



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REPUBLIC OF THE
PHILIPPINES, represented by the
ANTI-MONEY LAUNDERING
COUNCIL,

Petitioner,

-versus-

G.R. No. 207078

Present:

LEONEN, J., *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

ROBERTO V. ONGPIN,
JOSEPHINE A. MANALO, MA.
LOURDES A. TORRES,
DELTAVENTURE RESOURCES,
INC., GOLDENMEDIA
CORPORATION, BOERSTAR
CORPORATION, COMPACT
HOLDINGS, INC., ELKHOUND
RESOURCES, INC., REYNALDO
G. DAVID, MIGUEL L. ROMERO,
PATRICIA A. STO. TOMAS,
RAMON R. DURANO IV,
FRANKLIN M. VELARDE,
RENATO S. VELASCO,
EDGARDO F. GARCIA,
ROLANDO S.C. GERONIMO,
PERLA S. SOLETA, BENEDICTO
ERNESTO R. BITONIO, JR.,
JESUS S. GUEVARA II,
CRESENCIANA R. BUNDOC,
ARMANDO O. SAMIA, MA.
TERESITA S. TOLENTINO,
RODOLFO C. CEREZO, BANCO
DE ORO UNIBANK, INC., HONG

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KONG & SHANGHAI BANKING CORPORATION, PHILIPPINE BANK OF COMMUNICATIONS, BANK OF THE PHILIPPINE ISLANDS, BPI FAMILY SAVINGS BANK, BANK OF COMMERCE, DEVELOPMENT BANK OF THE PHILIPPINES, SECURITY BANK CORPORATION, UNION BANK OF THE PHILIPPINES, EXPORT AND INDUSTRY BANK (THROUGH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION), ROBINSONS SAVINGS BANK, AIR MATERIEL WING SAVINGS AND LOAN ASSOCIATION, INC., STANDARD CHARTERED BANK, METROPOLITAN BANK AND TRUST COMPANY, CITIBANK, N.A., CITICORP FINANCIAL SERVICES AND INSURANCE BROKERAGE PHILIPPINES, INC., AIG PHILAM SAVINGS BANK, PHILAM STRATEGIC GROWTH FUND, INC., CITYSTATE SAVINGS BANK, RIZAL COMMERCIAL BANKING CORPORATION, and EASTWEST BANKING CORPORATION,
 Respondents.

Promulgated:

JUN 20 2022



X-----X

DECISION

LEONEN, J.:

The remedies of freeze order and order of bank inquiry are extraordinary, issued only upon a finding of probable cause that the accounts sought to be frozen or inquired into are related to any of the predicate crimes under the Anti-Money Laundering Act. The burden of proving probable cause always rests with the Anti-Money Laundering Council, never with the account owners.



This Court resolves the Petition for Review on Certiorari¹ filed by the Republic of the Philippines, through the Anti-Money Laundering Council, assailing the Court of Appeals Resolution² lifting the Freeze Order it had earlier issued under Section 10³ of the Anti-Money Laundering Act over the bank accounts of Roberto V. Ongpin, Josephine A. Manalo, Ma. Lourdes A. Torres, and the corporations affiliated with them, namely: Deltaventure Resources, Inc.; Goldenmedia Corporation; Boerstar Corporation, except its Bank of Commerce Account No. 900000028241; Compact Holdings, Inc.; and Elkhound Resources, Inc.

The Court of Appeals likewise lifted the Freeze Order over the bank accounts of the former officers of the Development Bank of the Philippines (DBP), namely: Reynaldo G. David, Patricia A. Sto. Tomas, Ramon R. Durano IV, Miguel Luis Romero, Franklin Churchill M. Velarde, Renato S. Velasco, Edgardo T. Garcia, Armando O. Samia, Rolando S.C. Geronimo, Perla S. Soleta, Benedicto Ernesto R. Bitonio, Jr., Jesus S. Guevara II, Cresenciana A. Bundoc, Ma. Teresita S. Tolentino, and Rodolfo Cerezo, and their related web of accounts.⁴

Deltaventure Resources, Inc. (Deltaventure) is a stock corporation primarily engaged in real estate business. It had an authorized capital stock of ₱500,000.00, which was increased to ₱10,000,000.00, while its subscribed and paid-up capital amounted to ₱2,500,000.00 and ₱625,000.00, respectively.⁵

On April 7, 2009, Deltaventure applied for a ₱150,000,000.00 credit line with the DBP Baguio City Branch. As security for the loan, Deltaventure offered to pledge its shares in Philweb Corporation (Philweb), as well as those registered in the following corporations' names: Azurestar Corporation, Bacong Highland Realty Corporation, Beckel Realty Corporation, Itogon Realty Corporation, Labilab Corporation, Sunrise Sunset Island Corporation, and Tocmo Realty Corporation.⁶ At the time Deltaventure applied for the credit line, it was beneficially owned by Roberto V. Ongpin (Ongpin), a former member of the DBP Board of Directors.⁷ Ongpin's executive secretary at Philweb, Josephine A. Manalo (Manalo), served as Deltaventure's president;⁸ and Ma. Lourdes A. Torres (Torres), its treasurer.⁹

¹ *Rollo*, pp. 2–71.

² *Id.* at 119–196. The May 7, 2013 Resolution in CA-G.R. AMLC No. 00066 was issued by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Rosmari D. Carandang and Ricardo R. Rosario (now members of this Court) of the Fifth Division of the Court of Appeals, Manila.

³ As amended by Republic Act No. 10167.

⁴ *Rollo*, pp. 119–196.

⁵ *Id.* at 151.

⁶ *Id.* at 152.

⁷ *Id.* at 149.

⁸ *Id.*

⁹ *Id.* at 150.

The next day, on April 8, 2009, the DBP Executive Credit Committee recommended approving the ₱150,000,000.00 credit line application. A week later, on April 15, 2009, the DBP Board of Directors approved it.¹⁰

On November 4, 2009, Deltaventure applied for another credit line with DBP, this time for ₱510,000,000.00.¹¹ Its stated purpose was to acquire from DBP 50,000,000 shares of stock in Philex Mining Corporation (Philex), to be registered directly in the name of Goldenmedia Corporation (Goldenmedia). As security, Goldenmedia pledged back to DBP the Philex shares that would be registered in its name.¹² Like Deltaventure, Goldenmedia was beneficially owned by Ongpin.¹³

That same day, per the DBP Executive Credit Committee's recommendation, the DBP Board of Directors approved Deltaventure's application for the ₱510,000,000.00 credit line.¹⁴

A day after, on November 5, 2009, DBP, through its Board of Directors, sold 50,000,000 of its Philex shares to Deltaventure at ₱12.75 per share, totaling ₱637,500,000.00.¹⁵ Deltaventure paid ₱127,500,000.00 in cash as down payment,¹⁶ and paid the remaining ₱510,000,000.00 in full through the credit line granted by DBP a day before.¹⁷ As Deltaventure had requested, the shares were registered directly in Goldenmedia's name. In turn, Goldenmedia pledged the Philex shares in favor of DBP.¹⁸

On December 2, 2009, DBP sold all of its 59,339,000 Philex shares to Two Rivers Pacific Holdings Corporation (Two Rivers). On the same day, Goldenmedia sold to Two Rivers 123,221,372 of its Philex shares, which included the 50,000,000 Philex shares Goldenmedia had earlier acquired using the proceeds of Deltaventure's loan from DBP. Together with Boerstar Corporation (Boerstar), Elkhound Resources, Inc. (Elkhound), and Walter Brown, DBP and Goldenmedia sold their shares to Two Rivers for a negotiated price of ₱21.00 per share. This block sale resulted in Two Rivers acquiring controlling interest in Philex.¹⁹

Notably, Two Rivers is partly owned by First Pacific International, Ltd., which is in turn a wholly owned subsidiary of First Pacific Company,

¹⁰ Id. at 152.

¹¹ Id.

¹² Id. at 153.

¹³ Id. at 148.

¹⁴ Id. at 373, Offering Ticket No. RMC MM-09-156 dated November 4, 2009.

¹⁵ Id. at 153.

¹⁶ Id. at 152.

¹⁷ Id. at 153.

¹⁸ Id.

¹⁹ Id.

Ltd., headed by its managing director and chief executive officer, Manuel V. Pangilinan.²⁰ Ongpin was Philex's vice chair.²¹

For these transactions DBP Chair Jose Nuñez and President Francisco F. Del Rosario filed a Complaint-Affidavit before the Office of the Ombudsman. They contend that the approval of the ₱150,000,000.00 and ₱510,000,000.00 loans to Deltaventure violated Republic Act No. 8791,²² in relation to Republic Act No. 7653,²³ on ascertaining the creditworthiness of credit applicants; and of Section 3(e), (g), and (h)²⁴ of Republic Act No. 3019. The Complaint-Affidavit was lodged against Ongpin, Manalo, Torres, and the 28 DBP officers involved in the approval, among them are:

- a) Reynaldo G. David (David), co-chair of the DBP Executive Credit Committee that recommended the approval of the ₱510,000,000.00 loan, and former DBP president and chief operating executive;²⁵
- b) Miguel Luis Romero (Romero), member of the DBP Board of Directors;²⁶

²⁰ Id. at 20, Petition for Review on Certiorari, uncontroverted allegation.

²¹ Id. at 148.

²² Republic Act No. 8791 (2000), sec. 40 provides:

SECTION 40. *Requirement for Grant of Loans or Other Credit Accommodations.* — Before granting a loan or other credit accommodation, a bank must ascertain that the debtor is capable of fulfilling his commitments to the bank.

Toward this end, a bank may demand from its credit applicants a statement of their assets and liabilities and of their income and expenditures and such information as may be prescribed by law or by rules and regulations of Monetary Board to enable the bank to properly evaluate the credit application which includes the corresponding financial statements submitted for taxation purposes to the Bureau of Internal Revenue. Should such statements prove to be false or incorrect in any material detail, the bank may terminate any loan or other credit accommodation granted on the basis of said statements and shall have the right to demand immediate repayment or liquidation of the obligation.

In formulating rules and regulations under this Section, the Monetary Board shall recognize the peculiar characteristics of microfinancing, such as cash flow-based lending to the basic sectors that are not covered by traditional collateral.

²³ The New Central Bank Act.

²⁴ Republic Act No. 3019 (1960), sec. 3 partly provides:

SECTION 3. *Corrupt practices of public officers.* — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

....
(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

....
(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

(h) Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

²⁵ *Rollo*, pp. 11, 15, and 17, Petition for Review on Certiorari.

²⁶ Id. at 11, 15, and 18.

c) Patricia A. Sto. Tomas (Sto. Tomas), former chair of the DBP Board of Directors, who approved the loan as a member of the Board;²⁷

d) Ramon R. Durano IV (Durano), member of the DBP Board of Directors that approved the ₱510,000,000.00 loan;²⁸

e) Franklin M. Velarde (Velarde), member of the DBP Board of Directors;²⁹

f) Renato S. Velasco (Velasco), member of the DBP Board of Directors;³⁰

g) Edgardo F. Garcia (Garcia), co-chair of the Executive Credit Committee that approved the ₱510,000,000.00 loan, and former senior executive vice president and chief operating officer;³¹

h) Rolando S.C. Geronimo (Geronimo), member of the Executive Credit Committee, and former executive vice president;³²

i) Perla S. Soleta (Soleta), member of the Executive Credit Committee, and former senior assistant vice president;³³

j) Benedicto Ernesto R. Bitonio, Jr. (Bitonio), member of the Executive Credit Committee, former executive vice president, and head of the Finance Sector;³⁴

k) Jesus S. Guevara II (Guevara), member of the Executive Credit Committee, former executive vice president, and head of the Branch Banking Sector;³⁵

l) Cresenciana R. Bundoc (Bundoc), who signed Deltaventure's credit application and was present as alternative member of the Executive Credit Committee, former senior vice president, and the Branch Banking Sector marketing head;³⁶

²⁷ Id.

²⁸ Id. at 18.

²⁹ Id. at 11, 15, and 18.

³⁰ Id. at 12, 15, and 18.

³¹ Id. at 12, 15–16, and 18.

³² Id. at 12, 16, and 19.

³³ Id. at 12 and 16.

³⁴ Id. at 16 and 19.

³⁵ Id. at 12, 16, and 19. In other parts of the *rollo*, Guevara is spelled Guevarra. The former is adopted.

³⁶ Id. Some of the cited pages spell Cresenciana as Cresencia or Crescenciana. The first is adopted.

m) Armando O. Samia (Samia), who signed Deltaventure's credit application as member of the DBP Executive Credit Committee;³⁷

n) Ma. Teresita S. Tolentino (Tolentino), who recommended the approval of the ₱510,000,000.00 loan as head of the Risk Management Committee (RMC)-Western Luzon Credit Committee, and former vice president and head of the DPB-RMC in Metro Manila;³⁸ and

o) Rodolfo C. Cerezo, who recommended the approval of the ₱510,000,000.00 loan as head of the RMC-Western Luzon Credit Committee.³⁹

In a November 8, 2011 letter,⁴⁰ then Senator Sergio Osmeña III (Senator Osmeña), as the Senate Committee Chair on Banks, Financial Institutions, and Currencies, requested the Anti-Money Laundering Council to look into the activities of Ashmore Investment Management, Ltd., an investment management company incorporated in the United Kingdom that had allegedly flowed funds into and out of the country through investments in Philippine companies.

Senator Osmeña said that two Senate committees were conducting a joint investigation on allegedly suspicious transactions involving DBP and Ongpin, who was Ashmore's representative in the Philippines. Alluded to were block sales involving several publicly listed companies, including Philex, Goldenmedia, and Deltaventure.⁴¹

In a September 24, 2012 Review Resolution,⁴² the Office of the Ombudsman found probable cause for violation of Section 3(e)⁴³ of Republic Act No. 3019 against Ongpin, Manalo, Torres, and some of the DBP officers indicted, including Sto. Tomas, David, Romero, Velarde, Velasco, Garcia, Samia, Geronimo, Soleta, Guevara, Bundoc, Bitonio, and Tolentino. It found that the credit accommodations granted to Deltaventure were behest loans and in violation of several banking laws and regulations

³⁷ Id. at 16, 18, and 19.

³⁸ Id. at 15, 16, and 20.

³⁹ Id. at 17 and 20. In some parts of the *rollo*, Cerezo had the suffix "Jr."

⁴⁰ Id. at 277-280.

⁴¹ Id.

⁴² Id. at 281-339.

⁴³ Republic Act No. 3019 (1960), sec. 3 partly provides:

SECTION 3. *Corrupt practices of public officers.* — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

....
(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

on the assessment of creditworthiness of borrowers. Specifically, undue injury was allegedly caused to the government when DBP approved a ₱510,000,000.00 loan to Deltaventure, a corporation with questionable financial standing. It also found that the DBP officers conspired with Ongpin, Manalo, and Torres to irregularly approve the loan.⁴⁴

Echoing some of the Office of the Ombudsman's findings, the Anti-Money Laundering Council found in its November 14, 2012 Resolution⁴⁵ that the two loans to Deltaventure were marred with anomalies. Allegedly, DBP did not conduct credit investigations and loaned substantial amounts to a corporation with an unstable financial standing such as Deltaventure.

The Anti-Money Laundering Council further noted that the values of the Philweb and Philex shares Deltaventure offered as security for the loans were speculative. On the ₱510,000,000.00 loan, it highlighted that Deltaventure offered as security the same Philex shares it had earlier acquired from DBP, but directly registered in Goldenmedia's name. It emphasized that when the Philex shares were offered as security, Deltaventure had not even fully paid for them.⁴⁶

Citing an Audit Observation Memorandum of the Commission on Audit, the Anti-Money Laundering Council found that DBP's sale of its Philex shares to Deltaventure deprived the bank of ₱415,000,000.00 in opportunity trading gains. To recall, DBP had sold 50,000,000 of its Philex shares at ₱12.75 per share, for a total of ₱637,500,000.00 on November 5, 2009. Had it waited a month later, DBP could have sold the shares directly to Two Rivers at ₱21.00 per share, for a total of ₱1,050,000,000.00. The difference was the opportunity trading loss allegedly incurred by DBP.⁴⁷

From its findings, the Anti-Money Laundering Council "presumed that this lost profit of DBP was actually realized by Ongpin, Manalo and Torres as beneficial owners of [Deltaventure] and [Goldenmedia],"⁴⁸ gained "out of using the illegally-tainted loan money."⁴⁹ Thus, it declared that probable cause existed that the funds released to Deltaventure "relate[d] to unlawful activity[.]"⁵⁰

As to the DBP officers who had facilitated the approval of the loans, the Anti-Money Laundering Council found no direct evidence that they benefited from the loans. Nevertheless, it first determined the legitimate income benefit of each officer for 2009 and 2010, the years when DBP first

⁴⁴ *Rollo*, pp. 305-319.

⁴⁵ *Id.* at 72-97.

⁴⁶ *Id.* at 82.

⁴⁷ *Id.* at 82-83.

⁴⁸ *Id.* at 83.

⁴⁹ *Id.* at 84.

⁵⁰ *Id.*

traded the Philex shares with Deltaventure and Goldenmedia, then with Goldenmedia and Two Rivers. It then compared these with the total deposits, investments, and other bank transactions that each officer made within those years. The Council concluded that the officers' transactions were grossly disproportionate to their legitimate income, inferring that the DBP officers had acquired unlawful income.⁵¹ It said:

There is probable cause that the funds in the bank accounts of these officers are related to unlawful activities and money laundering for the reason that portion of the illegally-tainted money may have been commingled with the assets saved in the bank and investment accounts of the subject DBP officers. As such, the same becomes connected to the unlawful activity and must be preserved from being dissipated and withdrawn pending investigation on the DBP officers' involvement in the commission of money laundering as provided under Section 4(b) of the AMLA, as amended.⁵²

Ultimately, the Anti-Money Laundering Council authorized its Secretariat to file actions under the Anti-Money Laundering Act to recover the purportedly illegally tainted money and prosecute those involved in deriving it:

The Council resolved to:

(i). Authorize the Anti-Money Laundering Council (AMLC) Secretariat to file, through the Office of the Solicitor General, an [ex parte] Petition for the issuance of Freeze Order pursuant to Section 10 of R.A. No. 9160, as amended by R.A. No. 10167, against the following accounts, including all their related accounts wherever these may be found:

....

(ii). Authorize the AMLC Secretariat to file, through the Office of the Solicitor General (OSG), an [ex parte] Application for an Order allowing bank inquiry, pursuant to Section 11 of R.A. 9160, as amended, and Rule 11 of its RIRR, concerning the foregoing bank accounts;

(iii). Authorize the AMLC Secretariat to file, through the OSG, a Petition for Civil Forfeiture, if evidence so warrants, pursuant to Section 12 of [R.A.] No. 9160, as amended, against the funds in the aforementioned accounts, and any other assets, if any, which may be discovered in the course of the investigation;

(iv). Authorize the Executive Director of the AMLC Secretariat or, in his absence, the Officer-in-Charge, to sign the Verification and Certification of the Ex-Parte Issuance of Freeze Order, Ex-Parte Application for Bank Inquiry, Petition for Civil Forfeiture, as well as all other pleadings, initiatory or otherwise, related to the foregoing cases; and

⁵¹ Id. at 84-85.

⁵² Id. at 87-88.

(v). Authorize the AMLC Secretariat to file criminal complaint for money laundering before the Department of Justice (DOJ), if evidence so warrants, pursuant to Section 7 of R.A. No. 9160, as amended, against all those involved therein; and for this purpose, authorize the concerned investigators of the Compliance and Investigation Group of the AMLC Secretariat to execute and sign the complaint-affidavit for money laundering to be filed with the DOJ.⁵³

Accordingly, the Republic, through the Anti-Money Laundering Council, filed on December 3, 2012 an Urgent *Ex Parte* Petition⁵⁴ seeking for a freeze order to be issued against 179 bank accounts⁵⁵ probably related to the grant of the loans to Deltaventure:

Name	Account No.	Name of Covered Institution
ROBERTO V. ONGPIN	170-10890-6	BANCO DE ORO UNIBANK INC.
SAN MIGUEL CORPORATION [ONGPIN ROBERTO V (B)]	1341710000000223	BANCO DE ORO UNIBANK INC.
MR. ROBERTO V ONGPIN	027-026764-130	HONGKONG & SHANGHAI BANKING CORP.
MR. ROBERTO V ONGPIN	027-026764-131	HONGKONG & SHANGHAI BANKING CORP.
ROBERTO V ONGPIN	TD-368606325211	BANCO DE ORO UNIBANK INC.
ROBERTO V ONGPIN	TD-368606325220	BANCO DE ORO UNIBANK INC.
ROBERTO V ONGPIN	TD-368606325229	BANCO DE ORO UNIBANK INC.
ROBERTO V ONGPIN	TD-368606325185	BANCO DE ORO UNIBANK INC.

⁵³ Id. at 88-97.

⁵⁴ Id. at 201-276.

⁵⁵ Id. at 202-215.

ROBERTO ONGPIN	V	0005177900000298437	HONGKONG & SHANGHAI BANKING CORP.
ROBERTO VELAYO ONGPIN		224100024921	PHIL. BANK OF COMMUNICATIONS
JOSEPHINE MANALO		IC-60468012844	BDO UNIBANK INC-PASEO
JOSEPHINE MANALO	A.	145-31365-0	BDO UNIBANK INC.
JOSEPHINE MANALO		IC-15060039324	BDO UNIBANK INC-ENTERPIRSE
JOSEPHINE MANALO		IC-66868001835	BDO UNIBANK INC.
JOSEPHINE MANALO	A.	GP-344742	BDO UNIBANK INC.
JOSEPHINE MANALO	A.	0200116200001625810007	BANK OF THE PHIL ISLANDS-THE ENTERP
LENOR OCCENA, JOSEPHINE AGUILING MANALO, LOURDES ALMOSARA TORRES	MA	IC-16860006888	BDO UNIBANK INC.
MA. LOURDES ALMOSARA TORRES, LENOR I OCCENA, JOSEPHINE AGUILING MANALO		IC-66868002858	BDO UNIBANK INC.
MA. LOURDES TORRES	A.	900200104847	BANK OF COMMERCE

MA LOURDES ALMOSARA TORRES	IC-66868001800	BDO UNIBANK INC.
MA. LOURDES A. TORRES	900200107919	BANK OF COMMERCE
MA. LOURDES A. TORRES	900200108494	BANK OF COMMERCE
DELTA VENTURES RESOURCES INC.	21000000010010025	DEVELOPMENT BANK, PHIL-BAGUIO
DELTA VENTURES RESOURCES INC.	21000000010010010	DEVELOPMENT BANK, PHIL-BAGUIO
DELTA VENTURES RESOURCES INC.	21000000010010039	DEVELOPMENT BANK, PHIL-BAGUIO
GOLDENMEDIA CORPORATION CORP.	900000026647	BANK OF COMMERCE
BOERSTAR CORPORATION	0000000900360128653	BANK OF COMMERCE
BOERSTAR CORPORATION	900000028241	BANK OF COMMERCE
RIVERS PACIFIC HOLDINGS CORPORATION	1688021185	BANCO DE ORO UNIBANK INC- PHILAM
BOERSTAR CORPORATION	900360142931	BANK OF COMMERCE
BOERSTAR CORPORATION	900360143024	BANK OF COMMERCE
BOERSTAR CORPORATION	900360143041	BANK OF COMMERCE
BOERSTAR		



CORPORATION	900360143032	BANK OF COMMERCE
BOERSTAR CORPORATION	900360143326	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144349	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144357	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144420	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144713	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144861	BANK OF COMMERCE
BOERSTAR CORPORATION	TIMA053481	BANK OF COMMERCE
BOERSTAR CORPORATION	900360149308	BANK OF COMMERCE
BOERSTAR CORPORATION	900360149316	BANK OF COMMERCE
BOERSTAR CORPORATION	900360149375	BANK OF COMMERCE
BOERSTAR CORPORATION	900360149588	BANK OF COMMERCE
BOERSTAR CORPORATION	900360150616	BANK OF COMMERCE
BOERSTAR CORPORATION	900360151795	BANK OF COMMERCE
BOERSTAR		



CORPORATION	900360151094	BANK OF COMMERCE
BOERSTAR CORPORATION	900360152180	BANK OF COMMERCE
BOERSTAR CORPORATION	900360152741	BANK OF COMMERCE
BOERSTAR CORPORATION	900360153712	BANK OF COMMERCE
COMPACT HOLDINGS, INC.	910600249203	BANK OF COMMERCE
COMPACT HOLDINGS	910600261815	BANK OF COMMERCE
COMPACT HOLDINGS, INC.	910600271900	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144349	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144357	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144420	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144713	BANK OF COMMERCE
BOERSTAR CORPORATION	900360144861	BANK OF COMMERCE
BOERSTAR CORPORATION	TIMA053481	BANK OF COMMERCE
BOERSTAR CORPORATION	900360149308	BANK OF COMMERCE
BOERSTAR		

CORPORATION	900360149316	BANK OF COMMERCE
BOERSTAR CORPORATION	900360149375	BANK OF COMMERCE
BOERSTAR CORPORATION	900360149588	BANK OF COMMERCE
BOERSTAR CORPORATION	900360150616	BANK OF COMMERCE
BOERSTAR CORPORATION	900360151795	BANK OF COMMERCE
BOERSTAR CORPORATION	900360151094	BANK OF COMMERCE
BOERSTAR CORPORATION	900360152180	BANK OF COMMERCE
BOERSTAR CORPORATION	900360152741	BANK OF COMMERCE
BOERSTAR CORPORATION	900360153712	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600249203	BANK OF COMMERCE
COMPACT HOLDINGS	910600261815	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600271900	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600278521	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600280810	BANK OF COMMERCE

COMPACT HOLDINGS INC.	910600283444	BANK OF COMMERCE
COMPACT HOLDINGS INC.	900000020983	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600289108	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600291684	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600291919	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600299316	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600300098	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600302945	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600302937	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600306339	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600307149	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600307751	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600312371	BANK OF COMMERCE
COMPACT HOLDINGS INC.	910600312380	BANK OF COMMERCE



COMPACT HOLDINGS INC.	910600311324	BANK OF COMMERCE
COMPACT HOLDINGS INC.	900410048265	BANK OF COMMERCE
COMPACT HOLDINGS INC.	900410049172	BANK OF COMMERCE
COMPACT HOLDINGS INC.	900210007882	BANK OF COMMERCE
COMPACT HOLDINGS INC.	900410048761	BANK OF COMMERCE
COMPACT HOLDINGS INC.	900410049920	BANK OF COMMERCE
COMPACT HOLDINGS INC.	900410051550	BANK OF COMMERCE
COMPACT HOLDINGS INC.	900410051576	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	900360129927	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	900000031195	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	900000010643	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	0061-036940-001	SECURITY BANK CORP.
ELKHOUND RESOURCES INC.	1350-090003-001	SECURITY BANK CORP.
ELKHOUND RESOURCES INC.	IC-65068001825	BANCO DE ORO UNIBANK INC - ENTERPRISE



ELKHOUND RESOURCES INC.	IC-15060034314	BANCO DE ORO UNIBANK INC - ENTERPRISE
ELKHOUND RESOURCES INC.	5060034314	BANCO DE ORO UNIBANK INC. - ENTERPRISE
ELKHOUND RESOURCES INC.	900360141919	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	900360141943	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	900360142419	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	5068001825	BANCO DE ORO UNIBANK INC - ENTERPRISE
ELKHOUND RESOURCES INC.	IC-16860007698	BANCO DE ORO UNIBANK INC.
ELKHOUND RESOURCES INC.	6860007698	BANCO DE ORO UNIBANK INC.
ELKHOUND RESOURCES INC.	IC-66868000898	BANCO DE ORO UNIBANK INC.
ELKHOUND RESOURCES INC.	590046305	UNION BANK OF THE PHILS-INSULAR
ELKHOUND RESOURCES INC.	000590046305	UNION BANK OF THE PHILS-INSULAR
ELKHOUND RESOURCES INC.	TIMA053509	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	900360149138	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	900360147674	BANK OF COMMERCE



ELKHOUND RESOURCES INC.	900360152457	BANK OF COMMERCE
ELKHOUND RESOURCES INC.	900360154450	BANK OF COMMERCE
REYNALDO G DAVID	IC2111147062	EXPORT AND INDUSTRY BANK - SAN MIGUEL
REYNALDO GUBALLA DAVID	IC-65338004132	BDO UNIBANK INC - BEL-AIR
STO. TOMAS PATRICIA	000000013200005091	ROBINSONS SAVINGS BANK- KATIPUNAN
STO TOMAS PATRICIA ARAGON	011100071342	AIR MATERIEL WING SLA INC
STO. TOMAS PATRICIA A.	405352494530	DEVELOPMENT BANK, PHIL-HEAD OFF I
RAMON IV RAMOS DURANO, ELENA CRISTINA RAFOLS DURANO	01 0802549	HONGKONG & SHANGHAI BANKING CORP
RAMON R IV ELENA CRISTINA R DURANO	0135338644008	STANDARD CHARTERED BANK
DURANO RAMON IV R DURANO ELENA CRISTINA R	000324389643	STANDARD CHARTERED BANK
RAMON R DURANO, ELENA CRISTINA R DURANO	ST020011300000000130905 5418	BANK OF THE PHIL ISLANDS-CEBU- JONES
RAMON IV R DURANO, MS ELENA CRISTINA R	010-031581-066	HONGKONG & SHANGHAI BANKING

DURANO		CORP
MIGUEL LUIS ROMERO	IC-66288002252	BDO UNIBANK INC.
FRANKLIN DEL MONTE VELARDE [] MD	IC-12130004772	BDO UNIBANK INC - AMORSOLO
FRANKLIN CHURCHILL VELARDE	150-02090-8	BDO UNIBANK INC.
VELARDE FRANKLIN CHURCHILL D.	405418268530	DEVELOPMENT BANK, PHIL-HEAD OFF 1
FRANKLIN VELARDE X	0007192512600	METROPOLITAN BANK & TRUST CO.
RENATO VELASCO S.	170-07005-9	BDO UNIBANK INC.
RENATO VELASCO S.	145-20511-5	BDO UNIBANK INC.
RENATO VELASCO S	IC-12150042289	BDO UNIBANK INC- MKNA
VELASCO RENATO	8231098276	CITIBANK, N.A. - GREENHILLS
VELASCO RENATO	1274931001	CITICORP FINANCIAL SERVICES & INSURANCE BROKERAGE PHILS., INC.
VELASCO RENATO, ERLINDA	274931	CITICORP FINANCIAL SERVICES & INSURANCE BROKERAGE PHILS., INC.

GARCIA EDGARDO F.	01657030041	DEVELOPMENT BANK, PHIL-HEAD OFF 1
EDGARDO FLORES GARCIA	IC-65338001192	BDO UNIBANK INC- BEL-AIR
EDGARDO GARCIA	01644011583	DEVELOPMENT BANK, PHIL-HEAD OFF 1
EDGARDO FLORES GARCIA	IC-65338001192	BDO UNIBANK INC- BEL-AIR
EDGARDO F GARCIA	ST0100169I0000000691614 3085	BPI FAMILY SAVINGS BANK- MARCELO GREEN
ARMANDO O. SAMIA CYNTHIA S. SAMIA	01644011751	DEVELOPMENT BANK, PHIL-HEAD OFF I
SAMIA ARMANDO CYNTHIA	01644011948	DEVELOPMENT BANK, PHIL-HEAD OFF I
CYNTHIA SAMSON SAMIA, ARMANDO ONRUBIA SAMIA	01 0902314	HONGKONG & SHANGHAI BANKING CORP
ARMANDO O SAMIA	IC-65338001001	BDO UNIBANK INC- BEL-AIR
ARMANDO &/ SAMIA &/OR CYNTHIA SAMIA	1002065082	DEVELOPMENT BANK, PHIL-HEAD OFF 1
SAMIA ARMANDO@ CYNTHIA	405351070530	DEVELOPMENT BANK, PHIL-HEAD OFF 1
ARMANDO CYNTHIA SAMIA	01657030053	DEVELOPMENT BANK, PHIL-HEAD OFF 1
SAMIA ARMANDO@	405351071530	DEVELOPMENT

CYNTHIA		BANK, PHIL-HEAD OFF 1
SAMIA ARMANDO O.@ CYNTHIA S.	405351069080	DEVELOPMENT BANK, PHIL-HEAD OFF 1
ARMANDO O SAMIA, CYNTHIA S SAMIA	0200131900003195124441	BANK OF THE PHIL ISLANDS-PACIFIC ST
CYNTHIA SAMSON SAMIA, ARMANDO ONRUBIA SAMIA	02 0903207	HONGKONG & SHANGHAI BANKING CORP
MS CYNTHIA S SAMIA, ARMANDO O SAMIA	000-638957-066	HONGKONG & SHANGHAI BANKING CORP
SAMIA ARMANDO O. CYNTHIA S.	405351068560	DEVELOPMENT BANK, PHIL-HEAD OFF 1
GERONIMO MA KATRINA ARROYO, GERONIMO, ROLANDO SC, GERONIMO MA DEL CARMEN ARROYO	310902668962	AIG PHILAM SAVINGS BANK- WEST AVE
GERONIMO ROLANDO S. AND/OR CARMEN	405338784530	DEVELOPMENT BANK, PHIL-HEAD OFF 1
GERONIMO CARMEN ARROYO, GERONIMO ROLANDO SC	1101040951	AIG PHILAM SAVINGS BANK
GERONIMO CARMEN ARROYO, GERONIMO ROLANDO SC	310902683386	AIG PHILAM SAVINGS BANK- WEST AVE
CARMEN GERONIMO, ROLANDO S C	0200130200003025000543	BANK OF THE PHIL ISLANDS-BEL AIR -

GERONIMO		PO
CARMEN GERONIMO, ROLANDO S C GERONIMO	02001186000000018690003 33	BANK OF THE PHIL ISLANDS-BEL AIR
PERLA S SOLETA	109566283270	UNION BANK OF THE PHILS-INSULAR-AY
SOLETA PERLA S.	455352273030	DEVELOPMENT BANK, PHIL- COMMNLWTH
SOLETA PERLA SAJUL	01644012104	DEVELOPMENT BANK, PHIL-HEAD OFF 1
SOLETA PERLA SAJUL	01644012104	DEVELOPMENT BANK, PHIL - HEAD OFF 1
SOLETA PERLA S.	450352272030	DEVELOPMENT BANK, PHIL-QUEZON CITY
PERLA SAJUL SOLETA, MARIA ANDREA SUPLEO DEMAVIVAS	6000786825	PHILAM STRATEGIC GROWTH FUND, INC.
BITONIO BENEDICTO ERNESTO JR. ELVIRA V.	01657030097	DEVELOPMENT BANK, PHIL-HEAD OFF 1
BENEDICTO ERNESTO RAMIREZ BITONIO JR	IC-15330034443	BDO UNIBANK INC- BEL-AIR
GUEVARRA JESUS S, GUEVARRA MA. LYDIA V	2210002725	CITYSTATE SAVINGS BANK-BINONDO BR
LYDIA GUEVARRA, JESUS GUEVARRA II	00000000000000333675	RIZAL COMM'L BANKING CORP[.]

BUNDOC CRESENCIANA R.	575114158100	DEVELOPMENT BANK, PHIL-SUBIC
BUNDOC CRESENCIANA R.	575114158101	DEVELOPMENT BANK, PHIL-SUBIC
CRESENCIANA RELOZA BUNDOC	IC-65338007557	BDO UNIBANK INC- BEL-AIR
BUNDOC CRESENCIANA R.	405330745060	DEVELOPMENT BANK, PHIL-HEAD OFF 1
MA TERESITA SY TOLENTINO	IC-65338003063	BDO UNIBANK INC- BEL-AIR
RODOLFO CALPO CEREZO JR, ARNOLD C LAURETA, JUDITH L CEREZO	AM01001608979900000012 66799	BPI FAMILY SAVINGS BANK

The Court of Appeals docketed the Petition for Freeze Order as CA-G.R. AMLC No. 00066.

Finding a well-founded belief that the bank accounts were indeed involved in an unlawful activity as defined in Republic Act No. 9160, the Court of Appeals granted the Petition for Freeze Order on December 6, 2012, effective for 20 days. The dispositive portion of its Resolution⁵⁶ reads:

WHEREFORE, the petition is **GRANTED** and a **FREEZE ORDER** is issued effective for a period of **TWENTY (20) DAYS** from notice. Consequently[,] Banco de Oro Unibank, Inc., Hong Kong and Shanghai Banking Corporation, Export and Industry Bank, Metropolitan Bank & Trust Co., Citibank, N.A., Philippine Bank of Communications, Bank of the Philippine Islands, Bank of Commerce, Development Bank of the Philippines, Security Bank Corporation, Union Bank of the Philippines, Robinsons Savings Bank, Air Materiel Wing SLA, Inc., Standard Chartered Bank, Citicorp Financial Services and Insurance Brokerage, Phils., Inc., BPI Family Savings Bank, AIG-Philam Savings Bank, Philam Strategic Growth Fund, Citystate Savings Bank and Rizal

⁵⁶ Id. at 101-114. The December 6, 2012 Resolution was penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Rosmari R. Carandang (now a member of this Court) and Ricardo R. Rosario of the Fifth Division of the Court of Appeals, Manila.

Commercial Banking Corporation are **DIRECTED** to immediately freeze the bank accounts subject of this petition for a period of 20 days.

Let copies of this Resolution be served upon the above-mentioned banking/financial institutions at their main offices, which in turn are directed to furnish copies hereof to their specific branches where the subject bank accounts are created.

SO ORDERED.⁵⁷ (Emphasis in the original)

On December 11, 2012, the Anti-Money Laundering Council filed an *Ex Parte* Application for Bank Inquiry⁵⁸ before the Court of Appeals, praying that it be allowed to inquire into the bank accounts listed in the Petition for Freeze Order. This application was docketed under the same docket number for the Petition for Freeze Order.

A day after, on December 12, 2012, the Anti-Money Laundering Council moved⁵⁹ to have the Freeze Order extended for six months, from December 26, 2012 to June 26, 2013. It said that it was conducting further investigation on the frozen bank accounts for the possible filing of other appropriate legal actions, including forfeiture of funds. However, with the sheer number of bank accounts involved, and the complex nature of the financial investigation and analysis needed to determine the proper remedies, it claimed that investigation may not be completed within the original 20-day period.⁶⁰

In a December 13, 2012 Resolution,⁶¹ the Court of Appeals granted the Application for Bank Inquiry. It ordered the banks to allow the Anti-Money Laundering Council and its authorized representatives to access all records relating to the accounts.

In the meantime, the frozen accounts' owners filed several Motions to lift the Freeze Order. The first to file was Two Rivers, over its Banco de Oro Bank Account No. 1688021185. It maintained that it received no part of the loan proceeds obtained by Deltaventure from DBP as it was unaware of the loan transaction.⁶²

Ongpin, Manalo, Torres, Deltaventure, Goldenmedia, Boerstar, Elkhound, and Compact Holdings, Inc. (Compact Holdings)—collectively, Ongpin, et al.—filed a joint Urgent Motion to Lift Freeze Order⁶³ and an

⁵⁷ Id. at 113–114.

⁵⁸ Id. at 458–524.

⁵⁹ Id. at 554–562.

⁶⁰ Id. at 555–556.

⁶¹ Id. at 564–574. The December 13, 2012 Resolution was penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Rosmari D. Carandang and Ricardo R. Rosario (now members of this Court) of the Fifth Division, Court of Appeals, Manila.

⁶² Id. at 864.

⁶³ Id. at 575–591.

Amended/Supplemental Motion to Lift Freeze Order,⁶⁴ contending that no illegally tainted money went, passed, or was otherwise laundered through their accounts. They alleged that Deltaventure was “fully qualified to apply for the [l]oans”⁶⁵ which they insisted were not behest loans, as they were paid in full, ahead of the due date, and with interest.⁶⁶

Further, Ongpin, et al. maintained that DBP sold its 50,000,000 Philex shares to Deltaventure at a profit. DBP had earlier acquired the shares at ₱5.07 per share but was able to sell them at ₱12.75. Thus, they said that in selling its Philex shares to Deltaventure, DBP actually earned ₱384,000,000.00, causing no undue injury to the government.⁶⁷

Finally, on the alleged “opportunity trading loss,” Ongpin, et al. argued that when DBP sold its Philex shares to Deltaventure, DBP did not expect that the shares would be sold at ₱21.00 per share a month later. Thus, DBP could not have incurred a loss then. Besides, standing alone, DBP’s 50,000,000 Philex shares were allegedly too insignificant a stake for Two Rivers to gain effective control of Philex. Thus, Ongpin, et al. doubted whether these shares, without Goldenmedia’s shares, could have commanded a negotiated selling price of ₱21.00 per share.⁶⁸

David and Romero jointly moved to lift the Freeze Order.⁶⁹ They first disputed the allegation that the application for the ₱150,000,000.00 credit line was filed on April 7, 2009. Instead, they contended that the application was actually filed on January 28, 2009, as shown in Deltaventure’s credit application. Credit investigation was then conducted for about 76 days until the loan’s approval on April 15, 2009.⁷⁰

As to Deltaventure’s creditworthiness, David and Romero maintained that Deltaventure was sufficiently capitalized when it applied for and was granted a credit line by DBP. They argued that “creditworthiness . . . is not determined solely on . . . capitalization.”⁷¹ While Deltaventure only had a paid-up capital of ₱625,000.00, they said that its net worth was more than ₱330,000,000.00. When it applied, Deltaventure allegedly owned 7,500,000,000 Philweb shares valued at ₱94,000,000.00. The ₱150,000,000.00 loan was even secured by a pledge over these shares.⁷²

As to DBP’s same-day approval of the ₱510,000,000.00 loan to Deltaventure, David and Romero argued that it was a “sound business

⁶⁴ Id. at 592–597.

⁶⁵ Id. at 578.

⁶⁶ Id. at 579.

⁶⁷ Id. at 585–586.

⁶⁸ Id. at 580–581.

⁶⁹ Id. at 598–637.

⁷⁰ Id. at 599–600 and 603.

⁷¹ Id. at 601.

⁷² Id. at 601–603.

judgment”⁷³ on DBP’s part. The DBP Board of Directors allegedly had to act fast because “[t]he trading of shares is volatile, fickle or flighty.”⁷⁴ Besides, Deltaventure was an existing borrower and had been “the subject of an extensive, careful and diligent evaluation in the first quarter of 2009[.]”⁷⁵ Therefore, “there was adequate information, data/documents to consider and evaluate the offering ticket for the [P510,000,000.00] credit accommodation to purchase the Philex shares.”⁷⁶

David and Romero characterized the grant of the P510,000,000.00 loan as a “sale/stock trading transaction with credit accommodation”⁷⁷ which supposedly explained why the very same Philex shares acquired from DBP served as the collateral for the loan. At any rate, it was allegedly undisputed that DBP earned as much as P1,381,000,000.00 for granting the loan to Deltaventure,⁷⁸ and even the Bangko Sentral ng Pilipinas found no violation of banking rules and regulations.⁷⁹ Furthermore, no money left the coffers of DBP because, they said, the payment for the shares were directly credited to the account of DBP-Daiwa Securities SMBC Philippines.⁸⁰

Lastly, David and Romero reiterated that DBP could not have sold its 50,000,000 Philex shares to Two Rivers at P21.00 per share had the shares been sold on their own and not as part of the block sale between the Ongpin group of companies and Two Rivers. They pointed out that at that time, Philex shares had never traded in the Philippine Stock Exchange at P21.00 per share because the price was negotiated between Ongpin and Two Rivers/First Pacific. All in all, the transaction between DBP and Deltaventure was an extremely advantageous transaction for DBP, for which David and Romero said they should not be penalized.⁸¹

Velarde filed his own Motion asking to lift the Freeze Order.⁸² He said that the Anti-Money Laundering Council’s database consists of records of covered transaction reports and suspicious transaction reports, showing a transaction’s originating account, the amount transacted, and the beneficiary account. If the DBP Executive Credit Committee and the DBP Board of Directors had indeed received grease money as suspected, he said that the Council could have easily presented in evidence reports showing that DBP funds were funneled to the accounts of the DBP officers in question, yet it did not.⁸³ This meant that the Council had no direct evidence against the officers, forcing it to “resort to some creative antics by comparing [their

⁷³ Id. at 606.

⁷⁴ Id. at 627.

⁷⁵ Id. at 605.

⁷⁶ Id.

⁷⁷ Id. at 608.

⁷⁸ Id. at 617.

⁷⁹ Id. at 629.

⁸⁰ Id. at 608.

⁸¹ Id. at 611.

⁸² Id. at 658–665.

⁸³ Id. at 661–662.

Statement of Assets, Liabilities, and Net Worth (SALN)] with [their] so-called recomputed cash and investment balance for a given year[.]”⁸⁴

The premise of the “recomputed cash and investment balance” method, argued Velarde, was that the value of cash and investments reflected in the SALN for a given year should be equal to that for the past year, plus their deposits and investments, minus withdrawals and redemptions for the current year. Thus, for 2010, the cash and investments reflected in the SALN of an officer should be: 2009 SALN Cash and Investment + 2010 Deposits and Investments – 2010 Withdrawals and Redemptions.⁸⁵

In arriving at the recomputed cash and investment, the Anti-Money Laundering Council used its database for the deposits and investments and withdrawals and redemptions. Velarde found it improper for the Council to use its database, which consists of “transactional data,” while the figures reflected in the SALNs are “end-of-year balances.” This, said Velarde, would naturally result in a balance that would not tally with the figures reflected in the SALNs, because the Council’s database “does not capture all withdrawals or deposits [for a given year], particularly those transactions which fall below the threshold amount of [P]500,000.00.”⁸⁶

Samia likewise moved to lift the Freeze Order,⁸⁷ contending that the Anti-Money Laundering Council’s evidence showed no probable cause that his bank account was in any way related to an unlawful activity. He said that he only signed Deltaventure’s credit application.⁸⁸ Samia also noted his medical ailment, disclosing that in February 2009, a tumor was found in his urinary bladder that entailed chemotherapy. For this, he invoked the Court of Appeals’ compassion due to humanitarian reasons and prayed that two of his accounts be unfrozen to ensure his survival.⁸⁹

Sto. Tomas, the chairperson of the DBP Board of Directors who had approved the loans to Deltaventure, was joined by Durano, Velasco, Geronimo, Guevara, Soleta, Tolentino, and Bundoc in filing a Motion to lift the Freeze Order.⁹⁰ Like the others, they claimed that the Anti-Money Laundering Council’s evidence consisted of “guesswork and conjectures”⁹¹ and that the “recomputed cash and investment balance” method it used was flawed. The group said that the Council only did a fishing expedition and that it did not have probable cause against their accounts.⁹²

⁸⁴ Id. at 662.

⁸⁵ Id. at 663.

⁸⁶ Id.

⁸⁷ Id. at 715–740, Motion to Lift Freeze Order; 791–802, Urgent Motion for Reconsideration and to Unfreeze Some Bank Accounts.

⁸⁸ Id. at 724.

⁸⁹ Id. at 795–796 and 801.

⁹⁰ Id. at 759–766.

⁹¹ Id. at 762.

⁹² Id. at 765.

Garcia echoed the arguments of lacking direct evidence and flawed “recomputed cash and investment balance” method in his Motion.⁹³ He said that the Petition for Freeze Order did not specify the amounts “that could have come from [a] supposed[ly] unlawful activity.”⁹⁴

In his own Motion,⁹⁵ Bitonio alleged that his participation was his membership in the Executive Credit Committee that approved the ₱510,000,000.00 loan, and the accounts frozen were his payroll account and a trust account he opened in April 2009 for foreign exchange placements. The payroll account was administered by Banco de Oro, where the only transactions allowed were payroll credits by DBP and his withdrawals. Bitonio maintained that the funds in both accounts came from legitimate sources, consisting of past income, savings, and deposits over the years.⁹⁶

Like the others, Bitonio assailed the “recomputed cash and investment balance” method, calling it “fallacious and misleading because it totally ignores savings, deposits and other assets which a person may have accumulated [through] his legitimate income over the years.”⁹⁷ He argued that it was wrong to assume that a person cannot spend more than what they earned for a given year, given that they can choose to spend their earnings for the past years.⁹⁸ Thus, even if he only earned ₱900,689.91 during the period within which the loans were applied for and granted to Deltaventure, he asserted that his transactions, worth ₱7,838,595.32 then, were lawful.⁹⁹

In its Consolidated Comment¹⁰⁰ on the Motions to lift the Freeze Order, the Anti-Money Laundering Council maintained that probable cause existed to freeze the accounts. It reiterated that Deltaventure bought 50,000,000 of DBP’s Philex shares using funds loaned from DBP itself, the seller of the shares. This transaction, said the Council, was highly irregular and violative of several banking laws, rules, and regulations, since the loan was applied for and approved on the same day without any credit investigation being conducted.¹⁰¹

Even assuming that Deltaventure paid the loan in full before the due date, the Anti-Money Laundering Council stressed that Ongpin, the beneficial owner of Deltaventure and Goldenmedia, would not have earned ₱412,500,000.00 from selling the shares to Two Rivers had DBP refused to grant the loan. Therefore, it said, there was probable cause to believe that

⁹³ Id. at 767–777.

⁹⁴ Id. at 772.

⁹⁵ Id. at 778–787.

⁹⁶ Id. at 779.

⁹⁷ Id. at 781.

⁹⁸ Id. at 783.

⁹⁹ Id.

¹⁰⁰ Id. at 840–854.

¹⁰¹ Id. at 843.

the loans were transacted through the accounts owned by Ongpin and the DBP officers who had a hand in approving them.¹⁰²

Meanwhile, the Freeze Order against the account of Two Rivers was lifted in a December 21, 2012 Resolution.¹⁰³ On the same date, two of Samia's accounts were unfrozen.¹⁰⁴

As for the rest of the accounts, the Court of Appeals extended the effectivity of the Freeze Order for six months, or up to June 26, 2013. Its December 26, 2012 Resolution¹⁰⁵ reads:

Petitioner Republic of the Philippines, represented by the Anti-Money Laundering Council (AMLC), through the Solicitor General Office (OSG), in its motion to extend freeze order of the respondents submitted to this Court on December 12, 2012, and during the post issuance hearing held on December 18, 2012, prayed, thus:

"...(T)hat the Freeze Order issued on December 6, 2012 against the bank accounts thereunder enumerated and the web of accounts related thereto be extended for a period of six (6) months from December 26, 2012 to June 26, 2013."

which the respondents vehemently objected to as in fact they have filed their motions to lift freeze order with the Court.

During the 18 December 2012 hearing the Court initially heard the arguments of the parties – of the OSG and AMCL (sic) in behalf of the Government, and the respondents. The OSG undertook to file comment/s to the individual motions to lift order on 21 December 2012. However, the OSG failed; understandably so because of the holiday season and the fact that the freeze order covers numerous accounts including their related web of accounts. Hence, we give the OSG additional time within which to file the required comment/s.

In the meantime, We are constrained to extend the freeze order for a period of six (6) months, without prejudice to the Court's action/s on the individual motion[s] to lift as soon as it considers the motion/s submitted for resolution.

WHEREFORE, premises considered, the Court resolves to:

1. Extend the Freeze Order for a period of six (6) months from its expiration on 26 December 2012 or until 26 June

¹⁰² Id. at 846.

¹⁰³ Id. at 863–869. The December 21, 2012 Resolution was penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Rosmari D. Carandang and Ricardo R. Rosario (now members of this Court) of the Fifth Division of the Court of Appeals, Manila.

¹⁰⁴ Id. at 870–877. The December 21, 2012 Resolution was likewise penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Rosmari D. Carandang and Ricardo R. Rosario (now members of this Court) of the Fifth Division of the Court of Appeals, Manila.

¹⁰⁵ Id. at 878–881. The December 26, 2012 Resolution was penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Rosmari D. Carandang and Ricardo R. Rosario (now members of this Court) of the Fifth Division of the Court of Appeals, Manila.

2013 unless sooner lifted by the Court as warranted by the evidence presented and/or as required by the Court.

2. The Office of the Solicitor General is directed to file comment/s to the motions to lift freeze order filed by respondents ROBERTO ONGPIN, JOSEPHINE MANALO, MA. LOURDES TORRES and all the entities affiliated therewith (Ongpin, [et] al.), REYNALDO DAVID and MIGUEL LUIS ROMERO, EDGARDO GARCIA, PATRICIA STO. TOMAS, [ET] AL., BENEDICTO ERNESTO BITONIO, JR., FRANKLIN M. VELARDE, and ARMANDO SAMIA, within [ten] (10) days from receipt hereof.

3. Respondents are directed to file their reply within five (5) days from receipt of the comment/s of the OSG.

SO ORDERED.¹⁰⁶ (Emphasis in the original)

The Court of Appeals still continued to conduct post-issuance hearings. Despite having extended the Freeze Order, it ordered in a January 28, 2013 hearing that the Anti-Money Laundering Council present evidence to justify such extension at a hearing scheduled on February 19, 2013.¹⁰⁷

On February 8, 2013, the Anti-Money Laundering Council filed an Urgent *Ex Parte* Motion for Severance,¹⁰⁸ praying that the proceedings on the Petition for Freeze Order be separated from the proceedings on the Application for Bank Inquiry. It noted that these remedies are “separate and distinct”¹⁰⁹ and “with different objectives.”¹¹⁰ It argued that a freeze order is aimed at preserving monetary instruments, while a bank inquiry order authorizes the examination of deposits and investments. It added that in a petition for freeze order, only the filing is *ex parte*, but the subsequent stages are with notice to the parties. Meanwhile, in a bank inquiry order, the entire proceedings are *ex parte* so as not to defeat the purpose of a bank inquiry as a “discovery tool.” To jointly conduct these proceedings will allegedly defeat the bank inquiry’s purpose.¹¹¹

Then, on February 15, 2013, four days before the scheduled February 19, 2013 hearing, the Anti-Money Laundering Council moved¹¹² to declare the proceedings on the Motions to lift the Freeze Order moot since the Freeze Order was already extended. It contended that by extending the Freeze Order, the Court of Appeals effectively denied the Motions.

¹⁰⁶ Id. at 887–880.

¹⁰⁷ Id. at 918.

¹⁰⁸ Id. at 892–916.

¹⁰⁹ Id. at 908.

¹¹⁰ Id.

¹¹¹ Id. at 908–909.

¹¹² Id. at 917–922.

That same day, the Court of Appeals denied the Motion for Severance. In its February 15, 2013 Resolution,¹¹³ it noted that the law did not provide that the proceedings after a bank inquiry order had been issued were *ex parte*.¹¹⁴ It added that the actions for issuing a freeze order and a bank inquiry order involved a common set of facts and questions of law. Thus, it found no need to deconsolidate the cases “to expediently determine all of the issues involved and adjudicate the rights of the parties[.]”¹¹⁵

On February 19, 2013, the Court of Appeals conducted the scheduled hearing. There, the Anti-Money Laundering Council argued that with the issuance of the Freeze Order, the burden of proving that the funds in the frozen bank accounts came from legitimate sources should be with the accounts’ owners, not with the Council. Ongpin, et al. countered that the burden of proof never shifted to them, and that the Council must still present evidence of the link between the frozen bank accounts and the unlawful activity involved.¹¹⁶

On February 25, 2013, Ongpin, et al. moved to reconsider the December 26, 2012 Resolution extending the Freeze Order.¹¹⁷

In its May 7, 2013 Resolution,¹¹⁸ the one now assailed before this Court, the Court of Appeals lifted the Freeze Order over the bank accounts, except Boerstar Corporation’s Bank of Commerce Account No. 900000028241. It likewise denied reconsideration of the February 15, 2013 Resolution denying the Motion for Severance.¹¹⁹

The Court of Appeals rejected the Anti-Money Laundering Council’s argument that the Freeze Order’s extension effectively denied the Motions to lift the Freeze Order and mooted all related proceedings. It said that it placed a reservation or *colatilla* in its December 26, 2012 Resolution that the Freeze Order was extended “unless sooner lifted by [it] as warranted by the evidence presented [and/or] required by [it].”¹²⁰ This, it said, was prompted by the Bank Inquiry Order’s issuance and its directive to the Anti-Money Laundering Council to submit a progress report on the examination of the frozen accounts two weeks from receipt of notice. If the Freeze Order’s extension were considered a denial of the Motions, the Court of Appeals said

¹¹³ Id. at 930–935. The Resolution was penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Rosmari D. Carandang and Ricardo R. Rosario (now members of this Court) of the Fifth Division of the Court of Appeals, Manila.

¹¹⁴ Id. at 933.

¹¹⁵ Id. at 934.

¹¹⁶ Id. at 44, Petition for Review on Certiorari and *rollo*, pp. 1074–1075, Comment.

¹¹⁷ Id. at 145–146, May 7, 2013 Resolution.

¹¹⁸ Id. at 119–196. The Resolution was penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Rosmari D. Carandang and Ricardo R. Rosario (now members of this Court) of the Fifth Division of the Court of Appeals, Manila.

¹¹⁹ Id. at 127.

¹²⁰ Id. at 124.

that it would “completely disregard the reservation” it had made in its earlier Resolution, in violation of the due process clause.¹²¹

The Court of Appeals also rejected the argument that the burden of proving that the frozen accounts were not linked to an unlawful activity shifted to Ongpin, et al. It held that “the presentation of evidence by the State does not end with evidence sufficient to constitute a finding of the probable cause it believes sufficient for the issuance of a freeze order; it should continue with its presentation until the evidence shall have constituted a *prima facie* case.”¹²²

The Court of Appeals then proceeded to examine each of the 179 frozen accounts. It divided the accounts into two groups: (1) those belonging to or related to Ongpin’s accounts; and (2) those belonging to or related to the accounts owned by the DBP officers.¹²³

According to the Court of Appeals, only Boerstar’s Bank of Commerce Account No. 900000028241 was probably related to an unlawful activity, as it was the account to which Two Rivers transferred the ₱2,100,000,000.00 balance of the purchase price for the 452,058,160 Philex shares it had bought from Goldenmedia and DBP on December 2, 2009.¹²⁴

The Court of Appeals noted that Deltaventure’s down payment for the 50,000,000 Philex shares was credited from two of Elkhound Resources’ accounts in Banco de Oro: Account Nos. 5068001825 and 5060034314.¹²⁵ It went on to state that these accounts “could be the direct link to the allegedly illegally[]tainted money or unlawful transaction[.]”¹²⁶ However, it made no conclusive finding as to how these accounts were related to the alleged unlawful activity of approving the loans, as both accounts were already closed as of November 2011.¹²⁷

As for the rest of the Ongpin-related accounts, the Court of Appeals found that most had minimal deposits upon issuance of the Freeze Order. To the Court of Appeals, the Anti-Money Laundering Council failed to establish that parts of the proceeds of the Philex shares’ sale went to any of the other frozen accounts.¹²⁸

¹²¹ Id. at 126.

¹²² Id. at 135.

¹²³ Id. at 136–142.

¹²⁴ Id. at 159.

¹²⁵ Id. at 162.

¹²⁶ Id.

¹²⁷ Id.

¹²⁸ Id. at 163.

On the DBP officers' accounts, the Court of Appeals "failed to see the links between the alleged unlawful activity and the accounts."¹²⁹ It found no "direct and hard evidence"¹³⁰ against them.

The dispositive portion of the May 7, 2013 Resolution¹³¹ reads:

WHEREFORE, premises considered, our Freeze Order dated 06 December 2012 on the accounts of respondents *Roberto V. Ongpin, Josephine A. Manalo, Ma. Lourdes A. Torres, Deltaventure Resources, Inc., Goldenmedia Corporation, Boerstar Corporation except its Bank of Commerce Account No. 900000028241, Compact Holdings, Inc., and Elkhound Resources, Inc., and those of Reynaldo G. David, Patricia A. Sto. Tomas, Ramon R. Durano, IV, Miguel Luis Romero, Franklin Churchill M. Velarde, M.D., Renato S. Velasco, Edgardo T. Garcia, Armando O. Samia, Rolando S.C. Geronimo, Perla S. Soleta, Benedicto Ernesto R. Bitonio, Jr., Jesus S. Guevara II, [Cresenciana R.] Bundoc, Ma. Teresita Sy Tolentino and Rodolfo Cerezo and their related web of accounts* is hereby **LIFTED**.

SO ORDERED.¹³² (Emphasis in the original)

On May 24, 2013, the Republic, through the Anti-Money Laundering Council, filed a Petition for Review on Certiorari¹³³ before this Court. Respondents and former officers of DBP—Sto. Tomas, Durano, Velasco, Velarde, Garcia, Geronimo, Samia, Bitonio, Guevara, Bundoc, Soleta, and Tolentino (Sto. Tomas, et al.)—were the first to file their Comment¹³⁴ on October 7, 2013. Respondents Ongpin, Manalo, Torres, along with the companies Deltaventure, Boerstar, Goldenmedia, Compact Holdings, and Elkhound, filed their Comment¹³⁵ two days later, on October 9, 2013. Respondents David and Romero filed theirs¹³⁶ last on October 14, 2013.

Petitioner faults the Court of Appeals for resolving the Motions to lift the Freeze Order allegedly beyond the original 20-day period.¹³⁷ It argues that the Court of Appeals disregarded Section 10 of Republic Act No. 9160, as amended by Republic Act No. 10167, which states that "[a] person whose account has been frozen may file a motion to lift the freeze order and the

¹²⁹ Id. at 194.

¹³⁰ Id.

¹³¹ Justice Ricardo D. Rosario registered his concurrence, saying that:

I agree with petitioner that, whatever profit private respondents may have received from the sale of Philex shares will be considered related to an unlawful activity because the sale of these shares would not have been realized if not for the two loans granted by the DBP. It is only because the petitioner failed to provide Us with a definite transaction – or a number of definite transactions – to show that the money from these DBP loans has been transferred to the subject accounts of private respondents that there is a need to lift the freeze order. Again, Our determination of probable cause to issue a freeze order is dependent on the relation of the subject accounts themselves to the unlawful activity and nothing more. (*Rollo*, p. 200.)

¹³² *Rollo*, p. 195.

¹³³ Id. at 2–71.

¹³⁴ Id. at 1069–1099.

¹³⁵ Id. at 1100–1139.

¹³⁶ Id. at 1487–1505.

¹³⁷ Id. at 48–49.

court must resolve this motion before the expiration of the twenty (20)-day original freeze order.”

The use of “must,” says petitioner, indicates that the original 20-day period is mandatory. When the Court of Appeals failed to do this, and instead extended the Freeze Order’s effectivity, petitioner took this as a denial of the Motions. Consequently, it says that the reservation in the December 26, 2012 Resolution is void.¹³⁸

Moreover, contrary to respondents Ongpin, et al.’s argument, petitioner says that nothing in the law provides that the Freeze Order would be automatically lifted when the Court of Appeals failed to rule on the Motions. Had Congress intended so, it could have provided that in the Anti-Money Laundering Act. It also notes that the rule on preliminary injunction, which says that a temporary restraining order is automatically vacated when the motion for preliminary injunction is denied or resolved within the required period,¹³⁹ does not apply to freeze orders. It points out that a similar provision under the Rules of Court on the automatic lifting does not appear in the Anti-Money Laundering Act on freeze orders.¹⁴⁰

Petitioner maintains that the Court of Appeals erred in jointly conducting proceedings for the freeze order and those for the bank inquiry. It highlights that the proceedings for the freeze order, though commenced *ex parte*, are eventually conducted with notice to the frozen bank accounts’ owner. On the other hand, the proceedings for a bank inquiry application are allegedly purely non-adversarial. This distinction, says petitioner, shows that the two are distinct remedies. In jointly hearing the cases, petitioner believes that the Court of Appeals “rendered wholly inutile [the bank inquiry] as a measure to determine whether there is sufficient evidence to sustain an intended prosecution of the account holder for violation of the [Anti-Money Laundering Act].”¹⁴¹

Petitioner also argues that the Freeze Order has already established probable cause. This means, says petitioner, that the burden of evidence shifted to respondents to show that the funds in their bank accounts were derived from legitimate sources. For petitioner, the Court of Appeals erred in requiring progress reports on the bank inquiry to justify the continued freezing of the accounts.¹⁴²

Lastly, petitioner maintains that probable cause exists that the accounts it sought to be frozen were related to anomalous loan and stock transactions between DBP and Ongpin-led Deltaventure and Goldenmedia.

¹³⁸ *Id.* at 49.

¹³⁹ RULES OF COURT, Rule 58, sec. 5.

¹⁴⁰ *Rollo*, pp. 49–50.

¹⁴¹ *Id.* at 62.

¹⁴² *Id.* at 56–59.

Petitioner insists that respondent Ongpin could not have earned ₱412,500,000.00 from Goldenmedia's sale of its Philex shares to Two Rivers had it not been for DBP's grant of the ₱510,000,000.00 credit line. It particularly says:

The loans were instrumental to the acquisition of the very subject matter of the transaction which allowed them to earn such profit. This profit is, thus, unmistakably related to an unlawful activity. Therefore, all bank accounts bearing or probably containing this profit or through which such profit may have been transacted, *i.e.*, [respondents] Ongpin, et al.'s bank accounts, should remain frozen.¹⁴³

For their part, respondents Ongpin, Manalo, and Torres argue that the Petition is already moot since the Freeze Order expired as early as June 26, 2013, leaving no more case for this Court to decide.¹⁴⁴

Moreover, they say that the Court of Appeals' failure to rule on the Motions to lift the Freeze Order within the 20-day period did not result in their automatic denial. Instead, they argue that the lapse of 20-day period resulted in the automatic lifting of the Freeze Order.¹⁴⁵

Respondents Ongpin, Manalo, and Torres contend that an applicant for bank inquiry, similar to an applicant for a search warrant, may likewise participate in the proceedings after the bank inquiry application is granted.¹⁴⁶

On the consolidation issue, respondents Ongpin, Manalo, and Torres maintain that it is immaterial whether the proceedings for the freeze order are heard jointly with those for the bank inquiry order. They point out that Section 11 of Anti-Money Laundering Act does not state that the proceedings after a bank inquiry order is issued should likewise proceed *ex parte*. They further argue that a petition for freeze order and an application for bank inquiry are to be heard under the same docket number and are, therefore, under one case. Even if these should have been assigned different docket numbers, they maintain that the Court of Appeals could take judicial notice of the bank reports submitted in evidence and consider these reports in resolving the Motions to lift the Freeze Order.¹⁴⁷

Respondents Ongpin, Manalo, and Torres add that the Court of Appeals correctly required the Anti-Money Laundering Council to present further evidence to justify the Freeze Order's continued effectivity. They maintain that the burden of proving that the frozen accounts were connected to an unlawful activity remained with petitioner despite the issuance and

¹⁴³ Id. at 54.

¹⁴⁴ Id. at 1118-1119.

¹⁴⁵ Id. at 1119-1122.

¹⁴⁶ Id. at 1134.

¹⁴⁷ Id. at 1096-1098.

extension of the Freeze Order. They add that “while probable cause is sufficient to issue a Freeze Order, . . . only a *prima facie* case can shift the burden of evidence to the other party.”¹⁴⁸ Here, they echo the Court of Appeals in that petitioner repeatedly failed to present evidence to establish a *prima facie* case against respondents that the frozen bank accounts were related to an unlawful activity.¹⁴⁹

Lastly, on the merits, respondents Ongpin, Manalo, and Torres are firm that petitioner never established the so-called link between the frozen accounts and any purported unlawful activity. Despite repeated orders from the Court of Appeals, petitioner failed to submit evidence of this “direct link.”¹⁵⁰ Thus, to them, the Court of Appeals correctly lifted the Freeze Order.¹⁵¹

For their part, respondents Sto. Tomas, et al. also maintain that the Petition is already moot since the extended period of the Freeze Order had already lapsed. Therefore, there exists no justiciable controversy for this Court to decide.¹⁵²

Respondents Sto. Tomas, et al. then proceed to what they call “the heart of the Petition,” that is, the interpretation of Anti-Money Laundering Act on the freezing of monetary instrument or property.¹⁵³

Section 10 of Republic Act No. 9160, as amended by Republic Act No. 10167, had provided that a freeze order “shall be for a period of twenty (20) days unless extended by the court”; and that a court “must resolve [a motion to lift freeze order, if filed] before the expiration of the twenty (20)-day original freeze order.” During the pendency of the case before the Court of Appeals, Section 10 was further amended in 2012 by Republic Act No. 10365 to say that a freeze order “shall be effective immediately, and which shall not exceed six (6) months depending upon the circumstances of the case”; and that a court “must resolve [a motion to lift freeze order, if filed] before the expiration of the freeze order.” Respondents Sto. Tomas, et al. argue that this amendment should retroactively apply in their favor. Therefore, the Court of Appeals’ action of resolving the Motions before the extended six-month period expired was lawful. In any case, they argue that petitioner cannot impute error on the Court of Appeals for resolving the Motions after the original 20-day period, considering that it filed a Motion to Extend Freeze Order.¹⁵⁴

¹⁴⁸ Id. at 1125.

¹⁴⁹ Id. at 1125–1126.

¹⁵⁰ Id. at 1130.

¹⁵¹ Id. at 1126.

¹⁵² Id. at 1077–1079.

¹⁵³ Id. at 1081.

¹⁵⁴ Id. at 1081–1083.

Respondents Sto. Tomas, et al. also contend that the *colatilla* in the Court of Appeals' ruling was valid. To them, all that the law requires is that a freeze order's effectivity may be extended for up to six months. This does not mean that the Court of Appeals should exhaust the whole six months before lifting the freeze order. Therefore, the Freeze Order, even if extended to six months, may be lifted even before this period expired.¹⁵⁵

Respondents also contend that the Court of Appeals did not err in jointly hearing the proceedings for the issuance of the freeze order and the application for bank inquiry. While conceding that a freeze order and a bank inquiry application are "distinct provisional remedies[,]"¹⁵⁶ respondents Sto. Tomas, et al. argue that "nothing in the law requires that a freeze order and an authority to conduct bank inquiry must be treated separately and independently."¹⁵⁷ On the contrary, they say, deconsolidating the cases would violate the Rules of Court on the prohibition on multiplicity of suits.¹⁵⁸

In requiring further presentation of evidence, the Court of Appeals allegedly did not err because, respondents Sto. Tomas, et al. argue, the finding of probable cause for the issuance of a freeze order is "preliminary and provisional"¹⁵⁹ and is "not conclusive for any purpose, and is certainly not conclusive to establish a link between a frozen account and an unlawful activity."¹⁶⁰ This, they point out, is why a bank account owner may still file a motion to lift freeze order. The account owner may present evidence and prove that the account is not at all related to an unlawful activity, which evidence petitioner may still refute.¹⁶¹

Respondents David and Romero similarly maintain that the case is already moot by the time they were ordered to comment on July 17, 2013, since the Freeze Order's effectivity was only up to June 26, 2013.¹⁶²

As to the resolution of the Motions to lift the Freeze Order beyond the original 20-day period, respondents David and Romero simply argue that the Court of Appeals was empowered to extend the Freeze Order's effectivity under Title VIII, Section 53(b)¹⁶³ of A.M. No. 05-11-04-SC, or the Rules of Procedure in Cases of Civil Forfeiture, Asset Preservation, and Freezing of

¹⁵⁵ Id. at 1088–1090.

¹⁵⁶ Id. at 1096.

¹⁵⁷ Id.

¹⁵⁸ Id.

¹⁵⁹ Id. at 1092.

¹⁶⁰ Id.

¹⁶¹ Id.

¹⁶² Id. at 1501–1502.

¹⁶³ A.M. No. 05-11-04-SC (2005), Title III, sec. 53(b) provides:
SECTION 53. Freeze Order. —

.....
(b) *Extension.* — On motion of the petitioner filed before the expiration of twenty days from issuance of a freeze order, the court may for good cause extend its effectivity for a period not exceeding six months.

Monetary Instrument, Property, or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense under Republic Act No. 9160, As Amended.¹⁶⁴

As to the consolidation of the proceedings for a freeze order and bank inquiry, respondents David and Romero assert that the Court of Appeals did not err in hearing the cases jointly. They note that both cases proceed from the same Ombudsman Resolution and involve the same respondents and bank accounts.¹⁶⁵ Even the quantum of proof required in both cases is the same—probable cause that the accounts sought to be frozen and inquired into are related to the alleged unlawful activity.¹⁶⁶

Finally, respondents David and Romero maintain that there was no probable cause to freeze their accounts. Specifically with respondent Romero, the Court of Appeals found no link between his accounts and the transaction between Deltaventure and DBP. This finding of lack of probable cause, they submit, must allegedly bind this Court.¹⁶⁷

The issues for this Court's resolution are:

First, whether or not the present Petition is moot;

Second, whether or not the Freeze Order was deemed lifted when the Court of Appeals failed to resolve the Motions to lift it within the original 20-day period;

Third, whether or not the Court of Appeals erred in jointly hearing the proceedings on the Petition for Freeze Order and the proceedings on the *Ex Parte* Application for Bank Inquiry;

Fourth, whether or not the Court of Appeals erred in ordering petitioner Anti-Money Laundering Council to continue presenting evidence to justify the continued freezing of the accounts despite finding probable cause that the bank accounts are related to an unlawful activity; and

Finally, whether or not there was probable cause to believe that the frozen accounts were related to an unlawful activity.

The Petition must be denied.

¹⁶⁴ *Rollo*, pp. 1498–1499.

¹⁶⁵ *Id.* at 1500–1501.

¹⁶⁶ *Id.* at 1501.

¹⁶⁷ *Id.* at 1496–1498.

I

A case becomes moot when it “ceases to present a justiciable controversy because of supervening events so that a declaration thereon would be of no practical use or value.”¹⁶⁸ Generally, courts do not take cognizance of moot cases, but there are exceptions to the rule: “(1) there was a grave violation of the Constitution; (2) the case involved a situation of exceptional character and was of paramount public interest; (3) the issues raised required the formulation of controlling principles to guide the Bench, the Bar and the public; and (4) the case was capable of repetition yet evading review[.]”¹⁶⁹

Here, the Petition for Review on Certiorari was filed on May 24, 2013. Upon this Court’s directive in its July 17, 2013 Resolution, respondents filed their Comments, with Sto. Tomas, et al. first doing so on October 7, 2013. Ongpin, Torres, and Manalo followed suit, filing theirs on October 9, 2013. David and Romero last filed their Comment on October 14, 2013. By then, the extended Freeze Order had already expired, the sixth month falling on June 26, 2013. The Petition is, therefore, already moot.

Nevertheless, despite the Freeze Order’s expiration, this Court holds that the case involves a situation of exceptional character and is of paramount public interest, warranting a resolution on the merits.

A review of the cases decided by this Court via signed decision or resolution reveals that only a handful squarely involve freeze orders or bank inquiries under the Anti-Money Laundering Act.¹⁷⁰ Most of those cases were decided during the effectivity of Republic Act No. 9160 before it was amended by several statutes, including Republic Act No. 10167 which governs this case. This case should, therefore, be resolved on the merits despite its mootness.

II

Under Republic Act No. 1405, or the Bank Secrecy Law, bank accounts and deposits of whatever nature with banks or banking institutions in the Philippines are “considered as of an absolutely confidential nature”; they “may not be examined, inquired or looked into by any person[.]”¹⁷¹

¹⁶⁸ *Timbol v. Commission on Elections*, 754 Phil. 578, 584 (2015) [Per J. Leonen, En Banc].

¹⁶⁹ *Id.* at 585.

¹⁷⁰ *See Estrada v. Sandiganbayan (Fifth Division)*, 836 Phil. 281 (2018) [Per J. Bersamin, En Banc]; *Republic v. Bolante*, 808 Phil. 601 (2017) [Per C.J. Sereno, First Division]; *Subido Pagente Certeza Mendoza and Binay Law Offices v. Court of Appeals*, 802 Phil. 314 (2016) [Per J. Perez, En Banc]; *Ligot v. Republic*, 705 Phil. 477 (2013) [Per J. Brion, Second Division]; and *Republic v. Eugenio, Jr.* 569 Phil. 98 (2008) [Per J. Tinga, Second Division].

¹⁷¹ Republic Act No. 1405 (1955), sec. 2.

Any bank official or employee who discloses any information concerning deposits may be prosecuted and penalized.

The notion of confidentiality of bank accounts is premised on human autonomy or, in the words of Louis D. Brandeis and Samuel D. Warren, “the right to be let alone[.]”¹⁷² The numbers representing money in a person’s bank account reflect a personal narrative, either of abundance or scarcity, of success or failure, that a person would want to keep private. These numbers likewise represent a person’s assets, and money in the bank is considered a personal belonging. It is in these senses that information on a person’s bank account is considered “life” and “property” protected by the due process clause and part of a person’s “effects” within the meaning of the unreasonable searches and seizures clause of the Constitution:

Nothing in the structure of the due process clause limits the protected sphere of individual existence or autonomy only to the physical or corporeal aspects of life. After all, as we have long held, life is not limited to physical existence. Property can be incorporeal. Liberty denotes something more than just freedom from physical restraint.

More fundamentally, the reservation of a very broad sphere of individual privacy or individual autonomy is implied in the very concept of society governed under a constitutional and democratic order. The aspects of our humanity and the parts of our liberty surrendered to the government, in order to assure a functioning society, should only be as much as necessary for a just society and no more. While the extent of necessary surrender cannot be determined with precision, our existing doctrine is that any state interference should neither be arbitrary or unfair. In many cases, we have held that due process simply means that regulation should both be reasonable and fair.

Reasonability and fairness is tentatively captured in the twin legal concepts of substantive and procedural due process respectively. Substantive due process is usually, though not in all cases, a nuanced means-to-end test. Basically, this means that the regulation which impinges on individual autonomy is necessary to meet a legitimate state interest to be protected through means that can logically relate to achieving that end. Procedural due process is succinctly and most descriptively captured in the idea that in the kinds of deprivation of rights where it would be relevant, there should be an opportunity to be heard.

In the due process clause, there is the requirement of “deprivation” of one’s right to “life, liberty or property.” . . . [T]his means more than the occasional and temporary discomforts we suffer, which is consistent with the natural workings of groups of human beings living within a society. *De minimis* discomfort is a part of group life, independent of the workings of the State. The deprivation that may trigger a judicial inquiry should be more than momentary. It must be fundamentally disruptive of a value that

¹⁷² J. Leonen, Concurring Opinion in *Subido Pagente Certeza Mendoza and Binay Law Offices v. Court of Appeals*, 802 Phil. 314, 378 (2016) [Per J. Perez, En Banc], citing Samuel D. Warren and Louis D. Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890); and Irwin R. Kramer, *The Birth of Privacy Law: A Century Since Warren & Brandeis*, 39 CATH. U.L. REV. 703 (1990).

we protect because it is constitutive of our concept of individual autonomy.

For instance, a person who chooses to walk down a public street cannot complain that a police officer glances or even stares at him or her. The discomfort of being the subject of the observation by others, under those circumstances, may be too fleeting and trivial that it should not cause any constitutional query. That we look at each other in public spaces is inherently a part of existing within a society. After all, one of the worst human indignities may be that we are rendered invisible to everyone for all time within public spaces.

On the other hand, the uninvited and unwelcome peering eyes of the State's agents as we reside in our most private spaces presumptively violates our right to life, liberty, and even our property. In such cases, even the most fleeting act of voyeurism can cause substantial disruption of our collective values. Certainly, there is reason to trigger judicial inquiry. If the intrusion is unreasonable, it violates the constitutional protection of the due process clause.

Examining [a person's] bank accounts is analogous to the situation involving the uninvited and unwelcome glance. For some, their financial worth contained in the bank's ledgers may not be physical, but it is constitutive of that part of their identity, which for their own reasons, they may not want to disclose. Peering into one's bank accounts and related transactions is sufficiently disruptive as to be considered a "deprivation" within the meaning of the due process clause. It may be short of the physical seizure of property but it should, in an actual controversy such as this case at bar, be subject of judicial review.¹⁷³ (Citations omitted)

Exceptions to the rule of confidentiality of bank accounts are likewise provided in Republic Act No. 1405. Deposits may be inquired "upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation."¹⁷⁴

Further, to combat the use of our banking institutions as a money laundering site for the proceeds of any unlawful activity,¹⁷⁵ Republic Act No. 9160, or the Anti-Money Laundering Act, as amended, provides the remedies of a petition for freeze order and application for bank inquiry to inquire into accounts probably related to an unlawful activity.

A freeze order "is an extraordinary and interim relief issued by the [Court of Appeals] to prevent the dissipation, removal, or disposal of properties that are suspected to be the proceeds of, or related to, unlawful activities as defined in Section 3(i) of [Republic Act] No. 9160, as amended."¹⁷⁶ Its primary objective is:

¹⁷³ Id. at 379–385.

¹⁷⁴ Republic Act No. 1405 (1955), sec. 3.

¹⁷⁵ Republic Act No. 9160 (2001), sec. 2.

¹⁷⁶ *Ligot v. Republic*, 705 Phil. 477, 504 (2013) [Per J. Brion, Second Division].

. . . to temporarily preserve monetary instruments or property that are in any way related to an unlawful activity or money laundering, by preventing the owner from utilizing them during the duration of the freeze order. The relief is preemptive in character, meant to prevent the owner from disposing his property and thwarting the State's effort in building its case and eventually filing civil forfeiture proceedings and/or prosecuting the owner.¹⁷⁷ (Citation omitted)

Section 10 of the Anti-Money Laundering Act has governed the issuance of freeze orders since the statute's enactment in 2001. Section 10 has since been amended four times: Republic Act No. 9194, enacted in 2003; Republic Act No. 10167, enacted in 2012; Republic Act No. 10365, enacted in 2013; and Republic Act No. 10927, enacted in 2017.

Section 10, as originally worded in Republic Act No. 9160, provided:

SECTION 10. *Authority to Freeze.* — Upon determination that probable cause exists that any deposit or similar account is in any way related to an unlawful activity, the AMLC may issue a freeze order, which shall be effective immediately, on the account for a period not exceeding fifteen (15) days. Notice to the depositor that his account has been frozen shall be issued simultaneously with the issuance of the freeze order. The depositor shall have seventy-two (72) hours upon receipt of the notice to explain why the freeze order should be lifted. The AMLC has seventy-two (72) hours to dispose of the depositor's explanation. If it fails to act within seventy-two (72) hours from receipt of the depositor's explanation, the freeze order shall automatically be dissolved. The fifteen (15)-day freeze order of the AMLC may be extended upon order of the court, provided that the fifteen (15)-day period shall be tolled pending the court's decision to extend the period.

No court shall issue a temporary restraining order or writ of injunction against any freeze order issued by the AMLC except the Court of Appeals or the Supreme Court.

The original Section 10 vested the Anti-Money Laundering Council with the power to issue freeze orders. Once issued, the freeze order is effective immediately, and the account holder, who is notified of the freeze order, is given 72 hours to move for the freeze order's lifting. The motion to lift must be resolved within 72 hours from its filing. Unless extended by the court, the freeze order is effective for 15 days. Only the Court of Appeals and this Court may issue a temporary restraining order or writ of preliminary injunction against the freeze order.

Republic Act No. 9194, enacted in 2003, amended Section 10 to read as follows:

¹⁷⁷ Id.

SECTION 10. *Freezing of Monetary Instrument or Property.* — The Court of Appeals, upon application *ex parte* by the AMLC and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof, may issue a freeze order which shall be effective immediately. The freeze order shall be for a period of twenty (20) days unless extended by the court.

Republic Act No. 9194 transferred the jurisdiction to issue freeze orders from the Anti-Money Laundering Council to the Court of Appeals. This exclusive original jurisdiction has remained with the Court of Appeals since then. For a freeze order under Republic Act No. 9194 to be issued, the Anti-Money Laundering Council must file an *ex parte* application (meaning, without notice to the account holder) before the Court of Appeals. Once it determines that the accounts sought to be frozen are probably related to any of the predicate crimes under the Anti-Money Laundering Act, the Court of Appeals may issue a freeze order, which shall be effective for 20 days.

Notably, Republic Act No. 9194 removed the provision on the filing of a motion to lift the freeze order and the issuance of a temporary restraining order and/or writ of preliminary injunction.

Section 10, as amended by Republic Act No. 9194, remained effective for about nine years until Republic Act No. 10167 amended it in 2012 to read as follows:

SECTION 10. *Freezing of Monetary Instrument or Property.* — Upon verified *ex parte* petition by the AMLC and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof, the Court of Appeals may issue a freeze order, which shall be effective immediately. The freeze order shall be for a period of twenty (20) days unless extended by the court. In any case, the court should act on the petition to freeze within twenty-four (24) hours from filing of the petition. If the application is filed a day before a nonworking day, the computation of the twenty-four (24)-hour period shall exclude the nonworking days.

A person whose account has been frozen may file a motion to lift the freeze order and the court must resolve this motion before the expiration of the twenty (20)-day original freeze order.

No court shall issue a temporary restraining order or a writ of injunction against any freeze order, except the Supreme Court.

Republic Act No. 10167 retained the *ex parte* nature of the application for a freeze order. However, it further required that the application must be verified; that is, accompanied by an affidavit where the Anti-Money Laundering Council attests to reading the application and that, to its knowledge and belief, the allegations in the application are true and

correct.¹⁷⁸ The Court of Appeals was also explicitly required to determine within 24 hours from the application's filing if probable cause exists. Once issued, the freeze order is effective immediately and for 20 days, unless extended by the court. The remedies of a motion to lift the freeze order before the Court of Appeals and for the issuance of a temporary restraining order and/or writ of preliminary injunction before this Court were reinstated.

In 2013, Republic Act No. 10365 amended Section 10 to read as follows:

SECTION 10. *Freezing of Monetary Instrument or Property.*— Upon a verified *ex parte* petition by the AMLC and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof, the Court of Appeals may issue a freeze order which shall be effective immediately, and which shall not exceed six (6) months depending upon the circumstances of the case: *Provided*, That if there is no case filed against a person whose account has been frozen within the period determined by the court, the freeze order shall be deemed *ipso facto* lifted: *Provided, further*, That this new rule shall not apply to pending cases in the courts. In any case, the court should act on the petition to freeze within twenty-four (24) hours from filing of the petition. If the application is filed a day before a nonworking day, the computation of the twenty-four (24)-hour period shall exclude the nonworking days.

A person whose account has been frozen may file a motion to lift the freeze order and the court must resolve this motion before the expiration of the freeze order.

No court shall issue a temporary restraining order or a writ of injunction against any freeze order, except the Supreme Court.

Republic Act No. 10365 greatly extended the effectivity of a freeze order. From the relatively short 20 days, a freeze order lasted up to six months depending on the circumstances of the case. When no case against the account holder is filed within the six-month period, the freeze order is deemed automatically lifted.

Section 10 was last amended by Republic Act No. 10927 in 2017. It now reads:

SECTION 10. *Freezing of Monetary Instrument or Property.* — Upon a verified *ex parte* petition by the AMLC and after determination

¹⁷⁸ RULES OF COURT, Rule 7, sec. 4 provides:

SECTION 4. *Verification.* — Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his knowledge and belief.

A pleading required to be verified which contains a verification based on "information and belief", or upon "knowledge, information and belief", or lacks a proper verification, shall be treated as an unsigned pleading.

that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof, the Court of Appeals may issue a freeze order which shall be effective immediately, for a period of twenty (20) days. Within the twenty (20)-day period, the Court of Appeals shall conduct a summary hearing, with notice to the parties, to determine whether or not to modify or lift the freeze order, or extend its effectivity. The total period of the freeze order issued by the Court of Appeals under this provision shall not exceed six (6) months. This is without prejudice to an asset preservation order that the Regional Trial Court having jurisdiction over the appropriate anti-money laundering case or civil forfeiture case may issue on the same account depending upon the circumstances of the case, where the Court of Appeals will remand the case and its records: *Provided*, That if there is no case filed against a person whose account has been frozen within the period determined by the Court of Appeals, not exceeding six (6) months, the freeze order shall be deemed *ipso facto* lifted: *Provided, further*, That this new rule shall not apply to pending cases in the courts. In any case, the court should act on the petition to freeze within twenty-four (24) hours from filing of the petition. If the application is filed a day before a nonworking day, the computation of the twenty-four (24)-hour period shall exclude the nonworking days.

The freeze order or asset preservation order issued under this Act shall be limited only to the amount of cash or monetary instrument or value of property that the court finds there is probable cause to be considered as proceeds of a predicate offense, and the freeze order or asset preservation order shall not apply to amounts in the same account in excess of the amount or value of the proceeds of the predicate offense.

A person whose account has been frozen may file a motion to lift the freeze order and the court must resolve this motion before the expiration of the freeze order.

No court shall issue a temporary restraining order or a writ of injunction against any freeze order, except the Supreme Court.

Currently, Section 10 provides an initial 20-day period for the effectivity of the freeze order. Within this period, the Court of Appeals should conduct a summary hearing, with notice to the parties, to determine whether to lift the freeze order. Should it decide to extend the freeze order, the extended period may not exceed six months. Further, Section 10, as it now reads, specifies that the freeze order shall be limited to the value of the money or property found to be related to a predicate crime and shall not apply to amounts in the same account in excess of the value of the proceeds of the predicate crime.

Section 10 now also mentions “asset preservation order.” Although appearing for the first time in statute in 2017, the remedy has been provided as early as 2005 in A.M. No. 05-11-04-SC.¹⁷⁹ Akin to a freeze order, the

¹⁷⁹ Otherwise known as the Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation, and Freezing of Monetary Instrument, Property, or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense Under Republic Act No. 9160, as amended. *See* Title III of the Rule.

remedy of an asset preservation order is provisional, issued upon probable cause to “[forbid] any transaction, withdrawal, deposit, transfer, removal, conversion, concealment or other disposition of the subject monetary instrument, property, or proceeds.”¹⁸⁰ However, unlike a freeze order, it is issued by the executive judge of the regional trial court or, in their absence, the vice executive judge. If ever the vice executive judge is absent, any regional trial court judge available in the same station may do so.¹⁸¹

Another remedy under the Anti-Money Laundering Act is an *ex parte* application for a bank inquiry order. A bank inquiry order authorizes the examination of particular deposits or investments in banks or non-bank financial institutions.¹⁸² “The monetary instruments or property deposited with such banks or financial institutions are not seized in a physical sense, but are examined on particular details such as the account holder’s record of deposits and transactions.”¹⁸³ Moreover, records that are to be inspected “cannot be physically seized or hidden by the account holder.”¹⁸⁴

The remedy of bank inquiry order is provided in Section 11 of the Anti-Money Laundering Act. Section 11, as originally worded in Republic Act No. 9160, provided:

SECTION 11. *Authority to Inquire into Bank Deposits.* — Notwithstanding the provisions of Republic Act No. 1405, as amended; Republic Act No. 6426, as amended; Republic Act No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution upon order of any competent court in cases of violation of this Act when it has been established that there is probable cause that the deposits or investments involved are in any way related to a money laundering offense: *Provided*, That this provision shall not apply to deposits and investments made prior to the effectivity of this Act.

In 2003, Section 11 was amended by Republic Act No. 9194 to read:

SECTION 11. *Authority to Inquire into Bank Deposits.* — Notwithstanding the provisions of Republic Act No. 1405, as amended, Republic Act No. 6426, as amended, Republic Act No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution upon order of any competent court in cases of violation of this Act, when it has been established that there is probable cause that the deposits or investments are related to an unlawful activity as defined in Section 3(i) hereof or a money laundering offense under Section 4 hereof; except that no court order shall be required in cases involving unlawful activities defined in Sections 3(i)(1), (2) and (12).

¹⁸⁰ A.M. No. 05-11-04-SC (2005), Title III, sec. 11.

¹⁸¹ A.M. No. 05-11-04-SC (2005), Title III, sec. 11.

¹⁸² *Republic v. Eugenio*, 569 Phil. 98, 124 (2008) [Per J. Tinga, Second Division].

¹⁸³ *Id.* at 124–125.

¹⁸⁴ *Id.* at 125.

To ensure compliance with this Act, the Bangko Sentral ng Pilipinas (BSP) may inquire into or examine any deposit or investment with any banking institution or non-bank financial institution when the examination is made in the course of a periodic or special examination, in accordance with the rules of examination of the BSP.

Like a freeze order, a bank inquiry order is issued upon a finding of probable cause that the deposits or investments sought to be inquired into are in any way related to a predicate crime or money laundering offense. However, at least under Republic Act No. 9194, it was generally *not* issued *ex parte*. The non-*ex parte* nature of bank inquiry proceedings was extensively discussed in the 2008 case of *Republic v. Eugenio*,¹⁸⁵ thus:

It is evident that Section 11 does not specifically authorize, as a general rule, the issuance *ex parte* of the bank inquiry order. . . .

....

Of course, Section 11 also allows the AMLC to inquire into bank accounts without having to obtain a judicial order in cases where there is probable cause that the deposits or investments are related to kidnapping for ransom, certain violations of the Comprehensive Dangerous Drugs Act of 2002, hijacking and other violations under R.A. No. 6235, destructive arson and murder. Since such special circumstances do not apply in this case, there is no need for us to pass comment on this proviso. Suffice it to say, the proviso contemplates a situation distinct from that which presently confronts us, and for purposes of the succeeding discussion, our reference to Section 11 of the AMLA excludes said proviso.

In the instances where a court order is required for the issuance of the bank inquiry order, nothing in Section 11 specifically authorizes that such court order may be issued *ex parte*. It might be argued that this silence does not preclude the *ex parte* issuance of the bank inquiry order since the same is not prohibited under Section 11. Yet this argument falls when the immediately preceding provision, Section 10, is examined.

....

Although oriented towards different purposes, the freeze order under Section 10 and the bank inquiry order under Section 11 are similar in that they are extraordinary provisional reliefs which the AMLC may avail of to effectively combat and prosecute money laundering offenses. Crucially, Section 10 uses specific language to authorize an *ex parte* application for the provisional relief therein, a circumstance absent in Section 11. If indeed the legislature had intended to authorize *ex parte* proceedings for the issuance of the bank inquiry order, then it could have easily expressed such intent in the law, as it did with the freeze order under Section 10.

Even more tellingly, the current language of Sections 10 and 11 of the AMLA was crafted at the same time, through the passage of R.A. No. 9194. Prior to the amendatory law, it was the AMLC, not the Court of

¹⁸⁵ 569 Phil. 98 (2008) [Per J. Tinga, Second Division].


Appeals, which had authority to issue a freeze order, whereas a bank inquiry order always then required, without exception, an order from a competent court. It was through the same enactment that *ex parte* proceedings were introduced for the first time into the AMLA, in the case of the freeze order which now can only be issued by the Court of Appeals. It certainly would have been convenient, through the same amendatory law, to allow a similar *ex parte* procedure in the case of a bank inquiry order had Congress been so minded. Yet nothing in the provision itself, or even the available legislative record, explicitly points to an *ex parte* judicial procedure in the application for a bank inquiry order, unlike in the case of the freeze order.

That the AMLA does not contemplate *ex parte* proceedings in applications for bank inquiry orders is confirmed by the present implementing rules and regulations of the AMLA, promulgated upon the passage of R.A. No. 9194. With respect to freeze orders under Section 10, the implementing rules do expressly provide that the applications for freeze orders be filed *ex parte*, but no similar clearance is granted in the case of inquiry orders under Section 11. These implementing rules were promulgated by the Bangko Sentral ng Pilipinas, the Insurance Commission and the Securities and Exchange Commission, and if it was the true belief of these institutions that inquiry orders could be issued *ex parte* similar to freeze orders, language to that effect would have been incorporated in the said Rules. This is stressed not because the implementing rules could authorize *ex parte* applications for inquiry orders despite the absence of statutory basis, but rather because the framers of the law had no intention to allow such *ex parte* applications.

Even the Rules of Procedure adopted by this Court in A.M. No. 05-11-04-SC to enforce the provisions of the AMLA specifically authorize *ex parte* applications with respect to freeze orders under Section 10 but make no similar authorization with respect to bank inquiry orders under Section 11.

The Court could divine the sense in allowing *ex parte* proceedings under Section 10 and in proscribing the same under Section 11. A freeze order under Section 10 on the one hand is aimed at preserving monetary instruments or property in any way deemed related to unlawful activities as defined in Section 3 (i) of the AMLA. The owner of such monetary instruments or property would thus be inhibited from utilizing the same for the duration of the freeze order. To make such freeze order anteceded by a judicial proceeding with notice to the account holder would allow for or lead to the dissipation of such funds even before the order could be issued.

On the other hand, a bank inquiry order under Section 11 does not necessitate any form of physical seizure of property of the account holder. What the bank inquiry order authorizes is the examination of the particular deposits or investments in banking institutions or non-bank financial institutions. The monetary instruments or property deposited with such banks or financial institutions are not seized in a physical sense, but are examined on particular details such as the account holder's record of deposits and transactions. Unlike the assets subject of the freeze order, the records to be inspected under a bank inquiry order cannot be physically seized or hidden by the account holder. Said records are in the possession of the bank and therefore cannot be destroyed at the instance of the



account holder alone as that would require the extraordinary cooperation and devotion of the bank.¹⁸⁶ (Citations omitted)

The application and issuance of a bank inquiry order was made *ex parte* in 2012 via Republic Act No. 10167. Section 11 was amended to read:

SECTION 11. *Authority to Inquire into Bank Deposits.* — Notwithstanding the provisions of Republic Act No. 1405, as amended; Republic Act No. 6426, as amended; Republic Act No. 8791; and other laws, the AMLC may inquire into or examine any particular deposit or investment, including related accounts, with any banking institution or non-bank financial institution upon order of any competent court based on an *ex parte* application in cases of violations of this Act, when it has been established that there is probable cause that the deposits or investments, including related accounts involved, are related to an unlawful activity as defined in Section 3(i) hereof or a money laundering offense under Section 4 hereof; except that no court order shall be required in cases involving activities defined in Section 3(i)(1), (2), and (12) hereof, and felonies or offenses of a nature similar to those mentioned in Section 3(i)(1), (2), and (12), which are Punishable under the penal laws of other countries, and terrorism and conspiracy to commit terrorism as defined and penalized under Republic Act No. 9372.

The Court of Appeals shall act on the application to inquire into or examine any depositor or investment with any banking institution or non-bank financial institution within twenty-four (24) hours from filing of the application.

To ensure compliance with this Act, the Bangko Sentral ng Pilipinas may, in the course of a periodic or special examination, check the compliance of a covered institution with the requirements of the AMLA and its implementing rules and regulations.

For purposes of this section, ‘related accounts’ shall refer to accounts, the funds and sources of which originated from and/or are materially linked to the monetary instrument(s) or property(ies) subject of the freeze order(s).

A court order *ex parte* must first be obtained before the AMLC can inquire into these related Accounts: *Provided*, That the procedure for the *ex parte* application of the *ex parte* court order for the principal account shall be the same with that of the related accounts.

The authority to inquire into or examine the main account and the related accounts shall comply with the requirements of Article III, Sections 2 and 3 of the 1987 Constitution, which are hereby incorporated by reference.

The constitutionality of Section 11, as amended by Republic Act No. 10167, was challenged in *Subido Pagente Certeza Mendoza and Binay Law Offices v. Court of Appeals*.¹⁸⁷ In that case, the Republic, represented by the

¹⁸⁶ Id. at 120–124.

¹⁸⁷ 802 Phil. 314 (2016) [Per J. Perez, En Banc].

Anti-Money Laundering Council, filed an *ex parte* application for bank inquiry over the bank accounts of Subido Pagente Certeza Mendoza and Binay Law Offices as part of the investigation of then Vice President Jejomar Binay's allegedly disproportionate wealth, including his family's. His daughter Abigail Binay, now the mayor of Makati City, was a former partner in the law firm. Contending that Section 11 violated its constitutional rights to due process and privacy, the law firm filed a petition for certiorari and prohibition to declare Section 11 unconstitutional.¹⁸⁸

This Court upheld the constitutionality of Section 11, as currently worded under Republic Act No. 10167. It was ruled that the *ex parte* application and issuance of a bank inquiry order do not involve any physical seizure of property. Thus, there could be no violation of due process. This Court also found no violation of the right to privacy, because the law provides "safeguards before a bank inquiry order is issued, ensuring adherence to the general state policy of preserving the absolutely confidential nature of Philippine bank accounts":

We thus subjected Section 11 of the AMLA to heightened scrutiny and found nothing arbitrary in the allowance and authorization to AMLC to undertake an inquiry into certain bank accounts or deposits. Instead, we found that it provides safeguards before a bank inquiry order is issued, ensuring adherence to the general state policy of preserving the absolutely confidential nature of Philippine bank accounts:

(1) The AMLC is required to establish probable cause as basis for its [*ex parte*] application for bank inquiry order;

(2) The CA, independent of the AMLC's demonstration of probable cause, itself makes a finding of probable cause that the deposits or investments are related to an unlawful activity under Section 3(i) or a money laundering offense under Section 4 of the AMLA;

(3) A bank inquiry court order [*ex parte*] for related accounts is preceded by a bank inquiry court order [*ex parte*] for the principal account which court order [*ex parte*] for related accounts is separately based on probable cause that such related account is materially linked to the principal account inquired into; and

(4) The authority to inquire into or examine the main or principal account and the related accounts shall comply with the requirements of Article III, Sections 2 and 3 of the Constitution.

The foregoing demonstrates that the inquiry and examination into the bank account are not undertaken whimsically and solely based on the investigative discretion of the AMLC. In particular, the requirement of demonstration by the AMLC, and determination by the CA, of probable cause emphasizes the limits of such governmental action. We will revert to these safeguards under Section 11 as we specifically discuss the CA's

¹⁸⁸ Id. at 330.

denial of SPCMB's letter request for information concerning the purported issuance of a bank inquiry order involving its accounts.¹⁸⁹

The concurring opinion in that case expounds on why “[t]he absence of notice to the owner of a bank account that an *ex parte* application as well as an order to inquire has been granted by the Court of Appeals is not unreasonable nor arbitrary”:¹⁹⁰

It is reasonable for the State, through its law enforcers, to inquire *ex parte* and without notice because of the nature of a bank account at present.

A bank deposit is an obligation. It is a debt owed by a bank to its client-depositor. It is understood that the bank will make use of the value of the money deposited to further create credit. This means that it may use the value to create loans with interest to another. Whoever takes out a loan likewise creates a deposit with another bank creating another obligation and empowering that other bank to create credit once more through providing other loans.

Bank deposits are not isolated information similar to personal sets of preferences. Rather, bank deposits exist as economically essential social constructs. The inherent constitutionally protected private rights in bank deposits and other similar instruments are not absolute. These rights should, in proper cases, be weighed against the need to maintaining the integrity of our financial system. The integrity of our financial system on the other hand contributes to the viability of banks and financial intermediaries, and therefore the viability of keeping bank deposits.

Furthermore, we are at an age of instantaneous financial transactions. It would be practically impossible to locate, preserve, and later on present evidence of crimes covered by the Anti-Money Laundering Act if the theory of the petitioner is correct. After all, as correctly pointed out by the majority opinion, the right to information accrues only after a freeze order is issued. It is then that limitations on the ability to transact the value of the bank account will truly affect the depositor.¹⁹¹

III

Section 10 of the Anti-Money Laundering Act, as amended by Republic Act No. 10167, was in effect when the Petition for Freeze Order was filed on December 3, 2012. Section 10 then stated:

SECTION 10. *Freezing of Monetary Instrument or Property.* – Upon verified *ex parte* petition by the AMLC and after determination that probable cause exists that any monetary instrument or property is in any

¹⁸⁹ Id. at 354–355.

¹⁹⁰ J. Leonen, Concurring Opinion in *Subido Pagente Certeza Mendoza and Binay Law Offices v. Court of Appeals*, 802 Phil. 314, 390 (2016) [Per J. Perez, En Banc].

¹⁹¹ Id.

way related to an unlawful activity as defined in Section 3(i) hereof, the Court of Appeals may issue a freeze order, which shall be effective immediately. The freeze order shall be for a period of twenty (20) days unless extended by the court. In any case, the court should act on the petition to freeze within twenty-four (24) hours from filing of the petition. If the application is filed a day before a nonworking day, the computation of the twenty-four (24)-hour period shall exclude the nonworking days.

A person whose account has been frozen may file a motion to lift the freeze order and the court must resolve this motion before the expiration of the twenty (20)-day original freeze order.

No court shall issue a temporary restraining order or a writ of injunction against any freeze order, except the Supreme Court.

Here, petitioner contends that by extending the Freeze Order without resolving the Motions to lift it within the original 20-day period, the Motions were deemed denied. Thus, it says that the Court of Appeals erred in placing the *colatilla* in its December 26, 2012 Resolution stating that the Freeze Order extension was “without prejudice to [its] action/s on the individual motion[s] to lift as soon as it considers the motion/s submitted for resolution.”¹⁹² In other words, petitioner claims that there were no more Motions to act on, so the subsequent post-issuance hearings requiring petitioner to further present evidence of probable cause had no basis in law.

The contention is only partly correct. By extending the effectivity of the Freeze Order, the Court of Appeals is deemed to have denied the Motions to lift it. However, contrary to petitioner’s argument, the *colatilla* was *not* void.

Proceedings involving petitions for freeze order were clarified in A.M. No. 05-11-04-SC, or the Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation, and Freezing of Monetary Instrument, Property, or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense under Republic Act No. 9160, as amended. Though it was promulgated before the amendatory Republic Act No. 10167, its provisions unaffected by the amendment remain effective. A.M. No. 05-11-04-SC, in the nature of the Rules of Court, has the force of law.¹⁹³ Since implied repeals are not looked upon with favor, its provisions should be read together and harmonized with existing laws.¹⁹⁴

One such provision is Section 53 under Title VIII of A.M. No. 05-11-04-SC, which provides that a summary hearing must be conducted within the 20-day period of the freeze order, after which, the court has three courses of action: (1) modify the freeze order; (2) lift it; or (3) extend its effectivity. Section 53 states:

¹⁹² *Rollo*, p. 879.

¹⁹³ *Shoji v. Javier*, 43 Phil. 333, 342 (1922) [Per J. Malcolm, En Banc].

¹⁹⁴ *See Valdez v. Tuason*, 40 Phil. 943, 946 (1920) [Per J. Street, En Banc].

SECTION 53. *Freeze Order.* —

- (a) *Effectivity; post-issuance hearing.* — The freeze order shall be effective immediately for a period of twenty days. Within the twenty-day period, the court shall conduct a summary hearing, with notice to the parties, *to determine whether or not to modify or lift the freeze order, or extend its effectivity as hereinafter provided.*
- (b) *Extension.* — On motion of the petitioner filed before the expiration of twenty days from issuance of a freeze order, the court may for good cause extend its effectivity for a period not exceeding six months. (Emphasis supplied)

Reading the provisions of Republic Act No. 10167 and A.M. No. 05-11-04-SC together, the Court of Appeals, upon the filing of the *ex parte* petition for freeze order, determines whether there is probable cause that the monetary instrument, property, or proceeds are in any way related to or involved in any unlawful activity. If it does find probable cause, the Court of Appeals shall issue the freeze order, after which it shall conduct a post-issuance hearing within the 20-day period.

This post-issuance hearing is with notice to the parties. It is also during this summary hearing when the parties are given the opportunity to be heard and for the respondents, specifically, to move and argue for the lifting of the freeze order. The Court of Appeals then determines whether to modify, lift, or extend the effectivity of the freeze order.

It is true that under Section 10 of Republic Act No. 9160, as amended by Republic Act No. 10167, once a motion to lift the freeze order is filed, it must be resolved before the 20-day period expires. Nevertheless, when the Court of Appeals extends a freeze order's effectivity, it necessarily resolves the motions to lift it—that is, the Court of Appeals denies them. Extending the freeze order could not have meant automatic lifting; on the contrary, its extension assumes its existence.

This interpretation is reflected in the present law on freeze orders, now provided in Republic Act No. 10927. Under the current Section 10(1), the Court of Appeals is required to conduct a summary hearing within 20 days from the freeze order's issuance, after which it may modify, lift, or otherwise extend the freeze order:

SECTION 10. *Freezing of Monetary Instrument or Property.* — Upon a verified *ex parte* petition by the AMLC and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof,



the Court of Appeals may issue a freeze order which shall be effective immediately, for a period of twenty (20) days. Within the twenty (20)-day period, the Court of Appeals shall conduct a summary hearing, with notice to the parties, to determine whether or not to modify or lift the freeze order, or extend its effectivity. The total period of the freeze order issued by the Court of Appeals under this provision shall not exceed six (6) months. This is without prejudice to an asset preservation order that the Regional Trial Court having jurisdiction over the appropriate anti-money laundering case or civil forfeiture case may issue on the same account depending upon the circumstances of the case, where the Court of Appeals will remand the case and its records: *Provided*, That if there is no case filed against a person whose account has been frozen within the period determined by the Court of Appeals, not exceeding six (6) months, the freeze order shall be deemed *ipso facto* lifted: *Provided*, further, That this new rule shall not apply to pending cases in the courts. In any case, the court should act on the petition to freeze within twenty-four (24) hours from filing of the petition. If the application is filed a day before a nonworking day, the computation of the twenty-four (24)-hour period shall exclude the nonworking days.

Here, the Freeze Order was issued on December 6, 2012. The Resolution extending its effectivity was issued on December 26, 2012, which was within the original 20-day period. The Court of Appeals, therefore, resolved the Motions to lift the Freeze Order within the 20-day period required by law. Specifically, the Motions were denied when the Court of Appeals resolved to extend the Freeze Order.

It follows that the *colatilla* placed by the Court of Appeals in its December 26, 2012 Resolution extending the Freeze Order is *not* void. To recall, the *colatilla* provided that the extension was “without prejudice to the [Court of Appeals’] action/s on the individual motion[s] to lift as soon as it considers the motion/s submitted for resolution.”¹⁹⁵

By placing the *colatilla*, what the Court of Appeals truly meant was that the Freeze Order’s extension could be reconsidered. In other words, the December 26, 2012 Resolution was without prejudice to the filing of motions for reconsideration by respondents, and the effectivity of the extended Freeze Order may be shortened or modified based on the substantial arguments respondents may raise should they move to have the Resolution reconsidered.

This interpretation is consistent with the Rules of Court, which applies suppletorily in proceedings involving the freezing of monetary instruments, property, or proceeds representing, involving, or relating to an unlawful activity or money laundering. Under Rule 37 of the Rules of Court, a motion for reconsideration may be filed if the findings or conclusions in the assailed order are not supported by the evidence or are contrary to law.¹⁹⁶

¹⁹⁵ *Rollo*, p. 879.

¹⁹⁶ RULES OF COURT, Rule 37, secs. 1 and 2.

Furthermore, allowing the filing of a motion for reconsideration in freeze order proceedings is consistent with the policy of generally allowing motions for reconsideration, the exception being when expressly prohibited either by law or the rules. A.M. No. 05-11-04-SC does not expressly prohibit the filing of motions for reconsideration, unlike, for instance, the 1991 Revised Rules on Summary Procedure, which expressly does so.¹⁹⁷

Specifically, on freeze orders, giving a party the opportunity to move for reconsideration allows the Court of Appeals to correct any errors it may have made in issuing the freeze order. Besides, considering that a freeze order is effective immediately, moving for reconsideration will not result in delay. The Court of Appeals may also lift the freeze order should it realize that the action for the freeze order was maliciously filed.

All told, when the Court of Appeals extended the Freeze Order's effectivity, the Motions to lift it were deemed denied. However, the Court of Appeals did not err in placing a *colatilla* in the December 26, 2012 Resolution extending the Freeze Order.

IV

Petitioner further argues that under Republic Act No. 9160, as amended by Republic Act No. 10167, the proceedings for a bank inquiry order should remain *ex parte*, including the very conduct of the inquiry. Thus, it says that the action cannot be heard jointly with that for the freeze order, which is commenced *ex parte* but "must eventually be conducted with notice to all concerned parties including the holders of the frozen monetary instruments, properties or proceeds."¹⁹⁸

To jointly hear the proceedings, petitioner argues, would allegedly "depriv[e] [the remedy of bank inquiry] of its character as a discovery tool and would be rendered wholly inutile as a measure to determine whether there is sufficient evidence to sustain an intended prosecution of the account holder for violation of the [Anti-Money Laundering Act]."¹⁹⁹

In so arguing, petitioner cites *Republic v. Eugenio*,²⁰⁰ decided in 2008, before Section 11 of Republic Act No. 9160 was amended by Republic Act No. 10167 in 2012. *Eugenio* examined the history and rationale of the original Section 11, under which an application for bank inquiry was still filed with notice to the account holder. However, realizing that the notice

¹⁹⁷ REVISED RULES ON SUMMARY PROCEDURE (1991), sec. 19(c).

¹⁹⁸ *Rollo*, p. 62.

¹⁹⁹ *Id.*

²⁰⁰ 569 Phil. 98 (2008) [Per J. Tinga, Second Division].

requirement defeats the purpose of the bank inquiry order—it allows the account holder to conceal or cleanse the account even before the Anti-Money Laundering Council could inquire into it—Section 11 was amended to make both the application and the court order *ex parte*. Section 11 is reproduced below:

Republic Act No. 9160 (2001)	Republic Act No. 10167 (2012)
<p>SECTION 11. <i>Authority to Inquire into Bank Deposits.</i> — Notwithstanding the provisions of Republic Act No. 1405, as amended; Republic Act No. 6426, as amended; Republic Act No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution upon order of any competent court in cases of violation of this Act when it has been established that there is probable cause that the deposits or investments involved are in any way related to a money laundering offense: <i>Provided,</i> That this provision shall not apply to deposits and investments made prior to the effectivity of this Act.</p>	<p>SECTION 11. <i>Authority to Inquire into Bank Deposits.</i> — Notwithstanding the provisions of Republic Act No. 1405, as amended; Republic Act No. 6426, as amended; Republic Act No. 8791; and other laws, the AMLC may inquire into or examine any particular deposit or investment, including related accounts, with any banking institution or non-bank financial institution upon order of any competent court <i>based on an ex parte application</i> in cases of violations of this Act, when it has been established that there is probable cause that the deposits or investments, including related accounts involved, are related to an unlawful activity as defined in Section 3(i) hereof or a money laundering offense under Section 4 hereof; except that no court order shall be required in cases involving activities defined in Section 3(i)(1), (2), and (12) hereof, and felonies or offenses of a nature similar to those mentioned in Section 3(i)(1), (2), and (12), which are Punishable under the penal laws of other countries, and terrorism and conspiracy to commit terrorism as defined and penalized under Republic Act No. 9372.</p> <p>The Court of Appeals shall act on the application to inquire into or examine any depositor or investment with any banking institution or non-bank financial institution within twenty-four (24) hours from filing of the application.</p> <p>To ensure compliance with this Act, the Bangko Sentral ng Pilipinas may, in the course of a periodic or special examination, check the compliance of a Covered institution with the requirements of the AMLA and its implementing rules and regulations.</p> <p>For purposes of this section, <i>“related accounts” shall refer to accounts, the funds and sources of which originated from and/or are materially linked to the</i></p>

	<p><i>monetary instrument(s) or property(ies) subject of the freeze order(s).</i></p> <p><i>A court order ex parte</i> must first be obtained before the AMLC can inquire into these related Accounts: <i>Provided</i>, That the procedure for the <i>ex parte application of the ex parte court order</i> for the principal account shall be the same with that of the related accounts.</p> <p>The authority to inquire into or examine the main account and the related accounts shall comply with the requirements of Article III, Sections 2 and 3 of the 1987 Constitution, which are hereby incorporated by reference. (Emphasis supplied)</p>
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We agree with petitioner that the entirety of the proceedings for a bank inquiry order should be confidential and *ex parte*. Under the amended Section 11, “*ex parte*” modifies “application” and “court order.” The bank inquiry proceedings, therefore, are *ex parte* beginning with the filing of the application, to the issuance of the bank inquiry order, until the very conduct of the inquiry, being the most vital part of the proceedings that requires utmost confidentiality.

However, nothing in the law provides that the purely *ex parte* bank inquiry proceedings cannot be conducted jointly, albeit subsequently, with the proceedings for the freeze order. To recall, a bank inquiry “authorizes the examination of particular deposits or investments in banking institutions or non-bank financial institutions.”²⁰¹ Its function is to allow the Anti-Money Laundering Council to *acquire information* on the movement of funds into and from a bank account, but it does not prevent further deposits or withdrawals from the account. A freeze order is needed precisely to freeze, that is, to *prevent movement* of funds from and into the account. It keeps a bank account intact to allow forfeiture should it be found related to any of the predicate crimes under the Anti-Money Laundering Act.

Considering the functions of a bank inquiry order and a freeze order, a joint hearing is inevitable when the subjects of a bank inquiry and of a freeze order are the same account. The results of the bank inquiry are usually used in the freeze order proceedings. The bank inquiry can be “preliminary to the seizure and deprivation of . . . property as in a freeze order”²⁰² and “a preparatory tool for the discovery and procurement, and preservation — through the subsequent issuance of a freeze order — of relevant evidence of

²⁰¹ *Republic v. Eugenio*, 569 Phil. 98, 124 (2008) [Per J. Tinga, Second Division].

²⁰² *Subido Pagente Certeza Mendoza and Binay Law Offices v. Court of Appeals*, 802 Phil. 314, 340 (2016) [Per J. Perez, En Banc].

a money laundering transaction or activity.”²⁰³ This is supported by the fourth paragraph of the amended Section 11, which defines the term “related accounts” as “accounts, the funds and sources of which originated from and/or are materially linked to the monetary instrument(s) or property(ies) subject of the freeze order(s).” The fourth paragraph referred to “accounts . . . subject of the freeze order(s),” meaning, that any information obtained during the bank inquiry may be used to support a petition for freeze order.

Further, reading the law, it is possible that a freeze order is first filed before an application for bank inquiry is availed of, as what petitioner did here. Nowhere in Republic Act No. 9160, as amended by Republic Act No. 10167, does it state that a petition for freeze order may be filed only after an application for bank inquiry has been previously availed of. In other words, the Anti-Money Laundering Council may file a petition for freeze order without the benefit of a bank inquiry if it is confident that the information it has at hand is sufficient to justify a finding of probable cause. In the end, it is a matter of strategy on what it should file first.

Here, petitioner chose to first file the Petition for Freeze Order on December 3, 2012. The Freeze Order was then issued on December 6, 2012, after which it filed the Application for Bank Inquiry on December 11, 2012.

What happened here was an error in strategy. Because the application for bank inquiry was filed after the Freeze Order had been issued, notably with notice to the parties, the *ex parte* nature of the bank inquiry proceedings was rendered useless. Through the Freeze Order, respondents were notified of the ongoing money laundering investigation involving their accounts. As expected, and as will be discussed more fully later, the bank inquiry done after the Freeze Order had been issued revealed that most of the frozen accounts were already closed.

At any rate, while the remedies of freeze order and bank inquiry are distinct, the Court of Appeals has the discretion to jointly hear “actions involving a common question of law or fact,” especially if it will “tend to avoid unnecessary costs or delay.” Rule 31, Section 1 of the Rules of Court provides:

RULE 31

Consolidation or Severance

SECTION 1. *Consolidation.* — When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders

²⁰³ J. Leonen, Concurring Opinion in *Subido Pagente Certeza Mendoza and Binay Law Offices v. Court of Appeals*, 802 Phil. 314, 388 (2016) [Per J. Perez, En Banc].

concerning proceedings therein as may tend to avoid unnecessary costs or delay.

For the Court of Appeals, cases may be consolidated and assigned to one justice if they “involve the same parties and/or related questions of fact and/or law.” Rule III, Section 3(a) of the Internal Rules of the Court of Appeals provides:

RULE III

Procedure in Receiving, Assigning and Distributing Cases

SECTION 3. *Consolidation of Cases.* — When related cases are assigned to different Justices, they shall be consolidated and assigned to one Justice.

- (a) Upon motion of a party with notice to the other party/ies, or at the instance of the Justice to whom any of the related cases is assigned, upon notice to the parties, consolidation shall ensue when the cases involve the same parties and/or related questions of fact and/or law.

Petitioner’s actions for freeze order and bank inquiry order irrefutably involve the same parties, the same questions of fact, and the same question of law: whether there is probable cause to believe that respondents’ frozen accounts are related to the alleged unlawful activity of violating Section 3(e) of the Anti-Graft and Corrupt Practices Act. If at all, the Court of Appeals erred in not assigning different docket numbers to the actions. Nonetheless, it did not err in jointly hearing the cases.

V

Contrary to petitioner’s claim, it was well within the Court of Appeals’ discretion to require progress reports to justify the continued freezing of the accounts.

It is true that by issuing the Freeze Order and even extending it, probable cause that the frozen accounts are related to the alleged unlawful activity was already established. This finding, however, was not final since respondents Ongpin, Manalo, and Torres moved for reconsideration.

In moving for reconsideration, respondents put forward evidence to prove that the funds in their accounts came from legitimate sources. The burden of evidence shifted back to petitioner to prove that there was probable cause to justify the Freeze Order’s extension.

Contrary to petitioner’s argument, the burden of proof has never shifted to respondents. It confused “burden of proof” with “burden of



evidence.” “Burden of proof” refers to “the duty of a party to present evidence on the facts in issue necessary to establish [their] claim or defense by the amount of evidence required by law.”²⁰⁴ In actions for the issuance of a freeze order, the burden of proving probable cause always rests with the Anti-Money Laundering Council.

Once it has established a *prima facie* case against the owner of the accounts sought to be frozen, the “burden of evidence” shifts to the owner to present counterevidence and prove that their accounts are funded by legitimate sources. If the counterevidence balances the evidence of probable cause, the burden of evidence shifts back to the Anti-Money Laundering Council to justify the continued freezing of the accounts.²⁰⁵ Unfortunately, here, petitioner miserably failed to do so.

VI

We agree with the Court of Appeals that among the 179 bank accounts frozen, only Boerstar’s Bank of Commerce Account No. 900000028241 was probably related to the alleged unlawful activity.

Before a freeze order is issued, the Anti-Money Laundering Council must put forward evidence of probable cause, or “such facts and circumstances which would lead a reasonably discreet, prudent or cautious [person] to believe that an unlawful activity and/or a money laundering offense is about to be, is being or has been committed and that the account or any monetary instrument or property subject thereof sought to be frozen is in any way related to said unlawful activity and/or money laundering offense.”²⁰⁶ This requirement is consistent with the prohibition on unreasonable searches and seizure, our bank accounts and information about them being properties and effects within the meaning of the Constitution.²⁰⁷

Furthermore, as clarified in *Ligot v. Republic*,²⁰⁸ the probable cause required to issue a freeze order is different from the probable cause determined in a preliminary investigation. The former is judicial in nature, focusing on whether the bank accounts, assets, or other money instruments sought to be frozen are related to the predicate crimes under the Anti-Money Laundering Act, *not* whether there is probable cause to believe that a predicate crime was committed. Meanwhile, the latter sense of probable cause belongs to the government’s prosecution arm.²⁰⁹

²⁰⁴ RULES OF COURT, Rule 131, sec. 1.

²⁰⁵ See *David v. Senate Electoral Tribunal*, 795 Phil. 529, 598 (2016) [Per J. Leonen, En Banc].

²⁰⁶ *Ligot v. Republic*, 705 Phil. 477, 501 (2013) [Per J. Brion, Second Division].

²⁰⁷ J. Leonen, Concurring Opinion in *Subido Pagente Certeza Mendoza and Binay Law Offices v. Court of Appeals*, 802 Phil. 314, 378 (2016) [Per J. Perez, En Banc] citing Samuel D. Warren and Louis D. Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890) and Irwin R. Kramer, *The Birth of Privacy Law: A Century Since Warren & Brandeis*, 39 Cath. U.L. REV. 703 (1990).

²⁰⁸ 705 Phil. 477 (2013) [Per J. Brion, Second Division].

²⁰⁹ *Id.* at 501.

In *Ligot*, this Court found that there was probable cause to issue a freeze order over the bank accounts of retired Lieutenant General Jacinto C. Ligot and his family. As the Office of the Ombudsman has found, he and his family had as much as ₱54,000,000.00 in bank accounts, investments, and properties, an amount grossly disproportionate to his income.²¹⁰ This gross discrepancy showed the relation between the bank accounts and the crime of violation of the Anti-Graft and Corrupt Practices Act.

Here, the Court of Appeals tabulated the bank accounts²¹¹ related to Ongpin and their statuses upon the issuance of the Freeze Order on December 6, 2012 until its expiration on June 26, 2013:

Name	Account No.	Name of Institution	Status
1. Roberto V. Ongpin	170-10890-6	BDO	Placement matured on 4/19/2010
	1341710000000223	BDO	
	027-026764-130	HSBC	
	027-026764-131	HSBC	
	TD-368606325211	BDO	TD matured on 8/17/2011
	TD-368606325220	BDO	Placement matured on 8/8/2011
	TD-368606325229	BDO	matured on 8/1/2011
	TD-368606325185	BDO	matured on 8/8/2011
	0005177900000298437	HSBC	
	224100024921	PBCom	opened on 8/16/2011; no Balance
243-10-000006-7 ²¹²	PBCom	opened on 1/3/2012 w/ balance of ₱5,000.00	
2. Josephine Manalo	IC-60468012844	BDO	Closed 8/20/2012
	145-31365-0 or GP-3447442	BDO	Preterminated 12/7/2012
	IC-15060039324	BDO	Closed 4/30/2010 On January 3, 2009, ₱100,000,000.00 was credited to the account. On March 5, 2010, ₱100,073,986.25 was debited from the account and credited to Alphaland Heavy

²¹⁰ Id. at 487.

²¹¹ *Rollo*, pp. 136–142.

²¹² Not among the bank accounts submitted by petitioner but frozen by PBCom as a related account.

			Equipment Account No. 5060041825. ²¹³
	IC-66868001835	BDO	Frozen with balance of P1,103.90
	006860010729 ²¹⁴	BDO	Frozen with P1,097.40 deposit-SSS pensioner account
	0200116200001625810007	BPI	(appears to be closed as it is not included in BPI's Return)
	224-10-002605-3 ²¹⁵	PBCom	Frozen; Nil deposit opened 8/18/2011; last Transactions 12/7/2012 ²¹⁶
	6363636020479	Metrobank	Frozen with P34,808.71 deposit
3. Leonor Occena Josephine Manalo Lourdes Torres	IC-16860006888 ²¹⁷	BDO	Closed 3/23/2012
4. Lourdes Torres Lionor Occena Josephine Manalo	IC-66868002858	BDO	Closed 3/22/2012
5. Ma. Lourdes A. Torres	900200104847	Bank of Commerce	Closed 12/8/09
	IC-66868001800	BDO	Frozen with balance of P2,123.46 Opened on December 14, 2009; had an initial deposit of P1,000,000.00. On January 4, 2010, P894,082.52 was credited to the account. ²¹⁸

²¹³ *Rollo*, pp. 149–150.

²¹⁴ Not among the bank accounts submitted by petitioner but frozen by BDO as a related account.

²¹⁵ Not included in petitioner's list of accounts to be frozen but frozen as a related account.

²¹⁶ PBCom received the Freeze Order on December 7, 2012; Ongpin is co-chair and a major stockholder of PBCom.

²¹⁷ Per Supplemental Return of BDO dated 17 December 2012, UCPB Acct No. 134171000000223 (UCPB Ref. No.) shows an inward transaction on September 29, 2010 to BDO Acct No. 006860006888 of Ongpin. The same BDO Account reveals transfer of millions of pesos from Acct. No. 0068802858.

²¹⁸ *Rollo*, pp. 150–151.

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	106860005288 ²¹⁹	BDO	Frozen with balance of US\$322.26
	0068660014546 ²²⁰	BDO	Frozen payroll account with P3.79 deposit
	900200107919	Bank of Commerce	Closed 4/7/2010
	900200108494 ²²¹	Bank of Commerce	Closed 6/3/2010
	224-10-002691-6	PBCom	Frozen with P13.93 deposit
6. Deltaventure Resources, Inc.	21000000010010025	DBP-Baguio	Closed 12/8/2009
	21000000010010010	DBP-Baguio	Closed 11/13/09
	21000000010010039	DBP-Baguio	Opened 11/16/09 Closed 12/8/09
	900000010643 ²²²	Bank of Commerce	Frozen with P2,199.02 deposit
	224-10-002479-4	PBCom	Frozen with P5,000.00; opened on 8/4/2011
	243-10-000029-6	PBCom	Frozen with P65,117.93 deposit Last Transaction 12/11/12
7. Goldenmedia Corporation	00000026647	Bank of Commerce	Frozen with balance of P9,904.74
8. Boerstar Corporation	900360128653	Bank of Commerce	Closed 2/16/09
	900000028241	Bank of Commerce	Frozen with balance of P5,159.12 ²²³ This is where Two Rivers deposited ₱2,133,000,000, the balance of the purchase price for the sale of Philex shares between Goldenmedia and Two Rivers. ²²⁴
	900360142931	Bank of Commerce	Closed 2/15/2010
	900360143024	Bank of Commerce	Closed 5/17/2010
	900360143041	Bank of Commerce	Closed 4/16/2010

²¹⁹ Not among the accounts enumerated by petitioner but considered a related account.

²²⁰ Not among the accounts enumerated by petitioner but considered a related account.

²²¹ Not among the accounts enumerated by petitioner but considered a related account.

²²² In the *Ex-Parte* Petition for Issuance of Freeze Order, the account is listed under the name of Elkhound but per Bank of Commerce Return, the account is in the name of Deltaventure Resources, Inc.

²²³ As corrected per Manifestation and Motion filed by Bank of Commerce and received by the Court of Appeals on January 10, 2013.

²²⁴ *Rollo*, pp. 155–156.

	900360143032	Bank of Commerce	Closed 2/16/2010
	900360143326	Bank of Commerce	Closed 5/07/2010
	900360144349	Bank of Commerce	Closed 5/17/2010
	900360144357	Bank of Commerce	Closed 4/21/2010
	900360144420	Bank of Commerce	Closed 5/21/2010
	900360144713	Bank of Commerce	Closed 5/11/2010
	900360144861	Bank of Commerce	Closed 6/10/2010
	TIMA053481	Bank of Commerce	Closed 3/29/2012
	900360149308	Bank of Commerce	Closed 8/5/2010
	900360149316	Bank of Commerce	Closed 8/6/2010
	900360149375	Bank of Commerce	Closed 8/10/2010
	900360149588	Bank of Commerce	Closed 9/9/2010
	900360150616	Bank of Commerce	Closed 10/11/2010
	900360151795	Bank of Commerce	Closed 10/27/2010
	900360151094	Bank of Commerce	Closed 10/20/2010
	900360152180	Bank of Commerce	Closed 7/25/2011
	900360152741	Bank of Commerce	Closed 12/13/2010
	900360153712	Bank of Commerce	Closed 2/14/11
	243-10-000095-4	PBCom	Frozen with P 5,000.00 deposit; opened 5/21/2012
9. Compact Holdings, Inc.	910600249203	Bank of Commerce	Closed
	910600261815	Bank of Commerce	Closed
	910600271900	Bank of Commerce	Closed
	910600278521	Bank of Commerce	Closed
	910600280810	Bank of Commerce	Closed
	910600283444	Bank of Commerce	Closed
	900000020983	Bank of Commerce	Frozen with balance of P993,349.35
	910600289108	Bank of Commerce	Closed

	910600291684	Bank of Commerce	Closed
	910600291919	Bank of Commerce	Closed
	910600299316	Bank of Commerce	Closed
	910600300098	Bank of Commerce	Closed
	910600302945	Bank of Commerce	Closed
	910600302937	Bank of Commerce	Closed
	910600306339	Bank of Commerce	Closed
	910600307149	Bank of Commerce	Closed
	910600307751	Bank of Commerce	Closed
	910600312371	Bank of Commerce	Closed
	910600312380	Bank of Commerce	Closed
	910600311324	Bank of Commerce	Closed
	900410048265	Bank of Commerce	Closed 11/5/10
	900410049172	Bank of Commerce	Closed 1/26/11
	900210007882	Bank of Commerce	Closed 6/02/12
	900410048761	Bank of Commerce	Closed 8/02/10
	900410049920	Bank of Commerce	Closed 1/18/11
	900410051550	Bank of Commerce	Closed 11/5/10
	900410051576	Bank of Commerce	Closed 7/25/11
	224-10-002633-9	PBCom	Frozen with P6,703.81 deposit last Transaction 12/7/2012
	243-10-000035-0	PBCom	Frozen with P5,602.04 deposit opened 2/9/12
	130730007068	UnionBank	Frozen with US\$10.00
10. Elkhound Resources, Inc.	900360129927	Bank of Commerce	Closed 3/17/09
	900000031195	Bank of Commerce	Frozen with P5,151.56 deposit
	900000010643 ²²⁵	Bank of Commerce	Frozen with P2,199.02 deposit
	061-036940-001	Security	Frozen with P295.81

²²⁵ The account is in the name of Deltaventure Resources, Inc.

		Bank Corp.	deposit
	1350-090003-001	Security Bank Corp.	Bridge Account does not belong to Elkhound
	IC-65068001825	BDO	Account closed as of Nov. 9, 2011
	IC-15060034314	BDO	Closed 11/9/11
	5060034314	BDO	
	900360141919	Bank of Commerce	Closed 2/03/10
	900360141943	Bank of Commerce	Closed 2/03/10
	900360142419	Bank of Commerce	Closed 2/03[/]10
	5068001825	BDO	Closed 11/9/2011
	IC-16860007698	BDO	Frozen with balance of P29,194.30
	IC-66868000898	BDO	Frozen with P0.00 balance
	590046305	Union Bank of the Phils.	Closed 11/2/2011
	TIMA053509	Bank of Commerce	Closed 3/29/12
	900360149138	Bank of Commerce	Closed 7/27/10
	900360147674	Bank of Commerce	Closed 8/02/10
	900360152457	Bank of Commerce	Closed 12/30/10
	900360154450	Bank of Commerce	Closed 01/03/11
	224-10-002480-8	PBCom	Frozen with P5,000.00 deposit opened 8/4/2011
	243-10-000067-9	PBCom	Frozen with P5,000.00 deposit

As for respondent DBP officers, the statuses of their bank accounts²²⁶ upon the issuance of the Freeze Order until its expiration are as follows:

Name	Account Number	Name of Institution	Status
I. Reynaldo G. David	IC-2111147062	Export and Industry Bank – San Miguel	With account balance of ₱17,227.20 as of December 31, 2008, ₱49,675.56 as of December 31, 2009, and ₱49,908.72 as of June 30, 2010
	IC-65338004132	BDO Unibank Inc. – Bel-Air	Payroll account; With initial deposit of ₱450,700.24, credit

²²⁶ Rollo, pp. 171–193.

			memo of ₱752,815.50 as of December 23, 2009, and deposit of ₱1,001,360.50 as of July 7, 2010
2. Miguel Luis Romero	IC-6628800225	BDO Unibank Inc.	Payroll account; Frozen and with balance of ₱3,357.51
	7715014439	Metropolitan Bank and Trust Company	Frozen and with a balance of ₱1,340.00
	1000703431	Rizal Commercial Banking Corporation	Not included in the Freeze Order but was nevertheless frozen; with balance of ₱6,318.20
3. Renato S. Velasco	IC-12150042289	BDO Unibank Inc. – MKNA	Payroll account; Frozen and with balance of ₱36,686.88
	8231098276	Citibank, - N.A. – Greenhills	Frozen and with balance of \$194,890.00
	1274931001	Citicorp Financial Services and Insurance Brokerage Phils, Inc.	Odyssey Peso Bond Fund (IPFIN) with face value of ₱7,207,297.82 based on net asset value of ₱242.49
	23493	Citicorp Financial Services and Insurance Corporation	BOP Bond with a face value of US\$12,000.00
	274931	Citicorp Financial Services and Insurance Brokerage Phils, Inc.	No amount indicated
4. Rolando S.C. Geronimo	1101040951	AIG Philam Savings Bank	Transactions were made before the critical periods from April 2009 to June 24, 2009.
	310902683386	AIG Philam	No available records with the bank



		Savings Bank- West Ave	
	0200130200003025000543	Bank of the Phil Islands – Bel Air – PO	Frozen, with balance of ₱14,966.32
	02001186000000018690003 33	Bank of the Phil Islands – Bel Air	Frozen, with balance of ₱0.00
	405338784530	Development Bank, Phil – Head Off 1	Frozen, with balance of \$31,139.93
	7502060389	Eastwest Bank (AIG Philam Savings Bank)	Frozen, with balance of ₱0.00
	310902668962	AIG Philam Savings Bank – West Ave	No available records with the bank
5. Benedicto Ernesto R. Bitonio, Jr.	01657030097	Development Bank, Phil – Head Off 1	Frozen, with balance of US\$79,000.00
	IC-15330034443	BDO Unibank Inc – Bel-Air	Frozen, with balance of ₱1,215,371.92
6. Cresenciana R. Bundoc	575114158100	Development Bank, Phil – Subic	Frozen, with balance of ₱0.00 as of December 12, 2012
	575114158101	Development Bank, Phil – Subic	Frozen, with balance of \$14,133.79
	IC-65338007557	BDO Unibank Inc – Bel-Air	Closed on December 3, 2011
	405330745060	Development Bank, Phil – Head Off 1	Frozen, with balance of ₱1,545,613.64
7. Ma. Teresita Sy Tolentino	IC-65338003063	BDO Unibank Inc. – Bel-Air	Closed on March 1, 2011
			Loan account availed



8. Rodolfo C. Cerezo	AM010016089799000000012 66799	BPI Family Savings Bank	on February 19, 2007 for a total amount of ₱684,000.00; Already paid ₱547,888.88 of the loaned amount
9. Franklin Churchill Velarde	IC-12130004772	BDO Unibank Inc. – Amorsolo	Significant deposits were made but were justified by account holder's business interests as declared in his Statement of Assets, Liabilities, and Net Worth: 1) Realty Director/Shareholder (AMVEL Land Development Corporation); 2) Radio Broadcasting – Director/Shareholder (Delta Broadcasting System); 3) Holdings – Director/Shareholder (MAVCO Properties and Holdings, Inc.); 4) Post Production – Director/Shareholder (Acabar Marketing International, Inc.); 5) Recreational Activities – Director/Shareholder (Good Space, Inc.); and 6) Holdings – Director/Shareholder (Mega Harvest, Inc.)
	150-02090-8	BDO Unibank Inc.	Significant deposits were made but were justified by account holder's business interests as declared in his Statement of Assets, Liabilities, and Net Worth: 1) Realty Director/Shareholder (AMVEL Land Development Corporation); 2) Radio Broadcasting – Director/Shareholder (Delta Broadcasting System); 3) Holdings – Director/Shareholder (MAVCO Properties and Holdings, Inc.); 4) Post Production – Director/Shareholder (Acabar Marketing International, Inc.); 5)



			Recreational Activities – Director/Shareholder (Good Space, Inc.); and 6) Holdings – Director/Shareholder (Mega Harvest, Inc.)
	405418268530	Development Bank, Phil-Head Off 1	Significant deposits were made but were justified by account holder's business interests as declared in his Statement of Assets, Liabilities, and Net Worth: 1) Realty Director/Shareholder (AMVEL Land Development Corporation); 2) Radio Broadcasting – Director/Shareholder (Delta Broadcasting System); 3) Holdings – Director/Shareholder (MAVCO Properties and Holdings, Inc.); 4) Post Production – Director/Shareholder (Acabar Marketing International, Inc.); 5) Recreational Activities – Director/Shareholder (Good Space, Inc.); and 6) Holdings – Director/Shareholder (Mega Harvest, Inc.)
	0007192512600	Metropolitan Bank & Trust Co.	Significant deposits were made but were justified by account holder's business interests as declared in his Statement of Assets, Liabilities, and Net Worth: 1) Realty Director/Shareholder (AMVEL Land Development Corporation); 2) Radio Broadcasting – Director/Shareholder (Delta Broadcasting System); 3) Holdings – Director/Shareholder (MAVCO Properties and Holdings, Inc.); 4) Post Production – Director/Shareholder (Acabar Marketing International, Inc.); 5) Recreational Activities – Director/Shareholder (Good Space, Inc.); and 6) Holdings – Director/Shareholder (Mega Harvest, Inc.)

			International, Inc.); 5) Recreational Activities – Director/Shareholder (Good Space, Inc.); and 6) Holdings – Director/Shareholder (Mega Harvest, Inc.)
10. Edgardo F. Garcia	1657030041	Development Bank, Phil- Head Off 1	Frozen trust account, with balance of \$161,096.06
	IC-653380011583	BDO Unibank Inc – Bel-Air	Frozen, with balance of ₱2,000,000.00
	1644011583	Development Bank, Phil- Head Off 1	Frozen trust account, with face value of ₱2,000,000.00 Existed as early as 2007 with fund infusion of ₱2,000,000.00 on April 25, 2007 Investment bank notes were recorded and funds invested were merely rolled-over upon maturities. The year-end balances for the accounts are: ₱2,045,139.89 – 2008 ₱2,045,138.89 – 2009 ₱2,092,810.29 - 2010
	IC-65338001192	BDO Unibank, Inc.- Bel Air	Frozen, with balance of ₱21,694.00 Payroll account with the following year-end balances: ₱2,452,382.82 – 2008 ₱2,987,631.04 – 2009 ₱321,727.20 – 2010
	1657030041	BPI Family Savings Bank	Existed as early as 2006 and consisted mainly of investments in securities The following are the year-end balances of the account: \$102,036.41 – 2008 \$120,598.97 – 2009



			\$167,725.32 - 2010
11. Ramon R. Durano IV	ST020011300000000130905 5418	Bank of the Phil Islands – Cebu-Jones	Frozen, with balance of ₱32,315.00
	0117230237982	Standard Chartered Bank	In the name of Elena Cristina R. Durano, wife of Ramon R. Durano IV; Frozen, with balance of ₱54,975.03
	0135338644008	Standard Chartered Bank	Frozen, with balance of ₱120,603.17
	000324359643	Standard Chartered Bank	Frozen
	602-7602904780	Manufactures Bank and Trust Company	Frozen, with balance of ₱250,588.25
	602-162009392	Manufactures Bank and Trust Company	Frozen, with balance of ₱608,325.01
	602-3602050794	Manufactures Bank and Trust Company	Frozen, with balance of ₱28,327.35
	602-3602007629	Manufactures Bank and Trust Company	Frozen, with balance of ₱69,569.45
	602-0602003630	Manufactures Bank and Trust Company	Frozen, with balance of \$3,066.25
	602-2602022742	Manufactures Bank and Trust Company	Frozen, with balance of \$1,554.70
	010802549	Hongkong and Shanghai Banking Corp.	Frozen
	010-031581-066	Hongkong and Shanghai Banking Corp.	Frozen, with balance of ₱28,385.78
	High Yield Savings Account No. 011-010717-195	Hongkong and Shanghai Banking Corp.	Frozen, with balance of US\$4,051.53
	High Yield Deposit Account No. 027-015752-581	Hongkong and Shanghai Banking Corp.	Frozen, with balance of ₱489,569.15
	TD Account No. 025-004086-350	Hongkong and Shanghai Banking Corp.	Frozen, with balance of US\$4,078.08

	TD Account No. 025-004086-351	Hongkong and Shanghai Banking Corp.	Frozen, with balance of US\$4,024.60
12. Patricia A. Sto. Tomas	113200005091	Robinsons Savings Bank – Katipunan	Account closed and transferred to Account No. 113-20-000646-8, on which there is no sufficient information Exhibited significant transactions during the critical dates of April 2009 or earlier and 2009 or thereafter
	011-10007134-2	Air Materiel Wing SLA Inc.	The account has existed as early as April 14, 2008. Three deposits were made before April 2009 in the total amount of ₱5,220,412.77. Subsequent deposits totaling ₱6,463,145.56 were made from July 2009 to January 5, 2010. A subsequent deposit was made on December 5, 2010 in the amount of ₱1,200,000.00.
	405352494530	Development Bank, Phil-Head Off I	Closed as of May 10, 2011
13. Jesus S. Guevara II	2210002725	Citystate Savings Bank – Binondo Br	Closed account
	333675	Rizal Commercial Banking Corp.	This account is an irrevocable trust with a balance of ₱1,000.00. Based on the Report of the Anti-Money Laundering Council, this account has an average amount starting July 19, 2010, with debit from the account of ₱2,000,000.00 with corresponding credit of ₱1,800,000.00. While suspicious, there is no proof that this is related to the loan transaction between



	SIMA Account No. 62508615	Rizal Commercial Banking Corp.	DBP and Deltaventure. Personal account of Lydia V. Guevara, wife of Jesus Guevara II, consisting of inheritance from late father who died on June 7, 2010 Frozen, with balance of ₱2,095,665.67 Had an initial placement of ₱1,000,000.00 in March 2011 and additional ₱1,000,00.00 in May 2011
	Dollar Account No. 8-192-02347-6	None indicated	Opened on June 28, 2010 with initial deposit of US\$15,056.56 Personal account of Lydia V. Guevara, wife of Jesus Guevara II, consisting of inheritance from her late father who died on June 7, 2010
14. Perla S. Soleta	109566283270	Union Bank of the Phils-Insular – AY	Frozen, with balance of ₱5,561.89 On June 16, 2010, ₱728,996.94 was deposited into the account as credit proceeds.
	455352273030	Development Bank, Phil-Commonwealth	Frozen, with balance of ₱7,090.34. On June 21, 2010, ₱1,125,000.00 was deposited into the account. On June 22, 2010, ₱182,000 was deposited into the account.
	450352272030	Development Bank, Phil – Quezon City	Frozen, with balance of ₱191,757.53. Transactions began on August 11, 2010 and were continued until



			November 8, 2012.
	01644012104	Development Bank, Phil – Head Off 1	Closed on September 30, 2011. On July 21, 2010, ₱1,150,000.00 and ₱6,619,624.39 were deposited into the account. On July 27, 2010, ₱1,619,482.59 was deposited into the account.
	6000786825	Philam Strategic Growth Fund, Inc.	Fund purchases were made beyond the critical dates, specifically, on December 29, 2010, November 4, 2011, and May 23, 2012.
	1401-450-9	Development Bank of the Philippines	Not among those frozen. Transactions started on August 26, 2010 and continued on until June 22, 2012.
15. Armando O. Samia	0164401175	Development Bank of the Philippines	Closed as of September 30, 2011
	01644011948	Development Bank of the Philippines	Frozen, with balance of ₱3,500,000.00
	010902314 (new account no. 310-09234)	Hongkong and Shanghai Banking Corp.	Frozen, with balance of ₱3,146,211.11
	IC-65338001001	Banco de Oro-Unibank, Inc.	Frozen, with balance of ₱8,952.56
	1002065082	Development Bank of the Philippines	Not in DBP system
	405351070530	Development Bank of the Philippines	Peso or US\$1,811.16
	01657030053	Development Bank of the Philippines	US\$200,000.00
	405351071530	Development Bank of the Philippines	Closed as of September 9, 2011
	405351069080	Development Bank of the Philippines	Closed as of January 19, 2011
	0200131900003195124441	Bank of the Philippine	Frozen, with balance of ₱146,743.61

		Islands	
	020903207 (new account no. 310-093209)	Hongkong and Shanghai Banking Corp.	Frozen, with balance of ₱10,499,074.40
	000-638957-066	Hongkong and Shanghai Banking Corp.	Frozen, with balance of ₱2,684.55
	405351068560	Development Bank of the Philippines	Closed as of September 21, 2011
	000-638957-550	Hongkong and Shanghai Banking Corp.	Frozen, with balance of ₱4,136,400.00
	000-172-028503	Hongkong and Shanghai Banking Corp.	Frozen, with balance of ₱3,775,000.00
	000-330-027275	Hongkong and Shanghai Banking Corp.	Frozen, with balance of ₱1,014,890.00

The tables show that most of the frozen accounts were either closed or had minimal deposits. There were few accounts found to have been involved in covered or suspicious transactions under the Anti-Money Laundering Act.

A covered transaction involves cash or other equivalent monetary instrument valued at more than ₱500,000.00 in one banking day.²²⁷ On the other hand, a suspicious transaction involves any of the circumstances enumerated in Section 3(b-1) of the Anti-Money Laundering Act:

1. there is no underlying legal or trade obligation, purpose or economic justification;
2. the client is not properly identified;
3. the amount involved is not commensurate with the business or financial capacity of the client;
4. taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the Act;
5. any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered institution;
6. the transaction is in any way related to an unlawful activity or offense under this Act that is about to be, is being or has been committed; or

²²⁷ Republic Act No. 9160 (2001), sec. 3(b), as amended by Republic Act No. 9194 (2002).

7. any transaction that is similar or analogous to any of the foregoing.²²⁸

Among those accounts involving suspicious transactions was respondent Sto. Tomas's Robinsons Savings Bank Account No. 113200005091. The bank account was found involved in significant transactions during the critical dates of "April 2009 or earlier and 2009 or thereafter."²²⁹

Another account owned by respondent Sto. Tomas, Air Materiel Wing Savings and Loan Association Account No. 011-1000-7134-2, has existed as early as April 14, 2008. As the Court of Appeals found, three deposits were made before April 2009 for a total of ₱5,220,412.77. Subsequent deposits totaling ₱6,463,145.56 were made from July 2009 to January 5, 2010, and another deposit of ₱1,200,000.00 was made on December 5, 2010.²³⁰

When the original Freeze Order was issued, Rizal Commercial Banking Corporation Account No. 333675 and Special Investment Management Account No. 62508615, both related accounts of respondent Guevara, involved suspicious transactions. Based on petitioner's report, the account was a trust account and only had an average balance starting July 19, 2010, with debit from the account of ₱2,000,000.00 and a corresponding credit of ₱1,800,000.00.²³¹

Some of the accounts under respondent Soleta's name also involved suspicious transactions. Union Bank Account No. 109566283270 only had a balance of ₱5,561.89 at the time the Freeze Order was issued, but on June 16, 2010, ₱728,996.94 was deposited in the account as credit proceeds. As for DBP Account No. 455352273030, it had a balance of ₱7,090.34 when the Freeze Order was issued, but substantial amounts were successively deposited in it: ₱1,125,000.00 on June 21, 2010 and ₱182,000.00 on June 22, 2010. Lastly, DBP Account No. 01644012104 was already closed by the time the Freeze Order was issued, but on July 21, 2010, ₱1,150,000.00 and ₱6,619,624.39 were deposited in the account. Another ₱1,619,482.59 was deposited on July 27, 2010.²³²

As outlined above, the accounts involved covered or suspicious transactions, and petitioner was required under the law to present evidence of probable cause that these accounts are related to the alleged unlawful activity. Unfortunately, petitioner miserably failed to show that these accounts were related to the allegedly irregular loan transactions between Deltaventure and DBP, the predicate crime for which petitioner was

²²⁸ Republic Act No. 9160 (2001), sec. 3(b-1), as amended by Republic Act No. 9194 (2002).

²²⁹ *Rollo*, p. 185.

²³⁰ *Id.* at 185-186.

²³¹ *Id.* at 186-187.

²³² *Id.* at 189-190.



authorized to commence freeze order and bank inquiry proceedings against respondents.

For these reasons, we find no error on the Court of Appeals' part in unfreezing the accounts except for Boerstar Corporation's Bank of Commerce Account No. 900000028241, the only account proved to be probably related to the loan transactions between Deltaventure and DBP. This account served as the depository account of the balance of the sale proceeds between Goldenmedia, among others, and Two Rivers.

Nothing in this Decision should be read as affecting the criminal case filed against respondents. Furthermore, better diligence is expected from petitioner for the Republic to put up a meaningful fight against money laundering and its pernicious effects.


WHEREFORE, the Petition for Review on Certiorari is **DENIED**. The May 7, 2013 Resolution of the Court of Appeals in CA-G.R. AMLC No. 00066 is **AFFIRMED**. The Freeze Order, except as to Boerstar Corporation's Bank of Commerce Account No. 900000028241, is **LIFTED**.

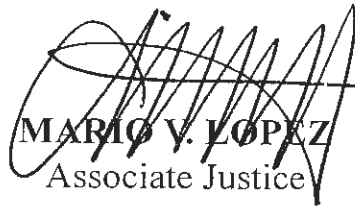
SO ORDERED.




MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


JHOSEP V. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

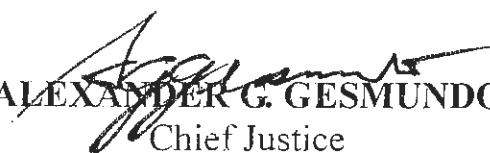
ATTESTATION

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


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice