

RE: LETTER OF ERLINDA ILUSORIO-BILDNER, POTC, PHILCOMSAT, REQUESTING INVESTIGATION OF CERTAIN MEMBERS OF THE JUDICIARY

A.M. No. 07-11-14-SC. April 14, 2015

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PER CURIAM:

This resolves the residual incidents of Administrative Matter No. 07-11-14-SC arising from a letter^[1] sent by Erlinda Ilusorio-Bildner to then Chief Justice Reynato S. Puno. This letter claimed that accounting entries in Philcomsat Holdings Corporation's books revealed disbursements for representation in favor of the Supreme Court. It intimated that "erring judges and justices, as well as the lawyers involved, [must] be administratively dealt with accordingly."^[2]

In the Resolution dated July 22, 2008,^[3] this court noted that Erlinda Ilusorio-Bildner (Bildner) "failed to make a case"^[4] out of her allegations that certain "'individuals' were able to obtain favorable decisions, [temporary restraining orders] and injunctions"^[5] and that there was no longer any need "to conduct further investigation, as to the identities of the Members of the Court who may be involved."^[6] The same Resolution, however, bewailed how two persons who were invited by the Investigating Committee to shed light on Bildner's allegations did not conduct themselves with candor. Thus, for their "obstinate refusal to disclose the truth,"^[7] this court required Atty. Luis K. Lokin, Jr. (Lokin) and Desideria Casas (Casas) to show cause why they should not be cited for indirect contempt.

On October 10, 2007, Bildner wrote a letter^[8] to then Chief Justice Reynato Puno alleging irregularities in the management and operation of Philcomsat Holdings Corporation (PHC). In her letter, Bildner referred to a Senate investigation where the Senate was supposed to have found, through the working papers and accounting entries of PHC auditors, that individuals who "fraudulently asserted control of the Philcomsat companies"^[9] have held on to their positions by using PHC funds to obtain favorable judicial decisions. Specifically, Bildner averred that PHC accounting entries showed that this court was listed next to a representation item in the amount of P206,000.00.^[10]

On January 29, 2008, Senator Juan Ponce Enrile (Senator Enrile) delivered a privilege speech.^[11] He alleged that from 2004 to 2007, PHC was plundered to the extent of P481.2 million. Of this amount, P11.3 million allegedly went to "direct payments or cash gifts or in kind"^[12] to several government agencies such as this court. Senator Enrile further alleged that Lokin, legal counsel of PHC, received P2 million "supposedly for public relations for the Supreme Court injunction."^[13]

In the column entitled "Buying the Supreme Court" published on Malaya on January 30, 2008,^[14] Amado Macasaet claimed that machine copies of documents given to him indicated an accounting entry dated August 16, 2006 whereby the issuance of BPI Check No. 309381 for P2 million was recorded as "Luis K. Lokin, Jr., PR for Supreme Court injunction."^[15] Substantially, the same allegations were made on the February 4, 2008 Business Circuit page of Malaya and in the February 1, 2008 column by Emil P. Jurado entitled "Plunder and Corruption,"

which was published on the Manila Standard Today.[16]

Acting on Bildner's letter, this court created a three-member committee to investigate the matter.[17]

On February 11, 2008, then Associate Justice Ma. Alicia Austria-Martinez submitted to the court En Banc a Memorandum[18] on behalf of the Investigating Committee. She noted that two amounts were involved: first, P206,000.00, which, as found by the Senate was under the accounting entry "'FILASIA Cities Trading Corp. Representation to Supreme Court' (DV-2970, 11/29/25);"[19] and second, the P2 million, which Senator Enrile raised in his privilege speech. She also noted that at the time the amounts were allegedly disbursed, several cases involving Philippine Overseas Telecommunications Corporation (POTC), Philippine Communications Satellite Corporation (Philcomsat) and PHC were pending before this court. She recommended that Bildner, Lokin, Ronaldo Salonga (former Presidential Commission on Good Government nominee to PHC), Johnny Tan (PHC Accountant), and Virgilio Santos (PHC External Auditor) be called to shed light on the matter.[20]

Inquiries were conducted on February 21 and 28, 2008.[21]

In the Investigating Committee's Report whose observations and evaluation were reproduced in this court's July 22, 2008 Resolution,[22] it was stated that Bildner failed to make a case out of the liability of any member of this court. The Investigating Committee noted that, in this respect, there was no cause for further investigation. It conceded that the accounting entries alleging disbursements to this court were "[apparently contemptible, although indirect]."[23] Per the Investigating Committee, two notations were established: first, a handwritten notation in PHC's checkbook ledger for P206,000.00 (made by Casas, PHC Accounting Clerk) indicating as particulars "FILASIA CITIES TRADING CORP. - representation to Supreme Court;"[24] and second, a handwritten entry on PHC's checkbook ledger (also made by Casas) for Check No. 309381, indicating as particulars "Nepomuceno (Luis K. Lokin, Jr.) - PR for Supreme Court Injunction." [25]

Casas admitted making all the entries in the checkbook ledger but specifically denied making the two notations noted by the Investigating Committee. It thus compared the handwriting used in making these notations with the other handwritten entries, admittedly made by Casas. It came to the conclusion that "the handwriting is undoubtedly that of Casas." [26] Per the Investigating Committee's Report, Casas indicated that she had no idea when pressed as to who instructed her to make the notation. Finding this to be contumacious, the Investigating Committee recommended that Casas be required to show cause why she should not be cited for indirect contempt.[27]

For its part, Check No. 309381 was a check drawn on the Bank of the Philippine Islands from the account "PHILCOMSAT HOLDINGS CORPORATION" with account number 3763-0105-29. It was dated August 16, 2006 and was in the amount of P2 million. It was signed by two of PHC's authorized signatories: Lokin and Manuel D. Andal, a PHC Director nominated by the Presidential Commission on Good Government. As to its payee, "LUIS K. LOKIN, JR." was originally typed as payee. However, this was crossed out and "VERONICA NEPOMUCENO" was typed in its stead. The crossing out of the original payee was countersigned by Lokin himself. The dorsal side of this check indicated that it was deposited in a branch of Security Bank and Trust Company. There was, however, no endorsement but only the handwritten notation of account number "0442-234141-04." [28]

As to how Check No. 309381 was prepared and the alteration of the payee made, the Investigating Committee's Report stated:

Casas also admitted filling out Check No. 309381 in the name of Luis K. Lokin, Jr. (Lokin), but denied changing the name of Lokin to one Veronica Nepomuceno. Casas pointed out that the fonts used in typing the name of Veronica Nepomuceno is different from that used in the typewriter she used for writing the name of

Lokin.

Lokin denies knowing Nepomuceno. However, Johnny Tan, PHC's accountant, stated that it was the office of Lokin who changed the name of the payee. Brodett, meanwhile, denied Lokin's claim that he was present when Lokin signed the checks. Lokin also claims that he countersigned the correction and signed as drawer at the same time. A perusal of the original check, however, belies his claim. Lokin's signature as drawer was done with a black pen while his countersignature on the correction was signed with a blue pen, indicating that his acts of signing were done on different occasions. This supports Tan's statement that the alteration was done in Lokin's office.[29]

The Investigating Committee proceeded to state:

With regard to the P2,000,000.00 check, there is a strong probability that Lokin is its recipient. Despite his claim that he neither received the check nor knew any Veronica Nepomuceno, the testimony of Casas, Tan and Brodett all support the conclusion that Lokin received, or at the very least, knew who received the proceeds of the check. However, although the check allegedly ended up in the hands of a certain Beng Ling Sy who deposited it in Security Bank, the questions why and how the check came into the hands of Beng Ling Sy are matters that go beyond the task for which the Committee was created.[30]

Finding that Lokin was "lying through his teeth"[31] in denying knowledge as to the recipient of Check No. 309381 and that such blatant lying was "contumacious attitude,"[32] the Investigating Committee recommended that Lokin be required to show cause why he should not be cited for indirect contempt.[33]

This court's July 22, 2008 Resolution favorably noted the Investigating Committee's Report and ordered Lokin and Casas to show cause why they should not be cited for indirect contempt.[34]

In his Compliance and Explanation,[35] Lokin alleged that he was not responsible for writing the subject notations, that he had no participation in the preparation or approval of vouchers and checks of PHC, and that the checks of PHC were prepared under the supervision and instruction of Tan and Philip Brodett (Brodett). He claimed that the check was supported by vouchers and that he merely signed it in the regular performance of his functions. He also claimed that he was not personally acquainted with Veronica Nepomuceno, the payee of Check No. 309381. He argued that because the Investigating Committee specifically stated in its Report that it was beyond the scope of the investigation to determine who the real recipient of the P2 million check was, there was no basis for the charge of indirect contempt against him. He also asserted that, in the interest of due process, the statements he made as a resource person during the investigation should not be used against him.

On December 9, 2008, Casas filed a "Submission/Motion." [36] She claimed that the court had yet to furnish her with copies of transcript of stenographic notes (TSNs) of the February 21 and 28, 2008 inquiries conducted by the Investigating Committee. Nevertheless, as the deadline for the submission of her explanation was fast approaching, she prayed that the Affidavit [37] attached to her Submission/Motion be admitted without prejudice to the grant of fifteen (15) days from her receipt of copies of the TSN within which to submit her final pleading.

In her Affidavit, Casas claimed that the statements that made it appear she was "blatantly lying were borne out of sheer confusion, nervousness and plain inexperience in judicial proceedings." [38] She emphasized that her superiors were Tan and Brodett. [39] She added that, unfortunately, she could not remember the details of the subject notations and the inquiries she made with Tan and Brodett as regards such notations. As to the entry for the amount of P206,000.00, she claimed that disbursements were actually made to Filasia Trading Corp. (Filasia), one of PHC's suppliers. In support of this, she attached an invoice issued by Filasia. As to why a notation pertaining to this court was made, she stated that it was an unwitting error on her part and that she did not intend to claim that disbursements were made in favor of this court. [40] As to the entry for the amount of P2 million, she

claimed that she did not personally know the payees of PHC's checks since she merely prepared vouchers upon the instruction of Tan and Brodett. She added that the notation "PR for Supreme Court" was merely an error on her part.[41]

On November 20, 2009, Concepcion A. Poblador (Poblador), Chairperson of PHC and director and officer of Philcomsat and POTC, wrote to this court stating that it should be Brodett and Tan who should be investigated. She claimed that Brodett and Tan had covered up dubious transactions that were made during their time in PHC. As regards Brodett, she claimed that it was he who dealt with Veronica Nepomuceno and that he had full control over PHC's operations, resources, and funds. She added that all expenses, vouchers, and checks of PHC were prepared, verified, and approved by Brodett and Tan, and that Lokin had no hand in the preparation of checks and vouchers.[42]

Thereafter, this court asked Brodett and Tan to respond to Poblador's allegations and to show cause why they should not be held to account for the questionable notations.[43]

On February 12, 2014, Brodett and Tan filed their Compliance and Explanation.[44] They denied defrauding PHC or otherwise participating in any illegal act involving any member of the judiciary. They also quoted the Investigating Committee's Report, as reproduced in this court's July 22, 2008 Resolution to emphasize that all that remained as an issue for resolution was Casas' and Lokin's supposedly contumacious conduct in the Investigating Committee's February 21 and 28, 2008 inquiries.

Consistent with this court's July 22, 2008 Resolution in this administrative matter, all that remains for this court to rule on is whether Casas and/or Lokin may be held liable for indirect contempt for supposedly not having conducted themselves with candor in proceedings initiated by this court.

We find it proper to extend clemency to Casas but not to Lokin.

As regards the accounting entries made in PHC's checkbook ledgers, the Investigating Committee's Report, which was integrated into this court's July 22, 2008 Resolution, already stated:

Apparently contemptible, although indirect, are the subject notations "representation to Supreme Court" for the P206,000.00 and "PR for Supreme Court injunction" for P2,000,000.00, found in PHC's accounting records/documents, which are, concededly, internal records of the company.

Section 3 (d), Rule 71 of the Rules of Court provides:

SEC. 3. Indirect contempt to be punished after charge and hearing. — After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

.....

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

.....

Indirect contempt is one committed out of or not in the presence of the court that tends to belittle, degrade, obstruct or embarrass the court and justice.

The question then that arises in the present matter is whether the subject notations tend to put the authority of the Court into disrepute, belittle, degrade, or embarrass the Court in its administration of justice such that its authors should be held liable in indirect contempt to protect the Court's judicial integrity and independence.

An objective assessment of the circumstances by which the subject notations were disclosed to the public indicates that there is nothing in the publication thereof which signifies that the ultimate purpose was to publicly impede, obstruct, degrade or embarrass the administration of justice.

The existence of these items were [sic] publicized only when Senator Juan Ponce-Enrile mentioned the same in the course of a Senate Investigation; and by journalist Amado "Jake" P. Macasaet, who, like Senator Enrile, a stockholder of the companies involved in the Senate Investigation, and therefore, interested parties, expressing their genuine concern about the matter. It may be said that such publication was made in good faith and part of matters involving public interest.

With respect to the P206,000.00 disbursement, the check does not show that it was drawn in favor of any officer or personnel of the Court.

As earlier observed, insofar as the subject notation re P206,000.00 is concerned, Bildner's claim is specious. Considering that the Supreme Court decision rendered in the cases mentioned by Bildner benefited her, the suspicion that certain Members of the Court are beneficiaries of the amount of P206,000.00 does not attain any degree of credibility. Besides, the Court's decision was rendered even before the P206,000.00 check was drawn. How could then the amount be for "representation to Supreme Court"?

Moreover, this notation is susceptible of equivocal import. It is possible that, as explained by Brodett and Salonga, the company, indeed issued a check for P206,000.00 to cover the purchase of Christmas giveaways from FILASIA, specially since there is no concrete connection established between FILASIA and any pending case with the Court.

With regard to the P2,000,000.00 check, there is a strong probability that Lokin is its recipient. Despite his claim that he neither received the check nor knew any Veronica Nepomuceno, the testimony of Casas, Tan and Brodett all support the conclusion that Lokin received, or at the very least, knew who received the proceeds of the check. However, although the check allegedly ended up in the hands of a certain Beng Ling Sy who deposited it in Security Bank, the questions why and how the check came into the hands of Beng Ling Sy are matters that go beyond the task for which the Committee was created.

Nevertheless, insofar as the Court is concerned, would this be sufficient to charge Lokin with indirect contempt? Again, while there are pending cases at the time that such amount was disbursed, no distinct link was established between Lokin and any Member in the judiciary.

It bears stressing that the court must exercise the power of contempt judiciously and sparingly with utmost self-restraint, with the end in view of utilizing the same for correction and preservation of the dignity of the Court, not for retaliation or vindication.

What militated against these notations found in the checkbook ledgers and auditing papers of PHC which were merely internal to the company, not really meant for publication, is that it was aired into the public. But then again, the motivation for the publication cannot be questioned considering that it was done by Senator Enrile during the Senate Investigation and by Macasaet, as a stockholder of the PHC. The fact alone that it was publicized is not in itself contemptuous. To be so, the danger must cause a serious imminent threat to the administration of justice.[45] (Emphasis supplied, citations omitted)

Accordingly, liability for contempt with respect to the accounting entries themselves is no longer in issue. All that remains for this court to resolve are the incidents arising from the following statements integrated into the same Resolution:

If at all, the fact that both Casas and Lokin are blatantly lying and obviously hiding the truth from the Committee as regards the persons responsible for the subject notations, which are untrue, they may be cited for indirect contempt of court. It is highly reprehensible that Casas, who wrote the entries in the checkbook ledger, does not have any idea as to whether she wrote the notations or not, and who instructed her to write the subject

notations. For his part, Lokin is obviously lying through his teeth when he denied having any knowledge as regards the recipient of the P2,000,000.00 check and when he testified that Andal signed the check when Andal was in fact already based in Bicol. Their obstinate refusal to disclose the truth is a contumacious attitude, a flouting or arrogant belligerence in defiance of the Court's authority and dignity.[46] (Citations omitted)

Withholding the truth in the course of judicial proceedings evidently tends "to impede, obstruct, or degrade the administration of justice." [47] Willfully doing so is an affront to a court's authority and dignity; it is contumacious.

It is true that this court ultimately decided to not proceed with determining liability for the accounting entries themselves. Nevertheless, any act of willfully withholding the truth on the part of persons called upon by this court precisely to shed light on the circumstances relating to these entries served to impede or otherwise make unnecessarily difficult for this court (and the Investigating Committee it created) to accomplish its business of unearthing relevant facts and, ultimately, its task of arriving at a judicious disposition of the controversy with which it was confronted.

We find as grossly unsatisfactory Lokin's asseverations.

It was established that Check No. 309381 had "LUIS K. LOKIN, JR." as its original payee. It was also established that this was crossed out and "VERONICA NEPOMUCENO" was typed in its stead. So, too, it was established that the crossing out of the original payee was countersigned by Lokin himself. Unless Lokin admits to being a mindless automaton, common sense dictates that he must have had at least a vague idea as to why and how he ended up signing to the crossing out of his own name as payee and the replacement by the name of another.

Lokin's defensive averment of how checks are prepared for PHC is but a reference to intricacies internal to PHC as a corporation. These processes are immaterial to the fact that Lokin himself signed to the crossing out of his own name and to his name being replaced by another. Reference to these processes thus only serves to muddle the issue. Ultimately, all that Lokin does is insist on his denial. He continuously fails to shed light on the circumstances relating to Check No. 309381 despite how common sense dictates that he must know something about it. As such, he continues to willfully withhold truthful information from this court. Moreover, by merely insisting on his denial and averring matters of dubious relevance, he continues to fail in providing ample justification for why he should not be sanctioned for this willful withholding of information.

Lokin's offense is rendered even more grievous by his being a lawyer, an officer of the court charged with the highest standards of truthfulness and candor. Apart from being held liable for indirect contempt, it is thus equally proper to proceed against Lokin for disciplinary liability.

In this regard, we note that this is not the first instance that Lokin has been held to account for unethical conduct as a member of the bar. In the Decision dated December 14, 2005,[48] this court suspended him from the practice of law for three (3) months for violating Rule 15.03 of the Code of Professional Responsibility[49] and representing conflicting interests. In the same Decision, he was sternly warned that a repetition of the same or similar offense shall be dealt with more severely. It appears that Lokin has not mended his ways.

For her part, Casas' circumstances and explanations place in our minds doubt as to whether she was sufficiently situated as to fully know about how and why accounting entries were made, as well as to fully answer any queries addressed to her regarding these entries.

Casas is but a part of PHC's accounting staff. She answers to several superiors. She is not sufficiently situated in PHC's hierarchy to make decisions herself. Moreover, making entries in several records is merely a part of her regular functions as an accounting clerk. On account of the volume of accounting records she must deal with on a

daily basis, it is quite plausible for her to not remember the details attending every single entry.

In any case, it works to her favor that she (subsequently) made an effort to better shed light on the entries subject of this administrative matter. In the Affidavit she filed by way of compliance to the Show Cause Order, she explained that the amount of P206,000.00 was actually payment made to Filasia, one of PHC's suppliers. Not stopping with merely making an averment, she attached to her Affidavit a copy of an invoice issued by Filasia.

This is no longer the occasion to pronounce on the veracity of the circumstances alleged to have been made as regards the controversial entries. Nevertheless, we appreciate Casas' deferential attitude that serves to mollify any prior appearance that she was willfully withholding the truth in a manner that is totally offensive to this court and its efforts. We, therefore, absolve her of liability for indirect contempt.

WHEREFORE, for willfully withholding information from this court, Atty. Luis K. Lokin, Jr. is found GUILTY of indirect contempt. He is ordered to pay a fine of P20,000.00.

This matter is referred to the Integrated Bar of the Philippines for its investigation on Atty. Luis K. Lokin Jr.'s administrative liability as a member of the bar.

SO ORDERED.

Sereno, C.J., Brion, Bersamin, Del Castillo, Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, and Jardeleza, JJ., concur.

Carpio, J., no part, prior inhibition.

Velasco, Jr., J., no part due to relation to a party.

Leonardo-De Castro, J., no part due to previous participation in the Court's Investigating Committee.

Peralta, J., no part due to previous participation in a related case in Sandigan Bayan.

Villarama, Jr., J., on official leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on April 14, 2015 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled administrative matter, the original of which was received by this Office on October 5, 2015 at 2:30 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo, pp. 2-5.

[2] Id. at 5.

[3] Id. at 390-395.

- [4] Id. at 392.
- [5] Id.
- [6] Id.
- [7] Id. at 394.
- [8] Id. at 2-5.
- [9] Id. at 2.
- [10] Id.
- [11] Id. at 31-36.
- [12] Id. at 32.
- [13] Id. at 34.
- [14] Id. at 27.
- [15] Id.
- [16] Id. at 211-212.
- [17] Id. at 233.
- [18] Id. at 523-529.
- [19] Id. at 208.
- [20] Id. at 529.
- [21] Id. at 39-40, 379-382.
- [22] Id. at 390-395.
- [23] Id. at 393.
- [24] Id. at 390.
- [25] Id. at 391.
- [26] Id.
- [27] Id. at 395.
- [28] Id. at 362-365, 392.
- [29] Id. at 391-392.
- [30] Id. at 394.
- [31] Id.
- [32] Id.
- [33] Id.
- [34] Id. at 395.

[35] Id. at 458-478.

[36] Id. at 509-511.

[37] Id. at 513-517.

[38] Id. at 513.

[39] Id. at 513-514.

[40] Id. at 514.

[41] Id. at 514-516.

[42] Id. at 779-783.

[43] Id. at 853.

[44] Id. at 921-927.

[45] Id. at 393-394.

[46] Id. at 394-395.

[47] RULES OF COURT, Rule 71, sec. 3(d).

[48] *Ilusorio-Bildner v. Lokin*, 514 Phil. 15 (2005) [Per J. Carpio Morales, Third Division].

[49] Rule 15.03 - A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

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