

REPUBLIC OF THE PHILIPPINES

SANDIGANBAYAN

QUEZON CITY

SPECIAL DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

- versus -

CRIM. CASE NO. 26905

JOSEPH EJERCITO ESTRADA,

Accused.

PRESENT:

DE CASTRO, PJ., Chairperson

VILLARUZ, JR., and

PERALTA, JJ.

PROMULGATED:

September 12, 2007

X ----- X

D E C I S I O N

The accused, former President Joseph Ejercito Estrada, is charged with the crime of Perjury defined in and penalized by Article 183 of the Revised Penal Code in an Amended Information docketed as Criminal Case No. 26905 which reads as follows:

“That on or about 29 April 1999, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the President of the Republic of the Philippines, taking advantage of his official position and committing the offense in relation to office, being then required by law to file a Statement of Assets, Liabilities and Networth [SALN], did then and there willfully, unlawfully and feloniously state in his SALN for the year ending 31 December 1998, which he executed under oath before a notary public and filed as required by R.A. 6713, that his total assets were P37,385,307.08 including P5,035,363.40 of “cash in hand and in bank,” and that this business interests were only in JELP Real Estate and Dev. Corp., J.E. Inc. and Feluisa Dev. Corp., which material statements are false and untruthful, as he had by then much more assets, including P57,106,201.40 cash in three (3) banks accounts alone, namely: P44,268,442.68 with Keppel Bank; P548,121.84 with ASIA UNITED Bank; and, P12,289,636.88 with Security Bank, as well as other corporate holdings and connections with the following corporations, namely, First LPL Land Syndication, Inc.; Asis-Ejercito Garments, Inc.; 24K International Food, Inc.; Alpha Funds, Inc.; Prime Entertainment for Television Production, Inc.; ADE Food, Inc.; Electronic Sentry Systems, Inc.; All Hot Soup, Inc.; F.E.L.T. Food Services.

“CONTRARY TO LAW.”

Before the Court acquired jurisdiction over the person of accused former President Joseph Ejercito Estrada, the Supreme Court, in Adm. Matter No. 02-1-07-SC, resolved to create a Special Division in the Sandiganbayan to hear, try and decide the Plunder case and all related cases against the said accused pursuant to the recommendation of the Oversight Committee of the Supreme Court. The Supreme Court resolution was in response to the request of the Sandiganbayan that promulgated

its Resolution No. 01-2002 on January 8 and 11, 2002 with respect to the Request for Re-Raffle of the defense counsel and the Opposition to Request for Re-Raffle of the Special Prosecution Panel.

When the case was set for arraignment, accused former President Joseph Ejercito Estrada moved to reset the same and simultaneously filed a Motion to Quash on the following grounds, to wit: “1) the facts charged in the Information do not charge an offense; 2) the officer who prematurely filed the Information had no authority to do so; 3) the Information impermissibly charges more than one offense; and 4) it arbitrarily splits the complaint because of the persistence of the prosecution in disrespecting the interdiction that “[n]o person shall be twice put in jeopardy for the same offense,” while at the same time pursuing what it calls the “main charge for Plunder,” seeking disingenuously to deprive accused of the valuable right of invoking double jeopardy, “*res judicata* dressed in prison grey.”^[1]

On March 6, 2002, the Court resolved to deny accused former President Joseph Ejercito Estrada’s Motion to Quash. On the points raised by the accused in his Motion to Quash, the Court ruled^[2] as follows:

“The information is not duplicitous. It charges accused only of one offense – perjury. This is evident in the title and body of the information. The fact that the same mentions R.A. 6713 does not make it duplicitous. As the Court sees, R.A. 6713 is mentioned only by way of reference to show compliance that the fourth element of the crime charged has been alleged in the information.

“xxx xxx xxx.

“Section 3 of Rule 117 of the 2000 Rules of Criminal Procedure enumerates the grounds upon which an information or complaint may be quashed. These grounds are exclusive and no other ground can be considered except those as mentioned in the aforesaid section. As splitting is not one of those specified in said section, we cannot consider it.

“xxx xxx xxx.

“On the ground of double jeopardy, the arguments of the accused fail to convince us of its presence.

“The requisites that must concur for a legal jeopardy to attach are: (a) a valid complaint or information; (b) a court of competent jurisdiction; (c) the accused has pleaded to the charge; and (d) the accused has been convicted or acquitted or the case dismissed or terminated without the express consent of the accused (*Dela Rose vs. Ca*, 253 SCRA 499). In the instant case, the fourth element is noticeably lacking. The first jeopardy has

not yet attached, as there is no conviction, acquittal, dismissal or termination of the case without the consent of the accused to speak of.

“WHEREFORE, all the foregoing, the instant motion is DENIED for lack of merit.”

Consequently, arraignment proceeded with accused, assisted by counsel *de officio*, refusing to enter any plea. Hence, in accordance with the Revised Rules of Criminal Procedure, the Court entered a plea of “Not Guilty” on his behalf. The case was then set for pre-trial conference and the prosecution and the accused were directed to file their corresponding pre-trial briefs on or before the said date.

During the pre-trial conference on April 22, 2002, counsels *de officio* for accused former President Joseph Ejercito Estrada reiterated their Manifestation filed during the pre-trial in Criminal Case No. 26565 (for Illegal Use of Alias) involving the same accused as follows:

“A. Facts of the case

“x x x

“They are not in a position to intelligently enter into any stipulation or admission because the accused does not want to be represented by any counsel hence, they were not able to confer with him regarding this case.

“B. Testimonial and Documentary Evidence

“The undersigned hereby respectfully manifest that at this time, they cannot make proper listing of witnesses and documentary exhibits because of non-cooperation of the accused.

“C. Defense

“Also the undersigned are not in a position to state the defense because of the non-conference of the accused.

On the other hand, the prosecution marked the following documentary exhibits:

EXHIBITS

DESCRIPTION

"A" Sworn Statement of Assets, Liabilities, and Net Worth of accused Joseph Ejercito Estrada and Luisa P. Ejercito as of 31 December 1998

"B" Certified True Copy (CTC) of Keppel Bank Signature Card of Account No. 6007-005-7-9 of accused Joseph Ejercito Estrada dated 10 August 1990

"B-1" Keppel Bank Statement of Account No. 6007-00057-9

"B-2" Certification of Balance of Account No. 6007-00057-9 as of 31 December 1998

"C" Security Bank Signature Card of Account Nos. 0091-203796-550, 0091-203796-554, and 0091-203796-559 of accused Estrada

"C-1" CTC of Security bank Passbook No. 544552

"C-2" CTC of Investment Savings Account (ISA) agreement of Security bank dated 21 April 1998

"C-3" CTC of ISA agreement dated 21 May 1998

"C-4" CTC of ISA agreement dated 22 June 1998

"C-5" CTC of ISA agreement dated 23 September 1998

"C-6" CTC of ISA ledger covering the period from 26 October 1998 to 25 November 1998

"C-7" CTC of ISA ledger covering the period from 28 December 1998 to November 1999

"C-8" CTC of ISA ledger covering the period from 7 January 2000 to 11 December 2000

"C-9" CTC of Confirmation of Sale (CS) No. 82384

"C-10" CTC of CS No. 83099

"C-11" CTC of CS No. 83952

"C-12" CTC of CS No. 85007

"C-13" CTC of Cs No. 85571

"C-14" CTC of CS No. 85761

"C-15" CTC of CS No. 86099

- "C-16" CTC of Security Bank confirmation of Sale No. 81046 dated 10 April 1997
- "C-17" CTC of Security Bank Passbook No. 544581
- "C-18" CTC of ISA agreement dated 29 April 1998
- "C-19" CTC of ISA agreement dated 2 October 1998
- "C-20" CTC of ISA ledger as of 3 November 1998
- "C-21" CTC of ISA ledger covering the period from 3 December 1998 to 11 November 1999
- "C-22" CTC of ISA ledger covering the period from 13 December 1999 to 17 November 2000
- "C-23" CTC of ISA ledger covering the period from 19 December 2000 to 18 January 2001
- "C-24" CTC of Transaction History Enquiry of Account No. 0091-203796-554 dated 12 February 2001
- "C-25" CTC of Security Bank Passbook No. 580913
- "C-26" CTC of ISA agreement dated 8 June 1998
- "C-27" CTC of ISA agreement dated 7 October 1998
- "C-28" CTC of ISA ledger as of 6 November 1998
- "C-29" CTC of ISA ledger covering the period from 9 December 1998 to 15 November 1999
- "C-30" CTC of ISA ledger covering the period from 15 December 1999 to 17 November 2000
- "C-31" CTC of ISA ledger covering the period from 19 December 2000 to 18 January 2001
- "C-32" CTC of Transaction History Enquiry of Account No. 0091-203796-59
- "C-33" Affidavit of Eunice Cuyu-Domingo
- "C-34" Photocopy of Security Bank ISA placement
- "D" CTC of Signature Card of Asia United Bank (AUB) Account No. 001-01-000588-8 of accused Estrada

"D-1" CTC of Customer Information Sheet of AUB Account No. 001-01-00588-8 dated 3 November 1999

"D-2" CTC of Statement of Account of AUB Account No. 001-01-000588-8

"D-3" Certification of Balance of AUB Account No. 001-01-000588-8 as of 31 December 1998

"G" Certificate of Registration of First LPL Land Syndication, Inc. dated 21 July 1995

"G-1" Articles of Incorporation of First LPL Land Syndication, Inc. dated 14 July 1995 consisting of eleven (11) pages

"G-1-a" Name of Dra. Luisa Ejercito with the corresponding number of subscribed shares thirty-five thousand seven hundred fourteen (35,714) amounting to Three Million Five Hundred Seventy-one Thousand Four Hundred (P3,571,400) Pesos on page 6 of Exhibit "G-1"

"G-1-b" Name of Dra. Luisa Ejercito with the corresponding paid-up amount of One Million (P1,000,000.00) Pesos on page 7 of Exh. "G-1"

"G-1-c" Signature of Dra. Luisa Ejercito on page 8 of Exh. "G-1"

"G-2" By-Laws of First LPL Land Syndication, Inc. dated 14 July 1995 consisting of thirteen (13) pages

"G-2-a" Signature of Dra. Luisa P. Ejercito on page 13 of Exh. "G-2"

"H" Certificate of Registration of Asis-Ejercito Garments, Inc. dated 24 September 1990

"H-1" Articles of Incorporation of Asis-Ejercito Garments, Inc. dated 10 September 1990 consisting of eleven (11) pages

"H-1-a" Name of Jacqueline P. Ejercito with the corresponding number of subscribed shares six hundred ten (610) amounting to Sixty-one Thousand (P61,000.00) Pesos appearing on page 6 of Exh. "I-1"

"H-1-b" Name of Luisa P. Ejercito with the corresponding number of subscribed shares amounting to one thousand (P1,000.00) Pesos appearing on page 6 of Exh. "I-1"

"H-1-c" Name of Jacqueline P. Ejercito with the corresponding amount paid-up of Fifteen Thousand Two Hundred fifty (P15,250.00) Pesos appearing on page 7 of Exh. "I-1"

"H-1-e" Signature of Jacqueline P. Ejercito appearing on page 8 of Exh. "I-1"

"H-1-f" Signature of Luisa P. Ejercito appearing on page 8 of Exh. "I-1"

"H-2" By-Laws of Asis-Ejercito Garments, Inc. dated 10 September 1990 consisting of thirteen (13) pages

"H-2-a" Signature of Jacqueline P. Ejercito appearing on page 13 of Exh. "I-2"

"H-2-b" Signature of Luisa P. Ejercito appearing on page 13 of Exh. "I_2"

"I" Certificate of Registration of 24 K International Food, Inc. dated 4 May 1988

"I-1" Articles of Incorporation of 24 K International Food, Inc. dated 22 April 1988 consisting of nine (9) pages

"I-1-a" Name of Luisa P. Ejercito with the corresponding number of subscribed shares of one thousand (1,000) amounting to One Hundred Thousand (P100,000.00) Pesos appearing on page 5 of Exh. "K-1"

"I-1-b" Name of Luisa P. Ejercito with the corresponding paid-up amount of Twenty-five Thousand (P25,000.00) Pesos appearing on page 6 of Exh. "K-1"

"I-1-c" Signature of Luisa P. Ejercito appearing on page 6 of Exh. "K-1"

"I-2" By-laws of 24 K International Food, Inc. dated 22 April 1988 consisting of seventeen (17) pages

"I-2-a" Signature of Dra. Luisa P. Ejercito appearing on page 17 of Exh. "K-2"

"J" Certificate of Registration of Alpha Funds, Inc. dated 6 October 1987

"J-1" Articles of Incorporation of Alpha Funds, Inc. dated 7 September 1987 consisting of eleven (11) pages

"J-1-a" Name of accused Estrada with the corresponding subscribed amount of One Million (P1,000,000.00) Pesos out of

which Two Hundred Fifty Thousand (P250,000.00) Pesos was paid-up appearing on page 7 of Exh. "L-1"

"J-1-b" Signature of accused Estrada appearing on page 9 of Exh. "L-1"

"J-2" By-laws of Alpha Funds, Inc. dated 7 September 1987 consisting of nineteen (19) pages

"J-2-a" Signature of accused Estrada appearing on page 18 of Exh. "L-2"

"K" Certificate of Registration of Primetime Entertainment for Television (Pentel) Productions, Inc. dated 26 September 1986

"K-1" Articles of Incorporation of Primetime Entertainment for Television (Pentel) Productions, Inc. dated 8 September 1986 consisting of seven (7) pages

"K-1-a" Name of Jinggoy Estrada with the corresponding number of subscribed shares of five hundred eighty (580) amounting to Fifty-eight Thousand (P58,000.00) Pesos appearing on page 4 of Exh. "M-1"

"K-1-b" Name of Luisa P. Ejercito with the corresponding number of subscribed shares of twenty (20) amounting to Two Thousand (P2,000.00) Pesos appearing on page 4 of Exh. "M-1"

"K-1-c" Name of Jacqueline Ejercito with the corresponding number of subscribed shares twenty (20) amounting to Two Thousand (P2,000.00) Pesos appearing on page 4 of Exh. "M-1"

"K-1-d" Name of Jinggoy Estrada with the corresponding paid-up amount of Fourteen Thousand five Hundred (P14,500.00) Pesos appearing on page 4 of Exh. "M-1"

"K-1-e" Name of Luisa P. Ejercito with the corresponding paid-up amount of Five Hundred (P500.00) Pesos appearing on page 4 of Exh. "M-1"

"K-1-f" Name of Jacqueline Ejercito with the corresponding paid-up amount of Five Hundred (P500.00) Pesos appearing on page 4 of Exh. "M-1"

"K-1-g" Signature of Jinggoy Estrada appearing on page 5 of Exh. "M-1"

"K-1-h" Signature of Luisa P. Ejercito appearing on page 5 of Exh. "M-1"

"K-1-i" Signature of Jacqueline Ejercito appearing on page 5 of Exh. "M-1"

"K-2" By-laws of Primetime Entertainment for Television (Pentel) Productions, Inc. dated 8 September 1986 consisting of seven (7) pages

"K-2-a" Signature of Jinggoy Estrada appearing on page 7 of Exh. "M-2"

"K-2-b" Signature of Luisa P. Ejercito appearing on page 7 of Exh. "M-2"

"K-2-c" Signature of Jacqueline Ejercito appearing on page 7 of Exh. "M-2"

"L" Certificate of Incorporation of A D E Food, Inc. dated 2 August 1984

"L-1" Articles of Incorporation of A D E Food, Inc. dated 13 July 1984 consisting of ten (10) pages

"L-1-a" Name of accused Estrada with the corresponding number of subscribed shares four hundred twenty-five (425) amounting to Forty-two Thousand Five Hundred (P42,500.00) Pesos out of which Seventeen Thousand (P17,000.00) Pesos was paid-up appearing on page 7 of Exh. "N-1"

"L-1-b" Name of Dra. Luisa P. Ejercito with the number of subscribed shares four hundred twenty-five (425) amounting to Forty-two Thousand Five Hundred (P42,500.00) Pesos out of which Seventeen Thousand (P17,000.00) Pesos was paid-up appearing on page 7 of Exh. "N-1"

"L-1-c" Signature of accused Estrada appearing on page 8 of Exh. "N-1"

"L-1-d" Signature of Dra. Luisa P. Ejercito appearing on page 8 of Exh. "N-1"

"L-2" By-laws of A D E Food, Inc. dated 13 July 1984 consisting of eight (8) pages

"L-2-a" Signature of accused Estrada on page 7 of Exh. "N-2"

"L-2-b" Signature of Dra. Luisa P. Ejercito on page 7 of Exh. "N-2"

"L-3" General Information Sheet of ADE Food, Inc. as of January 1987 consisting of two (2) pages

"M" Certificate of Incorporation of Electronic Sentry Systems, Inc. dated 28 July 1983

"M-1" Articles of Incorporation of Electronic Sentry Systems, Inc. dated 31 May 1983 consisting of eight (8) pages

"M-1-a" Name of accused Estrada with the corresponding number of subscribed shares three hundred (300) amounting to Thirty Thousand (P30,000.00) Pesos appearing on page 6 of Exh. "O-1"

"M-1-b" Name of accused Estrada with the corresponding paid-up amount of Seven Thousand Five Hundred (P7,500.00) Pesos appearing on page 7 of Exh. "O-1"

"M-1-c" Signature of accused Estrada appearing on page 7 of Exh. "O-1"

"M-2" By-laws of Electronic Sentry Systems, Inc. as of 31 May 1983 consisting of eleven (11) pages

"M-2-a" Signature of accused Estrada appearing on page 10 of Exh. "O-2"

"N" Certificate of Registration of All Hot Soup, Inc. dated 1 September 1983

"N-1" Articles of Incorporation of All Hot Soup, Inc. dated 24 August 1983 consisting of ten (10) pages

"N-1-a" Name of accused Estrada with corresponding number of subscribed shares four hundred (400) amounting to Forty Thousand (P40,000.00) Pesos out of which Ten Thousand (P10,000.00) Pesos was paid-up appearing on page 7 of Exh. "P-1"

"N-1-b" Name of Dra. Luisa P. Ejercito with the corresponding number of subscribed shares one hundred fifty (150) amounting to Fifteen Thousand (P15,000.00) Pesos appearing on page 7 of Exh. "P-1"

"N-1-c" Name of Dra. Luisa P. Ejercito with the corresponding paid-up amount of Three Thousand Seven Hundred Fifty (P3,750.00) Pesos appearing on page 8 of Exh. "P-1"

"N-1-d" Signature of Dra. Luisa P. Ejercito appearing on page 8 of Exh. "P-1"

- "N-2" By-laws of All Hot Soup, Inc. dated 24 August 1983 consisting of eleven (11) pages
- "N-2-a" Signature of accused Estrada on page 10 of Exh.
"P-2"
- "N-2-b" Signature of Dra. Luisa P. Ejercito on page 10 of Exh. "P-2"
- "N-3" General Information Sheet of All Hot Soup, Inc. as of January 1987 consisting of two (2) pages
- "O" Certificate of Registration of F.E.L.T. Food Services, Inc. dated 12 July 1978
- "O-1" Articles of Incorporation of F.E.L.T. Food Services, Inc. dated 5 July 1978 consisting of ten (10) pages
- "O-1-a" Name of accused Estrada with the corresponding number of subscribed shares forty (40) amounting to Four Thousand (P4,000.00) Pesos appearing on page 7 of Exh. "J-1"
- "O-1-b" Name of accused Estrada with the corresponding paid-up amount of one thousand (P1,000.00) Pesos appearing on page 8 of Exh. "J-1"
- "O-1-c" Signature of accused Estrada appearing on page 8 of Exh. "J-1"
- "O-2" General Information Sheet of F.E.L.T. Food Services, Inc. dated 2 October 1978
- "O-3" Certificate of Filing of By-laws of F.E.L.T Food Services, Inc. dated 2 October 1978
- "O-4" By-laws of F.E.L.T. Food Services, Inc. dated 13 July 1978 consisting of fourteen (14) pages
- "O-4-a" Signature of accused Estrada on page 13 of Exh.
"J-4"

As issues, the prosecution laid down the following:

"1. Whether accused Joseph Ejercito Estrada has cash on hand and in bank more than P5,035,363.40 as of 31 December 1998;

"2. Whether accused Joseph Ejercito Estrada has business interests or corporate holdings and connections in corporations aside from JELP Real Estate and Development Corporation, J.E. Incorporated and Feluisa Development Corporation."^[3]

The pre-trial conference thereafter was declared terminated. Subsequently, the prosecution started the presentation of its evidence-in-chief. When it had rested and upon admission of its exhibits, accused former President Joseph Ejercito Estrada filed his motion for leave to file demurrer to evidence, which the Court granted in a Joint Resolution promulgated on March 17, 2004.

On March 30, 2004, accused former President Joseph Ejercito Estrada filed his demurrer to evidence in the instant case but the same was denied in the Joint Resolution of the Court promulgated on July 12, 2004. In denying accused former President Joseph Ejercito Estrada's demurrer to evidence in the instant case, the Court held, among other things, that:

"The alleged P50 Million is covered by documents B¹⁴⁻⁴, D¹⁴⁻¹², C¹⁴⁻⁶, E¹⁴⁻¹, J¹⁵ up to R¹⁵, B¹⁴ up to B¹⁴ to B¹⁴⁻⁵; C¹⁴⁻²⁴ up to C¹⁴⁻⁸; C¹⁴⁻⁹ up to C¹⁴⁻¹⁶; C¹⁴⁻¹⁷ up to C¹⁴⁻²⁴ up to C^{14-28-B} which were identified by Atty. William Chua (of Asia United Bank), Salvador Serrano (of Security Bank) and Renato A. Balatbat (of Keppel Bank). Movant's explanations (or lack thereof) in his demurrer to evidence seem insufficient to overcome the *prima facie* evidence against him for perjury. **It is imperative, therefore, that he presents countervailing evidence.**" (emphasis supplied)

"xxx xxx xxx

"On the other hand, accused-movant Joseph Ejercito Estrada's 'DEMURRER TO EVIDENCE' in Criminal Case No. 26905 (Perjury) dated 30 March 2004 is DENIED for lack of merit. If he so desires, he may present his evidence at 9:00 o'clock in the morning of July 12 and 14, 2004 and every Monday and Wednesday thereafter at the Sandiganbayan Building, Quezon City."^[4]

Accused Joseph Ejercito Estrada eventually moved for reconsideration of the said Joint Resolution, but the same was denied by the Court per its Resolution of September 3, 2004.^[5] Thereafter, accused former President Joseph Ejercito Estrada commenced the presentation of his evidence-in-chief. When he had rested and had formally offered his evidence in the instant case, the Court resolved^[6] to admit all his exhibits over the objection of the prosecution, as the objections refer more to the probative value of the exhibits, the relevancy and admissibility of which would be considered during the rendition of the Court's decision.

The prosecution opted not to present rebuttal evidence.^[7] Hence, the Court directed the prosecution and the accused to file their simultaneous memoranda. Upon the filing thereof, the defense moved to set the case for oral summation, which the Court granted per its Order dated May 9, 2007. After hearing the summation of the prosecution and the accused on June 15, 2007, the cases against accused former President Joseph Ejercito Estrada were deemed submitted for decision.

EVIDENCE FOR THE PROSECUTION

To establish its case against accused former President Joseph Ejercito Estrada for Perjury, the prosecution presented Gerardo Dolorito Avendano, Renato Balatbat, Salvador Rosal Serrano, Maria Pamela Fernandez Moran, Atty. William Tiu Chua, Hernando Salayun Sac, Isma Castel Gonzales, and Annete Isabel Peralta Tamayo, who testified as follows:

GERARDO DOLORITO AVENDANO.^[8] He was a Clerk III in the Central Records Division of the Office of the Ombudsman who was responsible for receiving documents such as the Statement of Assets and Liabilities and Net Worth (SALN) of government employees within the National Capital Region including those coming from the Office of the President and Vice-President. The witness testified that on April 29, 1999, he received the SAL^[9] as of December 31, 1998 of accused Former President Estrada and Luisa P. Ejercito, signed and executed under oath. Based on this document, the cash on hand and in bank of the said accused was P5,035,363.40 and his net worth was P33,439,290.61. This document also contained a list of business interests and financial transactions specifically mentioning "the names of the corporations wherein the persons submitting the SAL has holdings".

On cross examination, witness Avendaño stated that this was the only instance he was summoned to testify regarding the SALN of a government employee.

RENATO ABAD BALATBAT.^[10] The testimony of Renato Abad Balatbat Was offered to prove, among other things, that the accused Former President Joseph Ejercito Estrada maintained Special Savings Account No. 6007-00057-9 in his name and benefit; that the said account was opened on August 10, 1990 and remained active up to and until August 8, 2000 when it was closed; that it was an active account in the duration of almost ten (10) years; that the remaining balance as of December 31, 1998 was P44,268,442.68; and that this savings account was not disclosed in the Statement of Assets and Liabilities for the year 1998 filed by accused Former President Estrada.

Witness Renato Balatbat was the Bank Manager of Keppel Bank San Juan Branch from January of 1995 to May 27, 2002. He is presently the Bank Manager of Keppel Bank Caloocan Branch.

The witness identified a signature card^[11] allegedly of accused Former President Estrada relating to account number "SSB No. 057-6" which was changed to "PRO SA 57-9". Witness Balatbat also related a ledger containing the regular transactions of the said account on a day to day basis and a certification as to the balance of the account. These documents showed that the balance of the account as of December 31, 1998 was P44,268,442.68. According to the witness, the account was closed on August 8, 2000.

On cross examination, witness Balatbat testified that the adverted account was opened on August 10, 1990 which was prior to his employment in the bank and that he had no knowledge or certainty on how the signature card was executed.

SALVADOR ROSAL SERRANO.^[12] The testimony of witness Salvador Rosal Serrano was offered to prove, among other things, the "three (3) accounts of Joseph Ejercito Estrada in the Security Bank Corporation; that contrary to what was stated in the Statement of Assets and Liabilities of Joseph Ejercito Estrada as of December 31, 1998, the latter had more than Five Million Pesos (P5,000,000.00) of cash in bank.

Witness Salvador Rosal Serrano was the Vice-President of Security Bank Corporation and the head of its Centralized Operation and Control Division. He was responsible for the day to day operations of one hundred nineteen (119) branches of the Security Bank Corporation; supervised the record keeping and accounting of the branch transactions; ensured the compliance of their branches to bank policies and procedures; supervised the safekeeping of all documents of all branch transactions; and issued certified true copies of documents in relation to the original documents kept by the bank.

The witness received a subpoena from this Court to bring, and testify on documents relating to the three (3) Investment Savings Accounts (ISA) issued in the name of accused Joseph Ejercito Estrada by the Security Bank Corporation San Juan Branch, Metro Manila. These pertained to Account No. 0091-203796-550, Account No. 0091-203796-554, and Account No. 0091-203796-559.

As for Account No. 0091-203796-550, witness Serrano related that this was formerly Account No. 09401083-00. The witness then related and identified the ISA Agreement^[13] dated April 21, 1998; the ISA Agreement^[14] dated May 21, 1998; the ISA Agreement^[15] dated June 22, 1998; the Memorandum of Agreement^[16] dated September 23, 1998; the ISA Ledger^[17] for the period October 26, 1998 to November 25, 1998; the ISA Ledger^[18] for the period December 28, 1998 to November 29, 1999; the ISA Ledger^[19] for the period January 7, 2000 to December 11, 2000; and the Transaction History Inquiry^[20] as of February 12, 2001.

Witness Serrano testified that the ISA Agreement dated April 21, 1998 was issued in the name of accused Former President Joseph E. Estrada. This ISA agreement was issued for a total deposit or "placement" of P10 Million and was signed by Baby Ortaliza in behalf of the said accused. The witness related that the bank's clerk, Eunice Cuya, informed him that a certain Baby Ortaliza was the representative of accused Estrada. The ISA Agreement dated May 21, 1998 allegedly shows a placement of P10,110,000.00 and a signature read as "Baby" above the typewritten name of Joseph E. Estrada.

Witness Serrano identified further the signatures of Anna Liza S. Angelo, the "Service Head" of Security Bank Corporation San Juan Branch, and Elizabeth M. Ruiz, who was the Senior Manager of the said branch of the bank. In the ISA Agreement dated June 22, 1998, the placement increased to P10,221,000.00. Witness Serrano likewise identified the signatures of Prosperidad A. Rondilla, who was the "Service Head" of the aforementioned branch of the bank, and the signature of Antonio M. Maneja, the former head of the same branch of the bank. In this particular document, witness Serrano noted that there was no signature over the typewritten name of Joseph E. Estrada.

Subsequently, in the Memorandum of Agreement dated September 23, 1998, he stated that the original placement aggregated to P10,516,331.00. As of December 31, 1998, the balance of Account No. 0091-203796-550 was P10,817,052.52.

Witness Serrano explained that the original placement of P10 Million earned interests and was “rolled over” after every maturity date. The accrued interests were added to the principal and the sum was the new “placement” for the account.

The witness also explained that the bank changed the “documentation form” from investment savings account to memorandum of agreement. This memorandum of agreement documentation form was changed to “investment savings account ledger” sometime in October of 1998. In the latest documentation form, the bank issued a passbook to the depositor and that cash withdrawal by an authorized representative with the confirmation of the depositor was allowed unlike in the previous memorandum of agreement.

Regarding Account No. 0091-203796-554, witness Serrano testified that this was opened in the name of accused Former President Estrada initially for the “purchase of Treasury Bills”. The witness then itemized the following documents relative thereto, as follows: Confirmation of Sale[21] No. 81046 dated April 10, 1997 with the amount of P600,000.00; Confirmation of Sale[22] No. 82384 dated June 11, 1997 with the amount of P600,801.00; Confirmation of Sale[23] No. 83099 dated July 23, 1997 with the amount of P612,028.00; Confirmation of Sale[24] No. 83952 dated September 3, 1997 with the amount of P618,864.00; Confirmation of Sale[25] No. 85007 dated October 29, 1997 with the amount of P629,981.00; Confirmation of Sale[26] No. 85571 dated December 18, 1997 with the amount of P640,130.70; Confirmation of Sale[27] No. 85761 dated January 21, 1998 with the amount of P646,764.00; and Confirmation of Sale No. 86099[28] dated March 4, 1998 with the amount of P655,638.00. These “treasury bill placements” were later converted to Investment Savings Account Agreement[29] dated April 29, 1998. The witness further related and identified a Memorandum of Agreement[30] dated October 2, 1998; an ISA Ledger[31] dated November 3, 1998; an ISA Ledger[32] for the period December 3, 1998 to November 11, 1999; an ISA Ledger[33] dated December 13, 1999 to November 17, 2000; an ISA Ledger[34] dated December 19, 2000 to January 18, 2001; and a Transaction History Inquiry Report[35] as of February 12, 2001. As of December 31, 1998, the balance of this account was Seven Hundred Twelve Thousand Four Hundred Seventy Eight Pesos and Eighty Three Centavos (P712,478.83).

Anent Account No. 0091-203796-559, witness Serrano related and identified the Confirmation of Sale[36] No. 86295 dated March 20, 1998; the ISA Agreement[37]

dated June 8, 1998; the Memorandum of Agreement[38] dated October 7, 1998; the ISA Ledger[39] dated November 6, 1998; the ISA Ledger[40] from December 9, 1998 to November 15, 1999; the ISA Ledger[41] dated December 15, 1999 to November 17, 2000; the ISA Ledger[42] dated December 19, 2000 to January 18, 2001; and the Transaction History Report[43] as of February 12, 2001. As of December 31, 1998, the balance of this account was Seven Hundred Twelve Thousand Four Hundred Seventy Eight Pesos and Eighteen Centavos (P712, 478.18).

Witness Serrano further testified that there was one signature card[44] for all of the adverted accounts. This signature card pertained to accused former President Joseph Ejercito Estrada. The witness also explained that the real nature of the three (3) adverted accounts was "good as cash". The investment savings accounts of the accused were "cash in bank" wherein the balance of the account can be withdrawn at anytime.

When recalled for continuation of his direct examination on May 15, 2002, witness Serrano testified that sometime in February 2001, he instructed Perpetua Ognial, who was then the Officer-in-Charge of Security Bank Corporation San Juan Branch, to report all the transactions relating to the adverted accounts of accused former President Estrada as he received a subpoena from the Office of the Ombudsman concerning the matter. He likewise related that Baby Ortaliza also requested for an "updating" of the said accounts. The last "updating" of the aforementioned accounts of the accused was on November of 2001. Witness Serrano explained that "updating" means the recording of the transactions or "rollovers" in the passbook of the depositor. He added that in February 2002, Baby Ortaliza requested again Perpetua Ognial for a "Certification of Balance" of the accounts of the accused Former President Estrada which request was, however, not issued because there was no authorization given by the owner of the accounts.

On cross examination, witness Serrano clarified that the three (3) adverted accounts were deposit accounts and not investments. He further testified that accused former President Estrada had a signature card for his three (3) investment savings accounts. This signature card was initially intended and opened for the purchase of Treasury Bills which was in the nature of an investment but which was later converted to a savings account. The witness also related that Account No. 0091-203796-554 was originally Account No. 0940-1087-00. The change in the account number was brought by the change in the "system" of the bank.

Witness Serrano admitted that he was not the officer who was responsible for the opening of accounts subject of the instant case. For the investment savings

accounts (ISAs), he testified that the San Juan Branch only had one (1) signature card that was submitted last March 20, 1998. He stated that he did not know when the accounts were opened and neither did he know who took the signature specimen card.

On re-direct examination, witness Serrano clarified that an Investment Savings Account is not an investment but a deposit type of savings account and while the accused had three (3) ISAs, it was an acceptable practice with Security bank to maintain only one (1) signature card per depositor per branch.

On re-cross examination, witness Serrano testified that when accused Estrada's accounts were converted into Investment Savings Accounts, they had no written authority from the investor and he had no personal knowledge as to how the accounts were converted into ISAs.

MARIA PAMELA FERNANDEZ MORAN.[\[45\]](#) The prosecution offered her testimony to prove, among other things, that “as a ‘New Accounts’ holder of Security Bank [Corporation] San Juan Branch, she dealt with a certain Baby Ortaliza five (5) or six (6) times,” and that it was Baby Ortaliza who would bring to the bank the passbook of accused Former President Joseph Ejercito Estrada pertaining to the accounts subject of the instant charge.

Witness Maria Pamela Fernandez Moran was the Branch Sales Officer of Security Bank Corporation San Juan Branch who took charge of the “New Accounts” section. Her functions included generating sales volume, acquiring new accounts, and reviewing and approving accounts opened.

The witness testified that she was familiar with the account of accused former President Estrada since she was in-charge of the records of the said account. She related that the said accused had three (3) Investment Savings Accounts (ISA) in their bank. The witness also identified an ISA Ledger[\[46\]](#) for the period January 7, 2000 to December 11, 2000 which showed that she updated the accounts of the accused on April 7, 2000 to May 9, 2000 as well as for the months of June, July and September, all in year 2000. These transactions were allegedly “rollover of placements”.

Witness Moran testified that the person who transacted for the account of the accused was Baby Ortaliza, whose identity she established through a photograph. The witness

mentioned that she met Baby for about five (5) or six (6) times and that the last time she met her was in the afternoon of November 13, 2001 at the Herrera Branch when Baby Ortaliza asked the witness to update the passbook of accused Former President Estrada. Witness Moran complied and returned the passbook of accused former President Estrada to Baby Ortaliza.

The defense dispensed with the cross-examination of said witness.

ATTY. WILLIAM TIU CHUA.[\[47\]](#) The prosecution offered the testimony of Atty. William Tiu Chua to prove, *inter alia*, that accused Former President Joseph Ejercito Estrada had an account with the Asia United Bank; that, as of December 31, 1998, the balance of the account was P548,121.84; and that the Statement of Assets and Liabilities of the accused as of December 31, 1998 did not show the true amount that the said accused had in the bank.

Witness Atty. William Tiu Chua was the Corporate Secretary of Asia United Bank since September of 1997. As Corporate Secretary, he was authorized to certify as to the authenticity of documents pertaining to the Asia United Bank. He also held the said position while concurrently the managing partner of Azcuna Yorac Arroyo and Chua Law Firm.

The witness testified that sometime in the year 2001, the bank received summons from the Office of the Ombudsman. His law firm represented the bank and that, in such capacity, replied to the summons through a Letter[\[48\]](#) dated February 12, 2001 signed by Atty. Caydo as senior associate of the law firm. The letter mentioned that accused Former President Joseph Ejercito Estrada and Guia Gomez had accounts in their names with Asia United Bank. The said accused had Account No. 001-01-000588-8. The letter further stated that the said bank “does not have any account under the names of Jose Velarde, Laarni Enriquez, Joy Melendrez, Peachy Osorio, Rowena Lopez, Kevin or Kelvin Garcia, 727, 737, 747, 757, 777, and 858”.

Witness Chua then identified a Statement of Account[\[49\]](#) of Joseph Ejercito Estrada with Account No. 001-01-000588-8 and a Certification of Asia United Bank[\[50\]](#) as to the balance of the said account. Both documents showed that, as of December 31, 1998, the adverted account of accused Former President Estrada had a balance of P548,121.84.

Witness Chua also presented and identified a Signature Card^[51] for the Account of Joseph Ejercito Estrada with three (3) specimen signatures appearing thereon and a Customer Information Form^[52] of Asia United Bank indicating likewise the name of accused Former President Estrada.

On cross-examination, the witness clarified that he was physically present at the time the adverted signature card of the accused was executed. He was likewise physically present at the time the adverted letter of the law firm was prepared. The witness, however, had no participation in the preparation of the aforesaid documents. He further clarified that the adverted Statement of Account of Joseph Ejercito Estrada was computer generated and that he was not the one who actually prepared the same.

Witness Chua further testified that, based on the Statement of Account of accused Former President Estrada, the last deposit transaction was on October 15, 1998 for P205.00. Based also on the said document, the witness testified that the bank was deducting service charges against the adverted account from March 31, 2000 because it had become dormant since the last deposit transaction. Witness Chua opined that it was a possibility that the account holder might have forgotten of the existence of the account.

On additional direct examination, the witness claimed that he had authority to represent Asia United Bank as shown in a *Secretary's Certificate*^[53] dated November 11, 2002 signed by the said witness, in his capacity as the Corporate Secretary, and by a Notary Public, Atty. Lailene Barcenas. The authority to represent given to the witness was confined to testify for and in behalf of the said corporation in "matters relating to [bank] accounts" involved in the cases filed against accused Former President Estrada.

The witness added that the abbreviation "SCI" as reflected in the Statement of Account of the accused was the bank's code for service charges in its computer system which were deducted from dormant accounts for every month.

On additional cross examination, witness Chua testified that the *Secretary's Certificate* earlier exhibited was issued after a special meeting of the Board of Directors of the corporation on October 19, 2001. He clarified that he prepared the minutes of the said special meeting and the certificate.

The witness further stated that the bank account of accused Former President Estrada with Account No. 001-01-000588-8 was subjected to service charges because it had been dormant since March 31, 2000. He explained that a current account becomes dormant when no transactions are entered for a period of one (1) year, while a savings account becomes dormant when no transactions are entered for a period of two (2) years.

HERNANDO SALAYUN SAC.[\[54\]](#) The testimony of Hernando Salayun Sac was offered to prove principally that accused Former President Joseph Ejercito Estrada, his spouse and relatives had “holdings in corporations” other than those mentioned in the Statement of Assets and Liabilities of the said accused as of December 31, 1998.

Witness Hernando Salayun Sac was a Records Officer of the State and Research Unit under the Company Registration and Monitoring Department of the Securities and Exchange Commission (SEC). Among his functions were to prepare and certify the authenticity of documents in their records.

In compliance with the subpoena he received from the Court, the witness presented and identified the certified true copies of the Certificates of Registration, Articles of Incorporation and the By-Laws of the following corporations:

- 1) First LPL Land Syndication, Inc.[\[55\]](#);
- 2) Asis-Ejercito Garments, Inc.[\[56\]](#);
- 3) 24-K International Food, Inc.[\[57\]](#);
- 4) Alpha Funds, Inc.[\[58\]](#);
- 5) Prime Entertainment for Television Production, Inc.[\[59\]](#);
- 6) ADE Food, Inc.[\[60\]](#);
- 7) Electronic Sentry Systems, Inc.[\[61\]](#);
- 8) All Hot Soup, Inc.[\[62\]](#); and
- 9) FELT Food Services[\[63\]](#), Inc.

Witness Sac affirmed that: (1) the Articles of Incorporation of First LPL Land Syndication, Inc. contained the amount subscribed and paid by Luisa P. Ejercito and a signature above the typewritten name of the aforementioned; (2) the Articles of Incorporation of Asis-Ejercito Garments, Inc. contained the amount subscribed and paid by Jacqueline P. Ejercito and Luisa P. Ejercito, and the signatures over the typewritten names of the aforementioned; (3) the Articles of Incorporation of 24-K International Food, Inc. contained the amount subscribed and paid by Luisa P. Ejercito and a signature above the typewritten name of the aforementioned; (4) the Articles of Incorporation of Alpha Funds, Inc. contained the amount subscribed and paid by Joseph Ejercito Estrada and a signature over the typewritten name of the aforementioned; (5) the Articles of Incorporation of Prime Entertainment for Television Productions, Inc. contained the amount subscribed and paid by Jinggoy Estrada, Luisa P. Ejercito and Jacqueline P. Ejercito, and the signatures over the typewritten names of the aforementioned; (6) the Articles of Incorporation of ADE Food, Inc. contained the amount subscribed and paid by Joseph Ejercito Estrada and Luisa P. Ejercito, and the signatures over the typewritten names of the aforementioned; (7) the Articles of Incorporation of Electronic Sentry Systems, Inc. contained the amount subscribed and paid by Joseph Ejercito Estrada and a signature over the typewritten name of the aforementioned; (8) the Articles of Incorporation of All Hot Soup, Inc. contained the amount subscribed and paid by Joseph Ejercito Estrada and Luisa P. Ejercito, and the signatures over the typewritten names of the aforementioned; and (9) the Articles of Incorporation of FELT Food Services, Inc. contained the amount subscribed and paid by Joseph Ejercito Estrada and a signature over the typewritten name of the aforementioned.

The witness testified that the name of accused Joseph Ejercito Estrada did not appear in the Articles of Incorporation of Asis-Ejercito Garments, Inc., 24-K International Food, Inc., and Prime Entertainment for Television Production, Inc.

On cross examination, witness Sac clarified that he had no participation in the execution of the foregoing documents and that he was not the one who photocopied the same.

ISMA CASTEL GONZALES.[\[64\]](#) The testimony of witness Isma Castel Gonzales was offered to prove, among other things, that “she authenticated the dorsal portions of the last pages of the Certificate of Registration, Articles of Incorporation and By-Laws of the nine (9) corporations mentioned in the Information of Criminal Case No. 26905 on May 11, 2001.

Witness Isma Castel Gonzales was the Supervisor of the Public Reference Unit under the Human Resources and Administrative Department of the Securities and Exchange

Commission (SEC) during the time material to this case. She supervised the overall operation of the Public Reference Unit, issued authenticated documents and signed the same after verification by the employee in charge.

The witness was subpoenaed to appear before this Court to testify on certain documents related to this case. The documents pertained to nine (9) corporations, namely,

- 1) First LPL Land Syndication, Inc.;
- 2) Asis-Ejercito Garments, Inc.;
- 3) 24-K International Food, Inc.;
- 4) Alpha Funds, Incorporated;
- 5) Prime Entertainment for Television Production, Inc.;
- 6) ADE Food, Incorporated;
- 7) Electronic Sentry Systems, Inc.;
- 8) All Hot Soup, Inc.; and
- 9) FELT Food Services, Inc.

Witness Gonzales confirmed the authenticity of a set of three (3) documents for each of the abovementioned corporations^[65]. She attested to the genuineness of the Certificates of Registration, the Articles of Incorporation and the By-Laws of these corporations by identifying her signatures thereon as well as the signatures of the records custodian of the SEC, Mr. Hernando S. Sac, with whom she had worked with for eight (8) years at the same office.

On cross-examination, the witness related that, based on the documents she earlier exhibited and identified, the same were presented for filing and were approved before June of 1998. She likewise testified that the name of Joseph Ejercito Estrada did not appear in the set of documents pertaining to First LPL Land Syndication, Inc., Asis-Ejercito Garments, Inc., 24-K International Food, Inc., and Prime Entertainment for Television Production, Inc. Witness Gonzales further related the amount of investments made by accused Former President Estrada and his wife as appearing in the documents she brought.

ANNETTE ISABEL PERALTA TAMAYO.[\[66\]](#) The prosecution offered the testimony of Annette Isabel P. Tamayo to prove that “the nine (9) corporations mentioned in the information in the instant charge were still existing as of December 31, 1998.”

Witness Annette Isabel Tamayo was the Officer-in-Charge of the Corporate Filing and Records Division under the Corporate Registration and Monitoring Department of the Securities and Exchange Commission (SEC). Aside from supervising the Corporate Filing and Records Division, the witness was also responsible for the issuance of certifications of corporate filing and information on registered corporations as well as the non-registration of several entities.

In compliance with the subpoena sent to her by this Court, witness Tamayo brought the Certificates of Status of certain corporations. The witness exhibited and identified the *Certificates of Corporate Filing / Information*[\[67\]](#) all dated November 26, 2002 for the following corporations:

- 1) First LPL Land Syndication, Inc.;
- 2) Asis-Ejercito Garments, Inc.;
- 3) 24-K International Food, Inc.;
- 4) Alpha Funds, Inc.;
- 5) Prime Entertainment for Television Production, Inc.;
- 6) ADE Food, Inc.;
- 7) Electronic Sentry Systems, Inc.;
- 8) All Hot Soup, Inc.; and
- 9) FELT Food Services, Inc.

Witness Tamayo testified that the aforementioned certificates state the date of registration, period of existence and the fact that the foregoing corporations still existed as of December 31, 1998.

On cross-examination, witness Tamayo testified that ADE Food, Inc. has not filed its general information sheet and financial statement from 1988 to 2001 so that the SEC had already issued a show order to the said corporation under threat of revocation of its registration. Witness Tamayo added that the same holds true for F.E.L.T. Food Services, Inc. which did not submit its financial statements and general information sheet from 1981 to 2000. She testified that she based her findings only on the monitoring sheet submitted by the Law and Regulations Division of SEC. She admitted, however, being incompetent to testify on the shareholdings of the accused former President in the said corporations and on whether the said corporations actually received the show cause order of SEC.

As to Electronics Sentry Systems, Inc., witness Tamayo testified that the said corporation did not also file its general information sheet from 1984 to 2001. Neither did it file its financial statements from 1984 to 2000. As to All Hot Soup, Inc., witness Tamayo testified that its registration had been revoked effective November 11, 2002 although she was not sure if the accused was ever notified of the same because it was another office in the SEC that took charge of the same. As for Primetime Entertainment and Alpha Funds, Inc., she testified that she had also issued a certification to the effect that said corporations had no general information sheet filed from 1986 to 2000 and 1988 to 2000, respectively and neither did the same have stock and transfer books.

Witness Tamayo added that as a matter of procedure, revocation of a corporation's registration takes effect ninety (90) days after issuance of the show cause orders. In the case of the aforesaid corporations, she stated that despite the show cause orders, there was nothing in her records that showed their compliance therewith.

During the continuation of her cross examination, witness Tamayo attested that she neither knew the amount of paid subscription of the stockholders of the subject corporations nor the assets of the corporations as of December 31, 1998. She related that First LPL Land Syndication, Inc. filed its Financial Statement for the year 1998. The witness testified, however, that Asis-Ejercito Garments, Inc. did not file its General Information Sheets for the years 1991 to 2002; that 24-K International Food, Inc. did not file its General Information Sheets for the years 1981 to 2001; that Alpha Funds, Inc. did not file its General Information Sheets for the years 1988 to 1999; that Prime Entertainment for Television, Inc. did not file its General Information Sheets for the years 1986 to 2000; that ADE Food, inc. did not file its General Information Sheets for the years 1986 to 2001; that Electronics Sentry Systems, Inc. did not file its Financial Statements for the years 1984 to 2000; that All Hot Soup, Inc. did not file its Financial Statements for the years 1986 and 1989 to 1999; and that FELT Food Services, Inc. did not file its Financial Statements for the years 1981 to 2000.

Witness Tamayo likewise identified the series of Show Cause Orders of the SEC to the corporations concerned but she could not ascertain whether the said documents were actually sent and received by the said corporations.

On re-direct examination, witness Tamayo testified that the subject corporations were still registered with the SEC and the respective registrations thereof had not been revoked as of December 31, 1998.

EVIDENCE FOR THE ACCUSED

In defense, accused former President Joseph Ejercito Estrada testified on his behalf in the instant charge for Perjury and also presented Lorna Dumlao. Their testimonies are summed up as follows:

Former President Joseph Ejercito Estrada. During direct examination, accused former President Joseph Ejercito Estrada categorically stated that he did not willfully violate the law and that since he became a public official starting with his position as a mayor, he religiously filed his Statement of Assets and Liabilities. Accused thus denied all the charges against him.[\[68\]](#)

The accused clarified that he did not personally prepare his Statements of Assets and Liabilities as he just asked his staff to do it for him, but he clarified that he always told them to comply with the requirements of the law. Specifically as to his Statement of Assets, Liabilities and Networth (SALN) for the year ending December 31, 1998 (also referred to as the "1998 SALN"), the accused identified the late Atty. Antonio Dollete, a certain Mr. Guerrero and a certain Mr. Martin as among his staff who prepared said 1998 SALN .[\[69\]](#)

In describing the status of the companies mentioned in the instant Information, the accused sought the aid of memoranda consisting of certain notes/matrix previously prepared by his staff. The prosecution objected to the use of the prepared matrix[\[70\]](#) but the Court allowed the accused's use of the same. Hence, the accused continued his testimony using the said matrix to specifically describe how he was familiar with the corporations that he allegedly failed to include in his 1998 SALN.

As to *First LPL Land Syndication, Inc.*, accused Estrada stated that said corporation was included in his Statement of Assets and Liabilities under the heading "Investments."[\[71\]](#)

With regards to *Asis Ejercito Garments*, the accused acknowledged that the shareholder therein was his wife, "Senator Loi", who was in turn, a nominee of their daughter "Jackelyn", whose total number of shares was only ten (10) shares worth One Thousand Pesos (P1,000.00). He pointed out that the shares were bought in 1990 and that *Asis Ejercito Garments* had been a dormant corporation even before he became a senator.[\[72\]](#)

As to *24K International Food, Inc.*, the accused former President recounted that the said corporation operated a restaurant when he was a mayor; that his wife had one thousand shares therein worth One Hundred Thousand Pesos (P100,000.00) and that the restaurant was closed even before he became a Senator.[\[73\]](#)

As for the corporations in which his wife had shareholdings, the accused allegedly did not include the said corporations in his 1998 SALN because "most of the time (his wife) is just a nominee."[\[74\]](#)

According to the accused, his wife was a shareholder of *Prime Entertainment for Television Production, Inc.*, being the nominee of their son Jinggoy, who had twenty (20) shares with a par value of Two Thousand Pesos. He allegedly did not include the said corporation in his 1998 SALN because it was already closed when he was still a Senator.[\[75\]](#)

As to *Alpha Funds, Inc.*, the accused former President recalled that it was a stock trading corporation in which he had one million (1,000,000) shares with a total par value of One Million Pesos (P1,000,000.00). But *Alpha Funds, Inc.*, allegedly never operated since the accused's co-incorporator, William Chu died way back when the accused was still a senator.[\[76\]](#)

As for *ADA Food, Inc.*, the accused said that it was a restaurant which operated when he was still a mayor; that his wife, Senator Loi, had a total of eight hundred fifty (850)

shares therein with a value of eighty-five thousand pesos (P85,000.00); and that the restaurant lost money and closed down even before he became senator. Thus, the accused allegedly did not disclose ADA Food, Inc., in his 1998 SALN anymore.[\[77\]](#)

Concerning *Electronic Sentry Systems, Inc.*, the accused recalled that it was a “joint securities” in which Mr. Angelo Castro, Jr. along with his wife June Keithley, who were broadcaster friends of his, allegedly invited him to be one of the shareholders back in 1983. The venture allegedly held seminars but never operated, such that the accused no longer reported the same in his 1998 SALN.[\[78\]](#)

All Hot Soup, Inc., according to the accused, was a corporation put up by him and his wife in 1983, along with Mr. and Mrs. AVECILLA in order to operate the “Sabawan Restaurant” in Greenhills, San Juan. He and his wife allegedly had Fifty-Five Thousand Pesos worth of shares therein but he did not include this corporation in his 1998 SALN because it closed down when he was still a mayor.[\[79\]](#)

Similarly, for *F.E.L.T. Food Services*, the accused and his wife, along with the Spouses AVECILLAS, established the corporation in 1978 in order to operate a restaurant called “Sinugba”. The accused said that he did not report the corporation in his 1998 SALN because the restaurant lost money and was eventually closed even before he became a senator.[\[80\]](#)

As for the alleged accounts in *Asia United Bank*, the accused said that the amounts therein are included in his 1998 SALN under the heading “cash on hand and in bank.”[\[81\]](#)

Concerning the *Security Bank* accounts, the accused declared that these were part of the campaign contributions to his political party, the “Partido ng Masang Pilipino”, when he ran for president. He stated that he was a mere trustee of the funds in the said bank accounts so he could not include them in his 1998 SALN as they actually belonged to his political party. [\[82\]](#)

As to the *Keppel Bank* accounts, the accused claims that the funds therein were political contributions to his party when Senator Loi (Ejercito) ran for the Senate in 2001 and that he was just a trustee for the said account.[\[83\]](#)

Finally, the accused denied having appeared before a notary public and thus claims that he did not execute his 1998 SALN under oath.

The accused's testimony during direct examination, specifically with regards to the corporations, is summarized in the accused' Memorandum as follows:

"FIRST LPL LAND SYNDICATION, INC. – included under the heading 'investments'[\[84\]](#);

"ASIS-EJERCITO GARMENTS, INC. – Senator Luisa Estrada was just a nominee of Jackie, their daughter; she only had ten (10) shares worth P1,000. It was dormant even before he became Senator[\[85\]](#);

"24K INTERNATIONAL FOOD, INC. – it operated a restaurant (Lady in Red Restaurant) when he was still mayor; it was Senator Luisa Estrada who was a shareholder. It was closed even before he became a Senator[\[86\]](#);

"PRIME ENTERTAINMENT FOR TELEVISION PRODUCTION, INC. – Senator Luisa was only a nominee of Senator Jinggoy Estrada; she only had 20 shares worth P2,000. This was closed when he was still a Senator[\[87\]](#);

"ALPHA FUNDS, INC. – The company never operated; Mr. William Tiu died when he was still a Senator;[\[88\]](#)

"ADE FOOD, INC. – it operated the El Alkalde Restaurant; it lost money and was closed even before he became a Senator[\[89\]](#);

"ELECTRONIC SENTRY SYSTEMS, INC. – Angelo Castro, Jr., and June Keithley ... invited him to become a shareholder but the company never operated although they held seminars in Greenhills[\[90\]](#);

"ALL HOT SOUP, INC. – it operated the 'Sabawan Restaurant' was back in 1983 when he was still mayor; it lost money and was closed when he was still a mayor[\[91\]](#); (and)

"FELT FOOD SERVICES – it operated the 'Sinugba Restaurant' way back in 1978; it was closed when he was still mayor; the Estradas no longer wanted to be partners with the Avecillas because they always lose money[\[92\]](#)."

On cross-examination, accused former President Estrada was confronted with the question as to how many times he had accomplished and filed his SALN[\[93\]](#) in connection with his statement during direct examination that he "always religiously filed

(his) Statement of Assets and Liabilities,”[\[94\]](#) The accused confirmed that every year he asks his staff to file his statements and to comply with the requirements of the law.[\[95\]](#)

The accused verified his signature appearing on the 1998 SALN, marked as prosecution’s Exhibit “A”.[\[96\]](#) Accused also confirmed the following typewritten entry on “Part B. Business Interest and Financial Connections” on page 2 of his 1998 SALN: (1) the words, “WIFE AND CHILDREN” in the column “Name”; (2) on the next column after that, the name of three (3) companies; and (3) on the fourth column, the word “INCORPORATOR”[\[97\]](#).

The accused confirmed that JELP Real Estate Development Corporation, JE, Inc., and Fe Luisa Development Corporation are the only three companies in operation as of December 31, 1998.[\[98\]](#) The accused also confirmed that the name of his wife is Senator Luisa Pimentel; that he affixed his signature below the certification portion of the 1998 SALN; that his investment in Asia United Bank as of December 31, 1998 was Five Hundred Thousand Pesos (P500,000.00)[\[99\]](#); and that as far as he could remember the amount of more or less Twelve Million Pesos was in the Security Bank account as of December 31, 1998.[\[100\]](#)

The accused former President Joseph Ejercito Estrada clarified that he did not include the amounts in Security Bank and Keppel Bank in his 1998 SALN because being campaign contributions, they were held in trust for accused’s political party. Accused Estrada acknowledged that he had no documents showing that the funds in Security Bank and Keppel Bank were held in trust by him since campaign donors are not usually issued nor do they ask for receipts.[\[101\]](#) He added that the political contributions were not reported to the COMELEC as it was not his duty as titular party head but that of the party treasurer.[\[102\]](#) Accused Estrada, however, declared that party officers knew about said campaign contributions.[\[103\]](#)

When asked about First LPL Land Syndication Inc., the accused averred that as to the status of the corporation, he would have to ask his wife, who is in charge of this corporation. He said that when his wife earns money, she does not tell him about it and vice versa.[\[104\]](#)

LORNA DUMLAO. Her testimony was offered, among other things, to corroborate the testimony of former President Joseph Ejercito Estrada that certain corporations, particularly All Hot Soup, Inc., ADE Food Incorporated, and FELT Food Services

Incorporated, have informed the Social Security System (SSS) that they were no longer going to operate.

Witness Lorna Dumlao had been with the SSS since 1981 and was the section head of the Members Section at the time she testified. As such, she evaluated and determined the coverage of employers and employees and also acted on the requests of employers for suspension or termination or dissolution of operations.

Lorna Dumlao testified that having been connected with the SSS for a long period of time, she has become familiar with the procedures it has adopted. The witness, however, manifested that she was not competent to testify on the matter of the collection of employers or employees contribution, but she agreed and confirmed that there are certain instances when a corporation files a termination notification once it intends to terminate the remittances of the employers or employees contribution to the SSS. She enumerated these instances as retirement, dissolution, merger, change of ownership, change of legal personality, temporary suspension, cancellation of membership, and such other reasons such as expiration or shortening of the corporate term.

Witness Dumlao brought along and formally identified SSS records called "employer static information" concerning the status of certain companies with the said agency. On the employer static information on the corporation, All Hot Soup, Inc., [105] the witness confirmed that as of July 14, 2006, the account status of the said corporation as per SSS records is *"temporary suspension, reactivation or termination on 11-07-89"*. Witness Dumlao testified that said corporation was covered by the SSS beginning October 1984,[106] but its account status was on temporary suspension effective November 7, 1989[107] based on a report[108] of the Collections Department of the SSS that the building of its given address had been demolished eight (8) years ago. Witness also confirmed that the account's status has been noted to be "FOR SEC VERIFICATION".[109] The witness explained that said notation means that the report generated by the SSS Contributions Collection Department as to the account's status was slated for SEC verification on the actual status of the corporation. The witness added, however, that "SEC verification" was not the function of her section, thus, she had no knowledge as to the SEC records on the said company. She said that the task of SEC verification was already "downloaded to the jurisdiction of where the location of the company is." [110]

As for F.E.L.T. Food Services, Inc.,[111] witness Dumlao testified that based on SSS records,[112] the company was covered in November 1980 although on December 4, 1986, SSS effected the temporary suspension of its account based on the termination

notice[113] submitted by the corporation that it has been dissolved effective November 1, 1986.[114] The witness verified that as of July 14, 2006, the SSS records show that the corporation's account status is "*temporary suspension as of 12-01-83*" and that based on SSS records, F.E.L.T. Food Services, Inc. was dissolved effective November 1, 1986[115] although no deed of dissolution was submitted to the SSS.[116]

As for ADE Food Incorporated, witness Dumlao testified that the company was covered by the system effective October 1985[117] but it was put on temporary suspension effective April 15, 1988[118] based on the report[119] of the Collections Department of the SSS that no such company existed within the supposed location. The witness also confirmed that as of July 14, 2006, the account was considered under temporary suspension, reactivation or termination on the date 04-15-1986.[120]

Witness Dumlao admitted that she had no personal knowledge as to the status of ALL HOT SOUP, INC., FELT Food Services, Inc., and ADE Food Services Inc., in the records of the Securities and Exchange Commission. As per the records of the SSS, however, she testified that all three corporations were "no longer reactivated" or were no longer SSS member corporations.

Witness Dumlao also testified that with respect to Alpha Funds, Inc.,[121] the SSS records show that said corporation was on temporary suspension effective April 1, 1992 and that there were no records that the said company was reactivated. As to the account status of First LPL Lands Syndication, Inc., the witness stated that SSS records show that the said corporation was likewise temporarily suspended[122] as of May 19, 1997 and that there were no records that the same was reactivated since that date.

On cross-examination, the witness confirmed that as per SSS records, the said two (2) corporations were on temporary suspension status.

DISCUSSION

Accused Former President Joseph Ejercito Estrada is charged with the crime of Perjury defined in and penalized by Article 183 of the Revised Penal Code as follows:

“Art. 183. ***False testimony in other cases and perjury in solemn affirmation.*** – The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

“Any person who, in case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehoods mentioned in this and the three preceding articles of this section, shall suffer the respective penalties provided therein.”

In the instant case, the prosecution is required to establish by the necessary quantum of proof, the elements of perjury, and unless the State succeeds in proving the accused’s guilt beyond reasonable doubt, the accused is entitled to the presumption of innocence in his favor, because “the conscience (of the Court) must be satisfied that on the accused could be laid the responsibility of the offense charged^[123]”.

The prosecution claims that it has undisputedly proven all the elements of the crime. This was allegedly what the Court found when it earlier denied the accused former President’s demurrer to evidence -- that there exists a *prima facie* case against the accused for perjury. The prosecution adds that the defense has failed to present countervailing evidence to rebut the *prima facie* case against the accused. Accordingly, where the prosecution has established a *prima facie* case against the accused, the burden is shifted upon the accused to prove otherwise.

After considering the defense’s presentation of its evidence however, it appears that the *prima facie* case built by the prosecution, specifically with regard to the existence of the third element of the crime of perjury charged herein, has been sufficiently challenged or rebutted by the accused. Hence, “if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction.”^[124]

The Court’s finding may be better explained by considering the elements of perjury *in seriatim* as discussed by the prosecution and the accused.

The elements of perjury^[125] are:

(1) That the accused made a statement under oath or executed an affidavit upon a material matter;

(2) That the statement or affidavit was made before a competent officer, authorized to receive and administer oath;

(3) That in that statement or affidavit, the accused made a willful and deliberate assertion of a falsehood; and

(4) That the sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.

FIRST ELEMENT: That the accused made a statement under oath or executed an affidavit upon a material matter

There appears to be no dispute as to the first element since the accused former President has admitted to having filed his Statement of Assets, Liabilities and Net Worth (or SALN, for brevity) as of December 31, 1998, thus admitting to making a statement under oath on material matters which are required to be disclosed by all public officials by virtue of Republic Act No. 6713. Thus, accused testified as follows:

“Atty. Flaminiano:

“Q. As President of the Republic of the Philippines in 1998 Mr. President did you file your Statement of Assets, Liabilities and Network for the Year Ending December 31, 1998?

“A. As I have said, I always file my Statement of Assets and Liabilities every year religiously.”[\[126\]](#)

“xxx xxx xxx.”

SECOND ELEMENT: That the statement or affidavit was made before a competent officer, authorized to receive and administer oath

The defense questions the alleged failure of the prosecution to prove the second element but such issue was previously raised in the accused' Demurrer to Evidence and had been resolved by this Court in its Resolution dated July 12, 2004, which ruling is being maintained in this decision. The said ruling is herein quoted as follows:

“SECOND ELEMENT

“Of the two rival positions of the parties herein, the more tenable is the one espoused by the prosecution, at least for purposes of herein demurrer to evidence. The 1998 SAL is a public and official document (*cf. Gapusan-Chua vs. Court of Appeals, 183 SCRA 160 [1990]*) submitted by movant in the performance of his duty as the then President of the Republic (*Sec. 8, R.A. No. 6713 of the Code of Conduct and Ethical Standards for Public Officials and Employees*). As such, it is *prima facie* evidence of the facts stated therein (*Sec. 23, Rule 132 Revised Rules of Court*) including the authority of the person who administered the oath.

By the very nature of a *prima facie* evidence, the same can be conquered by contrary and competent evidence (*Salonga vs. Cruz-Pano, 134 SCRA 438*).”

Accused former President Estrada denies having any oath administered to him in connection with the subject 1998 SALN. The defense insists that it is the State's burden to prove that the notary public concerned had a commission at the relevant time, before whom accused appeared, but which the prosecution allegedly failed to do.

The Court agrees with the prosecution's argument that being a notarized document, the subject SALN has “in its favor the presumption of regularity, which may only be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to the falsity of the certificate”. The accused former President's statement that he never appeared before a notary public to execute an oath cannot overcome the presumed

validity and due execution of the notarized document for a “notarial document is, by law, entitled to full faith and credit upon its face. Courts, administrative agencies and the public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument.[\[127\]](#)” Instead of bare denials, accused former President Joseph Ejercito Estrada should have presented clear and convincing proof to rebut the presumption of regularity in the notarization of the subject SALN.

Moreover, Section 2, Rule 131 of the Revised Rules of Evidence creates a conclusive presumption that one who, “by his own declaration, act or omission, intentionally and deliberately led another to believe a particular thing is true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it”. When the accused former President submitted his SALN, he **knew** that it had to be executed under oath as required by law and by his act of submitting the subject 1998 SALN, he led the authorities to believe that the *jurat* contained therein is true; that the said SALN was subscribed and sworn to before Notary Public RODUALDO C. DELOS SANTOS on April 29, 1999 and thus executed under oath. Such presumption now governs the case at bar and remains conclusive upon the accused.

THIRD ELEMENT: That in that statement or affidavit, the accused made a willful and deliberate assertion of a falsehood

The prosecution asserts that it has clearly shown by voluminous documentary evidence and numerous witnesses that the accused willfully and deliberately committed falsehood in his 1998 SALN. Allegedly, the accused lied in the following entries in his SALN as of December 31, 1998:

1. The accused, his wife and unmarried children’s **business interests in and financial connections** in only three (3) corporations;
2. **Total amount of cash** that he and his wife had on hand and in banks as of December 31, 1998 was only P5,035,363.44;
3. He and his wife’s **total net worth** as of December 31, 1998 was only P33,439,290.61.[\[128\]](#)

The prosecution contends that it was able to show that as of December 31, 1998, contrary to what was declared in accused former President Joseph Ejercito Estrada's 1998 SALN, the latter had cash in three banks - Keppel Bank (San Juan Branch), Security Bank (San Juan Branch) and Asia United Bank in the total amount of FIFTY SEVEN MILLION ONE HUNDRED SIX THOUSAND TWO HUNDRED AND ONE AND 40/100 PESOS (P57,106,201.40) and that the accused, his wife and unmarried children had *additional* business interests and financial connections in the following existing corporations:

1. First LPL Land Syndication, Inc.;
2. Asis-Ejercito Garments, Inc.;
3. 24K International Food, Inc.;
4. Alpha Funds, Inc.;
5. Primetime Entertainment for Television (PENTEL Productions, Inc.);
6. ADE Food, Inc.;
7. Electronic Security Systems, Inc.;
8. All Hot Soup, Inc.;
9. F.E.L.T. Food Services, Inc[[129](#)].

The prosecution also asserts that all the above evidence were not controverted nor denied by the accused.

Surprisingly, the prosecution merely dismissed the accused' defenses as either irrelevant, immaterial or being *non-sequitur*[[130](#)] without refuting the same. Despite the explanation of accused former President Joseph Ejercito Estrada on his failure to indicate in his SALN the money held in trust for his political party and his corporate holdings or connections, the prosecution made no effort to rebut his testimony. Hence, as it stands, the prosecution's evidence, which merely pointed out the purported omissions in the accused's 1998 SALN, failed to convince the Court of the crucial consideration in the third element of perjury, that the accused **deliberately** and **willfully**

committed a falsehood in his 1998 SALN, especially after hearing the evidence of the accused former President.

In order to be liable for perjury, the falsehood committed by the accused in his sworn statement must be **deliberate** and **willful**. According to Black's Law Dictionary, *"the use of the word (deliberate) in describing a crime, the idea is conveyed that the perpetrator weighs the motives for the act and its consequences, the nature of the crime, or other things connected with his intentions, with a view to a decision thereon; that he carefully considered all these and that the act is not suddenly committed."*[\[131\]](#)

The Court is not convinced that the accused' omission in his SALN of the subject moneys in the bank and business and financial interests in the said corporations was deliberate and intentional. The accused former President's testimony as corroborated by documentary evidence from the Securities and Exchange Commission on the inactive status of the corporations and the certifications from the Social Security System on the temporary suspension of the corporations for not filing contributions for several years, if considered in their totality, negate the element of willful and deliberate assertion of a falsehood.

In fact, from the accused former President's testimony, three things are readily apparent: (1) the accused believed that he did not have to disclose the money in the banks (as these were not his own) and the other corporations, which to him no longer existed because the businesses for which the said corporations had been established either failed to operate or had long been closed or became non-operational; (2) the accused did not personally prepare the entries in his 1998 SALN; and (3) the accused is not knowledgeable about the business and financial interests of his immediate family. These circumstances do not amount to a calculated, premeditated and deliberate intention to conceal the money in the banks or the financial interests in the corporations.

As to the accused's main defenses, his testimony during direct examination as summarized in his Memorandum is as follows:

"FIRST LPL LAND SYNDICATION, INC. – included under the heading 'investments'[\[132\]](#);

"ASIS-EJERCITO GARMENTS, INC. – Senator Luisa Estrada was just a nominee of Jackie, their daughter; she only had ten (10) shares worth P1,000. It was dormant even before he became Senator[\[133\]](#);

“24K INTERNATIONAL FOOD, INC. – it operated a restaurant (Lady in Red Restaurant) when he was still mayor; it was Senator Luisa Estrada who was a shareholder. It was closed even before he became a Senator[134];

“PRIME ENTERTAINMENT FOR TELEVISION PRODUCTION, INC. – Senator Luisa was only a nominee of Senator Jinggoy Estrada; she only had 20 shares worth P2,000. This was closed when he was still a Senator[135];

“ALPHA FUNDS, INC. – The company never operated; Mr. William Tiu died when he was still a Senator[136];

“ADE FOOD, INC. – it operated the El Alkalde Restaurant; it lost money and was closed even before he became a Senator[137];

“ELECTRONIC SENTRY SYSTEMS, INC. – Angelo Castro, Jr., and June Keithley ... invited him to become a shareholder but the company never operated although they held seminars in Greenhills[138];

“ALL HOT SOUP, INC. – it operated the ‘Sabawan Restaurant’ was back in 1983 when he was still mayor; it lost money and was closed when he was still a mayor[139]; (and)

“FELT FOOD SERVICES – it operated the ‘Sinugba Restaurant’ way back in 1978; it was closed when he was still mayor; the Estradas no longer wanted to be partners with the Avecillas because they always lose money.[140]”

As for the corporations mentioned in the Information, the accused claims that he failed to mention them in his SALN because they were “either defunct in 1998, comprised *de minimis* investments of P1,000 or so, or were certainly embraced in the generic word “investments” on page 1 of the SALN.[141]”

The gist of the accused’s testimony concerning the status of the subject corporations is consistent with the records of two government agencies -- the Social Security System (SSS) as seen in defense exhibits “477” to “478”, which were identified by witness Lorna Dumlao and the Securities and Exchange Commission (SEC) as shown in prosecution Exhibits “J15” to “R15” inclusive, and as testified to by prosecution witness Ms. Annette Tamayo, the Officer-in-Charge of the SEC Corporate Filing and Records Division.

Witness Dumlao affirmed that two of the corporations, Alpha Funds Inc., and First LPL Land Syndication, Inc. had been temporarily suspended on April 1, 1992 and May 19, 1997, respectively, by the SSS for failure to remit mandatory contributions.[142] On the other hand, witness Tamayo testified that while the subject corporations were

considered as existing (certificates of registration were not yet revoked and the periods of existence had not yet lapsed) as of December 31, 1998, interestingly, the corporations failed to submit their SEC-required reports and were considered inactive for several years prior to and after 1998. In fact, she testified to the fact that some of the corporations' certificates of registration have already been revoked as a result of their non-submission of the SEC's annual reportorial requirements for several years, while others are being summoned to a hearing on whether to suspend or revoke their certificates of registration.[\[143\]](#) Her testimony thus corroborated accused former President Joseph Ejercito Estrada's defense that the subject corporations were already inactive and non-operating as of 31 December 1998.

As for the bank accounts, the accused former President's testimony on said matter was summarized in his Memorandum as follows:

"ASIAN UNITED BANK – the amount of 548,121.84 was included in the entry 'cash on hand and in bank';

"SECURITY BANK – the amount of P12,289,236.88 was a contribution to the Partido ng Masang Pilipino; it was not his money as he was just a trustee. Mr. Salvador Serrano, Security Bank vice president, testified that accused's highest placement was made on April 21, 1998 in the amount of P10,000,000;

"Seen as a sure winner in the May, 2001 election, he had a lot of money in April. Thus, he disclosed the following details:

"Document	Exhibit No.	Page
"Signature Card	C	72
"Investment savings account		
"Agreement dated 21 April 1998	C-1	72
"Investment savings account		
"Agreement dated 21 May 1998	C-2	72
"Investment savings account		
"Agreement dated 22 June 1998	C-3	72

"The dates speak for themselves.

"KEPPEL BANK – the amount of P44,268,442.68 comprised contributions to the party over time; it was not his money as he was just a trustee."

The accused former President however, explains that “the money in the banks comprised excess political contributions not used by his political party[144]” and that “the money was not for the accused to claim as his own but comprised trust funds, to be used for various political ends. In other words, the accused alleges that, except for the money in Asia United Bank which is already included in his SALN[145], he could not claim and declare the money in the banks as his own as he was holding it in trust for his political party as its titular head since the money purportedly came from political contributions given during his presidential campaign.

Thus, the accused did not deny the existence of the money in the banks as well as the existence of the other corporations, but he sufficiently explained that he was only under the impression that he did not have to state them in his SALN because (1) as to the money in the banks, these were not his personal funds but merely held in trust for his political party; and (2) as for the other corporations, they were either defunct or non-operating and/or he and his wife’s interests therein were nominal. Further, accused former President Estrada was able to point out that his and his family’s interests in the other corporations are already included in the generic term “investments” on page 1 of the subject 1998 SALN. Verily, this point was not rebutted by the prosecution nor made the subject of a thorough cross-examination as to what were the specifics of the term “investments” on page 1 of the accused’ SALN. Hence, being unrebutted evidence, they stand to refute prosecution evidence that the omission of the subject entries in the SALN was deliberate and malicious.

Another consideration which negates the element of “deliberate and willful” effort to commit a falsehood is the accused’s candid assertion that he did not personally prepare his 1998 SALN. According to the accused, although he admitted to signing his SALN, he always left it to his staff to prepare the same. Thus, he testified[146] that:

“WITNESS (*Accused former President Joseph Ejercito Estrada*)

“A Well, first, I did not willfully violate the law. Second, since I became a public official when I was a mayor, I always religiously file my Statement of Assets and Liabilities. So that charges are false and I deny all those charges against me. **It is only I have to be honest that I do not personally do my Statement of Assets and Liabilities. I just ask my staff to prepare for me but I always tell them to comply with the requirements of law.**

“xxx xxx xxx

“ATTY. FLAMINIANO

“Q Now, who prepared your Statement of Assets and Liabilities and Networth for the year ending December 31, 1998, Mr. President?

“A It was my lawyer retired, the late Atty. Dollete and Mr. Guerrero, Mr. Martin.”

(Emphasis supplied)

Aside from having limited participation in the preparation of his SALN, the accused's testimony and demeanor during cross-examination clearly showed he had little knowledge of his wife's and children's business and financial interests in certain corporations. His testimony also confirmed his insistence that the businesses which these corporations represent either failed to operate or had long been closed, circumstances which further belie an intentional and deliberate attempt to conceal the said assets in his 1998 SALN. Even on cross-examination, accused former President Estrada did not falter nor waver on his testimony, thus showing that he was a credible and consistent witness when he testified^[147] that:

(CROSS EXAMINATION OF ACCUSED JOSEPH E. ESTRADA)

“SP VILLA-IGNACIO

“Q Mr. President, are you aware of a letter from the Security and Exchange Commission dated November 11, 2002, which letter has been marked as Exhibit K¹⁶ by the prosecution offered to establish the fact that First L.P.L Land Syndication, Inc. was existing as of 31 December 1978. Are you aware of that letter, order rather?

“ATTY. FLAMINIANO

May we ask that the letter be shown to the witness, Your Honors?

“SP VILLA-IGNACIO

We will do that, Your Honors. For the record, prosecution is showing to the witness an Order dated November 11, 2002, issued by the Securities and Exchange Commission which has been marked as Exhibit K¹⁴ and admitted as part of prosecution's evidence. We have furnished the defense a copy of the same previously, Your Honors.

“ATTY. FLAMINIANO

May we just manifest for the record, Your Honors, that what is shown to the witness is a photocopy of a document with marking Exhibit K¹⁶. There are also some figures in this document 127271-A then there is a date 4 23. The document bears what appears to be –

“xxx xxx xxx

May the record reflect, Your Honor, that the document being shown to the witness bears the caption, the matter of the First L.P.L. Syndication, Inc. it says “For Violation of the Corporation Code and the Rules of the Submission of the Required Reports” and then below are the words for the Director. There is a blurred signature here which is inaudible, below which is the name Rosalina Natividad Tesorio. There is nothing in this document which shows that the witness was furnished with a copy of this document, Your Honor.

“xxx xxx xxx

“PJ DE CASTRO

“Q Did you get the question Mr. President?

“A Yes, sir, this is the first time that I saw this letter. **I think my wife is the one handling this investment in the L.P.L.** and as far as I could remember Mr. Conrad Leviste suffered stroke way back in 1997. **I think I cannot anymore bring out her investment as far as I can remember, sir.** This is the first time I saw it Mr. Prosecutor.

“Q In short, and what you are telling this Honorable Court Mr. President is that, you are not aware of this order coming from the Securities and Exchange Commission which has been marked by the prosecution as its Exhibit K¹⁶ and offered to show that as of December 31, 1998, L.P.L. was still existing. Incidentally, the same exhibit has been admitted by the Honorable Court.

“A **I still included in my Statement of Assets and Liabilities (SAL).**

“Q It is included?

“A Yes, sir.

“Q In your assets and liabilities? **Could you please point to us where in your SAL and First L.P.L has been declared by you Mr. Witness?**

“A **Well, it is not here.**

“SP VILLA-IGNACIO

Thank you, Mr. President.

“WITNESS

"A I believe that according to my staff it was included in my Statements of Assets and Liabilities, and the record will show.

"SP VILLA-IGNACIO

"Q It is very clear then that it is not included. Thank you, Mr. President.

"A May I continue, sir.

"SP VILLA-IGNACIO

Later on Mr. President.

"xxx xxx xxx

"PJ DE CASTRO

We will allow the witness to complete his answer.

"ATTY. FLAMINIANO

To complete his answer.

"WITNESS

"A Well, as I have said Mr. Conrad Leviste is the owner and majority stock holder of L.P.L. and suffered a stroke in 1997, and in 1997, **I think my wife, Sen. Loi, already pulled out her investment there, and as far as I could remember and even then I believe that according to my staff they included that in my Statement of Assets and Liabilities.**

"SP VILLA-IGNACIO

But, you just examined the SAL and manifested in Court that it has not been declared so?

"xxx xxx xxx

"PJ DE CASTRO

The answer may remain.
He said according to his staff it is included in his SAL.

"A **Your Honors, my answer is that it is my wife who is handling that investment.**

"xxx xxx xxx

"SP VILLA-IGNACIO

"Q This is the basis.

You testified on May 24, 2006, that your spouse Dr. Loi Ejercito is just a nominee of your daughter Jacqueline in the Asis, Ejercito Garments and this testimony appears on page 57 of the TSN. I am showing you page 57 of the TSN, and I would like you to read the question asked by Atty. Flaminiano regarding Asis, Ejercito Garments, Inc. Will you read this portion Mr. Witness and tell us if indeed you have given that answer in Court on May 24, 2006?

"xxx xxx xxx

"A **I really forgot all about this.** You will notice, that according to this record my wife Sen. Loi is a share holder and my son Jinggoy with his friend, Francis Yengco, and the number of shares and par value twenty (20) shares, worth Two Thousand (P2,000). This was in 1986. This is a television production. **Again I repeat, that Sen. Loi was only a nominee of my son Senator Jinggoy. So, her share is only worth P2,000.00. I believe that even before I became a senator, the corporation became dormant already.**

"SP VILLA-IGNACIO

Thank you, Mr. President.

"Q Mr. President, are you aware that on the basis of public records your Sps. Dr. Loi Ejercito and your daughter Jacqueline are incorporators and stock holders of Asis, Ejercito Garments, Inc. and not merely a nominee?

A Well, in as far as the share is only P2,000.00 worth, **I did not bother to interfere. Sen. Loi my wife did not bother to inform me about it. "Sila sila lang ang nagkakaalaman noong nalugi na saka ko nalalaman, sir."**

"INTERPRETER

They are the only ones who knew about it and when they are on the losing end it is the only time that they informed, sir. My wife did not bother to inform me about this. My wife and children did not bother to inform me about it, sir.

"xxx xxx xxx

"SP VILLA-IGNACIO

"Q Mr. President, do you have any document or proof to show the true and correct status of Asis, Ejercito Garments, Inc. as of December 31, 1998?

"A **Mr. Prosecutor, I am sorry to tell you that in fact I don't know about that corporation, it is only between my wife and my children I don't know anything about it, sir.**

“Q It is a corporation operated by your wife and children and you don’t have any personal knowledge about that?

“A Yes, sir, I am so busy and I was a Senator then and I don’t interfere in their business, sir.

“xxx xxx xxx

“Q Now, you said that your wife, your spouse rather was merely a nominee in the same way that you testified that your spouse was merely or is merely a nominee in Asis, Ejercito Garment, Inc. are you aware that on the basis of public records Mrs. Loi Ejercito is an incorporator and stock holder and the treasurer of the corporation? I am referring to Asis, Ejercito Garment, You are not aware of that?

“A As I have said earlier, I am not aware of that business, sir.

“SP VILLA-IGNACIO

This is reflected in prosecution’s evidence F¹⁴ and the position of Mrs. Ejercito as treasurer indicated in page 8 of the Articles of Incorporation, Your Honors.

“Q Now, going back to 24K, it is also your position for failing to indicate in your SAL for year 1998, what you claimed to be the participation of Mrs. Luisa Ejercito as merely a nominee of 24K International. Are you aware that on the basis of public record and I am referring to Exhibit G¹⁴ which is the Certificate of Registration issued by the Securities and Exchange Commission just to guide the defense and Exhibit G¹⁴-1 which is the Articles of Incorporation, your spouse Sen. Loi Ejercito is not a nominee but an incorporator and a stockholder with 1,000 shares registered in her name. You are not aware of that?

“A As I have said earlier, I am not aware of all the businesses that they organized. So, the bottom line is that, that is way back before I became the Vice-President or Senator. Those corporations were already closed and I believe it is not my obligation to report it in my Statement of Assets and Liabilities.

“Q You are saying that the corporation has been closed before 31 December 1998?

A Yes, sir.

“SP VILLA-IGNACIO

“Q Question, do you have documents or proof to show and establish the true status of the corporation 24K International Food, Inc.?

"A I do not have the documents right now. But, I am very sure that this was closed before I became a Senator and I would say that, again, it is not my obligation to put it in my Statement of Assets and Liabilities.

"SP VILLA-IGNACIO

Thank you, Mr. President.

WITNESS

Whatever the share of my wife there I did not ask her or my children. I didn't bother to ask them because I trust them whatever they do. My wife and my children. So, it is their business, I don't need to interfere in their business because I am very busy. I am a very busy man.

"xxx xxx xxx

"SP VILLA-IGNACIO

"Q There is also another corporation not included by you in your 1998 Statement of Assets and Liabilities and this is the Prime Entertainment for Television Production, Inc. Are you familiar with this corporation, Prime Entertainment for Television Production, Inc.?

"A May I refer to my records because those corporations were claimed 15 years ago and I cannot remember anymore, sir.

"PJ DE CASTRO

You may show the document to the witness.

"SP VILLA-IGNACIO

It's not really a document Your Honors, but notes.

"PJ DE CASTRO

His notes.

"xxx xxx xxx

"SP VILLA-IGNACIO

"Q Having looked at the notes prepared by the defense or staff?

"A Staff, Your Honor.

"SP VILLA-IGNACIO

Thank you, Mr. President.

"Q There is here a page 56 of the transcript a question asked by Atty. Flaminiano:

Now, let us go to Prime Entertainment for Television Production, Inc. Are you familiar with this corporation Mr. President?"

And an answer was given by you:

"A. Yes. According to the records, Senator Loi, my wife was the only nominee of my son Jinggoy."

You were asked this question and have given that answer, is it not?

"A Yes, sir, but this is 1986. This is 20 years ago. That's what Sen. Jinggoy told me that his mother is only a nominee because I am not privy to all these businesses that they entered into from the very beginning and I believed that this happened even before I became a Senator and it is already non-existent. It is already non-operational so I don't feel obligated to put this in my Statement of Assets and Liabilities.

"Q Having given that answer, Mr. President, do you have any document to show and prove and establish the true and correct status of Prime Entertainment for Television Production, Inc. as of December 31, 1998?

"xxx xxx xxx

"SP VILLA-IGNACIO

The same question, Your Honor. There is a pending question.

"Q Do you have any document?

"A As I have said, sir, this is 20 years ago and I bank only in what my son, Sen. Jinggoy, told me and I feel again, I repeat, that I don't feel obligated to report it in my Statement of Assets and Liabilities because this is already dormant.

"Q In other words, Mr. Witness, you don't have any document or proof to establish the true status of the corporation as of 31 December 1998?

"A Maybe my son or my wife has.

"xxx xxx xxx

"JUSTICE VILLARUZ

"Q Mr. President, you mentioned that Sen. Loi and Sen. Jinggoy were acting as nominees in this corporation?

"A Yes, sir.

“Q Do you know for whom they were acting as nominees?

“A **As I was saying, not for me for sure. I know they were acting for my daughter Jacqueline. I am not really aware of this corporation that they organized.**

“Q So, you do not know for whom they were acting as nominees?

“A **No, because that was already 20 years ago, I don't remember.**

“xxx xxx xxx.”

(Emphasis supplied)

To sum it all up, the third element of perjury has not been proven at all by the prosecution. Perjury being a felony by *dolo*, there must be malice on the part of the accused.[\[148\]](#) Willfully means intentionally; with evil intent and legal malice, with the consciousness that the alleged perjurious statement is false with the intent that it should be received as a statement of what was true in fact. It is equivalent to "knowingly." "Deliberately" implies meditated as distinguished from inadvertent acts.[\[149\]](#) It must appear that the accused knows his statement to be false or as consciously ignorant of its truth.[\[150\]](#)

The missing crucial factor is the accused's "deliberate and willful assertion of a falsehood" as the above evidence convinces the Court that perjury was not committed in this case. The accused, who did not personally prepare his 1998 SALN, may be faulted for his failure to ascertain whether or not his SALN had fully disclosed his and his wife's interests in compliance with the law, but the same does not necessarily amount to a deliberate and willful assertion of a falsehood in the absence of proof of malice on his part. Certainly, accused former President Joseph Ejercito Estrada's inattention to the requirements of R.A. No. 6713 does not merit the filing of this criminal action as it should have first been rectified through the corrective mechanism precisely prescribed by the said law.

Ordinarily, any discrepancy in the entries in a public officer's SALN or any situation of non-compliance with the rules of R.A. 6713 should have been resolved at the administrative level such that an accused should first be afforded the opportunity to avail of the Review and Compliance Procedure provided for by Republic Act No. 6713. This brings the Court to a discussion on the relevance of the provisions of R.A. 6713 in the prosecution of perjury under Article 183 of the Revised Penal Code as it mandates

the establishment of review and corrective procedures to ensure the public officer's proper compliance with its provisions.

FOURTH ELEMENT: That the sworn statement or affidavit containing the falsity is required by law or made for a legal purpose

The fourth element of perjury entails that the sworn statement or affidavit containing the falsity must be required by law. In the instant case, the relevant law, which the Court has taken judicial notice of, is Republic Act No. 6713, otherwise known as "THE CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES."[\[151\]](#) On this point, there is no issue that the fourth element is present herein considering that the SALN subject of the instant case is the sworn statement required by law, particularly R.A. 6713.

A crucial issue in this case however, shall remain unresolved if the case ends with just the Court's taking cognizance of Section 8 of R.A. No. 6713, which is the provision that obligates public officials and employees to accomplish and submit declarations under oath of their assets, liabilities, net worth and financial and business interests, in disregard of the other important provision in Section 10 of R.A. No. 6713 on the review and compliance procedure.

The defense has even raised the issue of selective prosecution and invidious discrimination for the accused's not having been provided the opportunity to avail of the said corrective process. Allegedly, there have been previous cases[\[152\]](#) against public officials, which were later dismissed with the finding that penalizing an employee for a perceived breach of the provisions on SALN, without the benefit of allowing him to avail of the corrective mechanism under the law, was premature.

RELEVANCE OF R.A. NO. 6713 TO THE PROSECUTION OF PERJURY UNDER ARTICLE 183 OF THE REVISED PENAL CODE

It is basic in statutory construction that if the legislature passes a special law while there is a general law covering the same state of things or facts, the special law is deemed to supercede and prevail over the general law being the later expressed intention of the legislature^[153]. In the instant case, the general law is the Revised Penal Code (RPC), in particular Article 183 thereof pertaining to Perjury, and the special law is R.A. No. 6713, having been passed only in 1989 and specifically for the purpose of promoting a high standard of ethics in public service. As the Information herein asserts, the elements of Article 183 of the RPC can only be made applicable to the instant case if the same are considered in relation to the provisions of R.A. No. 6713.

The accomplishment of the SALN under oath and compulsory disclosure of matters such as real and personal property, investments, cash on hand and in banks, liabilities and business and financial interests all become material because these are required by Section 8 of R.A. No. 6713. Hence, the provisions of R.A. No. 6713 are not irrelevant to any prosecution for Article 183 for as long as the information so holds that the sworn statement or affidavit was filed as required by R.A. No. 6713 and/or that the information was filed in relation to R.A. No. 6713.

Pursuing the same line of thought, the entire special law and not merely parts of it, should be applied or should be read together with the provisions of the general law. Thus, Sections 1 to 17 of R.A. No. 6713 are all relevant to Article 183 and all the duties, privileges and benefits contained therein should be made applicable and available to the persons charged in relation thereto.

As pointed out by the accused, R.A. No. 6713 and its implementing rules prescribe a review procedure to determine whether or not a public official has properly complied with the requirements for the filing of his statement of assets, liabilities and net worth.

Section 10 of R.A. 6713 provides:

“Section 10. Review and Compliance Procedure. -

“(a) The designated Committees of both Houses of the Congress shall establish procedures for the review of the statements to determine whether said statements have been submitted on time, are complete, and are in proper form. In the event a determination is made that a statement is not so filed, the appropriate Committee shall

so inform the reporting individual and direct him to take the necessary corrective action.

“(b) In order to carry out their responsibilities under this Act, the designated Committees of both Houses of the Congress shall have the power with their respective jurisdictions, to render any opinion interpreting this Act, in writing, to persons covered by this Act, subject in each instance to the approval by affirmative vote of the majority of the particular House concerned.

“The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in this Act.

“(c) **The heads of other offices shall perform the duties stated in subsections (a) and (b) hereof insofar as their respective offices are concerned, subject to the approval of the Secretary of Justice,** in the case of the Executive Department and the Chief Justice of the Supreme Court, in the case of the Judicial Department.”

Prescinding from the foregoing, it is clear that the law provides a corrective mechanism which allows any public official or employee to take the necessary measures to properly comply with the law's requirements **before** penal sanctions can be imposed. Upon submission of his SALN to the proper authority, any public official or employee has the benefit of the review process, which would determine his compliance with the requirements of the law and prescribe the means for the correction of any finding against him. It is only upon his refusal to comply with the corrective process that the public official or employee should be subject to penal sanctions.

In the case at bar, the accused insists that said corrective process was denied him. If the law should be applied, the instant case should have been referred to the Secretary of Justice, who is in charge of the review and compliance process for the executive department. But with the present circumstances of the accused, who is no longer connected with the executive department, the pendency of this case and the impending decision, the matter is now moot and academic. This notwithstanding, the Court is not precluded from determining whether given the factual circumstances, accused can actually be held liable for perjury under Article 183 in view of his alleged omissions in his SALN. As it is, considering that the elements of the crime of Perjury under Article 183 of the Revised Penal Code have not been proven with moral certainty by the prosecution, the administrative remedies provided under R.A. 6713 have become immaterial and irrelevant.

CONCLUSIONS

The highest consideration of public office is enshrined in the Declaration of Principles and State Policies under Article II of the 1987 Constitution which provides that:

“SECTION 27. The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.”

Relatively, this state principle is echoed in Article XI of the 1987 Constitution on accountability of being in public office which declares that:

“SECTION 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.”

The instant case articulates the principle that “no one is above the law” as no less than the person holding the highest position in the land, former President Joseph Ejercito Estrada, is being held liable and is charged with the crime of Perjury defined in and penalized by Article 183 of the Revised Penal Code allegedly for his failure to include in his Statement of Assets, Liabilities and Net Worth (SALN) certain assets consisting of cash in three (3) banks and corporate holdings or connections. This notwithstanding, however, it is likewise a constitutional^[154] and legal truism that the accused shall be presumed innocent until the contrary is proved.^[155]

In criminal law, the quantum of evidence for conviction of an accused is that which produces moral certainty in an unprejudiced mind that the accused is guilty beyond reasonable doubt.^[156] Conviction must rest on hard evidence showing that the accused is guilty beyond reasonable doubt of the crime charged. In criminal cases, moral certainty — not mere possibility — determines the guilt or the innocence of the accused. Even when the evidence for the defense is weak, the accused must be acquitted when the prosecution has not proven guilt with the requisite quantum of proof required in all criminal cases.^[157]

After a judicious evaluation of the evidence in this case, the Court cannot assert with moral certainty that accused former President Joseph Ejercito Estrada is guilty of the crime charged. All told, the prosecution failed to establish the guilt of the accused with moral certainty. Its evidence falls short of the quantum of proof required for conviction for the crime of Perjury under Article 183 of the Revised Penal Code. Accordingly, the constitutional presumption of the petitioner's innocence must be upheld and he must be acquitted.

WHEREFORE, judgment is hereby rendered in Criminal Case No. 26905 finding the accused former President Joseph Ejercito Estrada **NOT GUILTY** of the crime of Perjury defined in and penalized by Article 183 of the Revised Penal Code, and he is hereby **ACQUITTED**.

Accordingly, the Hold Departure Order dated February 4, 2002 issued by the Court against accused former President Joseph Ejercito Estrada is hereby recalled and rendered *functus officio*.

SO ORDERED.

Sgd.

TERESITA LEONARDO DE-CASTRO

Presiding Justice

Chairperson

Sgd.

FRANCISCO H. VILLARUZ, JR.

Associate Justice

Sgd.

DIOSDADO M. PERALTA

Associate Justice

ATTESTATION

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

Sgd.

TERESITA J. LEONARDO-DE CASTRO

Chairperson, Special Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Sgd.

TERESITA J. LEONARDO-DE CASTRO

Presiding Justice

[1] Records, Volume I, Accused' Estrada's Motion to Quash and Reset Arraignment, Pages 89-101

[2] Records, Volume I, Resolution of March 6, 2002, Pages 164-167

[3] *Id.*

[4] Records, Volume 3, Joint Resolution, Pages 89-107

[\[5\]](#) Records, Volume 3, Resolution promulgated on September 3, 2004, Pages 115-121

[\[6\]](#) Records, Volume 53, Resolution promulgated on March 7, 2007, Pages 463-476

[\[7\]](#) Records, Volume 55, Manifestation of the Prosecution dated April 23, 2007, Page 12

[\[8\]](#) TSN dated May 8, 2002

[\[9\]](#) See Exhibit "A" and submarkings

[\[10\]](#) TSN dated October 30, 2002

[\[11\]](#) See Exhibit "B" -perjury and submarkings

[\[12\]](#) TSN dated May 8, 2002; TSN dated May 15, 2002; TSN dated May 20, 2002; and TSN dated November 25, 2002

[\[13\]](#) See Exhibit "C-1" and submarkings

[\[14\]](#) See Exhibit "C-2" and submarkings

[\[15\]](#) See Exhibit C-3 and submarkings

[\[16\]](#) See Exhibit C-4 and submarkings

[\[17\]](#) See Exhibit C-5 and submarkings

[\[18\]](#) See Exhibit C-6 and submarkings

[\[19\]](#) See Exhibit "C-7" and submarkings

[\[20\]](#) See Exhibit "C-8" and submarkings

[\[21\]](#) See Exhibit "C-9" and submarkings

[\[22\]](#) See Exhibit "C-10" and submarkings

[\[23\]](#) See Exhibit "C-11" and submarkings

[\[24\]](#) See Exhibit "C-12" and submarkings

[\[25\]](#) See Exhibit "C-13" and submarkings

[\[26\]](#) See Exhibit "C-14" and submarkings

[\[27\]](#) See Exhibit "C-15" and submarkings

[\[28\]](#) See Exhibit "C-16" and submarkings

[\[29\]](#) See Exhibit "C-17" and submarkings

[\[30\]](#) See Exhibit “C-18” and submarkings

[\[31\]](#) See Exhibit “C-19” and submarkings

[\[32\]](#) See Exhibit “C-20” and submarkings

[\[33\]](#) See Exhibit “C-21” and submarkings

[\[34\]](#) See Exhibit “C-22” and submarkings

[\[35\]](#) See Exhibit “C-23” and submarkings

[\[36\]](#) See Exhibit “C-24”

[\[37\]](#) See Exhibit “C-25”

[\[38\]](#) See Exhibit “C-26”

[\[39\]](#) See Exhibit “C-27”

[\[40\]](#) See Exhibit “C-28”

[\[41\]](#) See Exhibit “C-29”

[\[42\]](#) See Exhibit “C-30”

[\[43\]](#) See Exhibit “C-31”

[\[44\]](#) See Exhibits “C”; “CC”; and “CCC”, including submarkings

[\[45\]](#) TSN dated May 15, 2002 and TSN dated May 20, 2002

[\[46\]](#) See Exhibit “C-7”

[\[47\]](#) TSN dated November 6, 2002, TSN dated November 20, 2002, and TSN dated November 27, 2002

[\[48\]](#) See Exhibit “D14”

[\[49\]](#) See Exhibit “D14-9”

[\[50\]](#) See Exhibit “D14-12”

[\[51\]](#) See Exhibit “D14-1”

[\[52\]](#) See Exhibit “D14-5”

[\[53\]](#) See Exhibits “D14-15”, “D14-15-A ” ; and “D14-15-”

[54] TSN dated November 6, 2002

[55] See Exhibits “E14”; “E14-1”; and “E14-2”, including submarkings

[56] See Exhibits “F14”; “F14-1”; and “F14-2”, including submarkings

[57] See Exhibits “G14”; “G14-1”; and “G14-2”, including submarkings

[58] See Exhibits “H14”; “H14-1”; and “H14-2”, including submarkings

[59] See Exhibits “I14”; “I14-1”; and “I14-2”, including submarkings

[60] See Exhibits “J14”; “J14-1”; and “J14-2”, including submarkings

[61] See Exhibits “K14”; “K14-1”; and “K14-2”, including submarkings

[62] See Exhibits “L14”; “L14-1”; and “L14-2”, including submarkings

[63] See Exhibits “M14”; “M14-1”; and “M14-2”, including submarkings

[64] TSN dated November 27, 2002

[65] See Exhibits “E14” to “M14”, inclusive of submarkings

[66] TSN dated November 27, 2002 and TSN dated January 15, 2003

[67] See Exhibits “J15” to “R15”, inclusive of submarkings

[68] TSN dated May 24, 2006 pages 49.

[69] *Id.*, at 50.

[70] *Id.*, at pp. 54-56. The prosecution objected to the matrix that allegedly listed the companies, shareholdings and numbers of shares, among others, which matrix served as a guide for the defense counsel and the accused in the direct examination. The defense countered that said matrix serves as the accused’s notes since the accused would not have been in a position to recall or monitor the corporations that were created twenty to thirty years ago. The Court allowed the accused to refer to the said notes/matrix. The prosecution had the matrix marked as Exhibit “W” but did not formally offer the same).

[71] TSN dated May 24, 2006, page 52.

[72] *Ibid.*

[73] *Id.*, at 52-53.

[74] *Ibid.*

[75] *Id.*, at 59.

[76] TSN dated May 24, 2006, page 60.

[77] *Id.*, at 61.

[78] *Id.*, at 62.

[79] *Id.*, at 66-67.

[80] *Id.*, at 68.

[81] TSN dated May 24, 2006, page at 69.

[82] *Id.*, at 70.

[83] *Ibid.*

[84] *Id.*, at 51-52.

[85] *Ibid.*

[86] *Id.*, at 52-53.

[87] *Id.* at pp. 56-57, 59.

[88] *Id.*, at pp. 59-60.

[89] *Id.*, pp. 60-61.

[90] *Id.*, at pp. 61-62.

[91] *Id.*, at 66-67.

[92] *Id.*, at 67-68.

[93] *Id.*, at 37.

[94] TSN dated June 14, 2006 (a.m.), page 31.

[95] *Id.*, at 39.

[96] *Id.*, at 40-41.

[97] *Id.*, at 47-48.

[98] TSN dated June 14, 2006 (a.m.), pages 48-49.

[99] *Id.*, at 79.

[100] *Id.*, at 84.

[101] *Id.*, 85-86.

[102] *Id.*, at 87.

[103] *Id.*, at 90.

[104] *Id.*, at 99-100.

[105] Exhibit “472”

[106] Exhibit “472”

[107] Exhibit “472-a”

[108] Exhibit “472-b”

[109] Exhibit “472-A”

[110] TSN dated July 19, 2006, page 17.

[111] Exhibit “471”

[112] Exhibit “471”

[113] Exhibit “471-a” – “471-b”

[114] Exhibit “471-d”

[115] Exhibit “471-D”

[116] *Id.*, at page 18.

[117] Exhibit “473”

[118] Exhibit “473-a”

[119] Exhibit “473-d”

[120] Exhibit 473”

[121] Exhibit 477”

[122] Exhibit “478”

[123] ***People vs. Eslaban***, 218 SCRA 534, 544 (1993); ***People vs. Nicolas***, 204 SCRA 191 (1991)

[124] ***People vs. Austria***, 195 SCRA 700 (1991)

[125] ***Criste B. Villanueva vs. Secretary of Justice, et al.***, G.R. No. 162187, November 18, 2005, citing ***Diaz vs. People***, 191 SCRA 86 [1990]

[126] TSN dated May 24, 2006, Page 50

[127] ***Tabas vs. Mangibin***, 421 SCRA 511, 514 (2004)

[128] MEMORANDUM for the People dated 12 June 2007, page 72.

[129] *Ibid.*, pp. 73-74.

[130] MEMORANDUM for the People dated 12 June 2007, page 76.

[131] BLACK'S LAW DICTIONARY, Abridged 5th Edition, page 222. See also 11A Words and Phrases, Permanent Ed., 459 (1971) citing *State vs. Wells*, 1 N.J.L. (Coxe) 424,429.

[132] See also TSN dated May 24, 2006, page 51-52.

[133] *Ibid.*

[134] *Ibid.* at pp. 52-53.

[135] *Ibid.* at pp. 56-57, 59.

[136] *Ibid.*, at pp. 59-60.

[137] TSN dated May 24, 2006, pp. 60-61.

[138] *Ibid.*, at pp. 61-62.

[139] *Ibid.*, at 66-67.

[140] *Ibid.*, at 67-68.

[141] *Id.*, at pp. 50-69.

[142] TSN dated July 26, 2006, pages 9-11.

[143] TSN dated November 27, 2002; pages 167-170 and January 15, 2003.

[144] MEMORANDUM for the accused dated June 12, 2007, page 3; TSN dated May 24, 2006, page 70.

[145] TSN dated May 24, 2006, page 69.

[146] TSN dated May 24, 2006, Pages 49-50

[147] TSN dated June 14, 2006

[148] *Villanueva vs. Secretary of Justice*, *supra*, citing *People v. Abaya*, 74 Phil. 59 (1942)

[149] *Ibid.*, citing Welch v. State, 157 S.W. 946; Ferguson v. State, 35 S.W. 369, cited in 70 C.J.S. Perjury §30, p. 473

[150] *Ibid.* citing Butler v. McKey, 138 F.2d 373 (1943)

[151] Full title of R.A. 6713 is “AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES”

[152] Accused cites the cases of PRESIDENTIAL ANTI-GRAFT COMMISSION vs. CRISTOBAL (OP Case No. 04-E-226 dated July 28, 2005), which is defense Exhibit No. 393 up to 393-D; and VALMONTE vs. MACAPAGAL-ARROYO filed in the Office of the Ombudsman

[153] G. LEE, JR., HANDBOOK OF LEGAL MAXIMS, 74, (1ST rev. ed., 1985).

[154] Section 14, Article III of the 1987 Constitution provides that:

SECTION 14. (1) No person shall be held to answer for a criminal offense without due process of law.

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

[155] Hence, Section 3, Rule 131 of the Rules on Evidence provides that:

SEC. 3. Disputable presumptions. – The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence.

(a) That a person is innocent of crime or wrong;

XXX XXX XXX.

[\[156\]](#) ***People vs. Jimmy Manambit, et al.***, G.R. No.72744-45, April 18, 1997

[\[157\]](#) ***Evangeline Ladonga vs. People of the Philippines***, G.R. 141066, February 17, 2005