

SEC News Service

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Embattled Lee seeks oral arguments at SC

EMBATTLED estate developer Delfin Lee asked the Supreme Court on Monday to hold oral arguments on all but one of the pending petitions involving the Home Development Mutual Fund (Pag-IBIG Fund) housing scandal now pending before the SC.

Lee also asked the Court to consolidate all the petitions with the same case facts.

In a 15-page motion, Lee's lawyer also said there was a "compelling need to set the said consolidated cases for oral argument" and that this was necessary "in order to simplify the intricate issues brought about by the different facts and grounds relied upon by the parties in each of the petitions."

This is also considering that as early as March 18, in a resolution for consolidation, the Court en banc already said "that these consolidated cases have been found to be of sufficient importance to merit the attention and disposition of the entire Court en banc," Lee said through his lawyer.

Already to be consolidated are the petitions of the HDMF versus Globe Asiatique Realty Holdings and versus Delfin Lee and versus Christina Sagun, and the petitions of prosecutors and the Department of Justice, as well as the *National Bureau of Investigation v Delfin Lee and v Alex Alvarez and v Christina Sagun*.

But Lee said the Court should also consider for consolidation the cases against Christina Sagun filed by Pag-IBIG and the Department of Justice (DOJ), because she was among the accused in Criminal Case 18480 for syndicated estafa.

In addition, her indictment was based on the same Review Resolution issued by the DOJ indicting Delfin S. Lee, Alex Alvarez and two others for syndicated estafa.

Although Lee also reiterated that the original "finding of probable cause for syndicated estafa" against him was already "annulled and set aside by the different divisions of the Court of Appeals in various petitions individually filed by the above-named accused [respondents], for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction."

Lee added that all the cases for consolidation were based on the same contracts entered into between Pag-IBIG and Globe Asiatique, the same criminal investigation for estafa, and the judicial determination of probable cause undertaken by Branch 42 of the Regional Trial Court in the City of San Fernando, Pampanga. *Joel R. San Juan*

Customs file smuggling charges vs 2 steel importers before DOJ

By JOEL R. SAN JUAN

THE Bureau of Customs (BOC) on Monday filed smuggling charges before the Department of Justice (DOJ) against the owners and customs brokers of two firms for allegedly attempting to illegally import steel products amounting to at least P31 million.

Two more smuggling-related cases were filed against Shine Rapadas Montes, owner and proprietress of Thunder Birds Trading, one of the Philippines's largest importers of steel and iron products, and the firm's customs brokers, Jolly Lareza and Arnel Asuncion.

The first case, according to Customs Commissioner John Sevilla pertains to the firm's importation of eight 20-foot container vans of what was declared as "steel angle frames" but was found to contain "steel angle bars" upon a thorough examination.

Furthermore, it was discovered that Thunder Birds misdescribed the product and misdeclared the weight and value to avoid paying the right duties and the payment of the additional Safeguard Duty for imported steel angle bars of P3,706.03 per metric ton (MT), as mandated under Republic Act (RA) 8800, or Safeguard Measures Act of 2000.

On the other hand, the second case pertains to Thunder Birds shipments of 12 20-foot containers from China declared as "steel sheets, clamps, flexible tubing and hinges" but instead contained "cold rolled steel sheets," which is used extensively in automobiles; household appliances like refrigerators, stoves, ovens and washing machines; as well as steel office equipment.

A further check on the import documents showed that the firm also misdeclared the weight and value to avoid paying higher duties and taxes.

Charges of violation of Sections 3601 and 3602 of the Tariff and Customs Code of the Philippines for the unlawful importation and fraudulent filing of import documents, Section 6 of RA 4109 or Bureau of Product Standards Law, for the attempt of an unlicensed ICC-holder to import steel angle bars that did not go through PS certification and Article 172 of the Revised Penal Code for using falsified documents were filed against Thunder Birds officers.

Aside from Thunder Birds, the BOC also filed smuggling charges against officials of Skylink Import-Export Inc., led by its President, Junnhel Atun; Corporate Secretary Donna Donita Mercado, Treasurer Jumean Rose Atun, Directors Limuelle Montesa and Rogelio Ocampo, as well as customs broker Jarie Mae Juquiana.

The respondents, according to the BOC, violated Sections 3601 of the Tariff and Customs Code of the Philippines, Section 6 of RA 4109 and Article 172 of the Revised Penal Code.

The BOC said the company imported eight 20-foot container vans which were declared as "hardware items [steel frame bars]" but turned out to be "steel angle bars" after inspection.

Sevilla said the misdeclaration was made by the company to avoid paying the imposable safeguard duty of P3,706.03 per MT on importations of angle bars.

Furthermore, Skylink's import documents grossly misdeclared the weight and value of the goods to evade payment of the correct duties and taxes.

"Without a doubt, these importers willfully attempted fraud to evade payment of correct duties and taxes. Both Skylink and Thunder Birds underdeclared their imports significantly. *Ito ay pandaraya at pagkait sa gobyerno ng kaukulang buwis at ng pondo para sa serbisyo publiko para sa ating taumbayan,*" Sevilla added.

Delfin Lee seeks oral debates on pending cases

By Benjamin B. Pulta

Jailed businessman Delfin Lee is asking the Supreme Court (SC) to hold oral arguments on the suits involving the alleged P6.65-billion housing project anomaly involving the Home Development Mutual Fund (HDMF) or Pag-IBIG and his company, Globe Asiatique.

In a seven-page urgent motion, Lee, through his counsel Rony Garay, also asked for the consolidation of all cases pertaining to the controversy. Lee was joined by co-accused Christina

Sagun, GA documentation head, in filing the motion.

They argued that the court en banc resolution dated March 18 and the resolution of its Third Division dated March 19, 2014, ordering the consolidation of the foregoing petitions, only show "that these consolidated cases have been found to be of sufficient importance to merit the attention and disposition of the entire court en banc..."

Garay said there was "compelling need to set the said consolidated cases for oral

argument" and that this was necessary "in order to simplify the intricate issues brought about by the different facts and grounds relied upon by the parties in each of the petition."

The court had ordered the consolidation of the petitions of the HDMF vs Globe Asiatique Realty Holdings and vs Delfin Lee and vs Christina Sagun, and the petitions of prosecutors and the Department of Justice as well as the National Bureau of Investigation vs Delfin Lee and vs Alex Alvarez and vs Christina

Sagun.

Lee underscored the court should also consider for consolidation the cases against Christina Sagun filed by the HDMF and the DoJ, because she was among the accused in Criminal Case No. 18480 for syndicated estafa.

He also reiterated that the original finding of probable cause for syndicated estafa against him was already nullified by the different divisions of the Court of Appeals in various petitions individually filed by him and his co-accused.

East West to sell P5B shares

BY JIMMY CALAPATI

EAST West Banking Corp. yesterday said it will sell 500 million preferred shares, proceeds of which will be used to finance its bancassurance plans and the establishment of a leasing company.

Valued at P10 per share, the "perpetual non-cumulative Tier 1 preferred shares" offering would total P5 billion that would qualify as Additional Tier 1 capital under Basel 3 regulations.

The plan was approved by the bank's Board of Directors and will be presented to the stockholders towards the end of the month.

The Board of Directors also authorized the bank to engage in bancassurance business and in non-life insurance either as a general agent or as a broker.

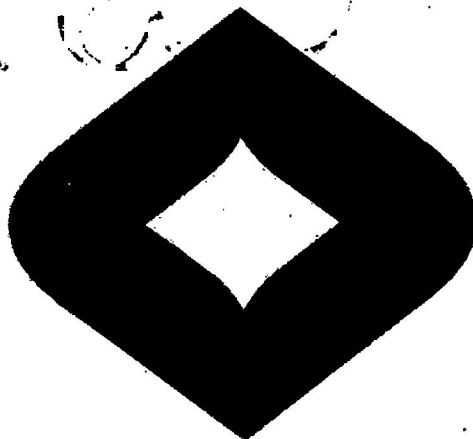
The Board also authorized the bank to establish a wholly-owned finance and leasing company.

The new company, if pursued, will further drive the bank's loan portfolio which is seen to grow at a "decent" rate as positive sentiments on the country's macroeconomic fundamentals will drive the growth of the banking industry, specifically asset quality.

"Loan growth (across all banks will be) decent. At what range is still too early to tell, but double digits (growth level) will not be difficult," said Tony Monncupa, EastWest president, in an earlier interview.

"The positive sentiment (on the economy) will continue but the downside risk is the international situation," he added.

Moncupa said that although economic news among more advanced economies have an effect on the local front, the Philippines will most likely weather the storm.



"When the big market moves, the earth shakes. We have foreign investments, that's why (this) also impacts us. It also has implications on our trade. It will have an effect on demand and supply that affects our current account. Our foreign exchange too. Everything moves because we are integrated. (But) we have enough reserves unlike before. We have enough buffer," Moncupa said.

Moncupa also said he sees interest rates to remain low and will be determined by inflation and not the recent investment rating upgrades that the country received from Fitch and Standard and Poor's.

EastWest's 2013 full-year net income reached P2.1 billion, higher by 13 percent from the P1.85 billion income the bank posted in 2012.

The revenue growth brought the bank's return on equity and return on assets at 11.1 percent and 1.6 percent, respectively.

EastWest's total assets was at P142.3 billion, up by 17.2 percent compared to 2012's P121.4 billion.

EastWest posted strong performance in

its core businesses of loans and deposits. Customer loans registered a 32.1 percent increase to P95.6 billion. Consumer loans grew by 29.4 percent to end the period at P48.9 billion.

Credit cards, auto, mortgage and personal loans businesses all posted healthy double-digit growth from previous year.

Corporate loans at the end of the year were at P46.7 billion, up by 35.1 percent from previous year.

The bank registered its highest net interest margin of 8.4 percent, on account of its above industry loan growth that resulted in net interest income increase of 37.9 percent year-on-year.

Fees, commissions and other non-interest income grew by 29.1 percent to P4.77 billion. Revenue from fees, excluding trading income, rose by 39.2 percent to P3.1 billion year-on-year.

Total expenses for the period was 39.8 percent higher at P10.9 billion as it continued to expand its branch store network and continue to gain market share in consumer loans for the year.

EastWest registered total deposits of P111.2 billion, an increase of 21.9 percent, driven by the expanded branch store network.

Low-Cost Deposits (CASA) grew by 27.9 percent while High-Cost Deposits increased by 14.4 percent.

In 2013, EastWest opened a total of 55 new branch stores to end the year at 300.

As of March 17, 2014, the consolidated branch store network of EastWest Unibank and EastWestRural Bank was at 369.

The bank's capital adequacy ratio (CAR) and Tier 1 Ratio stood at 17.0 percent and 13.8 percent, respectively as of year-end 2013.

ICTSI budgets \$310M capex

INTERNATIONAL Container Terminal services Inc. (ICTSI), operator of Manila International Container Terminal (MICT), has allocated capital expenditure of \$310 million this year, part of which will be spent for the development of new container terminals in Mexico, Argentina, Honduras and the Democratic Republic of Congo.

Enrique Razon, ICTSI chairman and president, sees Latin America and Africa as very promising markets. Razon said that after investing in Iraq, ICTSI is also bidding for a port project in Australia.

Last week, ICTSI won a contract to operate, develop and expand Iraq's largest port facilities. The company will invest \$130 million, or P5.8 billion for the first phase of the project.

The Manila-based global ports operator signed a contract with General Company for Ports of Iraq involving container facilities at the Port of Umm Qasr, located on Iraq's Gulf coast.

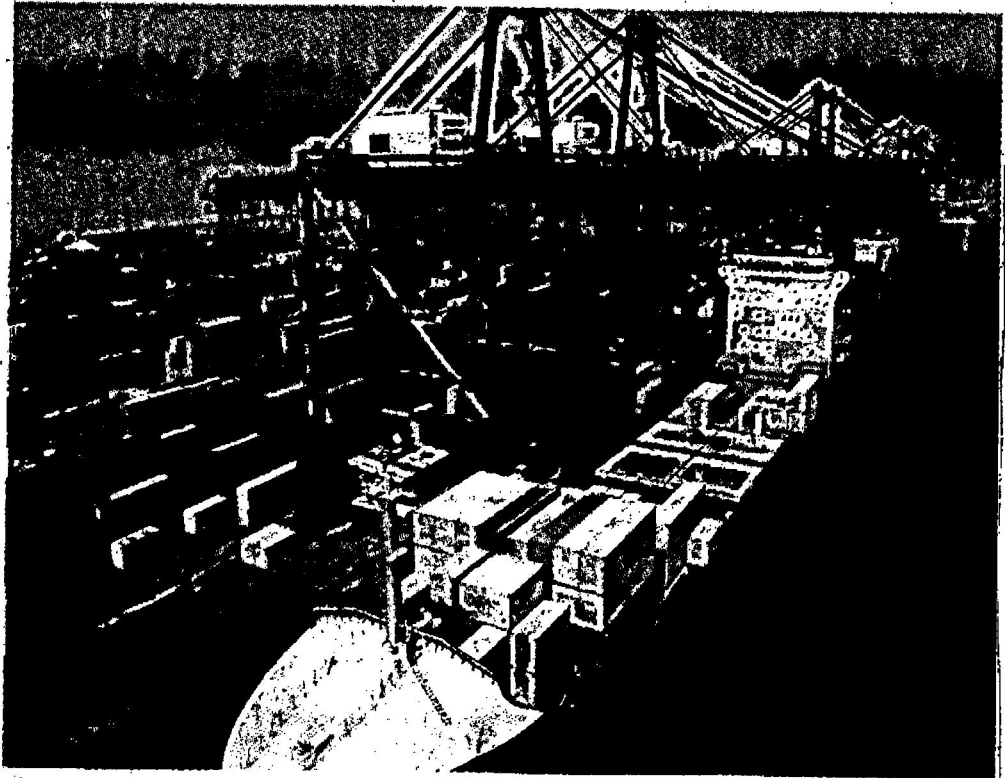
The port has 21 berths, with container throughput totaling 500,000 twenty-foot equivalent units in 2013.

ICTSI, in a stock exchange filing, said the contract grants it rights to manage and operate the existing container facility at Berth 20 of the port for a 10-year period.

Meantime, Razon warned of the impact on the economy of the daytime truck ban imposed in Manila beginning last month. Razon said the impact of the truck ban is not on the volume but on the inconvenience as more trucks stay inside the terminal.

"The impact is more on the economy, but that eventually it will impact us, on revenues, (But there is), no immediate impact," Razon said.

As of end 2013, ICTSI its net income attributable to equity holders for 2013 increased 20 percent to \$172.4 million from the \$143.2 million earned in 2012.



ICTSI after winning a contract to operate Iraq's port is bidding for another project in Australia. It is budgeting \$310 million this year to develop new container terminals in Mexico, Argentina, Honduras and the Democratic Republic of Congo.

ASEAN Exchanges Pick Deutsche Bank For Settlement, Custody Services

Deutsche Bank announced yesterday that it had been appointed by the ASEAN Exchanges to provide custody and settlement services to market participants of the ASEAN Exchange link in the participating countries – initially Malaysia, Singapore and Thailand.

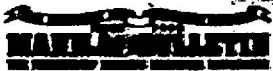
The ASEAN Exchanges comprise seven exchanges from six countries – Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam. The collaboration aims to promote the growth of the ASEAN capital market by driving cross-border collaboration, streamlining access to ASEAN, creating ASEAN-centric products and implementing targeted promotional initiatives.

Through their post-trade link strategy, the seven ASEAN Exchanges aim to provide brokers who conduct trades into any of the participating ASEAN Exchanges with a single point of entry, thereby allowing them to settle and hold securities listed at other participating ASEAN Exchanges via Deutsche Bank.

Deutsche Bank will provide settlement, foreign exchange and custody services to the brokers in the participating countries. By choosing Deutsche Bank's well-established transaction banking services for their post-trade needs, market participants and their clients benefit from more **streamlined** and cost-effective post-

trade procedures.

Mrugank Paranjape, Asia Pacific Head of Trust & Securities Services and Cash Management for Financial Institutions, Global Transaction Banking at Deutsche Bank, said: "We are very proud to be chosen by the participating ASEAN Exchanges to provide a wide range of transaction banking services for post-trade activities within ASEAN. Our track record in the ASEAN region combined with our deep involvement in industry developments provide a strong value proposition to clients. Being awarded this landmark mandate also clearly cements our leadership position in this fast-growing region."



The ASEAN Corporate Governance Scorecard

We know that the evaluation of a company's performance is a basic aspect of every profit-making (and even non-profit) making company via an annual review to see if they are on track. A critical aspect of information about a company is how far it is compliant with corporate governance standards and principles, a necessary business norm today.

An initial attempt by the Securities and Exchange Commission (SEC) was the issuance of a memorandum in 2003 requiring companies to submit a self-rating to assess the level of their compliance with the leading practices and principles of good CG. This, however, was a one-time requirement which eventually has been replaced with the current requirement for them to submit an Annual Corporate Governance Report (ACGR) every five years starting 2013. This document will be the reference document for the peer review process being undertaken within the ASEAN region in relation to the ASEAN Corporate Governance Scorecard (ACGS).



BUSINESS OPTION
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The ACGS is an initiative of the ASEAN Capital Markets Forum (ACMF), a body composed of the capital market regulators from ten ASEAN members. The SEC is the official Philippine representative to the ACMF. The SEC has appointed the Institute of Corporate Directors (ICD) as the Philippine representative to the ASEAN Corporate Governance Experts (ACGE) group. ICD was also appointed as the domestic ranking body of the Philippines for the ACGS.

In September 2012, ICD rolled out the ACGS to find a common ground in member countries in the adoption of CG Principles as articulated by the Organization for Economic Cooperation and Development (OECD). The choice of the ICD follows from the fact that it has been at the forefront of promoting CG in the Philippines, having taken the lead in setting up a CG Scorecard here.

Since its issuance of the first Scorecard in 2005, ICD had undertaken seven CG Scorecards for publicly listed companies (PLCs) and one for government owned and controlled corporations (GOCCs) and government owned financial institutions (GFIs). The ICD Scorecard has been recognized as a reliable tool for promoting high standards of compliance with CG principles and proper corporate policies. With the roll-out of the ACGS, ICD discontinued its

own CG Scorecard, having been tasked to develop the Philippine template for ACGS. For now, the SEC and ICD will apply the ACGS only to PLCs, although in the future it can be applied for the specific regulatory needs of banks, insurance companies and even GOCCs.

The ACGS is a corporate governance rating system that comprises a questionnaire based on the five chapters following the sequence and content of the 5 OECD Principles, and is also in line with the CG Scorecard that has been in use in Thailand, Indonesia and the Philippines (which to date are the only countries which have fully adopted the ACGS). The ACGS comprises 179 basic questions that can be answered by either "YES" or "NO".

A scorer using the ACGS must answer each question on the basis of information readily available on the websites of the PLC, SEC or the Philippine Stock Exchange (PSE). Furthermore, after an original rater (OR) from one country has completed his/her rating, a peer reviewer (PR) from another country will give his/her rating as well. The PR will not have access to the OR's scores during the review process. Should there be a difference in the scores, the OR will justify his/her scores, citing references. The PR will then decide whether to accept or reject the justifications. The OR and PR will then deliberate with the objective of reaching a decision; if not, the issue will be brought up to the ACGE, who will cast the final vote.

The weights per category of the ACGS at the first level are: (1) rights of shareholders, 10%; (2) equitable treatment of shareholders, 15%; (3) role of stakeholders, 10%; (4) disclosure and transparency, 25%; and (5) responsibilities of the Board, 40%. The second level of the Scorecard consists of bonus (practices beyond minimum standards) and penalty questions (poor practices). From the total, the bonus points are added, and the penalty points, subtracted.

ICD will submit the scores of PLCs for the fiscal years 2012 and 2013 to the SEC for evaluation, which the latter may use as a basis for taking steps to improve the overall level of corporate governance scores in the future. The Philippines is committed to share its ACGS scores with the rest of the ACMF members in 2015. SEC and ICD aim to have at least 20 Philippine PLCs within the top ranking 50 ASEAN PLCs based on the ACGS results by then.

merci.suleik@gmail.com

EastWest Bank's board OKs P5b worth of preferred shares

By Julito G. Rada

EASTWEST Banking Corp., the banking unit of Filinvest Development Corp. of the Gotianun family, plans to issue a maximum of 500 million preferred shares that will qualify as additional tier 1 in a bid to increase capitalization in line with

the Basel 3 regime.

The bank said in a disclosure to the stock exchange Monday its board of directors on April 10, 2014 approved the plan to issue 500,000,000 in perpetual non-cumulative Tier 1 preferred shares at a par value of P10 per share.

It said the 500,000,000 preferred shares were the correct number of

shares to be issued instead of the 5,000,000 previously disclosed.

The bank's capital adequacy ratio and Tier 1 ratio as of end-2013 stood at 17 percent and 13.8 percent, respectively.

The board also authorized the bank to engage in bancassurance business and in non-life insurance either as a general

agent or as a broker.

It said it would present the approvals during the annual stockholders' meeting on April 25, 2014 for ratification.

Earlier, the Bangko Sentral ng Pilipinas approved the proposed merger of EastWest and the Agusan del Norte-based Green Bank, with EastWest as the

surviving entity.

The proposed merger was earlier approved by Philippine Deposit Insurance Corp. The bank was awaiting the approval from the Securities and Exchange Commission.

EastWest president and chief executive Antonio Moncupa said earlier the merger with Green Bank was part of the strategy of the universal bank to strengthen its presence in Mindanao and serve the unbanked areas in the country.

In 2013, EastWest posted a 13.2-percent increase in net income to P2.1 billion year-on-year, on the back of growth in its core businesses. This resulted in a return on equity and return on assets at 11.1 percent and 1.6 percent, respectively.

EastWest's total assets reached P142.3 billion, up by 17.2 percent versus P121.4 billion in 2012

Stocks dip; BDO, Ayala Land climb

THE stock market dropped Monday in thin trading, with investors staying in the sidelines ahead of the Lenten season.

The rest of Asia's markets mostly fell, following another heavy sell-off on Wall Street and renewed concerns over the crisis in Ukraine.

Investors are also awaiting the release this week of first-quarter growth data from China, with analysts tipping a further slowdown in the world's number two economy.

The Philippine Stock Exchange index lost 7.41 points, or 0.1 percent, to 6,589.55 on a val-

ue turnover of P5.6 billion. Gainers, however, edged losers, 86 to 80, with 52 issues unchanged.

SM Prime Holdings Inc., the biggest property company by assets, declined 1.7 percent to P15.30, while sister unit BDO Unibank Inc. rose 1.2 percent to P88.

Trans-Asia Oil and Energy Development Corp., a unit of the Phinma Group, climbed 3.7 percent to P2.24. The company

plans to double its generation capacity to 500 megawatts from 250 MW by 2016. Trans-Asia president Francisco Viray said the company would generate additional output from wind and coal stations, with hydropower and natural gas plants expected to boost the capacity as well.

Trans-Asia signed Friday a P1-billion 5-year term loan agreement with Security Bank Corp. and a separate P1.5-billion 10-year corporate note facility with China Banking Corp. to fund the company's projects and working capital.

Universal Robina Corp., the largest snack food maker, slipped 1.2 percent to P144.70. Alliance Global Group Inc., which has holdings in property, fastfood chain, hotel and gaming and liquor production companies, fell 1.5 percent to P28.90.

Ayala Land Inc., a major property development firm, rose 1.9 percent to P30.10. Manila Bulletin Publishing Corp., a major broadsheet controlled by the family of the late tycoon Emilio Yap, surged 7.9 percent to P1.50.

Meanwhile, Tokyo ended 0.36 percent lower, giving up 49.89 points to 13,910.16, while Sydney shed 1.28 percent, or 69.7 points, to 5,358.9, marking its heaviest fall in four weeks. Seoul was flat, dipping 0.42 points to 1,997.02.

In the afternoon, Hong Kong was up 0.10 percent and Shanghai was flat.

US shares continued their downward spiral Friday led by the technology sector, owing to fears big-name firms such as Facebook, Twitter and Netflix may be overpriced. With AFP