

Republic of the Philippines  
SANDIGANBAYAN  
Quezon City

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Fourth Division


PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*

-versus-

ELENITA S. BINAY, ET AL.,  
*Accused.*

CRIM. CASE NOS. SB-12-  
CRM-0031 to 0032  
*For: Violation of Section 3(e) of  
R.A. No. 3019*

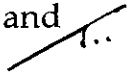
Present:  
Lacap Pahimna, J.  
Jacinto, J.  
Caldona, J.

Promulgated:  
MAY 16 2022 

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RESOLUTION

Before the Court are the following:

1. ***Compliance (Re: Resolution dated October 1, 2020) With Request For Stipulations***<sup>1</sup> dated 9 November 2020 filed by the plaintiff;
2. ***Comment [Re: Compliance (Re: Resolution dated October 1, 2020) With Request For Stipulations dated 09 November 2020]***<sup>2</sup> filed by accused Dulce P. Cruz, Mabel B. Asunio, Lilia A. Nonato, Conrado V. Pamintuan and Jaime P. Delos Reyes (accused "Cruz, et al.") on 10 December 2020;
3. ***Comment [Re: Request For Stipulations]***<sup>3</sup> dated 14 December 2020 filed by accused Elenita S. Binay (accused "Binay");
4. ***Consolidated Reply And Manifestation With Motion To Allow Trial By Videoconferencing And Motion To Reset***<sup>4</sup> dated 11 February 2022 filed by the plaintiff; and 



<sup>1</sup> Records, Vol. 7, pp. 132-139

<sup>2</sup> Ibid, pp. 156-160

<sup>3</sup> Id, pp. 161-167

<sup>4</sup> Id, pp. 203-222

RESOLUTION

People vs. Binay, Et Al.

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 2 of 14

x-----x

5. *Comment*<sup>5</sup> dated 18 March 2021 filed by accused Binay.

To recall, the Court directed the prosecution on 27 July 2020 to re-evaluate its intended witnesses and documentary evidence for possible stipulation, and to submit the proper pleading thereon in order to enhance the disposition of these cases.<sup>6</sup> Said directive was reiterated in a *Minute Resolution* dated 1 October 2020.<sup>7</sup>

By way of *Compliance*, the prosecution manifested that after re-evaluation, it intends to present the following:

Name	Purpose/s
1. <b>Isabel D. Agito</b> 2. <b>Carlos I. Odfina, Jr.</b> 3. <b>Dean S. Montalban</b> <i>or any of their authorized representative/s</i>  Commission on Audit, Commonwealth Ave., Quezon City	To prove the existence, due execution and genuineness of <b>Exhibit "A" and series</b> , and <b>Exhibits "E" to "I"</b> including their sub-markings, if any (as described in the list of Documentary Exhibits for the prosecution), identify its Annexes and to testify on matters stated therein.  The witnesses will also identify <b>Exhibits "L" to "JJ"</b> including their sub-markings, if any (as described in the list of Documentary Exhibits for the prosecution), and to testify on the matters stated therein.
4. <b>Jose G. Villapando</b> From the Legislative Records and Archives Service of the Senate of the Philippines	To prove the existence, due execution and genuineness of <b>Exhibits "J" and series</b> including their sub-markings, if any (Transcript of Stenographic Notes (TSN) of the hearing conducted by the Senate of the Philippines on September 25, 2014 on the testimony of Ernesto A. Aspillaga with the agenda: P.S. Resolution No. 826), and to testify on the matters stated therein.
5. <b>Fausto Rivera Quizon, Jr.</b> <i>or any authorized representative/s</i>  Records Section of the Food and Drug Administration (FDA)	To prove the existence, due execution and genuineness of <b>Exhibits "KK" and series</b> including their sub-markings, if any (as described in the above list of Documentary Exhibits for the prosecution), and to testify thereon.

<sup>5</sup> Id, pp. 298-303

<sup>6</sup> Id, p.37

<sup>7</sup> Id, pp. 123-124

**RESOLUTION**

**People vs. Binay, Et Al.**

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 3 of 14

x-----x

<p><b>6. Glicerio P. Kalaw</b> <i>or any authorized representative/s</i></p> <p>From the Records Management Services of the Commission on Audit, Commonwealth, Quezon City</p>	<p>To prove the existence, due execution and genuineness of <b>Exhibit "A" and series, and Exhibits "E" to "I"</b> including their sub-markings, if any (as described in the above list of Documentary Exhibits for the prosecution), identify its Annexes and to testify on the matters stated therein.</p> <p>The witnesses will also identify <b>Exhibits "L" to "JJ"</b> including their sub-markings, if any (as described in the above list of Documentary Exhibits for the prosecution), and to testify on the matters stated therein.</p>
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The prosecution likewise made an offer for stipulation with the accused as regards the would-be testimonies of the foregoing witnesses so as to expedite the disposition of the present cases. The admissions and counter-stipulations of accused Cruz, et al. and accused Binay are summarized below.

Offer for Stipulation	Admissions and/or Counter- stipulations
<p><b>I. JOSE G. VILLAPANDO</b></p> <ol style="list-style-type: none"> <li>1. That he is presently the Service Chief, Director III of the Legislative Records and Archives Service of the Philippine Senate;</li> <li>2. That he functions as the legal custodian of the legislative records of the Senate and its committees and as such, he has the physical custody of all the said records;</li> <li>3. That as part of his duties and responsibilities as such, he issued the certified true copies of Transcript of Stenographic Notes (TSN) of the hearing dated September 25, 2014, conducted by the Philippine Senate "to investigate in aid of legislation the Alleged PhP1.601 Billion Overpricing of the 11-Storey New Makati City Hall II Parking Building, the Reported</li> </ol>	<p><b>Accused Cruz, et al.</b></p> <ul style="list-style-type: none"> <li>- Willing to stipulate on Items 1 to 4, without prejudice to their right to object to the admissibility of Exhibit "J", if and when it is formally offered.<sup>9</sup></li> </ul> <p><b>Accused Binay</b></p> <ul style="list-style-type: none"> <li>- Willing to stipulate on Items 1 to 4, subject to the following counter-stipulations:</li> </ul> <ol style="list-style-type: none"> <li>1. Mr. Villapando was not the one who prepared the <i>Transcript of Stenographic Notes</i> of the hearing on 25 September 2014;</li> <li>2. Mr. Villapando has no personal knowledge of the accuracy of the <i>Transcript of</i></li> </ol>

<sup>9</sup> Id, p. 156

RESOLUTION

People vs. Binay, Et Al.

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 4 of 14

x-----x

<p>Overpricing of the 22-Storey Makati City Hall Building at the Cost of PhP240,000.00 Per Square Meter and Related Anomalies Purportedly Committed by Former and Current Local Government Officials and for Other Related Purposes"; and</p> <p>4. That he will be able to identify the certified copies of the documents and his signature appearing on each page thereon, that he submitted to the Office of the Special Prosecutor, Office of the Ombudsman and which the prosecution marked as <b>Exhibit "J"</b>.<sup>8</sup></p>	<p><i>Stenographic Notes</i> of the hearing on 25 September 2014; and</p> <p>3. Mr. Villapando has no personal knowledge as to the truthfulness of the testimonies of the witnesses contained in the <i>Transcript of Stenographic Notes</i> of the hearing on 25 September 2014.<sup>10</sup></p>
<p><b>II. FAUSTO RIVERA QUIZON, JR.</b></p> <p>1. That he is presently the Administrative Officer V and Officer-In-Charge of the Records Section, General Services Division, Administration and Finance Service (AFS) of the Food and Drug Administration (FDA);</p> <p>2. That his duties and responsibilities essentially include mailing of License to Operate all over the Philippines as well as Letters/Decisions issued by the Legal Services Division; re-issuance of (CPR) Certificate of Product Registration and License to Operate (LTO) and other FDA-issued documents; personal delivery of Letters in Metro Manila; issue Certifications pertaining to the authenticity of FDA-issued documents and such other tasks that may be assigned;</p> <p>3. That as part of his duties and responsibilities as such, he issued the Certification dated September 28, 2017 marked by the prosecution as <b>Exhibit "KK"</b> attesting to the fact</p>	<p><b>Accused Cruz, et al.</b></p> <p>- Willing to stipulate on Items 1 to 7 with the following counter-stipulations:</p> <p>1. It was not Mr. Quizon who personally verified whether the License to Operate marked as Exhibit "KK-1" was in the files of the Information Communication Technology Management Division ("ICTMD") of the Food and Drugs Administration ("FDA");</p> <p>2. It was in fact a certain "Mr. Forro" from the ICTMD who informed Mr. Quizon that there is no record of the License to Operate marked as Exhibit "KK-1" in the files of the ICTMD;</p> <p>3. On the basis of this information, Mr. Quizon issued the Certification dated 28 September 2017, marked as Exhibit "KK";</p>

<sup>8</sup> Id, p. 134

<sup>10</sup> Id, pp. 161-162

**RESOLUTION**

**People vs. Binay, Et Al.**

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 5 of 14

x-----x

that a certain Apollo Medical Equipment and Supplies has no available records and is not registered by their Office as Medical Device and Supplies Distributor and that the License to Operate with No. 0005555 marked by the prosecution as *Exhibit "KK-1"* and *Exhibit "FF-3"* does not exist in their record;

4. That he will be able to identify the Certification dated September 28, 2017 as the same Certification that he issued and his signature that appears thereon, which document is accordingly marked by the prosecution as *Exhibit "KK"*;
5. That he will also be able to identify the certified true copy of the License to Operate with No. 0005555 marked by the prosecution as *Exhibit "KK-1"* to be the same copy of the License to Operate with No. 0005555 that he verified when he received the Subpoena of the Office of the Special Prosecutor upon indorsement to his office by the Center for Device Regulation Radiation Health and Research (CDRRHR) of the FDA;
6. That he can further identify the certified true copy of the Certification dated October 4, 2001 issued by William D. Torres of the Bureau of Food and Drugs marked by the prosecution as *Exhibit "KK-2"* to be the same copy attached to the Subpoena of the Office of the Special Prosecutor that he received upon indorsement to his office by the Center for Device Regulation Radiation Health and Research (CDRRHR) of the FDA;
7. That he can confirm that the Certified True Copy of a License to

4. Among others, a license to operate must bear: (i) the logo of the FDA (formerly, the Bureau of Food and Drugs); (ii) the name of the entity to whom it is granted; (iii) the dates of issue and expiration; and (iv) the signature of the issuing authority;
5. The License to Operate marked as Exhibit "KK-1" bears all the features mentioned in item 4 (above);
6. Dr. Quintin L. Kintanar ("Kintanar"), whose ostensible signature appears on the License to Operate marked as Exhibit "KK-1", was the former director of the BFAD; and
7. None of the Accused had prior dealings with Dr. Kintanar.<sup>12</sup>

**Accused Binay**

- Willing to stipulate on Items 1, 2 and 4, as well as a portion of Item 3 insofar as it states "That as part of his duties and responsibilities as such, he issued the Certification dated September 28, 2017 marked by the prosecution as Exhibit "KK".<sup>13</sup>

<sup>12</sup> Id, p. 157

<sup>13</sup> Id, pp. 162-164

**RESOLUTION**

**People vs. Binay, Et Al.**

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 6 of 14

x-----x

<p>Operate No. 000555 marked by the prosecution as <i>Exhibit "FF-3"</i> is the same as the License to Operate with No. 0005555 marked by the prosecution as <i>Exhibit "KK-1"</i>;</p> <p>8. That during the actual verification of the License to Operate with No. 000555 with the assistance of an employee assigned at the Information Communication Technology Management Division of FDA, he confirmed that there is no record of the same that can be found in the scanned License to Operate (LTO);</p> <p>9. That further verification made by him of the License to Operate reveals that Apollo Medical Equipment and Supplies has no records of issued LTO under its name;</p> <p>10. That as a former subordinate of Director Quintin L. Quintanar, he can confirm that the said Director's purported signature appearing on the subject License to Operate No. 0005555 marked by the prosecution as <i>Exhibit "FF-3"</i> was forged; and</p> <p>11. That having become very familiar with the signature of Director William D. Torres of the Bureau of Food and Drugs, he can confirm that the latter's signature is the one appearing on the certified true copy of the Certification dated October 4, 2001 and accordingly marked by the prosecution as <i>Exhibit "KK-2"</i>.<sup>11</sup></p>	
<p><b>III. RACHELLE M. ABENDAÑO</b></p> <p>1. That she is presently the Director of the Records Management Services, General Services Office, Administrative Sector of the Commission on Audit;</p>	<p><b>Accused Binay</b></p> <ul style="list-style-type: none"><li>- Willing to stipulate on Items 1 to 4, subject to the following counter-stipulations:</li><li>1. That the source documents of annexes/attachments to</li></ul>

<sup>11</sup> Id, p. 135-136

**RESOLUTION**

**People vs. Binay, Et Al.**

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 7 of 14

x-----x

<p>2. That her duties and responsibilities essentially include the safekeeping of the documents submitted for filing in the aforesaid Records Management Services of COA and issuance of certified copies thereof upon proper request;</p> <p>3. That as part of her duties and responsibilities as such, she issued the certified copies of the documents marked by the prosecution as Exhibits "A",<sup>14</sup> "E",<sup>15</sup> "E-1",<sup>16</sup> "E-2",<sup>17</sup> "E-3",<sup>18</sup> "E-4" to "E-10",<sup>19</sup> "F",<sup>20</sup> "G",<sup>21</sup> "H"<sup>22</sup> and "I";<sup>23</sup> and</p> <p>4. That she will be able to identify the above-described documents and her signature appearing on each page thereon to be the same certified copies that she issued and eventually submitted to the Office of the Special Prosecutor, Office of the Ombudsman.<sup>24</sup></p>	<p>Exhibit "I" are mere photocopies;</p> <p>2. Ms. Abendaño has no personal knowledge on the accuracy of the documents she certified as true copies of records of the COA.<sup>25</sup></p>
<p><b>IV. ISABEL D. AGITO</b></p> <p>1. That in the year 2001, she occupied the position of State Auditor V in the Commission on Audit;</p> <p>2. That she was among those who composed the Special Task Force of Local Government Units (hereafter, "STFLGU") that was created to</p>	<p><b>Accused Binay</b></p> <p>- Not willing to stipulate.<sup>66</sup></p>

<sup>14</sup> Certified Copy of the Complaint-Affidavit dated January 9, 2003 executed by Isabel D. Agito, Heidi L. Mendoza, Jeannelyn C. Velez, Linda R. Badong, Carlos I. Odfina, Jr., Aida Maria A. Talavera, Edna C. Forto, Dean S. Montalban, Maria J. Dela Cruz, Jeffrey C. Peña, and Ramon S. Barruel

<sup>15</sup> Certified Copy of the 1st Indorsement dated September 18, 2001 of Jose F. Ortega, State Auditor V

<sup>16</sup> Certified Copy of the Letter dated September 25, 2001 of Rogelio U. Marasigan, City of Makati

<sup>17</sup> Certified Copy of the 1st Indorsement dated September 20, 2001 of Jose F. Ortega, State Auditor V

<sup>18</sup> Certified Copy of the Memorandum dated September 13, 2001 of Heidi L. Mendoza

<sup>19</sup> Certified Copy of the STFLGUs - Makati Minutes of Initial Conference dated September 3, 2001

<sup>20</sup> Certified Copy of the Minutes of the Exit Conference dated Feb. 27, 2002, and its annexes

<sup>21</sup> Certified Copy of the Memorandum dated April 19, 2002 for Mr. Francisco B. Escarda signed by Heidi L. Mendoza, State Auditor V and Team Leader-STFLGUs-Makati Team

<sup>22</sup> Certified Copy of the Letter dated April 19, 2002 addressed to the Hon. Mayor of Makati City signed by Francisco Escarda, Asst. Commissioner of the Commission on Audit

<sup>23</sup> Certified Copy of the STFLGUs Report No. 2001-001, COA Report on the Review/Audit of Contracts Involving Infrastructure Projects and Purchases of Supplies, Materials and Equipment of the Makati City Government for the years 2000 and 2001, and all its annexes/ attachments

<sup>24</sup> Records, Vol. 7, pp. 204-206

<sup>25</sup> Id, pp. 300-301

<sup>66</sup> Id, p. 301

**RESOLUTION**

**People vs. Binay, Et Al.**

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 8 of 14

x-----x

review and/or audit contracts of local government units in Metro Manila, starting with the year 2000, involving infrastructure projects and services amounting to P20 Million and above, as well as purchases of supplies, materials and equipment amounting to P1 Million and above;

3. That said witness was particularly assigned in Team 1, in-charge of the audit of Makati City (hereafter, "STFLGU-Team 1"), specifically responsible as Team Supervisor for Purchases of Supplies, Materials and Equipment;
4. That as such, she can identify and confirm that the Certified Copy of the Complaint-Affidavit dated January 9, 2003 executed by Isabel D. Agito, Heidi L. Mendoza, Jeannelyn C. Velez, Linda R. Badong, Carlos I. Odfina, Jr., Aida Maria A. Talavera, Edna C. Forto, Dean S. Montalban, Maria J. dela Cruz, Jeffrey C. Peña, and Ramon S. Barruel and accordingly marked by the prosecution as *Exhibit "A"* is the same copy of the Complainant-Affidavit dated January 9, 2003 that the STFLGU-Team 1 prepared and executed;
5. That she can further identify and confirm that the Certified True Copy of the STFLGUs Report No. 2001-001, COA Report on the Review/Audit of Contracts Involving Infrastructure Projects and Purchases of Supplies, Materials and Equipment of the Makati City Government for the years 2000 and 2001, and all its annexes/attachments, accordingly marked by the prosecution as *Exhibit "I"* is the same copy of the Audit Report prepared and submitted by the STFLGU-Team 1;



**RESOLUTION**

**People vs. Binay, Et Al.**

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 9 of 14

X-----X

6. That she can also identify and confirm that the xxx documents xxx marked by the prosecution [*as Exhibits "E" to "H", including sub-markings*] are the same documents prepared and executed as the consequence of STFLGU-Team 1's audit of Makati City; and

7. That as Team Supervisor for Purchases of Supplies, Materials and Equipment for STFLGU-Team 1, she can likewise identify and confirm that the xxx documents and respectively marked by the prosecution [*as Exhibits "L",<sup>26</sup> "M",<sup>27</sup> "N",<sup>28</sup> "O",<sup>29</sup> "O-1",<sup>30</sup> "P",<sup>31</sup> "P-1",<sup>32</sup> "Q",<sup>33</sup> "Q-1",<sup>34</sup> "R",<sup>35</sup> "S",<sup>36</sup> "T" to "T-3",<sup>37</sup> "U",<sup>38</sup> "U-1",<sup>39</sup> "U-2",<sup>40</sup> "U-3",<sup>41</sup> "V" and "V-1",<sup>42</sup> "W",<sup>43</sup> "W-1",<sup>44</sup> "X" and series,<sup>45</sup> "Y",<sup>46</sup> "Y-1",<sup>47</sup> "Z",<sup>48</sup> "AA",<sup>49</sup>*

<sup>26</sup> Certified True Copy of the AMES' Official Receipt No. 12876

<sup>27</sup> Certified True Copy of the DV Attachment Checklist

<sup>28</sup> Certified True Copy of the Inspection Report of the Office of the City Auditor, COA, Makati City, dated March 23, 2001

<sup>29</sup> Certified True Copy of the Disbursement Voucher No. 001098

<sup>30</sup> Certified True Copy of the Unnumbered Disbursement Voucher of the same particulars and amount as DV No. 001098

<sup>31</sup> Certified True Copy of the Report of Inspection

<sup>32</sup> Certified True Copy of the Report of Inspection (2<sup>nd</sup> copy)

<sup>33</sup> Certified True Copy of the Notice of Delivery dated March 16, 2001

<sup>34</sup> Certified True Copy of the Notice of Delivery dated March 16, 2001 (2<sup>nd</sup> copy)

<sup>35</sup> Certified True Copy of the Inspector's Report dated March 16, 2001

<sup>36</sup> Certified True Copy of the Memorandum Receipt for Equipment, Semi-Expandable and Non-Expandable Property dated March 9, 2001

<sup>37</sup> Certified True Copy of the Equipment Ledger Card (4 pages)

<sup>38</sup> Certified True Copy of the AMES Sales Invoice No. 12461 dated March 8, 2001

<sup>39</sup> Certified True Copy of the AMES Sales Invoice No. 12462 dated March 8, 2001

<sup>40</sup> Certified True Copy of the AMES Sales Invoice No. 12461 dated March 8, 2001 (2<sup>nd</sup> copy)

<sup>41</sup> Certified True Copy of the AMES Sales Invoice No. 12462 dated March 8, 2001 (2<sup>nd</sup> copy)

<sup>42</sup> Certified True Copy of the AMES Warranty Certificate dated March 8, 2001 and Warranty Information

<sup>43</sup> Certified True Copy of the Certificate of Purchase and Delivery Supplies dated March 8, 2001

<sup>44</sup> Certified True Copy of the Certificate of Purchase and Delivery Supplies dated March 8, 2001 (2<sup>nd</sup> copy)

<sup>45</sup> Certified True Copy of the AMES Product Quotation for Cryosurgical Unit with Volumetric Pressure Pump dated February 5, 2001, and its annexes

<sup>46</sup> Certified True Copy of the Purchase Order No. 11523 dated January 19, 2001

<sup>47</sup> Certified True Copy of the Purchase Order No. 11523 dated January 19, 2001 (2<sup>nd</sup> copy)

<sup>48</sup> Certified True Copy of the Abstract of Canvass and Award of Purchase / Contract dated January 19, 2001

<sup>49</sup> Certified True Copy of the Justification of accused Mabel B. Asunio for the purchase of two (2) units of Volumetric Cryosurgical Unit

**RESOLUTION**

**People vs. Binay, Et Al.**

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 10 of 14

x-----x

<p><i>"BB",<sup>50</sup> "CC",<sup>51</sup> "CC-1",<sup>52</sup> "DD",<sup>53</sup> "EE",<sup>54</sup> "EE-1",<sup>55</sup> "EE-2",<sup>56</sup> "FF",<sup>57</sup> "FF-1",<sup>58</sup> "FF-2",<sup>59</sup> "FF-3",<sup>60</sup> "GG and "GG-1",<sup>61</sup> "HH",<sup>62</sup> "HH-1"<sup>63</sup> and "JJ"<sup>64</sup>], are the Certified True Copies that she issued for the documents obtained by the STFLGU-Team 1 during the course of their audit of the Makati City.<sup>65</sup></i></p>	
<p><b>V. DEAN S. MONTALBAN</b></p> <ol style="list-style-type: none"><li>1. That in the year 2001, he occupied the position of Senior Technical Audit Specialist in the Commission on Audit;</li><li>2. That he was among those who composed the above-described STFLGU;</li><li>3. That said witness was likewise assigned in the said STFLGU-Team 1, specifically responsible as Team Member;</li><li>4. That as such, he can identify and confirm that the Certified Copy of the Complainant-Affidavit dated January 9, 2003 executed by Isabel D. Agito, Heidi L. Mendoza, Jeannelyn C. Velez, Linda R. Badong, Carlos I. Odfina, Jr., Aida Maria A. Talavera,</li></ol>	<p><b>Accused Binay</b></p> <p>- Not willing to stipulate.<sup>68</sup></p>

<sup>50</sup> Certified True Copy of the Price Canvass Request dated January 17, 2001

<sup>51</sup> Certified True Copy of the Purchase Request No. 98-13935 dated January 8, 2001

<sup>52</sup> Certified True Copy of the Purchase Request No. 98-13935 dated January 8, 2001 (2<sup>nd</sup> copy)

<sup>53</sup> Certified True Copy of the Product Evaluation Form dated January 5, 2001

<sup>54</sup> Certified True Copy of the Request for Obligation of Allotment No. 012-04-00

<sup>55</sup> Certified True Copy of the Request for Obligation of Allotment No. 012-04-00 (2<sup>nd</sup> copy)

<sup>56</sup> Certified True Copy of the Request for Obligation of Allotment No. 012-04-00 (3<sup>rd</sup> copy)

<sup>57</sup> Certified True Copy of the AMES' Certificate of Registration of Business name

<sup>58</sup> Certified True Copy of the Renewal of AMES' Business Name or Style

<sup>59</sup> Certified True Copy of the Letter dated March 29, 2000 of Dir. Luwina S. Enecio confirming the updated business address of AMES

<sup>60</sup> Certified True Copy of the AMES' Renewal of License to Operate as a Medical Device and Supplies Distributor No. 000555

<sup>61</sup> Certified True Copy of the UGM Medical Systems Certificate of Sole / Exclusive Distributorship dated March 20, 1999 with Attestation from the Consul of the Philippines in and for New York, U.S.A.

<sup>62</sup> Certified True Copy of the Handwritten Certification of accused Mabel B. Asunio on the alleged misdelivery of the subject units

<sup>63</sup> Certified True Copy of the AMES' Letter dated December 11, 2001 confirming the misdelivery of the subject units

<sup>64</sup> Certified True Copy of the Duplicate copy of the Land Bank Check No. 062119

<sup>65</sup> Records, Vol. 7, pp. 206-211

<sup>68</sup> Id, p. 301

**RESOLUTION**

**People vs. Binay, Et Al.**

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 11 of 14

x-----x

- Edna C. Forto, Dean S. Montalban, Maria J. dela Cruz, Jeffrey C. Peña, and Ramon S. Barruel and accordingly marked by the prosecution as *Exhibit "A"* is the same copy of the Complaint-Affidavit dated January 9, 2003 that the STFLGU-Team 1 prepared and executed;
5. That he can also identify and confirm that the xxx documents and respectively marked by the prosecution [*as Exhibits "E" to "H", including sub-markings*], are the same documents prepared and executed as the consequence of STFLGU-Team 1's audit of Makati City xxx;
  6. That he can further identify and confirm that the Certified Copy of the STFLGUs Report No. 2001-001, COA Report on the Review/Audit of Contracts Involving Infrastructure Projects and Purchases of Supplies, Materials and Equipment of the Makati City Government for the years 2000 and 2001, and all its annexes/attachments, accordingly marked by the prosecution as *Exhibit "I"* is the same copy of the Audit Report prepared and submitted by STFLGU-Team 1;
  7. That as Senior Technical Audit Special and Audit Team Member for STFLGU-Team 1, he can likewise identify and confirm that the xxx documents and respectively marked by the prosecution [*as Exhibits "L" to "Z", "AA" to "HH", and "JJ", including sub-markings*] are the same copies of the documents obtained by the STFLGU-Team 1 during the course of their audit of the Makati City xxx;
  8. That the witness was actually present during the inspections of (a) the subject       Cyrosurgical       Unit

RESOLUTION

People vs. Binay, Et Al.

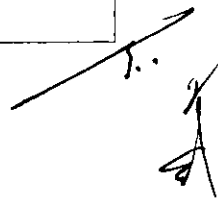
Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 12 of 14

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purportedly procured by the City Government of Makati, and (b) the documents supporting such procurement, that were all conducted by the STFLGU-Team 1 during the course of the audit;

9. That as such, he can identify and confirm the words/phrase "CRYOSURGICAL UNIT AND" appears inserted in almost all of the documents (above-described PO, PR, SI, DR, PCR, Memorandum Receipt, and Equipment Ledger Card) supporting the Disbursement Voucher No. 001098 marked by the prosecution as *Exhibit "O"* and "*O-1*";
10. That the witness can confirm that when he and other members of the STFLGU-Team 1 first inspected the subject items sometime on September 19 to 21 and 25 to 28, 2001, only two units of Sorensen High Volume Thoracic Drainage Pump Model 2150 were presented;
11. That the witness can also confirm that the concerned officials of the City Government of Makati failed to present for inspection the Cryosurgical Unit described in the aforesaid Disbursement Voucher;
12. That the witness can also confirm that during the second inspection on March 22, 2002, the Property Custodian of the Ospital ng Makati still could not present the Cryosurgical Unit for inspection;
13. That the witness can also confirm that instead of the subject unit covered by DV No. 001098, the said Property Custodian presented two (2) Electrosurgical Machines with serial nos. ST-8575 and ST-8737 which equipment are very much similar to the electrocautery machine, SATELEC Servetome Classic Brand



**RESOLUTION**

**People vs. Binay, Et Al.**

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 13 of 14

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<p>that was actually covered by another Purchase Order No. 11206 dated September 26, 2000; and</p> <p>14. That the witness can also confirm that the Purchase Order and Sales Invoice in the possession of the Storekeeper did not contain the inserted words/phrase "CRYOSURGICAL UNIT AND" as said documents showed only the two (2) units of volumetric pressure pump, consistent with what was presented during the STFLGU-Team 1's first inspection.<sup>67</sup></p>	
<p><b>VI. CARLOS I. ODFINA, JR.</b></p> <p>1. That in the year 2001, he occupied the position of Technical Audit Specialist I in the Commission on Audit;</p> <p>2. That he was also among those who composed the above-described STFLGU;</p> <p>3. That said witness was likewise assigned in the said STFLGU-Team 1, also specifically responsible as Team Member;</p> <p>4. That as such, he can corroborate, attest and confirm the same matters of fact as that of witness MONTALBAN's would-be testimony.<sup>69</sup></p>	<p><b>Accused Binay</b></p> <p>- Not willing to stipulate<sup>70</sup></p>

In its *Consolidated Reply*, the prosecution admitted the counter-stipulations of accused Binay with respect to witness Jose G. Villapando, as well as the counter-stipulations of accused Cruz, *et al.* with respect to witness Fausto Rivera Quizon, Jr.<sup>71</sup> In view thereof, the Court **NOTES** the admitted stipulations and counter-stipulations of the parties with respect to witnesses Jose G. Villapando and Fausto Rivera Quizon, Jr., without prejudice to the presentation of said witnesses to testify on other matters not admitted by the parties.

Considering that the prosecution did not file any reply to the counter-stipulations of accused Binay with respect to witness Rachelle M. Abendaño, and considering further that no admission and/or counter-stipulation was offered by

<sup>67</sup> Id, pp. 211-217

<sup>69</sup> Id, p. 217

<sup>70</sup> Id, p. 301

<sup>71</sup> Id, p. 203

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RESOLUTION

People vs. Binay, Et Al.

Crim. Case Nos. SB-12-CRM-0031 to 0032

Page 14 of 14

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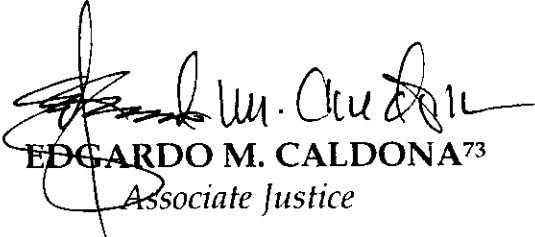
the accused with respect to witnesses Isabel D. Agito, Dean S. Montalban and Carlos I. Odfina, Jr., the prosecution may present said witnesses for the reception of their testimonies against all the accused, subject to cross-examination, if any.

SO ORDERED.

  
LORIFEL LACAP PAHIMNA<sup>72</sup>  
Associate Justice

We concur:

  
BAYANI H. JACINTO  
Associate Justice

  
EDGARDO M. CALDONA<sup>73</sup>  
Associate Justice

<sup>72</sup> In view of the voluntary inhibition of Hon. Alex L. Quiroz in the above-entitled cases, and pursuant to the 2018 Revised Internal Rules of the Sandiganbayan, Hon. Lorifel Lacap Pahimna, being the Senior Member of this Division, shall act as Chairperson.

<sup>73</sup> Sitting as Special Member per A.O. No. 081-2021 dated October 18, 2021