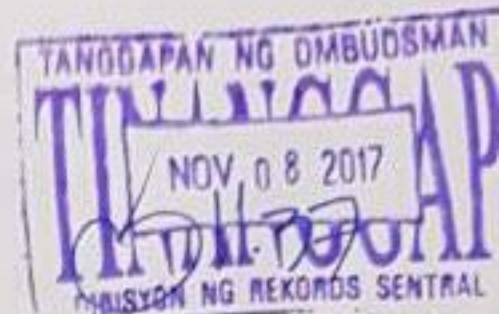


REPUBLIC OF THE PHILIPPINES)  
QUEZON CITY, METRO MANILA )SS.



## COMPLAINT-AFFIDAVIT

I, **SEN. ANTONIO "SONNY" F. TRILLANES IV**, of legal age, Filipino, married, with office address at Room 519, Senate Building, GSIS Financial Center, Roxas Boulevard, Pasay City, after being first sworn in accordance with law, do hereby charge:

**SEN. RICHARD "DICK" J. GORDON**, of legal age, Filipino, married, an elected Senator of the Republic, Salary Grade 31, with office address at the 5<sup>th</sup> Floor, Senate Building, GSIS Financial Center, Roxas Boulevard, Pasay City, hereinafter referred to as the "*Respondent Gordon*" or "*Sen. Gordon*";

- and -

**MS. GWENDOLYN PANG**, of legal age, Filipino, former Secretary General of the Philippine Red Cross (PRC), with last known address c/o the PRC Head Office, No. 37 EDSA corner Boni Avenue, 1550 Mandaluyong City, hereinafter referred to as "*Respondent Pang*" or "*Ms. Pang*";

with the administrative and criminal offenses specified hereunder, to wit:

### CULPABLE VIOLATION OF THE PHILIPPINE CONSTITUTION

1. Between the Years 2004 and 2011, respondent Sen. Gordon has allocated and given around **ONE HUNDRED NINETY THREE MILLION (PhP 193,000,000.00)**, more or less, of public funds from his **Priority Development Assistance Fund ("PDAF")** as a legislator to the **Philippine Red Cross** (formerly Philippine National Red Cross), an independent, autonomous, non-governmental auxiliary society to the authorities of the Republic of the Philippines in the humanitarian field, to assist said authorities in the performance of its obligations under the Geneva Conventions and Statutes of the International Red Cross and Red Crescent Movements.<sup>1</sup> This fact has been duly published in the investigative report entitled "*Pigging Out On Pork A La PNoy - Bogus*,

<sup>1</sup> See: Section 2, Declaration of Principles, Philippine Red Cross Act of 2009, Republic Act No. 10072.

*avored NGOs failed to account for P770-M Pork*”, written by *Che Delos Reyes* of the **Philippine Center for Investigative Journalism (PCIJ)** on 23 July 2012, where Sen. Gordon himself was interviewed.<sup>2</sup>

2. The PDAF funds of Sen. Gordon given to the **Philippine Red Cross (PRC)** were coursed through the **Department of Social Welfare and Development (DSWD)** and this is evidenced in part by the enclosed copy of a tripartite Memorandum of Agreement signed by the DSWD, the Philippine Red Cross and Sen. Gordon, ANNEX “A” hereof, involving transferring **FIFTY MILLION PESOS (PHP 50,000,000.00)** of public funds covered by **SARO No. ROCS-09-04900** dated 09 July 2009 to the DSWD, for ultimate transfer to the Philippine Red Cross.

3. Ordinarily, there would have been nothing objectionable or anomalous about a legislator allocating his PDAF funds for the Philippine Red Cross, considering the stature of the society as a premier humanitarian organization in the Philippines. However, there is a very clear anomaly and/or conflict of interest in this case of Sen. Gordon making the allocation of the said funds because he has been a Governor and has been the Chairman and Chief Executive Officer (CEO) of the Philippine Red Cross since 2004 up to the present. In short, Sen. Gordon has been allocating public funds to an organization over which he has principal financial control and/or interest, in utter and culpable violation of *Section 14 of Article VI of the Philippine Constitution*, which reads:

**“Section 14. No Senator or Member of the House of Representatives may personally appear as counsel before any court of justice or before the Electoral Tribunals, or quasi-judicial and other administrative bodies. Neither shall he, directly or indirectly, be interested financially in any contract with, or in any franchise or special privilege granted by the Government, or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation, or its subsidiary, during his term of office. He shall not intervene in any matter before any office of the Government for his pecuniary benefit or where he may be called upon to act on account of his office.”**

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<sup>2</sup> See: *“Piggin Out On Pork A La PNoy – Bogus, favored NGOs failed to account for P770-M Pork”*, by Ces delos Reyes, 23 July 2012, Last of Five Parts, published in the Philippine Center for Investigative Journalism (PCIJ) website, among others; <http://pcij.org/stories/bogus-favored-ngos-fail-to-account-for-p770-m-pork/>

*[Emphasis supplied]*

4. Clearly, as one of the principal officers holding the most vital positions of Governor, Chairman and CEO of Philippine Red Cross from 2004 to present, an entity which has received funds from the DSWD which he himself funded from his PDAF from 2004 to 2011, he is financially interested, whether directly or indirectly, in contracts granted and/or entered into by the Government with the PRC during his term of Office as Senator from 2004 to 2010 and from 2013 to present.

5. Needless to state, Sen. Gordon should be charged with as many counts of culpable violation of the Constitution, particularly **Section 7, Article VI** thereof, as quoted above, as may be discovered from the records of the DSWD and/or the Department of Budget and Management (DBM), based on the number of times he actually allocated and gave public funds from his PDAF to the Philippine Red Cross during his incumbency as Governor, Chairman and CEO of the latter, through the DSWD, from 2004 up to the present;

**VIOLATIONS OF SECTION 7(A) & 7(B)(1),  
RA 6713, OTHERWISE KNOWN AS THE CODE  
OF CONDUCT AND ETHICAL STANDARDS FOR  
GOVERNMENT OFFICIALS AND EMPLOYEES**

6. The same acts of Sen. Gordon likewise clearly constitute direct violations of the *Code of Conduct and Ethical Standards for Government Officials and Employees, RA 6713*, particularly *Sections 7(a) & (7)(b)(1)* thereof, which expressly reads, thus:

**Section 7. Prohibited Acts and Transactions.** - *In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, **the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:***

**(a) Financial and material interest.** - *Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.*

**(b) Outside employment and other activities related thereto.** - *Public officials and*

**employees during their incumbency shall not:**

**(1) Own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law;**

(2) Xxx;

(3) Xxx;

**These prohibitions shall continue to apply for a period of one (1) year after resignation, retirement, or separation from public office, except in the case of subparagraph (b) (2) above, but the professional concerned cannot practice his profession in connection with any matter before the office he used to be with, in which case the one-year prohibition shall likewise apply.**

[Emphasis supplied]

7. Clearly, being a Governor, Chairman and CEO of the Philippine Red Cross from 2004 to present, an entity which has received hundreds of millions from his PDAF from 2004 to present, Sen. Gordon has direct and/or indirect financial and material interest in these transactions or projects, which were originated and/or approved by his Office, in clear violation of **Section 7(a) of RA 6713**, as quoted above;

8. Likewise, being a Governor, Chairman and CEO of the Philippine Red Cross from 2004 to present, an entity which has received hundreds of millions from his PDAF from 2004 to present, Sen. Gordon has clearly accepted **control and/or management**, and has accepted employment as a **trustee** of a private enterprise over which his Office has supervision, by virtue of the **Memorandum of Agreements (“MOAs”)** he signed with the DSWD and the Philippine Red Cross by way of allocating his PDAF to the latter, in gross and utter violation of **Section 7(b)(1) of RA 6713**.

9. Please note that **Section 7** expressly declares the foregoing acts of respondent Gordon as **unlawful**. Moreover, **Section 11 of RA 6713** specifically provides:

**Section 11. Penalties.** - (a) Any public

*official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. **Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.***

*[Emphasis supplied]*

10. Needless to state, Sen. Gordon should be charged with as many counts of violation of **Sections 7(a) and 7(b)(1) of RA 6713**, as may be discovered from the records of the DSWD and/or the Department of Budget and Management (DBM), based on the number of times he actually allocated and gave public funds from his PDAF to the Philippine Red Cross during his incumbency as Governor, Chairman and CEO of the latter, through the DSWD, from 2004 to present;

11. On top of these violations, there have been reports from credible sources inside the Philippine Red Cross itself that about **TWO HUNDRED MILLION PESOS (PhP 200,000,000.00)** of its funds, including funds coming from the PDAF of Sen. Gordon, have been disbursed by the then Secretary General of the Philippine Red Cross, **Gwendolyn Pang**, to fund anomalous projects without the requisite approval of the **Board of Governors (BOG)** of the Philippine Red Cross and without the requisite public bidding in the case of the PDAF of Sen. Gordon.

12. These reports of anomalous transactions of then PRC Secretary General **Ms. Gwendolyn Pang** were first widely circulated via anonymous email with attached photocopies of the official receipts and related documents in June 2012. The allegations had to do with the use of PRC funds by Ms. Pang to finance projects purportedly intended to boost the candidacy of Sen. Gordon, who ran for President in 2010 and for Senator in 2013.

13. When PRC Chairman and CEO Sen. Gordon refused to investigate the allegations unless someone admitted authorship over said email messages, **Gov. Jan Elvest Bo**, the Governor representing the Red Cross Youth, claimed ownership of the email, just so the investigation would be conducted and justice would be served.

14. Instead of having Ms. Pang's transactions audited by an independent auditor and/or inhibiting himself from the issue in view of his clear conflict of interest on the matter, Sen. Gordon created a committee composed of Governors handpicked by him to investigate the matter.

15. After many months of preliminary investigation, the Governors handpicked by Sen. Gordon absolved Ms. Pang of any wrongdoing while at the same time recommending the expulsion of Gov. Bo from the Board, purportedly for *damaging* the reputation of the Philippine Red Cross.

16. Despite of what happened to Gov. Bo, the allegations of anomalous transactions against PRC Secretary General Pang and her boss, Chairman and CEO Sen. Gordon did not end there. Other well-meaning and credible officers of the Philippine Red Cross have subsequently also brought up the matter for the same to be properly investigated and/or resolved by the Board of Governors of PRC, headed by Sen. Gordon.

17. Yet again, these matters were formally brought to the attention of the Board of Governors of the Philippine Red Cross on 09 September 2013 by no less than the former Internal Auditor and Chief Accountant at that time of the Philippine Red Cross, **Mr. Jeric A. Sian**, who has been with the Philippine Red Cross for a total of eight (8) years by then, in a two (2)-page letter with comprehensive and detailed explanation contained in the attachments consisting of eleven (11) pages, a copy of which letter (sans attachment, is hereto appended as **ANNEX "B"** hereof.

18. In the subject letter, Mr. Sian recommended for the Board of Governors to undertake "*a complete independent audit*" of the subject PRC transactions "*to determine the existence, extent/magnitude, and frequency of the violations on the existing PRC financial Policies & Procedures, deficiencies, discrepancies, lapses, and/or irregularities to said PRC financial transactions.*"<sup>3</sup> Mr. Sian likewise recommended that, since the aforementioned transactions were mostly approved by the Secretary General at that time, Ms. Gwendolyn Pang, a Committee be

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<sup>3</sup> See: Page 2, Letter to the Board of Governors of PRC of Mr. Jeric Sian dated 09 September 2013; **ANNEX "B"** hereof.

created to choose a Reputable Auditing Firm to conduct a complete independent audit of the subject PRC transactions.

19. Mr. Sian likewise reported in his letter dated 09 September 2013 to the Board of Governors that he has *“brought these to the attention of Senior Management but up to this time, there is no action taken yet and what resulted are attempts to intimidate and silence me through harassment, allegations, and incorrect accusations”*.<sup>4</sup>

20. Instead of complying with the suggestions and/or recommendations of Mr. Sian for an independent audit of the subject PRC transactions, the PRC Board headed by Sen. Gordon resorted to legal maneuverings which eventually resulted to the firing/removal of Mr. Sian as Chief Accountant of the Philippine Red Cross.

21. Also in October 2013, former long-time Chairman of the Philippine Red Cross, Ms. Rosa Rosal, wrote the Board of Governors of the Philippine Red Cross to seek the investigation of P200 Million alleged anomalies of PRC Secretary General Pang and to ask for her suspension<sup>5</sup>. Again, the said complaint fell on deaf ears as the Board of Governors of PRC headed by Sen. Gordon, eventually exonerated Ms. Pang.

22. Please note that, based on the allegations of Mr. Sian and Ms. Rosal, there was a clear conflict of interest on the part of Sen. Gordon because the funds subject of the charges were supposedly anomalously spent by Ms. Pang for and in support of Sen. Gordon's candidacy as President in 2010, and as Senator in 2013.

23. For example, Mr. Sian claims that Ms. Pang ***“Purchased 500,000 pieces of Plastic Whistles”*** for a total of ***P12,000,000.00*** with ***“No BOG Approval”*** and ***“No Public Bidding”***, with ***“Php 1.8M being charged to PDAF pf Chairman Gordon”***.<sup>6</sup> Also subject of Mr. Sian's complaint are the funds spent to buy ***Karaoke's*** and ***baller IDs bearing the name of respondent Richard Gordon*** in 2009 and 2010, when Sen. Gordon ran for President, as well as ***media placements made in favor of Mejah, Inc., in the amount of more than P29 Million*** to boost participation in the Million volunteer run of PRC, right before Sen. Gordon ran for election as Senator in 2013, as well as the more than ***Php 5 Million*** spent by the ***Philippine Red Cross for its website***.<sup>7</sup>

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<sup>4</sup> See: Page 2, Letter of Mr. Jeric Sian dated 09 September 2013; Supra., ***ANNEX “B”*** hereof.

<sup>5</sup> See: Philippine Red Cross denies fund anomalies; ABS-CBN News, 13 December 2013; Website: <http://news.abs-cbn.com/nation/12/11/13/philippine-red-cross-denies-fund-anomalies>

<sup>6</sup> See: Item No. 5, Page 1, Letter of Mr. Jeric Sian dated 09 September 2013; Supra., ***ANNEX “B”*** hereof.

<sup>7</sup> See: Item Nos. 3 and 6, Page 1 of the Letter of Mr. Jeric Sian dated 09 September 2013; Supra., ***ANNEX “B”*** hereof; As well as the report dated 11 December 2013 of Mr. Henry Omega Diaz in TV Patrol, ANS-CBN Channel 2 entitled *“Red Cross funds used for Gordon baller IDs, “Magic Sing”*? Website: <http://news.abs-cbn.com/video/focus/12/11/13/red-cross-funds-used-gordon-baller-ids-magic-sing>

24. Likewise, Mr. Sian and Ms. Rosal alleged that PRC funds were used on the **“WOW” tarpaulins** of Sen. Gordon from 2007 to 2009, apparently intended to boost his candidacy for President in 2010.

25. Despite all of these allegations clearly embroiling him in the alleged anomalies of Ms. Pang, Sen. Gordon did not see it fit to take a leave of absence or inhibit himself from the matter as Governor, Chairman and CEO of the PRC, thus, rendering the results of any investigation or inquiry conducted by PRC on the subject allegations highly suspect.

### **CRIME OF PLUNDER UNDER RA 7080**

26. Hence, there is an imperative need for this Honorable Office to investigate the subject ***alleged anomalous disbursements of the Php 200 Million PRC funds, around P193 Million of which came from the PDAF of Sen. Gordon***, because if indeed the same were in fact amassed, accumulated and/or eventually utilized or used in support of Sen. Gordon’s candidacy as President in 2010 and as Senator in 2013, there would be a very clear case for the filing of criminal charge for the crime of ***plunder*** against Sen. Gordon and Ms. Pang, as the offense is defined and penalized under ***Section 2 of RA No. 7080***, as amended, also known as ***Act Defining and Penalizing the Crime of Plunder***, thus:

***“Section 2. Definition of the Crime of Plunder; Penalties. — Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1(d) hereof in the aggregate amount or total value of at least Fifty million pesos (P50,000,000.00) shall be guilty of the crime of plunder and shall be punished by reclusion perpetua to death. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the***

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**attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the court.**

*The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State. (As amended by RA 7659, approved Dec. 13, 1993.)*

*[Emphasis supplied]*

### **PHP 90.170 MILLION IN UNLIQUIDATED CASH ADVANCES FROM PDAF OF THE PRC**

27. This is particularly true under the circumstances where, after the conduct of an in-depth investigation on the practice of some legislators of giving their PDAF allocations to their favored Non-Governmental Organizations (NGOs), the ***Philippine Center for Investigative Journalism (PCIJ)*** found that the Philippine Red Cross under the leadership of Sen. Gordon still had an outstanding unliquidated cash advances from PDAF in the amount of **NINETY MILLION ONE HUNDRED SEVENTY THOUSAND PESOS (PhP 90,170,000.00)** as of 31 March 2012, thus, making it the second among NGOs with the biggest amount of unliquidated cash advances from PDAF. This fact has been duly published in the investigative report entitled ***“Pigging Out On Pork A La PNoy – Bogus, favored NGOs failed to account for P770-M Pork”***, written by *Che Delos Reyes* of the **Philippine Center for Investigative Journalism (PCIJ)** on 23 July 2012, where Sen. Gordon himself was interviewed.<sup>8</sup>

28. Under the circumstances, even if assuming for the sake of argument that only **PhP 90,170,000.00** of the public funds allocated by Sen. Gordon from his own PDAF for the ultimate used of the Philippine Red Cross cannot be accounted for, and/or was ultimately used by Ms. Pang for the campaign of Sen. Gordon, the said amount of unliquidated PDAF would still qualify and meet the threshold for respondent Gordon and Ms. Pang to be charged with the crime of Plunder, as defined and penalized under ***Section 2 of RA 7080***, as quoted above.

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<sup>8</sup> See: *“Piggin Out On Pork A La PNoy – Bogus, favored NGOs failed to account for P770-M Pork”*, by Ces delos Reyes, 23 July 2012, Last of Five Parts, published in the Philippine Center for Investigative Journalism (PCIJ) website, among others; <http://pcij.org/stories/bogus-favored-ngos-fail-to-account-for-p770-m-pork/>

## **MALVERSION OF PUBLIC FUNDS PURSUANT TO ARTICLE 217 OF THE REVISED PENAL CODE**

29. Likewise, respondents could also be properly charged with conspiracy for the commission of *Malversion of Public Funds*, as defined and penalized under Article 217 of the Revised Penal Code, thus:

**“ARTICLE 217. Malversion of public funds or property — Presumption of malversion. — Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversion of such funds or property, shall suffer:**

XXX                      XXX                      XXX

**4. The penalty of reclusion temporal in its medium and maximum periods, if the amount involved is more than 12,000 pesos but is less than 22,000 pesos. If the amount exceeds the latter, the penalty shall be reclusion temporal in its maximum period to reclusion perpetua.**

**In all cases, persons guilty of malversion shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.**

*The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses.*

*[Emphasis supplied]*

30. *Malversation may be committed by appropriating public funds or property; by taking or misappropriating the same; by consenting, or through abandonment or negligence, by permitting any other person to take such public funds or property; or by being otherwise guilty of the misappropriation or malversation of such funds or property.*<sup>9</sup> For a prosecution of the crime to prosper, concurrence of the following elements must be satisfactorily proved: (a) the offender is a public officer, (b) he has custody or control of the funds or property by reason of the duties of his office, (c) the funds or property are public funds or property for which he is accountable, and, most importantly, (d) he has appropriated, taken, misappropriated or consented, or, through abandonment or negligence, permitted another person to take them.<sup>10</sup>

31. Needless to state, the allocation of Sen. Gordon of public funds from his PDAF in favor of the Philippine Red Cross did not alter character of said funds as public funds, despite of the fact that the same was placed in the hands of a non-governmental entity. This is very clear even from the **Memorandum of Agreements** (MOAs) signed by Philippine Red Cross, DSWD and the Office of Sen. Gordon, a sample of which is hereto appended as **ANNEX "B"**, wherein it is specified that the funds and/or the projects were they were allocated and/or applied are subject to COA Special Audit<sup>11</sup>, COA disallowance<sup>12</sup>, as well as the provisions of COA Circular No. 2007-001 dated October 25, 2007 and DSWD Memorandum Circular No. 15, series of 2009.<sup>13</sup>

32. Hence, respondents Gordon and Pang should be ***charged with malversation of public funds under Article 217 of the Revised Penal Code (RPC)*** for each and every time Ms. Pang actually disbursed public funds anomalously, in support of the candidacy of Sen. Gordon for President in 2010 and for Senator in 2013, as may be discovered from the actual review of the documents from the DSWD and/or the DBM relating to the PDAF of Sen. Gordon allocated for the PRC.

33. Based on the Letter dated 09 September 2013 of Mr. Jeric Sian and his subsequent revelations to the media alone, respondents Gordon and Pang should be charge with at least five (5) counts of Malversation of Public Funds for the following anomalous transactions entered into by respondent Pang, for the benefit of the candidacy of Sen. Gordon, particularly:

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<sup>9</sup> *Pondevida v. Sandiganbayan*, 504 Phil. 489, 507 (2005).

<sup>10</sup> *People v. Pantaleon, Jr., et al.*, 600 Phil. 186, 208 (2009); *Diaz v. Sandiganbayan*, 361 Phil. 789, 803 (1999).

<sup>11</sup> See: Paragraph 1(h), Page 3 of the undated MEMORANDUM OF AGREEMENT (MOA), ANNEX "B" hereof.

<sup>12</sup> See: Paragraph 1(i), MOA, ANNEX "B".

<sup>13</sup> See: Paragraph 1(j), MOA, ANNEX "B" hereof.

1. **Item No. 3** of Mr. Sian's Letter dated 09 September 2013, for spending PhP 29.8 Million for media related expenses paid to Mejah, Inc., without public bidding intended to boost participation in PRC's One Million Volunteer Run which was launched shortly before Sen. Gordon ran for Senator in 2013;
2. **Item No. 5**, of Mr. Sian's Letter dated 09 September 2013, for spending PhP 8.5 Million in PRC funds for the **"Purchase of 500,000 pieces of Plastic Whistles"** without public bidding and without PRC Board of Governors' approval, **PhP 1.8 Million of which was charged to the PDAF of Sen. Gordon**;
3. The disbursement of funds **for the purchase of "Magic Sing" Karaoke**s, which had nothing to do with the mandate of the PRC<sup>14</sup>;
4. The disbursement of funds **for the purchase of baller IDs with the name of PRC Chairman Richard Gordon** before he ran as President in 2010<sup>15</sup>; and –
5. The disbursement of funds for the purchase of **"Wow" tarpaulins** of Sen. Gordon from 2007 to 2009 in order to boost Sen. Gordon's candidacy as President in 2010<sup>16</sup>.

34. Apart from *malversation* of public funds, Ms. Pang and Sen. Gordon must likewise be held liable for their failure to comply with the provisions of the **Government Procurement Reform Act, RA No. 9184**, for each and every time they disbursed the public funds from the PDAF of Sen. Gordon allocated to the Philippine Red Cross **without public bidding**, in violation of **Section 10 in relation to Section 65 (2) and/or (4) of RA 9184**, whether or not said funds ended up being used for the campaign of Sen. Gordon, thus:

**"ARTICLE IV"  
"COMPETITIVE BIDDING"**

**"SEC. 10. Competitive Bidding. - All Procurement shall be done through Competitive Bidding, except as provided for in**

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<sup>14</sup> See: Report dated 11 December 2013 of Mr. Henry Omega Diaz in TV Partol, ABS-CBN Channel 2 entitled: *"Red Cross funds used for Gordon baller IDs, "Magic Sing"?* Website: <http://news.abs-cbn.com/video/focus/12/11/13/red-cross-funds-used-gordon-baller-ids-magic-sing>

<sup>15</sup> Ibid.

<sup>16</sup> See: *"Philippine Red Cross Denies Fund Anomalies"*, ABS-CBN News; posted on 11 December 2013; Website: <http://news.abs-cbn.com/nation/12/11/13/philippine-red-cross-denies-fund-anomalies>

*Article XVI of this Act.”*

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**“ARTICLE XXI”  
“PENAL CLAUSE”**

**“SEC. 65. Offenses and Penalties. - (a) Without prejudice to the provisions of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act" and other penal laws, public officers who commit any of the following acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years:**

1. *Open any sealed Bid including but not limited to Bids that may have been submitted through the electronic system and any and all documents required to be sealed or divulging their contents, prior to the appointed time for the public opening of Bids or other documents.*

2. *Delaying, without justifiable cause, the screening for eligibility, opening of bids, evaluation and post evaluation of bids, and awarding of contracts beyond the prescribed periods of action provided for in the IRR.*

3. **Unduly influencing or exerting undue pressure on** *any member of the BAC or any officer or employee of the procuring entity to take a particular action which favors, or tends to favor a particular bidder.*

4. **Splitting of contracts which exceed procedural purchase limits and competitive bidding.**

5. *When the head of the agency abuses the exercise of his power to reject any and all bids as mentioned under Section 41 of this Act with manifest preference to any bidder who is closely*

related to him in accordance with Section 47 of this Act.

**When any of the foregoing acts is done in collusion with private individuals, the private individuals shall likewise be liable for the offense.**

**In addition, the public officer involved shall also suffer the penalty of temporary disqualification from public office, while the private individual shall be permanently disqualified from transacting business with the Government.**

(b) Xxx.

*[Emphasis supplied]*

35. Hence, respondents Gordon and Pang should be ***charged violation of Section 10 in relation to Section 65(a)(3) or Section 65(a)(4) of RA 9481*** for each and every time Ms. Pang actually disbursed public funds anomalously, whether or not in support of the candidacy of Sen. Gordon for President in 2010 and for Senator in 2013, as may be discovered from the actual review of the documents from the DSWD and/or the DBM relating to the PDAF of Sen. Gordon allocated for the PRC.

36. Again, based on the Letter dated 09 September 2013 of Mr. Jeric Sian and his subsequent revelations to the media alone, respondents Gordon and Pang should be charge with at least six (6) counts of violation of Republic Act No. 9481 for the following transactions entered into by respondent Pang without the benefit of any public bidding, whether or not for the benefit of the candidacy of Sen. Gordon, particularly:

1. **Item No. 3** of Mr. Sian's Letter dated 09 September 2013, for spending PhP 29.8 Million for media related expenses paid to Mejah, Inc., without public bidding intended to boost participation in PRC's One Million Volunteer Run which was launched shortly before Sen. Gordon ran for Senator in 2013;
2. **Item No. 5** of Mr. Sian's Letter dated 09 September 2013, for spending PhP 8.5 Million in PRC funds for the ***"Purchase of 500,000 pieces of Plastic Whistles"*** without public bidding and without PRC Board of Governors' approval, ***PhP 1.8 Million of which was charged to the PDAF of Sen. Gordon;***

3. The disbursement of funds *for the purchase of “Magic Sing” Karaoke*s, which had nothing to do with the mandate of the PRC<sup>17</sup>;
4. The disbursement of funds *for the purchase of baller IDs with the name of PRC Chairman Richard Gordon* before he ran as President in 2010<sup>18</sup>;
5. The disbursement of funds for the purchase of *“Wow” tarpaulins* of Sen. Gordon from 2007 to 2009 in order to boost Sen. Gordon’s candidacy as President in 2010<sup>19</sup>; and –
6. **Item No. 6** of the Letter dated 09 September 2013 of Mr. Sian, *for the disbursement of P5.4 Million to Edgar Allan Palmos and/or All Good Media Services* for the Web Development, Web Hosting and others, which was done *without Board of Governors’ approval* and *with no public bidding*.

**VIOLATION OF SECTION 3 (E)  
OF THE ANTI-GRAFT AND CORRUPT  
PRACTICES ACT, REPUBLIC ACT (RA) NO. 3019**

37. Moreover, for his act of taking advantage of his Office as Senator in order to *give undue and unwarranted benefits, advantages and/or preferences* to the Philippine Red Cross, a private party, despite knowing fully well that he has a clear conflict of interest being also Chairman, CEO and a Governor of the Philippine Red Cross, through *manifest partiality* and/or *evident bad faith* by allocating funds from his PDAF in favor of the latter, the undersigned is also hereby filing administrative and criminal charges against respondent Sen. Gordon for violation of **Section 3(e)** of the *Anti-Graft and Corrupt Practices Act, R.A. 3019*, thus:

**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**

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<sup>17</sup> See: Report dated 11 December 2013 of Mr. Henry Omega Diaz in TV Partol, ABS-CBN Channel 2 entitled: *“Red Cross funds used for Gordon baller IDs, “Magic Sing”?* Website: <http://news.abs-cbn.com/video/focus/12/11/13/red-cross-funds-used-gordon-baller-ids-magic-sing>

<sup>18</sup> Ibid.

<sup>19</sup> See: *“Philippine Red Cross Denies Fund Anomalies”*, ABS-CBN News; posted on 11 December 2013; Website: <http://news.abs-cbn.com/nation/12/11/13/philippine-red-cross-denies-fund-anomalies>

**practices of any public officer and are hereby declared to be unlawful:**

(a)Xxx;

(b)Xxx;

(c)Xxx;

(d)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.**

Xxx.

[Underscoring and emphasis supplied]

38. Hence, respondents Gordon and Pang should be **charged with violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act, R.A. 3019**, for each and every time Ms. Pang actually disbursed public funds anomalously, in support of the candidacy of Sen. Gordon for President in 2010 and for Senator in 2013, as may be discovered from the actual review of the documents from the DSWD and/or the DBM relating to the PDAF of Sen. Gordon allocated for the PRC.

### **JURISDICTION OF THIS HONORABLE OFFICE**

39. Since the acts complaint of were all apparently resorted to and/or performed by respondent Sen. Gordon *in relation to his Office* and/or connection with the performance of his official functions Senator and as a senior government official of the Government with Salary Grade 31, the same clearly fall within the jurisdiction of the Sandiganbayan pursuant to **Section 4 (b) of Presidential Decree 1606<sup>20</sup>, as amended by Republic Act No. 8249<sup>21</sup>**.

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<sup>20</sup>AN ACT REVISING PRESIDENTIAL DECREE NO. 1486 CREATING A SPECIAL COURT TO BE KNOWN AS "SANDIGANBAYAN" AND FOR OTHER PURPOSES.

<sup>21</sup> AN ACT FURTHER DEFINING THE JURISDICTION OF THE SANDIGANBAYAN, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1606, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES



40. Thus, this Honorable Office clearly has jurisdiction to conduct the requisite *preliminary investigation* in the criminal aspect of the case, to determine whether or not there is probable cause to file the appropriate INFORMATION against the accused before the Sandiganbayan, as expressly provided under **Section 11 (4)(a) of the Ombudsman Act, RA 6670**.

41. Moreover, under **Section 3 of the RA 7080, An Act Defining and Penalizing the Crime of Plunder**, the Sandiganbayan has jurisdiction over all prosecutions under the said law. Thus, it is the Office of the Ombudsman which has jurisdiction to entertain preliminary investigation over such cases, likewise as expressly provided under **Section 11 (4)(a) of the Ombudsman Act, RA 6670**.

42. Complainant likewise prays of this Honorable Office to investigate the administrative aspect of this complaint in view of the fact that respondent Gordon's acts clearly amount to **GRAVE MISCONDUCT, CULPABLE VIOLATION OF THE CONSTITUTION**, and/or the **COMMISSION OF CRIMES** as specified above, apart from being in violations of **The Code Of Conduct And Ethical Standards For Public Officials And Employees (Ra 6713) particularly Section 7(A) and 7(B)(1)** thereof as well as the **Anti-Graft and Corrupt Practices Act (RA 3019)**, particularly **Section 3 (e)** thereof.

43. Hence, this Honorable Office clearly has jurisdiction to conduct the administrative investigation over all these charges pursuant to the mandate of this Honorable Office as provided in **SECTION 14 of the OMBUDSMAN ACT, R.A. NO. 6670**.

### **RESPONDENT GORDON, AS A LAWYER, CANNOT FEIGN IGNORANCE OF THE LAW**

44. Respondent Gordon, in his public speeches and during the Senate hearings, always boasts of and invoke the fact that he is a lawyer by profession and the he is a graduate of the UP College of Law. As such, he cannot deny knowledge of the provisions of laws and/or the Constitution he has clearly violated and transgressed. Neither can he feign ignorance of the legal concepts of "*conflict of interest*", "*self-dealing*" and requirement for a sense of propriety and/or "*delicadeza*" among senior public officials like himself in the performance of their functions.

### **THE CONSPIRACY BETWEEN RESPONDENTS CAN BE DEDUCED FROM THEIR CONCURRENCE OF WILLS AND UNITY OF ACTION AND PURPOSE**

45. The existence of a *conspiracy* between respondents Gordon and Pang in the commission of the violations subject of this Complaint is shown by their *concurrence of wills* and *unity to action and purpose*, with respondent Pang entering into the anomalous transactions for the benefit of respondent Gordon, and respondent Gordon acting to cover-up and/or gloss over the transgressions of respondent Pang, thus, showing a *tacit, spontaneous coordination* between them.

46. As far back as *United States v. Magcamot*<sup>22</sup>, a 1909 decision, Justice Mapa stressed as the essential element for conspiracy to exist the "*concurrence of wills*" and "*unity to action and purpose.*" The decision in *People v. Aleta* is partial to the phrase, "*tacit and spontaneous coordination*".<sup>23</sup> Clearly, these are present in the instant case as shown by the actions of respondents Gordon and Pang.

47. In the 2000 case of *People v. Orbita, et al.*, it was held that: [I]t is well-settled that conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it.<sup>24</sup> On the other hand, in 1999 case of *People v. Sanchez*, the Supreme Court said: Proof of the agreement need not rest on direct evidence, as the same may be inferred from the conduct of the parties indicating a common understanding among them with respect to the commission of the offense<sup>25</sup>. [Emphasis supplied]

48. As held by the Supreme Court in the 2001 case of *People v. Givera*<sup>26</sup>: [I]t is not necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or the details by which an illegal objective is to be carried out. The rule is that conviction is proper upon proof that the accused acted in concert, each of them doing his part to fulfill the common design xxx. In such case, the act of one becomes the act of all, and each of the accused will thereby be deemed equally guilty of the crime committed. [Emphasis supplied]

49. Thus, in the instant case, despite of the persistent and documented accusations of responsible officials of PRC against her, respondent Pang, instead of being held liable and/or responsible for her anomalous acts, was in fact even "*promoted*" and/or nominated by respondent Gordon as Head of the Country Cluster Support Team of the **International Federation of the Red Cross (IFRC)**.

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<sup>22</sup> 13 Phil. 386.

<sup>23</sup> G.R. No. L-40694, August 31, 1976, 72 SCRA 542.

<sup>24</sup> G.R. No. 122104, 19 January 2000.

<sup>25</sup> G.R. No. 118423, 16 June 1999.

<sup>26</sup> G.R. No. 132159, 18 January 2001, 349 SCRA 513.

50. Respondent **SEN. RICHARD J. GORDON** may be served with subpoena, summons and/or other legal processes of this Honorable Office through the Senate of the Philippines, with address at:

**5<sup>th</sup> Floor, Senate Building**  
GSIS Financial Center  
Roxas Boulevard, Pasay City

51. On the other hand, Respondent **MS. GWENDOLYN PANG** is reportedly still connected/affiliated with the Philippine Red Cross and may, thus, be served with subpoena, summons and/or other legal processes of this Honorable Office through the at the Head Office of PRC, thus:

**Philippine Red Cross Head Office**  
No. 37 EDSA corner Boni Avenue  
1550 Mandaluyong City

### **PRAYER/RELIEF**

**WHEREFORE**, premises considered, Complainant **SEN. ANTONIO "SONNY" F. TRILLANES IV** most respectfully pray of this Honorable **OFFICE OF THE OMBUDSMAN: That –**

- I. On the basis of this **COMPLAINT**, a **SUBPOENA** be **ISSUED** requiring the **DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT (DSWD)**, the **DEPARTMENT OF BUDGET AND MANAGEMENT (DBM)** and the **PHILIPPINE RED CROSS (PRC)** to submit all Memorandum of Agreements (MOAs), SAROs, reports, updates and/or all other documents pertaining to all the Projects funded through the allocation of **SEN. RICHARD GORDON** of his PDAF to the **PHILIPPINE RED CROSS** from 2004 to the present;
- II. After a review of the documents subject of the **SUBPOENA**, and after hearing and due proceedings, a **RESOLUTION/ORDER** be **ISSUED: –**
  - (a) **FINDING** Respondent **SEN. RICHARD J. GORDON** administratively liable for his above-mentioned acts which are clearly tantamount to **GRAVE MISCONDUCT, CULPABLE VIOLATION OF THE CONSTITUTION, COMMISSION OF CRIMINAL OFFENSES** and **VIOLATION OF THE CODE OF ETHICS AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES (RA 6713)** particularly **SECTION 7(a) and**

7(B)(1) thereof and the **ANTI-GRAFT AND CORRUPT PRACTICES ACT (RA 3019)**, particularly **SECTION 3 (e)** thereof and **DISMISSING** and/or requesting the SENATE to **DISMISS** him from Office with perpetual disqualification from public office; and -

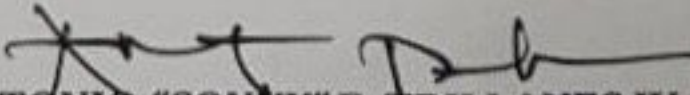
(b) **FINDING PROBABLE CAUSE** to indict the Respondents **SEN. RICHARD J. GORDON** and/or **GWENDOLYN PANG** with as many counts of the following offenses as may be warranted by the evidence, thus:

1. **VIOLATION OF SECTION 7, ARTICLE VI of the 1987 PHILIPPINE CONSTITUTION;**
2. **VIOLATION of SECTION 7(a) and 7(B)(2) of REPUBLIC ACT NO. 6713 otherwise known as the CODE OF ETHICS AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES; and -**
3. **PLUNDER under SECTION 2 the ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER, RA 7080;**
4. **MALVERSATION OF PUBLIC FUNDS** as defined and penalized by **ARTICLE 217** of the **REVISED PENAL CODE;**
5. **VIOLATION OF SECTION 10 in relation to SECTIONS 65(A)(3) & 65(A)(4) of the GOVERNMENT PROCUREMENT REFORM ACT, RA NO. 9481; and -**
6. **VIOLATION of SECTION 3 (E) of the ANTI-GRAFT AND CORRUPT PRACTICES ACT, REPUBLIC ACT (RA) NO. 3019.**

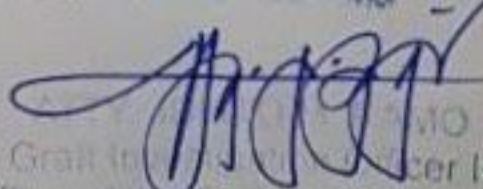
**OTHER RELIEF AND REMEDIES** as may be deemed just and/or appropriate under the premises.

**RESPECTFULLY SUBMITTED.**

Pasig City for Pasay City, Metro Manila, 08 November 2017.

  
**SEN. ANTONIO "SONNY" F. TRILLANES IV**  
Complainant-Affiant

DECLARED AND SWORN TO BEFORE ME THIS 17th day of NOV. 2007 AT QUEZON CITY, PHILIPPINES


  
Gracia...  
Office of the Ombudsman (PAB)

**VERIFICATION  
AND CERTIFICATION  
[RE: NON-FORUM SHOPPING]**

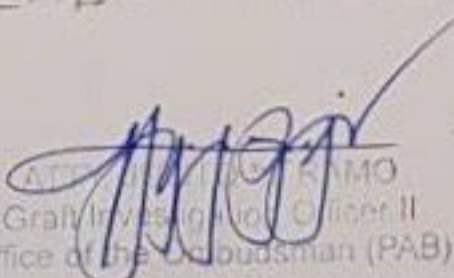
I, **SEN. ANTONIO F. TRILLANES IV**, Filipino, of legal age, after having been sworn in accordance with law, hereby depose and state: That –

1. I am the *Complainant* in the above-captioned case;
2. I have caused the preparation of the foregoing **COMPLAINT-AFFIDAVIT**;
3. I have read and understood all the averments contained therein and I hereby verify, confirm and affirm that all the material allegations made therein are true and correct of my own personal knowledge and as culled from authentic records;
4. I likewise hereby verify, confirm and affirm that to the best of my knowledge, there is no similar or identical petition or case filed before the Supreme Court, the Court of Appeals or any other court, tribunal or any agency, board or body exercising quasi-judicial functions; and –
5. I undertake that, if I learn of the filing or pendency of any similar or identical petition or case between the parties, I shall inform this Honorable Office of the same within five (5) days from receipt of such knowledge or information.

**IN WITNESS WHEREOF**, I have hereunto set my hand this \_\_\_\_\_ day of November 2017 at the Quezon City, Metro Manila, Philippines.

  
**SEN. ANTONIO F. TRILLANES IV**  
*Complainant-Affiant*

SUBSCRIBED AND SWORN TO before me this 8<sup>th</sup> day of NOV 2017 at QUEZON CITY, PHILIPPINES

  
Atty. **RAMON**  
Grav Investigation Officer II  
Office of the Ombudsman (PAB)

**SUBSCRIBED AND SWORN TO** before me, a Public Officer Authorized to administer oaths in Quezon City, on this \_\_\_\_ day of November 2017 personally appeared the Affiant, being known to me and to me known to be the same person who has executed the foregoing **COMPLAINT-AFFIDAVIT**, and who has satisfactorily proven to me his identity to me through his competent proof of identity with details as indicated below:

<u><i>FULL NAME</i></u>	<u><i>NATURE &amp; SERIAL NO.</i></u>	<u><i>EXPIRY DATE</i></u>
ANTONIO F. TRILLANES IV	SENATE ID NO. _____	30 JUNE 2019

I further certify that the Affiant affirmed to me that he has freely and voluntarily executed the subject **COMPLAINT-AFFIDAVIT** of his own free will and without any mental reservations.

Administering Officer