

REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
MANILA

CHRISTIAN S. MONSOD, IBARRA  
M. GUTIERREZ III, MARIA CIELO  
D. MAGNO, IMELDA M.  
NICOLAS, KATRINA C. MONSOD,  
RAY PAOLO J. SANTIAGO,  
HONORIO A. POBLADOR III,  
AUGUSTO C. LAGMAN, VICENTE  
R. ROMANO III, REX C. DRILON  
II, and MIGUEL V. JUGO,

*Petitioners,*

*--versus --*

G.R. No. 269964  
For: Petition for *Certiorari*

THE OFFICE OF THE VICE  
PRESIDENT, as represented by The  
Honorable Vice President Sara Z.  
Duterte, THE OFFICE OF THE  
EXECUTIVE SECRETARY, as  
represented by The Honorable  
Executive Secretary Lucas P.  
Bersamin, and THE DEPARTMENT  
OF BUDGET AND  
MANAGEMENT, as represented by  
The Honorable Secretary Amenah F.  
Pangandaman,

*Respondents.*

x-----x

**PETITION FOR CERTIORARI**

**PREFATORY STATEMENT**

Every public officer holds public office as a trust for the people they represent. Public trust connotes accountability.

Nothing less than the 1987 Philippine Constitution mandates each and every public officer, more so the Vice President of the

2003 NOV -7 AM 10:10  
RECEIVED  
SECRETARY  
GENERAL  
OFFICE  
OF THE  
SUPREME COURT  
MANILA

Republic of the Philippines, to act with transparency and accountability with the use of taxpayers' money.

Can a budget item be created by the Executive Branch which had been deliberately excluded by the Legislative Branch of government?

Equally important is the preservation of checks and balances – that the power of the purse is with the Legislative Branch and that no appropriation can be provided unless allowed so by the legislature.

The question of appropriation is important because these funds are the people's money – and therefore, it is proper that the appropriation and use of the people's money be properly accounted for.

Petitioners, as concerned citizens and taxpayers motivated by their desire for our highest government officials to comply with the mandate of the Constitution, brings this case before this Honorable Court as the arbiter of government which can has the power to correct any excesses that the other branches may have done.

As concerned citizens and taxpayers, the Petitioners are – and rightly so – imploring that the money of the Filipino people be spent correctly and accounted properly. It is of utmost importance that the hard-earned contributions of each and every taxpayer are allocated, appropriated, spent and accounted for based on the strict accountability scrutiny afforded by our Constitution.

### NATURE OF THE PETITION

1. This is a Petition for Certiorari under Rule 65 of the Rules of Court invoking the judicial power of this Honorable Court “to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.”<sup>1</sup>

2. The Petition prays that this Honorable Court:

- a. Declares that the transfer of the amount of Php 125 million from the Office of the President's Contingency Fund to the Office of the Vice President's Confidential Funds is unconstitutional; and

---

<sup>1</sup> Phil. Const., Art. VIII, § 1.

- b. Orders the Office of the Vice President to return the money to the government's treasury.

### TIMELINESS OF THE PETITION

3. On 3 July 2023, the Commission on Audit (COA) released its 2022 Detailed Statement of Financial Performance showing that the respondent Office of the Vice President fully utilized Php 125 million under the line item of "Confidential Funds." The respondent Office of the Vice President utilized the Php 125 million Confidential Funds despite having neither an item nor an allotment for Confidential Funds under the 2022 General Appropriations Act.

4. This Petition is timely filed to question the constitutionality of the said transfer. This Petition requires urgent resolution as the issue involved pertains to the utilization of a large lump-sum amount of public funds.

5. The principle of exhaustion of administrative remedies does not apply in the instant case since the issue involved is a purely legal or constitutional question. As will be explained below, this case falls within the exception to the application of the principle of hierarchy of courts.

6. The instant case raises constitutional issues of transcendental importance to the public. The Petitioners respectfully submit that this Honorable Court resolves to exercise primary jurisdiction over the instant case.

7. Considering that the exhibits mentioned in this petition are comprised of "official acts" of the government agencies concerned, the same need not be proved before this Honorable Court. Thus, Petitioners hereby invoke the "doctrine of mandatory judicial notice," as explicitly provided for under Rule 129, Section 1 of the *Rules of Evidence* which applies to this Honorable Court pursuant to Rule 41, Section 1 of the Rules of Court, to wit:

#### RULE 129

#### What Need Not Be Proved

Section 1. *Judicial notice, when mandatory.* – A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government

and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions. (*Emphases and underscoring supplied.*)

8. The corresponding docket and other lawful fees and deposit for costs are paid simultaneously with the filing of this Petition.

### THE PARTIES

9. **PETITIONER CHRISTIAN S. MONSOD** is a Filipino citizen, of legal age, and with official address at c/o Ateneo Human Rights Center, G/F Ateneo Professional Schools Building, 20 Rockwell Drive, Rockwell Center, Makati City.

10. **PETITIONER IBARRA M. GUTIERREZ III** is a Filipino citizen, of legal age, and with address at 9/F FilGarcia Tower, Kalayaan Avenue, Diliman, Quezon City.

11. **PETITIONER MARIA CIELO D. MAGNO** is a Filipino citizen, of legal age, and with official address at Room 225, Encarnacion Hall, School of Economics, University of the Philippines, Diliman, Quezon City.

12. **PETITIONER IMELDA M. NICOLAS** is a Filipino citizen, of legal age, and with address at 14-K Amorsolo West, Rockwell Center, Makati City.

13. **PETITIONER KATRINA C. MONSOD** is a Filipino citizen, of legal age, and with address at c/o Ateneo Human Rights Center, G/F Ateneo Professional Schools Building, 20 Rockwell Drive, Rockwell Center, Makati City.

14. **PETITIONER RAY PAOLO J. SANTIAGO** is a Filipino citizen, of legal age, and with official address at c/o Ateneo Human Rights Center, G/F Ateneo Professional Schools Building, 20 Rockwell Drive, Rockwell Center, Makati City.

15. **PETITIONER HONORIO A. POBLADOR III** is a Filipino citizen, of legal age, and with address at U-34H 8 Wack Wack Road, Mandaluyong City.

16. **PETITIONER AUGUSTO C. LAGMAN** is a Filipino citizen, of legal age, and with address at 6053 Palma St., Brgy. Poblacion, Makati City.

17. **PETITIONER VICENTE R. ROMANO III** is a Filipino citizen, of legal age, and with address at 312 Stafford St., Moonwalk Village, Paranaque City.

18. **PETITIONER REX C. DRILON II** is a Filipino citizen, of legal age, and with address at 134 Valero St., Salcedo Village, Makati City.

19. **PETITIONER MIGUEL V. JUGO** is a Filipino citizen, of legal age, and with address at 3538 Bataan St., Sta. Mesa, Manila.

20. All Petitioners are suing in their capacity as concerned citizens and taxpayers.

21. For purposes of the instant Petition, all of the above-named Petitioners may be served with pleadings, orders, resolutions, and other papers of this Honorable Court through the designated common address of the undersigned counsels, as indicated below.

22. Public respondent **OFFICE OF THE VICE PRESIDENT (OVP)**, as represented by the Honorable Vice President Sara Z. Duterte, is with office address at the 11th Floor, Robinsons Cybergate Plaza, EDSA cor. Pioneer St., Mandaluyong City, Metro Manila, where it may hereafter be served with pleadings, summons, orders, resolutions, and other papers of this Honorable Court.

23. Public respondent **OFFICE OF THE EXECUTIVE SECRETARY**, as represented by the Honorable Executive Secretary Lucas P. Bersamin, is with office address at the Office of the President, Malacañang Palace Compound, J.P. Laurel St., San Miguel, Manila, where it may hereafter be served with pleadings, summons, orders, resolutions, and other papers of this Honorable Court.

24. Public respondent **DEPARTMENT OF BUDGET AND MANAGEMENT (DBM)**, as represented by the Honorable Secretary Amenah F. Pangandaman, is with office address at Boncodin Hall, General Solano St., San Miguel, Manila, where it may hereafter be

served with pleadings, summons, orders, resolutions, and other papers of this Honorable Court.

### STATEMENT OF MATERIAL FACTS

25. On 30 December 2021, the General Appropriations Act (GAA) or Republic Act No. 11639 was passed for the 2022 fiscal year (FY).<sup>2</sup>

26. The 2022 Philippine general elections were held on 9 May 2022. Ferdinand "Bongbong" R. Marcos Jr. and Sara Z. Duterte won the presidency and vice presidency, respectively, and both assumed office on 30 June 2022.

27. On 22 August 2022, public respondent Office of the Vice President, through the Honorable Vice President Sara Z. Duterte, requested Php 403.46 million for various purposes from public respondent Budget Secretary Amenah Pangandaman. From this amount, a total of Php 250 million was requested as Confidential Funds.<sup>3</sup>

28. It is worth noting that on 14 September 2022, during the House Committee on Appropriations hearing on the 2023 budget, Gabriela Representative Arlene Brosas asked public respondent Vice President Duterte why the latter proposed Confidential Funds for the Office of the Vice President and the Department of Education (DepEd), when these were **not** included in the 2021 and 2022 national budgets.<sup>4</sup>

29. On 13 December 2022, public respondent DBM released Php 221.42 million to the Office of the Vice President through Special Allotment Release Order (SARO) BMB-C-22-0012004 to "cover Financial Assistance/Subsidy and Confidential Fund per Office of the President approval dated November 28, 2022."<sup>5</sup> This amount includes

---

<sup>2</sup>An Act Appropriating Funds for the Operation of the Government of the Republic of the Philippines from January One to December Thirty-One, Two Thousand and Twenty-Two [2022 General Appropriations Act], Republic Act No. 11639 (2021).

<sup>3</sup>Letter from Office of the Vice President to the Department of Budget and Management, 22 August 2022.

<sup>4</sup>Beatrice Pinlac, *Sara Duterte defends DepEd's confidential funds: Basic education has 'direct link' to nat'l security*, 14 September 2022, <https://newsinfo.inquirer.net/1664154/sara-duterte-defends-deped-confidential-funds-basic-education-has-direct-link-to-natl-security>.

<sup>5</sup> Updated Special Allotment Release Order (SARO) 2022, [https://www.dbm.gov.ph/wp-content/uploads/SARO/2022/UPDATED\\_SARO\\_2022.pdf](https://www.dbm.gov.ph/wp-content/uploads/SARO/2022/UPDATED_SARO_2022.pdf).

the Php 125 million allocated for an inexistent Confidential Fund, and more than Php 96.24 million for Financial Assistance/Subsidy.

30. On 3 July 2023, the Commission on Audit (COA) released the 2022 Audit Report of the Office of the Vice President confirming that the Office of the Vice President fully utilized the Php 125 million Confidential Fund that was only transferred in December 2022.<sup>6</sup> In the same report, the COA flagged the equipment the office procured for its new satellite offices that were obtained without following procedures mandated by Republic Act No. 9184 or the Government Procurement Reform Act.<sup>7</sup>

31. In the Detailed Statement of Financial Performance of the Office of the Vice President for the year ended December 31, 2022, attached as Annex B of the 2022 COA Audit Report on the Office of the Vice President, the Office of the Vice President indicated the Php 125 million expense under the line-item of "Confidential Expenses."<sup>8</sup>

Annex B-2

OFFICE OF THE VICE PRESIDENT  
 DETAILED STATEMENT OF FINANCIAL PERFORMANCE  
 FOR THE YEAR ENDED DECEMBER 31, 2022  
 (In Philippine Peso)

	Regular		Trust Receipt		All Funds	
	2022	2021 (As Restated)	2022	2021	2022	2021 (As Restated)
Semi-Expendable Furniture, Fixtures and Books Expenses	1,538,160.11	1,407,540.48	-	-	1,538,160.11	1,407,540.48
Other Supplies and Materials Expenses	6,046,585.30	7,102,568.29	-	-	6,046,585.30	7,102,568.29
<b>Total Supplies and Materials Expenses</b>	<b>53,483,463.47</b>	<b>92,039,596.67</b>	-	-	<b>53,483,463.47</b>	<b>92,039,596.67</b>
<b>Utility Expenses</b>						
Water Expenses	919,611.67	1,050,483.71	-	-	919,611.67	1,050,483.71
Electricity Expenses	6,504,687.04	5,076,014.33	-	-	6,504,687.04	5,076,014.33
<b>Total Utility Expenses</b>	<b>7,424,298.71</b>	<b>6,126,498.04</b>	-	-	<b>7,424,298.71</b>	<b>6,126,498.04</b>
<b>Communication Expenses</b>						
Postage and Courier Services	359,872.16	752,377.00	-	-	359,872.16	752,377.00
Telephone Expenses	3,004,191.45	5,155,271.18	-	-	3,004,191.45	5,155,271.18
Internet Subscription Expenses	2,327,069.04	1,906,288.72	-	-	2,327,069.04	1,906,288.72
Cable, Satellite, Telegraph and Radio Expenses	8,761.12	16,040.84	-	-	8,761.12	16,040.84
<b>Total Communication Expenses</b>	<b>5,699,893.77</b>	<b>7,829,977.74</b>	-	-	<b>5,699,893.77</b>	<b>7,829,977.74</b>
<b>Awards/Rewards and Prizes</b>						
Awards/Rewards Expenses	385,000.00	-	-	-	385,000.00	-
<b>Total Awards/Rewards and Prizes</b>	<b>385,000.00</b>	-	-	-	<b>385,000.00</b>	-
<b>Survey, Research, Exploration and Development Expenses</b>						
Research, Exploration and Development Expenses	-	1,000,000.00	-	-	-	1,000,000.00
<b>Total Survey, Research, Exploration and Development Expenses</b>	-	<b>1,000,000.00</b>	-	-	-	<b>1,000,000.00</b>
<b>Confidential, Intelligence and Extraordinary Expenses</b>						
Confidential Expenses	125,000,000.00	-	-	-	125,000,000.00	-
Extraordinary and Miscellaneous Expenses	483,600.00	483,600.00	-	-	483,600.00	483,600.00

95

The Office of the Vice President had neither an item nor an allotment for a Confidential Expense in the 2022 GAA.

32. On 28 August 2023, during the deliberations for the 2024 proposed budget of the COA, House Deputy Minority leader and ACT Teachers party-list Representative France L. Castro raised the issue of

<sup>6</sup>2022 Commission on Audit Report on the Office of the Vice President.

<sup>7</sup>2022 Commission on Audit Report on the Office of the Vice President.

<sup>8</sup>Detailed Statement of Financial Performance of the Office of the Vice President for the year ended December 31, 2022.

the Confidential Funds, alleging that the Office of the Vice President spent its Php 125 million Confidential Funds for 2022 in just 19 days.<sup>9</sup>

33. On 5 September 2023, the Office of the Executive Secretary made a statement that the Confidential Fund was released in compliance with Special Provision No. 1 under the Contingent Fund in the 2022 GAA, which authorizes the Office of the President to approve releases to cover funding requirements of “new or urgent activities or projects that need to be implemented or paid.”<sup>10</sup>

34. On 11 September 2023, during the plenary deliberation for the approval of the 2024 national budget, House appropriations senior vice chairperson Stella Luz Quimbo revealed that contrary to the earlier statement that the Office of the Vice President spent the Php 125 million confidential funds in 19 days, the same was actually spent in just 11 days.<sup>11</sup>

35. On 25 September 2023, the COA confirmed that the Office of the Vice President spent Php 125 million Confidential Funds in 11 days. Rep. Quimbo spoke on behalf of COA as its budget sponsor in the House of Representatives. She stated that the COA has given its preliminary observations to the Office of the Vice President and issued its audit observation memorandum (AOM).<sup>12</sup>

### ISSUE

WHETHER OR NOT THE TRANSFER OF FUNDS FROM THE  
OFFICE OF THE PRESIDENT’S CONTINGENCY FUND TO THE  
OFFICE OF THE VICE PRESIDENT AS CONFIDENTIAL FUNDS IS  
UNCONSTITUTIONAL.

---

<sup>9</sup>Raymund Antonio, *VP Duterte explains 2022 Confidential Funds Use, 30 August 2023*, <https://mb.com.ph/2023/8/30/vp-duterte-explains-2022-confidential-funds-use-hits-makabayan-bloc-for-malicious-attacks>.

<sup>10</sup>See 2022 General Appropriations Act, Special Provision 1. See also Presidential Communications Office, OES cites legal basis in releasing Php221.424 million confidential fund for VP Duterte’s office, 5 September 2023, [https://pco.gov.ph/news\\_releases/oes-cites-legal-basis-in-releasing-php221-424-million-confidential-fund-for-vp-dutertes-office](https://pco.gov.ph/news_releases/oes-cites-legal-basis-in-releasing-php221-424-million-confidential-fund-for-vp-dutertes-office).

<sup>11</sup>Seth Cabanban, *Quimbo: OVP’s P125-M confidential funds spent in just 11 days, not 19*, 25 September 2023, <https://www.cnnphilippines.com/news/2023/9/25/quimbo-ovp-spent-125m-confi-funds-in-11-days-.html>.

<sup>12</sup>Dwight Deleon, *Duterte’s OVP spent P125-M confidential funds in 11 days – COA*, 25 September 2023, <https://www.rappler.com/nation/office-vice-president-duterte-spent-confidential-funds-11-days-coa>.



**ARGUMENTS**

**A.**

**AS TO THE PROCEDURAL MATTERS**

**I.**

**PETITIONERS HAVE THE LEGAL STANDING TO FILE THE INSTANT PETITION FOR CERTIORARI.**

**II.**

**THE CONTROVERSY IS SUFFICIENTLY RIPE FOR THE HIGH COURT'S ADJUDICATION.**

**III.**

**THE FILING OF THE INSTANT PETITION DOES NOT VIOLATE THE HIERARCHY OF COURTS GIVEN THE NATURE OF THE ISSUE INVOLVED.**

**B.**

**AS TO THE SUBSTANTIVE MATTERS**

**IV.**

**THE TRANSFER OF FUNDS FROM THE OFFICE OF THE PRESIDENT'S CONTINGENCY FUND TO THE OFFICE OF THE VICE PRESIDENT AS A CONFIDENTIAL FUND IS AN EXERCISE OF LEGISLATIVE POWER.**

**V.**

**THERE IS NO "DELEGATED LEGISLATIVE POWER" IN THIS CASE.**

**VI.**

**THE CONFIDENTIAL FUNDS DO NOT FALL UNDER THE FUNDING ALLOWED BY THE CONTINGENT FUND.**

**VII.**

**THE TRANSFER OF FUNDS FROM THE OFFICE OF THE PRESIDENT'S CONTINGENCY FUND TO THE OFFICE OF THE VICE PRESIDENT AS CONFIDENTIAL FUNDS WAS NOT SAVINGS AND THE USE OF SUCH APPROPRIATIONS IS IMPROPER.**

VIII.  
THERE IS A CIRCUMVENTION OF ACCOUNTABILITY IN  
THIS CASE.

IX.  
THE USE OF CONTINGENT FUND TO FUND A  
CONFIDENTIAL FUND IS JUST ANOTHER FORM OF  
AUGMENTATION

X.  
THE OPERATIVE FACT DOCTRINE IS INAPPLICABLE.

DISCUSSION

A.  
PROCEDURAL MATTERS

PETITIONERS HAVE THE LEGAL  
STANDING TO FILE THE INSTANT  
PETITION FOR CERTIORARI

36. Petitioners are concerned citizens and taxpayers. In the case of *David v. Arroyo*<sup>13</sup>, this Honorable Court summarized the requirements for concerned citizens and taxpayers' legal standing to sue:

- a. the cases involve constitutional issues;
- b. for taxpayers, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
- c. for voters, there must be a showing of obvious interest in the validity of the election law in question;
- d. for concerned citizens, there must be a showing that the issues raised are of transcendental importance which must be settled early; and
- e. for legislators, there must be a claim that the social action complained of infringes upon their prerogatives as legislators.

37. In a host of jurisprudence, *locus standi* means a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the act being challenged.<sup>14</sup>

---

<sup>13</sup>David v. Arroyo, G.R. No. 171396, 3 May 2006.

<sup>14</sup>Tankiko v. Cezar, G.R. No. 131277, 2 February 1999.

Otherwise stated, a proper party is one who has sustained or is in immediate danger of sustaining an injury as a result of the act complained of.<sup>15</sup> Thus, for a party to have personal standing, he or she need only prove, first, injury to his or her right or interest<sup>16</sup>, and second, a "fairly traceable" causal connection between the claimed injury and the challenged conduct.<sup>17</sup>

38. In the case at bar, it is uncontested that the issue involves the disbursement of public funds; and such disbursement is illegal, therefore, unconstitutional.

39. Further, this case involves a constitutional issue which will be discussed below: the usurpation of legislative power by the Executive Department, through the Office of the Executive Secretary.

40. Furthermore, in the instant petition, Petitioners assert their *public rights* as citizens concerned that the Constitution be upheld. Thus, their standing as citizens is founded on this unassailable constitutional entitlement. As this Honorable Court held in the landmark case of *Francisco, Jr. et al. vs. House of Representatives*:

... In fine, when the proceeding involves the assertion of a public right, the mere fact that he is a citizen satisfies the requirement of personal interest.

<sup>18</sup>

41. Clearly, petitioners have legal standing to sue.

#### THE CONTROVERSY IS SUFFICIENTLY RIPE FOR THE HIGH COURT'S ADJUDICATION

42. Section 5, Article VIII of the 1987 Philippine Constitution, authorizes this Honorable Court to declare a law, treaty, international or executive agreement, presidential decree, proclamation, order, instruction, ordinance, or regulation unconstitutional.<sup>19</sup> This Petition

<sup>15</sup>Isagani Cruz, Constitutional Law 25 (2000), *citing* Ex Parte Levitt, 303 US 633.

<sup>16</sup>Tankiko v. Cezar, G.R. No. 131277, 2 February 1999; Cruz, *Id.*, at 25; Duke Power Co. v. Carolina Environmental Study Group, 438 US 59 (1978).

<sup>17</sup>Duke Power Co. v. Carolina Environmental Study Group, 438 US 59 (1978).

<sup>18</sup>Ernesto V. Francisco Jr., et al, v. House of Representatives, GR. No. 160261, 10 November 2003.

<sup>19</sup>Phil. Const., Art. VIII, § 5(2)(a) & 5(b). See Joaquin Bernas, S.J., *The 1987 Constitution of the Republic of the Philippines: A Commentary* 337 (2011 ed.).

respectfully prays that this Honorable Court exercise such power -- the Power of Judicial Review -- to check on the excesses of the other branches of the government.

43. This is a proper case for this Honorable Court to exercise its Power of Judicial Review. This Honorable Court, in the case of *Integrated Bar of the Philippines v. Zamora*<sup>20</sup>, restated the requisites for the exercise of the powers of judicial review, namely: (a) "the existence of an actual and appropriate case; (b) a personal and substantial interest of the party raising the constitutional question; (c) the exercise of judicial review is pleaded at the earliest opportunity, and (d) the constitutional question is the *lis mota* of the case."

44. The principle of ripeness is premised on the doctrine that, for the courts to act, there must be an actual case or controversy involving a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial adjudication.<sup>21</sup> Under this principle, a suit is not ripe where it was brought too early.<sup>22</sup> The principle is underlined by the fact that, until the controversy becomes concrete and focused, the court would find it difficult to evaluate the practical merits of each party.<sup>23</sup> However, the requirement of ripeness is not bound to any hard and fast rules<sup>24</sup>, and the degree of ripeness required may vary depending on the nature of the constitutional problem involved.<sup>25</sup>

45. The controversy that compelled Petitioners to file the instant Petition before the Honorable Court is sufficiently ripe for adjudication. It has been held that where a party will sustain immediate injury and such injury would be redressed by the relief requested, then the case involved would already satisfy the requirement of ripeness.<sup>26</sup>

---

<sup>20</sup>*Integrated Bar of the Philippines v. Zamora*, G.R. Nos. 225973, 225984, 226097, 226816, 226117, 226120 and 226294, 8 November 2016, 807 SCRA 223.

<sup>21</sup> CRUZ, *supra* note 15, at 23. See also *International Longshoremen's and Warehousemen's Union, Local 37 v. Boyd*, 347 US 222 (1954), quoted in RONALD ROTUNDA, *MODERN CONSTITUTIONAL LAW: CASES AND NOTES* 1054 (3rd ed., 1989) [Hereinafter, ROTUNDA], at 1026-1027.

<sup>22</sup>JOHN E. NOWAK AND RONALD ROTUNDA, *CONSTITUTIONAL LAW* 78 (4th ed., 1991), citing *Sierra Club v. Morton*, 405 U.S. 727 (1972). [Hereinafter, NOWAK & ROTUNDA].

<sup>23</sup>*Id.*

<sup>24</sup>NOWAK AND ROTUNDA, *supra* note 22.

<sup>25</sup>*Barrett* 125, citing *United Public Workers v. Mitchell*, 330 US 75 (1947) and *Adler v. Board of Education*, 342 US 485 (1952).

<sup>26</sup>*Duke Power Co. v. Carolina Environmental Study Group*, 438 US 59 (1978), quoted in ROTUNDA, *supra* note 21, at 1053.

46. The instant case is not a hypothetical situation. It involves the transfer of funds from the Office of the President to the Office of the Vice President to an **inexistent item** in the General Appropriations Act of 2022 in the amount of Php 125 million, and the spending thereof in just a matter of 11 days.

47. "Undoubtedly, this case involves paramount public interest as it deals with the constitutionality of appropriations of public funds. Moreover, the case involves issues concerning significant constitutional principles such as separation of powers, valid delegation, and appropriation."<sup>27</sup>

**THE FILING OF THE INSTANT  
PETITION DOES NOT VIOLATE  
THE HIERARCHY OF COURTS,  
GIVEN THE NATURE OF THE  
ISSUES INVOLVED.**

48. Article VIII, Section 5, paragraph 2 (a) of the 1987 Constitution provides that this Honorable Court has jurisdiction in all cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.<sup>28</sup>

49. The doctrine of hierarchy of courts is not an iron-clad rule. In the case of *Diocese of Bacolod v. COMELEC*, this Honorable Court reiterated that it has "full discretionary power to take cognizance and assume jurisdiction [over] special civil actions for certiorari...filed directly with it for exceptionally compelling reasons or if warranted by the nature of the issues clearly and specifically raised in the petition."<sup>29</sup>

50. This Honorable Court provides for several exceptions to the rule on hierarchy of courts namely: (a) when there are issues of constitutionality that must be addressed at the most immediate time; (b) when the issues involved are of transcendental importance; (c) cases of first impression; (d) when the constitutional issues are better decided by this Honorable Court; (e) when time is of the essence; (f) when petition previews the act of a Constitutional organ; (g) when petitioners have no other plain, speedy, and adequate remedy in the

---

<sup>27</sup>*Belgica v. Executive Secretary*, G.R. No. 210503, 8 October 2019.

<sup>28</sup>Phil. Const., Art. VIII, § 5(2)(a).

<sup>29</sup>*Diocese of Bacolod v. COMELEC*, G.R. No. 205728, 21 January 2015.

ordinary course of law; and (h) when the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered clearly an inappropriate remedy."<sup>30</sup>

51. Thus, it has been held that where a case raises constitutional issues of transcendental importance to the public and involves a petition for certiorari and prohibition within the court's original jurisdiction within the Constitution, the Court may exercise primary jurisdiction over said case though it apparently failed to observe the rule of hierarchy of courts.<sup>31</sup> That a case involving constitutional issues regarding treatment of cooperatives and the need for speedy disposition of cases would, for instance, justify the Honorable Court's taking cognizance over a case invoking its primary jurisdiction.<sup>32</sup>

52. The questions raised by this Petition are of transcendental importance and must be addressed at the most immediate time so that a repetition can be avoided.

53. "Under the principle of hierarchy of courts, direct recourse to this Court is improper because the Supreme Court is a court of last resort and must remain to be so in order for it to satisfactorily perform its constitutional functions, thereby allowing it to devote its time and attention to matters within its exclusive jurisdiction and preventing the overcrowding of its docket. Nonetheless, the invocation of this Court's original jurisdiction to issue writs of *certiorari* has been allowed in certain instances on the ground of special and important reasons clearly stated in the petition, such as, (1) when dictated by the public welfare and the advancement of public policy; (2) when demanded by the broader interest of justice; (3) when the challenged orders were patent nullities; or (4) when analogous exceptional and compelling circumstances called for and justified the immediate and direct handling of the case."<sup>33</sup>

54. Clearly, the instant Petition involves constitutional issues of transcendental importance as well as compelling circumstances that would merit a latitudinarian view of the principle of hierarchy of courts.

---

<sup>30</sup>*Id.*

<sup>31</sup>*Chavez v. Public Estates Authority*, G.R. No.133250, 9 July 2002.

<sup>32</sup>*Philippine Rural Electric Cooperatives Association v. Secretary*, G.R. No.143076, 10 June 2003.

<sup>33</sup>*Ang Nars Party List v. Executive Secretary*, G.R. No. 215746, 8 October 2019.

**B.**  
**SUBSTANTIVE MATTERS**

**THE TRANSFER OF FUNDS FROM  
THE OFFICE OF THE PRESIDENT'S  
CONTINGENCY FUND TO THE  
OFFICE OF THE VICE PRESIDENT  
AS A CONFIDENTIAL FUND IS AN  
EXERCISE OF LEGISLATIVE  
POWER.**

55. Article VI, Section 1 of the 1987 Constitution provides that "legislative power shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives."<sup>34</sup>

56. Article VI, Section 24 of the 1987 Constitution further provides that "[a]ll appropriation, revenue or tariff bills, bills authorizing increase of public debt, bills of local application, and private bills shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments."<sup>35</sup> Furthermore, Section 25(5) of the same Article provides that "[n]o law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations."<sup>36</sup>

57. On the other hand, Section 1 of Book VI / Chapter 1 of Executive Order No. 292 (otherwise known as the Administrative Code of 1987) defines an "appropriation" as "an authorization made by law or other legislative enactment, directing payment out of government funds under specified conditions or for specified purposes."<sup>37</sup>

---

<sup>34</sup>Phil. Const., Art. VI, § 1.

<sup>35</sup>Phil. Const., Art. VI, § 24.

<sup>36</sup>Phil. Const., Art. VI, § 25(5).

<sup>37</sup>Instituting the "Administrative Code of 1987" [ADMIN. CODE], Executive Order No. 292, bk. VI, tit. I, ch. 1, s 1 (1987).

58. The appropriation for the Office of the Vice President under Republic Act No. 11639 (otherwise known as the General Appropriation Act of 2022) is as follows<sup>38</sup>:

**III. OFFICE OF THE VICE-PRESIDENT**

For general administration and support, and operations, as indicated hereunder ..... P 702,035,000

**New Appropriations, by Program**

PROGRAMS	Current Operating Expenditures			
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	Total
General Administration and Support	P 41,754,000	P 35,012,000	P 3,652,000	P 80,428,000
Operations	<u>97,822,000</u>	<u>523,785,000</u>		<u>621,607,000</u>
GOOD GOVERNANCE PROGRAM	<u>97,822,000</u>	<u>523,785,000</u>		<u>621,607,000</u>
<b>TOTAL NEW APPROPRIATIONS</b>	<b>P 139,576,000</b>	<b>P 558,797,000</b>	<b>P 3,652,000</b>	<b>P 702,035,000</b>

**Special Provisions(s)**

1. Reporting and Posting Requirements. The submission of the quarterly reports on its General and physical accomplishments shall be in accordance with Section 99 of the General Provisions of this Act.
2. Appropriations for Activities or Projects. The amounts appropriated herein shall be used specifically for the following activities or projects in the indicated amounts and conditions:

**New Appropriations, by Program/Activities/Projects**

PROGRAMS	Current Operating Expenditures			
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	Total
General Administration and Support				
General Management and Supervision	P 41,754,000	P 35,012,000	P 3,652,000	P 80,428,000
Sub-total, General Administration and Support	<u>41,754,000</u>	<u>35,012,000</u>	<u>3,652,000</u>	<u>80,428,000</u>
Operations				
Enhanced strategic partnership and advocacy on good governance	<u>97,822,000</u>	<u>523,785,000</u>		<u>621,607,000</u>
GOOD GOVERNANCE PROGRAM	<u>97,822,000</u>	<u>523,785,000</u>		<u>621,607,000</u>
Good Governance Engagements and Social Service Projects	<u>97,822,000</u>	<u>523,785,000</u>		<u>621,607,000</u>
Sub-total, Operations	<u>97,822,000</u>	<u>523,785,000</u>		<u>621,607,000</u>
<b>TOTAL NEW APPROPRIATIONS</b>	<b>P 139,576,000</b>	<b>P 558,797,000</b>	<b>P 3,652,000</b>	<b>P 702,035,000</b>

<sup>38</sup>2022 General Appropriations Act.



JANUARY 3, 2022

OFFICIAL GAZETTE

23  
 OFFICE OF THE VICE-PRESIDENT

New Appropriations, by Object of Expenditures

(In Thousand Pesos)

Current Operating Expenditures

Personal Services

Civilian Personnel

Permanent Positions

Basic Salary	94,778
Total Permanent Positions	94,778

Other Compensation Common to All

Personal Economic Relief Allowance	3,744
Representation Allowance	1,170
Transportation Allowance	1,170
Clothing and Uniform Allowance	936
Mid-Year Bonus - Civilian	7,898
Year End Bonus	7,898
Cash Gift	780
Productivity Enhancement Incentive	780
Step Increment	237
Total Other Compensation Common to All	24,613

Other Benefits

PAG-IBIG Contributions	188
PhilHealth Contributions	1,450
Employee Compensation Insurance Premiums	188
Total Other Benefits	1,826

Non-Permanent Positions

12,771

Military/Uniformed Personnel

Other Compensation for Specific Groups

Special Duty Allowance	5,578
Total Other Compensation for Specific Groups	5,578

Total Personnel Services

129,576

Maintenance and Other Operating Expenses

Traveling Expenses	25,331
Training and Scholarship Expenses	3,600
Supplies and Materials Expenses	45,821

24  
 GENERAL APPROPRIATIONS ACT, FY 2022

OFFICIAL GAZETTE

Vol. 118, No. 1

Utility Expenses	6,440
Communication Expenses	6,679
Awards/Rewards and Prizes	408
Confidential, Intelligence and Extraordinary Expenses	
Extraordinary and Miscellaneous Expenses	620
Professional Services	41,777
General Services	11,949
Repairs and Maintenance	4,055
Financial Assistance/Scholarship	357,612
Taxes, Insurance Premiums and Other Fees	500
Other Maintenance and Operating Expenses	
Representation Expenses	29,572
Rent/Tenure Expenses	18,000
Subscription Expenses	6,512
Total Maintenance and Other Operating Expenses	558,777
Total Current Operating Expenditures	638,373
Capital Outlays	
Property, Plant and Equipment Outlay	
Blackberry and Equipment Outlay	3,652
Total Capital Outlays	3,652
TOTAL NEW APPROPRIATIONS	702,015

GENERAL SUMMARY  
 OFFICE OF THE VICE-PRESIDENT

	Current Operating Expenditures			Total
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	
A. OFFICE OF THE VICE-PRESIDENT	P 139,576,000	P 558,297,000	P 3,662,000	P 702,435,000
TOTAL NEW APPROPRIATIONS, OFFICE OF THE VICE-PRESIDENT	P 139,576,000	P 558,297,000	P 3,662,000	P 702,435,000

59. As evident on Page 24 of the Official Gazette, there is a heading on "Confidential, Intelligence, and Extraordinary Expenses" and a particular item with an appropriation for "Extraordinary and Miscellaneous Expenses."

Utility Expenses	6,448
Communication Expenses	6,609
Awards/Rewards and Prizes	400
Confidential, Intelligence and Extraordinary Expenses	
Extraordinary and Miscellaneous Expenses	620
Professional Services	41,777
General Services	11,940
Repairs and Maintenance	4,065
Financial Assistance/Subsidy	357,602
Taxes, Insurance Premiums and Other Fees	500
Other Maintenance and Operating Expenses	
Representation Expenses	29,572
Rent/Lease Expenses	18,000
Subscription Expenses	6,512
Total Maintenance and Other Operating Expenses	558,297
Total Current Operating Expenditures	698,373
Capital Outlays	
Property, Plant and Equipment Outlay	
Machinery and Equipment Outlay	3,662
Total Capital Outlays	3,662
TOTAL NEW APPROPRIATIONS	702,035

Glaringly missing is any item, much more an appropriation, for "Confidential" or "Intelligence" Expenses.

60. As pointed out by this Honorable Court in the case of *Philippine Constitution Association v. Enriquez*, "[u]nder the Constitution, the spending power called by James Madison as 'the power of the purse,' belongs to Congress, subject only to the veto power of the President. The President may propose the budget, but still the final say on the matter of appropriations is lodged in the

Congress.”<sup>39</sup> Further, this Honorable Court continued that “[t]he power of appropriation carries with it the power to specify the project or activity to be funded under the appropriation law. It can be as detailed and as broad as Congress wants it to be.”<sup>40</sup>

61. It is as clear as day that the Congress deliberately excluded any “Confidential” or “Intelligence” Expense.

62. In clear violation of this intent by the Congress of the Philippines not to create an item on Confidential Expenses, the DBM released Php 221.42 million to the Office of the Vice President through the Special Allotment Release Order (SARO) BMB-C-22-0012004 to “cover Financial Assistance/Subsidy and Confidential Fund per Office of the President approval dated November 28, 2022,” which includes Php 125 million for an inexistent Confidential Fund. The transfer of the said amount has been confirmed by the Office of the Vice President itself in its “Notes to Financial Statements” submitted to the COA, which is publicly available in the latter’s website.

63. Under the doctrine of separation of powers, the power of appropriation falls exclusively within the domain of the legislative branch of government. Congress decides how the budget will be spent; what programs, activities, and projects (PAP) to fund; and the amounts of money to be spent for each PAP.

64. Verily, the appropriation done by the DBM is a clear usurpation of the legislative power of the Congress of the Philippines to create and fund an item that has not been done so by the Congress itself.

**THERE IS NO “DELEGATED  
LEGISLATIVE POWER” IN THIS  
CASE.**

65. Respondent Office of the Executive Secretary claimed that the Confidential Fund release is in compliance with Special Provision No. 1 under the 2022 Contingent Fund, which authorizes the Office of the President to approve releases to cover funding requirements of “new or urgent activities or projects that need to be implemented or paid.”

---

<sup>39</sup> Philippine Constitution Association v. Enriquez, G.R. Nos. 113105, 113174, 113766 & 113888, 19 August 1994.

<sup>40</sup>*Id.*

66. In cases where the Constitution allowed a valid delegation of legislative powers, there must be a showing that the delegation itself is valid. It is valid only if the law (a) is complete in itself, setting forth therein the policy to be executed, carried out, or implemented by the delegate<sup>41</sup>; and (b) fixes a standard — the limits of which are sufficiently determinate and determinable — to which the delegate must conform in the performance of his functions.<sup>42</sup>

67. The powers which Congress is prohibited from delegating are those which are strictly, or inherently and exclusively, legislative. Purely legislative power, which can never be delegated, has been described as the authority to make a complete law — complete as to the time when it shall take effect and as to whom it shall be applicable — and to determine the expediency of its enactment. Thus, the rule is that in order that a court may be justified in holding a statute unconstitutional as a delegation of legislative power, it must appear that the power involved is purely legislative in nature — that is, one appertaining exclusively to the legislative department. It is the nature of the power, and not the liability of its use or the manner of its exercise, which determines the validity of its delegation.<sup>43</sup>

68. In other words, what can be delegated is the discretion to determine *how* the law may be enforced, not what the law shall be. The ascertainment of the latter subject is a prerogative of the legislature. This prerogative cannot be abdicated or surrendered by the legislature to the delegate.<sup>44</sup>

69. Special Provision No. 1 of the GAA of FY 2022 provides that the Contingent Fund “shall cover the funding requirements of new or urgent activities or projects of national government agencies, GOCCs, and LGUs that need to be implemented or paid during the year, such as, but not limited to the following: (i) legal obligation of the government arising from final and executory decisions of competent

---

<sup>41</sup>*Pelaez vs. Auditor General*, No. L-23825, December 24, 1965, 122 Phil. 965, 974 citing *Calalang vs. Williams*, No. 47800, December 2, 1940, 70 Phil. 726; *Pangasinan Transp. Co. vs. Public Service Commission*, No. 47065, June 26, 1940, 70 Phil. 221; *Cruz vs. Youngberg*, No. 34674, October 26, 1931, 56 Phil. 234; *Alegre vs. Collector of Customs*, No. 30783, August 27, 1929, 53 Phil. 394.

<sup>42</sup>*Pelaez vs. Auditor General*, *supra*, citing *People vs. Lim Ho*, No. L-12091-2, January 28, 1960, 106 Phil. 887; *People vs. Jolliffe*, No. L-9553, May 13, 1959, 105 Phil. 677; *People vs. Vera*, No. 45685, November 16, 1937, 65 Phil. 56; *U.S. vs. Nag Tang Ho*, No. L-17122, February 27, 1922, 43 Phil. 1; *Compañia General de Tabacos vs. Board of Public Utility*, No. 11216, March 6, 1916, 34 Phil. 136.

<sup>43</sup>*Abakada Guro Party List v. Ermita*, G.R. Nos. 168056, 168207, 168461, 168463 & 168730, 1 September 2005.

<sup>44</sup> *Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration*, G.R. No. 76633, 18 October 1988.

authorities, such as compromise agreements, arbitral awards, mediation settlement agreement, and professional services in connection thereto; (ii) requirements of newly created offices; or (iii) deficiencies in the appropriations for local and external travels of the President of the Philippines.”<sup>45</sup>

70. Clearly, the Confidential Fund created by executive fiat under the respondent Office of the Vice President was **not** for:

- a. a legal obligation of the government arising from final and executory decisions of competent authorities, such as compromise agreements, arbitral awards, mediation settlement agreement, and professional services in connection thereto;
- b. the requirements of a newly created office; or
- c. a deficiency in the appropriations for local and external travels of the President of the Philippines.

71. In the 2019 case of *Belgica v. The Executive Secretary*, this Honorable Court explained the nature of the Contingent Fund, to wit<sup>46</sup>:

**The purpose of the Contingent Fund is precisely to cover the funding requirements of new or urgent projects that need to be implemented during the year.**

These multifarious projects that are necessary but were not anticipated during budget preparation and legislation and had to be funded out of Contingent Funds had historically included the following: initial operational requirements of newly-created offices, initial funding requirements to carry out provisions of newly-enacted laws, additional funding requirements of the use of automated election system in national and local elections, for plebiscites in the creation, merger or division of local government units,<sup>35</sup> as appropriation for Y2K readiness compliance, for the expenses of the National Organizing Council for the Philippine hosting of the 2015 APEC Meetings, and additional funding requirement for election related activities. (*Emphases supplied.*)

---

<sup>45</sup>See 2022 General Appropriations Act, Special Provision No. 1.

<sup>46</sup>*Belgica v. Executive Secretary*, G.R. No. 210503, 8 October 2019.

72. The Confidential Fund cannot be considered as “new or urgent activities or projects of national government agencies” as it is a fund and it is neither an activity nor a project. The case of *Belgica* pointed to “multifarious projects,” which again, a Confidential Fund is obviously not. Furthermore, the said mentioned historical projects in *Belgica* pertained to specific projects that have been identified either by legislation or obligations arising from the implementation of the law they are pertaining to. Again, the Confidential Fund in this case simply has no legal basis as it has been excluded by the Congress.

73. Verily, the appropriation by executive fiat in clear violation of the legislative intent does not fall under the delegated legislative power under Special Provision No. 1 of the Contingent Fund in the GAA for FY 2022.

**THE CONFIDENTIAL FUNDS DO NOT FALL UNDER THE FUNDING ALLOWED BY THE CONTINGENT FUND.**

74. Under the GAA of 2022, confidential funds refer to expenses that are related to surveillance activities in civilian government agencies that are intended to support the mandate or operations of the agency.

75. Joint Circular No. 2015-01 (“JMC 2015-01”), dated 08 January 2015, of the Department of Budget and Management (DBM), Department of the Interior and Local Government (DILG), Department of National Defense (DND), Governance Commission for GOCC (GCG), and the Commission on Audit (COA) governs the implementation of confidential funds under the GAA of 2022. It provides that confidential funds are lump-sum amounts provided as such in the GAA for National Government Agencies (NGAs), in appropriation ordinances for Local Government Units (LGUs), and in the Corporate Operating Budget (COBs) for Government-Owned and Controlled Corporation (GOCCs), for their Confidential Expenses; whereas, as confidential expenses refer to expenses pertaining/related to surveillance activities in civilian government agencies that are intended to support the mandate or operations of the agency.<sup>47</sup>

---

<sup>47</sup> Joint Circular of the Department of Budget and Management (DBM), Department of the Interior and Local Government (DILG), Department of National Defense (DND), Governance Commission for GOCC (GCG), and the Commission on Audit (COA) [JMC 2015-01].

76. Confidential funds are budgeted as a lump-sum amount in the GAA that is primarily utilized to surveil the activities of civilian government agencies.

77. In *Belgica v. Executive Secretary*, the Supreme Court discussed that generally "an item of appropriation must be an item characterized by singular correspondence – meaning an allocation of a specified singular amount for a specified singular purpose, otherwise known as a 'line-item.'" <sup>48</sup>

Nevertheless, a lump-sum amount may still be considered as a valid item subject to the President's item veto power for as long as the lump-sum amount is meant as a funding source for multiple programs, projects, or activities that may all be clearly classified as falling under one singular appropriation purpose. This singular purpose may be as general or specific as the legislative department deems it to be, provided that such generality or specificity does not negate the President's proper exercise of his item veto power.

Lump-sum amounts may be a special appropriation bill or a discretionary fund, which prescribes different requirements. (*Emphases and underscoring supplied.*)

78. Under the 1987 Constitution, a special appropriations bill shall specify the purpose for which it is intended and shall be supported by funds actually available as certified by the National Treasurer, or to be raised by a corresponding revenue proposal therein while, discretionary funds shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law.

79. The funds transferred by the Office of the President to respondent Office of the Vice President's inexistent Confidential Fund were sourced from the "Contingent Fund." The Contingent Fund is provided for under Special Provision No. 1. The same provision stipulates that "[the] release of funds shall be made directly to the agencies concerned."

---

<sup>48</sup>*Belgica*, *supra* note 46.

**XXXVIII. CONTINGENT FUND**

Fund subsidies for contingencies ..... P 7,000,000,000

**New Appropriations by Purpose**

	Current Operating Expenditures			Total
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	
<b>TOTAL NEW APPROPRIATIONS</b>	P 4,500,000,000	P 2,500,000,000	P 7,000,000,000	

**Special Provision(s)**

1. **Contingent Fund.** The amount of Seven Billion Pesos (P7,000,000,000) appropriated herein shall cover the funding requirements of new or urgent activities or projects of national government agencies, GOCCs, and LGUs that need to be implemented or paid during the year, such as, but not limited to the following: (i) legal obligation of the government arising from final and executory decisions of competent authorities, such as compromise agreements, arbitral awards, mediation settlement agreement, and professional services in connection thereto; (ii) requirements of newly created offices; or (iii) deficiencies in the appropriations for local and external travels of the President of the Philippines.

In no case shall this Fund be used for the purchase of motor vehicles, including any improvements thereon.

Release of funds shall be made directly to the agencies concerned, except for GOCCs and LGUs which shall be made through the BTR, subject to the approval by the President of the Philippines, other than payment resulting from final and executory decisions of competent authorities, which shall be subject to the approval of the DBM.

The DBM shall include information on the releases from the Contingent Fund in its quarterly and annual reports submitted to Congress.

80. Section 3.9 of JMC 2015-01 provides a definition of “Confidential Expenses” (CE) as “those expenses pertaining/related to surveillance activities in civilian government agencies that are intended to support the mandate or operations of the agency.” This same definition is found in no less than Section 7 of the 2022 GAA.

81. On the other hand, “Intelligence Expenses” (IE) refers to “those related to intelligence information gathering activities of uniformed and military personnel, and intelligence practitioners that have direct impact to national security.”

82. The same circular, as seen in Section 4.8, limits the use of Confidential Expense only for:

- a. Purchase of information necessary for the formulation and implementation of program, activities and projects relevant to the national security and peace and order;
- b. Rental of transport vehicle related to confidential activities;
- c. Rentals and the incidental expenses related to the maintenance of safehouses;
- d. Purchase or rental of supplies, materials and equipment for confidential operations that cannot be done through regular procedures without compromising the information gathering activity concerned;
- e. Payment of rewards to informers (non-employee of concerned government agency);



- f. Uncovering or preventing illegal activities that pose a clear and present danger to agency personnel/property, or other facilities and resources under the agency protection, done in coordination with the appropriate law enforcement agencies; and
- g. Other purposes that may be authorized by the GAA or other special laws.

83. It also specifies in Section 4.10 that Intelligence Expense may only be utilized for the following purposes:

- a. Intelligence and counter intelligence activities that have direct impact on national security; and
- b. Special projects and operations, as approved by the head agency, involving covert or semi-covert psychological, internal security operation, and peace and order activities as well as programs and campaigns against lawlessness and lawless elements involving intel activities.

84. By their very definition, the Confidential and Intelligence Expenses are generally confidential, and by their nature, "requires not only strong internal controls in the release and utilization thereof, but also strict accounting and auditing rules to prevent mishandling or improper allocation of funds."<sup>49</sup>

85. In contrast, the aforementioned letter of the Office of the Vice President, the request for Confidential Fund is "[f]or and in consideration of the safe implementation of the various projects and activities under the Good Governance program and the conduct of the official engagements and functional representation in international and domestic events as instructed by the President."<sup>50</sup> The same is declared in the Notes on Financial Statement, submitted by the Office of the Vice President.

---

<sup>49</sup>See JMC 2015-01.

<sup>50</sup>Letter from Office of the Vice President to the Department of Budget and Management, 22 August 2022.

18.12 *Confidential Expenses* pertains to the expenses for the safe implementation of various projects and activities under the Good Governance Program and the conduct of official engagements, and functional representation in international and domestic events as instructed by the President.

A) Confidential Funds

For and in consideration of the safe implementation of the various projects and activities under the Good Governance program and the conduct of official engagements, and functional representation in international and domestic events as instructed by the President, the amount of **P250 Million** is hereby requested.

The Office of the Vice President is committed to formulate programs, projects, and activities (PPAs) relevant to national security and peace and order, and is devoted to implement said PPAs with proper security and safety protocols for the benefit of the institution through the OVP satellite offices, its partner stakeholders, and the general public.

86. Further, it obscurely stated that “[t]he Office of the Vice President is committed to formulate programs, projects and activities (PPAs) relevant to national security and peace and order, and is devoted to implement said PPAs with proper security and safety protocols for the benefit of the institution through the OVP satellite offices, its partner stakeholders, and the general public.”<sup>51</sup>

87. As evident in the appropriation of respondent Office of the Vice President in the 2022 GAA found in the Official Gazette, there are particular items of expenditure for the “Good Governance Program” in Page 22, and “Travelling Expenses” in Page 23. Yet, the funds transferred from the Contingency Fund of the Office of the President were made to the inexistent Confidential Fund of respondent Office of the Vice President despite there being existing specific budget items to cover the very stated purposes.

<sup>51</sup>Letter from Office of the Vice President to the Department of Budget and Management, 22 August 2022.

New Appropriations, by Program

PROGRAMS	Current Operating Expenditures			
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	Total
General Administration and Support	P 41,754,000	P 35,012,000	P 3,662,000	P 80,428,000
Operations	97,822,000	523,785,000		621,607,000
GOOD GOVERNANCE PROGRAM	97,822,000	523,785,000		621,607,000
<b>TOTAL NEW APPROPRIATIONS</b>	<b>P 139,576,000</b>	<b>P 558,797,000</b>	<b>P 3,662,000</b>	<b>P 702,035,000</b>

Maintenance and Other Operating Expenses

Travelling Expenses	25,331
Training and Scholarship Expenses	3,600
Supplies and Materials Expenses	45,821

88. Furthermore, respondent Office of the Executive Secretary admitted that the Php 125 million Confidential Funds were utilized for “newly created satellite offices.”<sup>52</sup> This is not the use of the Confidential Funds under the Circular.

**“Transfer” not a “Release”**

89. Respondent Office of the Vice President (OVP) justifies the “release” of Confidential Fund on two (2) grounds:

- a. *First*, Marikina 2nd District Representative Stella Quimbo (Quimbo) argues that “Confidential Funds” existed as a line item in previous GAA only that there was zero allocation therein; and
- b. *Second*, Respondent Secretary Amenah Pangandaman (Pangandaman) clarified that since the money came from the “Contingent Fund” managed by the budget department, it was not considered a “transfer” but was merely a “release,” and therefore did not fall under the constitutional prohibition on transfer of funds.

90. Respondent Pangandaman argues that contingent funds are not under the Office of the President and thus no “transfer” took

<sup>52</sup>Joann Villanueva, *Release of P221.4-M confidential fund to OVP legal: OES*, 6 September 2023, <https://www.pna.gov.ph/articles/1209288>.

place. Instead, Pangandaman argues that contingent funds can be "released" as provided by Special Provision No. 1 of the Contingent Fund of the 2022 GAA, the law on last year's budget. However, based on the summary of appropriations of the Office of the Vice President for the last quarter of 2022, the contingent fund it received from DBM was an "adjustment (transfer to/from, realignment)," contrary to Pangandaman's explanation.

SUMMARY OF APPROPRIATIONS, ALL

Department : OFFICE OF THE VICE PRESIDENT OF THE PHILIPPINES  
 Agency : OFFICE OF THE VICE PRESIDENT OF THE PHILIPPINES  
 Operating Unit : N/A  
 Organization Code(UACS) : 03 000 00 0000  
 Fund Cluster : 01  
 (e.g. UACS Fund Cluster: 01-Regular Agency Fund, 02-Foreign Assisted Projects Fund, 03-Special Account- Locally Funded/ Domestic Grants Fund, and 04-Special Account-Fore

Particulars	UACS CODE	Appropriations			Allotments				
		Authorized Appropriations	Adjustments (Transfer to/from, Realignment)	Adjusted Appropriations	Allotments Retained	Adjustments (Withdrawal, Realignment/ Augmentation)	Transfer To	Transfer From	Adjusted Total Allotments
1	2	3	4	5=(3+4)	6	7	8	9	10=(6-1)-(7-8)-9
Telephone Expenses (Including Due from Officers and Employees for Personal Charges)	50205010 02	282,000.00	101,033.38	383,033.38	282,000.00	101,033.38			383,033.38
Internet Subscription Expenses	50205010 00	3,700,000.00	(1,372,930.96)	2,327,069.04	3,700,000.00	(1,372,930.96)			2,327,069.04
Cable, Satellite, Telegraph and Radio Expenses	50205040 00	50,000.00	(47,111.59)	2,888.01	50,000.00	(47,111.59)			2,888.01
Award/Honorary Expenses	50206010 01	400,000.00	(15,000.00)	385,000.00	400,000.00	(15,000.00)			385,000.00
Extraordinary and Miscellaneous Expenses	50210030 00	610,000.00	(136,400.00)	473,600.00	620,000.00	(136,400.00)			483,600.00
Professional Services									
Auditing Services	50211070 00	117,000.00	[17,797.47]	134,797.47	117,000.00	(17,797.47)			104,202.53
Consultancy Services	50211030 07	18,600,000.00	(8,259,033.11)	10,340,966.89	18,600,000.00	(8,259,033.11)			10,400,966.89
Other Professional Services	50211950 00	23,000,000.00	21,836,872.75	44,836,872.75	23,000,000.00	21,836,872.75			44,836,872.75
General Services									
Environment/Sanitary Services	50212010 00	-	28,420.00	28,420.00	-	28,420.00			28,420.00
Janitorial Services	50212020 00	4,700,000.00	[146,661.89]	4,846,661.89	4,700,000.00	(146,661.89)			4,613,338.11
Security Services	50212030 00	4,000,000.00	(105,496.84)	3,894,503.16	4,000,000.00	(105,496.84)			3,894,503.16
Other General Services									
Other General Services-ICT	50212930 01	2,180,000.00	(136,059.24)	2,043,940.76	2,180,000.00	(136,059.24)			2,043,940.76
Other General Services-Others	50212950 99	1,000,000.00	7,432,755.25	8,432,755.25	1,000,000.00	7,432,755.25			8,432,755.25
Repairs and Maintenance - Machinery and Equipment-Office Equipment	50213050 02	100,000.00	(100,000.00)	-	100,000.00	(100,000.00)			-
Repairs and Maintenance - Machinery and Equipment-ICT	50213050 03	1,465,000.00	81,640.00	1,546,640.00	1,465,000.00	81,640.00			1,546,640.00
Repairs and Maintenance - Machinery and Equipment-Other	50213050 09	400,000.00	(89,326.00)	310,674.00	400,000.00	(89,326.00)			310,674.00
Repairs and Maintenance - Transportation Equipment-Air Motor Vehicle	50213060 01	1,500,000.00	1,850,841.54	3,350,841.54	1,500,000.00	1,850,841.54			3,350,841.54
Repairs and Maintenance - Furniture and Fixtures	50213070 01	250,000.00	491,068.00	741,068.00	250,000.00	491,068.00			741,068.00
Repairs and Maintenance - Other Leased Assets	50213080 99	350,000.00	(350,000.00)	-	350,000.00	(350,000.00)			-
Financial Assistance/Subsidy									
Financial Assistance to NGOs/POs	50214050 00	-	-	-	-	-			-
Subsidies - Others	50214090 00	357,602,000.00	(27,497,604.78)	330,104,395.22	357,602,000.00	(27,497,604.78)			330,104,395.22
Taxes, Insurance Premiums and Other Fees									
Taxes, Duties and Licenses	50215010 00	70,000.00	(8,584.40)	61,415.60	70,000.00	(8,584.40)			61,415.60
Fidelity Bond Premiums (Prepaid Insurance per Disbursement)	50215020 00	150,000.00	1,133,928.00	1,283,928.00	150,000.00	1,133,928.00			1,283,928.00
Insurance Expenses (Prepaid Insurance per Disbursement)	50215030 00	280,000.00	65,866.37	345,866.37	280,000.00	65,866.37			345,866.37
Other Maintenance and Operating Expenses									
Representation Expenses (Including Petty Cash Fund per Disbursement)	50219030 00	29,572,000.00	(2,254,489.82)	27,317,510.18	29,572,000.00	(2,254,489.82)			27,317,510.18
Transportation and Delivery Expenses	50219040 00	-	1,991,917.71	1,991,917.71	-	1,991,917.71			1,991,917.71
Rents - Buildings & Structures	50219050 01	18,000,000.00	5,256,246.41	23,256,246.41	18,000,000.00	5,256,246.41			23,256,246.41
Rents - Motor Vehicles	50219050 03	-	6,777,963.00	6,777,963.00	-	6,777,963.00			6,777,963.00
Rents - ICT Equipment	50219050 05	-	2,391,304.66	2,391,304.66	-	2,391,304.66			2,391,304.66
Subscription Expenses-Other	50219070 99	6,512,000.00	(1,899,540.52)	4,612,459.48	6,512,000.00	(1,899,540.52)			4,612,459.48
Capital Outlays		3,662,000.00	950,125.00	4,612,125.00	3,662,000.00	950,125.00			4,612,125.00
Machinery & Equipment Outlay	50604050 00	-	-	-	-	-			-
Information & Communication Technology	50604050 03	3,662,000.00	49,700.00	3,711,700.00	3,662,000.00	49,700.00			3,711,700.00
Other Machinery & Equipment	50604050 99	-	-	-	-	-			-
Intangible Assets Outlay	50606050 00	-	900,425.00	900,425.00	-	900,425.00			900,425.00
Intangible Assets	50606050 00	-	900,425.00	900,425.00	-	900,425.00			900,425.00
<b>B. AUTOMATIC APPROPRIATIONS</b>									
Retirement and Life Insurance Premiums	50103010 00	11,373,000.00	-	11,373,000.00	11,373,000.00	-			11,373,000.00
	50103010 00	11,373,000.00	-	11,373,000.00	11,373,000.00	-			11,373,000.00
<b>C. SPECIAL PURPOSE FUNDS</b>									
Contingent Fund	101402	-	221,424,000.00	221,424,000.00	-	221,424,000.00			221,424,000.00
Contingent Expenses	50110010 00	-	125,000,000.00	125,000,000.00	-	125,000,000.00			125,000,000.00
Financial Assistance Subsidy/Subsidies	50214090 00	-	96,424,000.00	96,424,000.00	-	96,424,000.00			96,424,000.00
Miscellaneous Personnel Benefits Fund	101406	-	12,305,517.00	12,305,517.00	-	12,305,517.00			12,305,517.00
FY 2022 -PS Reimbursement	50100000 00	-	-	-	-	-			-

91. To reiterate, the letter of respondent Vice President dated 22 August 2022 requested for the following:

- a. An **augmentation** of financial assistance/subsidy;
- b. An **augmentation** of the Special Duty Allowance for the Vice-Presidential Security and Protection Group;
- c. An additional 192 Coterminous and Contractual Positions; and
- d. **Confidential Funds**.

92. From these requests, the DBM gave the Office of the Vice President an additional Php 221.242 million to cover **Financial Assistance/Subsidy** and **Confidential Funds** per approval of the Office of the President on 28 November 2022. Note that according to respondent DBM's records, this is an "*allotment*" and not a new appropriation. There is once again a discrepancy with the arguments raised and what the records show. In the respondent Office of the Vice President's summary of appropriations, separate columns are allotted for "Appropriations" and "Allotments." To emphasize, the contingent fund received by the respondent Office of the Vice President was recorded under "*appropriation*" and not under "allotment."

93. Finally, on this point, confidential funds are given a specific allocation under the GAA. Section 4.1 JMC No. 2015-01, to wit:

The following are entitled to CF (Confidential Funds) and/or IF(Intelligence Funds):

4.1.1 NGA's which are expressly provided budget allocation for CF and/or IF under the GAA or other law/s; (*Emphases supplied.*)

Clearly, the alleged transfer from "contingent fund" to "confidential funds" is not sanctioned by law as they pertain to two (2) completely different allocations provided for under the GAA of 2022, particularly the "Good Governance Program" and the "Traveling Expenses."

#### *Not a "New" or "Urgent" Activity*

94. According to respondent DBM, the purpose of the Contingent Fund shall be used **exclusively** for new/and/or urgent projects and activities that need to be implemented during the year except for the purchase of motor vehicles, including any improvements thereon.<sup>53</sup> In fact, under Special Provision No. 1 of the

---

<sup>53</sup>Department of Budget and Management, Administration and Release against the Contingent Fund and Unprogrammed Appropriations, *available at*

Contingent Fund for the 2022 GAA, the Contingent Fund shall cover the funding for new and urgent projects that need to be implemented within the year, such as but not limited to the following:

- a. **legal obligation of the government arising from final and executory decisions of competent authorities, such as compromise agreements, arbitral awards, mediation settlement agreement, and professional services in connection thereto;**
- b. **requirements of newly created offices; or**
- c. **deficiencies in the appropriations for local and external travels of the President of the Philippines.**

95. While it may be argued that the list of new and urgent projects under Special Provision No. 1 is not exclusive as it uses the phrase "but not limited to the following," it still must refer to the implementation of new or urgent projects. Historically, contingent funds has been used for the following:

- a. **initial operational requirements of newly-created offices;**
- b. **initial funding requirements to carry out provisions of newly-enacted laws;**
- c. **additional funding requirements of the use of automated election system in national and local elections;**
- d. **for plebiscites in the creation, merger or division of local government units;**
- e. **as appropriation for Y2K readiness compliance;**
- f. **for the expenses of the National Organizing Council for the Philippine hosting of the 2015 APEC Meetings; and**
- g. **additional funding requirement for election related activities.**

96. The creation of a confidential fund "for the safe implementation of the projects and activities under the Good Governance program" could not be considered "new" or "urgent" that could not have been foreseen during the budget preparation. In fact, the Good Governance program of the respondent Office of the Vice President had already been allocated a specific budget under the GAA of 2022.

97. Verily, the confidential funds used by the Office of the Vice President in 2022 were "transferred" not "released" as clearly

---

<https://www.dbm.gov.ph/index.php?view=article&id=1600&catid=277#:~:text=Contingent%20Fund%20shall%20be%20used,vehicles%2C%20including%20any%20improvements%20thereon.>

indicated in the Summary of Appropriations of the Office of the Vice President for the last quarter of 2022.

98. There was neither an item nor a budget allocation for a Confidential Fund or Intelligence Fund under the 2022 budget of the respondent Office of the Vice President. Clearly, the transfer from the Contingency Fund of the Office of the President to an inexistent "Confidential Fund" is invalid, much not having a valid purpose for the said unlawful transfer.

**THE TRANSFER OF FUNDS FROM  
THE OFFICE OF THE PRESIDENT'S  
CONTINGENCY FUND TO THE  
OFFICE OF THE VICE PRESIDENT  
AS CONFIDENTIAL FUNDS WAS  
NOT SAVINGS AND THE USE OF  
SUCH APPROPRIATIONS IS  
IMPROPER.**

99. Article VI, Section 25(5) of the 1987 Constitution provides an absolute prohibition regarding the transfer of appropriations, save for the augmentation of savings:

(5) No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.<sup>54</sup>

100. The power to augment belongs exclusively to the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions, and no other.

---

<sup>54</sup>Phil. Const., Art. VI, § 25(5).

101. In *Araullo v. Aquino III*, this Honorable Court declared<sup>55</sup>:

The exercise of the power to augment is strictly construed by virtue of its being an exception to the general rule that the funding of [programs, activities, and projects (PAPs)] shall be limited to the amount fixed by Congress for the purpose. Necessarily, savings, their utilization and their management will also be strictly construed against expanding the scope of the power to augment. Such a strict interpretation is essential in order to keep the Executive and other budget implementors within the limits of their prerogatives during budget execution, and to prevent them from unduly transgressing Congress' power of the purse. (*Emphases supplied.*)

102. To be valid under Section 25(5), the transfer of appropriated funds must be made upon the concurrence of the following requisites<sup>56</sup>:

- a. There is a law authorizing the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of the Constitutional Commissions to transfer funds within their respective offices;
- b. The funds to be transferred are savings generated from the appropriations for their respective offices; and
- c. The purpose of the transfer is to augment an item in the general appropriations law for their respective offices.

103. *First*, Section 25(5) is not a self-executing provision of the 1987 Constitution. Thus, there must be an implementing law for it to be operative. In this case, the law generally is the GAA. To comply with the first requisite, 2022 GAA should expressly authorize the transfer of funds.

104. In the 2022 GAA, Section 74 gave the President and other officials the authority to transfer funds:

**Sec. 74. Authority to Use Savings.** The President of the Philippines, the President of the Senate of the Philippines, the Speaker of the House of Representatives, the Chief Justice of the Supreme

---

<sup>55</sup>*Araullo v. Aquino III*, G.R. No. 209287, 3 February 2015.

<sup>56</sup>*Araullo v. Aquino III*, G.R. No. 209287, 1 July 2014.



Court, the Heads of the Civil Service Commission, the Commission on Elections, and the COA are hereby authorized to declare and use savings in their respective appropriations to augment actual deficiencies incurred for the current year in any item of their respective appropriations.

The DBM shall post on its website the savings of the national government agencies generated from the reports required under this Section in order to account for the overall savings of the National Government. have proven legal existence; and

In case of a cooperative who wishes to become a CSO partner, the submission of certificate of registration and certificate of compliance as issued by the Cooperative Development Authority specifically for that purpose including meeting the minimum requirements as stated herein shall be sufficient for it to qualify as a CSO partner.

The CSO has liquidated in accordance with existing COA regulations all fund transfers due for liquidation. Only CSOs with proven absorptive capacity and good track records to implement several projects at the same time shall be considered as implementing CSO of multiple projects.

To ensure the CSOs comply with all pertinent rules and regulations covering the transfer, use, liquidation and audit of public funds, government agencies shall put into place the needed monitoring, evaluation and reporting mechanisms. Government agencies shall remain accountable for funds transferred to CSOs in accordance with government accounting and auditing rules and regulations.

The particulars of the expenditures to be funded from savings should be within the scope of, or covered by an existing activity or project. The existence of an activity or project regardless of the availability of allotment class/es is sufficient for the purpose of augmentation.

Government agencies shall submit to the DBM, the Speaker of the House of Representatives, the

President of the Senate of the Philippines, the House Committee on Appropriations and the Senate Committee on Finance, either in printed form or by way of electronic document, quarterly reports on funds transferred and the government programs or projects involved. The head of the respective government agencies and their web administrator or his/her equivalent shall be responsible for ensuring that said quarterly reports are likewise posted on their websites.

The foregoing constitutional officers authorized to use savings shall ensure that a semestral and annual report on their respective use of savings shall be submitted to the President of the Senate of the Philippines and the Speaker of the House of Representatives, copy furnished the DBM. The report shall indicate among others, the amount of savings generated, the sources and grounds used therefor, and the existing P/A/P in their respective appropriations augmented. They shall likewise ensure that said reports are posted on their respective websites.

105. There being an empowering provision, the first requisite is met. However, even with a valid law authorizing the transfer of funds, there still remains two (2) other requisites to be met.

106. *Second*, the source of funds to be transferred must be savings from appropriations within the respective offices. The 2022 GAA defined savings, to wit:

**Sec. 75. Meaning of Savings.** Savings refer to portions or balances of any released appropriations in this Act which have not been obligated as a result of any of the following:

- (a) completion, final discontinuance, or abandonment of a program, activity or project for which the appropriation is authorized; or
- (b) implementation of measures resulting in improved systems and efficiencies and thus enabled an agency to meet and deliver the required or planned targets, programs and services approved in this Act at a lesser cost.

In case final discontinuance or abandonment is used as basis in the declaration of savings, such discontinued or abandoned program, activity or project shall no longer be proposed for funding in the next two (2) fiscal years.

Allotments that were not obligated due to the fault of the agency concerned shall not be considered savings.

107. Vice President Duterte requested Php 403.46 million for various purposes, including the Confidential Fund and the "augmentation of financial assistance/subsidy."<sup>57</sup> The funds transferred from the Office of the President to the Vice President were from the Contingency Fund, not actual savings.

108. To be sure, the Contingency Fund is not among those listed instances in the 2022 GAA that fall under the statutory definition of savings as it is NOT a portion or balances of any programmed appropriation free from any obligation or encumbrance. It is a separate fund for a separate intended purpose.

109. *Third*, the transfer must be done to augment an item in the general appropriations law for their respective offices. The 2022 GAA set as a condition that the appropriation for the program, activity, or project item to be augmented must be deficient -

The President of the Philippines, the President of the Senate of the Philippines, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, the Heads of the Civil Service Commission, the Commission on Elections, and the COA are hereby authorized to declare and use savings in their respective appropriations to augment actual deficiencies incurred for the current year in any item of their respective appropriations... (*Emphases supplied.*)

110. In this case, there were no actual deficiencies incurred in the current year to augment. To be fine, what was transferred in this case was not savings but a fund to an inexistent and unappropriated fund and a particular item of expenditure.

---

<sup>57</sup>Letter from Office of the Vice President to the Department of Budget and Management, 22 August 2022.

111. Where there was no particular item in the 2022 GAA of the respondent Office of the Vice President for a Confidential Fund, regardless of the source of the fund, the requirements of Section 25(5) for augmentation have been blatantly disregarded.

***THERE IS A CIRCUMVENTION OF ACCOUNTABILITY IN THIS CASE.***

112. Article XI, Section 1 of the 1987 Constitution provides that “public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.”<sup>58</sup>

113. There are four (4) phases to the Philippine Budget Cycle, specifically: (1) Budget Preparation; (2) Budget Legislation; (3) Budget Execution; and (4) Accountability.

114. “Accountability is a significant phase of the budget cycle because it ensures that the government funds have been effectively and efficiently utilized to achieve the State’s socio-economic goals.”<sup>59</sup>

115. In the separate opinion of Justice Antonio Carpio in *Belgica v. Executive Secretary*, the principle of public accountability and the meticulous rules regarding the appropriation of public funds embodied in the 1987 Constitution were elucidated, to wit<sup>60</sup>:

The power of the purse belongs exclusively to Congress. The power of Congress to appropriate means that Congress alone determines the specific amount and the specific purpose of the appropriation. The President cannot usurp the legislative power of the purse, and Congress cannot share this exclusive power to appropriate with the President. Corollarily, Congress cannot abdicate this power by allowing the President to cherry pick the purpose or purposes of the appropriation among a myriad of purposes, and to determine the amount to be spent for that purpose. (*Emphases supplied.*)

---

<sup>58</sup>Phil. Const., Art. IX, § 1.

<sup>59</sup>*Araullo v. Aquino III*, G.R. No. 209287, 1 July 2014.

<sup>60</sup>*Belgica, supra* note 46 (Justice Carpio, separate opinion).

116. By allowing for the utilization of the Contingent Fund of the Office of the President for the inexistent Confidential Fund of the respondent Office of the Vice President through the Special Allotment Release Order (SARO) BMB-C-22-0012004, the public respondents allowed the circumvention of auditing rules and accountability.

117. Although general guidelines on the allotment of Confidential Funds and/or Intelligence Funds are found in Section 4.0 and the Grant and Liquidation of Cash Advance for these funds and the Audit thereof in Section 6.0 of the JMC 2015-01, there is no requirement for the National Government Agency, in this case the respondent OVP, to specify and itemize its expenses, nor to submit detailed receipts. The COA is left to trust the supporting documents submitted to them by the National Government Agencies granted a Confidential Fund or Intelligence Fund. This is in stark contrast to the liquidation and auditing requirements of the itemized Good Governance Program in respondent Office of the Vice President's budget under the GAA of 2022.

118. Confidential funds are generally confidential due to their nature. Yet, the public respondents unlawfully exercised broad discretion to determine where the funds will go. By exercising such broad discretion, public respondents contravened the Constitution and exercised the power to appropriate which is lodged in Congress.

119. Worse, the respondent Office of the Executive Secretary permitted respondent Vice President to receive public funds to which her office is not entitled to by approving the release, despite the absence of appropriation and failure to comply with the requirements of JMC 2015-01. Respondent Vice President, on the other hand, utilized the same funds despite not being legally entitled to it and for unauthorized purposes.

120. Article II, Section 28 of the 1987 Constitution provides that "subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest."<sup>61</sup> Furthermore, Article III, Section 17 of the 1987 Constitution provides "[t]he right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used

---

<sup>61</sup>Phil. Const., Art. II, § 28.

as basis for policy development, shall be afforded the citizen, **subject to such limitations as may be provided by law.**"<sup>62</sup>

121. Transparency is a constitutional mandate; and any exception must be strictly construed. As already pointed out, the reasons for the transfer to an item created by executive fiat, which is the Confidential Fund is nothing more but to circumvent the proper accounting scrutiny required for the use of public funds. The utilization of a confidential fund under the guise of confidential expenses is to shortchange accountability when the very same expenses are already itemized in respondent OVP's budget under the GAA of 2022.

122. And although JMC 2015-01 requires the submission of a Physical and Financial Plan indicating the proposed amount for programs which the disbursements of confidential or intelligence funds are to be used, this, however, means that the Commission on Audit merely relies on whatever document will be submitted by the respondent Office of the Vice President.

123. On this point, the transfer of the funds from the Contingent Fund of the Office of the President to an inexistent Confidential Fund of the respondent Office of the Vice President to avoid fiscal and audit scrutiny is clearly unconstitutional.

**THE USE OF CONTINGENT FUND  
TO FUND A CONFIDENTIAL FUND  
IS JUST ANOTHER FORM OF  
AUGMENTATION**

124. The President's power to augment as granted by the Constitution should be strictly construed. The Constitution is the highest law of the land, where the fundamental powers of government are established, limited and defined.

125. Article VI, Section 25 (5) of the 1987 Constitution limited the authority of the people authorized to transfer savings and only to augment another item in the GAA as this is considered as an exception to the general rule that the budgetary amount in the appropriation bill should be the extent the Congress has determined.

---

<sup>62</sup>Phil. Const., Art. III, § 17.

126. Being an exception, the augmentation made by the President must strictly comply with all the requirements for its validity as provided.

127. Furthermore, the Constitution expressly limits the authority of the President to augment an item in the GAA to only those in his own Department out of the savings in other items of his own Department's appropriations.

128. Applied to the case at bar, the President approved the transfer of funds to the respondent Office of the Vice President. This is really an augmentation, as claimed by respondent Vice President when she made the request. The cases of *Goh v. Bayron*<sup>63</sup> and *Sanchez v. COA*<sup>64</sup> emphasize three requisites for the valid exercise of the power to augment, namely:

- a. There must be a law authorizing to augment;
- b. There must be a deficient existing line item in the general appropriations law to be augmented; and
- c. There must be savings.

129. Applied to the instant case, and as explained in *Araullo*, the President is authorized by the Constitution to augment such funds in the GAA to only those in his own Department out of the savings in other items of his own Department's appropriations.

130. The problem arises, however, in the second and third requisites of a valid augmentation, as both are absent in this case.

131. By definition, "savings" refer to portions or balances of any programmed appropriation free of any obligation or encumbrance still available after the satisfactory completion or unavoidable discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized, or arising from unpaid compensation and related costs pertaining to vacant positions and leaves of absence without pay. The funds in consideration here are such Contingent Funds to be utilized to cover the funding requirements of new or urgent projects that needed to be implemented.

132. Considering that the Contingent Fund is meant to fund new or urgent projects, this cannot be treated as savings.

---

<sup>63</sup>Goh v. Bayron, G.R. No. 212584, 25 November 2014.

<sup>64</sup>Sanchez v. COA, G.R. No. 127545, 23 April 2008.

133. Further, augmentation requires the existence of an item, project, activity or purpose with an appropriation, which upon implementation or subsequent evaluation of needed resources, is determined to be deficient. For an item to be deficient, Section 76 of the 2022 GAA general provisions specifies that it must result from unforeseen modifications of adjustments in the program, activity or project; or re-assessment in the use, prioritization and/or distribution of resources. It further provides that in no case shall a non-existent activity or project be funded by augmentation from savings or by the use of an appropriations authorized in the GAA.

134. A Confidential Fund is neither an activity nor a project. It is a *fund*, which is not part of the consideration by law of what an augmentation is for.

135. There was therefore no item in the appropriation for the respondent Office of the Vice President which the P125 million could have augmented as this defies the express provision of the GAA which states that "[i]n no case shall a non-existent program, activity, or project, be funded by augmentation from savings...." as a Confidential Fund is neither a program, activity, nor project.

136. While the letter of the Office of the Vice President requesting for the funds is "[f]or and in consideration of the safe implementation of the various projects and activities under the Good Governance program and the conduct of the official engagements and functional representation in international and domestic events as instructed by the President," it must be noted that these items and programs already exist as separate and definite items in the GAA under the respondent Office of the Vice President.

137. The funds could very well have been directed to the Good Governance program as augmentation instead of creating a Confidential Fund.

138. The augmentation by the Office of the President of the respondent OVP's inexistent Confidential Fund is clearly invalid.

**THE OPERATIVE FACT DOCTRINE  
IS INAPPLICABLE.**

139. Under Article 7 of the Civil Code, "[l]aws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary. When the courts declare a law to be inconsistent with the Constitution, the



former shall be void and the latter shall govern. Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution." <sup>65</sup>

140. This establishes the fundamental rule that a law or administrative act that is held by the Judiciary as void does not produce any legal effect. It does not create rights or obligations. In *Serrano de Agbayani v. Philippine National Bank*, the Supreme Court held that "an executive order or a municipal ordinance likewise suffering from that infirmity, cannot be the source of any legal rights or duties. Nor can it justify any official act taken under it. Its repugnancy to the fundamental law once judicially declared results in its being to all intents and purposes a mere scrap of paper." <sup>66</sup>

141. However, while void law or administrative acts cannot be the basis for a legal right or duty, "[i]t does not admit of doubt that prior to the declaration of nullity such challenged legislative or executive act must have been in force and had to be complied with. This is so as until after the judiciary, in an appropriate case, declares its invalidity, it is entitled to obedience and respect." <sup>67</sup>

142. Only after the finality of the Supreme Court's decision will the law or administrative act be struck down. Thus, the effectivity of the void act remains effective, until the promulgation of the Court. The Supreme Court held<sup>68</sup>:

*This is merely to reflect awareness that precisely because the judiciary is the governmental organ which has the final say on whether or not a legislative or executive measure is valid, a period of time may have elapsed before it can exercise the power of judicial review that may lead to a declaration of nullity. It would be to deprive the law of its quality of fairness and justice then, if there be no recognition of what had transpired prior to such adjudication.*

143. When the operative fact doctrine is invoked and applied, it is an admission that the law is unconstitutional. <sup>69</sup>

---

<sup>65</sup>An Act to Ordain and Institute the Civil Code of the Philippines [CIVIL CODE], Republic Act No. 386, art. 7 (1949).

<sup>66</sup>*De Agbayani v. Philippine National Bank*, G.R. No. L-23127, 29 April 1971.

<sup>67</sup>*Id.*

<sup>68</sup>*De Agbayani*, *supra* note 66.

<sup>69</sup>*League of Cities of the Philippines (LCP) v. COMELEC*, G.R. No. 176951, 18 November 2008.

144. In *Araullo v. Aquino III*, the doctrine of the operative fact was applied. In this case, the Supreme Court expanded the application of the doctrine from the prior decision in *De Agbayani v. Philippine National Bank*. As it stands, the doctrine applies even to decisions made by the Executive, and it need not be just administrative offices who issued rules affecting the public.

145. Before, as promulgated by the case of *Commissioner of Internal Revenue v. San Roque Power Corp.*, "[t]here must, however, be a rule or ruling issued by the Commissioner that is relied upon by the taxpayer in good faith. A mere administrative practice, not formalized into a rule or ruling, will not suffice because such a mere administrative practice may not be uniformly and consistently applied. An administrative practice, if not formalized as a rule or ruling, will not be known to the general public and can be availed of only by those with informal contacts with the government agency."<sup>70</sup>

146. While there was no specific law or administrative act issued in the *Araullo* case, it constituted an "executive act" which is held as included in the application of the doctrine. Pertinent to the case is the existence of the Disbursement Acceleration Program's (DAP) beneficiaries which would be injured had the Court rejected the application of the operative fact doctrine.

147. In *Planters v. Fertiphil*<sup>71</sup>, a police power measure was struck down as unconstitutional which imposed a Php 10 levy to fertilizers. The Supreme Court rejected the application of the Operative Fact Doctrine and ordered the refund of the invalid levy. The doctrine applies in cases where the strict application would unjustly injure persons who in good faith depended on the validity of the statute/rules, but since in the case, no one would have been injured, and it would have been more unjust not to order the refund.

148. In *Saint Wealth Ltd. v. Bureau of Internal Revenue*<sup>72</sup>, a Revenue Memorandum Circular, based on the Bayanihan Act, was being challenged as having no statutory basis. However, this gap was cured when Congress passed an amendment providing the statutory basis. As such, the doctrine of the operative fact cannot apply because of the amendment.

---

<sup>70</sup>Commissioner of Internal Revenue v. San Roque Power Corporation, G.R. No. 187485, 12 February 2013.

<sup>71</sup>Planters Products, Inc. v. Fertiphil Corporation, G.R. No. 166006, 14 March 2008.

<sup>72</sup>Saint Wealth Ltd. v. Bureau of Internal Revenue, G.R. No. 252965, 7 December 2021.

149. In *Film Development Council of the Philippines (FDCP) v. Colon Heritage Realty Corp.*<sup>73</sup>, the Supreme Court held that the operative fact doctrine legitimizes otherwise invalid acts done pursuant thereto because of considerations of practicality and fairness. In this regard, certain acts done pursuant to a legal provision which was just recently declared as unconstitutional cannot anymore be undone because not only would it be highly impractical to do so, but more so, unfair to those who have, in good faith, relied on the said legal provision prior to the time it was struck down. In this case, although Sections 13 and 14 of the law were declared unconstitutional and void, the amusement tax remitted to FDCP prior to the date of the finality of the decision shall remain legal and valid under the operative fact doctrine. To order the FDCP and the producers of graded films which may have already received the amusement tax incentive reward pursuant to the provisions of Republic Act No. 9167 to return the amounts received to the LGUs would impose a heavy and possibly crippling financial burden upon them who merely, in good faith, complied with the legislative fiat.

150. In *Dominguez v. Commission on Audit*<sup>74</sup>, petitioner LGU in this case illegally disbursed funds for intelligence and confidential funds in the years 2009 and 2010 without DILG approval. Petitioner relied on its DILG approval for the previous years and invoked good faith. When checked by COA, the disbursements in 2009 and 2010 were discovered and considered prohibited. As such, the doctrine of the operative fact was not applied because it was evidently done without good faith. Furthermore, while it constitutes as an "executive act" well within the scope allowed for the doctrine to apply, the ruling of the COA cannot be disregarded.

151. "The doctrine acknowledges why the act was done, as well as sustains the effects of the act – but it does not, in any way, excuse an act that is patently irregular for failure to comply with a rule or policy regulation. As a rule, originating from considerations of equity, this is not how the doctrine of operative fact should be applied. Since the underlying issue in this case is whether the petitioner respected the pertinent provisions in MC No. 99-65 – and the COA found that he did not – he therefore cannot erase the irregularity of his actions by simply claiming that it should be deemed valid because of its consequences, i.e., that it has resulted into a disbursement of funds that may have redounded to the benefit of the province of Sarangani."<sup>75</sup>

---

<sup>73</sup> *Film Development Council of the Philippines v. Colon Heritage Realty Corporation*, G.R. No. 203754, 16 June 2015.

<sup>74</sup> *Dominguez v. Commission on Audit*, G.R. No. 256285, 3 August 2021.

<sup>75</sup> *Id.*

152. As clarified by jurisprudence, the doctrine applies primarily for the law to remain just and equitable. Jurisprudence provides the following instances the doctrine shall not apply:

- a. It cannot apply merely to avoid accountability and liability from an invalid or illegal act.<sup>76</sup>
- b. It cannot apply when the public will not be injured by its strict compliance.<sup>77</sup>
- c. It cannot apply to laws that have been already amended.<sup>78</sup>

153. The operative fact doctrine does not apply in this case due to the patent and blatant irregularity of the transfer of funds and usurpation of legislative power.

### CONCLUSION

154. Public funds had been disbursed and spent in a matter of 11 days, much to the prejudice and burden of the Filipino people. The DBM reported that a total of Php 221.42 was released through SARO BMB-C-22-0012004. In the Statement of Appropriations, Allotments, Obligations, and Disbursements, and Balances of the Office of the Vice President for FY 2022, it is indicated that **Php 155 million from the "Contingent Fund under III. Special Purpose Fund" was disbursed, and Php 66.42 million remained as unobligated allotments.**<sup>79</sup>

155. Respondent Office of the Vice President reported that the **Php 125 million expense** under the executive-created line-item of "Confidential Expenses,"<sup>80</sup> was fully spent in just a matter of 11 days.

156. In view of the foregoing discussion, Petitioners hereby respectfully pray that the Honorable Court declare the transfer from the Office of the President to the Office of the Vice President for Confidential Funds and Expenses as **unconstitutional**.

---

<sup>76</sup>*Id.*

<sup>77</sup>Planters Products, *supra* note 71.

<sup>78</sup>Saint Wealth Ltd., *supra* note 72.

<sup>79</sup>Statement of Appropriations, Allotments, Obligations, and Disbursements, and Balances of the Office of the Vice President as of December 31, 2022.

<sup>80</sup>Detailed Statement of Financial Performance of the Office of the Vice President for the year ended December 31, 2022.

**PRAYER**

WHEREFORE, premises considered, it is most respectfully prayed that this Honorable Court declare the transfer of the amount of PhP 125 million to the Office of the Vice President as UNCONSTITUTIONAL and that the Office of the Vice President be ordered to return the money to the government's treasury.

Other reliefs that are just and equitable under the premises are likewise prayed for.

Makati City for the City of Manila, 06 November 2023.



**RAY PAOLO J. SANTIAGO**

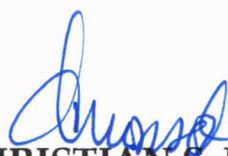
*Lead Counsel for Petitioners*

Ateneo Human Rights Center

G/F Ateneo Professional Schools Building

20 Rockwell Drive, Rockwell Center, Makati City,  
Metro Manila

PTR No. 9568306 / 05-Jan-2023 / Makati City  
IBP Lifetime No. 02962 / 03-Apr-2002 / PPLM  
Roll of Attorneys No. 46470  
MCLE Exemption No. VII-Acad004217 valid until  
14 April 2025  
Phone: (+63) 927-034-8216  
rsantiago@ateneo.edu



**CHRISTIAN S. MONSOD**

PTR No. 10037557 / 06-NOV-2023 / Makati City  
IBP Lifetime No. 648642  
Roll of Attorneys No. 16121  
MCLE Exemption Expert No. 000133 valid until  
14 April 2025  
Phone: (+63) 917-844-6275  
christiansmonsod@gmail.com

**MA. PERPETUA B. UNICO**

PTR No. 9568308 / 05-Jan-2023 / Makati City

IBP Lifetime No. 014269 / 04-Jan-2016/

Pangasinan

Roll of Attorneys No. 52866

MCLE Compliance No. VII-0008190

**KATRINA ISABELA F. BLANCO**

PTR No. 10037556 / 06-Nov-2023 / Makati City

IBP No. 346496 / 17-May-2023/ Rizal (RSM)

Roll of Attorneys No. 84867

MCLE Exempted (Admitted in 2023)

Copy Furnished:

**THE OFFICE OF THE SOLICITOR GENERAL**

*Counsel for Public Respondents*

134 Amorsolo Street, Legaspi Village,

Makati City

**OFFICE OF THE VICE PRESIDENT**

**(Through The Honorable Vice President Sara Z. Duterte)**

*Public Respondent*

11th Floor, Robinsons Cybergate Plaza,

EDSA cor. Pioneer St., Mandaluyong City,

Metro Manila

**OFFICE OF THE EXECUTIVE SECRETARY**

**(Through The Honorable Executive Secretary Lucas P. Bersamin)**

*Public Respondent*

Office of the President

Malacañang Palace Compound,

J.P. Laurel St., San Miguel

Manila

**DEPARTMENT OF BUDGET AND MANAGEMENT**

**(Through The Honorable Secretary Amenah F. Pangandaman)**

*Public Respondent*

Boncodin Hall

General Solano St., San Miguel

Manila



**EXPLANATION**

Due to lack of material time, heavy delivery schedule of the process server, aggravated by the distance of the offices of the parties' counsels, the undersigned counsel was constrained to effect the service of this pleading to the other parties concerned via registered mail or via licensed courier.

  
RAY PAOLO J. SANTIAGO

Republic of the Philippines)  
City of Makati ) S.S.

**AFFIDAVIT OF SERVICE**

I, **Jessie Gravoso Padoc**, Filipino citizen, of legal age, and with postal address at Room 101, Ateneo Professional Schools Building, 20 Rockwell Drive, Rockwell Center, Makati City, after having been duly sworn to in accordance with law, do hereby depose and state that I served a copy of the following pleading:

**PETITION FOR CERTIORARI**

in the case entitled *Monsod, et al. vs. Office of the Vice President, et al.* before the Supreme Court pursuant to Sections 2, 4, 5, 7, 15, and 17, Rule 13 of the Rules of Court, as follows:

**By Registered Mail or by Private Courier to:**

**THE OFFICE OF THE SOLICITOR GENERAL**  
134 Amorsolo Street, Legaspi Village, Makati City

**OFFICE OF THE VICE PRESIDENT**  
11th Floor, Robinsons Cybergate Plaza,  
EDSA cor. Pioneer St., Mandaluyong City

**OFFICE OF THE EXECUTIVE SECRETARY**  
Office of the President, Malacañang Palace Compound  
J.P. Laurel St., San Miguel, Manila

**DEPARTMENT OF BUDGET AND MANAGEMENT**  
Boncodin Hall  
General Solano St., San Miguel, Manila

**By Personal Filing to:**

**SUPREME COURT OF THE PHILIPPINES**  
Padre Faura Street, Ermita, City of Manila 1000

By causing the service of a copy on this 6<sup>th</sup> day of November 2023, at Makati City, as evidenced by Registry Receipt No./Tracking No. \_\_\_\_\_, hereto attached and indicated after the name of the addressee, and with instructions to the postmaster to return the mail to the sender after ten (10) days, if undelivered.

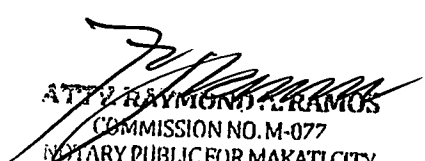
**IN WITNESS WHEREOF**, I have hereunto set my hand this 6<sup>th</sup> day of November 2023 at Makati City, Metro Manila, Philippines.



  
JESSIE GRAVOSO PADOCH  
Affiant

SUBSCRIBED AND SWORN to before me this 6<sup>th</sup> day of November 2023 at Makati City, Metro Manila, Philippines, with affiant exhibiting to me his Bureau of Internal Revenue (BIR) Tax Identification (TIN) Card No. 237-435-095-000 issued on 11 January 2013.

Doc. No. 468 ;  
Page No. 95 ;  
Book No. 302 ;  
Series of 2023.

  
ATTY. RAYMOND L. RAMOS  
COMMISSION NO. M-077  
NOTARY PUBLIC FOR MAKATI CITY  
UNTIL DECEMBER 31, 2024  
5 KALAYAAN AVENUE EXTENSION,  
BARANGAY WEST REMBO 1215, MAKATI CITY  
SC Roll No. 62179/04-26 2013  
JEP NO. 258534/01-02-2023/Pasig City  
PTR NO. MKT 9562350/01-03-2023/Makati City  
MCLE Compliance No. VII-0020180/04-14-2025


Republic of the Philippines)  
City of Makati ) S.S.


**JOINT VERIFICATION AND CERTIFICATION  
OF NON-FORUM SHOPPING**

We, **CHRISTIAN S. MONSOD, IBARRA M. GUTIERREZ III, MARIA CIELO D. MAGNO, IMELDA M. NICOLAS, KATRINA C. MONSOD, RAY PAOLO J. SANTIAGO, HONORIO A. POBLADOR III, AUGUSTO C. LAGMAN, VICENTE R. ROMANO III, REX C. DRILON II, and MIGUEL V. JUGO**, Filipinos, of legal age, after having been sworn in accordance with law, hereby depose and state that:

1. We are the Petitioners in the above captioned case.
2. We have caused the preparation and filing of the Petition and have read the same, the contents of which are true and correct, based on our personal knowledge or authentic documents.
3. The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation.
4. We have not commenced any action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or any other tribunal or agency, and to the best of our knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals or any other tribunal or agency.
5. If we should learn thereafter that a similar action or proceeding has been filed or is pending before these courts or tribunal or agency, we undertake to report that fact to the Court within five (5) days therefrom.

IN WITNESS WHEREOF, we have hereunto set our hands this 6<sup>th</sup> day of November 2023 at Makati City, Philippines.

  
**CHRISTIAN S. MONSOD**  
Affiant

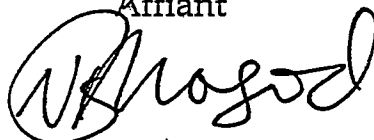
  
**IBARRA M. GUTIERREZ III**  
Affiant

  
**RAY PAOLO J. SANTIAGO**  
Affiant


Affiant

  
MARIA CIELO D. MAGNO

Affiant

  
KATRINA C. MONSOD

Affiant

  
AUGUSTO C. LAGMAN

Affiant


  
REX C. DRILON II

Affiant

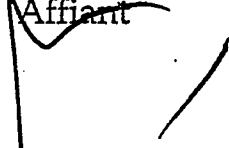
Affiant

  
IMELDA M. NICOLAS

Affiant

  
HONORIO A. POBLADOR III

Affiant

  
VICENTER R. ROMANO III

Affiant

  
MIGUEL V. JUGO

Affiant

SUBSCRIBED AND SWORN to before me this 6<sup>th</sup> day of November 2023 at Makati City, Philippines, affiants exhibiting to me the following constituting competent evidence of their respective identities:

Name	ID No.	Place of Issue	Date of Issue/Validity
Christian S. Monsod	Senior Citizen ID No. 2691388	Makati City	Issued on July 2004
Ibarra M. Gutierrez III	PIC 5372-1926-8134-1205	N/A	N/A
Maria Cielo D. Magno	CRN-021-1580-7597-3	N/A	N/A
Imelda M. Nicolas	Senior Citizen ID No. 43530	Makati City	Issued on October 1, 2010
Katrina C. Monsod	DL NO1-92-134522	Agency Code N32	Valid until December 24, 2024
Honorio A. Poblador III	DL NO6-67-004093	Agency Code N21	Valid until December 2, 2032
Augusto C. Lagman	Senior Citizen ID No. 153132	Makati City	Issued on August 31,

Rex C. Drilon II	Senior Citizen ID No. 126059	Makati City	N/A
Miguel V. Jugo	DL NO4-89- 097480	Agency Code N70	Valid until April 30, 2033
Ray Paolo J. Santiago	IBP ID No. 02962	Pasig City	N/A

Doc. No. 464;  
Page No. 95;  
Book N 302;  
Series of 2023.


*[Signature]*  
ATTY. ~~RAMON P. RAMOS~~  
COMMISSION NO. M-077  
NOTARY PUBLIC FOR MAKATI CITY  
UNTIL DECEMBER 31, 2024  
KALAYAN AVENUE EXTENSION,  
BARANGAY WEST REMBO 1215, MAKATI CITY  
IC Roll No. 62179/04-26 2013  
BP NO. 258534/01-02-2023/Pasig City  
PTR NO. MKT 9562350/01-03-2023/Makati City  
MCLE Compliance No. VII-0020180/04-14-2025

Republic of the Philippines)  
Makati City )S.S.

### VERIFIED DECLARATION

I, **RAY PAOLO J. SANTIAGO**, hereby declare that the documents and annexes hereto submitted electronically in accordance with the Efficient use of Paper Rule are complete and true copies of the documents filed personally with the Supreme Court.

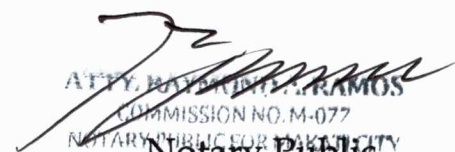
Makati City, 06 November 2023.



**RAY PAOLO J. SANTIAGO**  
Counsel for the Petitioners

SUBSCRIBED AND SWORN TO before me this 6<sup>th</sup> day of November 2023, affiant exhibiting to his IBP Lifetime Membership Card No. 02962 issued at Pasig City.

Doc. No. 470  
Page No. 95  
Book No. 302  
Series of 2023.



ATTY. BAYAN J. RAMOS  
COMMISSION NO. M-077  
NOTARY PUBLIC FOR MAKATI CITY  
UNTIL DECEMBER 31, 2024  
**Notary Public**  
5 KALAYAAN AVENUE EXTENSION,  
BARANGAY WEST REMBO 1215, MAKATI CITY  
SC Roll No. 62179/04-26 2013  
IBP NO. 258534/01-02-2023/Pasig City  
PTR NO. MKT 9562350/01-03-2023/Makati City  
MCLE Compliance No. VII-0020180/04-14-2025