

FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

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SENATE

COMMITTEE REPORT NO. 74

Submitted by the Committee on Accountability of Public Officers and Investigations (*Blue Ribbon*) on OCT 13 2011.

Re: Proposed Senate Resolution No. 518

Recommending its approval.

Sponsor: Senator Teofisto "TG" Guingona III

MR. PRESIDENT:

The Committee on Accountability of Public Officers and Investigations (*Blue Ribbon*) has conducted an inquiry, in aid of legislation, on the following referral:

Proposed Senate Resolution No. 518, introduced by Senators Panfilo M. Lacson and Teofisto "TG" Guingona III, entitled:

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS (BLUE RIBBON) TO

CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED ANOMALOUS AND IRREGULAR ACQUISITION BY THE PNP OF LIGHT OPERATIONAL HELICOPTERS IN 2009 FROM MAPTRA, WITH THE END IN VIEW OF DETERMINING WHETHER THE SAID ACT CONSTITUTES A VIOLATION OF RA 3019, DETERMINE THE PARTIES RESPONSIBLE THEREFOR AND TO PROVIDE REMEDIAL MEASURES TO FURTHER STRENGTHEN THE SAID LAW AND THE PROCUREMENT PROCESS OF THE PHILIPPINE NATIONAL POLICE.

The Committee has the honour to submit its Final Report.

Recommending the adoption of the recommendations contained herein.

COMMITTEE REPORT

PRELIMINARIES

The Blue Ribbon Committee of the 15th Congress conducted six (6) hearings¹ to investigate, pursuant to Senate Resolution No. 518 by Senators Teofisto "TG" Guingona III and Panfilo Lacson, the alleged anomalous and irregular acquisition by the Philippine National Police (PNP) of Light Operational Helicopters in 2009 from Manila Aerospace Products Trading Corporation (MAPTRA) with the end in view of crafting legislative measures to curb future corrupt practices and promote transparency and accountability in government.

This Report discusses the facts, findings, and recommendations for each stage in the acquisition of the used helicopters by the PNP. This report is divided into six (6) parts:

¹ July 28, 2011, August 2, 2011, August 11, 2011, August 22, 2011, August 25, 2011, and September 13, 2011.

- I. Ownership of the Used Helicopters sold to the PNP
- II. Negotiation to Signing of the Supply Contract
- III. Delivery, Inspection, and Payment of Contract Price
- IV. Findings of the Committee
- V. Discussion of Liabilities
- VI. Policy/Legislative Recommendations

INTRODUCTION

Several irregularities and violations of law were committed by private individuals and public officers to ensure the approval and acceptance of two (2) used helicopters by the PNP. During the course of the investigation of the Blue Ribbon Committee, it became obvious that several officials blatantly breached their duties to accommodate this anomalous transaction.

It became unavoidable to answer the lingering question: For such obvious and blatant violations committed, did the officials of the Philippine National Police financially benefit from this anomalous transaction?

According to the testimony of the supplier of the helicopters, Manila Aerospace Products Trading Corporation, none of the officials of the Philippine National Police financially benefitted from the sale. Mr. Hilario de Vera, President of MAPTRA, categorically said on record:²

SEN. RECTO: Mayroon ka bang nilagyan sa PNP para aprubahan itong kontratang ito?

MR. DE VERA: At least po para malaman din ng kayo po at ng publiko na—in fairness naman po sa mga PNP, wala naman pong nagkapera. Wala po.

² TSN, SNTUPAZ VI-2 August 2, 2011 12:42PM, p.6.

Because the PNP officials themselves swore, under oath, that none of them was ever pressured, intimidated or influenced by a higher authority within the PNP or a powerful private individual, the assertion that these officials were acting under duress cannot be given merit.³

However, these testimonies must not cause death to the allegations of irregularities. In fact, these only further raise the question: If no financial benefit was incurred by the officials and if they acted voluntarily, why did they risk their jobs and their professional careers to ensure that this contract will be approved and awarded even to an unqualified supplier?

Because there was neither financial benefit nor force that characterized this anomalous transaction, it can now be asked: Were these private individuals and public officials cooperating with another individual of significant stature, capable of great influence, to ensure that the contract will be signed and awarded, and finally that the used helicopters will be accepted by the PNP?

I. OWNERSHIP of the USED HELICOPTERS SOLD to the PNP

Jose Miguel Arroyo: Owner of the Used Helicopters Sold to the PNP

While documents showing ownership point to Lionair and/or MAPTRA as the owner of the helicopters sold to the PNP, the Blue Ribbon Committee finds several pieces of documentary and testimonial evidence, which when taken together, support the allegation of several witnesses that the real owner was actually the former First Gentleman Jose Miguel Arroyo (FG). Together with their supporting documents, the following are considered:

³ TSN. Caturia IV-1. July 28, 2011. 9:37 a.m. p. 8; JAdela Cruz V-1. July 28, 2011. 9:47 A.M. pp. 1-5. (General question were asked by the senators to the PNP on who ordered them to buy the helicopters but only Ticman answered that nobody ordered him to buy the helicopters)

- A. Testimony of Archibald Po
- B. Testimony of Hilario de Vera
- C. Testimony of Editha Solano-Juguan
- D. Testimony of Domingo Lazo
- E. Testimony of Claudio DS Gaspar, Jr.
- F. Flight logs
- G. Testimony of Rowena del Rosario

At the height of the Blue Ribbon investigation, Representative Ignacio "Iggy" Arroyo released a statement to the media and made available a document which attempted to deny ownership of the helicopters sold to the PNP. Essentially, Mr. Iggy Arroyo claims that for a period of time, these helicopters were simply leased from Lionair, Inc. This Committee finds it proper to include a section, "On the claim of Ignacio Arroyo: Discussing the Value of the Aircraft Fleet Service Agreement, between Ignacio Arroyo of LTA, Inc. and Renato Sia of LIONAIR, Inc.," to discuss its observations and reasons for finding no value to the claim of Iggy Arroyo.

A. Testimony of Archibald Po (Annex A)

Archibald Po is the owner of Lionair, Inc., a company organized initially as a service provider of helicopters and other aircrafts, and later, also as exclusive dealer of Robinson Helicopter Company in the Philippines.

Mr. Po testified that the former first gentleman initially wanted to lease helicopters from Lionair but because none were available, the latter agreed to Mr. Po's proposal that five (5) Robinson helicopters be purchased instead.

To facilitate the sale, \$500,000.00 was remitted in favor of Robinson Helicopter Company. A copy of the Foreign Telegraphic Transfer Application Form is attached as Annex B.

In order to ensure that the importation would be tax-free, FG proposed and Mr. Po agreed that the transaction be done through Asian Spirit, one of Mr. Po's companies at that time. Asian Spirit is a locator of Clark Export Processing Zone with importation-related tax privileges.

Mr. Po stated that while the helicopters' documents were initially in the name of Asian Spirit as owner, FG also asked him to sign five (5) deeds of sale where the buyer's name was left in blank. Mr. Po, however, was never given copies of such deeds of sale.

Sometime in 2006, FG informed Mr. Po that he was selling the helicopters for US\$350,000.00- a price which the latter felt was "on the high side".

To facilitate the sale, Mr. Po, with the approval of FG, sold the helicopters from one of his companies, Asian Spirit to another one of his companies, Lionair, Inc (Annex C). Later on, to ensure the sale of FG's used helicopters, Mr. Po prepared a proposal for Manila Aerospace Products Trading (MAPTRA) - an interested "buyer". On this matter, the Blue Ribbon Committee invites the reader to pay deliberate attention to the following facts:

1. It is clear that MAPTRA was not a "buyer" in the strictest sense. It was only made to appear that MAPTRA bought the helicopters because Mr. Po did not want to deal with government. In his own affidavit, Mr. Po said:

22. I flatly told MAPTRA that we prefer not to do business with the government. However, MAPTRA suggested that all they needed was to be made to appear as our marketing arm on account of Lionair's being the exclusive dealer of Robinson Helicopter Company in the Philippines.

23. Finding the request reasonable, I acceded, and we issue a certification, dated 4 August 2009, to that effect, a copy of which is attached hereto and made integral part hereof as Annex "K".

24. On 23 November 2009, Lionair and MAPTRA signed and executed the deed of absolute sale for the two (2) "PRE-OWNED/USED" helicopters, as follows:

Unit 1 Make and Model:	ROBINSON	R44	RAVEN	I
HELICOPTER				
Date of Manufacture:	09	March	2004	
Airframe Serial Number:	RP-C	2783		
Airframe Serial Number:	1374			
Engine Serial Number:	L-26286-40A			
Type:	LYCOMING	I0-540-F1B5		
Unit 1 Make and Model:	ROBINSON	R44	RAVEN	I
HELICOPTER				
Date of Manufacture:	04	March	2004	
Airframe Serial Number:	RP-C	2781		
Airframe Serial Number:	1372			
Engine Serial Number:	L-26281-40A			
Type:	LYCOMING	I0-540-F1B5		

It is equally important to note that this so-called Deed of Sale (Annex D) is dated 23 November 2009, months after these same helicopters were already sold to the Philippine National Police (July 23, 2009).

Also, a real Deed of Sale dated 23 November 2009 would likewise be void considering that the helicopters, SN 1372 and SN 1374, were already delivered and accepted by the PNP on September 24, 2009.

2. In order to ensure that MAPTRA would qualify as a supplier for the PNP, the Blue Ribbon Committee notes that Mr. Po did, in fact, issue a certification stating that MAPTRA is its official marketing arm (Annex E). This was done because MAPTRA had requested for such certification based on the following circumstances also narrated in Mr. Po's affidavit.

21. In the latter part of July 2009, MAPTRA intimated to us that they have some problem in participating in the invitations to bid by the Philippine National Police (PNP), Philippine Navy (PN) and Philippine Air Force (PAF) for the supply and sale of, among others, parts and materials, services, and helicopters because they are not authorized dealer of any helicopter company.

The Blue Ribbon Committee reminds the reader that Lionair, Inc. was the authorized dealer of Robinson Helicopter Company. It would have been impossible for MAPTRA to deal with the PNP had it not been for the certification issued by Lionair. This Certification, signed by Renato M. Sia, General Manager of Lionair, Inc. states:

This is to authorize MANILA AEROSPACE PRODUCTS TRADING as our Marketing Arm to represent LIONAIR INCORPORATED for matters relating but not limited to the sale of Parts and Materials, Services, and to sale ROBINSON R22 and R44 Helicopter series with the Philippine Government including Philippine Navy.

Also, Mr. Po testified that Lionair provided maintenance services for the helicopters and billed FG accordingly.⁴

B. Testimony of Hilario de Vera (Annex F)

Hilario de Vera is the President and General Manager of Manila Aerospace Products Trading Corporation (MAPTRA), the company that sold FG's used helicopters to the Philippine National Police.

On the issue of ownership, Mr. de Vera testified of his knowledge, through Mr. Po, that the helicopters were owned by FG. Mr. de Vera, in his affidavit, narrated a conversation with Mr. Po that mentioned the former first gentleman:

MR. DE VERA: *Chie, bakit naman puro pre-owned ang proposal na binigay mo? Brand new ang napagkasunduan naming ng BAC.*

MR. PO: *May instruction na ako galing kay FG (FIRST GENTLEMAN), yan daw ang ibebenta mo at ideliver sa PNP. Yun ang sabi sa akin ni FG na gusto n'ya maitulak ang tatlong helicopter nya.*

⁴ Affidavit of Archibald L. Po, paragraph 15. July 26, 2011.

Mr. DE VERA: *Pakisabi naman kung pwede, kahit isa o dalawang bago at isan pre-owned.*

MR. PO: *Sige kausapin ko sya. Magkaroon man lang ng bago sa PNP para sa bayan.*

In line 25 of Mr. de Vera's affidavit, another conversation was also narrated:

Mr. DE VERA: *Chie, galing ako ng Crame, nagsigned na ako ng Supply Contract. Malaki problema ko, lahat brand new.*

Mr. PO: *Sinabi ko na sa iyo huwag kang mag-alala dahil kahit ano ideliver mo sa kanila, walang magtatanong at tatanggapin yan kasi may order na sila galing kay FG kung ano dapat gawin. At alam ko kikita ka naman dyan sa dalawang pre-owned na Raven I kaya bigyan mo ako dyan ng 50% sa neto mo para sa extra effort ko naman dyan sa transaksyon.*

C. Testimony of Editha Solano-Juguan (Annex G)

Editha Solano-Juguan is the Marketing, Billing and Collection Manager of LIONAIR, Inc. In relation to the issue of the used helicopters' ownership, her testimony may be summarized in the following manner:

1. Supported by a subsidiary ledger, Ms. Solano-Juguan testified that the former first gentleman paid fees to Lionair for the following:
 - a. Lease of the hangar for Php 10,000 per month, for each helicopter;⁵
 - b. Operational and maintenance expenses for, among others, gasoline, Pilotage, repairs, take-off and landing expenses, and yearly annual renewal of Certificate of Registration and Certificate of Airworthiness. This amounted to Php 18,250,000.000 and US\$6,900. These charges were made from April 5, 2004 to May 26, 2011, and reflected in the

⁵ Affidavit of Ms. Editha Solano-Juguan, paragraph 4. August 10, 2011. (Annex G)

Subsidiary Ledger of Lionair for the account of former First Gentleman Jose Miguel Arroyo.⁶

2. Ms. Solano-Juguan also testified that on several occasions, while she was collecting for the payment of the fees charged, FG was also in the office of LTA, Inc. Through questions propounded by the Chairman (Senator Guingona), Ms. Solano-Juguan confirmed that on certain occasions, FG was present when she received payments for the maintenance fees and even witnessed the actual counting of money received. This exchange with the Chairman (Senator Guingona) is relevant:⁷

THE CHAIRMAN [SEN. GUINGONA]: Ano ang pinakamalaking cash na ibinigay sa iyo, as far as your memory can –

MS. JUGUAN. One million, po.

THE CHAIRMAN [SEN. GUINGONA]. One Million cash. Para saan 'yon?

MS. JUGUAN. Sa maintenance po ng helicopter.

THE CHAIRMAN [SEN. GUINGONA]. Sa maintenance. Bakit at that time malaki?

MS. JUGUAN. Sa spare parts po.

THE CHAIRMAN [SEN. GUINGONA]. Sa spare parts.

MS. JUGUAN. Opo.

THE CHAIRMAN [SEN. GUINGONA]. At binilang mo sa harap ni Mr. Mike Arroyo?

MS. JUGUAN. Actually, Your Honor, nandoon po siya sa salas. Kay Ms. Weng ko po – sa harap ni Ms. Weng ko po siya binilang. Kay Ms. Rowena del Rosario.

THE CHAIRMAN [SEN. GUINGONA]. Ah, okay. Kung nandoon siya sa salas, saan kayo, nasa salas din?

⁶ The subsidiary ledger is attached as Annex A of Ms. Solano-Juguan's affidavit that is annexed to this Committee Report.

⁷ TSN L. Sapida VII-2. August 11, 2011. 12:47 P.M. pp. 6-7.

MS. JUGUAN. No, Your Honor. Nasa Accounting po. Na kay Rowena del Rosario'ng kuwarto.

THE CHAIRMAN [SEN. GUINGONA]. 'Yung Accounting, bukas 'yung kuwarto?

MS. JUGUAN. Opo, Your Honor.

THE CHAIRMAN [SEN. GUINGONA]. So nakikita ni Mr. Mike Arroyo binibilang mo 'yung P1 million?

MS. JUGUAN. Opo, Your Honor.

D. Testimony of Domingo Lazo (Annex H)

Domingo Lazo was LIONAIR Inc.'s flight dispatcher from May 2002 to June 2009. From his testimony, it can be concluded that in relation to the operation of the used helicopters involved in the anomalous transaction with the PNP, the former first gentleman had full control. Mr. Lazo's testimony supports the assertion that these helicopters were owned by Mr. Arroyo. Mr. Lazo stated that:

1. Mr. Jose Miguel Arroyo first contacted him in April 2004 and from then on, gave him instructions as regards the flight plan of the helicopters. Occasionally, FG would inform him of the names of the passengers.
2. He himself met FG at the hangar of LIONAIR and on such occasion, the former first gentleman informed him that on that day, he himself would be using the helicopter.⁸
3. After the election in 2004, frequent passengers were members of the then first family; the most frequent being Congressman Mikey Arroyo.

The following exchange between Senator Lacson and Mr. Lazo highlights the fact that Mr. Arroyo indeed has full control over the helicopters.⁹

⁸ Paragraph 8 of Lazo's affidavit: Makalipas ng mga apat na buwan mula dumating ang mga helicopter sa hangar ng LIONAIR, pinuntahan ako ni Boss Archie sa hangar at pinakilala sa akin ang kanyang kasama na si Ginoong Arroyo. Doon sa akin sinabe ni Ginoong Arroyo na siya ang gagamit ng isang helicopter sa araw na iyon.

⁹ TSN JADela Cruz Vi-2 August 11, 2011 12:37 A. M. pp. 5-6.

SEN. LACSON. Sino naman ang nagbibigay sa iyo ng instruction kung sino ang magiging pasahero, kung kailan lilipad at kung saan pupunta? Kanino ka tumatanggap ng instruction?

MR. LAZO. Kay First Gentleman po.

SEN. LACSON. Wala nang iba?

MR. LAZO. Minsan po duon sa – 'yung mga nakaraan naaalala ko minsan po 'yung galing po sa security ni Mikey – Cong. Mikey and then duon po sa mga staff po ni Cong. Mikey, ganuon din po.

SEN. LACSON. Never kang nakatanggap ng instruction para maglipad ng kung sinong pasahero at magpalipad sa piloto mula sa ibang tao maliban kay dating FG Mike Arroyo at saka 'yung mga security ni Congressman Mikey at lahat ng may koneksyon sa First Family?

MR. LAZO. Wala po.

SEN. LACSON. Sila lang talaga ang pupwede?

MR. LAZO. Ang natatandaan ko po sa helicopter, lahat po ng instruction ng lipad galing po lahat sa kanya.

E. Testimony of Claudio DS Gaspar, Jr.

Claudio DS Gaspar, Jr. is a pilot and a member of the PNP Air Unit. He testified¹⁰ that on several occasions, members of the first family were the passengers of the helicopters before they were sold to the PNP.

SEN. LACSON: Sino ang pinakamalimit mong pasahero?

MR. GASPAS: Mga members ng First Family, sir.

MR. LACSON: Like? Please identify.

MR. GASPAS: Sila Congressman Mikey, sir, sila FG.

¹⁰ TSN, BRHGonzales VII-1 July 28, 2011 10:07AM, pp 1ff.

F. Flight logs

The Blue Ribbon Committee reviewed the flight logs for the used helicopters and discovered that indeed, prior to the sale to the PNP, members of the former first family were the most frequent passengers. Attached to this report is a summary of the flight logs created by this Committee (Annex I).

G. Testimony of Rowena del Rosario¹¹

Rowena del Rosario was the former bookkeeper of Lourdes T. De Arroyo Incorporated or LTA Inc. Her testimony supports the claims of the employees of LIONAIR, Inc. that fees were paid for the maintenance and operation of the helicopters that were sold to the Philippine National Police. Rowena del Rosario claims that it was Ignacio Arroyo who paid LIONAIR, Inc. but nevertheless, she did not deny that these fees were in fact paid.

The Blue Ribbon Committee points out the fact that despite Ignacio Arroyo's claim that they only leased the helicopter from March 16, 2004 to May 15, 2004, Ms. del Rosario never denied the claim that fees were paid from 2004 until 2011.

Likewise, she also affirmed that she remitted US\$500,000.00 to Robinson Helicopter. This portion of the investigation is relevant:

THE SENATE PRESIDENT [SEN. ENRILE]: Ngayon, kailan mo ibinigay iyong \$500,000 sa Lionair ba iyon sa Robinson? Anong year?

MS. DEL ROSARIO: December 2003 po.

THE SENATE PRESIDENT [SEN. ENRILE]: 2003?

MS. DEL ROSARIO: Opo

¹¹ TSN, MELNOVERO IX-1 August 22, 2011 10:35AM, p5-ff.

THE SENATE PRESIDENT [SEN. ENRILE]: Nasa LTA ka na nun?

MS. DEL ROSARIO: Opo.

On the claim of Ignacio Arroyo as the Mere Lessor of the Helicopters:¹²
Discussing the Value of the Aircraft Fleet Service Agreement

Because of testimonies made before the Senate Blue Ribbon Committee, Jose Miguel T. Arroyo filed a complaint for perjury, false testimony, and offering false testimony (Articles 183 and 184 of the Revised Penal Code) against Archibald Po. Attached to the complaint was an Aircraft Fleet Service Agreement (Lease Agreement) allegedly entered into by Rene Sia as Corporate Secretary of Lionair, Inc. and Ignacio Arroyo, President of LTA, Inc.

The lease agreement contains the following terms:

1. Five helicopters were leased from March 16, 2004 to May 14, 2004. These helicopters had serial numbers: 1370, 1371, 1372, 1373, and 1374.
2. The indicated minimum cost of charter for five (5) helicopter units was Php 9,823,290.00.

Surprisingly, the lease agreement is undated but it was notarized on March 16, 2004.

The Blue Ribbon Committee categorically rejects this document and points out several irregularities and inconsistencies in Mr. Ignacio Arroyo's claim.

First, the lease agreement involved, among others, the helicopters sold to the PNP bearing serial numbers 1372 and 1374. Note that the lease agreement was

¹² Press Statement is attached as Annex J.

notarized on March 16, 2004 and indicated the same day as the start of the lease period. However, the helicopters with serial numbers 1372 and 1374 only arrived in the Philippines on March 17, 2004, a day after the first day of the purported lease agreement (Annex K).

Second, according to the testimony of Mr. Sia, he was simply asked to affix his signature, sometime in the year 2005 or 2006, on the page containing his name. The entire lease document, drafted solely by the Arroyos,¹³ was not even given to him. This testimony supports this Committee's belief that the lease agreement does not reflect a true agreement. Several other irregularities must be noted as well:

1. Mr. Sia's residence certificate number (10579800F, April 2, 2004, Pasay, Metro Manila), as indicated in the Aircraft Fleet Service Agreement, is spurious. Immediately noticeable that while the lease agreement was notarized on March 16, 2004, Sia's residence certificate was supposedly issued on April 2, 2004. Mr. Sia was able to obtain a certification from Pasay which states that this particular certificate was never issued by the authorized office. Introduced into the records of the case was this testimony:

MR. SIA: Apparently hindi po sa akin 'yung residence certificate na iyun kaya nagpakuha rin po kami ng opinion doon sa City Treasurer's Office ng Pasay, certification po.

SEN. OSMEÑA: So, natrace ninyo 'yung old residence certificate ninyo?

MR. SIA: Hindi po. "Yun pong residence certificate na nakalagay doon sa acknowledgement page, pinarefer po naming sa City Treasurer's Office ng Pasay at nagbigay po

¹³ TSN, MHBALAGNE, XI-1 August 25, 2011 11:07AM p.2

THE SENATE PRESIDENT [SEN. ENRILE]: Mr. Sia, sino bang gumawa nung lease contract, kayo ang nag-draft?

MR. SIA: Hindi po, Your Honor.

sila ng certification na hindi po sila nag-issue ng ganoong certificate number.

2. Mr. Sia purportedly signed as the corporate secretary of Lionair. However, a certain Eduardo Austria was the corporate secretary of Lionair, Inc. in 2004 (Annex L).
3. The lease agreement was signed even in the absence of any identification document for Ignacio Arroyo.
4. Contrary to common practice, only the signature of Ignacio Arroyo appears on each and every page of the lease agreement. This puts value on Mr. Sia's testimony that he was simply given the signature page of the contract and he affixed his signature on the same page only.

Lastly, it makes no sense for any party to enter into a lease agreement which would end on May 15, 2004 and the same party would continue to pay the lessor for maintenance and operating expenses amounting to Php 18,250,000.00 until 2011.

The Blue Ribbon Committee strongly condemns Iggy Arroyo for attempting to present this document to muddle the issue of the helicopter's ownership in an attempt to mislead the Committee. It is not an excuse that he did this to save his brother, Jose Miguel Arroyo. Senator Lacson pointed out:

SEN. LACSON: Mr. Chairman, the appearance of the witness may not have a direct bearing on the issue at hand, the helicopter issue. But then, we just would like to point out the fact that Iggy Arroyo, on several occasions before, had come to the rescue of his brother to the extent of falsifying documents and using some people just to advance his interest or the interest of the brother. So that's the only point that I wanted raised in this hearing, Mr. Chairman.¹⁴

¹⁴ TSN: MPMendoza, VIII-1, August 22, 2011, 10:25AM, p6.

On the point raised by Senator Lacson, it was revealed in the hearing on August 22, 2011, through the testimony of Restituto Mosqueda, that Iggy Arroyo once claimed to be Jose Pidal and thus the owner of accounts that were previously linked to his brother, Jose Miguel Arroyo, in relation to other alleged anomalous transactions. A pattern is thus observed that when FG Arroyo is in trouble, Iggy Arroyo comes to the rescue. In the Jose Pidal issue and on the issue of the helicopters' ownership, he attempted to hide the unlawful acts of his brother. Unfortunately for him, his machinations have been poorly planned and comically executed. Mr. Iggy Arroyo should stop the tirade and stop defending his brother for acts that are blatantly against the law. As a member of the House of Representatives, he bears both the privilege and duty to obey the very laws that Congress has passed. Because of his position, he should have the decency to uphold the integrity of lawful processes like investigations conducted by the Blue Ribbon Committee. Iggy cannot mock legitimate processes by allowing his brother to hide behind an Iggy Arroyo signature affixed on a document, as questionable as it is, like the Aircraft Fleet Service Agreement involved in this case.

The Ombudsman should further investigate Iggy Arroyo's criminal liability in relation to his admission in a press statement, in his attempt to cover up for Mike Arroyo, that there was supposedly a lease agreement between LTA, Inc. and Lionair.

II. NEGOTIATION to SIGNING of the SUPPLY CONTRACT

Facts

The Philippine National Police's Annual Procurement Plan for CY 2008 indicated One Hundred Five Million Pesos (Php 105,000,000.00) for the acquisition, through public bidding, of three (3) light operational helicopters.

However, the procurement process resulted to two failed biddings. For the first failed bidding,¹⁵ Manila Aerospace and Aerotech Industries bought bid documents but did not submit the necessary eligibility documents for the helicopters. Likewise, for the second failed bidding, no interested proponent submitted a bid.¹⁶

Pursuant to the procurement law, PNP proceeded to negotiated procurement and three suppliers participated:¹⁷

- MAPTRA- This company offered to deliver one (1) equipped LPOH and two (2) standard LPOH for One Hundred Five Million Pesos (Php 105,000,000.00).
- Beeline, Inc.-This company offered to deliver two (2) units for One Hundred Nineteen Pesos (Php 119,000,000.00).
- Aerotech- This company initially participated but "did not submit any proposal because the LPOH engine requirement is piston but their helicopters are equipped with turbine engine."

On May 22, 2009, the NHQ-BAC declared a failed negotiation and cited this reason:¹⁸

WHEREAS, the end-user made it clear during the pre-bid conference that they need at least three (3) equipped PLOH, which serves as the minimum requirement and, as such, the respective proposals of MAPTRA and BEELINE are not acceptable.

The procurement process did not end on the 22nd of May 2009 because after the failed negotiation, the Director, SAF wrote the Director for Logistics (TDL)

¹⁵ 29 October 2008. NHQ Bids and Awards Committee declared a failure of bidding through NHQ-BAC Resolution No. 2008-72.

¹⁶ 30 April 2009, NHQ Bids and Awards Committee declared a failure of bidding through NHQ-BAC Resolution 2009-13.

¹⁷ See 22 May 2009, NHQ Bids and Awards Committee Resolution 2009-17.

¹⁸ *Id.*

informing the latter of the modification of their requirement from three equipped LPOH to at least one (1) equipped and two (2) standard LPOH.

On May 29, 2009, the NHQ BAC recommended to the Chief, PNP that the Negotiation Committee be authorized to negotiate the procurement of at least one (1) unit equipped LPOH and two (2) units standard LPOH. In justifying its recommendation for a negotiated procurement, the NHQ BAC provided for the following reasons:

WHEREAS, in his letter, the D, SAF informed TDL that, presently, their Air Unit, has only one (1) functioning helicopter that will soon be grounded for maintenance purposes, the SAF badly need LPOH because they have on-going anti-criminality operations in Jolo, Sulu for which SAF Batallions have been deployed and are closely coordinating with the Armed Forces of the Philippines (AFP) in pursuing criminal elements thereat, particularly members of the Abu Sayaff Group (ASG).

On June 15, 2009, PNP held negotiations and two companies submitted proposals:

- BEELINE's offer: One Hundred Four Million Nine Hundred Eighty-Seven Thousand Pesos (Php 104,987,000.00) for three (3) brand new helicopters inclusive of all taxes, import duties and charges.
- MAPTRA's offer: One Hundred Four Million, Nine Hundred Eighty-Five Thousand Pesos (Php 104,985,000.00) for one (1) fully equipped and two (2) standard helicopters.

In their recommendation¹⁹ dated July 9, 2009, the Negotiation Committee rejected BEELINE's offer and cited this reason:

WHEREAS, the proposal of BEELINE is not acceptable because the helicopters that they shall deliver, in case contract is awarded to them, are without airconditioners and HID xenon light, and have

¹⁹ NC Resolution 2009-04

sitting capacity for a maximum of 3 persons only, hence non-conforming with the specifications. Moreover, they are still in the process of building their maintenance facility in the Philippines.

In recommending for the award of the contract to MAPTRA, the Negotiation Committee cited these reasons:

WHEREAS, the proposal of MAPTRA, on the other hand, could be summarized as follows: the total contract price for the 3 brand new helicopters is P104,985,000.00 inclusive of all taxes, import duties and charges to be delivered in Camp Crame; the helicopters, one (1) fully equipped and two (2) standards, all brand new shall be in accordance with the NAPOLCOM approved specifications, which have a maximum sitting capacity for 4 persons including the pilot; their proposal also includes the training of two (2) pilots for 7 days and two (2) aircraft mechanics for 14 days at Robinson Helicopter Factory, Los Angeles Torrance, USA, all expenses shall be for the account of MAPTRA:

WHEREAS, between the two (2) proposals received, that of MAPTRA is acceptable because the helicopters that they will deliver are consistent with the NAPOLCOM approved specifications, the total price quoted is within the ABC, and that MAPTRA is a legally, technically and financially capable suppliers of helicopters since they have been engaged in the business for so many years now with available and existing facilities.

The Recommendation was signed by the following:

- Luízo C. Ticman, Police Director, TDL/Chairman of the Negotiation Committee
- Ronald D. Roderos, Police Director, TDRD/Vice Chairman
- Leocadio SC Santiago, JR, Police Chief Superintendent, D, SAF/Provisional Member

Romeo Hilomen, Police Director, TDC/Member, did not sign the Recommendation but reasoned that it was only because he was absent on the day the resolution was signed. He was, however, present during the negotiations and presented no objection to the award of the contract to MAPTRA.

A resolution²⁰ affirming the recommendation of the Negotiation Committee was signed also on July 9, 2009 by the following:

- Jefferson Soriano, Police Deputy/Director General, TDCO/Chairman;
- Luizo C. Ticman, Police Director, TDL/Chairman of the Negotiation Committee
- Ronald D. Roderos, Police Director, TDRD/Vice Chairman
- Leocadio SC Santiago, JR, Police Chief Superintendent, D, SAF/Provisional Member
- Herold G. Ubalde, Police Chief Superintendent, D, LS/Member

Jesus A. Versoza, Police Director General, Chief, PNP, approved the resolution affirming the recommendation of the Negotiation Committee to award the contract to MAPTRA. As mentioned, Romeo Hilomen was absent that day and thus was unable to sign the document.

On July 23, 2009, the Supply Contract (Annex M) between the PNP and the Manila Aerospace Products Corporation was signed by Hilario de Vera, as president of MAPTRA and Jesus A. Versoza and the Chief, PNP.

Findings

The Blue Ribbon Committee finds several irregularities and violations of law in relation to the award of the contract to MAPTRA. These are as follows:

First, the PNP violated the Procurement Law when it awarded the contract to MAPTRA, an entity that is not a legally, technically and financially capable supplier of helicopters. The following must be noted:

²⁰ NHQ-BAC Resolution No. 2009-36

- a. The PNP awarded the contract on July 23, 2009 to Manila Aerospace Products Trading Corporation, a company that was incorporated only on June 10, 2009 or one (1) month and thirteen (13) days before the contract was signed (Annex N). This should have been an immediate warning sign for the PNP to pursue further investigation on the true capacity of its supplier. A simple question on whether or not MAPTRA was an authorized supplier of helicopters would have been sufficient. At this stage, the PNP could have immediately discovered that MAPTRA was an unqualified supplier.
- b. The Articles of Incorporation of MAPTRA is very clear that the company's purpose does not include sale of helicopters. Under primary purpose, it says: "sale of aircraft parts and spare parts." Under secondary purpose, it says "aircraft maintenance and repair of aircraft engine." By a cursory reading of the Articles of Incorporation, the Negotiation Committee should have immediately rejected MAPTRA as a potential supplier because it was clear that MAPTRA was not engaged in the business of selling helicopters.
- c. MAPTRA's paid-up capital at the time of incorporation was only Php 312,500.00. It must be noted that Article 5 of the Supply Contract (Annex A) required MAPTRA to post a performance surety bond that was 30% of the contract price (Php 31,500,000.00). The Negotiation Committee should have rejected MAPTRA because it was clear that the financial capability of the company was highly questionable in relation to the P105 million contract that it was about to sign with the PNP.
- d. Manila Aerospace Products Trading Corporation was not even a PNP certified supplier. The certified entity was Manila Aerospace Products Trading, a sole proprietorship. Even if one were to accept the argument that the two entities are one and the same, the Blue Ribbon Committee

points out the clear fact that the PNP Certificate of Accreditation (Annex O) issued to the sole proprietorship was valid only until January 22, 2009. Hence, neither the corporation that signed the supply contract with the PNP, nor the sole proprietorship was a PNP-accredited supplier when the Supply Contract was signed on July 23, 2009. Likewise, this PNP Certificate of Accreditation shows that MAPTRA's accreditation is only for contracts that are not more than three million and seven hundred pesos (Php 3,700,000.00). Here, the contract awarded to MAPTRA was Php105 million.

- e. The PNP repeatedly tried to claim that they dealt with MAPTRA because it was a Philippine Government Electronic Procurement System (Phil-GEPS)-certified supplier. However, a careful reading of the Phil-GEPS certification (Annex P) shows clearly that the certified supplier was Manila Aerospace Products Trading, the sole proprietorship and not the corporation that the PNP entered into a contract with.
- f. To defend itself, the PNP might try to claim that Manila Aerospace Products Trading Corporation had the authority to sell helicopters to the government. For this futile defense, the PNP might present a letter written by Renato M. Sia, General Manager of LIONAIR, Inc. (Annex E). For purposes of this report, the substance of this letter is reproduced below:

This is to authorize MANILA AEROSPACE PRODUCTS TRADING as our Marketing Arm to represent LIONAIR INCORPORATED for matters relating but not limited to the sale of Parts and Materials, Services, and to sale ROBINSON R22 and R44 Helicopter series with the Philippine Government including Philippine Navy.

This document is without value because of the following reasons: i) PNP's contract is with the corporation and not the sole proprietorship indicated in this letter, ii) the authorization is dated August 4, 2009-

only after MAPTRA had negotiated and entered into a contract with PNP.

A closer look into the minutes of the negotiation meeting clearly reveals that the Bids and Awards Committee's Legal and the Technical Working Group also participated in the anomalous award of the contract to an unqualified supplier. If they really looked carefully into the documents presented by MAPTRA and discussed above, they would have immediately discovered that they were dealing with a supplier that was not legally, financially, and technically capable. However, despite this, the minutes indicate that (Annex Q):

The Chairman instructed MAPTRA's representative to hand over their Eligibility, Technical and Financial documents to the Secretariat and the TWG. After thorough checking by the BAC Legal and TWG on Eligibility and Technical documents, it was found to be all in order and conforming with the requirements by the Committee, hence, the opening of its financial proposal.

Second, despite prior knowledge that MAPTRA was offering to sell used helicopters, PNP nevertheless awarded the contract to MAPTRA. The Negotiation Committee affirmed the award and Jesus Versoza, Chief, PNP, approved and signed the Supply Contract. These are the pieces of evidence to support this Committee's findings on this matter:

- a. The proposal from MAPTRA to the PNP, dated June 15, 2009 clearly indicated that the helicopters, serials nos. 1370 and 1371, they were offering were "service center conditioned" (Annex R). In the section on the definition of service center condition, the following pieces of information were provided and the same clearly showed that the helicopters offered by MAPTRA were not brand new:

For helicopter with Serial No. 1370

- Date of Manufacture, Airframe: March 3, 2004
- Aircraft Time to Date (24 Mar. 09): 367H36M
- Date Manufactured, Engine: 27 Sep. 2003.

For helicopter with Serial No. 1371

- Date of Manufacture, Airframe: March 3, 2004
- Aircraft Time to Date (24 Mar. 09): 481H06M
- Date Manufactured, Engine: 13 November 2003.

Instead of immediately rejecting the proposal of the potential supplier, the members of the PNP Negotiation Team figuratively closed their eyes and insisted on awarding the contract to MAPTRA.

Luizo Ticman, Chairman of the Negotiation Committee attempted to defend their actions by saying that they, in fact, rejected MAPTRA's offer precisely because the company was offering used helicopters. Mr. Ticman's explanation to the Chairman (Senator Guingona) was:²¹

THE CHAIRMAN [SEN. GUINGONA]: MAPTRA offered all brand-new? They did not, they offered service center condition.

MR. TICMAN: No, sir. No, sir. That was a negotiation. And the verbal discussion when we clarified to them, we countered that we cannot accept second-hand because we were buying brand-new and they accepted. So that became their new proposal.

THE CHAIRMAN [SEN. GUINGONA]: Then you should have put it in the report because that's crucial, that you—number 1, that you found out it was not brand-new, number 2, you rejected and you insisted on brand-new.

MR. TICMAN: That's right.

THE CHAIRMAN [SEN. GUINGONA]: It's not in the documents. And something as crucial as that, something as essential as that is not in your documents, iyang ang nakapagtataka.

²¹ RJOrtiz, VI-3 August 2, 2011 2:52PM, p.5

However, contrary to Mr. Ticman's self-serving assertions, the minutes of the said negotiation meeting does not, in any part, mention any statement of rejection of proposal from any of the members of the negotiation committee. In the hearing, Mr. Ticman attempted to use line 94 of the minutes to prove that he rejected the offer of MAPTRA for used helicopters:

MR. TICMAN: Sir, I invite your attention on line 94. Isa, sir, dito: "Police Director Hilomen, PDC, asked the proponents if the three helicopters, two standards and one fully-equipped that they will deliver to the PNP are all brand-new helicopters. And then the proponent said that all of the three helicopters that they will deliver are brand-new."

By reading this part of the minutes into the records of the Blue Ribbon Committee, Mr. Ticman further dug a deeper hole for himself and the rest of the Negotiation Committee because i) it now appears that they simply relied on the verbal promise of MAPTRA that the helicopters they will deliver are brand-new. ii) the Negotiation Team obviously ignored the fact that in the proposal of MAPTRA, it was obvious that the helicopters offered were second hand. Relying on the mere verbal promise of MAPTRA reveals the PNP's ignorance of the fact that while the procurement law allows for negotiated procurement, it does not do away with the duty of the procuring entity to ensure that the supplier is legally, technically, and financially capable.²² To do this, a procuring entity must have all the documents to support the commitments of the supplier, and to support the latter's claim of legal, financial, and technical capability.

During the hearing of the Blue Ribbon Committee, Mr. Ticman continued to incriminate himself as the head of the Negotiation Committee. When

²² Section 48 (e) of Republic Act 9184.

asked by Senator Lacson if he knew the meaning of "service center condition", Mr. Ticman answered:

MR. TICMAN: To be honest, sir, hindi ko na-encounter 'yong terminology na 'yon, sir, eh.

His answer is an admission of liability and failure on his part as chairman of the Committee to look at the proposal of the supplier. Mr. Ticman must be reminded that the word "service center condition" already appears on page 8 of MAPTRA's proposal. This further supports the Blue Ribbon Committee's finding that the Negotiation Committee, instead of carefully reviewing the documents showing the technical, financial, and legal capability of the supplier, chose to believe in the latter's verbal promises instead.

Aside from criminal liabilities, Mr. Ticman must be severely chastised for treating a government contract as if it was a simple agreement between two drunk and careless individuals. At the very least, the Negotiation Committee should have asked for a separate and new proposal instead of saying, laughably, that the Supply Contract which states that the helicopters were brand new, amounted to a proposal. Mr. Ticman's hazy explanation was:

MR. TICMAN: ... And we made it clear to them-the representative of MAPTRA was a certain Captain Sanchez-we made it clear to them that we are buying and what we want are all brand-new unit, for which he agreed and accepted our counter-offer or counterproposal for all brand-new units and which must conform with the Napolcom-approved specifications and within the ABC which was 105 million, Your Honor.

Furthermore, it is obvious that another proposal indicating that MAPTRA was able to deliver brand-new helicopters was never really requested or

submitted; a fact that Mr. Ticman as head of the Negotiation Committee and the signatory of the Supply Contract knew even when the Supply Contract was signed. Mr. Ticman cannot put the blame on MAPTRA because even the Supply Contract signed by Mr. Ticman himself still referred to the old proposal of MAPTRA, the one clearly showing that the helicopters offered were service center conditioned. The last line of Article 1 of the Supply Contract clearly refers to the old proposal:

Included in the delivery are all the accessories mentioned during the negotiation conference held on June 15, 2009 **which were confirmed by the Company in their detailed proposal, which is Annex "B" of this Contract** (Emphasis supplied).

Mr. Ticman's defense must be discarded as these were self-serving desperate attempts to cover up the clear violations of law committed by the Negotiation Committee.

Violations of NAPOLCOM and Ronaldo V. Puno

Ronaldo V. Puno, in his capacity as former Secretary of the Department of Interior and Local Government and Chairman of the NAPOLCOM could have stopped this anomalous transaction if only he performed the duties required in NAPOLCOM Resolution 2008-158, a resolution he himself signed on March 6, 2008 (Annex S).

NAPOLCOM Resolution No. 2008-158 creates an Oversight Committee to:

- "Monitor every stage of the procurement process undertaken by the Philippine National Police"²³; and
- "Review as the case maybe, documents after the Award of the PNP Purchase Contract involving five hundred million pesos

²³ Section 2 (1)

(P500M) and below, as provided for by Executive Order No. 423 dated April 30, 2005 prior to the issuance of the Notice to Proceed to the winning bidder.²⁴

Section 4(b) of Executive Order No. 423, in turn, requires that the Department Secretary should certify under oath that the contract has been entered into in faithful compliance with all applicable laws and regulations.

In the hearing held on the 13th of September 2011, Director Conrado Sumanga, Jr, member of NAPOLCOM's Oversight Committee, testified that the Committee was only present in one stage of the procurement process; during the first failed bidding.²⁵ Sumanga thus testified:

THE CHAIRMAN [SEN. GUINGONA]: So, did you make a report on the milestones of this purchase?

MR. SUMANGA: Actually, sir, since the first public bidding, there was no report yet that was made because I was of the belief that I will make a report only on the process when it is already of importance that I should come up with a report. Because, I understand, a failure of first public bidding, there will be a requirement to second failure of public bidding. But then, wala na po akong natanggap kaya hindi ho ako nakagawa. Probably, because sa dami po ng mga trabahong nakasaad sa akin.

THE CHAIRMAN [SEN. GUINGONA]: So you did not make a report during these milestones?

MR. SUMANGA: No, sir.

After that, they²⁶ no longer had any participation nor were they monitoring any of the subsequent proceedings.²⁷ Upon the inquiry of the Chairman, it was

²⁴ Section 2 (2).

²⁵ TSN, GSapinoso I-1 September 13, 2011 9:15A.M. p.5

²⁶ Members of the NAPOLCOM Oversight Committee: Commissioner Miguel G. Coronel, Assistant Secretary Oscar F. Valenzuela, Director Conrado L. Sumanga, Jr.

²⁷ *Supra note 24.*

definitely gathered that no report was ever released by the NAPOLCOM in relation to the procurement of the used helicopters.²⁸

MS. MUNIEZA:²⁹ Sir, with regard to these helicopters, sir, there was no report.

THE CHAIRMAN [SEN. GUINGONA]: No report?

MS. MUNIEZA: Yes, sir.

THE CHAIRMAN [SEN. GUINGONA]: No monitoring report whatsoever?

MS. MUNIEZA: Yes, Your Honor.

It was also clear that Ronaldo Puno failed to issue a certification as required by Executive Order No. 423.³⁰ It is clear that NAPOLCOM, through Ronaldo Puno, failed to exercise its duties in relation to the procurement process of the PNP.³¹ This exchange proved important:

THE CHAIRMAN [SEN. GUINGONA]: (earlier portions omitted) To your knowledge, if you know, was a certification issued by the secretary of the DILG prior to the issuance of the notice to proceed, if you know.

MR. TICMAN: I am not aware, Mr. Chairman.

THE CHAIRMAN [SEN. GUINGONA]: Ms. Munieza.

MS. MUNIEZA: Yes, Your Honor.

²⁸ *Id.* and TSN, JADela Cruz II-1 September 13, 2011 9:25am, p. 2

²⁹ Ms. Munieza testified as the Head Secretariat of NAPOLCOM. She was not a member of the Oversight Committee at the time of the anomalous sale.

³⁰ Executive Order, Section 4 (b) provides:

For Government Contracts Involving An Amount Below Five Hundred Million Pesos (P500 Million). – Except for Government contracts required by law to be acted upon and/or approved by the President, the Heads of the Procuring Entities shall likewise have full authority to give final approval and/or to enter into Government contracts of their respective agencies, entered into through alternative methods of procurement allowed by law. Provided, that the Department Secretary certifies under oath that the contract has been entered into in faithful compliance with all applicable laws and regulations.

³¹ *Supra* note 26., p.3

THE CHAIRMAN [SEN. GUINGONA]: Are you aware that after the signing of the supply contract before issuance of notice to proceed, was there a certification issued by the secretary of the DILG.

MS. MUNIEZA: I am not aware of that, Your Honor.

THE CHAIRMAN [SEN. GUINGONA]: And none that you recall of?

MS. MUNIEZA: None, Your Honor.

III. DELIVERY, INSPECTION, and PAYMENT of CONTRACT

Facts

On September 24, 2009, inspection and test flight were conducted on the two (2) used light police operational helicopters.³² On October 14, 2009, WTCD Report number T2009-094A on two units of Robinson R44 Raven I Helicopter (Standard) was issued. The units inspected were SN 1372 (RP-4250) and SN 1374 (RP-4357). The report contained the following findings:³³

PNP Specifications for Light Police Operational Helicopter	Specifications of Robinson R44 Raven I Helicopter	Remark(s)
Power Plant: Piston	Piston-type	Conforming
Power Rating: 200hp (minimum)	225	Conforming
Speed: 100 knots (minimum)	113 knots	Conforming
Range: 300 miles (minimum)	400 miles	Conforming
Endurance: 3 Hours (minimum)	No available data	
Service Ceiling (Height Capability): 14,000 Feet (Maximum)	14,000 feet	Conforming
T/O Gross Weight: 2,600 Lbs (maximum)	2,400 Lbs	Conforming

³² Memorandum on the After Activity Report: Inspection and Test Flight on Robinsons R44 Raven I Helicopters. October 2, 2009.

³³ National Police Commission National Headquarters, Philippine National Police Directorate for Research and Development. WTCD Report Number T2009-04A. October 14, 2009.

Seating Capacity: 1 Pilot + 3 pax (maximum)	1 pilot + 3 passengers	Conforming
Ventilating System: Air-conditioned	Not airconditioned	Standard Helicopter
Aircraft Instruments: Standard to include Directional Gyro Above Horizon with Slip Skid Indicator and Vertical Compass	Equipped with Directional Gyro Above Horizon with Slip Skid Indicator and Vertical Compass	Conforming
Color and Markings: White with appropriate markings specified in NAPOLCOM Res. No. 99-002 dated January 5, 1999 (Approving the Standard Color and Markings for PNP Motor Vehicles, Seacraft and Aircraft)	White with appropriate markings as specified in NAPOLCOM Res. No. 99-002	Conforming
Warranty: The supplier warrants any defect in material and workmanship within the most advantageous terms and conditions in favor of the government.	The supplier will warrant(s) any defect in material and workmanship within the most advantageous terms and conditions in favor of the government for two (2) years.	Indicated in the contract (To include time-change parts as suggested by DRD Test and Evaluation Board)
Requirements: Maintenance Manual Operation Manual	Provided Provided	Conforming Conforming

The WTCD Report Number T2009-04A was signed by the members of the inspection team - PSSUPT Edgar B. Paatan, PSUPT Larry D. Balmaceda, PSUPT Claudio DS Gaspar Jr., SPO3 Jorge B. Gabiana, SPO3 Ma. Linda A. Padojinog, PO3 Dionisio Jimenez, NUP Ruben S. Gongona, NUP Erwin O. Chavarria, NUP Emilia A. Ailing, NUP Erwin Paul Maranan; Supervisor of the inspection team – Maria Josefina Recometa; Recommending Approval – Joel Crisostomo L. Garcia; Attested by – Luis L. Saligumba; and Noted by – Ronald D. Roderos.³⁴

³⁴ *Id.*

It is important to pay close attention to the report reproduced above and signed by the PNP officers mentioned in the preceding paragraph. It is very clear that these officers already indicated that the helicopters that were delivered were not air-conditioned as required by the NAPOLCOM specifications. This clearly indicates that the subordinate members of the PNP did their job: to inspect the items in accordance with the NAPOLCOM specifications. For this reason, the Blue Ribbon Committee strongly believes that the following persons should not be charged: PSUPT Larry D. Balmaceda, PSUPT Claudio DS Gaspar Jr., SPO3 Jorge B. Gabiana, SPO3 Ma. Linda A. Padojinog, PO3 Dionisio Jimenez, NUP Ruben S. Gongona, NUP Erwin O. Chavarria, NUP Emilia A. Aliling, NUP Erwin Paul Maranan, and Maria Josefina Recometa.

If the approving authorities only took note of the result of the inspection, they could have easily rejected the delivered helicopters on the ground that it did not conform to the NAPOLCOM specifications. It is therefore strange that Joel Crisostomo Garcia signed under the notation "Recommending Approval". Furthermore, glaring is the fact that the details of the Report were disregarded and that the Inspection and Acceptance Committee, through Resolution IAC-09-045, nevertheless ruled that the helicopters should be accepted for use by the PNP. This Resolution was signed by the following persons who should be the ones charged, among other persons, for this anomalous sale: PCSUPT Luis Luarca Saligumba, PSSUPT Job Nolan D. Antonio, PSSUPT Edgar Bawayan Paatan, and PDRI George Quinto Plano.

The Inspection Team found "the items stated in the approved PNPP#O(M)220909-017 to be in good order/condition and in accordance/conforming to the approved NAPOLCOM specifications."³⁵ Said report was signed by Property

³⁵ National Police Commission Philippine National Police Directorate for Comptrollership Inspection Report Form.

Inspector PO3 Avensuel G. Dy and noted by Police Senior Superintendent Mansue N. Lukban.³⁶

On October 16, 2009, The Directorate for Research and Development thru Police Director Ronald D. Roderos issued a Memorandum stating that the result of the inspection "conformed with the NAPOLCOM-Approved PNP specifications for Light Police Operational Helicopter and as specified in the Purchase Order."³⁷

On Nov. 11, 2009, the NHQ-PNP Inspection and Acceptance Committee issued Resolution No. IAC-09-045. The resolution contained the following findings:

WHEREAS, after inspection and evaluation was conducted, the Committee found the said items to be conforming to the approved NAPOLCOM specifications and passed the acceptance criteria as submitted by DRD on WTCD Report No. T2009-04A.

NOW THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, that the above mentioned items be accepted for use of the PNP.³⁸

Said resolution was signed by Police Chief Superintendent George Q. Piano, Police Senior Superintendent Luis L. Saligumba, Police Senior Superintendent Job Nolan D. Antonio, and Police Senior Superintendent Edgar B. Paatan.

Meanwhile, on February 17, 2010, WTCD Report Number T2010-05 on one unit of Light Police Operational Helicopter (Robinson R44 Raven II) was issued. The unit inspected was Serial Number 12471 (RP-2045). The report contained the following findings:³⁹

³⁶ *Id.*

³⁷ National Police Commission National Headquarters Philippine National Police Directorate for Research and Development. Memorandum on the Result of Technical Inspection of the Two (2) Units of Light Police Operational Helicopter (Robinson R44 Raven I) delivered by Manila Aerospace Products Training Corporation. October 16, 2009.

³⁸ National Headquarters Philippine National Police Inspection and Acceptance Committee Resolution No. IAC-09-045. November 11, 2009.

³⁹ National Police Commission National Police Headquarters, Philippine National Police Directorate for Research and Development WTCD Report Number T2010-05.

Nr.	PNP Specifications for Light Police Operational Helicopter	Specifications of Robinson R22 Raven II	Remark (s)
1	Power Plant: Piston	Piston	Conforming
2	Power Rating: 200 hp (minimum)	245	Conforming
3	Speed: 100 knots (minimum)	130 knots	Conforming
4	Range: 300 miles (minimum)	350 miles	Conforming
5	Endurance: 3 Hours (minimum)	3 hours	Conforming
6	Service Ceiling (Height Capability): 14,000 Feet (Maximum)	14,000 feet	Conforming
7	T/O Gross Weight: 2,600 Lbs (maximum)	2,500 Lbs	Conforming
8	Seating Capacity: 1 Pilot + 3 pax (maximum)	1 pilot + 2 pax	Conforming
9	Ventilating System: Air-conditioned	Air-conditioned	Conforming
10	Standard to include the Directional Gyro Above Horizon with Slip Skip Indicator and Vertical Compass	Equipped with Directional Gyro Above Horizon with Slip	Conforming
Standard Police Equipment:			
11	Fold-down Monitor Mount	Provided (Marshall V-R1041-RH)	Conforming
12	Digital Recorder	Provided (Stealth)	Conforming
13	Searchlight, 15-20 Million Candlepower	20 Million candlepower	Conforming
14	Dual Audio Controller	Provided	Conforming
15	Nine (9) Memory Channel, Cyclic Grip Control	Provided (FLIR System)	Conforming
16	GPS (Moving Map, Colored)	Provided (Garmin 420), moving colored map	Conforming
17	Transponder with Remote Mode C Altitude Encoder	Provided (Bendix King KT 76 C TSO)	Conforming
18	PA System and Siren (100 watts)	Provided (Wellen SA-34075) 100 W	Conforming
19	Two (2) David Clark H10-13 Headsets	3 pcs. David Clark H10-13 headsets	Conforming
20	FSI Ultra 8000 Infrared (10x continuous zoom, InSB Infrared Sensor and 18x Continuous Zoom Color TV Camera, Gyrostabilized	Provided (FLIR System)	Conforming

	Monitor 10.4-inch, Sunlight Readable Color, LCD, Active Matrix TFT)		
21	Extended Landing gear	Provided	Conforming
22	Bubble Windows, Both Forward Doors	Provided	Conforming
23	Transmit and Intercom Floor Switches, Observer Side	Provided	Conforming
24	Observer Overhead Light, Foot Activated	Provided	Conforming
25	HID Landing Lights	Provided	Conforming
26	130-Ampere Alternator	Provided	Conforming
27	Slave System	Provided	Conforming
28	Real Time Transmission Downlink (Optional)	N/A	Not stated in the contract
29	Color and Markings: White with appropriate markings specified in NAPOLCOM Res. No. 99-002 dated January 5, 1999 (Approving the Standard Color and Markings for PNP Motor Vehicles, Seacraft and Aircraft)	Provided	Conforming
30	Warranty: The Supplier warrants any defect in material and workmanship within the most advantageous terms and conditions in favor of the government.	Company warrants that the items to be delivered are brand new, conforms to the NAPOLCOM approved technical specifications, free from any manufacturing defects of whatever nature and, in case of defects noted within two (2) years from final acceptance, Company shall replace the defective unit with a new one if the defective unit could not be repaired without impairing its capability and	Conforming

		usefulness. For replacement purposes, the PNP shall notify the Company in writing about the defective item and simultaneously return the same	
31	Requirements: Maintenance Manual Operation Manual	Provided Provided	Conforming

WTCD Report Number T2010-05 was signed by the members of the inspection team – PSUPT. Larry D. Balmaceda, PCINSP Peter D. Ngabit Jr., PCINSP Maria Cecile M. Vilorio, SPO3 Jorge B. Gabiana, SPO3 Ma. Linda A. Padojinog, PO3 Avensuel G. Dy, PO3 Dionisio B. Jimenez, PO1 Darwin S. Yap, Po1 Janet P. Pante, NUP Ruben S. Gongona, NUP Erwin Paul Maranan; Supervisor of the inspection team – PSINSP Ronald A. Lee; Recommending Approval - Joel Crisostomo L. Garcia; Concurring – Luis L. Saligumba; and Approval – Benjamin A. Belarmino Jr.⁴⁰

Amidst PNP findings that the delivered helicopters complied with NAPOLCOM issued resolution, the inspection, specifically on the two standard helicopters was conducted with several irregularities:

First, the accepted helicopters were different from the ones proposed. At this point, it must be emphasized that the proposal from MAPTRA, dated June 15, 2009 clearly indicated that the helicopters they were offering were those with serial nos. 1370 and 1371, with the following descriptions:

For helicopter with Serial No. 1370

- Date of Manufacture, Airframe: March 3, 2004
- Aircraft Time to Date (24 Mar. 09): 367H36M

⁴⁰ *Id.*

- Date Manufactured, Engine: 27 Sep. 2003.

For helicopter with Serial No. 1371

- Date of Manufacture, Airframe: March 3, 2004
- Aircraft Time to Date (24 Mar. 09): 481H06M
- Date Manufactured, Engine: 13 November 2003.

However, the helicopters eventually delivered by MAPTRA bore serial numbers 1372 and 1374. The helicopter with Serial Number 1374 had longer logged flight hours 503H12 M as of 24 March 09.⁴¹ Hence, it is "more used" than the secondhand helicopters initially offered by MAPTRA to the PNP.

Second, it is evident from WTCD Report on the two units of Robinson R44 Raven I Helicopter (Standard) that the requirements for air-conditioning and endurance were not met. Despite failing to meet these requirements, the two helicopters were still accepted. It is noteworthy to mention that in NC Resolution No. 2009-04, one of the reasons as to why the proposal of the other bidder, Beeline, was rejected was because the proposed helicopters of Beeline did not have any air-conditioners.⁴²

The requirement on the warranty of the helicopter was also not met as found in the line of questioning of Senator Serge Osmeña:

SEN. OSMEÑA. General Verzosa, can you explain to the Committee whether you checked for the warranties that accompanied the purchase of the three helicopters?

MR. VERZOSA. I did not personally check the warranties, Your Honor. But it is included in the supply contract, Your Honor.

SEN. OSMEÑA. It is included in the supply contract?

MR. VERZOSA. Yes, Your Honor.

SEN. OSMEÑA. Who told you it is included if you did not check? You were buying a six-year old helicopter, I'm sure the warranty expired already.

⁴¹ *Id.*

⁴² National Police Commission Negotiation Committee NC Resolution No. 2009-02. July 9, 2009.

SEN. LACSON. Five years old.

SEN. OSMEÑA. Ah, five years old lang? Okay.

MR. VERZOSA. It is forwarded to me by the DL, Your Honor, the director for Logistics, and for the company, it was signed by Larry de Vera in the presence of General Piano and Ms. Rose Santos of MAPTRA.

SEN. OSMEÑA: But the warranty must be signed by the manufacturer, which is Robinson Helicopters. Who checked whether there were warranties in effect to cover the two used helicopters?

MR. VERZOSA: I want to check it with the director for Logistics, Your Honor.⁴³

XXX

SEN. OSMEÑA: xxx By the way, General Verzosa, I just found out the warranty on the reciprocating aircraft engine, this is only good for 24 months. So when you bought the helicopters, it had no engine warranty any longer and no aircraft warranty.⁴⁴

Third, some members of the inspection team, namely, PSUPT Claudio DS Gaspar Jr. and PSUPT Larry D. Balmaceda admitted during the hearing that they knew beforehand that the two standard helicopters were not brand new.⁴⁵

THE CHAIRMAN [SEN. GUINGONA]. Okay, Colonel Gaspar, so nakita mo 'yong – at inilipad mo 'yong helicopter na ibinebenta sa PNP.

MR. GASPAR. Opo.

THE CHAIRMAN [SEN. GUINGONA]. Please answer.

MR. GASPAR. Opo, sir.

THE CHAIRMAN [SEN. GUINGONA]. Okay. Brand-new ba ito o hindi?

MR. GASPAR. Hindi po, Your Honors.

THE CHAIRMAN [SEN. GUINGONA]. Hindi brand-new,

MR. GASPAR. Hindi po.

⁴³ TSN, Jmbaisa VIII-2 July 28, 2011 12:37 P.M. pp. 1-2.

⁴⁴ TSN, MPMendoza IX-2. July 28, 2011. 12:47 P.M. p. 2.

⁴⁵ TSN. BRH Gonzales. VII-2. July 28, 2011. 10:07 A.M. p. 3

THE CHAIRMAN [SEN. GUINGONA]. Hindi brand-new. Colonel Balmaceda, member ka ng inspection team.

MR. BALMACEDA. Pareho kami ni Colonel Gaspar, sir, na nag-assist sa mga nag-inspection, sir.

THE CHAIRMAN [SEN. GUINGONA]. So nag-assist sa mga nag-inspect.

MR. BALMACEDA. Yes, sir.

THE CHAIRMAN [SEN. GUINGONA]. Nakapirma ka sa inspection report noong na-deliver 'yong helicopter?

MR. BALMACEDA. Yes, sir.

THE CHAIRMAN [SEN. GUINGONA]. Okay. Brand-new ba itong helicopter o Second-hand?

MR. BALMACEDA. Second-hand, sir.

THE CHAIRMAN. [SEN. GUINGONA] Secondhand.

Furthermore, despite knowledge that the two standard helicopters were not brand-new, both Gaspar and Balmaceda did not inform their superiors of this fact.⁴⁶ When asked why they did not inform their superiors that the helicopters were not brand-new, Gaspar mentioned that their participation in the inspection was to assist the inspection committee and not to inspect the helicopters.⁴⁷

Fourth, the WTCD Report was dated October 16, 2009. Gaspar, however, admitted that he only signed the WTCD Report on October 23, 2009.⁴⁸ Furthermore, when Gaspar was asked to sign the WTCD Report, it was already signed by Joel Crisostomo Garcia, attested by Luis Saligumba, and noted by Ronald Roderos.⁴⁹ In the words of Senator Drilon:⁵⁰

⁴⁶ TSN Mhulep III-2 Aug. 2, 2011, 12:12 P.M. pp. 7-9 and TSN RJOrtiz IV-2 August 2, 2011. 12:22 P.M. p. 1.

⁴⁷ M.R. Catadman I-2 August 25, 2011 11:57 A.M.

⁴⁸ TSN Ctsotto XI-1 August 11, 2011. 10:57 A.M. p. 8.

⁴⁹ TSN Ctsotto XI-1 August 11, 2011. 10:57 A.M. p.10.

⁵⁰ TSN RP Alger XII-1. August 11, 2011 11:07 A.M. p. 1

Again, this shows how anomalous this deal was. Before the inspection team could even approve the condition of the helicopter, huh, the recommendation is already approved by the pertinent authorities....

Fifth, by their own admission, three of the four members of the NHQ-PNP Inspection and Acceptance Committee – Police Chief Superintendent George Q. Piano, Police Senior Superintendent Luis L. Saligumba, Police Senior Superintendent Job Nolan D. Antonio - who signed the Resolution accepting the two standard helicopters did not personally inspect the helicopters. The one member who attended the inspection – Police Senior Superintendent Edgar B. Paatan - admitted that he was not qualified to determine if the helicopters were brand-new or not.⁵¹

THE CHAIRMAN [SEN. GUINGONA]. Okay. General Piano, there is this report, inspection and acceptance – Ibig sabihin ng acceptance eh pagtatanggap – November 11, signed by yours truly, George Piano, Police Chief Superintendent; Luis Saligumba, Job Nolan Antonio and Edgar Paatan. You said you were not there when you inspected the unit, am I correct?

MR. PIANO. You are correct, Your Honor.

THE CHAIRMAN [SEN. GUINGONA]. Okay. Police Senior Superintendent Saligumba, you said you were not there when it was inspected, am I correct? Please speak in the microphone, please.

MR. SALIGUMBA. Yes, sir.

THE CHAIRMAN [SEN. GUINGONA]. And yet you signed the report? Please answer verbally?

MR. SALIGUMBA. Yes, sir.

THE CHAIRMAN [SEN. GUINGONA]. Senior Superintendent Antonio, were you present when this inspection was made?

MR. ANTONIO. No, sir.

THE CHAIRMAN [SEN. GUINGONA]. You were not present also?

MR. ANTONIO. Yes, sir. I was not present, sir.

THE CHAIRMAN [SEN. GUINGONA]. But you signed the document?

⁵¹ TSN. L. Sapida. I-2. July 28, 2011. 11:27 A.M. pp. 1-3.

MR. ANTONIO. Yes, sir.

THE CHAIRMAN [SEN. GUINGONA]. The acceptance?

MR. ANTONIO. Yes, sir.

THE CHAIRMAN [SEN. GUINGONA]. Inspection and acceptance. General Piano, do you deny that you signed this document?

MR. PIANO. I signed it, Your Honor.

THE CHAIRMAN [SEN. GUINGONA]. Thank you. Senior Superintendent Paatan, were you present during the inspection?

MR. PAATAN. Yes, Mr. Chairman.

THE CHAIRMAN [SEN. GUINGONA]. And you signed this inspection?

MR. PAATAN. Yes, sir.

THE CHAIRMAN [SEN. GUINGONA]. One, two, three, four. Four PNP Officers were supposed to inspect, yet only one actually inspected, but all those signed. And *kanino po, Senior Superintendent Paatan, sinabi n'yo sa amin na wala kang kakayahan na malaman kung luma o bago?*

MR. PAATAN. Yes, Mr. Chairman.

Sixth, the chairman of the Inspection and Acceptance Committee, Police Chief Superintendent George Q. Piano failed to exercise due diligence. Piano admitted that he did not see it as part of his duty to check the registration of the delivered helicopters.⁵² He was castigated by Senator Drilon on this matter:⁵³

I am sorry, but you are not believable insofar as this point is concerned, General. Wala pong naniniwala sa inyo. And a reasonable mind will not accept that you were exercising due diligence when you did not check the basic document before you accepted. What is the basic document? The registration. If you checked the basic document, you would have seen that these helicopters were in the name of Lionair, not in the name of MAPTRA.

Piano also failed to verify with the inspection team if the two standard helicopters were indeed brand-new or not.⁵⁴ Furthermore, when asked why Piano accepted the helicopters when it was clear that the helicopters did not comply with

⁵² TSN RPAIger XII-1 August 11.2011 11:07 A. M. p. 3.

⁵³ *Id.* at pp.3-4.

⁵⁴ TSN RJOrtiz IV-2 August 2, 2011 12:22 P.M. p. 2.

the specifications on endurance and air-conditioned, Piano tried to excuse himself by saying that the Inspection and Acceptance Committee relied on the memorandum that was submitted to them that the two helicopters were conforming to NAPOLCOM specifications and that is why they affixed their signature.⁵⁵

It seems that Piano sees his role as Chair of the Inspection and Acceptance Committee as a "mere rubberstamp." From his argument, once the inspection team states that the equipment complies with NAPOLCOM specifications, said equipment should already be accepted. Clearly, Piano would like to pass on the liability of the Inspection and Acceptance Committee to somebody else.

Seventh, no less than current PNP Chief Raul M. Bacalzo admitted that of the members of the inspection team, the only competent officers who could determine the quality or the type of equipment that PNP was buying were the two pilots – Gaspar and Balmaceda.⁵⁶ Gaspar and Balmaceda, however, had always mentioned that their participation in the inspection was to assist the members of the inspection team only.⁵⁷

Last, but not the least, the Commission on Audit (COA) was not present when the inspection on the two standard helicopters was made on September 24, 2009. COA Auditor Jaime Sanares explained that as a general rule, upon acceptance of the agency, the designated technical inspectors of the COA will handle the inspection.⁵⁸ There are instances, however, to speed up the process, that COA will inspect together with PNP. During the inspection of the two standard helicopters, however,

⁵⁵ TSN Mhulep VIII-1 August 11, 2011 10:27 A.M. p. 2.

⁵⁶ TSN JADela Cruz August 11, 2011 10:07 A.M. p. 3.

⁵⁷ TSN Ctsotto XI-1 August 11, 2011. 10:57 A.M. p. 7; M.R. Catadman I-2 August 25, 2011 11:57 A.M.

⁵⁸ TSN RPAIger XII-1 August 11, 2011 11:07 A. M. p. 7.

COA was not part of the team.⁵⁹ COA was asked by MAPTRA President Mr. De Vera to inspect the two standard helicopters only in December.⁶⁰

PAYMENT

In the original Supply Contract, MAPTRA was to be paid the amount of One Hundred Four Million Nine Hundred Eighty-Five Thousand Pesos (Php 104,985,000.00) right after the final acceptance of the items.⁶¹ Article IV of the Supply Contract specifically stated that "partial payment for partial delivery is not allowed."⁶²

On September 4, 2009, however, MAPTRA President Larry De Vera wrote to PNP Chief Jesus A. Verzosa thru PDDG Jefferson P. Soriano, the Chairman of the NHQ Bids and Awards Committee requesting for "contract amendment by allowing use claim partial payment upon the delivery and final acceptance of the two (2) standard LPOHs."⁶³ Mr. De Vera wrote that Robinson Helicopter Committee asked for the remittance of the amount of at least fifty percent (50%) of the contract as a precondition for the shipment of the fully equipped LPOH.⁶⁴ Mr. De Vera explained that "due to the numerous commitments of our company both in and out of the government, we are not in a position to accede to the condition of our principal."⁶⁵

NHPNP BAC then issued Resolution No. 2009-70 stating that "the amendment of the Supply Contract as requested by MAPTRA will not be injurious to the PNP nor place the PNP in a disadvantageous position because partial payment could only be

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Supply Contract between the Philippine National Police and Manila Aerospace Products Trading Corporation for the procurement of one (1) fully equipped and two (2) standards Light Police Operational Helicopter for use of the Air Unit of the PNP Special Action Force. July 23, 2009.

⁶² *Id.*

⁶³ Letter of Mr. Larry B. De Vera, President of Manila Aerospace Products Trading to PNP Chief Jesus A. Verzosa. September 4, 2009.

⁶⁴ *Id.*

⁶⁵ *Id.*

made upon a determination that partial performance acceptable to the PNP has been made and the same shall always be in conformity with existing accounting and auditing rules and regulations.⁶⁶ PDDG Jefferson P. Soriano then wrote a Memo to the PNP Chief recommending the approval of the Supplemental Contract between PNP and MAPTRA.⁶⁷

On Nov. 9, 2009, the Supplemental Contract was approved wherein "partial payment for partial delivery is allowed: provided, that the two (2) standard Light Police Operational Helicopters shall be delivered within the delivery period of sixty (60) calendar days mentioned in Paragraph 2, Article III of the main Supply Contract and provided further, that the claim for partial payment shall only be equivalent to fifty percent (50%) of the total contract price."⁶⁸ The Supplemental Contract was signed by: Atty. Jefferson Soriano, Benjain A. Belarmino, Romeo C. Hilomen, Atty. Herold Ubalde and Leocadio SC Santiago.⁶⁹ It was also approved by Chief PNP Jesus A. Verzosa.⁷⁰

On Nov. 10, 2009, Disbursement Voucher for the partial delivery of Standard Light Police Operational Helicopter in the amount of Fifty Two Million Four Hundred Ninety Two Thousand Five Hundred Pesos (Php 52,492,500.00) was issued.⁷¹ Less taxes, Forty Nine Million, Six Hundred Eighty Thousand Four Hundred One Pesos and Eighty Centavos (Php 49,680,401.80) was received by MAPTRA on December 17, 2009.⁷²

⁶⁶ Resolution No. 2009-70. Recommending The Amendment of the Supply Contract Between The PNP and Manila Aerospace Products Trading Corporation For The Delivery of One (1) Fully Equipped and Two (2) Standard Light Police Operational Helicopters For Use Of The PNP Special Action Force.

⁶⁷ Memorandum on the Supplemental Contract for the Delivery of Light Police Operational Helicopters. Date not provided. Approved on November 7, 2009.

⁶⁸ Supplemental Supply Contract. Article I, "Acceptance and Payment." November 9, 2009.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Disbursement Voucher No. PNPDV#O(M)-101109-019. November 10, 2009.

⁷² Manila Aerospace Products Trading Official Receipt No. 1280. December 17, 2009.

On March 9, 2010, the Disbursement Voucher for the complete delivery of one (1) unit Fully Equipped Light Police Operational Helicopter in the amount of Fifty Two Million Four Hundred Ninety Two Thousand Five Hundred Pesos (Php 52,492,500.00) was issued.⁷³ Less taxes, Forty Nine Million, Six Hundred Eighty Thousand Four Hundred One Pesos and Eighty Centavos (Php 49,680,401.80) was received by MAPTRA on April 13, 2010.⁷⁴ Thus, MAPTRA received a total of One Hundred Four Million Nine Hundred Eighty Five Thousand Pesos (Php 104,985,000.00) from PNP for one fully-equipped helicopter and two standard helicopters. Said amount can further be broken down as follows: One unit police equipped R44 II Police Helicopter - Forty Two Million Three Hundred Twelve Thousand Nine Hundred Thirteen Pesos and Ten Centavos (Php 42,312,913.10); Two Units R44 I Standard Light Police Operational Helicopter - Sixty Two Million Six Hundred Seventy Two Thousand Eighty Six Pesos and Ninety Centavos (Php 62,672,086.90) or Thirty One Million Three Hundred Thirty Six Thousand Forty Three Pesos and Forty Five Centavos (Php 31,336,043.45) per unit.⁷⁵ During the course of the hearings, it was established that Mr. De Vera gave the money received from PNP to Mr. Po and Mr. Po then gave the money to Mr. Mike Arroyo.⁷⁶ The amount of \$700,000,⁷⁷ in cash, was given to Mr. Arroyo in payment for the helicopters.⁷⁸

Considering that the original price of One Hundred Five Million Pesos (Php 105,000,000.00) was meant to cover three brand new fully-equipped helicopters,⁷⁹ the mere fact that the Php 105,000,000.00 was later amended (during negotiation) to cover one brand-new fully-equipped helicopter and two standard helicopters meant loss on the part of the government already. This loss was further aggravated by the fact that what were bought by the PNP were not two brand-new standard

⁷³ Disbursement Voucher No. PNP DV#O(M)-170210-037, March 9, 2010.

⁷⁴ Manila Aerospace Products Trading Official Receipt No. 1305, April 13, 2010.

⁷⁵ Sales Invoice of MAPTRA No. 1692, September 24, 2009.

⁷⁶ TSN RPAIger X-1 August 2, 2011 10:52 A.M. p.2.

⁷⁷ At P45.00 to \$1.00, equivalent to Thirty One Million and Five Hundred Thousand Pesos (P31.5 Million). TSN JADela Cruz IX-2 August 2, 2011 1:12 P.M. p. 1.

⁷⁸ *Id.*

⁷⁹ Invitation to Apply for Eligibility to Bid, Approved Budget for 3 Units Light Operational Helicopter is P105,000,000.00. Published in the Philippine Star on August 1, 2008.

helicopters but two second-hand helicopters. Notwithstanding the fact that the three helicopters were bought for Php 104,985,000.00, PNP still suffered a major loss on this transaction. Senator Lacson highlighted PNP's loss on the transaction:⁸⁰

SEN. LACSON. Mr. Chair, isa pa pong punto, ipapakita lang sa screen, research din po ito ni Senator Drilon. Sa PNP, kung noong 2008 ang binili niyo was Raven II, instead of Raven I na brand-new, ipapakita po sa inyo kung magkano yung presyo, P19 million; brand-new Raven II, ang ibig sabihin daw po ng Raven II may mga nakaabang na para maging fully equipped, at iyun po ay brand-new pero ang binili ninyo secondhand na, Raven I pa, ay 31 million. Papaano po ninyo i-justify iyon sa mga imbestigador, sa Ombudsman o sa Sandiganbayan na ganoon ang inyong bimili?

Anybody from the PNP, 19 million Raven II, pwedeng i-upgrade nang maging fully equipped; yung Raven I, talagang pampasahero na lamang iyon, hindi na puwedeng i-upgrade, talagang standard pero 31 million against 19 million na bago na, upgraded pa.

IV. SUMMARY OF FINDINGS

Through the course of hearings, the following were found and discovered by the Committee:

1. Through several documentary and testimonial evidence, it appears that former First Gentleman Jose Miguel Arroyo (FG) is the real owner of the used helicopters sold to the PNP.
2. Prior to the sale to the PNP, different members of the former First Family, repeatedly used the helicopters for various trips.
3. These helicopters were bought by the PNP despite violations of multiple rules of procurement.

⁸⁰ TSN MHBalagne XI-2 August 25, 2011 1:37 P.M. pp. 2-3.

4. These helicopters were accepted by the PNP despite prior and clear knowledge that they did not even comply with the technical requirements of the PNP, and were not even brand-new as required by the Supply Contract.
5. Part of the payment of the PNP was, as narrated by Archibald Po, turned over to the real owner, former First Gentleman Jose Miguel Arroyo.

V. DISCUSSION OF LIABILITIES

Persons Liable

The Blue Ribbon Committee asserts that the following public officials/employees and private individual, for acting in conspiracy with each other, should be charged by the Office of Ombudsman for violations of Section 3(e) and (g) of the Anti-Graft and Corrupt Practices Act, the reasons thereof are discussed in the next section:

- Jose Miguel Arroyo, owner of the second-hand helicopters sold to the PNP as brand-new
- Ronaldo Puno, former Secretary of the DILG and Chairman of NAPOLCOM
- Jesus A. Versoza, former Police Director General, Philippine National Police

It must be noted that Archibald Po and Hilario de Vera have applied for the Witness Protection Program.

Members of the NAPOLCOM Oversight Committee

- Commissioner Miguel G. Coronel
- Assistant Secretary Oscar F. Valenzuela
- Director Conrado L. Sumanga, Jr.

Members of the PNP Negotiation Committee

- PDIR Luizo Cristobal Ticman
- PDIR Ronald Dulay Roderos
- PDIR Romeo Capacillo Hilomen
- PDIR Leocadio Salva Cruz Santiago Jr.

Legal Officer of the Bids and Awards Committee who were present in the Negotiation Conference

- PSUPT Ermilando Villafuerte
- PSUPT Roman E. Loreto

Members of the Bids and Awards Committee who signed Resolution No. 2009-36 affirming the recommendation of the Negotiation Committee to award the contract to MAPTRA:

- PDG Jefferson Pataui Soriano
- PDIR Luizo Cristobal Ticman
- PDIR Ronald Dulay Roderos
- PDIR Leocadio Salva Cruz Santiago Jr.
- PCSUPT Herold G. Ubalde

Members of the Inspection and Acceptance Committee who ruled that the helicopters should be accepted for use by the PNP as indicated in Resolution IAC-09-045

- PCSUPT Luis Luarda Saligumba
- PSSUPT Job Nolan D. Antonio
- PSSUPT Edgar Bawayan Paatan
- PDRI George Quinto Piano

Likewise charged is PSSUPT Crisostomo DL Garcia, who signed WTCD Report Number T2009-04 A with the notation "RECOMMENDED APPROVAL"

The Committee believes that the acts and omissions committed in this case clearly show a conspiracy among and between each actor. Each one of them, at any particular stage of the procurement, had the opportunity to stop this anomalous transaction. Unfortunately, none of them found it proper to follow the law.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. It is well entrenched in our jurisprudence⁸¹ that conspiracy need not be proved by direct evidence. Proof of previous agreement to commit the crime is not essential to establish conspiracy. Conspiracy may be inferred from the acts of the accused, whose conduct before, during and after commission of the crime can show its existence. When all the accused by their acts aimed at the same object, one performing one part and the other performing another part so as to complete it, with a view to the attainment of the same object, and their acts though apparently independent, were in fact

⁸¹ See *People vs. Lingasa, et. al.*, GR No 192187, December 13, 2010; *People v. Relos, Sr.*, GR No. 189326, November 24, 2010; *Heirs of the late Nestor Tria vs. Obias*, GR No. 175887, November 24, 2010.

concerted and cooperative, indicating closeness of personal association, concerted action, there is conspiracy.

Violations of Anti-Graft and Corrupt Practices Act

The individuals named above are liable for violating sections 3(e) and (g) of Republic Act 3019 which provide:

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

xxx

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

xxx

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

All the foregoing individuals in violation of their sworn duty to protect the interest of the Republic, whose acts have shown not only badges of extreme bad faith but also gross inexcusable negligence, should be charged with graft.

In the hearings of the Blue Ribbon Committee, it was definitely established that the helicopters delivered to and paid for by the PNP were second-hand helicopters and this matter was never contested or denied by any of the resource persons. As a result, the acts of all those involved in the transaction have clearly disadvantaged the government.

In the present case, Jose Miguel Arroyo, Archibald Po, Hilario de Vera, the PNP officials, the Chairman and members of the BAC, the Chairman and members of the negotiating team, the Chief of the PNP, and the then Secretary of the Department of Interior and Local Government, conspired and confederated together, cooperated with one another, taking advantage of their official position in defrauding the government the amount of Php 62,672,086.90 (the price paid for the two used helicopters) by recommending and approving the acquisition by the PNP of two helicopters represented as brand new, knowing fully-well that said two helicopters were second-hand and pre-owned to the prejudice and damage of the government and the PNP in the amount of Php 62,672,086.90 (the price paid for the two used helicopters), and facilitating the PNP's acceptance of the same. Mr. Po and Mr. de Vera have sought to be covered by the Witness Protection Program.

Moreover, the former First Gentleman Jose Miguel Arroyo should also be charged under Section 4 of RA 3019 for taking advantage of his relationship with then President Gloria Macapagal Arroyo to be able to have these helicopters sold to the Philippine National Police, for the circumstances of the sale show that the PNP would not have bought the second-hand helicopters if not for his influence peddling.

Section 4 of RA 3019 provides:

Section 4. Prohibition on private individuals. — (a) **It shall be unlawful for any person having family or close personal relation with any public official to capitalize or exploit or take advantage of such family or close personal relation by directly or indirectly requesting or receiving any present, gift or material or pecuniary advantage from any other person having some business, transaction, application, request or contract with the government, in which such public official has to intervene. Family relation shall include the spouse or relatives by consanguinity or affinity in the third civil degree. The word "close personal relation" shall include close personal friendship, social and fraternal connections, and professional employment all giving rise to intimacy which assures free access to such public officer.**

(b) It shall be unlawful for any person knowingly to induce or cause any public official to commit any of the offenses defined in Section 3 hereof. (emphasis supplied)

Clearly, facts show that it is the unseen hand of the First Gentleman with the indispensable cooperation of the Secretary of the DILG and members of the PNP that the helicopter deal came into fruition.

Violations of the Government Procurement Reform Act

The members of the Negotiation Committee and the Bids and Awards Committee, and Jesus Versoza who approved the Supply Contract, should also be charged for violating the provisions of the Government Procurement Reform Act, section 48 (e), in relation to section 53. It is clear the acts of those mentioned above resulted to the award of the contract to a supplier which was not financially, legally, and technically capable.

Article XVI, section 48 (e), of the procurement law allows for negotiated procurement and defines this as "a method of procurement that may be resorted under extraordinary circumstances provided for in section 53 of this Act and other instances that shall be specified in the IRR, where the Procuring Entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant."

In the discussion of the findings of this Committee, it is clearly explained why MAPTRA, the corporation, did not possess the eligibility required by law. In summary:

- As a corporation, it was not engaged in the business of selling helicopters.
- It was not a PNP Certified supplier at the time of the negotiation and award.

- Its paid-up capital was not even sufficient to pay for the performance security bond required by the Supply Contract.

It must be noted that the Supply Contract was entered into by Manila Aerospace Trading Corporation. Mr. Ticman in his Affidavit dated September 14, 2011 (Annex T) attempted to convince the Committee that the PNP was dealing with a financially capable supplier because it supposedly had sufficient assets based on its financial records. Unfortunately for Mr. Ticman, his own supporting document becomes a reason for the fall of his own defense because the document clearly states that it was for Manila Aerospace Products Trading, a sole proprietorship. It is mind-boggling why Mr. Ticman would use a document that is clearly prejudicial to his own claims.

Mr. Ticman, in his Affidavit, finally hangs himself because he also admitted that indeed, the PNP awarded the contract to an entity different from the entity they were negotiating with. He admits very clearly that he did not read the entire contract with great attention. Treating this procurement process as if it was a street corner buy and sell, Mr. Ticman admits his own clear violation of law:

The Supply Contract signed with MAPTRA as corporation was something I was able to find out belatedly, in fact just recently. When the Supply Contract was presented to me then for signing, the immediate focus of my attention was on the terms and conditions. Honestly, since the name as sole proprietorship and as corporation is the same, with the exception of additional "corporation" after MAPTRA, the difference was hardly noticeable (Emphasis supplied).

The shocking admissions of violations of law continues in Mr. Ticman's affidavit when he noted that "MAPTRA submitted eligibility documents on June 15, 2009 as DTI registered company **not** a corporation, so the Negotiation Committee was not even aware that time it registered itself as a corporation. It necessarily follows that the Committee was not also aware of its capitalization of only

Php312,000. This admission becomes distinctly disastrous for Mr. Ticman because he was the one who signed the Supply Contract with MAPTRA, the corporation. Due diligence on his part would have entailed the need to ask for MAPTRA's Certificate and Articles of Incorporation. Again, this obviously was not done.

Lastly, we urge the Ombudsman to further investigate the possible criminal liabilities of Iggy Arroyo arising from his attempt to cover up Mike Arroyo's ownership and participation in this anomalous transaction.

VI. POLICY/LEGISLATIVE RECOMMENDATIONS

In aid of legislation, the Blue Ribbon Committee has the duty to investigate malfeasance, misfeasance and nonfeasance in office by officers and employees of the government.

The hearings on the anomalous sale of used helicopters to the Philippine National Police revealed that the problem was not primarily because the laws were lacking or insufficient but because, despite the many safeguards set in the law, public officials and private individuals found ways to violate them.

The Blue Ribbon Committee takes this moment to remember that the duty of Congress is not to craft perfect laws that can never be violated but to craft laws that serve the interest and/or respond to the needs of the people. While it cannot completely legislate against determined violators of laws, it can however ensure that for those who violate the laws of the land, accountabilities can be extracted and commensurate penalties be meted out. For these reasons, the Committee puts forward the following legislative/policy recommendations:

1. Increase the penalties imposed in the Anti-Graft and Corrupt Practices Act

For violations of Sections 3, 4, 5, and 6 of this law, the current penalties include imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

Section 3 provides for a list of the punishable corrupt practices of public officers. Section 4 mandates a prohibition on private individuals and Section 5 provides for a prohibition on certain relatives.

The penalties should be changed to include imprisonment for not less than twelve years and one day. While not an absolute solution against determined violators of law, the increase in penalty is an assertion of this Committee's stand that graft and corruption should be more stringently addressed.

2. Increase the prescription period of offenses in the Anti-Graft and Corrupt Practices Act

Section 11 of the law should be amended and the prescription of offenses should be changed from fifteen to twenty years. There is a need to ensure that the reach of the law cannot be barred by the mere lapse of time.

3. Provide that the right of the State to recover properties unlawfully acquired should not be barred by the passage of time, or by any other related reason.

Similar to Section 6⁸² of the Plunder Law, the Anti-Graft and Corrupt Practices Act should provide that the right of the State to recover properties unlawfully acquired, or the value thereof, by public officers from them or from their nominees or transferees shall not be barred by prescription, laches, or estoppel.

4. Expand the list of offenses listed in the Government Procurement Reform Act.

It is observed that there is a need for the current procurement law in the country to include in its focus, the stages after bidding and/or negotiation, and award of the contract. It is important that delivery and acceptance should be regulated as well. With this proposed expanded focus, the Government Procurement Reform Act should include the following offenses:

- a. Approving a contract with a bidder that is not legally, technically, and financially capable of entering into a contract;
- b. Delivering, and accepting goods, products, and services which are different from those approved by the appropriate bids and awards and/or negotiation committee and reflected in the resulting Supply Contract;

For this proposal, the Blue Ribbon Committee believes that prejudice to the government does not only happen when a procuring entity awards the contract to an unqualified supplier, contractor, and/or consultant. The greater prejudice arises when the government does not receive the goods, projects, and/or services that it paid for. As in the case of the anomalous choppers procurement, even if MAPTRA was a qualified supplier, the government would still have been prejudiced precisely because the

⁸² Prescription of Crimes- The crime punishable under this Act shall prescribe in twenty years. However, the right of the State to recover properties unlawfully acquired by public officers from them or from their nominees or transferees shall not be barred by prescription, laches, or estoppels.

choppers delivered were contrary to the contractually promised brand-new goods.

Acts and omissions in the process of delivery and acceptance should thus be penalized if these include, among others, "ghost deliveries, under-delivery, or delivery of inferior quality materials." In infrastructure projects, the irregularities may consist in the use of sub-standard materials being used and reporting unfinished projects, or even non-existing structures as complete. There can be many more opportunities to subvert the process: When the procuring agency has to certify that the delivered goods or completed infrastructure project conforms to the contract, there may be instances of outright bribery of senior agency officials in connivance with procurement inspectors.⁸³

5. Procurement laws should require entities to establish and make known the process and corresponding accountabilities in relation to stages other than bidding and/or negotiations.

First, each procurement entity should release and publish the process and procedures by which it establishes standards, priorities, and terms of reference. This should include clear guidelines as to the process for changing and amending these same standards, priorities, and terms of reference. Aside from the process, the procuring entity must clearly identify the recommending and approving authorities for decisions involving specifications, priorities and/or terms of reference.

Public officers and private individuals must be penalized should they be found guilty of manipulating these standards to favour specific suppliers, consultants, and/or contractors. It is not enough for them to be penalized under the Anti-Graft and Corrupt Practices Act. The mere act of changing specifications, priorities, and/or

⁸³ Ursal, Sofronio B. (2004). "Government Procurement Tool Kit (pp. 303-304). Quezon City: Good Governance Books.

terms of reference, in breach of established guidelines must be a separate and punishable act.

Second, while it may be a matter of common sense, this Committee nevertheless takes this moment to remind the PNP and every government agency that procures and accepts goods, infrastructure projects, and services to observe due diligence in the performance of their duties. They must remember the following:

- A. The Bids and Awards Committee and/or Negotiation Team must ensure that the *eligibility documents submitted by the supplier, contractor, or consultant reflect the very entity that the office is entering into a contract with.* In the case of the anomalous sale, it was clear that the PNP dealt with a corporation, one with a different legal personality and liability, but the eligibility documents submitted to them were that of a sole proprietorship.
- B. The relevant committees in the procurement process, from the initial stages until the final acceptance of the goods, infrastructure project, or consulting services, should have a member/s who are *technically capable in relation to the contract/bid being assessed.* This member should have a decision-making authority, rather than a mere recommendatory authority and should be equally liable for acts or omissions in violation of law. During the course of this particular investigation, it was obvious that the officials were simply relying on the defense: *"I am not technically capable of assessing these helicopters. I just depended on the recommendation of the technical group."*
- C. The Inspection/Acceptance Committee should be given the *Supply Contract and the NAPOLCOM specifications upon which they should based their report.* In this PNP case, some members of the Inspection/Acceptance Committee were stubborn in their opinion that their only job was to ensure that the goods were in accordance with NAPOLCOM specifications. They admitted that

they just assumed that the goods were brand-new, but they were clear in their testimony that they did not know if the Supply Contract itself required brand-new goods.

6. Passage of the Freedom of Information law

Finally, this Committee pushes for the passage of the Freedom of Information bill to give definite, clear, and implementable standards for concerned citizens and groups to have access to critical information, like those related to the procurement of goods, infrastructure projects, and consulting services by the government. While the current procurement law allows NGOs and other citizen observers to be present in various stages of the procurement process, the value of their participation can only truly be given meaning if this is guided by accurate and relevant information which is made reasonably available to them by government.

CLOSING NOTES

The Blue Ribbon Committee calls for immediate action against every person involved in this anomalous transaction. In fulfilling its mandate to investigate malfeasance, misfeasance, and non-feasance in office by public officers and employees, it seeks to likewise empower each citizen to take steps against graft and corruption. A nation of integrity is not made up of citizens who sit in a corner, fearful, helpless, or apathetic about the condition of the State. In submitting this Report, this Committee fulfils its mandate and puts forward its desire of a truly transparent and accountable state and people.


1 Respectfully Submitted:

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3 Chairman:

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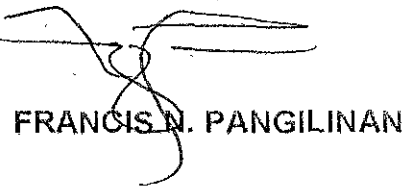
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7 Committee on Accountability of Public Officers
8 and Investigations (Blue Ribbon)

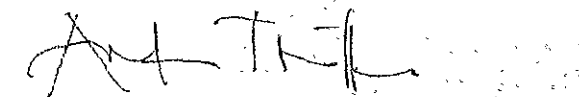
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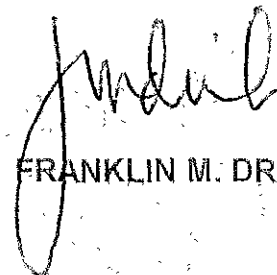
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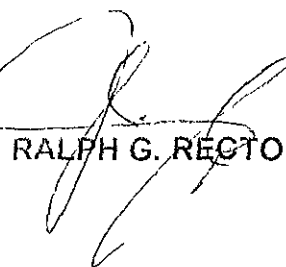
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15 PANFILO M. LACSON

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17 AQUILINO PIMENTEL III

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19 FRANCIS N. PANGILINAN


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21 ANTONIO "SONNY" F. TRILLANES IV

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23 FRANKLIN M. DRILON *See concurring opinion*

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25 RALPH G. RECTO

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FRANCIS "CHIZ" G. ESCUDERO

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