

Republic of the Philippines  
Department of Justice  
OFFICE OF THE CITY PROSECUTOR  
Manila

PIER 8 ARRASTRE & STEVEDORING )  
SERVICES, INC., )  
represented by ELIODORO C. CRUZ, )  
Complainant, )

- versus - )

I.S. NO. \_\_\_\_\_  
For Robbery under Art. 294  
of the Revised Penal Code

JUAN O. PEÑA, )  
BENJAMIN B. CECILIO, )  
LEOPOLDO BUNGUBUNG, )  
ARISTEDES T. ALCALDE, )  
VIRGILIO R. PADUA, )  
ALBERTO H. SUANSING, )  
and MARK AYALA, )  
Respondents, )

X-----X

COMPLAINT-AFFIDAVIT

I, ELIODORO CRUZ, of legal age, Filipino, married with postal address at Pier 8, North Harbor, Manila, MAKE OATH and STATE:

1. I am the Vice President and General Manager of PIER 8 ARRASTRE AND STEVEDORING SERVICE, INC., (PASSI for brevity), a domestic corporation with principal offices at Pier 8, North Harbor, Manila.

2. PASSI is engaged in the business of providing cargo handling services at Pier 8, North Harbor, Manila. It has been operating at Pier 8 for twenty six (26) years.

3. Respondents named hereunder are officials of the PHILIPPINE PORTS AUTHORITY (PPA), a government owned corporation, with designation and addresses as follows:

JUAN O. PEÑA  
General Manager

Philippine Ports Authority  
Marsman Bldg. Muella De  
San Francisco St., South  
Harbor, Port Area, Manila

BENJAMIN B. CECILIO  
Asst. General Manager-Operations

- do -

<p><b>LEOPOLDO F. BUNGUBUNG</b>  <b>Manager, Port District Office,</b>  <b>Manila</b></p>	<p><b>Philippine Ports Authority</b>  <b>PNR Building, North</b>  <b>Harbor, Manila</b></p>
<p><b>ARISTEDES T. ALCALDE</b>  <b>Manager, Port Management</b>  <b>Office, North Harbor</b></p>	<p><b>Philippine Ports Authority</b>  <b>Pier 8, North Harbor,</b>  <b>Manila</b></p>
<p><b>VIRGILIO PADUA</b>  <b>Manager, Port Services Division-</b>  <b>PMO, Port Management Office,</b>  <b>North Harbor</b></p>	<p>- do -</p>
<p><b>MARK AYALA</b>  <b>Terminal Operations Officer</b></p>	<p>- do -</p>

4. Respondent **ALBERTO SUANSING** is the President of North Star Port Development Corporation (NSPDC), a domestic corporation engaged in the business of arrastre and stevedoring services at Piers 2, 4 and 10. He may be served subpoena and other notices at his office at Pier 4, North Harbor, Manila.

5. PASSI was first granted the sole authority and privilege to manage and operate the arrastre and stevedoring services at Pier 8 on September 1, 1974 by virtue of a Memorandum of Agreement (MOA) executed by it and the Bureau of Customs, the government agency then responsible for the supervision and regulation of all ports in the country.

6. In 1975, Presidential Decree No. 875 was promulgated giving PPA the power, among others, to supervise, control, regulate, construct, maintain, operate such facilities or services as are necessary in the ports. Thus, PPA took over from the Bureau of Customs the supervision and regulation of the ports.

7. When the MOA between the Bureau of Customs and PASSI expired on August 31, 1977, PASSI continued to manage and operate the arrastre and stevedoring services at Pier 8 for a period of fifteen (15) years or until April 14, 1992 in a hold over capacity.

8. On April 15, 1992, PASSI and PPA executed a Contract for Cargo Handling Services whereby PPA granted PASSI the right to manage and operate the arrastre, stevedoring and related cargo handling services at Pier 8 and all vessels berthed thereat for a period of five (5) years or until April 14, 1997.

9. When the Contract for Cargo Handling Services between plaintiff PASSI and PPA expired on April 14, 1997, PASSI's operations at Pier 8 continued in a hold over capacity. PPA conducted a performance audit of PASSI in 1998 in which PASSI was given a rating of 96.90% ("outstanding") which entitles PASSI to a renewal of its cargo handling contract under PPA's Administrative Order No. 03-90.

10. Starting from about midnight of April 15, 2000, and the following day, SWAT members from the Western Police District, PPA police and blue guards acting upon the direction of **JUAN O. PEÑA** swooped down upon Pier 8 and, with force and intimidation took over the management and operations of arrastre and stevedoring services threat. The affidavit of Mr. **Marciano A. Chavez**, PASSI's Head, Billing Section, is hereto attached as ANNEX "A".

11. The forcible takeover of the operations of Pier 8 was planned, approved and executed by JUAN O. PEÑA, BENJAMIN B. CECILIO, LEOPOLDO F. BUNGUBUNG, ARISTEDES T. ALCALDE, VIRGILIO R. PADUA, all PPA officials acting in conspiracy with each other. ALCALDE and PADUA have been designated as Manager and Assistant Manager for the Special Takeover Unit by JUAN O. PEÑA, who directed the operations of Pier 8 in pursuance of the takeover.

12. ALBERTO SUANSING, private citizen, acting in conspiracy with respondent public officials, participated in the planning and implementation of the takeover of PASSI. Said SUANSING, in the company of PEÑA, CECILIO and ALCALDE went to Pier 8 following the takeover in the morning of April 16, 2000 and declared to PASSI employees and officials at Pier 8 that they are taking over its operations and equipment and PASSI's employees would be absorbed by them. He has also volunteered the use of his company's forklift to forcibly take PASSI's equipment.

13. On April 17, 2000 at about 7:00 a.m., respondents herein, acting and confederating with one another, through respondent MARK AYALA together with PPA police and SWAT members secured the motor pool area and forcibly took with intent to gain the following equipment owned by PASSI to the damage and prejudice of PASSI:

- a. 6 Forklifts as follows:
 

No. 07 Mitsubishi TD-30	3.0 tons cap.
No. 13 TCM FD-35	3.5 tons cap.
No. 19 TCM FD-35	3.5 tons cap.
No. 20 TCM FD-35	3.5 tons cap.
No. 25 Mitsubishi FD-30	3.0 tons cap.
No. 28 Mitsubishi FD-30	3.0 tons cap.
- b. 19 sets Spreaders as follows:
  - 7 sets for 10-footer vans w/shackle/hooks & wire rope sling
  - 10 sets for 20-footer vans w/shackle/hooks & wire rope sling
  - 2 sets for rolling cargoes (for cars and trucks)
- c. 3 sets loading pallet boards with wire sling;
- d. 5 pcs. Portable ladder; and
- e. 35 pcs. Tarpaulins 40-ft x 40-ft

(see ANNEX "A")

14. The total value of the PASSI equipment forcibly taken by respondents herein is Pesos 3,095,050.00.

15. I execute this affidavit for the purpose of filing a criminal complaint against the above named respondents for Robbery under Art. 294 of the Revised Penal Code.

Manila, May 5, 2000.

  
ELIODORO CRUZ  
Affiant

**CERTIFICATION**

I hereby certify that I have personally examined the affiant and I am satisfied that he voluntarily executed and understood the contents of his Complaint-Affidavit.

SUBSCRIBED AND SWORN to before me in Manila this 5<sup>th</sup> day of May, 2000.

  
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ASST. CITY PROSECUTOR

Annex "A"**AFFIDAVIT**

I, **MARCIANO A. CHAVEZ**, of legal age, Filipino, married and with postal address at Pier 8, North Harbor, Manila, after being sworn in accordance with law, state:

1. I am employed at Pier 8 Arrastre & Stevedoring Services, Inc. (PASSI) as Head, Billing Section. PASSI is a domestic corporation engaged in the business of providing cargo handling services at Pier 8, North Harbor, Manila.

2. On April 16 2000 at about 6:30 a.m., Philippine Ports Authority (PPA) officials and employees together with PPA police forcibly took over the operations of Pier 8 from PASSI. I was then in front of the Administration Building of PASSI at Pier 8.

3. PPA personnel also posted an announcement (written on cartolina) on the wall of the Administration Building of PASSI to the effect that all arrastre transactions should be done at the PPA Special Takeover Unit at the Terminal Office at Pier 8.

4. At 7:00 a.m., April 16, 2000, I saw Mr. Juan Peña, PPA General Manager and Mr. Alberto H. Suansing, President of North Star Port Development Corporation (NSPDC) in front of the Administration Building of PASSI at Pier 8. Mr. Peña talked to port workers gathered at the premises about the takeover. Mr. Suansing, for his part, called Mr. Romeo Ortiz, PASSI's Assistant Operations Manager and Rotation Officer, and designated him as the Rotation Officer of the pier. Mr. Suansing also told Mr. Ortiz to report directly to Mr. Juanito J. Junsay, PPA Terminal Supervisor at Pier 8. Mr. Suansing told port workers that: "Simula ngayon (April 16, 2000) kayong manggagawa ng Pier 8 ay magrereport kay Mr. Junsay. Tayo ay magkaisa at lahat ng inyong kahilingan ay aming tutuparin."

5. On April 17, 2000 at about 7:00 a.m., Mr. Mark Ayala, PPA Terminal Operations Officer, acting under the direction of PPA officials, together with PPA police and SWAT members secured the motor pool area and forcibly took with intent to gain the following equipment owned by PASSI:

a. 6 Forklifts as follows:

No. 07 Mitsubishi TD-30	3.0 tons cap.
No. 13 TCM FD-35	3.5 tons cap.
No. 19 TCM FD-35	3.5 tons cap.
No. 20 TCM FD-35	3.5 tons cap.
No. 25 Mitsubishi FD-30	3.0 tons cap.
No. 28 Mitsubishi FD-30	3.0 tons cap.

b. 19 sets Spreaders as follows:

7 sets for 10-footer vans w/shackle/hooks & wire rope sling  
 10 sets for 20-footer vans w/shackle/hooks & wire rope sling  
 2 sets for rolling cargoes (for cars and trucks)

c. 3 sets loading pallet boards with wire sling;

d. 5 pcs. Portable ladder; and

e. 35 pcs. Tarpaulins 40-ft x 40-ft

6. I execute this affidavit to attest to the above facts.

Manila. May 3, 2000.

  
MARCIANO A. CHAVEZ  
Affiant

CERTIFICATION

I hereby certify that I have personally examined the affiant and I am satisfied that he voluntarily executed and understood the contents of his affidavit.

SUBSCRIBED AND SWORN to before me in Manila this 3<sup>rd</sup> of May, 2000.

  
Assistant City Prosecutor