

M E M O R A N D U M

INTRODUCTION

This memorandum summarizes evidence of a secret intelligence slush fund created in the United States by Ferdinand Marcos and his chief of staff General Fabian Ver. Marcos' childhood friend and long-time crony, Dr. Leonilo Malabed of San Francisco, controlled the fund and used it to extend Marcos's political influence and propaganda presence. It was also used to conduct covert intelligence operations against the anti-Marcos opposition movement in the United States in the late 1970s and early 1980s. Documents which have been authenticated in federal court point to strong circumstantial evidence that this slush fund was used to pay for the June 1981 Seattle murders of anti-Marcos union officials Gene Viernes and Silme Domingo. The use of foreign funds to promote the Marcos regime, purchase propaganda vehicles, contribute to local, state and federal candidates, and violate the civil and constitutional rights of American citizens is against the law. A full, impartial and vigorous investigation of this evidence is called for. Such criminal charges, as are warranted by the evidence obtained, should be brought. Marcos' continued activities, now carried out in this country, establish that the evidence summarized here

is not of mere historical interest. Direct and decisive action is needed.

BACKGROUND

The new government in the Philippines under President Corazon Aquino has undertaken extraordinary efforts to retrieve the vast wealth illegally accumulated and invested abroad by deposed president Marcos and his wife Imelda. Considerable attention has focussed on secret Swiss and American bank accounts, shadowy middlemen and surrogate real estate purchasers. A federal grand jury in Alexandria, Virginia, has subpoenaed Marcos and his former chief of staff and intelligence head, General Fabian Ver. Ver has also been linked to the Iranscam/Contragate investigation as having signed for the receipt of an arms shipment whose real destination was Iran.

Shortly after Marcos fled to Hawaii, the U.S. Customs Service seized a number of important documents from Marcos, which detail past expenditures and financial transactions in the United States. Of particular political interest was an explosive document, the "Mabuhay Corporation Statement of Expenses." (Attachment A). This document itemizes the expenditure of over \$750,000 from the Philippines National Bank, under the authority of General Ver. It was spent on the attempted purchase of a Bay Area radio station, political campaign contributions to candidates in California and

national elections, identified "special missions," and the most sinister -- "special security projects."

The release of this document created a public stir but has since been largely forgotten. The Federal Election Commission started an investigation, and based on the document alone, even without the corroborative evidence provided herewith, its General Counsel recommended that the Commission find reason to believe that Marcos and Dr. Leonilo Malabed violated federal election laws. (See Attachment B.)

The president of the now-defunct Mabuhay Corporation was Dr. Leonilo Malabed, a San Francisco physician. Dr. Malabed, while publicly denying any wrongdoing, has repeatedly asserted the Fifth Amendment privilege against self-incrimination, both in hearings of the California State Legislative Committee on Real Estate Practices and in private depositions.

Malabed was questioned under oath, and his financial records were subpoenaed in the federal civil rights lawsuit, Estates of Domingo and Viernes v. Republic of the Philippines, No. C-82-1055V (Western District of Washington). His deposition was taken May 15 and October 24, 1986.

This case alleges that two anti-Marcos leaders of the Seattle-based Local 37 -- ILWU (Cannery Workers) were murdered on June 1, 1981, upon the orders of Marcos and Ver. Viernes had traveled to the Philippines in March and April

of 1981 and had met with top leadership in the anti-Marcos trade union movement, as well as with student and peasant groups. He was surveilled by Marcos agents. Viernes joined forces with Domingo as a delegate to the 1981 convention of the ILWU, and they engineered the passage of a hotly contested resolution critical of the Marcos regime's treatment of Filipino workers and authorizing an investigative team to look into conditions there. Opposition to the resolution was organized by the local Philippine Consul General. A month later, the two men were gunned down in their union hall.

Three hitmen have been convicted in local courts; also implicated, but never charged, is Tony Baruso, former Local 37 president and a close ally of Marcos. According to sworn testimony in the hitmen trial, Baruso's .45 Mac-10 "execution piece" was the murder weapon; he promised to pay \$5,000 for the murders; and he met with hitman/gangleader Tony Dictado two days before the murders.

Armed with subpoena power, attorneys for the slain men's estates have investigated the use of Dr. Malabed's Mabuhay Corporation to pay Baruso for the Seattle murders. They have uncovered documentation that confirms the authenticity of the Mabuhay statement of expenses and implicates Malabed in a variety of illegal activities. Not the least of these activities is the expenditure of \$15,000 on May

17, 1981, just two weeks before the Domingo/Viernes murders.

The rest of this memorandum summarizes this evidence and the federal criminal statutes believed to be violated.

I. THE EVIDENCE AGAINST DR. MALABED

The Mabuhay Corporation Statement of Expenses speaks for itself. Corroborative evidence, summarized here, proves that it is exactly what it appears to be. Federal court Judge William Orrick (Northern District of California) stated in open court that the document is authentic for the purposes of his ruling on Dr. Malabed's assertion of the Fifth Amendment. Judge Orrick relied in part upon the declaration of Bonifacio Gillego, then a leading officer with the Philippine Presidential Commission on Good Government. The Gillego declaration explains various notations on the document and, based on his CIA training and service in the Philippine intelligence agencies, concludes that the Mabuhay Corporation was used as a "cover" and a conduit for Marcos' intelligence operations in the U.S. (See Attachment C.)

The Mabuhay Corporation was incorporated in California in 1978 by Dr. Malabed as its president. Other officers included Demetrio Jayme, Zoilo Inacay, Al Bitanga, and Romeo Esperanza, all Bay Area residents and friends of Dr. Malabed. (See Attachment D.) The Corporation maintained numerous bank accounts, including at the Philippine Bank of

California, now the Century Bank, 455 Montgomery Street, San Francisco. Dr. Malabed was the sole signatory. The first account was opened July 7, 1977. (See Attachment E). Other bank accounts undoubtedly exist, but Dr. Malabed has asserted the Fifth Amendment as to their locations.

The Philippine Bank of California was itself incorporated on March 7, 1977, by five Philippine government agencies. Its board of directors included former Philippine defense minister Juan Ponce Enrile, Dr. Malabed, and other Mabuhay incorporators. Placido Mapa, president of the Philippine National Bank, was also on the board. (See Attachment F).¹

A. The Source Of The Funds

The note at the bottom of the Statement of Expenses is without question Dr. Malabed's handwriting.² The note

¹ Another document seized from Marcos bears Mapa's signature and is a memorandum to Marcos indicating over \$9 million in U.S. currency will be placed in the "Philippine intelligence fund" out of "PNB profits." (See Attachment G.)

² Dr. Malabed's initial press interviews quote him as saying "Who signed it? If it is not signed, let us treat it as a useless document. Everything is false." Subsequent press efforts to substantiate the document and the Domingo disclosures forced Malabed to eventually admit signing it, albeit claiming, through his attorney, Patrick Hallanan, that he had been "duped" into signing it by Marcos. (See Attachment I.) Dr. Malabed's alibi, that he signed a "bogus" report of illegal campaign contributions and intelligence "security projects" as a cover for the less sinister propaganda purchases defies common sense. It is further belied by the proof of actual expenditures from the Mabuhay bank accounts

acknowledges receipt of \$1 million from the Philippine National Bank for intelligence purposes minus \$762,478.52 withdrawn by the Armed Forces by authority of Chief of Staff (General Ver), leaving a balance of about \$230,000.

Philippine National Bank records subpoenaed in the Domingo/Viernes case provide the hardest evidence to date that Malabed received funds from the Philippines. Attachment H is the notarized declaration of Paciano F. Dizon, which documents Malabed's receipt of \$150,000 from PNB-San Francisco Agency on January 31, 1979, and \$40,000 on February 12, 1979. These receipts came shortly before major Mabuhay expenditures in February 1979. Other PNB records are being subpoenaed and will be analyzed.

In addition, a June 1986 interview with KRON-TV reporter Brian McTigue quotes Dr. Malabed's attorney Patrick Hallinan as claiming Malabed acknowledged receiving over \$500,000 in unreported cash stuffed in diplomatic pouches from Philippine couriers attached to the ministry of media affairs. Hallinan claimed the money was used solely for "propaganda purposes."

B. Specific Expenditures

The Mabuhay statement lists several categories of expenditures. Bank records have verified, at least in part,

described below.

expenditures for each category:

1. Expenditures out of Mabuhay Corporation accounts for the purchase of KJAZ radio station in 1978 (the first seven items on the statement) have been admitted by Dr. Malabed and are easily provable through subpoenaed bank records and other documents. (See Attachment J.) Malabed's attorney told the KRON-TV reporter in June 1986 that Malabed discussed the purchase of KJAZ directly with Marcos, and that it was to be used for "pro-Philippine broadcasts." Dr. Malabed also owns the pro-Marcos Filipine-American newspaper, formerly Bataan News, and has testified that representatives of the Philippine government's Ministry of Media Affairs worked on his newspaper staff. (Deposition, October 24, 1986.)

2. Expenditures for political contributions cleared through "PSC-CG" (Presidential Security Command -- Commanding General Ver) -- have been verified in part. Some of the \$175,200 itemized can be verified through subpoenaed bank records and FEC documents. (See Attachment K.)

Dr. Malabed has in fact admitted making many of these contributions, but claims they were out of his own funds. This is contradicted by the Mabuhay documents themselves and other evidence that he received PNB funds.

3. Payments for special missions in 1980 and 1981 have also been verified, at least to the extent that Dr. Malabed and others traveled to the locations listed in Honolulu and New York for the Democratic National Convention. Bank records verified at least some of these expenditures. (See Attachment K.) Both Honolulu trips coincided with visits of Marcos to the U.S. Discovery in the Domingo case has produced a Honolulu consulate's list of pro-Marcos loyalists to be contacted to perform airport security for Marcos. This list includes Dr. Malabed's name.

4. "Advances to CG" (again, Commanding General Ver) for "special security projects" is by far the most sinister item appearing on the document and alone justifies substantial investigative effort. The Gillego declaration concludes that these expenditures were "undertaken on behalf of Marcos and Ver and were used, in part, to counter the influence of anti-Marcos opposition in the United States, and to monitor and operate³ against them and for other propaganda and political purposes." (See Attachment C.) Whether these substantial payments were used as a payroll for Marcos intelligence agents and/or used for particular projects justifies further federal investigation.

At least one expenditure listed on 2/7/79 for \$9,900 was paid in cash to Dr. Malabed out of the Philippine Bank of California account. (See Attachment K.)

5. May 17, 1981. Of all of the items on the document, it is the May 17, 1981, expenditure of \$15,000 for a special security project which has the most significance for the Domingo case.

³ Both the Senate Foreign Relations Committee in 1979 and the Defense Intelligence Agency in 1982 (see Attachment L) have documented U.S. government knowledge of the efforts by Marcos agents in the U.S. to "monitor and operate against" the anti-Marcos Philippine dissidents exercising their First Amendment right and freedom of association in this country. Furthermore, Ferdinand Marcos, in his July 1986 deposition in the Domingo case, admitted that four Philippine government agencies -- National Intelligence Security Authority (NISA), the Intelligence Section of the Armed Forces of the Philippines, the Presidential Security Command (PSC), and the National Bureau of Investigation (NBI) collected information on anti-Marcos organizations in the United States. Marcos testified these agents collected such information through the use of military attaches in Philippine consulates and the embassy. He admitted knowledge as to some of the organizations and individuals that were targets of the intelligence operation, including the (KDP) Union of Democratic Filipinos, to which both Domingo and Viernes belonged.

The day after returning to Seattle from the ILWU convention in Hawaii, Tony Baruso purchased a plane ticket to San Francisco for May 16 and a return on May 17. Subpoenaed travel records reveal Baruso did indeed fly to San Francisco where he stayed at the Sutter Hotel. (See Attachment M.) This hotel is within blocks of the Philippine Consulate at 450 Sutter Street. Within days of his return, the Domingo/Viernes murder contract was put out, and hitmen Ramil, Guloy, and Dominguez were provided with Baruso's gun. The murders were carried out on June 1, 1981.

Baruso, in his January 1983 deposition in the Domingo case, answered, "I can't remember" to all questions regarding this Bay Area trip, including his purchase of the tickets, where he stayed, who he met with, etc. He further took the Fifth Amendment as to all questions about the murders.

Sworn testimony at the trial of Ramil, Guloy and Dictado⁴ established that the hitmen were to be paid \$5,000. Baruso's own bank records show cash deposits between June and November 1981 of just under \$10,000 in amounts of between \$200 and \$1,000. Baruso also made a 24-hour trip to Los Angeles in August 1981 just prior to the start of the hitmen trial. In the same month, another \$15,000 was expended from the Mabuhay Corporation for a "special security project."

Both Dr. Malabed and Baruso are well-known political figures within pro-Marcos circles in the U.S. Baruso was the master of ceremonies at Philippine Consular events in Seattle. Although Dr. Malabed has admitted to talking to Baruso only after the murders, "to get his side of the story," there is substantial reason to believe that these two strong Marcos supporters had close ties. Further, although Malabed denies giving \$15,000 to Baruso on May 17, 1981, he asserted the Fifth Amendment when asked whether he paid anyone \$15,000 on that date.

⁴ The other hitman, Dominguez, was found murdered in Seattle two days after Baruso's deposition in the Domingo case. One suspect, Esteban Ablang, fled shortly thereafter to the Philippines.

C. Conclusion

Solid documentary evidence exists that Dr. Malabed controlled a secret intelligence fund operated by him and General Ver, which used Philippine government funds to seek purchase of a propaganda voice, contribute to local, state and federal elections, and fund a Marcos intelligence apparatus in the U.S. Highly probative and admissible, even though circumstantial, evidence exists that this fund was also used to pay for the Domingo/Viernes murders.

Evidence of this kind cries out for a full and fair investigation. The numerous leads which have a high probability of yielding positive should all be investigated. Other Malabed bank accounts should be subpoenaed. Witnesses close to Dr. Malabed, Mabuhay Corporation incorporators, and former San Francisco Consulate employees should be questioned. U.S. Customs and Immigration files should be examined to identify the Philippine diplomatic couriers, including officials with Marcos's Ministry of Media Affairs, who may have delivered the unreported cash to Malabed. A prime suspect for this courier is Lito Gorospe, formerly in Marcos' Media Affairs who made numerous trips to the Bay Area, and who, at least on one occasion, was provided with \$10,000 cash by The Philippines National Bank. (See Attachment H, pp. 4-5.) Dr. Malabed's ties to Baruso also bear further investigation.

II. CRIMINAL LAWS INVOLVED

The evidence summarized above against Dr. Malabed suggests that numerous federal criminal laws are implicated justifying a full federal investigation and the reopening of the federal election commission hearings. This section summarizes those laws.

A. Violations Of The Law Of Foreign Relations:

One who acts as an agent of a foreign government without notifying the attorney general is in violation of 18 U.S.C. § 951, et seq. The Department of Justice has publicly stated that Dr. Malabed has not so registered.

One who disseminates "political propaganda" on behalf of a foreign government, party or principal, violates 22 U.S.C. § 611, et seq. Strict registration requirements exist.

B. Violations of Federal Election Laws

The prohibition on political contributions by foreign nationals is found within 2 U.S.C. § 441(e). A "foreign principal" is defined in § 611(b) to include a government or foreign political party as well as persons outside the United States who are not citizens or domiciled within the U.S. Clearly this definition applies to Marcos, as the FEC so found.

The prohibition on making contributions in the name of another person is contained in 2 U.S.C. § 441(f). The FEC

report states: "If the information contained in that document (the Mabuhay Corporation Statement of Expenses) is correct, contributions were made by Marcos through the Mabuhay Corporation, with Leonilo Malabed serving as conduit, as agent of the Mabuhay Corporation, then such activities would violate 2 U.S.C. § 441(e)." (See Attachment B.)

C. Violations Of Civil, Constitutional and International Human Rights.

18 U.S.C. § 241 makes it a federal offense to conspire to "injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States" The use of a Marcos intelligence slush fund for "special security projects" directed against the anti-Marcos opposition clearly implicates the civil rights acts.

The U.N. Charter prohibits foreign states from interfering in the internal affairs of another country, and international law prohibits states from engaging in police actions, summary executions, and terrorist acts abroad.

D. Other Federal Violations

Finally, Malabed's attorney's admission that Malabed received over \$500,000 in unreported cash from a foreign courier raises substantial questions regarding violation of U.S. Customs disclosure requirements.

CONCLUSION

This memorandum ends with a call for justice. The solid evidence of wrongdoing, coupled with the clear intent of numerous federal statutes, mandates that responsible federal and state authorities insure that full protection of the laws shall be afforded to all citizens. It is vital to bring to justice all of those who subvert our democratic rights no matter how powerful or influential they might be or may have been. Marcos' recent efforts to charter a plane and return to the Philippines to topple the government of Corazon Aquino all demonstrate that the evidence summarized here is not of mere historical interest. To investigate the Marcos/Ver/Malabed/Baruso connection, and to seek criminal charges, as the evidence warrants, will send a powerful message to other governments, friend and foe alike, who may be tempted to engage in covert and terrorist operations and to subvert our laws and constitutional protections.