



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

**DR. RACHEL MONTEBELLO B.A. LL.D.
MAGISTRATE**

Case No.: 654/2022

THE REPUBLIC OF MALTA

-Vs-

ALVIN GUERRERO SILOS

-OMISSIS-

Today, 23rd March 2023

The Court,

Having seen the charges brought against **ARVIN GUERRERO SILOS**, of 42 years of age, of Filipino nationality, born in Candelaria, Philippines on the 11th of July 1980, residing in ‘Musbieh’, FL 2, Pietru Xuereb Road, Pietà, holder of Filipino Passport bearing number P7027653A; and **-OMISSIS-**, charged with having, in the months between April of the year two-thousand and twenty-one (2021) and April of the year two-thousand and twenty-two (2022), in these Islands and/or outside of these Islands, with several acts committed by themselves, even if committed at different times,

constituting violations of the same provisions of the law, and have been committed in pursuance of the same design:

1. Committed an act of money laundering by:

- i. Having converted or transferred property whilst knowing or suspecting that such property was derived directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal activity;
- ii. Having concealed or disguised of the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property is derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
- iii. Acquired, possessed or made use of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
- iv. Retained without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
- v. Attempted any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;

- vi. Acted as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub- paragraphs (i), (ii), (iii), (iv) and(v);
2. On the same date, place, time and circumstances also accused of by means of any unlawful practice, or by use of any fictitious name, or the assumption of any false designation, or by means of any other deceit, device or pretence calculated to lead to the belief in the existence of any fictitious enterprise or of any imaginary power, influence or credit, or to create the expectation or apprehension of any chimerical event, made any gain to the prejudice of Roland Hokja, Reuben Grech, Monica Farrugia, Juanita Azzopardi, Jacqueline Attard and of any other natural or juridical person/s, when the amount of damage caused by the offender exceeds five thousand euro (€5,000);
3. On the same date, place, time and circumstances also accused that to the prejudice of Roland Hokja, Reuben Grech, Monica Farrugia, Juanita Azzopardi, Jacqueline Attard and of any other natural or juridical person/s, any other fraudulent gain not specified in the preceding articles of Sub Title III Title IX Part Two Book One of the Criminal Code, Chapter 9 of the Laws of Malta, when the amount of damage caused by the offender exceeds five thousand euro (€5,000);
4. On the same date, place, time and circumstances to the detriment of the holder thereof, or the agent of the holder in the carrying out of any requirement of the Identity Card and other Identity Documents Act, Chapter 258 of the Laws of Malta or of any other law, on behalf of the holder, had within their possession, or made any use whatever of any identity document;

The Court was requested to issue an ‘Attachment and Freezing Order’ and attach in the hands of third parties in general all moneys and other movable or immovable property due or pertaining or belonging to the accused, and also so that this Court prohibits the

accused from transferring, pledging, hypothecating or otherwise disposing of any movable or immovable property belonging to him or else held by himself, in terms of Article 5 of the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta; Article 23A of the Criminal Code, Chapter 9 of the Laws of Malta and Article 36 of the Proceeds of Crime Act, Chapter 621 of the Laws of Malta.

The Court was also requested so that in case of guilt, in addition to any punishment which the Court deems fit to impose, order the forfeiture of all the exhibited objects, of the corpus delicti and any instruments that served or was intended to serve in the commission of the offence, and of any property acquired from the offence as well as ordering the confiscation in favour of the Government of Malta of the proceeds of the offence or of such property the value of which corresponds to the value of such proceeds, and also the forfeiture of every property appertaining to, or in the possession or under the control of any person found guilty in terms of Article 23 and 23B of the Criminal Code, Chapter 9 of the Laws of Malta; Article 3(5) of Chapter 373 of the Laws of Malta and also Chapter 621 of the Laws of Malta.

The Court was requested so that in the case of guilt, in addition to any punishment which the Court deems fit to impose, orders the accused to pay the expenses relating to the appointment of experts in terms of Article 533 of Chapter 9 of the Laws of Malta.

The Court was also requested so that in the case of guilt, it applies the dispositions found within Articles 15A and 28H *et seq* of Chapter 9 of the Laws of Malta, wherein the guilty person would pay the damages in terms of Articles 15A and 28H *et seq* of Chapter 9 of the Laws of Malta.

Having seen the order given by the Attorney General on the 8th November 2022 in terms of subarticle 2A(a) of Article 3 of the Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta), that the person accused, Arvin Guerrero Silos, is brought before the Criminal Court in order to answer for the charges brought against him for the breach of the provisions of the said Act.

Having seen the order given by the Attorney General on the 8th November 2022 in terms of subarticle 2A(a) of Article 3 of the Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta), that the person accused, Arvin Guerrero Silos, is brought before the Criminal Court in order to answer for the charges brought against him for the breach of the provisions of the said Act.

Having heard the person accused plead guilty during his arraignment on the 8th November 2022 to the second, third and fourth charges and plead not guilty to the first charge;

Having heard the testimony of the witnesses summoned by the prosecution;

Having seen all the acts and documents exhibited;

Having seen that in virtue of a decree given on the 15th February 2023, it was ordered that the proceedings against the person accused, Arvin Guerrero Silos, are to be conducted and decided separately from the proceedings against the co-accused, *omissis*.

Having seen the counter-order of the Attorney General dated 20th March 2023, issued in terms of subarticle 2A(b)(c) of Article 3 of the Prevention of Money Laundering Act (Cap. 373) ordering that the person accused be tried before this Court as a Court of Criminal Judicature regarding the charges brought against him for the breach of the provisions of the said Act;

Having seen that in virtue of a note dated 20th March 2022, the Attorney General sent the accused for trial by this Court in respect of the crimes prescribed in terms of:-

- (a) Article 15A, 17, 18, 23, 23A, 23B, 23C, 28H, 31, 383, 384, 385, 532A and 533 of Chapter 9 of the Laws of Malta;
- (b) Article 308 and 310 of Chapter 9 of the Laws of Malta;
- (c) Article 309 and 310 of Chapter 9 of the Laws of Malta;
- (d) Article 22 and 24 of Chapter 258 of the Laws of Malta;

Having seen the joint application filed by the Attorney General and the defence on the 20th March 2023 in terms of Article 392A(5) of the Criminal Code whereby it was submitted that should the accused person admit to all charges brought against him, the punishment to be awarded should consist of imprisonment for two (2) years which sentence is to be suspended by virtue of Article 28A of the Criminal Code and a fine (multa) of twenty three thousand Euro (€23,000) together with any sanctions, expenses and consequences as are mandatorily prescribed by law upon conviction in terms of the Criminal Code (Cap. 9) and the Prevention of Money Laundering Act (Cap. 373);

Having heard the defendant during the hearing of the 20th March 2023 plead guilty to all charges brought against him;

Having heard the person accused confirm his guilty plea even after the Court warned him in the most solemn manner of the legal consequences of his guilty plea, and after having clearly explained to him the consequences of his request made in the joint application of the 20th March 2023, as well as after having given him sufficient time within which to reconsider and withdraw his guilty plea and to consult with his lawyer;

Having heard the prosecution and the defence declare and agree during the hearing of the 23rd March 2023 that Bank of Valletta plc has reimbursed unto Reuben Grech, Roland Hojka, Monica Farrugia, Juanita Azzopardi and Jacqueline Attard the loss suffered by each of them as a result of the commission of the crimes to which the accused has pleaded guilty;

Having considered;

That in view of the guilty plea filed by the person accused to all the the charges brought against him, in the presence of his legal counsel and after having observed the provisions of Article 392A of the Criminal Code, the Court has no alternative but to declare him guilty of all charges.

The Court is satisfied that the combination of sanctions or measures that the person accused, through his defence counsel, and the Attorney General jointly requested to be imposed on the person accused in terms of Article 392A(5) of the Criminal Code, are such that it shall be lawful for it to impose upon finding the accused guilty of the crimes in respect of which he has pleaded guilty. Moreover, the Court is not of the view that it should order that the case continues in accordance with the provisions of Article 392A(3) of the Criminal Code or that it should dismiss the request for any other reason.

Consequently, the Court shall award the sentence indicated to it and requested jointly by the parties.

In view of the above, the Court, after having seen Articles 14(2), 17, 31, 42, 308, 309, 310(1)(a) of the Criminal Code, Chapter 9 of the Laws of Malta and Article 3 of The Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, as well as Articles 22(2) and 24(1) of Chapter 258 of the Laws of Malta, finds the ARVIN GUERRERO SILOS guilty of all of the charges brought against him and sentences him to a fine (*multa*) of twenty three thousand Euro (€23,000) to be paid in full within three (3) years, and two (2) years imprisonment however, upon application of Article 28A of the Criminal Code, Chapter 9 of the Laws of Malta, orders that such sentence of imprisonment shall not take effect unless, during a period of four (4) years, the offender commits another offence punishable with imprisonment.

The Court explained to the offender in ordinary language his liability under Article 28B of the Criminal Code if during the operational period he commits an offence punishable with imprisonment.

In addition to the punishment, and in virtue of Articles 15A of the Criminal Code, Chapter 9 of the Laws of Malta, orders ARVIN GUERRERO SILOS to pay unto Bank of Valletta plc the sum of nine thousand three hundred and ninety Euro (€9,390) by way of compensation for the reimbursement made to the victims of the crimes committed by him. This order shall constitute an executive title for all intents and purposes of the Code of Organization and Civil Procedure.

The Court, in terms of Article 3(5) of the Prevention of Money Laundering Act, Chapter 373 Laws of Malta, and Articles 23A and 23B of the Criminal Code, orders the forfeiture in favour of the Government of the proceeds derived from or obtained, directly or indirectly, as a result of the crimes for which the offender has been found guilty, or of such property of or in the possession or under the control of the offender even if, in the case of immovable property, such property has since the offender was charged passed into the hands of third parties, and even if the proceeds of property, movable or immovable, are situated in any place outside Malta, the value of which corresponds to the value of such proceeds, that is, a value of nine thousand three hundred and ninety Euro (€9,390).

To this end and for the purposes of Article 23D of the Criminal Code, orders the Director of the Asset Recovery Bureau to conduct the necessary enquiries to ascertain any assets pertaining to the defendant and thus liable to forfeiture in favour of Government.

For the purposes of Article 23 of the Criminal Code, orders the forfeiture of the *corpus delicti* and of the instruments used or intended to be used in the commission of the crimes of which the offender has been declared guilty, that is the devices contained in evidence bags marked Dok. WB1, WB2 and WB3, which order is to be executed only after the proceedings in the names The Republic of Malta v. Jemelyn Aliga Silos have become *res judicata*.

In terms of Article 533 of the Criminal Code, Chapter 9 of the Laws of Malta, orders ARVIN GUERRERO SILOS to pay to the Registrar of Court one half (1/2) of the sum that shall be taxed as being due as costs incurred in connection with the employment of Dr. Martin Bajada as court expert in these proceedings, within six (6) months from the date upon which such taxed bill is served on the offender.

Orders that a copy of this judgement is served on the Registrar of Courts for the purposes of Article 28A(8) and Article 533 of the Criminal Code and Article 19(1) of the Proceeds of Crime Act (Cap. 621 of the Laws of Malta), and on the Asset Recovery Bureau for the purposes of Article 23D of the Criminal Code.

This sentence which is being awarded is being so awarded on the request of the parties in terms of Article 392A(5)(7) of the Criminal Code.

DR. RACHEL MONTEBELLO
MAGISTRATE.