

SYNOPSIS OF THE IMPEACHMENT COMPLAINT VS. OMBUDSMAN MERCEDITAS GUTIERREZ

Filed by Sr. Mary John Mananzan OSB (Pagbabago! People’s Movement for Change), Renato Reyes Jr. (Bagong Alyansang Makabayan), Danilo Ramos (Kilusang Magbubukid ng Pilipinas), Ferdie Gaité (Courage) and Atty. Ed Olalia (National Union of People’s Lawyers)

GROUNDS FOR IMPEACHMENT	CAUSE OF ACTION	ALLEGATIONS	MAIN EVIDENCE
<p>Betrayal of Public Trust</p> <p>When the Ombudsman deliberately fails or refuses to act on the complaints filed before her office; willfully refuses to file charges in court; refuses to prosecute despite admission by a public official to a crime; and abuses her discretion, the inevitable conclusion is that there exists probable cause for the Ombudsman to be impeached for betrayal of public trust.</p>	<p>1. Ombudsman Gutierrez grossly and inexcusably failed to act or refused to act on the complaints and refused to prosecute public officials involved in the P728M fertilizer fund scam despite overwhelming evidence to establish probable cause.</p>	<p>1. Since Ombudsman Gutierrez assumed office on December 2005, she refused to act on the complaints for plunder filed by Atty. Frank Chavez on May 26, 2004 and Kilusang Magbubukid ng Pilipinas on June 3, 2004 as provided for in the Ombudsman’s Rules of Procedure [Sec. 4 Par. (b) of AO 7].</p> <ul style="list-style-type: none"> • Respondents were not informed or asked to file their counter-affidavits • Complainants were not informed of any action by the Ombudsman nor were asked to file any pleading <p>2. Ombudsman Gutierrez refused to prosecute Bolante, Lorenzo et. al. despite overwhelming evidence and repeated recommendations by the Senate, COA, and her own Field Investigation Office to prosecute said public officials.</p>	<p>1. Affidavit of Atty. Chavez dated May 26, 2004 which includes:</p> <ul style="list-style-type: none"> • Complaint for plunder filed May 26, 2004 • Senate Committee on Agriculture and Food and Blue Ribbon Report No. 54 dated Mar. 1, 2006 recommending charges against Bolante, et al furnished OMB Mar. 7, 2006 • COA report recommending cases against Jocjoc et al submitted to OMB Mar. 29, 2006 • OMB Filed Investigation Office report recommending filing of criminal and administrative cases against Bolante et al dated Jun. 20, 2006 • OMB FIO report recommending filing of criminal and administrative charges against involved local officials of Butuan City & private individuals dated Jul. 20, 2006 • Senate Committee Report No. 254 transmitted to OMB on February 2009 • Petition for mandamus before the SC filed Oct. 8, 2007 (G.R. No. 179752) for failure of the Ombudsman to act on the complaint. <p>2. Affidavit of Danilo Ramos dated Mar. 1, 2011 which includes:</p> <ul style="list-style-type: none"> • Complaint for plunder dated Jun. 3, 2004 • Motion for Speedy Resolution filed w/ OMB on Jun. 2006 • Certification from the Sandiganbayan dated Feb. 25, 2011 that no case have been filed vs. Bolante and Lorenzo re. the fertilizer fund scam. <p>3. Senate Committee Report No. 54 dated March 1, 2006 furnished to the OMB on Mar. 7, 2006</p> <p>4. COA’s “Report on the Audit of P728 Million GMA Farm Input Fund” dated March 29, 2006</p> <p>5. OMB FIO report dated Jun. 20, 2006</p>

			<p>4. OMB FIO report dated Jul. 20, 2006</p> <p>5. Senate Senate Committee Report No. 254 transmitted to OMB on February 2009</p> <p>6. Certification from the Sandiganbayan dated Feb. 25, 2011 that no case have been filed vs. Bolante and Lorenzo re. the fertilizer fund scam.</p>
	<p>2. Ombudsman Gutierrez grossly and inexcusably failed or refused to charge and prosecute PNP Dir. Eliseo De la Paz for violating Bangko Sentral Pilipinas (BSP) Circular No. 98 s. 1995, as amended by BSP Circular No. 507 s. 2006 in relation to Republic Act 7653 (New Central Bank Act)* despite his public admission in word and in deed and despite overwhelming evidence to establish probable cause as recommended by investigations conducted by the Senate and PNP.</p> <p><i>* failure to declare bringing out of the country or exporting currency worth more than US\$ 10,000.00</i></p>	<p>1. Ombudsman Gutierrez refused to file charges vs. de la Paz despite overwhelming evidence and repeated findings by the Senate, the PNP-DIDM and PNP-CIDG that Gen. de la Paz violated BSP Circular No. 98 s. 1995, as amended by BSP Circular No. 507 s. 2006 in relation to Republic Act 7653 (New Central Bank Act) and recommending that charges be filed against him.</p> <p>2. Ombudsman Gutierrez refused to file said charges vs. de la Paz despite his public admission in word under oath before the Senate on Nov. 15, 2008, and in deed with his return of the money in March 2009</p>	<p>1. Sworn Statement of Mr. Ferdie Gaité which includes the following:</p> <ul style="list-style-type: none"> • Senate Committee Report No. 229 dated November 13, 2008. • PNP-Directorate for Investigation and Detective Management (DIDM) report dated Oct. 27, 2008 signed by Chief Supt. Raul Bacalzo sent to the Ombudsman on Oct. 31, 2008. • PNP Criminal Investigation and Detection Group (CIDG) investigation report dated Nov. 3, 2008 signed by Atty. Isagani R. Nerez and sent to the Ombudsman Nov. 4, 2008 <p>2. Sworn Statement of Mr. Ferdie Gaité which includes the following:</p> <ul style="list-style-type: none"> • Certified True Copy of TSN of Nov. 15, 2008 hearing of the Senate Committee on Foreign Relations joint with the Committee on Accountability of Public Officers and Investigations (Blue Ribbon) where Gen. de la Paz, upon questioning by Sen. Biazon, admitted he failed to declare money in excess of \$10,000 when he left the country for Moscow on Oct. 2008. • PDI news report dated Mar. 3, 2009 that Gen. de la Paz completed the return of P6.9M confiscated from him by Russian airport authorities. This shows that he actually brought the money out since he returned it.

	<p>3. Ombudsman Gutierrez refused to act on the Supreme Court's directive on the Mega Pacific case and later abused her discretion, tantamount to whitewashing the case, by absolving all parties involved in her Sept. 27, 2006 supplemental resolution.</p>	<p>1. Ombudsman Gutierrez stubbornly refused to act on the Jan. 13, 2004 SC ruling ordering her to investigate the Mega Pacific case and determine the liabilities of those involved.</p> <p>2. Ombudsman Gutierrez in fact whitewashed the findings of the SC's Jan. 13, 2004 ruling as well as the Senate Blue Ribbon Committee report dated December 12, 2005 which found several COMELEC officials and members of the Bids and Awards Committee liable for the illegal and nullified Mega Pacific contract.</p>	<p>1. Sworn Statement of Mr. Augusto Lagman which cites various Supreme Court resolutions dated February 14, 2006, March 28, 2006 and May 3, 2006 requiring the Ombudsman to show cause why it should not be held in contempt of Court for its failure to fully comply with the Court's directive after more than two years.</p> <p>1. Senate Blue Ribbon Committee report dated Dec. 12, 2005.</p> <p>2. Resolution by the Ombudsman dated June 28, 2006 in the cases of Kilosbayan v. Benjamin Abalos et al. and Pimentel v. Benjamin Abalos et al finding Borra, et. al. liable for the Mega Pacific case.</p> <p>3. Supplemental Resolution by the Ombudsman dated September 27, 2006 absolving all parties involved in the Mega Pacific case.</p> <p>4. Sworn Statement by Mr. Augusto Lagman, comparing official records from the SC's Jan. 13, 2004 ruling and the Ombudsman's Sept. 27, 2006 supplemental resolution which shows how the Ombudsman whitewashed the SC's findings on the Mega Pacific case:</p> <ul style="list-style-type: none"> • Contrary to SC findings, Ombudsman says Mega Pacific Consortium is legal • Contrary to SC findings, Ombudsman says Mega Pacific's automated counting machines (ACM) passed the accuracy test • Contrary to SC findings, Ombudsman says there is "no iota of evidence" that the COMELEC committed grave abusive actions that would make them criminally or administratively liable

Culpable Violation of the Constitution

In the cases cited above, because the Ombudsman deliberately failed or refused to act on the complaints filed before her office; willfully refused to file charges in court; refused to prosecute despite admission by a public official to a crime; and abused her discretion, the inevitable conclusion is that there exists probable cause for the Ombudsman to be impeached for **culpably violating Section 12 and section 13, paragraphs 1, 2 and 3 of Article XI of the Constitution, which defines her duties**. There exists probable cause for her to be impeached for **culpably violating Section 16, Article III of the Constitution, which mandates prompt action and speedy disposition of cases brought to her attention**.