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“Big Business” : The Pharmally Scandal

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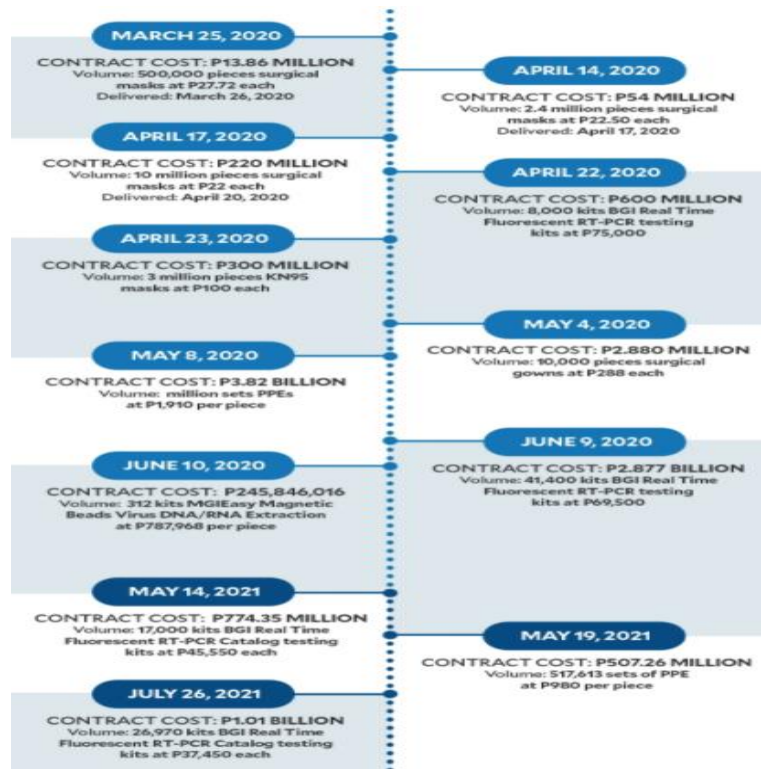


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Case Study (04/22) *Pharmally Pharmaceuticals Inc.*

“Big Business” : The Pharmally Scandal

The sudden jump in income of Pharmally from zero sales in 2019 to a whopping P7.5B in 2020 raised blaring alarms and became the most talked about news in 2021. The company got P8.68B worth of contracts with the Procurement Service-Department of Budget and Management (PS-DBM) despite only having a paid-up capital of P625K in 2019. The contracts awarded to Pharmally resulted to a significant 1,263% more or about 13 times its paid-up capital. From May to July 2021, the company secured additional P2.3B supply contracts from the government.



(Inquirer.net/08:38pm Oct. 26, 2021)

Pharmally Pharmaceutical Corporation is a company that supplies face masks, face shields and other related medical equipment to the government. The company was registered on Sept. 4, 2019. It had no sales in 2019 with a net loss of P25K reported. Its official business address, according to SEC documents was located at a residential condominium in Fort Bonifacio. The documents also showed that a Singaporean national named Huang Tzu Yen sits as chairman of Pharmally and controls 40% of the company. The rest of the shareholders were: Twinkle Dargani, President (10%), Mohit Dargani Corporate Secretary and Treasurer (30%), Linconn Ong (16%) and Justine Garado (4%).

The country was going through a rough patch due to a time of pandemic, when jobs and livelihoods were drastically affected due to several lockdowns which lasted until late 2021. At the height of the pandemic and agitated by health and economic challenges, the public reacted vehemently over the many issues brought about by the scandal. This prompted the Senate to conduct hearings to look into the alleged anomalies.

PS-DBM

This is the office that handled the purchases for the government's response to the coronavirus pandemic. It was then headed by Usec Lloyd Christopher Lao, a volunteer election lawyer for Duterte during his presidential campaign. Lao was appointed in 2016 as undersecretary at the Presidential Management Staff-Office of the Special Assistant to the President, under Bong Go, who is currently a Senator.

Senator Franklin Drilon stated that PS-DBM did not exercise due prudence when they entered into a deal with Pharmally, considering that the company had no significant track record. Drilon accused Lao for failing to conduct due diligence.

Government online portals post procurement requirements and contracts awarded to promote transparency. The major portals are PhilGEPS and GPPB Online Portal. Within a very short period of time, the contracts awarded to Pharmally were signed and sealed by the authorizing officials as an urgent response to the pandemic.

Senate Hearings

The investigation into transactions between the Department of Health (DOH), PS-DBM and Pharmally revealed that having a middleman, which is legally allowed, could be highly disadvantageous to the government and the people. The COA (Commission on Audit) reported that of the various suppliers that sold medical supplies to DOH through PS-DBM, Pharmally had the highest unit prices. The hearings started on Aug. 16, 2021.

In one of the hearings, Pharmally Director Ong admitted that the company did not have stocks of PPE and that the inventory came from a local supplier (TigerPhil Marketing Corp.). TigerPhil also served as a middleman for Pharmally as some of the masks from bought from Greentrends Trading International Inc. Furthermore, the officials of Pharmally admitted that the company had no funds to buy supplies and borrowed money from Chinese businessman Michael Yang.

Usec Lao responded to Senator Drillon's accusation of failing to conduct due diligence with a reply that he did but failed to check on the articles of incorporation since it was not required by Bayanihan 1 (a law passed that allowed government to reprogram and reallocate funds to the pandemic response, also provided that certain procurement laws were suspended to expedite purchases of medical supplies/equipments effective March 25, 2020, the date which the first contract given to Pharmally was signed). Senator Kiko Pangilinan and Senate President Vic Sotto argued that the effectivity date of Bayanihan 1 was April 6, 2020 implying that the contract signed in March 25, 2020 was questionable.

Senator Dick Gordon disclosed in one of the hearings that several brand-new luxury cars, registered to three of the board members of Pharmally, were purchased after the company bagged the deals from the government.

The various testimonies during the Senate Hearing seemed to bring more questions than answers, such as questionable transactions, unpaid taxes by the company and its' principals, the overpriced items, the tampering of expiration dates, unclear financial disclosures and connections to the Presidents' inner circle.

Alleged Links to Malacanang

President Duterte criticized the Senators conducting the investigation and stated that there was nothing anomalous in the DBM contract. With a national election nearing, Malacanang claimed that the investigation was politically motivated.

According to the critics of President Duterte, there were serious issues that needed to be answered because of close ties of the personalities involved in the scandal with the President. Issues such as why a lawyer who worked in the President's campaign awarded P8B medical supplies contract to a group who has no track record of supplying to the government, and had little capital to finance such a huge project.

Another issue is the suspected involvement of his former adviser and reportedly good friend Michael Yang in the deal and why he was allowed to act as a guarantor to the aforementioned businessmen to source and purchase supplies from China. There were also allegations of ghost deliveries and money laundering. This seriously affected the current administration's approval rating from 64% to 52% in the second half of 2021.

Department of Health

The Department of Health issued a statement on Oct. 1, 2021 stating that it was investigating reports of alleged tampering of manufacturing dates of face shields bought from Pharmally, as revealed by a former employee of said company. This witness later recanted the statement.

The DOH was further dragged into the controversy when the Senate Blue Ribbon Committee in late January 2022, recommended plunder, graft and other criminal and administrative charges against Health Secretary Duque, former Usec Lao and Pharmally executives in connection to the multi billion contracts awarded to the company. Secretary Duque was quoted as saying: "It is unfortunate that the Panel turned a blind eye to the truth that was revealed during the Senate Blue Ribbon hearing that all procurements for the country's COVID-19 response were made through the PS-DBM, the agency purposely tasked to undertake such activities." However, there were questions raised on the decision by the DOH to transfer P42M to PS-DBM.

Senator Ping Lacson stated in February 2022, that he will probe further into the case when the Pharmally inquiry committee report is brought up for plenary deliberation and reaches the Senate body in May, 2022.

Written by:

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Questions for discussion:

1. Name some of the governance issues (corporate governance in the case of Pharmally) raised in this case.
2. Is the purchase of luxury cars by the board members relevant? Should this be an issue?
3. Can you cite instances of conflict of interest from the concerned parties, and explain why.
4. In relation to question 3, given the dire situation the country was in due to the pandemic, can conflict of interest and expedited laws be justified?
5. Beyond the Pharmally case, what can you say about the government's procurement system? Are there enough controls to ensure that taxpayer's money are put to good use in future purchases/contracts?

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