



COMPLAINT-AFFIDAVIT

I, ROBERTO RAFAEL J. PULIDO, Filipino, of legal age, and with business address at Unit 1b 2/F Cacho-Gonzales Building, 101 Aguirre Street, Legaspi Village, Makati, after having been sworn to in accordance with law, do hereby depose and state that:

1. I have been monitoring the on-going Senate investigation of the National Broadband deal and was able to see on television the testimony of Jose De Venecia III before the Senate last September 18, 2007.

2. In the said testimony, Jose De Venecia III publicly admitted under oath that he, on behalf of his company known as Amsterdam Holdings, Inc. ("AHI") submitted a proposal to the government in order to implement the National Broadband Network project of the government.

3. Moreover, Jose De Venecia III publicly admitted under oath that his father, Jose De Venecia, Jr. organized a breakfast meeting between Jose De Venecia III and Chairman Benjamin Abalos of the COMELEC to discuss how ZTE (as allegedly represented by Chairman Abalos) and AHI (as represented by Jose De Venecia III) could cooperate in building the government's National Broadband Network.

3. As a lawyer, these public admissions caught my attention for several reasons:

(a) As the son of the Speaker of the House of Representatives, Jose De Venecia III is prohibited by Republic Act 3019 from intervening in any government contract;

(b) As the Chairman of the COMELEC, Chairman Abalos is likewise prohibited from intervening in any government contract;

(c) As the Speaker of the House, Jose De Venecia, Jr. ought to know that the two parties meeting in his house on that occasion were both prohibited by law from intervening in any government contract, yet he even served them breakfast so that they could seek areas of cooperation.

4. This prompted me to file a complaint before the House Ethics Committee against Jose De Venecia, Jr. for his obviously unethical conduct. I filed the said complaint on September 20, 2007.

Venecia publicly admitted under oath that although the incorporation papers of both MTI and AHI do not reveal his name, he actually owns, or at the very least, controls, these corporate entities.

6. This subsequent admission is very significant because:

- (a) MTI obtained its legislative franchise through Republic Act 7908 (February 23, 1995) while Jose De Venecia, Jr. was an incumbent congressman and Speaker of the House;
- (b) MTI's legislative franchise was amended through Republic Act 8332 (June 30, 1997) which was also enacted while Jose De Venecia was a congressman and Speaker of the House; and,
- (c) AHI's alleged proposal for the National Broadband Network would involve providing broadband services to the general public which will require a legislative franchise

Republic Acts 7908 and 8332 are part of the public records and this Honorable Office may take judicial notice of these enactments.

7. In the light of the above-cited public admissions, it is evident that both Jose De Venecia III and Jose De Venecia, Jr. violated the Anti Graft and Corrupt Practices Act.

8. Section 5 of Republic Act 3019 states:

"Section 5. **Prohibition on certain relatives.** – It shall be unlawful for the spouse or for any relative, by consanguinity or affinity, within the third civil degree, of the President of the Philippines, the Vice-President of the Philippines, the President of the Senate, or the Speaker of the House of Representatives, to intervene, directly or indirectly, in any business, transaction, contract or application, with the Government; *Provided*, That this section shall not apply to any person who, prior to the assumption of office of any of the above officials to whom he is related, has been already dealing with the Government along the same line of business, nor to any transaction, contract or application filed by him the approval of which is not discretionary on the part of the official or officials concerned but depends upon compliance with requisites provided by law, or rules or regulations issued pursuant to law, nor to any act lawfully performed in an official capacity or in the exercise of a profession.

9. Based on the above-cited law, it is obvious that Jose De Venecia III is prohibited by law from intervening

- (a) In applying for and obtaining a legislative franchise for MTI;
- (b) In submitting reports to Congress from 1995 to 1997 behind the corporate veil of MTI and seeking Congress' affirmation that MTI has complied with all the requirements of RA 7908;
- (c) In seeking and obtaining an amended franchise for MTI in 1997;
- (d) In submitting reports to Congress from 1997 to 2005 and seeking the affirmation of Congress that MTI has complied with all the requirements under Republic Act 8332
- (e) In submitting a proposal for the National Broadband Network Project under the corporate veil of AHI

10. For his part, Jose De Venecia, Jr. likewise violated the same provision of Republic Act 3019 as a co-principal of his son, in as many instances, if not more. Under Article 17 of the Revised Penal Code,

“Principals. -- The following are considered principals:

- 1. Those who take a direct part in the execution of the act;
- 2. Those who directly force or induce others to commit it;
- 3. Those who cooperate in the commission of the offense by another act without which it would not have been accomplished.”

11. The fact that Jose De Venecia, Jr. knew of his son's interest in both MTI and AHI could no longer be denied. In fact, it is a matter of public knowledge that he publicly hailed his son as “the father of broadband in the Philippines and Southeast Asia¹”, thus revealing his intimate knowledge of his son's broadband business.

12. Despite this knowledge, Jose De Venecia concealed his son's interests in MTI. This concealment was indispensable for Jose De Venecia III to obtain a franchise in violation of Republic Act 3019. Thus, he should be held criminally liable for the following acts:

- (a) In not disclosing to Congress the true financial interests of Jose De Venecia III in MTI when the latter applied for a legislative franchise;
- (b) In not disclosing to Congress the interest of his son each time Congress determined compliance by MTI with the terms and conditions of its franchise

- (d) In not disclosing to Congress his son's interests each time congress determined compliance by MTI with the terms and conditions of its franchise

13. Likewise, if Jose de Venecia III is to be believed, Jose De Venecia Jr. should be held criminally liable for his indispensable cooperation that allowed Jose De Venecia III to illegally intervene in a government contract, particularly:

- (a) In organizing a breakfast meeting between Chairman Abalos and Jose De Venecia III to discuss how Abalos and De Venecia III could illegally cooperate with each other;
- (b) In privately and publicly endorsing his son's bid for the National Broadband Network project.
- (c) In arranging a meeting between Secretary Leandro Mendoza and Jose De Venecia III so that the former may endorse the business proposal of the latter.

The sworn testimony of Jose De Venecia III that would attest to the truth of the foregoing are already part of the Senate records and this Honorable Office may likewise take judicial notice of the same.

14. In view of the foregoing, I am executing this affidavit in order to charge Jose De Vencia III of violating Section 5 of Republic Act 3019 at least 5 times since February of 1995, and to likewise charge Jose de Venecia, Jr. of violating the same law in at least six instances. All the allegations in this affidavit are based on public records as revealed by my own personal investigation of the same.

act SUBSCRIBED AND SWORN to before me this 8 day of September, 2007 in the City of Quezon.

dr
ATTY. MARLYN T. GALVEZ
ROBERTO RAFAEL PULIDO
DIRECTOR
PUBLIC ASSISTANCE BUREAU