



Republic of the Philippines

**Sandiganbayan**

Quezon City

**SIXTH DIVISION**

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

**SB-17-CRM-1385**

For: Violation of Section 7(d) of  
Republic Act No. 6713

- versus -

*Present*

**AILEEN CYNTHIA MAGGAY  
AMURAO, JOYCE CABANAG  
ENRIQUEZ, MICHIE HITOSIS  
MENESES, and MICHAEL ANGELO  
LUCERO AQUINO, JR.,**  
*Accused.*

**FERNANDEZ, SJ J.**  
*Chairperson*  
**MIRANDA J. and  
VIVERO J.**

*Promulgated:*

*November 10, 2017*

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**DECISION**

**VIVERO, J.:**

On June 19, 2017, the Office of the Ombudsman formally charged **Aileen Cynthia Maggay Amurao, Joyce Cabanag Enriquez, Michie Hitosis Meneses, and Michael Angelo Lucero Aquino, Jr.,** appointive officials and employees of the City Tourism Department of Puerto Princesa City, Palawan, for allegedly violating Section 7(d)<sup>1</sup> of Republic Act No. 6713,<sup>2</sup> otherwise known as the

<sup>1</sup> **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:

*MMV*

*[Handwritten signature]*

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“Code of Conduct and Ethical Standards for Public Officials and Employees”. The nature, scope and legal consequences of the inculpatory allegations in the Information<sup>3</sup> is quoted below, viz:

“That on or about the period between February 2014 to April 2014 or sometime prior or subsequent thereto, in Puerto Princesa City, Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused public officers, **Aileen Cynthia Maggay Amurao**, being the City Tourism Officer and Head of the City Tourism Department, **Joyce Cabanag Enriquez**, Tourism Operations Assistant, **Michie Hitoris Meneses**, Tourism Operations Officer I, **Michael Angelo Lucero Aquino, Jr.**, contractual Tourism Operations Assistant, **WHILE IN THE PERFORMANCE OF THEIR FUNCTIONS, TAKING ADVANTAGE OF THEIR POSITIONS**, committing the offense in relation to their office, and **CONSPIRING AND CONFEDERATING WITH EACH OTHER**, did then and there willfully, unlawfully, and criminally **SOLICIT OR ACCEPT, DIRECTLY OR INDIRECTLY**, any gift, gratuity, favor, entertainment, loan or **ANYTHING OF MONETARY VALUE FROM TOURISM-ORIENTED AND PRIVATE ENTITIES OR INDIVIDUALS BY SENDING THEM SOLICITATION LETTERS FOR SPONSORSHIP OF THE CITY GOVERNMENT OF PUERTO PRINCESA’S TOURISM ACTIVITIES AND RELATED PROJECTS, SUPERVISED BY THE ACCUSED.**”

“**CONTRARY TO LAW.**”<sup>4</sup> (Emphasis and Capitalization Supplied.)

**THE CASE**

On September 4, 2014, Doris G. Suelo, Sheryl Lynn T. Lebante and Engilbert M. Alvarez, employees of the Promotions and

“(a) x x x.

“x x x

“(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.

“The Ombudsman shall prescribe such regulations as may be necessary to carry out the purpose of this subsection, including pertinent reporting and disclosure requirements.

“x x x.”

<sup>2</sup> Approved on February 20, 1989.

<sup>3</sup> Records, Vol. 1, pp. 1 – 3.

<sup>4</sup> Pre-Trial Order dated February 14, 2018, p. 1 (Records, Vol. 1, p. 236).

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Marketing Division of the City Tourism Department of Puerto Princesa City, Palawan, filed an affidavit-complaint<sup>5</sup> against Aileen Cynthia M. Amurao, City Tourism Officer, and three employees of said Department, namely: Joyce C. Enriquez, Michie H. Meneses and Michael Angelo L. Aquino, Jr.. before the Office of the Ombudsman for Luzon. The whistleblowers' allegations therein are as follows:

"The City Tourism Department[,] specifically [the] **Promotions and Marketing Division**[,] has been used in the series of acts by the newly appointed **City Tourism Officer, Aileen Cynthia M. Amurao**, in soliciting big amount[s] of money and other favors allegedly to support activities and projects related thereto, such as '**Pangalipay sa Baybay**'<sup>6</sup> (an event spearheaded by the City Mayor's Office [and] undertaken from April 1 to May 31, 2014), **provision of an interactive kiosk**, and in [the] **conduct of trainings** at the different areas of Puerto Princesa;

"x x x

"The City Government of Puerto Princesa has **allotted funds** for the 'Pangalipay sa Baybay' event for 2014 x x x Yet, **despite available funding**, Mrs. Amurao still proceeded to solicit in monetary form, as well as in-kind (Gift Certificates and material items) from tourism industry stakeholders, partners and private entities;

"Not a single item or specific amount collected by the above-mentioned tourism employees had been properly disclosed to the City Tourism Department. **No official accounting was done** x x x. Several of these solicited amounts even **ended up in Mrs. Amurao's personal / individual bank account**;

x x x." <sup>7</sup>

On December 3, 2014, the four (4) respondents filed their joint counter-affidavit.<sup>8</sup> Their defense hinged on the following allegations:

"4. While the respondent Amurao is the Chairman of said event, the management of the sponsorship did (sic) not vest upon her. x x x [I]t was a joint endeavor with the private

<sup>5</sup> Affidavit dated September 1, 2014, of Doris G. Suelo, Sheryl Lynn T. Lebante and Engelbert Alvarez, pp. 1-3 (Records, Vol. 1, pp. 24-26).

<sup>6</sup> Cuyonon words which means "**merrymaking by the bay**" (Records, Vol. 1, p. 38).

<sup>7</sup> Id. at pp. 1-2 (Records, Vol. 1, pp. 24-25).

<sup>8</sup> Joint Counter-Affidavit dated November 27, 2014, of A. C. M. Amurao, J. C. Enriquez, M. H. Meneses and M. A. L. Aquino, Jr., pp. 1-7 (Records, Vol. 1, pp. 51-57).

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sector and in the same manner, the coordination of the efforts between the private sector and the stakeholders;

"X x x

"7. There was no exchange of goods, favor or services to the City Tourism Office of Puerto Princesa. x x x [N]o document or proof has been attached by the complainants proving that any of the respondents actually solicited and received any gift, favor or gratuity from any person, so much so that complainants merely based their allegations to (sic) surmises and mere conjectures;

"X x x

"9. x x x [T]here are more appropriate forums (sic), which includes (sic) the City Government of Puerto Princesa and later on the Civil Service Commission, for administrative investigation. x x x

"X x x

"12. Public policy dictates that the complainants should have exhausted their available administrative remedies x x x

"X x x

"15. x x x The complaint is trivial, frivolous, vexatious or made in bad faith x x x.

"X x x.<sup>9</sup>

The preliminary investigation yielded sufficient evidence to hold respondents suable for violation of Section 7(d) of R.A. No. 6713.<sup>10</sup> Therewithal, the Office of the Ombudsman resolved that:

"... [R]espondents' denial that they did not authorize the distribution of the solicitation letters and that there were no exchanges of goods, favor or services to the City Tourism Office of Puerto Princesa shall (sic) not prevail over the positive evidence proffered by complainant. It must be stressed that in the MOA entered into by respondent Aquino with the LTS Pinnacle Holdings, Inc., respondent Aquino agreed to promote the said entity in exchange for the gift certificates worth Php10,000.00. x x x

"X x x The said prohibition in Section 7(d) is malum prohibitum. It is the commission of the act as defined by

<sup>9</sup> Id. at pp. 2 – 5 (Records, Vol. 1, pp. 52 – 55).

<sup>10</sup> Resolution dated March 5, 2015 and approved on April 20, 2016, pp. 1 – 9 (Records, Vol. 1, pp. 6 – 14).

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law, and not the character or effect thereof, that determines whether or not the prohibition has been violated. Thus, it is immaterial whether respondents received gifts, gratuity, favor or money from their sponsors as **the law prohibits the mere act of solicitation.**

Finally, this Office could not disregard that **the City Tourism Office has allotted budget for the Pangalipay sa Baybay event** per Advice of Allotment. The budget included the prizes and other expenses for the event. Thus, **there is no reason for respondents to solicit and receive gifts and money for the prizes of the event.**<sup>11</sup> (Emphasis and Underscoring Supplied.)

Aggrieved, respondents moved for reconsideration. Yet, no compelling reason merited the modification, much less the reversal, of the findings of the Office of the Ombudsman.<sup>12</sup> Its ratiocination run thus:

“x x x [T]heir insistence that solicitation is not by itself illegal when not in direct contravention with public service is a matter of defense which could be threshed out in court.

“Corollary (sic), solicitation, whether or not it is in anticipation of or in exchange of (sic) a favor from a public official or employee is proscribed under R.A. No. 6713. The only exception is **unsolicited gift** of nominal or insignificant value not given in anticipation of, or in exchange for a favor from a public official or employee. That fact that respondents-movants solicited from different tourism-oriented and private establishments for whatever reason, they already violated of (sic) Section 7(d) of R.A. No. 6713.

“x x x

“Moreover, Department of Justice (DOJ) Opinion No. 051, series of 1999, stating that the prohibited acts (solicitation or acceptance of gifts) under Sec. 7(d) of R.A. No. 6713 declared to be unlawful refers to an act committed by a public official in his personal or private capacity although arising from or connected with the performance of his official duty and which respondents-movants cited to support their contention is merely an opinion, hence it does not bind this Office.

<sup>11</sup> Id. at pp. 12 – 13.

<sup>12</sup> Joint Order (*Motion for Reconsideration*)<sup>1</sup> dated June 30, 2016, pp. 1 – 6 (Records, Vol. 1, pp. 16 – 21).

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"X X X." <sup>13</sup>

On July 3, 2017, this Court resolved that probable cause exists and ordered the issuance of warrants of arrest against the accused.<sup>14</sup> Concomittantly, a Hold Departure Order<sup>15</sup> was issued against them.

On July 4, 2017, accused Amurao, Enriquez and Meneses posted cash bonds for their provisional liberty. Accordingly, the warrant of arrest against the accused, except Aquino, Jr., was recalled.<sup>16</sup>

On July 14, 2017, accused Aquino, Jr. posted his cash bond for his provisional liberty, and this was approved by Hon. Angelo R. Arizala,<sup>17</sup> Executive Judge, Regional Trial Court, Fourth Judicial Region, Puerto Princesa City. Accordingly, the warrant of arrest issued against said accused was recalled.<sup>18</sup>

On August 3, 2017, accused were arraigned<sup>19</sup> and after being apprised of the nature and consequences of the crime imputed against them while assisted by counsel, each one pleaded "**not guilty**"<sup>20</sup> to the offense charged.

On September 7, 2017, the preliminary conference began wherein documentary evidence for the prosecution were pre-marked.<sup>21</sup> In the course thereof, stipulations of facts and admissions were made. Also, the issue was delimited, and the trial

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<sup>13</sup> Id at p. 4 (Records, Vol. 1, p. 19).

<sup>14</sup> Warrant of Arrest dated July 3, 2017, p. 1 (Records, Vol. 1, p. 92).

<sup>15</sup> Minute Resolution dated July 3, 2017, p. 1 (Records, Vol. 1, p. 71).

<sup>16</sup> Minute Resolution dated July 4, 2017, p. 1 (Records, Vol. 1, p. 85).

<sup>17</sup> Order dated July 14, 2017, of Executive Judge A. R. Arizala, p. 1 (Records, Vol. 1, p. 99).

<sup>18</sup> Minute Resolution dated July 31, 2017, p. 1 (Records, Vol. 1, p. 101).

<sup>19</sup> Certificates of Arraignment dated August 3, 2017, Order dated September 29, 2016, p. 1 (Records, Vol. 1, pp. 105 - 108).

<sup>20</sup> Order dated August 3, 2017, p. 1 (Records, Vol. 1, p. 108-A).

<sup>21</sup> TSN, September 7, 2017, pp. 1 - 4; Records, Vol. 1, pp. 129 - 131.

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dates were fixed. On November 24, 2017, the pre-trial was terminated.<sup>22</sup>

Trial commenced on February 28, 2018.<sup>23</sup> The prosecution presented the direct testimonies, including the judicial affidavits, of its witnesses from April 12, 2018<sup>24</sup> to October 5, 2018.<sup>25</sup> After it rested, in compliance with the Court's Order,<sup>26</sup> its documentary evidence were formally offered.<sup>27</sup> The Court considered every exhibit as admissible.<sup>28</sup>

On January 23, 2019, accused Meneses, Enriquez and Aquino filed jointly a *Motion for Leave to File Demurrer to Evidence*.<sup>29</sup> Coetaneously, accused Amurao filed a similar motion and submitted that the prosecution failed to discharge its burden of proving her guilt beyond reasonable doubt.<sup>30</sup> The prosecution begged to differ.<sup>31</sup>

On February 20, 2019, the Court denied accused's motions,<sup>32</sup> "without prejudice to the filing by the accused of a *Demurrer to Evidence* without prior leave of court, but subject to the legal consequence provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*, that is, they shall waive their right to

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<sup>22</sup> Order dated November 24, 2017, pp. 1 – 2 (Records, Vol. 1, pp. 210 – 211).

<sup>23</sup> Order dated February 28, 2018, p. 1 (Records, Vol. 1, p. 355-A); TSN, February 28, 2018, pp. 1 - 49.

<sup>24</sup> Doris G. Suelo, Supervising Tourism Operation Officer, was the prosecution's first witness (Order dated April 12, 2018, p. 1 [Records, Vol. 2, p. 8]).

<sup>25</sup> Order dated October 5, 2018, p. 1 (Records, Vol. 2, p. 118-A).

<sup>26</sup> *Ibid.*

<sup>27</sup> *Formal Offer of Evidence (with Motion for the removal of provisional annotation in submarkings)* dated October 8, 2018, pp. 1 – 14 (Records, Vol. 2, pp. 139 - 152).

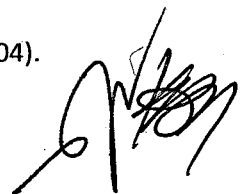
<sup>28</sup> Minute Resolution dated December 14, 2018, pp. 1 – 2 (Records, Vol. 2, pp. 173 - 174).

<sup>29</sup> *Motion for Leave to File Demurrer to Evidence* dated January 23, 2019, of Meneses, Enriquez and Aquino, pp. 1 - 3 (Records, Vol. 2, pp. 177 – 179).

<sup>30</sup> *Motion for Leave of Court to File Demurrer to Evidence* dated January 23, 2019, of Amurao, pp. 1 - 4 (Records, Vol. 2, pp. 185 – 188).

<sup>31</sup> *Comment/Opposition (Re: Motion for Leave to File Demurrer to Evidence)* dated January 29, 2019, pp. 1 – 7 (Records, Vol. 2, pp. 190 – 192).

<sup>32</sup> Resolution dated February 20, 2019, pp. 1 – 5 (Records, Vol. 2, pp. 199 – 204).



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present evidence and are submitting this case for judgment on the basis of the evidence adduced by the prosecution.”<sup>33</sup>

Undaunted, accused Meneses, Enriquez and Aquino filed jointly a *Most Respectful Motion for Reconsideration with Manifestation*.<sup>34</sup> They drew the following conclusions from the evidence that the prosecution adduced thus far:

“10. x x x 1. The private complainants have no personal knowledge as to the fact[s] of this case x x x; 2. The testimonies of Cyril Faith Negosa that Ms. Michie Meneses participated in the alleged solicitation of free accommodation from several hotel and resorts are mere assumption of facts because her testimonies cling on (sic) the fact that Ms. Michie Meneses benefitted from the free accommodation which she also enjoyed x x x; 3. Ms. Mary Mae Arcegono was not able to testify [about] the participation of accused, Michael Angelo Aquino, Joyce Enriquez, and Michie Meneses, in the distribution of those alleged solicitation letters; 4. Shiela M. Paclarin-Galivo, Ramil Gonzales and Emman Montilla may have identified accused Michael Angelo Aquino as the person they have transacted with but they have no personal knowledge as to the participation of his co-accused.

“11. x x x [T]he prosecution failed to prove the act of conspiracy among the accused because its evidence failed to connect the testimonies of its witnesses to come up with a conclusion that the accused have a unity of purpose x x x.

“12. Accused, Michael Angelo Aquino, should not be covered by R.A. No. 6713 because he was not a public official or employee of [the] City Tourism [Office] of Puerto Princesa [City] x x x

“13. x x x [T]hose letters allegedly sent were being confused as an act of solicitation when they are just sponsorship letters which the addressee has no obligation to give in.”<sup>35</sup>

Accused Amurao followed suit,<sup>36</sup> and she claimed:

x x x

<sup>33</sup> Id. at p. 5 (Records, Vol. 2, p. 203).

<sup>34</sup> *Most Respectful Motion for Reconsideration with Manifestation* dated March 1, 2019, of M. Meneses, J. C. Enriquez and M. A. Aquino, pp. 1 - 7 (Records, Vol. 2, pp. 211 - 217).

<sup>35</sup> Id. at pp. 214 - 215.

<sup>36</sup> *Motion for Reconsideration with Manifestation* dated March 5, 2019, of A. C. Amurao, pp. 1 - 5 (Records, Vol. 2, pp. 218 - 222).



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"2. x x x The letters sent to tourism stakeholder and clientele of LGU Puerto Princesa Tourism Office are mere photocopies x x x.

"3. Mr. Rafols should have been presented . . . to prove the existence and authenticity of the letters presented against accused Amurao and co-accused. The photocopies should be treated as mere scraps of paper x x x.

"4. While Exhibit CC pertain (sic) to the Program Appropriation and Obligation by Object for the annual event 'Pangalipay sa Baybay', this document clearly show (sic) that the amount allotted is just *Budget Proposal 2014 (Estimate)*, in fact it was not proven it was disbursed for the purpose x x x

"5. x x x To subject the term '*sponsor*' to 'creative interpretation' by the prosecution to suit and conform with the elements of Section 7(d) of R.A. No. 6713 is . . . not fair . . .  
x x x

"6. x x x . . . Exhibit BB, certification of non-receipt of the proceeds . . . does not mean that cash or in kind allegedly given is in the possession or turned over to accused Amurao and as such should not be admitted."<sup>37</sup> (Italics Supplied.)

*A sensu contrario*, the arguments of the Office of the Special Prosecutor run thus, viz:

"5. . . . [A]ccused-movants relied on the alleged different meanings of the word '*solicitation*' and '*sponsorship*'. x x x [T]here is no doubt that the accused-movants intend to solicit funds or property from various private stakeholders of Puerto Princesa City, Palawan in the guise of sponsoring various activities of the Puerto Princesa City's Tourism Office.

"6. x x x [T]here is no need to differentiate between '*solicitation*' and '*sponsorship*' considering both terms are used in the solicitation letters, albeit the word '*solicitation*' was not used but its subtle synonyms (sic) '*request*'. x x x

"7. . . . [T]he alleged failure of the prosecution to present Mr. Rafols will not in any way disturb the finding of a *prima facie* case against the accused-movants.

"8. The solicitation letter pertaining to Mr. Rafols was never offered as evidence by the prosecution. More importantly, as borne out by the statement of Ms. Suelo, the only letter under the possession of Mr. Rafols is the solicitation letter addressed to him.

<sup>37</sup> Id. at pp. 219 – 221.

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"9. . . . [T]he alleged lack of knowledge and/or participation of accused-movants in the illegal solicitations are matter of evidence for the defense. Hence, it can only be appreciated . . . after it is presented as evidence.

"x x x." <sup>38</sup> (Italics Supplied.)

On April 4, 2019, this Court denied the *Motions for Reconsideration*,<sup>39</sup> while stressing that –

"After a careful restudy of the testimonial and documentary evidence presented by the prosecution, this Court still finds that the same, if unrebutted, is sufficient to support a verdict of guilt against accused Michie H. Meneses, Joyce C. Enriquez, Michael Angelo L. Aquino, Jr., and Aileen Cynthia M. Amurao, for violation of Section 7, Par. (d) of Republic Act No. 6713. x x x." <sup>40</sup>

On May 3, 2019, the defense began presenting countervailing evidence.<sup>41</sup> Counsel *de parte* of accused Aquino, Jr., Meneses and Enriquez presented two (2) witnesses.<sup>42</sup> Then, it was accused Amurao's turn to take the stand.<sup>43</sup> Besides Germana "Inday" Luengo, Edgardo "Bong" Villanueva was slated to take the stand. However, the latter backed out. Thereupon, counsel *de parte* of accused Amurao manifested that no other witnesses will be presented.<sup>44</sup> The Court ordered the accused to file their respective formal offer of evidence, while the prosecution was directed to file its consolidated comment thereon.<sup>45</sup>

Accused Amurao filed seasonably her formal offer of evidence. On the other hand, accused Meneses, Enriquez and Aquino, Jr. opted to forego the filing thereof.<sup>46</sup>

<sup>38</sup> Consolidated Comment/Opposition (Re: Motion for Reconsideration) dated March 9, 2019, pp. 2 – 3 (Records, Vol. 2, pp. 225 – 226).

<sup>39</sup> Resolution dated April 4, 2019, pp. 1 – 7 (Records, Vol. 2, pp. 235 – 241).

<sup>40</sup> Id. at p. 6 (Records, Vol. 2, p. 240).

<sup>41</sup> Order dated May 3, 2019, p. 1 (Records, Vol. 2, p. 269).

<sup>42</sup> Order dated July 17, 2019, p. 1 (Records, Vol. 2, p. 315-A).

<sup>43</sup> Order dated August 7, 2019, p. 1 (Records, Vol. 2, p. 355).

<sup>44</sup> Order dated August 22, 2019, p. 1 (Records, Vol. 2, p. 367).

<sup>45</sup> *Ibid.*

<sup>46</sup> Order dated October 14, 2019, pp. 1 – 2 (Records, Vol. 2, pp. 427 – 428).

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opted to forego the filing thereof.<sup>46</sup>

Meanwhile, this Court ordered the *suspension pendente lite* for ninety (90) days of accused Amurao.<sup>47</sup> Similarly, co-accused Meneses and Enriquez were ordered to cease and desist from exercising the functions, duties and privileges akin to their positions for a 90-day period.<sup>48</sup> Accused Amurao started to serve her suspension on September 16, 2019.<sup>49</sup>

On October 23, 2019, the prosecution informed the Court that no rebuttal witness will be presented, but rebuttal evidence consisting of one document will be adduced. Accordingly, the Court allowed the prosecution to file its formal offer of evidence on rebuttal and for the defense to comment thereon following its receipt.<sup>50</sup> On October 25, 2019, the prosecution caused the personal service of its *Formal Offer of Rebuttal Evidence*.<sup>51</sup> The *Comment/Objection* thereto of accused Amurao was timely filed.<sup>52</sup> The other accused opted to waive the filing of thereof.

Following the admission of its documentary exhibit,<sup>53</sup> the prosecution rested its case on rebuttal. Also, the accused manifested that no sur-rebuttal evidence will be forthcoming. Accordingly, this Court gave the parties thirty (30) days within which to file their respective memoranda. Thereafter, with or without memoranda, this case shall be deemed submitted for decision.<sup>54</sup>

**ANTECEDENT FACTS**

<sup>46</sup> Order dated October 14, 2019, pp. 1 – 2 (Records, Vol. 2, pp. 427 – 428).

<sup>47</sup> Resolution dated September 5, 2019, pp. 1 – 6 (Records, Vol. 2, pp. 385 - 390).

<sup>48</sup> Resolution dated January 7, 2020, pp. 1 - 6 (Records, Vol. 3, pp. 13 – 18).

<sup>49</sup> Minute Resolution dated November 4, 2019, p. 1 (Records, Vol. 2, p. 467-A).

<sup>50</sup> Order dated October 23, 2019, p. 1 (Records, Vol. 2, p. 436-A).

<sup>51</sup> Formal Offer of Rebuttal Evidence dated October 24, 2019, pp. 1 - 3 (Records, Vol. 2, pp. 438 – 440).

<sup>52</sup> Comment/Objection to Formal Offer of Rebuttal Evidence dated October 29, 2019, pp. 1 – 3 (Records, Vol. 2, pp. 461 – 463).

<sup>53</sup> EXHIBIT "II" (Joint Counter-Affidavit dated November 27, 2014, of A. C. M. Amurao, M. A. L. Aquino, Jr., J. C. Enriquez and M. H. Meneses, pp. 1 – 7 (Records, Vol. 2, pp. 442 – 448).

<sup>54</sup> Minute Resolution dated December 4, 2019, pp. 1 – 2 (Records, Vol. 3, pp. 4 – 5).

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The City Tourism Office (CTO) of the City of Puerto Princesa, Palawan, jumpstarted preparations for the Panglipay sa Baybay, a two-month<sup>55</sup> long, annual festival.<sup>56</sup> Aileen Cynthia M. Amurao, head of the CTO, directed her staff to send solicitation letters<sup>57</sup> to several companies. Edgardo “Bong” Villanueva, *Punong Abala*,<sup>58</sup> and Michael Angelo “Manika” Aquino, Jr., the events coordinator,<sup>59</sup> contemporaneously sought financial contributions and in-kind support from the private sector.

The City Government of Puerto Princesa allotted funds for the the summer extravaganza. Still, Amurao, the official chairperson of the festival, looked for sponsorships from commercial establishments. The fund-raising campaign came to fruition, and financial resources for prizes, awards and logistics were augmented. Yet, neither accounting nor liquidation of the collections was made.

On September 4, 2014, Doris G. Suelo, Sheryl Lynn T. Lebante and Engilbert Alvarez, permanent employees of the CTO, filed a verified complaint against the accused herein before the Office of the Ombudsman.<sup>60</sup> After the preliminary investigation, the Ombudsman<sup>61</sup> indicted them for violation of Section 7(d) of Republic Act No. 6713. This paved the way for the proceedings before this Court.

**ADMISSIONS**

During the preliminary conference,<sup>62</sup> the parties made the following stipulations of facts and admissions, to wit:

\_\_\_\_\_

<sup>55</sup> April 1 to May 31, 2014 (EXHIBIT “E”).

<sup>56</sup> The first Pangalipay was celebrated in April 2005, through the efforts of “Action Man” Vice Mayor Bayron. This is a huge summer extravaganza which is celebrated along the baywalk area (<http://puertoprincesa.ph/?q=tourism/april-%E2%80%94-pangalipay-sa-baybay>)

<sup>57</sup> EXHIBITS “F”, “G”, “H”, “K”, “L”, “M”, “N”, “O”, “P”, “Q”, “R”, “S”, “T”, “U”, “W”, “W-3”.

<sup>58</sup> Judicial Affidavit dated July 30, 2019, of Aileen Cynthia M. Amurao, pp. 4 – 6 (Records, Vol. 2, pp. 329 – 331).

<sup>59</sup> EXHIBIT “D”; TSN, July 31, 2019, pp. 12 – 17, 28.

<sup>60</sup> EXHIBIT “E”.

<sup>61</sup> Justice Conchita Carpio Morales.

<sup>62</sup> Pre-trial Order dated February 14, 2018, pp. 1 – 13 (Records, Vol. 1, pp. 236 – 248).

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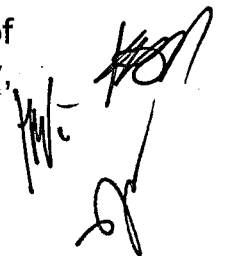
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**A. The prosecution and the accused stipulated on the following:**

1. The jurisdiction of the Court to try the case;
2. Accused Aileen Cynthia Maggay Amurao (Amurao), Ma. Joyce Cabanag Enriquez (Enriquez), Michie Hitoris Meneses (Meneses), and Michael Angelo Lucero Aquino, Jr. (Aquino) are the same persons named in the Information docketed as SB-17-CRM-1385;
3. At the time material to the allegations in the Information, accused Amurao is a public employee, being then the City Tourism Officer/ City Tourism Department Head of Puerto Princesa City, Palawan;
4. At the time material to the allegations in the Information, accused Enriquez is a public employee, being then the Tourism Operations Assistant of Puerto Princesa City, Palawan; and
5. At the time material to the allegations in the Information, accused Meneses is a public employee, being then the Tourism Operations Officer I of Puerto Princesa City, Palawan.

**B. The parties also admitted the authenticity and due execution of the following documents of the prosecution:**

1. As to accused Amurao – her Service Record, Appointment Paper, and Position Description Form for accused Amurao (*Exhibits "A" to "A-2"*);
2. As to accused Enriquez – her Service Record, Appointment Paper, and Position Description Form for accused Amurao (*Exhibits "B" to "B-2"*);
3. As to accused Meneses – her Service Record, Appointment Paper, and Position Description Form (*Exhibits "C" to "C-2"*);
4. As to accused Aquino, Jr. – the Contract of Service between him and Puerto Princesa City,



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and his Personal Data Sheet (*Exhibit[s] "D" and "D-2"*).<sup>63</sup>

During the trial,<sup>64</sup> specifically when the prosecution was scheduled to present Remedios B. Valencia, Local Revenue Collection Officer IV/ Chief, Cash Receipts Division, City Government of Puerto Princesa, the parties agreed on the following:

- (1) That the witness, R. B. Valencia, can identify the documents attached to her judicial affidavit; and
- (2) The existence, genuineness and due execution of the Certification dated September 4, 2017 issued by the Office of the City Treasurer, City of Puerto Princesa marked in evidence as Exhibit "BB".

Further, the defense agreed to stipulate on the testimony of Prosecution witness, Indira B. Alfaro, Administrative Officer I at the Human Resource Management Office of the City Government of Puerto Princesa.<sup>65</sup>

## **EVIDENCE FOR THE PROSECUTION**

### **A. TESTIMONIAL EVIDENCE:**

Initially, the prosecution planned to present twenty-one (21) witnesses.<sup>66</sup> During the trial phase, the list narrowed down to eleven (11) witnesses, namely:

- 1) Mary Mae Romelyn Serag-Arcegono;<sup>67</sup>
- 2) Cyril Faith L. Negosa;<sup>68</sup>

<sup>63</sup> Id. at pp. 1 – 2 (Records, Vol. 1, pp. 236 – 237); Order dated November 24, 2017, pp. 1 – 2 (Records, Vol. 1, pp. 210 – 211).

<sup>64</sup> Order dated April 4, 2018, pp. 1 – 2 (Records, Vol. 1, pp. 451-A – 451-B).

<sup>65</sup> Id. at p. 1 (Records, Vol. 1, p. 451-A).

<sup>66</sup> Pre-trial Brief dated September 6, 2017, of the Prosecution, pp. 7 – 8 (Records, Vol. 1, pp. 139 – 140).

<sup>67</sup> Order dated February 28, 2018, p. 1 (Records, Vol. 1, p. 355-A).

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- 3) Engilbert M. Alvarez;<sup>69</sup>
- 4) Sheryl Lynn T. Lebante;<sup>70</sup>
- 5) Rosalia M. Arbon;<sup>71</sup>
- 6) Remedios B. Valencia;<sup>72</sup>
- 7) Doris G. Suelo;<sup>73</sup>
- 8) Sheila Ann M. Paclarin-Galivo;<sup>74</sup>
- 9) Ramil Gonzales;<sup>75</sup>
- 10) Emman M. Montilla;<sup>76</sup> and
- 11) Indira B. Alfaro.

The substance of the testimony of each witness presented by the prosecution are summarized below, viz:

**A-1. Mary Mae Romelyn Serag - Arcegono**

Mary Mae Romelyn Serag–Arcegono was the Tourism Operation Officer I at the Tourism Office, Puerto Princesa City, Palawan since August 2011.<sup>77</sup> She vouched that accused Amurao, the department’s head, instructed her to draft five (5) solicitation letters addressed to owners of target areas to cover the costs of training, including food and accommodation for resource speakers and facilitators, in connection with the

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<sup>68</sup> Order dated April 30, p. 1 (Records, Vol. 2, p. 19-A).

<sup>69</sup> Order dated March 15, 2018, p. 1 (Records, Vol. 1, p. 389-A).

<sup>70</sup> Order dated March 6, 2018, p. 1 (Records, Vol. 1, p. 365).

<sup>71</sup> Order dated March 15, 2018, p. 1 (Records, Vol. 1, p. 389-A).

<sup>72</sup> Order dated April 4, 2018, pp. 1 – 2 (Records, Vol. 1, pp. 451-A – 451-B).

<sup>73</sup> Order dated April 12, 2018, p. 1 (Records, Vol 2, p. 8); Order dated October 5, 2018, p. 1 (Records, Vol. 2, p. 118-A).

<sup>74</sup> *Ibid*; Order dated May 28, 2018, pp. 1 – 2 (Records, Vol. 2, pp. 45-A – 45-B).

<sup>75</sup> Order dated September 14, 2018, p. 1 (Records, Vol. 2, p. 95-A).

<sup>76</sup> Order dated October 5, 2018, p. 1 (Records, Vol. 2, p. 118-A).

<sup>77</sup> Judicial Affidavit dated February 2, 2018, of M. M. R. Serag-Arcegono, p. 2 (Records, Vol. 1, p. 219).

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service quality training for tourism stakeholders.<sup>78</sup> Conformably, she drafted, delivered and followed-up said letters.<sup>79</sup> Out of the five (5) addressees, only two (2) resort owners acceded to free accommodation and free use of their function halls.<sup>80</sup>

Serag-Arcegono clarified:

“AJ MIRANDA:

“... [Y]ou also used the word “CLIENT” in four to five letters. *Kasi nakalagay dito, second to the last paragraph, in connection with this, may be request from your good office for a free accommodation for five (5) City Tourism staff from February 23 to 26, 2014. We will facilitate and assist for the said training program to ensure the best accommodation for our CLIENTS?* x x x *Sino ‘yong ‘CLIENTS’ ng Tourism Department?*

“M. ARCEGONO:

“The CBST community-based sustainable tourism industry stakeholders.

“AJ MIRANDA:

“x x x Are they private or government in nature?”

“M. ARCEGONO:

“Private, sir, but the community-based sustainable is the barangay.

“AJ MIRANDA:

“Barangay?”

“M. ARCEGONO:

“Yes, sir. *Meron silang isang tourist spot na sila ‘yong nagha-handle. Dun sila kumikita.’*<sup>81</sup>

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<sup>78</sup> EXHIBITS “N”, “O”, “P”, “Q”, “R”; Judicial Affidavit dated February 2, 2018, of M. M. R. Serag-Arcegono, pp. 4 - 8 (Records, Vol. 1, p. 221 - 225); TSN, February 28, 2018, pp. 14 - 17.

<sup>79</sup> TSN, February 28, 2018, pp. 13 - 14, 32 - 33.

<sup>80</sup> Id. at pp. 34 - 35, 41.

<sup>81</sup> Id. at pp. 39 - 40.



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Notably, Serag–Arcegono disavowed personal knowledge regarding the participation of accused **Aquino** in the alleged solicitations.<sup>82</sup> Interestingly, she said:

“Q: . . . You said awhile (sic) ago that the solicitation was **ILLEGALLY** conducted by accused Amurao. Yet, you drafted the letter, have it signed by them and distributed the letters to the stakeholders. Why did you do that?

“A: Because she was my superior and I was just a staff of Ms. Amurao and I was afraid that she would file a case of insubordination against me, so I drafted the letter.”<sup>83</sup> (Emphasis and Capitalization Supplied.)

Further, she testified:

“Q: Now, you claimed awhile (sic) ago that the order of Ms. Amurao is not lawful and yet, you followed the order?

“A: Yes, sir.

“Q: Is it not that it contradicts your oath of office?

“A: Yes, sir.

“x x x

Q: . . . [Y]ou made mention also [of] the name of Ms. **MENESES**, one of the accused here, as a facilitator?

“A: Yes, sir.

“Q: x x x Did she just follow the order of a superior officer . . . ?

“A: Yes, sir.”<sup>84</sup> (Emphasis and Capitalization Supplied.)

**A-2 Cyril Faith L. Negosa**

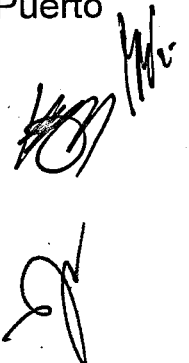
Cyril Faith L. Negosa, Tourism Operations Officer II, was the Training Section Chief of the City Tourism Office, Puerto

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<sup>82</sup> Id. at pp. 19 – 20.

<sup>83</sup> Id. at p. 23.

<sup>84</sup> Id. at p. 30.



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Princesa City, Palawan.<sup>85</sup> She disclosed that their office held the Service Quality Training Tourism Seminar at Sheridan Beach and Spa last February 23 to 25, 2014. Interestingly, Daluyon Beach and Mountain Resort footed the bill and provided free accommodations to local employees who attended said seminar.<sup>86</sup>

**A-3. Engilbert M. Alvarez**

Engilbert M. Alvarez, the construction and maintenance foreman detailed at the City Tourism Office,<sup>87</sup> was one of the private complainants against the four accused herein.<sup>88</sup> The acts complained of pertained to the alleged solicitation letters sent to several stakeholders in connection with the 10<sup>th</sup> Pangalipay sa Baybay, among others.<sup>89</sup>

Admittedly, Alvarez disavowed that he had personal knowledge that accused Aquino, Jr. prepared any of the solicitation letters.<sup>90</sup>

**A-4. Sheryl Lynn T. Lebante**

Sheryl Lynn T. Lebante, Tourist Receptionist I,<sup>91</sup> testified on the illegal solicitations made repeatedly by the accused on the pretext that these gave tourism in Palawan a

<sup>85</sup> TSN, April 30, 2018, pp. 4 – 9.

<sup>86</sup> Judicial Affidavit dated February 19, 2018, of Cyril Faith L. Negosa, pp. 2 – 3 (Records, Vol. 1, pp. 254 – 255).

<sup>87</sup> TSN, March 15, 2018, pp. 25 – 27.

<sup>88</sup> Judicial affidavit dated February 15, 2018, of E. M. Alvarez, pp. 1 - 5 (Records, Vol. 1, pp. 260 - 264 ); EXHIBITS "E", "E-3".

<sup>89</sup> Id. at pp. 6 – 15 (Records, Vol. 1, pp. 265 – 274); EXHIBITS "F", "G", "H", "K", "L", "M" "N", "O", "P", "Q", "R", "S", "T", "U", "W", "W-3".

<sup>90</sup> TSN, March 15, 2018, p. 29.

<sup>91</sup> S. L. T. Lebante was employed in the City Tourism Office, Puerto Princesa City, Palawan from 2012 to January 2016 (TSN, March 6, 2018, p. 6).

Handwritten signatures and initials are present on the right side of the page, including a large signature that appears to be 'W. C.' and several other initials.

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shot in the arm.<sup>92</sup> In effect, the City Government, thru its City Tourism Office, “*requested*” for –

- 1) sponsorship of the Pangalipay sa Baybay;<sup>93</sup>
- 2) free accommodation and meals for resource speakers and City Tourism staff during training seminars;<sup>94</sup>
- 3) sponsorship for projects such as the Tourism Information Kiosk.<sup>95</sup>

Lebante stressed that the “*establishments respond positively to the solicitation letters*”.<sup>96</sup>

**A-5. Rosalia M. Arbon**

Rosalia M. Arbon, Budget Officer I / Administrative Officer II, of the City Budget Office of Puerto Princesa, Palawan,<sup>97</sup> presented certified true copies of the following documents:

- 1) Advice of Allotment for the Quarter Ending March 31, 2014,<sup>98</sup> and
- 2) Program Appropriation and Obligation Object for 2014 for the City Tourism Office.<sup>99</sup>

To be sure, Arbon never had personal knowledge of the contents of the above-mentioned documents. Parenthetically, she was merely the custodian.<sup>100</sup>

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<sup>92</sup> EXHIBITS “E”, “E-2”.

<sup>93</sup> EXHIBITS “F”, “G”, “I”, “K”, “W”, “W-3”.

<sup>94</sup> EXHIBITS “N”, “O”, “P”, “Q”, “R”, “S”, “T”, “U”.

<sup>95</sup> EXHIBIT “M”.

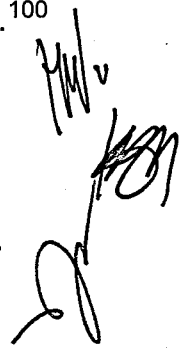
<sup>96</sup> TSN, March 6, 2018, pp. 37 – 39.

<sup>97</sup> Judicial Affidavit dated March 7, 2018, of R. M. Arbon, pp. 1 – 2 (Records, Vol. 1, pp. 368 – 369); TSN, March 15, 2018, pp. 38 – 39.

<sup>98</sup> EXHIBIT “J” (Records, Vol. 1., p. 376).

<sup>99</sup> EXHIBITS “CC”, “CC-1” (Records, Vol. 1, pp. 378 – 379).

<sup>100</sup> TSN, March 15, 2018, pp. 41 – 44.



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**A-6. Remedios B. Valencia**

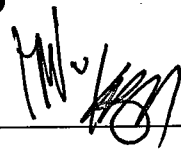
Remedios B. Valencia, Local Revenue Collection Officer IV<sup>101</sup> and Chief, Cash Receipts Division of the City Treasurer's Office, Puerto Princesa City, Palawan, identified and authenticated the Certification dated September 4, 2017, that *"per record of the Cash Receipts Division of this Office show, that we did not received (sic) any amount in the form of cash or donation relative to the 10<sup>th</sup> Pangalipay sa Baybay program of the City of Puerto Princesa."*<sup>102</sup>

**A-7. Doris G. Suelo**

Doris G. Suelo, Supervising Tourism Operations Officer, Puerto Princesa City, Palawan, was one of the three private complainants against the accused.<sup>103</sup> She called into question the solicitation letters signed by accused Amurao for the following purposes:

- 1) requests for sponsorship for the 10th Pangalipay sa Baybay;<sup>104</sup>
- 2) requests for free accommodation and meals for resource speakers and City Tourism staff during training seminars;<sup>105</sup>
- 3) requests for sponsorship of the interactive Information Kiosk.<sup>106</sup>

**A-8. Sheila Ann M. Paclarin-Galivo**



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<sup>101</sup> Judicial Affidavit dated March 26, 2018, of R. B. Valencia, pp. 1 - 6 (Records, Vol. 1, pp. 394 - 399).

<sup>102</sup> EXHIBIT ""BB" (Records, Vol. 1, p. 401); TSN, April 4, 2018, pp. 6 - 8.

<sup>103</sup> EXHIBITS "E", "E-1"; TSN, April 12, 2018, pp. 6 - 7.

<sup>104</sup> EXHIBITS "F", "G", "I", "K", "W", "W-3"; TSN, October 5, 2018, pp. 39 - 41.

<sup>105</sup> EXHIBITS "N", "O", "P", "Q", "R", "S", "T", "U".

<sup>106</sup> EXHIBIT "M"; Judicial Affidavit dated April 6, 2018, of D. G. Suelo, pp. 1 - 11 (Records, Vol. 1, pp. 452 - 462).



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Sheila Ann M. Paclarin-Galivo was the Marketing Supervisor of LTS Pinnacle Holdings, Inc., which operates NCCC Mall in Puerto Princesa City, Palawan.<sup>107</sup> The City Tourism Office, thru accused Amurao, “humbly requested” NCCC “to be one of the sponsor[s] of Pangalipay sa Baybay 2014.”<sup>108</sup> The matter was endorsed to Althea D. Lucas, Central Marketing Manager, for approval. Accordingly, a Memorandum of Agreement<sup>109</sup> was executed between LTS Pinnacle Holdings, Inc. and Michael Angelo Aquino, Jr., the representative of the City Tourism Office. Thereupon, a gift certificate worth ₱10,000.00 was handed to accused Aquino.<sup>110</sup>

**A-9. Ramil Gonzales**

Ramil Gonzales was an Area Supervisor of Excite Touchpoint Solutions Team, Inc. (Touchpoint), a marketing and advertising firm. On March 2014, Smart Communications, Inc. (Smart), a client of Touchpoint, transmitted via e-mail to the latter a request for sponsorship in the 10<sup>th</sup> Pangalipay sa Baybay.<sup>111</sup> The request was signed by accused Amurao.<sup>112</sup> Smart gave ₱30,000.00 to accused Aquino, Jr, the authorized representative of the City Tourism Office of Puerto Princesa City.<sup>113</sup>

**A-10. Emman M. Montilla**

Emman M. Montilla, Area Sales Head at Palawan of Globe Telecom, Inc. (Globe), affirmed that accused Amurao,

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<sup>107</sup> Judicial Affidavit dated April 10, 2018, of S. A. M. Paclarin-Galivo, pp. 1 – 2 (Records, Vol. 1, pp. 498 – 499).

<sup>108</sup> EXHIBITS “K”, “K-1” (Records, Vol. 1, pp. 506 – 507); TSN, August 7, 2018, pp. 7 - 10

<sup>109</sup> EXHIBITS “L”, “L-3”, “L-3-A”; TSN, April 30, 2018, pp. 31 – 33; TSN, May 28, 2018, pp. 13 – 19; TSN, August 7, 2018, pp. 17 – 22.

<sup>110</sup> Judicial Affidavit dated April 10, 2018, of S. A. M. Paclarin-Galivo, pp. 3 – 5 (Records, Vol. 1, pp. 500 – 502); TSN, August 7, 2018, pp. 23 – 24.

<sup>111</sup> Judicial Affidavit dated April 27, 2018, of R. Gonzales, pp. 1 - 9 (Records, Vol. 2, pp. 20 - 28).

<sup>112</sup> EXHIBIT “W-3”; TSN, September 14, 2018, pp. 13 – 20.

<sup>113</sup> EXHIBITS “V”, “W”, “W-1”; TSN, September 14, 2018, pp. 21 – 26.