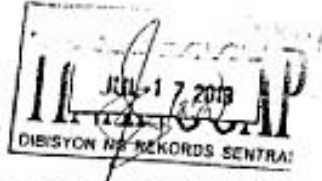


10-00-13-1463

Republic of the Philippines)
) s.s.
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COMPLAINT-AFFIDAVIT

I, **CARLOMAGNO M. BATALLA**, Filipino, of legal age, married, with postal and residence address at Casniman St., Sipocot, Camarines Sur, after having been duly sworn in accordance with law, hereby depose and state, THAT:

1. I was a member of the Provincial Board of the Province of Camarines Sur in 2007 to 2010;

2. Sometime in 2011, the Provincial Government of Camarines Sur headed by its erstwhile Governor **LUIS RAYMOND "LRAY" F. VILLAFUERTE, JR.** hosted the Philippine Ad Congress. The purpose whereof is purportedly to boost tourism in the province specifically the promotion of its alleged state of the arts wakeboarding facilities and other amenities located in the Provincial Capitol Complex, Brgy. Cadlan, Pili, Camarines Sur;

3. The said Philippine Ad Congress did in fact take place with the end in view of generating revenues from hosting the event however it turned out to be an occasion to bilk and prejudice the Province of Camarines Sur as shall be shown below;

4. In a Comprehensive Report submitted by the Commission on Audit (COA) (please refer to the attached COA Report as **Annex "A"** and made part hereof) in its itemized scrutiny of the promotional expenses of the said event, the Commission on Audit found as follows:

Particulars	Amount
General Fund -	
Cash Advance - N. Pelonio (miscellaneous expenses)	P 100,000.00
Petty Cash Fund S. Laquindanum (misc. expenses)	150,000.00
Cash Advances - J. Vargas - allowances	632,000.00
Cash Advances - J. Vargas - allowances	460,290.00
	P 1,342,290.00
Local Development Fund -	
Procurement of Semi-Permanent Structure Tents	P 35,518,550.00
Loans fund -	
Procurement of 5-tonner air con 54 units	P 7,938,000.00
Construction of kitchen	14,195,324.99
Installation of electrical system in the tents	18,244,631.00
38 units 5 tons split type air con for new Convention Hall	5,652,939.75
Structures of tents (concrete pedestal)	8,487,000.00
Expansion of comfort room	5,984,870.00
Electrical works for two units tent	4,380,799.89
Total	P 64,882,949.63
GRAND TOTAL	P 101,743,789.63

Page 1



17. The disbursements of the Province related to the hosting of CV 2011 Philippine Advertising Congress amounting to more than P100 million pesos were not in its approved Annual Investment Plan (AIP) / Local Development Plan (LDP). These resulted to the non-implementation of various Programs/Projects/Activities (PPAs) that were prioritized and approved by the Provincial Development Council (PDC) and were embodied in the AIP/LDP.

In calendar year 2011, the Provincial Government of Camarines Sur in line with its aggressive leap to put the Province in the map of tourism, hosted the Philippine Ad Congress. The list of expenses incurred in relation thereto is shown in Annex "O" totalling to more than P100 million.

It is a standard government practice that every program/project/activity (PPA) is carefully and adequately planned and studied before it is implemented. The plans of the LGU should be embodied in an Annual Investment Plan (AIP) and Local Development Plan (LDP) in compliance with Art. 410 of the Implementing Rules and Regulations (IRR) of the Local Government Code of 1991, and as implemented by related budget circulars. The PPAs are listed in the AIP / LDP of the local government units which passed the deliberation and approval of not just one person in the LGU, but by the local development council (LDC), the members of which are specifically identified in Art. 182 of the IRR of the Local Government Code. Corollary thereto, meticulous and judicious procurement planning is also emphasized in Sec. 7.1 of the Philippine procurement law (RA 9184). The latter law requires that all procurement activity should be contained in an approved Annual Procurement Plan (APP). All of the stated plans are designed to ensure that the scarce financial resources of the government are applied in PPAs that will give utmost benefits to the people.

In the examination of the AIP and LDP of the Province for CY 2011, it was noted that there was no mention whatsoever of the hosting of Philippine Ad Congress during the year. However, management averred that some items in the LDP were removed from it to give way to the disbursement of more than P35 million for the procurement of semi-permanent structure tents out of the local development fund, in preparation for the hosting of the Philippine Ad Congress. It was also noted that the procurement of the items listed in Annex "O" were not in the APP originally submitted to our Office. However, two (2) supplemental APPs were submitted including these items. In a letter dated July 21, 2011, we asked for an explanation from the agency officials concerned because it was noted that the total amount of the APP (original and supplemental) already exceeded by more than P1.8 billion pesos the annual budget for all procurement activity. We also asked for the list of projects that will be removed from the LDP in lieu of the procurement of tent. We nevertheless received no comment from the agency regarding this matter.

This condition showed that the hosting of Ad Congress was not among the plans for implementation by the agency during the year, and that no study was made supporting and recommending the same, yet the province pursued the activity.

It has to be recalled that earlier during the year, even before the bidding for the procurement of semi-permanent structure tents, several letters were sent by the auditors to management requesting for a copy of the feasibility study report and other related documents pertaining to the procurement of the tent, but the Province only submitted the same on February 3, 2012.

Page 2



Intending to know the rationale of hosting the Ad Congress as a whole, we sent a letter to the Hon. Governor on February 7, 2012 asking for the reasons/computations/feasibility study report/projected benefits that must have supported the decision of hosting the activity. On February 28, 2012, we received a letter stating the general outlook of the Province of Camarines Sur in hosting the 22nd Ad Congress, the direct economic impact, the long-term projected revenue from the capital expenditures, media mileage, other non-quantifiable impacts and overall economic impact. They also dealt on the necessity to upgrade existing facilities and install new facilities, and a discussion on "tourism as an economic strategy" (Annex "P").

This situation of prosecuting projects which were not in the approved plans of the agency in effect deprived the constituents of the Province of the benefits and use of the projects that were formulated, prioritized and approved by the local development council as sanctioned and ratified by the local Sanggunian. As stated in the mainframe of the AIP for CY 2011 itself, the PDC sees to it that the various development concerns are elevated and addressed with corresponding programs and projects. The PDC is the venue for the prioritization of programs and projects to be funded from the Province's internal revenue sources as well as additional sources that can be generated. Due to the hosting of the CY 2011 Ad Congress however, much of the Province's resources were diverted, and many of the PPAs in the AIP and LDP were not implemented at all, hence abandoning the intention of the PDC.

Management through a letter duly received by our Office on March 9, 2012 justified that there was a revision made in CY 2011 AIP and LDP. Some items included in the original AIP were replaced by new programs considered as more priority for implementation in CY 2011. They cited a provision in PDC Resolution No. 1 s. of 2011, dated January 31, 2011 as their authority to change the AIP, which reads as follows, viz:

"Whereas, in order to provide the necessary flexibility in the implementation of various programs, projects and activities encompassed in the aforesaid Provincial Investment Program, the Governor, is further authorized to accelerate or decelerate the implementation of any specific project depending on the availability of revenue or other receipts, also, he is likewise authorized to revert and/or realign specific appropriations to augment any item in the approved annual budget, from savings in other items, provided xxxx" (emphasis ours)

In an effort to determine the validity of the above mentioned provision, a query was sent by the auditors to the Office of the Regional Director, Department of Interior and Local Government (DILG) Legaspi City, inquiring if the above cited provision is valid, and if the LDC can divest its powers to revise the items programmed in the approved local development plan and give the Governor the absolute authority to amend/revise the same.

The DILG Director stated in Opinion No. 2012-05, dated March 20, 2012 that since the supposed authority of the Governor to revise/amend the LDP were only stated in the "Whereas provisions" of the Resolution, it is not binding and operative for not having been deliberately and expressly RESOLVED by the Provincial Development Council in Resolution No. 01. Moreover, the supposed authority of the Governor in the Resolution runs afoul with Sections 322 and 336 of the Local Government Code of 1991. The DILG continued that, even when the PDC expresses its intent to authorize the Governor to revert or realign specific



appropriations, such authority will still need the participation of the Sangguniang Panlalawigan by enacting an appropriation ordinance for the purpose.

Together with the reply, management submitted amended AIP and LDP, but it were neither certified nor signed by anybody in the agency. The plans were also not approved by the Governor, thus creating doubt on its validity and reliability. The amended AIP and LDP were likewise not backed up by any PDC and SP resolution.

It is suggested that the implementation of the PPAs listed in the AIP/LDP be given crucial consideration. It has to be borne in mind that these plans reflect the will of the PDC who is the body tasked by the Local Government Code to perform the functions of formulating socio economic development plans, public investment programs, etc. (Art. 182, IRR of RA 7160). The LGU should implement only projects that are contained in the AIP/LDP because these are the projects prioritized by the LDC which are presumed to have undergone series of deliberations and careful study. If there is a need to revise or amend the AIP or LDP, the requirements of the Local Government Code for any revision or amendment should be strictly followed. Regard should likewise be had to the approved APP which contains all the planned procurement for a given year. As stated in the procurement law, no procurement shall be undertaken if it is not in the APP. Moreover, the amount of the APP should in no case exceed the budget for the year.

5. The prejudice occasioned on the Province of Camarines Sur would not have been realized if not for the collusion, cooperation, and conspiracy of the following provincial officials in 2011:

PROVINCE OF CAMARINES SUR
SANGGUNIANG PANLALAWIGAN
COMMITTEE ON FINANCE AND APPROPRIATION
Chairman: Warren S. Señar
Vice-Chairman: Romulo O. Hernandez
Members: Vice-Governor Fortunato C. Peña
Darius S. Nopra
Angel G. Naval
Emmanuel F. Llaguno
Wilfredo Rex C. Oliva

6. The aforementioned provincial officials unanimously passed what purports to be recommendatory reports to the respondent Provincial Governor **LUIS RAYMOND "LRAY" F. VILLAFUERTE, JR.** to approve the corresponding appropriations of monies allegedly as the equity of the Province of Camarines Sur in the hosting of the event. Eventually these aforementioned officials finally passed an Ordinance appropriating the corresponding share of the province causing the latter damage and prejudice.

WHEREFORE, I hereby charge the following:

PROVINCE OF CAMARINES SUR
SANGGUNIANG PANLALAWIGAN

Page 4



COMMITTEE ON FINANCE AND APPROPRIATION

Chairman: Warren S. Señar

Vice-Chairman: Romulo O. Hernandez

Members: Vice-Governor Fortunato C. Peña

Darius S. Nopra

Angel G. Naval

Emmanuel F. Llaguno

Wilfredo Rex C. Oliva

and former Governor LUIS RAYMOND "LRAY" F. VILLAFUERTE, JR., with office address at the provincial capitol complex, Cadlan, Pili, Camarines Sur, for violation of pertinent provisions of R.A. 3019 otherwise known as the "Anti-Graft and Corrupt Practices Act" and violation of R.A. 7080 otherwise known as "An act defining and penalizing the crime of plunder" for the afore-indicated prejudice occasioned to the Province of Camarines Sur. In this regard, herein complainant further prays for the Preventive Suspension of the aforementioned respondents who are still sitting officials of the Province of Camarines Sur to forestall the contamination, alteration and loss of material evidence relevant to the above narration of facts and the possibility of influencing witnesses who shall testify hereof.

IN WITNESS WHEREOF, I have affixed my signature this JUL 18 2013 day of July, 2013 in Makati City.

Carlo Batalla
CARLOMAGNO M. BATALLA

Affiant

SUBSCRIBED AND SWORN TO before me this JUL 18 2013 day of July, 2013 in Makati City affiant:

- is personally known to the notary public;
- was identified by notary public through Competent Evidence of Identity as defined by Rules on Notarial Practice of 2004, thru the presentation/production of the ff:

- Driver's Lic. No. EO2-97-033883
- TIN ID No. _____
- Corn. Tax Cert. No. _____
- SSS ID No. _____
- Passport No. _____
- issued on _____
- GSIS ID No. 006-0078-6314-7
- Company I.D. _____
- issued at _____

Doc. No. 356 ;
Page No. 52 ;
Book No. XIXII ;
Series of 2013.

FRONENCIO E. PULGAR
NOTARY PUBLIC
UNTIL DECEMBER 2015
PTR NO. 3690548
ISSUED ON 7-10-13
AT MAKATI CITY METRO MANILA
TIN NO. 106201495
ACLE COMPLIANCE NO. III-0020487



VERIFICATION / CERTIFICATION

I, **CARLOMAGNO M. BATALLA**, of legal age, married, Filipino, with residence and postal address at Sipocot, Camarines Sur, declare under oath, THAT :

1. I am the Complainant in the above-entitled case;
2. I have caused the preparation of the foregoing Complaint Affidavit, read the contents thereof and the allegations whereof are true and correct of his knowledge and belief;
3. I have not commenced any other petition or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different Divisions thereof or any other tribunal or agency;
4. To the best of my knowledge, no similar Complaint Affidavit is pending in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal agency;
5. If I should thereafter learn that a similar action or proceeding has been filed or is pending before said courts or tribunal, I hereby undertake to promptly inform this Honorable Court of that fact within five (5) days therefrom.

IN WITNESS WHEREOF, I have affixed my signature this ___ day of July, 2013 in


CARLOMAGNO M. BATALLA
Affiant

SUBSCRIBED AND SWORN TO before me this ___ day of July, 2013 in _____, affiant:

is personally known to the notary public;

was identified by notary public through Competent Evidence of Identity as defined by Rules on Notarial Practice of 2004, thru the presentation/production of the ff:

<input checked="" type="checkbox"/> Driver's Lic.No. E02-97-033883	<input type="checkbox"/> TIN ID No. _____	<input type="checkbox"/> Com. Tax Cert. No. _____
<input type="checkbox"/> SSS ID No. _____	<input type="checkbox"/> Passport No. _____	_____ issued on _____
<input checked="" type="checkbox"/> GSIS ID No. 006-0078-6314-7	<input type="checkbox"/> Company I.D. _____	_____ issued at _____

Doc. No. 357 ;
Page No. 52 ;
Book No. XXXII ;
Series of 2013.

~~FRUENICIO E. PUL...~~
FRUENICIO E. PUL...
NOTARY PUBLIC
UNTIL RECORDED 2013
PTR NO. 3680578
ISSUED ON 1-18-13
AT MAKATI CITY METRO MANILA
TIN NO. 105221435
ACCE COMPLIANCE NO. 11 00301*

