

Republic of the Philippines
DEPARTMENT OF JUSTICE
National Prosecution Service
CITY PROSECUTION OFFICE
Olongapo City

MEMORANDUM FOR : **EMILIE FE M DELOS SANTOS**
City Prosecutor

RE : **I.S. No.III-10-INV-161- 01216**

JESSABEL BALUTAN,
-Complainant

-versus-

MURTO NEL, and
BASTIAAN JOHANNES ARNOLDUS
DERKSEN,
-Respondents

For Violation of R. A. No. 8484

Date Assigned : 10/10/2016
Date Resolved : 12/8/2016

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RESOLUTION

This resolves the complaint for violation of Republic Act No. 8484, otherwise known as "The Access Devices Regulation Act of 1998" which was filed by complainant Jessabel Balutan against respondents Murto Nel and Bastiaan Johannes Arnoldus Derksen.

Complainant alleged that last February 9, 2015, the amount of nineteen thousand four hundred eight pesos and two centavos (P19, 408.02) was debited from her Visa Debit Card in favor of Global Corporate Ser Lake W US. Upon further investigation, she discovered that the unauthorized transactions on her debit card were done by respondents who were supposed to be managing her business, Scootz Scooter Rental. She claims that she previously authorized respondents to make deposits to her account. However, respondents made several withdrawals from her account during the months of February, March, and April of 2015.

Respondents denied the allegations against them. They claim that they do not know that complainant is a debit card holder. They also deny having access or possession of complainant's debit card at any given time. They contended that they did not perform the unauthorized debit of the amount of nineteen thousand four hundred eight pesos and two centavos (P19, 408.02) from complainant's account last February 9, 2015.

p. two (2)

Re: Resolution (I.S. No.III-10-INV-16I- 01216)

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After a perusal of the records, the undersigned finds that there is probable to indict respondents for violation of Section 9(j) in relation to Section 11 of Republic Act No. 8484, otherwise known as "The Access Devices Regulation Act of 1998".

The pertinent provisions of law provides:

Section 9. Prohibited Acts. - The following acts shall constitute access device fraud and are hereby declared to be unlawful.

xxx

(j) obtaining money or anything of value through the use of an access device, with intent to defraud or with intent to gain and fleeing thereafter, xxx

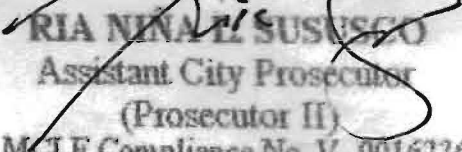
Section 11. Conspiracy to commit access device fraud. - If two (2) or more persons conspire to commit any of the offenses listed in Section 9 and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as in the case of the doing of the act, the accomplishment of which is the object of such conspiracy.

In the present case, respondents connived and mutually helped one another in fraudulently obtaining from complainant various documents pertaining to the latter's business. Then they proceeded to use complainant's debit card account to make several unauthorized withdrawals.


Respondent's denials and alibis are evidentiary matters better ventilated during the course of a full blown trial.

WHEREFORE, premises considered, the undersigned respectfully recommends that upon approval of this resolution, the attached criminal information for violation of Section 9 (j) in relation to Section 11 of Republic Act No. 8484 be filed against respondents Murto Nel and Bastiaan Johannes Arnoldus Derksen.

Olongapo City, December 8, 2016.


RIA NINA L. SUSUSCO
Assistant City Prosecutor
(Prosecutor II)
MCLE Compliance No. V-0016236
Issued on March 15, 2016

APPROVED/DISAPPROVED:


EMILIE E.M. DELOS SANTOS
City Prosecutor

ORIGINAL SIGNED

12/14/17

p. three (3)

Re: Resolution (LS. No.III-10-INV-16I-01216)

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Copy furnished:

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RNLS/mrr*