturer's specification requires that the engine to be mounted to the Zodiac FC 470 shall only be equal to or not more than forty (40) horsepower.*

Relative to the Apex A-47 A1 rubber boats with Mercury 60hp OBMs, the MG-TICW observed, among others, that - - *(1) During the sea trial, the Mercury sixty (60) horsepower four-strokes EFI outboard motor, at full speed, pulled back the transom of the rubber boat causing irregular water fill-up at the stern;* and *(2) "the Mercury sixty (60) horsepower four-strokes EFI outboard motor caused longitudinal stress and unpredictable pitching during moderate or heavy swell, depending on the number of crew or passenger at high speed (above 20 knots) to the roll-up design of Apex A-47 A1 rubber boats.*

On the other hand, the MG-TICW also declared the following, among others, that the Lodestar HKS 480 rubber boats - - *(1) the clamp type screw should have been more appropriate in installing the OBM but in order to compensate with the weight of the OBM, bolts and nuts were instead utilized. Hence, the transom of the rubber boats was drilled with four (4) holes which are easily exposed to sea water and other chemical contaminations and may weaken the whole transom; and, (2) during the sea trial, the Mercury sixty (60) horsepower four-stroke EFI OBM, at full speed, pulled back the*

*transom of the rubber boat causing irregular water fill-up at the stern.*

The incompatibilities of both the Zodiac FC470 Futura Commando and the Lodestar HKS 480 with a Mercury 60hp OBM was confirmed, in his testimony, by accused Bumanglag and adopted by co-accused Verzosa, hence, undisputed.

On the incompatibility of the Apex A-47 A1 rubber boat with a Mercury 60hp, although accused Bumanglag disagrees with the findings of the MG-TICW, his testimony cannot, however, prevail over the official findings of the MG-TICW, which enjoys the presumption of regularity. Besides, accused Bumanglag did not actually conduct the sea trial on Apex A-47 A1 rubber boat with a Mercury 60hp.

Clearly, the procured PRBs and OBMs were not compatible with each other and their stability and control were doubtful when operated, resulting in non-compliance with the speed requirement. Consequently, the procured equipment were not used by the end-users for their intended purposes.

Additionally, the accused insist that the PNP Inspection and Acceptance Committee (IAC) caused the undue injury to the government by failing to ensure that the delivered PRBs and OBMs complied with the Napolcom specifications and functional compatibility before accepting them for payment.

Unfortunately, this posture must fail, in light of the following established facts - -

(1) The NHQ-BAC officials - accused Soriano, Ticman, Hilomen, Belarmino, Ubalde and Bumanglag - recommended that the OBMs be procured separately from the PRBs. They also recommended the award of the Supply Contracts to EnviroAire, Geneve, and Bay Industrial without ascertaining that the PRBs to be delivered were compliant with the Napolcom specifications and functionally compatible with the 60hp OBMs;

(2) When accused Belarmino, the then NHQ-BAC member, became the Director of the Directorate for Research and Development, he approved the WTCD Reports despite the fact that

the inspected PRBs merely had a capacity of ten (10) persons per boat, in violation of the Napolcom specifications requiring a maximum capacity of twelve (12) persons, and that the method of inspection was merely visual, instead of a sea trial or functional test. These same WTCD Reports were the bases of the Inspection and Acceptance Committee to accept the delivered PRBs and OBMs. Accused Belarmino also issued memoranda stating that the delivered PRBs and OBMs conformed to the Napolcom-approved specifications for rubber boats; and,

(3) Accused Bumanglag, as the then Director of the PNP Maritime Group, failed to fulfill his responsibility under Article IV (1) of the Supply Contract, to wit - The Maritime Group, in coordination with the Inspection and Acceptance Committee (IAC), chaired by the Director, Logistics Support Service (LSS) and the NHQ-BAC-TWG for Transportation, shall accept the delivery made by the company by virtue of and pursuant to this contract by seeing to it that the quantity of the PRBs were in accordance with the number written in the PO and that the said PRBs conform to the approved technical specifications.

Accused Verzosa, for his part, approved not only the recommendations of the accused BAC officials but also the payment, despite the fact that no sea trial was conducted on the delivered PRBs and OBMs, and the passenger capacity of the PRBs delivered by Geneve SA and Bay Industrial was only ten (10), in violation of the Napolcom specifications requiring a maximum capacity of twelve (12) passengers.

Although the accused insist that the inspections conducted on the PRBs and OBMs by the Office of accused Belarmino as Directorate for Research and Development (DRD) were preliminary and that the Inspection and Acceptance Committee (IAC) should have also conducted a separate inspection and evaluation, this, however, cannot exonerate the accused.

The accused were the ones who awarded the Supply Contracts to ineligible suppliers, particularly, the Supply Contract awarded to Geneve SA to supply and deliver Zodiac



FC 470 rubber boats which were incompatible with the 60hp OBMs.

We are not likewise convinced on the posture of accused Bumanglag when he claims that the accused did not inquire from the suppliers about the brand of the PRBs and OBMs because this was a violation of the Procurement Law.

The 2009 Revised IRR of R. A. No. 9184 on the prohibition to use brand names in the procurement of goods, particularly Section 18 thereto, reads - -

Section 18. Reference to Brand Names - Specifications for the procurement of goods shall be based on relevant characteristics and/or performance requirements. Reference to brand names shall not be allowed."

From aforesaid provision of law, it can be discerned that the procuring entity cannot prescribe a specific brand of PRBs and OBMs to be procured. However, the same Rule does not prohibit the accused from inquiring from the suppliers the specific brand and model of PRBs and OBMs that they intend to supply, so that the accused could determine whether the PRBs to be delivered would be compatible with the OBMs. This information from the suppliers is important specially when the PRBs are to be separately procured, albeit wrong, from the OMBs, as in the instant case.

This Court cannot likewise be persuaded with the position of accused Bumanglag that the accused did not know that Geneve SA would deliver Zodiac FC470 Futura Commando.

The Manufacturer's Authorization of Jean-Charles Farines, Directeur Export, Central/Eastern Europe and Asia of Zodiac International Inc. dated May 18, 2009 (Exh. "168-Ticman/Soriano"), addressed to accused Soriano, as NHQ-BAC Chairman, not only indicated its (Zodiac International) willingness to supply 75 units of Zodiac Futura FC470 to the PNP but also authorized Geneve SA to bid and negotiate in its behalf.

It is clear that accused Soriano and the other accused were informed at the onset and were aware that the authority of Geneve SA from Zodiac International Inc. was to supply and

deliver Zodiac FC470 Futura Commando PRBs with a 40hp Yamaha 4 stroke, EFI outboard motor. Geneve SA could not be expected to deliver a different kind or model of rubber boat from what Zodiac International Inc., its principal, authorized the former to bid and negotiate.

Other than the said Manufacturer's Authorization, accused Ticman, Soriano and the rest of the accused did not present evidence that Zodiac International Inc. modified or amended the same Manufacturer's Authorization to allow Geneve SA to supply PRBs other than the Zodiac FC470 Futura Commando PRBs with a 40hp Yamaha 4stroke, EFI OBM.

Under these circumstances, the accused should not have caused the award of the Supply Contract for the delivery of forty-one (41) PRBs to Geneve SA.

Significantly, among the pieces of evidence adduced by the accused were a Memorandum dated December 27, 2006 (Exhs. "56-Ticman/Soriano; "495-Bumanglag") of P/C Supt. Angelo Hipolito Sunglao, Director, Maritime Group, to the Chief, PNP and a Memorandum dated October 10, 2008 (Exhs. "57-Ticman/Soriano"; "317-Ubalde", "496-Bumanglag") of PSSupt. Freddie Panen, Deputy Director for Administration, Maritime Group, for the Director for Logistics.

These two (2) Memoranda were particularly offered by accused Ticman, Soriano, Ubalde and Bumanglag to prove *inter alia* that as early as 2006 and 2008, the past leadership of the Maritime Group already contemplated and recommended the procurement of 60hp OBMs to power the PRBs. These same accused asserted that these exhibits, among others, guided accused Bumanglag to recommend the use of a 60hp OBM.

Notably, the PRBs contemplated in the aforementioned Memoranda were the Zodiac FC 470 Futura Commando with a recommended power of 40hp, although it was indicated that the maximum power allowed was 60hp.

This simply means that accused Bumanglag and his co-accused had already set their sights on the procurement of the Zodiac FC 470 Futura Commando with a 60hp outboard motor.



Unfortunately, the Zodiac FC 470 Futura Commando is functionally incompatible with a 60hp OBM, as established by the evidence of the prosecution, admitted by accused Bumanglag in his testimony and adopted by the rest of the accused.

This, notwithstanding, the accused NHQ-BAC officials recommended the award of the Supply Contract to co-accused Verzosa, who approved the same. Hence, all the accused are responsible for the functional incompatibility of the PRBs and OBMs delivered by their chosen suppliers.

We also noted in the testimony of accused Bumanglag that, during the negotiation, Geneve SA was not told not to deliver the Zodiac FC 470 but was, instead, required to deliver a 12-passenger rubber boat. He, thus, indirectly indicated that Geneve SA was already made aware that the Zodiac FC 470 should not be delivered because it only had a maximum capacity of 10 passengers. Nevertheless, Geneve SA cannot be expected to deliver a kind or model different from the authorization granted to it by the manufacturer.

On the other hand, accused Verzosa cannot escape liability for the functional incompatibility of the PRBs and OBMs. He was a member of the Napolcom that adopted the standard specifications for the PRBs and OBMs and approved the recommendation to discontinue the public bidding, which was already at the post-qualification stage.

Likewise, accused Verzosa not only approved the separate procurement and the award of the Supply Contracts to the three (3) ineligible suppliers but also the payment to them despite the absence of sea trials conducted on the delivered PRBs and OBMs and the ten-passenger capacity of the PRBs delivered by Geneve SA, in violation of the Napolcom specifications.

Although accused Verzosa sought shelter from the Arias doctrine, this is not an absolute rule. Our Supreme Court in Cruz vs. Sandiganbayan (G.R. No. 134493, August 16, 2005) carved out an exception, stating that - -

Unlike in Arias, however, there exists in the present case an exceptional circumstance which should have prodded petitioner, if he were out to protect the interest of the municipality he swore to



serve, to be curious and go beyond what his subordinates prepared or recommended. In fine, the added reason contemplated in Arias which would have put petitioner on his guard and examine the check/s and vouchers with some degree of circumspection before signing the same was obtaining in this case.

As jurisprudence teaches, the process of approval is not a ministerial duty of the approving authorities to merely sign every document that comes across their desks, and then point to their subordinates as the parties responsible if something goes awry. To rule otherwise would be to render meaningless the accountability of high-ranking public officials and to reduce their approving authority to nothing more than a mere rubber stamp.

In the instant case, accused Verzosa should have noticed the financial weakness of the suppliers and functional incompatibility of the PRBs and OBMs. Instead, he kept silent. His actions show his manifest partiality toward the ineligible suppliers. Although accused Verzosa insists that the incompatibility of the PRBs and the OBMs was caused by the specifications themselves as regards passenger capacity, speed, and the OBMs' horsepower, this posture cannot be sustained. Accused Verzosa was a member of the Napolcom that issued the Napolcom Resolution he now assails.

It must also be noted that accused Bumanglag categorically testified that there were PRBs which would be functionally compatible with 60hp OBMs and compliant with the Napolcom specifications. These are the Zodiac FC 530 and the Modestar HKS 520, both with a 12-passenger capacity and compatible with the 60hp OBM. This testimony of accused Bumanglag was adopted by all his co-accused, including accused Verzosa.

Another defense raised by the accused is that the Supply Contracts had a warranty provision and that, when the incompatibility of the PRBs and OBMs was discovered, the warranty had not yet expired, hence, the PNP officers who succeeded the accused should have invoked the warranty and demanded the replacement of the non-compliant PRBs.

The first contention is misplaced.



The violation of Section 3 (e) of R. A. No. 3019 was consummated from the moment the accused, in conspiracy with one another, awarded the contract to ineligible suppliers, who were neither of good standing nor could deliver the PRBs compliant with Napolcom specifications. Moreover, assuming arguendo, that the resulting damage to the government could have been cured by claiming the warranty - which is purely speculative - the fact is, the giving of unwarranted benefits to a private party, which is clear in this case, satisfies the fourth element even in the absence of undue injury to the government.

On the issue of conspiracy, the totality of the foregoing facts arising from the evidence undoubtedly show the presence of a conspiracy.

Conspiracy does not require participation in every detail of the execution. In *People vs. Paguntalan, et al.* (G. R. No. 116272; March 27, 1995 citing *People vs. Carbonel*, 48 Phil. 868) and *People vs. Calucer* (G. R. No. L-6460, May 7, 1954), the Supreme Court pronounced that, in conspiracy, no formal agreement between or among the parties to do the act charged is necessary, thus - -

The time-honored jurisprudence is that direct proof is not essential to prove conspiracy. It may be shown by a number of indefinite acts, conditions and circumstances which vary according to the purposes to be accomplished and from which may actually be inferred that there was a common design, understanding or agreement among the conspirators to commit the offense charged. Direct proof is not essential to show conspiracy. It need not be shown that the parties actually came together and agreed in express terms to enter and pursue a common design. The existence of the meeting of minds may be and from the secrecy of the crime, usually must be inferred from proof of the circumstances which, taken together, apparently indicate they are merely parts of some complete whole. If it is proved that two or more persons acted by their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact, connected and cooperative, indicating a consciousness of personal association and a

concurrency of sentiment, a conspiracy may be inferred though no actual meeting among them to concert is proved.

Here, all the accused committed acts with evident bad faith, manifest partiality, or, at the very least, gross inexcusable negligence, which gave unwarranted benefit, advantage and preference to EnviroAire Inc., Geneve SA Corp., and Bay Industrial Phil. and caused undue injury to the government.

In contrast, however, the prosecution failed to show that accused Roderos had any participation in the procurement of the PRBs and OBMs. Although accused Roderos was a signatory to NHQ-BAC Resolution No. 2009-61 dated October 19, 2009 (Exh. "O"), that recommended to discontinue the public bidding process and instead proceed to negotiated procurement, no other act or omission can be attributed to him which can be connected to the acts or omissions of the other accused.

Accused Roderos was relieved as Director for Directorate for Research and Development (DRD) on October 15, 2009 and assumed the position of Director, Police Community Relations on October 16, 2009 (Exh. "23"). Thus, he thereafter ceased to be a member of the NHQ-BAC. Unlike his co-accused, he was not part of the Negotiation Committee that conducted the negotiation on October 21, 2009 with the suppliers of the PRBs and OBMs. He was also neither a signatory to NHQ BAC Resolution No. 2009-76 dated November 24, 2009 (Exh. "P"), which recommended to revise the Annual Procurement Plan for calendar year 2008 to include the separate procurement of the outboard motors for the rubber boats nor to NHQ BAC Negotiation Committee Resolution No. 2009-13 (Exh. "R") and NHQ BAC Resolution No. 2009-93 (Exh. "Q"), both dated December 18, 2009, which recommended the award of contracts and purchase orders for the delivery of PRBs and OBMs to the three (3) suppliers.

On the other hand, accused Ubalde died on April 17, 2020 and during the pendency of this case, hence, this case is hereby dismissed as to him (Minutes, September 25, 2020). *Mors solvi* (death dissolves all things)(People vs. Solari, No. L-26282, August 27, 1976, 72 SCRA 439).

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**WHEREFORE**, premises considered, this Court finds accused Jesus A. Verzosa, Benjamin A. Belarmino, Jr., Jefferson P. Soriano, Luizo C. Ticman, Romeo C. Hilomen, and Villamor Bumanglag **GUILTY** beyond reasonable doubt of the crime of violation of Sec. 3 (e) of R. A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, and are hereby ordered to each suffer the penalty of imprisonment of Six (6) years and One (1) Month as minimum to Eight (8) Years as maximum and perpetual disqualification from holding public office.

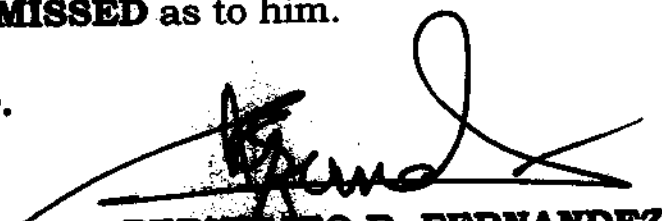
On the other hand, this Court hereby **ACQUITS** accused Ronald D. Roderos of the crime of violation of Sec. 3 (e) of R. A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, for failure of the prosecution to prove his guilt beyond a reasonable doubt.

Consequently, the Hold Departure Order issued against accused Roderos is hereby ordered **RECALLED** and **SET ASIDE**. The cash bond secured by him for his provisional liberty is hereby ordered **RELEASED** subject to the usual accounting and auditing procedures.


Send copy of this Decision to the Bureau of Immigration for its appropriate action.

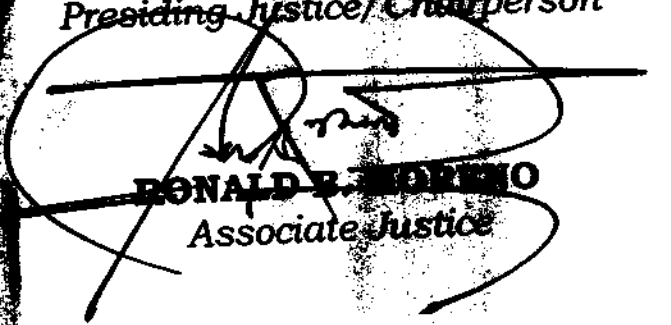
With the death of accused Herold G. Ubalde, let the case be **DISMISSED** as to him.

**SO ORDERED.**

  
**BERNELITO R. FERNANDEZ**  
 Associate Justice

We

  
**AMPARO M. CARPIO J. TANG**  
 Presiding Justice/Chairperson

  
**DONALD B. MORENO**  
 Associate Justice

**ATTESTATION**

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

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

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, 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.

  
**AMPARO M. CABOTAJE-TANG**  
*Presiding Justice*

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