



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-17-CRIM-0473-0474**
Plaintiff, For: Violation of Section 3(b) of
R.A. No. 3019 and Section 7 (d)
of R.A. No. 6713


-versus-

ROSARIO C. URIARTE
Former General Manager and
Vice Chairman

JOSE R. TARUC V
FATIMA A.S. VALDES
Former Members, Board of
Directors
Philippine Charity Sweepstakes
Office (PCSO)

Present:
FERNANDEZ, SJ, J.
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

February 20, 2020 

Accused.

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DECISION

VIVERO, J.

For decision is the charge for violation of **Section 3(b) of Republic Act No. 3019¹** or Anti-Graft and Corrupt Practices Act, as 

¹ **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:

xxx

(b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law.

xxx

The person giving the gift, present, share, percentage or benefit referred to in subparagraphs (b) and (c); or offering or giving to the public officer the employment mentioned in subparagraph (d); or urging the divulging or untimely release of the confidential information referred to in subparagraph (k) of this section shall, together with the offending public officer, be punished under Section nine of this Act and shall be permanently or temporarily disqualified in the discretion of the Court, from transacting business in any form with the Government.

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amended, and **Section 7(d) of Republic Act No. 6713²** or Code of Conduct and Ethical Standards for Public Officials and Employees against Rosario C. Uriarte, then General Manager and Vice Chairman of Philippine Charity Sweepstakes Office (PCSO), and Jose R. Taruc V, and Fatima A.S. Valdes, then Members of the Board of Directors of PCSO for allegedly receiving and/or accepting a gift, while in the performance of their official function as public officers and in consideration of their intervention as officers of PCSO in the approval of a Joint Venture Agreement (“JVA”) between PCSO and TMA Group of Companies (“TMA”), in the form of an all-expense paid trip to Australia from TMA.

The accusatory portion of the Information dated 12 December 2016³ in SB-17CRM-0473 for violation of Section 3(b) of R.A. No. 3019 filed with this Court on 03 March 2017 reads:

“That in February 2010, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused ROSARIO C. URIARTE, a public officer, being then the General Manager of the Philippine Charity Sweepstakes Office (PCSO), and JOSE R. TARUC V and FATIMA A.S. VALDEZ being then members of the Board of Directors (BOD) of PCSO, in the performance of their official function as such public officers and in consideration of their intervention as officers of PCSO in the approval of a Joint Venture Agreement (JVA) between PCSO and TMA

² **Section 7. Prohibited Acts and Transactions.** - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

xxx

(d) Solicitation or acceptance of gifts. - Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

As to gifts or grants from foreign governments, the Congress consents to:

- (i) The acceptance and retention by a public official or employee of a gift of nominal value tendered and received as a souvenir or mark of courtesy;
- (ii) The acceptance by a public official or employee of a gift in the nature of a scholarship or fellowship grant or medical treatment; or
- (iii) The acceptance by a public official or employee of travel grants or expenses for travel taking place entirely outside the Philippine (such as allowances, transportation, food, and lodging) of more than nominal value if such acceptance is appropriate or consistent with the interests of the Philippines, and permitted by the head of office, branch or agency to which he belongs.

³ *Rollo*, Volume 1, pp. 1-2.

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Group of Companies (TMA) for the establishment of a thermal coating and printing plant in the Philippines, received a gift in the form of an all-expense paid trip to Australia from TMA.

CONTRARY TO LAW.”

Moreover, the accusatory portion of the Information dated 12 December 2016 in SB-17-CRM-0474 for violation of Section 7(d) of R.A. No. 6713 filed with this Court on 3 March 2017 reads:

“That in February 2010, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused ROSARIO C. URIARTE, a public officer, being then the General Manager of the Philippine Charity Sweepstakes Office (PCSO), and JOSE R. TARUC V and FATIMA A.S. VALDEZ being then members of the Board of Directors (BOD) of PCSO, in the performance of their official function as such public officers and in consideration of their intervention as officers of PCSO in the approval of a Joint Venture Agreement (JVA) between PCSO and TMA Group of Companies (TMA) for the establishment of a thermal coating and printing plant in the Philippines, accepted a gift in the form of an all-expense paid trip to Australia from TMA.

CONTRARY TO LAW.”

THE ANTECEDENTS

On 1 July 2011, Atty. Jose Ferdinand M. Rojas II, then General Manager of the PCSO, filed a Complaint-Affidavit⁴ against Manuel L. Morato, Raymundo T. Roquero, **Jose R. Taruc V, Ma. Fatima A.S. Valdes**, in their capacities as immediate past members of the PCSO Board of Directors, **Rosario C. Uriarte**, in her capacity as the immediate past PCSO General Manager and Vice Chairman, Anthony Karam (“Mr. Karam” for brevity), in his capacity as the Managing Director of TMA Group of Companies PTY. Limited, and

⁴ *Rollo*, Volume 1, pp. 31-254.

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Catherine L. Fong and Ofelia Cajigal, in their capacities as local representatives of TMA Group of Companies PTY. Limited, ("TMA Australia" for brevity) before the Office of the Ombudsman (OMB) for violation of Section 3 (b), (e), (g), and (j) of R.A. No. 3019, Section 7 (d) of R.A. No. 6713, and R.A. No. 9184, otherwise known as the Government Procurement Reform Act.

On 8 September 2016, the OMB issued a Resolution⁵ finding probable cause against Accused Rosario C. Uriarte, Manuel L. Morato, Raymundo T. Roquero, Jose R. Taruc V, and Fatima A.S. Valdes for violation of Section 3(b) of R.A. No. 3019 and Section 7(d) of R.A. No. 6713 while the charges for violation of Section 3(e), (g), and (j) and for violation of R.A. No. 9184 were dismissed. As to accused Mr. Karam, Catherine L. Fong, and Ofelia Cajigal, the OMB dismissed all charges against them in the absence of sufficient evidence that they conspired with public respondents Rosario C. Uriarte, Manuel L. Morato, Raymundo T. Roquero, Jose R. Taruc V, and Fatima A.S. Valdes. This was approved on 22 September 2016 by then Ombudsman Conchita Carpio Morales.

In an Order⁶ dated 05 December 2016, the OMB granted the Motions for Partial Reconsideration filed by Raymundo T. Roquero and Manuel L. Morato while those of Rosario C. Uriarte and Jose R. Taruc V were denied for lack of merit. Hence, the filing of the foregoing *Informations*, both dated on 12 December 2016, by the Graft Investigation and Prosecution Officer (GIPO), against accused Rosario C. Uriarte, Jose R. Taruc V, and Fatima A.S. Valdes.

**PROCEEDINGS BEFORE
THE SANDIGANBAYAN**

After the instant cases were filed with this Court, on 13 March 2017, accused Uriarte filed a Motion for Judicial Determination or Re-Determination of Probable Cause praying for the dismissal of the case in the absence of probable cause. On the same date, this Court issued two (2) separate Hold Departure Orders⁷ and two (2) separate Warrants of Arrest⁸ against the accused in these consolidated cases.

⁵ *Ibid* at pp. 5-22

⁶ *Ibid* at pp. 20-29.

⁷ *Rollo*, Volume 1, PP. 491-492.

⁸ *Ibid* at pp. 499-500.

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On 14 March 2017, accused Uriarte filed an Urgent Motion to Hold in Abeyance the Issuance of Warrant of Arrest against her⁹ pending resolution on the abovementioned motion.

On 20 March 2017, accused Uriarte filed an Urgent Motion Ad Cautelam for Booking Procedure to be Conducted in Hospital¹⁰.

On 28 March 2017, accused Valdes filed a Motion for Reconsideration with Motion for Redetermination of Probable Cause¹¹ on the ground that there is no probable cause against her based on the attendant facts and documents.

On 30 March 2017, accused Uriarte filed a Supplement to the Motion for Determination or Re-Determination of Probable Cause with Motion for Leave to File and for the Admission of the Same¹².

On 30 March 2017, the Prosecution filed a Consolidated Comment/Opposition¹³ to the motions of accused Uriarte.

On 10 March 2017, the Prosecution filed a Comment/Opposition¹⁴ to the Motion for Reconsideration of accused Valdes insisting that there is no basis for the Court to re-determine probable cause and that there is sufficient evidence to hold accused Valdes for trial.

On 17 April 2017, accused Taruc filed an Omnibus Motion to Quash Information, Dismiss the Case, and Defer Arraignment¹⁵ on the ground that the Information does not constitute an offense, that this Court could not have acquired jurisdiction over the case since it was filed without the mandatory intervention of the Office of the Government Corporate Counsel (OGCC), and that the inordinate delay in the conduct of the preliminary investigation by the OMB resulted to the denial of his right to due process and speedy disposition of the case. The prosecution filed a Comment/Opposition¹⁶ dated 11 May 2017 to the aforesaid motion.

In a Resolution¹⁷ dated 06 July 2017, this Court denied the Motion for Judicial Determination of Probable Cause, Urgent Motion to Hold in Abeyance the Issuance of Warrant of Arrest, Urgent Motion

⁹ *Ibid* at pp. 501-502.

¹⁰ *Ibid* at pp. 25-36.

¹¹ *Ibid* at pp. 61-72.

¹² *Ibid* at pp. 73-102.

¹³ *Ibid* at, pp. 103-114.

¹⁴ *Ibid* at pp. 129- 133.

¹⁵ *Ibid* at pp. 138-165.

¹⁶ *Ibid* at pp.181- 182.

¹⁷ *Ibid* at pp. 201- 209.

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and Manifestation, and Urgent Motion Ad Cautelam for Booking Procedure to be Conducted in Hospital filed by accused Uriarte; the Motion for Reconsideration with Motion for Redetermination of Probable Case filed by accused Valdes was denied; and the Omnibus Motion to Quash Information, Dismiss the Case and Defer Arraignment filed by accused Taruc was denied.

Accused Taruc and Uriarte filed separate Motions for Reconsideration, respectively dated 9 June 2017¹⁸ and 13 June 2017¹⁹, to the aforesaid Resolution. In a Resolution²⁰ dated 17 August 2017, this Court denied the Motions of accused Taruc and Uriarte.

Arraigned on 7 September 2017, accused Uriarte²¹, Taruc²², and Valdes²³, all entered their separate pleas of *not guilty*.

During the Pre-Trial²⁴, the parties stipulated as reflected in the Pre-Trial Order, *to wit*:

1. Accused Rosario C. Uriarte, Fatima Abad Santos Valdes, and Jose Reyes Taruc are the same persons charged in the Informations and that this Court has jurisdiction over the persons of the accused;
2. At the time material to the allegations in the Informations, accused Uriarte was a public officer being then the General Manager of PCSO;
3. At the time material to the allegations in the Informations, accused Valdes and Taruc are public officers being then members of the Board of Directors of PCSO;
4. Contract Review No. 371 dated December 2, 2009 was issued by the OGCC approving the Joint Venture Agreement.

Accused Uriarte, Taruc, and Valdes admitted the authenticity and due execution of the following exhibits of the Prosecution:

- a. Resolution No. 1064;
- b. Resolution No. 1219; and
- c. Resolution No. 2171.

¹⁸ *Ibid* at pp.217-242.

¹⁹ *Ibid* at pp. 244- 250.

²⁰ *Ibid* at pp. 295-302.

²¹ *Ibid* at p. 309.

²² *Ibid* at p. 310.

²³ *Ibid* at p. 311.

²⁴ *Ibid* at pp. 367-369.

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Accused Uriarte and Taruc admitted the authenticity and due execution of the following exhibits of the Prosecution:

- a. Resolution No. 733;
- b. Resolution No. 876;
- c. Resolution No. 1476; and
- d. Resolution No. 2278.

The prosecution and accused Taruc stipulated that accused Taruc, as a member of the Board of Directors of PCSO, signed Resolution No. 1064 dated July 22, 2009 approving the recommendation of JVSC relative to the proposed Joint Venture Agreement between PCSO and TMA for the establishment of a Thermal Coating Plant.

Accused Taruc admitted the authenticity and due execution of Resolution No. 612.

Moreover, the prosecution and accused Valdes stipulated to the authenticity and due execution of her Personal Data Sheet and Appointment Paper.

EVIDENCE FOR PROSECUTION

The testimonies of the following witnesses were presented by the Prosecution:

ANGELITA D. MENDOZA, Chief, Central Records & Library Division of General Services Department of PCSO, whose official functions are to preserve the physical conditions of PCSO's records and documents and to issue authenticated copies thereof.

She identified and authenticated the following Resolutions of the Board of Directors of PCSO:

- 1. Board Resolution No. 733 series of 2009²⁵;
- 2. Board Resolution No. 612 series of 2009²⁶;
- 3. Board Resolution No. 876 series of 2209²⁷;
- 4. Board Resolution No. 1064 series of 2009²⁸;
- 5. Board Resolution No. 1219 series of 2009²⁹.

²⁵ Exhibit "H" for the Prosecution.

²⁶ Exhibit "I" for the Prosecution.

²⁷ Exhibit "J" for the Prosecution.

²⁸ Exhibit "K" for the Prosecution.

²⁹ Exhibit "L" for the Prosecution.

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6. Board Resolution No. 1476 series of 2009³⁰;
7. Board Resolution No. 2171 series of 2009³¹;
8. Board Resolution No. 2278 series of 2009³²; and
9. Board Resolution No. 579 series of 2010.

She testified that, as far as the Chief Central Records & Library Division of General Services Department of PCSO was concerned, there were no travel records, travel authority and itinerary of accused Uriarte, Valdes, and Taruc on file with PCSO in relation to their travel to TMA plant and facilities in Australia for the period of November 2009 to December 2010 and she issued a Certification³³ dated 26 October 2017 to that effect. She further testified that, based on their records and the proper officials, as the case may be, the Personal Data Sheet and Appointment Papers of accused Taruc were not available in their files and she issued a Certification³⁴ dated 27 September 2017 to that effect.

On cross-examination, it was stipulated by the Prosecution that Ms. Mendoza has no personal knowledge of the contents of the Board Resolutions except the Certification dated 26 October 2017³⁵.

She confirmed that despite their diligent efforts, as assisted by her staff members Mr. Edwin Coronado and Ma. Rochella Jimenez, their office cannot retrieve the travel documents and travel authority of accused Uriarte³⁶. She affirmed that she has no idea of the procedures as to who prepares the same but in the process, she, through her office, just receive it from the members of the PCSO³⁷.

On re-direct examination, Ms. Mendoza affirmed that not all documents were being forwarded to her office from the different departments of PCSO, that there were no specific documents required to be furnished to the Records Division, and that the purpose of forwarding the documents to their office was for repository³⁸.

On re-cross examination, Ms. Mendoza further acknowledged that there were no specific documents required nor mandated to be deposited or given to the Records Division which includes the travel

³⁰ Exhibit "O" for the Prosecution.

³¹ Exhibit "P" for the Prosecution.

³² Exhibit "R" for the Prosecution.

³³ Exhibit "W" for the Prosecution.

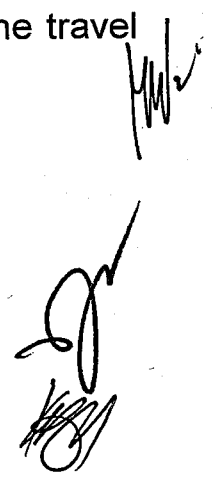
³⁴ Exhibit "C" for the Prosecution.

³⁵ TSN, dated 31 January 2018, p. 21.

³⁶ *Ibid* at pp. 25-27.

³⁷ *Ibid* at pp. 30-31.

³⁸ *Ibid* at pp. 32-33.



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authority, travel itinerary, and travel records of the members of the PCSO³⁹.

JENNIE R. NABONG, as current Legal Assistant II, Legal Department of PCSO, whose primary duties and responsibilities include the following: maintain records on file with the Legal Department of PCSO; issue certified or authenticated copies of documents on file with the Legal Department of PCSO; and perform administrative functions with the Legal Department of PCSO.

Ms. Nabong testified that a subpoena was issued by the OMB to PCSO, and it was endorsed to her for compliance by their Legal Head, Atty. Inciong, requiring them to submit the original or certified true copy of the Memorandum of Agreement dated 17 January 2003, including the following documents: Contractual Joint Venture Agreement ("CJVA" for brevity) dated 4 December 2000 between PCSO and TMA, Deed of Assignment dated 15 January 2010 between Mark Sensing Australia, PTY and TMA, Unsolicited Proposal for Paper Production and Distribution, Certificate of Successful Negotiations, Letter addressed to Mr. Karam by accused Uriarte dated 17 September 2009, and Letter of Mr. Karam addressed to the Members of the Board of Directors of the PCSO dated 1 December 2009. The Legal Department of PCSO was only able to submit the Certified Copy of the CJVA⁴⁰ dated 4 December 2009 while it failed to submit the other requested documents testifying that any original or certified true copy of it were not in their possession yet photocopies were submitted to the OMB.

On direct examination, the Prosecution admitted that Ms. Nabong had no participation in the preparation of the Memorandum of Agreement dated 17 January 2003 and Joint Venture Agreement dated 4 December 2009, the contents therein, nor does she have knowledge of the transactions, attached to her Judicial Affidavit⁴¹.

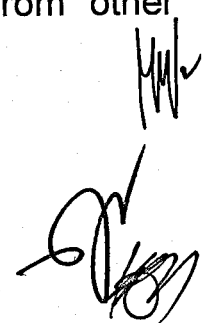
On cross-examination, Ms. Nabong affirmed that the subpoena made no reference to the Deed of Assignment dated 25 January 2010⁴². She further affirmed that, prior to the receipt of the subpoena, she had not seen the original copies of the Memorandum of Agreement dated 17 January 2003 and CJVA dated 4 December 2009 nor do they have the originals of the same and that they only have photocopies of it, and that they have inquired from other

³⁹ *Ibid* at pp. 34-37.

⁴⁰ Exhibit "S" for the Prosecution.

⁴¹ TSN, 01 March 2018, p. 15.

⁴² *Ibid* at p. 17.



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departments of PCSO as to the whereabouts of the original of Memorandum of Agreement dated 17 January 2003 and CJVA 4 December 2009.⁴³

On re-direct examination, she also acknowledged that the Memorandum of Agreement dated 17 January 2003 was in compliance to the subpoena issued by the OMB.

ATTY. TRICIA B. LEONANO, Board Secretary of PCSO.

She testified that their office has photocopies of the following documents, except the letter dated 01 December 2009 of Mr. Karam, and their office issued separate Certifications to that effect:

1. Certification of CJVA dated 23 February 2016;
2. Unsolicited Proposal for Paper Production and Distribution submitted by TMA Group of Companies PTY. Limited to PCSO;
3. Letter dated 01 December 2009 of Mr. Karam;
4. Letter dated 17 September 2009 of accused Uriarte to Mr. Karam; and
5. Successful Negotiations between PCSO and TMA Group of Companies PTY. Limited.

She further testified that, despite their collective and diligent efforts, their office cannot locate the originals of the aforesaid documents. Hence, the issuance of Certification⁴⁴ dated 23 February 2018 that a photocopy of the document relative to the CJVA between PCSO and TMA Australia dated 4 December 2009 is in the custody of their office; the issuance of Certification⁴⁵ dated 23 February 2018 that only a photocopy of the document relative to the Unsolicited Proposal for Paper Production and Distribution submitted by TMA Group of Companies, PTY. Ltd. is in custody of their office; the issuance of Certification⁴⁶ dated 23 February 2018 that after a thorough search of their records, documents relative to the letter dated 1 December 2009 of Mr. Karam could not be located; the issuance of Certification⁴⁷ dated 23 February 2018 that only a photocopy of the document relative to the letter dated 17 September 2009 of accused Uriarte to Mr. Karam is in custody of their office; and the issuance of Certification⁴⁸ dated 23 February 2018 that only a photocopy of the document relative to the Certification of Successful

⁴³ *Ibid* at pp. 18-19.

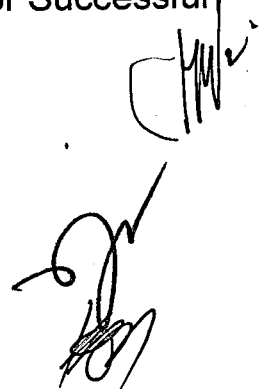
⁴⁴ Exhibit "AA" for the Prosecution.

⁴⁵ Exhibit "G-1" for the Prosecution.

⁴⁶ Exhibit "BB" for the Prosecution.

⁴⁷ Exhibit "N-1" for the Prosecution.

⁴⁸ Exhibit "M-1" for the Prosecution.



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Negotiations between PCSO and TMA Group of Companies PTY. Ltd. is in custody of their office.⁴⁹

On cross-examination, Atty. Leonano acknowledged that she was not the person (i) who personally received the documents that she certified as mentioned above, (ii) who photocopied the originals thereof, (iii) who retained a copy for their office files, (iv) who distributed the photocopies to the members of the Board of Directors of PCSO, (v) who returned to the proponent or to the originating office or department the originals thereof, considering that she was only employed in 2016 yet the pertinent documents were dated in 2009⁵⁰.

She further acknowledged that she has no personal knowledge of a written policy, practice or procedure of her office in photocopying the original documents from the Board, retaining the photocopies thereof, and returning the originals to the Board⁵¹ nor was she aware if her immediate predecessor implemented such policy, practice or procedure⁵².

As to the letter dated 1 December 2008, she acknowledged that Board Resolution No. 2278 made no reference to the aforesaid letter nor does it mention any invitation of the TMA Group for a plant visit to Australia and "Mr. Karam" and that she has only knowledge of the letter since it was attached to the subpoenas sent to their office⁵³. She further acknowledged that the letter and the board resolution only made mention that the plant visit to Australia was "at no cost to PCSO"⁵⁴.

MELITA S. TURDANES, Immigration Officer III of the Bureau of Immigration and Deportation (BID).

She identified and authenticated the following Certifications of the BID as signed by Mr. Angelito D. Lopez:

1. Certification⁵⁵ dated 6 March 2018 pertaining to accused Uriarte with attached Travel Information;
2. Certification⁵⁶ dated 6 March 2018 pertaining to accused Valdes with attached Travel Information; and

⁴⁹ TSN, dated 12 March 2018, pp. 11-28.

⁵⁰ *Ibid* at pp. 29-34.

⁵¹ *Ibid* at pp. 31-34.

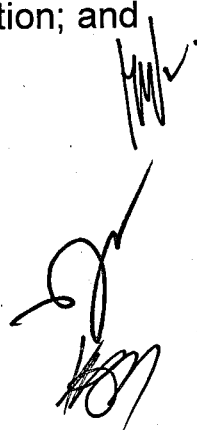
⁵² *Ibid* at pp. 39-41.

⁵³ *Ibid* at pp. 34-38.

⁵⁴ *Ibid* at pp. 42-45.

⁵⁵ Exhibit "X" for the Prosecution.

⁵⁶ Exhibit "X-1" for the Prosecution.



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3. Certification⁵⁷ dated 06 March 2018 pertaining to accused Taruc with attached Travel Information.

On cross-examination, Ms. Turdanes said that, on the basis of the travel information attached to the Certifications, they cannot determine where the destinations of the flight details⁵⁸ nor was she familiar with the destination of the flight details stated therein⁵⁹.

ATTY. JOSE FERDINAND M. ROJAS, whose Complaint-Affidavit⁶⁰ was adopted as his direct testimony.

In a nutshell, Atty. Rojas alleged that the three (3) accused accepted and received a gift in the form of an all-expense paid trip to Australia from TMA Australia in the course of their performance of their official functions, in consideration of their intervention in the approval of a Joint Venture Agreement between PCSO and TMA Group of Companies.

On cross examination, Atty. Rojas affirmed that the only basis for his testimony that accused had a trip to Australia at no cost to PCSO or was otherwise shouldered by the TMA Group of Companies PTY. Ltd. was the Board Resolution No. 2278 and that he has no personal knowledge as to the contents of the aforesaid board resolution. He likewise affirmed that his only basis for his testimony that a trip was actually made sometime in February 2010 by the accused was a photo in the Annual Report of TMA Group of Companies PTY. Ltd. and that he does not have personal knowledge of the illicit perks, foreign visits, enticing packages, gifts, presents, and benefits allegedly received by the accused from the TMA but only as to the alleged foreign visit to Australia in February 2010 on the basis of the invitation of Mr. Karam through a letter dated 1 December 2009⁶¹.

In addition, Atty. Rojas affirmed that he has no personal knowledge of the attached documents in his Complaint-Affidavit; that per Verification and Certification attached thereto, his personal knowledge refers only to the fact that the attached documents were actual records and in the records of PCSO. He stated that there was no direct evidence that accused Taruc actually received a gift but he only made a presumption that the trip to Australia, at no cost to

⁵⁷ Exhibit "X-2" for the Prosecution.

⁵⁸ TSN, dated 02 April 2018, pp. 20-23.

⁵⁹ *Id.* at p. 27.

⁶⁰ *Rollo*, Volume 1, 30-232.

⁶¹ TSN, dated 10 May 2018, pp. 8-12.

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PCSO, from TMA was considered as a gift. Neither was he aware whether or not the Joint Venture Agreement underwent a review under the OGCC nor who actually approved the same⁶².

Atty. Rojas further affirmed that, as to the attached picture in the Annual Report 2010, he cannot identify the persons therein.⁶³

On re-direct examination, Atty. Rojas affirmed that, after filing of the Complaint-Affidavit, accused Uriarte filed a Manifestation, with Memorandum⁶⁴ dated 14 June 2013 stating therein *that accused visit to the plant and facilities of TMA in Australia demonstrates their due diligence*⁶⁵ and a Motion for Partial Reconsideration⁶⁶ dated 24 October 2016, filed by accused Taruc, stating that the *trip to Australia was actually a legitimate working visit to validate TMA's Contractual Representations*⁶⁷. Hence, finding support in his testimony that the accused actually went to Australia.⁶⁸

On re-cross examination, Atty. Rojas affirmed that the due diligence referred to in the Manifestation with Memorandum was possibly consistent with the purpose stated in the letter dated 1 December 2009 by Mr. Karam that the visit in Australia was in furtherance of the contractual relationship. Moreover, it was stated in the Motion for Partial Reconsideration that the trip to Australia was actually a legitimate working visit to validate TMA's contractual representation.⁶⁹

Atty. Rojas explained that PCSO has a budget for official travel and that, to remove any cloud of impropriety, any official trip of the members should be shouldered by the PCSO. This includes the conduct of pre-qualification and post-qualification of PCSO⁷⁰.

The last witness for the Prosecution was **ATTY. JOHN IVAN B. TABLIZO**, Clerk of Court IV at the Regional Trial Court Branch 66 of Makati City, who identified and authenticated the Certified True Copy of the CJVA dated 4 December 2009.

On cross examination, Atty. Tablizo affirmed that their office was not in custody of the original of the CJVA dated 4 December

⁶² *Ibid* at pp. 13-41.

⁶³ *Ibid* at pp. 18-20.

⁶⁴ Exhibit "EE" for the Prosecution.

⁶⁵ Exhibit "EE-1" for the Prosecution.

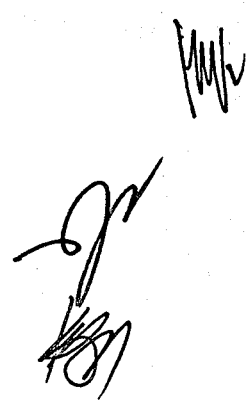
⁶⁶ Exhibit "FF" for the Prosecution.

⁶⁷ Exhibit "FF-1" for the Prosecution.

⁶⁸ *Ibid* at pp. 20-24.

⁶⁹ *Ibid* at pp. 24-27.

⁷⁰ *Ibid* at pp. 28-35.



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2009. Rather, what he had certified was a photocopy of the CJVA in their records offered by PCSO and TMA Australia where the parties had a pending case⁷¹

On re-direct examination, Atty. Tablizo clarified that the parties in the RTC case, in relation to the CJVA, were PCSO and TMA Australia⁷² and that he was not aware if the original of the aforesaid document was presented to the aforesaid court⁷³.

After it had completed the presentation of its testimonial evidence, the Prosecution submitted its Formal Offer of Evidence dated 6 June 2018. On 20 June 2018, the Court admitted the following exhibits offered by the Prosecution as its documentary evidence: Exhibits "H", "I", "J", "K", "L", "O", "P", "Q", "R", "S", "T", "U", "V", "W", "X", "X-1", "X-2", "AA", "BB", "CC", "EE", and "FF", over the objection of accused Uriarte, Taruc, and Valdes as to the purposes for which they have been offered.

Accused Uriarte⁷⁴, Taruc⁷⁵, and Valdes⁷⁶, filed their separate Motions for Leave to File Demurrer to Evidence all dated 25 June 2018. Likewise, Accused Taruc filed a Motion to Acquit (Demurrer to Evidence) dated 25 June 2018. The Prosecution filed a Consolidated Comment/Opposition⁷⁷, dated 28 June 2018, to the separate motions of the accused. In a Resolution⁷⁸ dated 20 July 2018, this Court denied the Motions for Leave to File Demurrer to Evidence filed by the accused.

EVIDENCE FOR ACCUSED

The testimonies of the following witnesses were presented by the Accused:

For Accused Uriarte

ATTY. OFELIA B. CAJIGAL, Country Manager of TMA Group Philippines Inc., a member and Corporate Secretary of the Joint Venture Governing Board ("Governing Board" for brevity) constituted and tasked with the managing of the Joint Venture pursuant to the CJVA.

⁷¹ *Ibid* at pp. 10-15.

⁷² *Ibid* at p. 17.

⁷³ *Id.* at 19.

⁷⁴ *Rollo*, Volume 3, pp. 343-348.

⁷⁵ *Ibid* at pp. 356-354.

⁷⁶ *Ibid* at pp 349-355.

⁷⁷ *Ibid* at pp. 392-398.

⁷⁸ *Ibid* at pp. 402-406.

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Atty. Cajigal identified the photocopies of the Minutes of the Meeting of the Governing Board dated 12 February 2010⁷⁹ and 15 June 2010⁸⁰ and testified that the originals thereof were with PCSO and TMA Group Philippines, Inc. ("TMA Philippines" for brevity), that TMA Philippines maintained a copy thereof, and that she was the one who prepared the documents as Corporate Secretary. She testified that the TMA Philippines, Inc. is a domestic corporation formed and organized by the TMA Philippines for the purpose of implementing the CJVA in the Philippines. She further testified that the purpose of the plant visit to Australia was to conduct an office and plant inspection particularly an inspection of factory machinery and equipment during which time the manufacturing processes were discussed and then the group proceeded to the Head Office to verify technical and financial documents.

She affirmed that, on the first meeting of the Governing Board on 12 February 2010 held in Australia, accused Uriarte was present and accused Valdes was absent⁸¹.

On cross examination, Atty. Cajigal affirmed that she was appointed as the Country Manager of TMA Philippines when it was registered and incorporated with the Securities and Exchange Commission and that she was one of the original directors together with Romy Dela Cruz and Jerry Marasigan, among others⁸². She explained that TMA Philippines was incorporated to implement and to carry the business of the CJVA and explaining further that the latter was a contract and thus it was not an entity to register with the Securities and Exchange Commission. She explained that the Governing Board cannot govern the affairs of TMA Philippines because the latter was incorporated to represent TMA Australia in its affairs in conducting business in implementing the CJVA. Thus, the Governing Board was separate and independent from TMA Philippines. She further explained that the directors and incorporators were not nominated by TMA Australia. Rather, they bought shares to be qualified.⁸³

She affirmed that no representative of PCSO was elected as Director of TMA Philippines nor an incorporator or stockholder⁸⁴. She explained that the Governing Board, which does not have a juridical

⁷⁹ Exhibit "1" for accused Uriarte.

⁸⁰ Exhibit "2" for accused Uriarte.

⁸¹ TSN, dated 19 November 2018, pp. 22-23.

⁸² *Ibid* at pp. 24-25.

⁸³ *Ibid* at pp. 27-32.

⁸⁴ *Ibid* at pp. 33-36.

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existence, has directors considering that under the Joint Venture Rules, the Joint Venture can be formed either through registration of the company that will carry it out or through a contract between two (2) parties. Thus, under the CJVA, they have to create or nominate members to the Governing Board to govern or to run the affairs of the Joint Venture. Thus, the formation of the Governing Board in a meeting held on 12 February 2010. The Directors of the Governing Board were nominees of PCSO and TMA Philippines pursuant to the rules and the CJVA⁸⁵.

She affirmed that the agreement was entered into on 4 December 2009 and that TMA Philippines was incorporated in 2010. She stated that the original contracting party with PCSO for the agreement was TMA Australia⁸⁶.

She confirmed that there was an invitation from TMA Australia inviting the members and officers of PCSO, and members of the Joint Venture Selection Committee ("JVSC" for brevity) to visit their site and plant in Australia and that the purpose of such visit was to validate all the submissions of technical and financial documents prior to the signing of the agreement made by TMA Group of Companies PTY. Ltd. to PCSO specifically on the production, the financial capability and existence of the former. She further stated that the reason for the validation was that, the PCSO, despite the approval of the signing of the contract, the contract will not be sealed to implement the CJVA without PCSO validating the submissions made by TMA Australia as to the existence of the class and capabilities of production. Such validation was mentioned in a meeting prior to the completion of the CJVA⁸⁷.

She confirmed filing a Joint Counter-Affidavit with Catherin Fong executed on 3 June 2013 during the preliminary investigation in relation to this case and that in the said affidavit, it made reference to the letter invitation of Mr. Karam dated 1 December 2001. Likewise, she confirmed that the trip of PCSO Officials to the plant was free and paid by TMA Australia⁸⁸.

She confirmed executing a Certification dated 1 March 2018 in relation to this case certifying that they conducted a diligent search of the records of TMA Australia as subpoenaed by the Office of the

⁸⁵ *Ibid* at pp. 37-42.

⁸⁶ *Ibid* at pp. 42-44.

⁸⁷ *Ibid* at, pp. 52-58.

⁸⁸ TSN, dated 30 January 2019 pp. 8-17.