

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

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**ICSID CASE NO. ARB/16/42**

**OMEGA ENGINEERING LLC**

and

**OSCAR RIVERA**

*Claimants*

v.

**REPUBLIC OF PANAMA**

*Respondent*

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**FIRST WITNESS STATEMENT OF JORGE ENRIQUE VILLALBA**

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**7 January 2019**

I, **JORGE ENRIQUE VILLALBA**, state:

**I. INTRODUCTION**

1. I make this statement in connection with the arbitration commenced by Omega Engineering LLC and Oscar Rivera, (collectively, the “**Claimants**”) against the Republic of Panama (“**Panama**”).
2. I understand that certain of the Claimants’ assertions relate to the criminal investigation initiated by the National Assembly into Alejandro Moncada Luna and the Public Prosecutor’s subsequent criminal investigation into the persons and companies linked to Justice Moncada Luna’s criminal activity, including Mr. Rivera and Omega Engineering, Inc., a company registered in Panama, owned by Mr. Rivera, and affiliated with Omega Engineering LLC. I was directly involved in the investigation into Justice Moncada Luna for the National Assembly. I also was in charge of the Public Prosecutor’s subsequent investigations of the Claimants and other entities identified by the National Assembly as having made payments to Justice Moncada Luna. I am providing this statement to explain the nature of the National Assembly’s investigation, its findings, as well as the work subsequently performed by the Public Prosecutor’s office.<sup>1</sup>
3. Except as otherwise stated, I make this statement on the basis of my personal knowledge or from documents that I have reviewed. All of the matters set out in this witness statement are true to the best of my knowledge and belief.
4. This statement was prepared in English and Spanish. I anticipate giving testimony in Spanish.

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<sup>1</sup> As described in below (¶ 28), I prepared a Preliminary Financial Analysis Report for the Public Prosecutor’s office in my role in the Financial Analysis Department of the Specialized Audit Office against Organized Crime to which I refer throughout. Jorge Enrique Villalba, *Preliminary Financial Analysis Report in Case No. 049-15* (June 5, 2015) (“**Villalba Report**”) (**R-0062**) (The Claimants’ submitted only a partially translated version of Villalba Report with their Memorial (**C-0081-SPA resubmitted**)). Given the report’s importance, Panama has resubmitted the exhibit with a full translation).

## II. BACKGROUND

5. In this section, I briefly describe my educational and professional background. For the Tribunal's reference, a copy of my Curriculum Vitae is attached to this statement.<sup>2</sup>
6. My educational background is in accounting and finance. In 2000, I graduated from the National University of Panama with an accounting degree and am licensed as a Certified Public Accountant. In 2003, I earned a Masters of Business Administration from the National University of Panama, with a specialization in finance.
7. In addition to my degrees, I have received training from a variety of international institutions such as, the U.S. Department of Justice, Federal Bureau of Investigation (FBI) and Drug Enforcement Agency (DEA); the United Kingdom's Serious Organized Crime Agency (SOCA); the UN Latin American Institute for the Prevent of Crime and the Treatment of Offenders (ILANUD-UNODC); and the Inter-American Drug Abuse Control Commission of the Organization of American States (CICAD-OAS) as an anti-money laundering, forensic auditing, and financial crimes specialist. I regularly speak at seminars and conferences on each of these topics.
8. I began my professional career in 1993, as a police officer in the administrative and operational division of the Panamanian National Police. In 1996, I transferred to the Internal Audit Section of the Panamanian National Police as a police sergeant and internal auditor, where I undertook financial, operational, special, and forensic audits.
9. In October 2006, I joined the Public Prosecutor's Office as an expert in forensics for Drug-Related Crimes in the Financial Investigation Section and assisted as a forensic expert in the Money Laundering and Financial Crimes Division of the Judicial Investigation Section.
10. In 2010, I became the Chief of the Financial Analysis Section in the Prosecutor's Office Specialized in Organized Crime, where I worked as an auditor and analyst in financial investigations and oversaw all ongoing investigations into financial crimes and money

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<sup>2</sup> Curriculum Vitae of Jorge Villalba (R-0109).

laundering. Between October 2014 and March 2015, I was seconded to the National Assembly and worked as an auditor, analyst, and forensic investigator to plan, develop, and conclude the investigation of the Prosecutor designated to the National Assembly of Panama in the investigation into Justice Moncada Luna.

11. In February 22, 2016, I filed my formal resignation with the Public Prosecutor's Office and began working in the private sector for BDO Panama as the Manager of Forensic Auditing. In 2017, I left BDO and began working as the Director of Forensic Auditing at Rogers Forensic Auditors (RFA). Currently, I work as an independent Forensic Auditor, Consultant, and Advisor and am studying to become a lawyer.
12. Since 2011, I have also worked as a Professor at the Specialized University for Public Accountants (UNESCPA) and teach classes in the Master's Program for Forensic Auditing in forensic auditing techniques; forensic audit expertise, fraud, and expert opinion; and money laundering and other international crimes.

### **III. THE NATIONAL ASSEMBLY'S INVESTIGATION**

13. In July 2014, the National Bar Association and the Pro Justice Citizens Alliance of Panama filed a complaint against then-President of the Panamanian Supreme Court, Justice Moncada Luna. The complaint raised concerns over how Justice Moncada Luna could afford to purchase two luxury apartments valued at over US\$ 1.6 million.<sup>3</sup> As support for their complaint, the Bar Association provided a statement and emails from Justice Moncada Luna's office coordinator at the Supreme Court; deeds for the two apartments (No. 26 PH Ocean Sky and No. 16 PH Santorini); press articles about Moncada Luna's suspicious ownership of those apartments; corporate registration certificates for Celestial Coporación, S.A. and Alpil Corporation, S.A. showing that Justice Moncada Luna's wife was the president and legal representative; and the financial disclosure statement that Justice Moncada Luna submitted to the government as part of

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<sup>3</sup> Criminal Complaint against Moncada Luna dated July 10, 2014 (C-0373); Villalba Report (R-0062), p. 2.

his job.<sup>4</sup> The complaint accused Justice Moncada Luna of unjust enrichment, corruption, and other crimes against public administration and public faith.

14. The Panamanian Constitution provides that investigations into Supreme Court justices will be carried out by the National Assembly. As a result, in October 2014, the National Assembly was tasked with investigating the complaint into Justice Moncada Luna. Congressman Pedro Miguel González was designated by the National Assembly as the prosecutor for the investigation.<sup>5</sup>
15. In October 2014, Congressman González formally asked the Public Prosecutor if I could help lead the investigation into Justice Moncada Luna for his office. At the time, I was the Chief of the Financial Analysis Division of the Prosecutor's Office Specialized in Organized Crime. In order to work for Congressman González, I was seconded to the National Assembly on a temporary duty assignment. I began working for Congressman Gonzalez on October 21, 2014.
16. The only information available to me when I began my investigation was the materials submitted by the Bar Association in July 2014.
17. Based on that information, Congressman González identified four criminal claims that could possibly be brought against Justice Moncada Luna: (1) making false statements, (2) unjust enrichment, (3) corruption, and (4) money laundering. I reviewed the elements of these crimes under the Penal Code and identified the type of evidence we would need to support a conviction under each. To collect this evidence, the National Assembly subpoenaed various financial documents, including bank records, checks, invoices, and solicited interviews from the entities and persons linked to the investigation.

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<sup>4</sup> Criminal Complaint against Moncada Luna dated July 10, 2014 (**C-0373**).

<sup>5</sup> Resolution of the National Assembly, Committee on Credentials, Regulations, Parliamentary Ethics, and Judicial Matters dated Oct. 8, 2014 (**R-0084**) (admitting the complaint presented against Judge Moncada Luna); Rubén Polanco, *National Assembly Begins the Investigation Against Alejandro Moncada Luna*, LA PRENSA dated Oct. 9, 2014 (**R-0085**) (Congressman González was named as the Special Prosecutor for the National Assembly on Oct. 8, 2014).

18. On September 7, 2010, Corporación Celestial S.A., a company whose president and sole shareholder was Mrs. Moncada Luna, purchased the PH Ocean Sky apartment for US\$ 550,997.50.<sup>6</sup> This purchase was made while Justice Moncada Luna was sitting as a judge on the Third Chamber of Administrative Litigation.<sup>7</sup> On January 14, 2013, Corporación Alpil, S.A., a company whose president was Mrs. Moncada Luna, purchased the PH Santorini apartment for US\$ 1,179,200.00 from Desarrollo Coco del Mar, S.A.<sup>8</sup> This purchase was made while Justice Moncada Luna was President of the Supreme Court.<sup>9</sup> We began our investigation into the apartments by looking at all judgments issued by then-Judge Moncada Luna to see if it appeared that any judgments were changed or decided contrary to law so as to benefit a particular party. In addition, because the President of the Supreme Court has the authority to award contracts and approve invoices on behalf of the Judicial Authority, we acquired a list of the vendors who provided services to the Judiciary during the period in which Justice Moncada Luna was President of the Supreme Court.
19. With respect to the vendors, we identified the largest vendors by the value of their contracts with the Judiciary and the amount of any advance payment that was provided to the vendor. Omega Engineering had a contract to construct new judicial facilities in La Chorrera and, as such, was one of the largest vendors to the Judicial Authority. Justice Moncada Luna awarded Omega Engineering's contract on November 22, 2012, and it was valued at [REDACTED]
20. Once we identified the largest vendors, we determined when each of them had received payments (either advance payments or payments for work performed under their contracts) from the Judiciary. Once we had the dates of such payments by the Judicial

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<sup>6</sup> Villalba Report (**R-0062**), pp. 11-12.

<sup>7</sup> *Id.* at 4 (Justice Moncada Luna was appointed to the Third Administrative Law Chamber on Jan. 1, 2010.).

<sup>8</sup> *Id.* at 25.

<sup>9</sup> *Id.* at 4 (Justice Moncada Luna served as the Chief Justice of the Supreme Court from 2012 to 2013.).

<sup>10</sup> Contract 150/2012 dated Nov. 22, 2012 (**C-0048**).

Authority to the vendors, the National Assembly subpoenaed the bank records of the vendors to trace where the money went after it was received.

21. In the case of Omega Engineering, we discovered two payments that were connected to payments made on the apartments purchased by Mrs. Moncada Luna and registered to Corporación Celestial, S.A. and Corporación Alpil, S.A. As to the first transaction, on April 3, 2013, Omega Engineering received an advance payment from the Judiciary of [REDACTED]. This was 15% of the value of the La Chorrera Contract.<sup>12</sup> We then discovered a series of transfers which resulted in [REDACTED] of that advance payment to Omega Engineering being used to make a payment on a mortgage-backed loan extended to Corporación Celestial, S.A. to pay the outstanding balance of the PH Ocean Sky apartment.<sup>13</sup> By way of background, on December 27, 2010, Banco Nacional de Panamá approved a loan to Corporación Celestial, S.A. for US\$ 150,000.00 to finance the outstanding balance due on the purchase of the apartment.<sup>14</sup> The bank agreed that the payments would begin in June of 2011 with US\$ 1,056.68 taken from Justice Moncada Luna's salary per month over a term of 23 years.<sup>15</sup> Payments on the loan totaling US\$ 28,530.36 were made from Corporación Celestial, S.A. and Justice Moncada Luna through August of 2013.<sup>16</sup> The remainder of the loan, which amounted to US\$ 147,936.74, was paid off on May 23, 2013 using [REDACTED] of Omega Engineering's money received as an advanced payment on the La Chorrera Contract.<sup>17</sup> Banco Nacional de Panamá's records department reported that the loan was settled on

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<sup>11</sup> Villalba Report (**R-0062**), p. 22.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 17-24; *see also id.* at 24 (Figure No. 1).

<sup>14</sup> *Id.* at 17.

<sup>15</sup> *Id.* at 17-18.

<sup>16</sup> *Id.* at 17-18.

<sup>17</sup> *Id.* at 17-24.

November 11, 2014 through this payment of US\$ 147,936.74 on May 23, 2013.<sup>18</sup> That series of transfers is detailed below:

- Omega Engineering received an order to proceed on the La Chorrera project on January 15, 2013. The order to proceed was signed by Justice Moncada Luna.<sup>19</sup>
- On April 3, 2013, Omega Engineering received from the Judicial Authority an advance payment of [REDACTED]. That amount was deposited into an account in the name of Omega Engineering at BAC Bank of Panama, which immediately prior to that credit held [REDACTED]
- On April 25, 2013, Omega Engineering transferred [REDACTED] from its account at BAC Bank of Panama to an account at the same bank in the name of PR Solutions, S.A., which was also a company owned by Mr. Rivera, the owner of Omega Engineering. Immediately prior to that transfer, that account held [REDACTED]
- On that same day, PR Solutions, S.A. transferred [REDACTED] to an account at HSBC in the name of Reyna y Asociados. Immediately prior to that transfer, that account contained [REDACTED] Reyna y Asociados, a law firm, was owned by Mariela Gabriela Reyna Lopez and Rolando Adolfo Reyna Rodriguez.<sup>24</sup> Mariela Reyna Lopez served as the intermediary for a number of transfers to companies later associated with the acquisition of the apartments related to Justice Moncada Luna.<sup>25</sup>
- On May 3, 2013, Reyna y Asociados purchased a cashiers' check in the amount of US\$ 125,000.00, using funds from its HSBC account. The cashiers' check was made payable to Sarelán Corporation, S.A., a company associated with the purchase of Justice Moncada Luna's apartments.<sup>26</sup> That

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<sup>18</sup> *Id.* at 18.

<sup>19</sup> *See* Order to Proceed for Contract No. 150/2012 (C-0151); Julio Aguirre's Money Laundering Expert Report for the National Assembly dated Mar. 2, 2015 (**R-0063**) ("**Aguirre Report**"), p. 13.

<sup>20</sup> Villalba Report (**R-0062**), p. 22.

<sup>21</sup> Note that Bank BAC de Panama, S.A. was acquired by BAC International Bank, Inc.

<sup>22</sup> Villalba Report (**R-0062**), pp. 21-22.

<sup>23</sup> *Id.* at 20-21. Note that during this time, Banco Banistmo was in the process of merging with HSBC.

<sup>24</sup> *Id.* at 9.

<sup>25</sup> *See generally*, Villalba Report (**R-0062**); Aguirre Report (**R-0063**).

<sup>26</sup> Villalba Report (**R-0062**), p. 20; Aguirre Report (**R-0063**), pp. 15, 21 (showing a direct relationship to Justice Moncada Luna).



check was deposited to Sarelan Corporation, S.A.'s account at Universal Bank, on May 4, 2013.<sup>27</sup>

- On May 23, 2013, Sarelan Corporation, S.A. transferred US\$ 148,000.00 from its account at Universal Bank to an account at the same bank held by Fundación Ricala.<sup>28</sup>
- On that same date, Fundación Ricala purchased cashiers' check No. 54465 in the amount of US\$ 147,936.74 and made payable to Banco Nacional de Panamá.<sup>29</sup>
- That check was used to cancel the mortgage-backed loan extended to Corporación Celestial, S.A. and guaranteed by Justice Moncada Luna for the purchase of apartment 26-B at the PH Ocean Sky facility in Calle San Francisco.<sup>30</sup>

22. In short, funds in the amount of [REDACTED] went, indirectly, from the advance payment from the Judicial Authority for Contract 150/2012 to Omega Engineering and from the account of Omega Engineering to make payment on the mortgage-backed loan outstanding against Justice Moncada Luna's PH Ocean Sky apartment.<sup>31</sup>

23. The second payment occurred in July 2013. On July 10, 2013, Omega Engineering received a [REDACTED] payment from the Judiciary for work on the La Chorrera project. We were able to trace [REDACTED] of that money to an account that was used to make payments on the PH Santorini apartment, which was purchased by Corporación Alpil, S.A., operated by Justice Moncada Luna's wife, from Desarrollo

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<sup>27</sup> Villalba Report (**R-0062**), p. 19.

<sup>28</sup> *Id.* at 19; Aguirre Report (**R-0063**), p. 21 (showing a direct relationship to Justice Moncada Luna).

<sup>29</sup> Villalba Report (**R-0062**), p. 18 (Money Order No. 54465).

<sup>30</sup> *Id.* at 18-19 (“[T]he mortgage-backed loan held by Corporación Celestial, S.A. had been settled through Money Order No. 54465 of May 23, 2013 in the amount of (\$147,936.74), issued by BANCO UNIVERSAL.”).

<sup>31</sup> Aguirre Report (**R-0063**), pp. 15-16 (concluding that “as evidenced in that account statements from the above-mentioned banks, the money that is transferred between the aforementioned companies is the result of the advance payment in the sum of [REDACTED] ...dated Apr. 3, 2013 to OMEGA ENGINEERING INC., considering that the above accounts did not have sufficient balances prior to the deposit of [that advance payment], thus determining a direct relationship between the statement money and apartment No. 26-B of PH Ocean Sky....”).

Coco del Mar, S.A., the developer of the PH Santorini property.<sup>32</sup> The series of transfers is described below:

- On July 10, 2013, the Judicial Authority made a payment of [REDACTED] to Omega Engineering for work on the La Chorrera project.<sup>33</sup> This payment was deposited on July 11, 2013 into Omega Engineering's account at BAC Bank of Panama.<sup>34</sup>
- On July 12, 2013, Omega Engineering transferred [REDACTED] from its account at BAC Bank of Panama to PR Solutions, S.A.'s account at the same bank.<sup>35</sup>
- On July 16, 2013, PR Solutions, S.A. issued and certified a check in the amount of [REDACTED] payable to Reyna y Asociados.<sup>36</sup> That check was deposited into Reyna y Asociados' account at HSBC.<sup>37</sup>
- On July 17, 2013 and July 18, 2013, Reyna y Asociados issued two cashiers' checks each in the amount of US\$ 75,000.00, payable to Sarelan Corporation, S.A.<sup>38</sup> Those checks were deposited into Sarelan Corporation, S.A.'s account at Universal Bank.<sup>39</sup>
- On July 18, 2013, Sarelan Corporation, S.A. transferred US\$ 130,000.00 to an account at Universal Bank<sup>40</sup> held by Summer Venture Inc., a company registered in the British Virgin Islands.<sup>41</sup>
- On that same date, Summer Venture Inc. purchased a cashiers' check in the amount of US\$ 130,000.00 in favor of Desarrollo Coco del Mar, S.A.<sup>42</sup>

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<sup>32</sup> Villalba Report (**R-0062**), p. 25 (These funds made up over half of payment no. 4 on the PH Santorini apartment.).

<sup>33</sup> *Id.* at 34.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 32-33.

<sup>37</sup> *Id.* at 32 (Banco HSBC is now Banistmo).

<sup>38</sup> *Id.*; Aguirre Report (**R-0063**), p. 17.

<sup>39</sup> Villalba Report (**R-0062**), p. 32.

<sup>40</sup> Note that at the time of the transfer, the second money order for US\$ 75,000.00 had not yet been deposited in the account. Aguirre Report (**R-0063**), p. 17.

<sup>41</sup> Villalba Report (**R-0062**), pp. 8, 32; Aguirre Report (**R-0063**), p. 17.

- These funds were then used as payment on the apartment at the PH Santorini Complex owned by Justice Moncada Luna through Corporación Alpil, S.A.<sup>43</sup>
24. Here again, money moved from Omega Engineering to the benefit of Justice Moncada Luna, this time in about a week's time.<sup>44</sup>
  25. We were able to easily collect evidence to support the false statement claim. As a public official, Justice Moncada Luna was required to disclose his assets and finances. On December 29, 2010, Justice Moncada Luna filed a financial disclosure statement. He was required to update that statement if he acquired additional assets while in office. The two apartments were purchased in 2010 and 2013, respectively, but Justice Moncada Luna failed to report those purchases.<sup>45</sup>
  26. In January 2015, after the evidence had been collected, Congressman González engaged Julio Aguirre, a money laundering expert, to review the evidence and provide an expert opinion as to whether it indicated any form of a financial crime. Mr. Aguirre prepared a report dated March 2, 2015.<sup>46</sup> I have read that report and am aware that Mr. Aguirre concluded that both of the payments above contain several hallmarks of money laundering.<sup>47</sup> I agree with his conclusions.
  27. On February 23, 2015, Justice Moncada Luna entered into an agreement with the National Assembly, in which he pled guilty to unjust enrichment and making false statements. He agreed to a sentence of 60 months in prison, disqualification from holding public office during the same period, and the confiscation of the PH Ocean Sky and PH

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<sup>42</sup> Villalba Report (**R-0062**), p. 31; Aguirre Report (**R-0063**), p. 21 (showing a direct relationship to Justice Moncada Luna).

<sup>43</sup> Villalba Report (**R-0062**), pp. 25, 31-35 (payment of US\$ 130,000.00, made to Desarrollo Coco del Mar, S.A. on July 18, 2013).

<sup>44</sup> *Id.* at 31-35 (The transfer of money began on July 11, 2013 from Omega Engineering and payment was made on the PH Santorini apartment owned by Justice Moncada Luna on July 18, 2013.).

<sup>45</sup> Criminal Complaint against Moncada Luna dated July 10, 2014 (**C-0373**), p. 10 (a copy of Moncada's statement of assets, public document No. 18865 dated Dec. 29, 2010, was attached to the complaint).

<sup>46</sup> Aguirre Report (**R-0063**).

<sup>47</sup> *Id.* at 7-8, 21-22.

Santorini apartments.<sup>48</sup> The National Assembly found and Justice Moncada Luna admitted that he had been unjustly enriched when he purchased the PH Ocean Sky and PH Santorini properties, the price of which far exceeded his financial capacity as a judge.<sup>49</sup> In exchange for Justice Moncada's plea, the National Assembly agreed not to further prosecute him for corruption and money laundering. The National Assembly terminated its investigation on March 5, 2015. I returned to my duties at the Public Prosecutor's office on March 18, 2015.

#### IV. THE PUBLIC PROSECUTOR'S INVESTIGATION

28. Because the National Assembly's jurisdiction was limited to the investigation of Justice Moncada Luna, Congressman González referred the evidence and information as to others involved, including Omega Engineering and its principal, to the Public Prosecutor's office for further action. Having returned to the Public Prosecutor's office, I was put in charge of that investigation. My first task was to prepare a report detailing what was done in the National Assembly investigation. I presented my *Preliminary Financial Analysis Report in Case No. 049-15* to the Specialized Audit Office against Organized Crime on June 5, 2015.<sup>50</sup>
29. Investigations into Mr. Rivera and Omega Engineering were started by both the Organized Crime and the Anti-Corruption divisions within the Public Prosecutor's office. These are two distinct offices tasked with investigating different aspects of financial crimes. While the two divisions were focused on similar activities, their work could lead to different charges being brought against an entity or person. As a result, Mr. Rivera and Omega Engineering could have faced charges resulting from one, none, or both of the investigations initiated by the Public Prosecutor's office.

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<sup>48</sup> National Assembly Guilty Verdict No. 1 (Mar. 5, 2015) (**R-0083**), p. 1.

<sup>49</sup> Plea Bargain (Feb. 23, 2015) (**R-0064**) (pleading guilty to the crime of unjust enrichment and agreeing to the confiscation of the PH Ocean Sky and PH Santorini apartments as part of his sentence); National Assembly Guilty Verdict No. 1 (Mar. 5, 2015) (**R-0083**), p. 3 ("Based on what was stated at the hearing, [Justice Moncada Luna] admitted that he had purchased properties of considerable value which were identified and substantiated by the Prosecutor. For that reason, the agreed primary penalty of sixty – 60 – months of prison will be imposed upon him...."); Villalba Report, p. 2 (**R-0062**) (summarizing the National Assembly's findings and Justice Moncada Luna's guilty plea).

<sup>50</sup> Villalba Report (**R-0062**).

30. The materials collected by Congressman González were the same materials we would have collected if the investigation had originated in the Public Prosecutor’s office. Accordingly, we had records and documentary evidence establishing two separate occasions where State funds were transferred from the Judiciary to Omega Engineering and, ultimately into accounts for the benefit of Justice Moncada Luna. The next step was to interview Mr. Rivera and other representatives from Omega Engineering. On June 15, 2015, we subpoenaed Mr. Rivera and representatives from Omega Engineering to submit to interviews with the Public Prosecutor’s office.<sup>51</sup> However, Mr. Rivera and Omega Engineering did not appear. By this point, they had left the country.<sup>52</sup>
31. In July 2015, as part of the Public Prosecutor’s investigation, Omega Engineering submitted materials to show that the two suspect payments identified by the National Assembly’s investigation were not made to Justice Moncada Luna, but were part of a personal project by Mr. Rivera to develop a residential complex he referred to as the “Verdanza Residences.”<sup>53</sup> This project purportedly was to be developed in Tonosi, in the Province of Los Santos. The Prosecutor’s office reviewed the materials submitted by Omega and conducted its own investigation.
32. As part of that investigation, on November 20, a special agent from the Prosecutor’s office visited the Office of Public Works and Construction for the Los Santos province, where Tonosi is located.<sup>54</sup> The inspector determined that no applications had been filed for the approval of a project either named the “Verdanza Residences” or matching the description provided by Omega’s lawyers.<sup>55</sup>

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<sup>51</sup> Inquiry Resolution No. 4015 dated June 15, 2015 (**R-0086**) (issuing a “declaración indigatoria” to Mr. Rivera and Francisco Feliu Nigaglioni, an employee of Omega Engineering).

<sup>52</sup> See Email from Oscar Rivera to Special Prosecutor Designated for the National Assembly dated 2 Feb. 2015 (**C-0197**) (informing the National Assembly he could not attend the interview as he now resides in Miami). There was only one individual from Omega Engineering left in Panamá, Salvador de Torro, the accountant for Omega Engineering, who we were able to interview on November 17, 2015.

<sup>53</sup> Letter from Franklin Amaya Jované to the Prosecutor Against Organized Crime, July 22, 2015 (**R-0087**).

<sup>54</sup> Alexis Rodriguez, Legal Secretary of the Special Prosecutor’s Office Against Organized Crime, Diligence Report dated Nov. 23, 2015 (**R-0088**) (describing an investigation on Nov. 20, 2015 at 9:20 am).

<sup>55</sup> *Id.*

33. On that same day, the investigators went to the area where the Verdanza Residences supposedly were being developed.<sup>56</sup> Despite multiple passes through the area, the investigators were not able to identify the specific location on which the Verdanza Residences were to be built. The investigators interviewed a number of local residents, who indicated that they were not aware of any project by that name being developed in the area.<sup>57</sup>
34. On November 23, 2015, investigators from the Prosecutor's office visited the Technical Board of Real Estate, within the Ministry of Commerce and Industries to determine whether Maria Gabriela Reyna Lopez, the attorney Omega's lawyers identified as having brokered the Verdanza Residences project, was licensed in Panama as a land developer or real estate broker. The public records showed that Ms. Reyna was not licensed to act as a developer or real estate broker.<sup>58</sup>
35. On the basis of these findings, and in light of the bank records and other documents showing that (a) the money used in the two payments came from the Judicial Authority; (b) was moved quickly through a series of cut-out companies; and (c) ultimately was transmitted to Justice Moncada Luna, the Prosecutor's office found no evidence to support Omega's claim that the two payments were made to develop a project called the Verdanza Residences.
36. On February 22, 2016, I left the Public Prosecutor's office and, as noted above, am working as a Forensic Auditor, Consultant, and Advisor. I understand that the Public Prosecutor's office's investigation into Mr. Rivera, Omega Engineering, and the other entities identified in the National Assembly's investigation was suspended by a court ruling on procedural grounds. I also understand that the court ruling is currently on appeal.

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<sup>56</sup> Alexis Rodriguez, Legal Secretary of the Special Prosecutor's Office Against Organized Crime, Diligence Report dated Nov. 23, 2015 (**R-0089**) (describing an investigation on Nov. 20, 2015 at 10:30 am).

<sup>57</sup> *Id.*

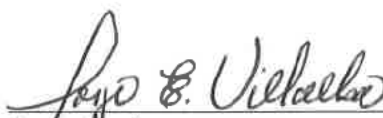
<sup>58</sup> Esperanza L. Montenegro, General Secretary of the Special Prosecutor's Office Against Organized Crime, Diligence Transcript of Inspection dated Nov. 23, 2015 (**R-0090**), p. 2.

**V. MR. RIVERA'S CLAIM THAT HE WAS TARGETED BY THREE INVESTIGATIONS**

37. I understand that Mr. Rivera has said that he was the target of three investigations and that he was found innocent or not culpable in each of them. As the person in charge of conducting those investigations, I can attest that his statement is not true. As discussed above, the first investigation, before the National Assembly, was focused only on Justice Moncada Luna. Mr. Rivera and Omega Engineering came to our attention solely because of their status as a contractor and vendor to the Judiciary. We had no specific interest in Mr. Rivera or Omega Engineering until we found the two payments described above.
38. As the National Assembly did not have the authority to investigate and prosecute Mr. Rivera or Omega Engineering it referred that investigation to the Public Prosecutor. There, as I have described and as is consistent with standard Panamanian criminal procedure, two different divisions of the Public Prosecutor's office opened related investigations.
39. At no time did the National Assembly, the Public Prosecutor's office, or a court find that Mr. Rivera and Omega Engineering were not guilty of the charges being investigated.

Dated: 26 December 2018

Panama City, Panama

  
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Jorge Enrique Villalba  
Auditor and Financial Analyst  
Independent Contractor