EN BANC

G.R. No. 222312 – MELISSA GAY CASTAÑEDA LIMLINGAN MANGANIP, BEATRICE EMILIA L. MANGANIP, PATRICIA GARCIA LIMLINGAN PADUA, JOSE JERICHO PADUA III, GERARDO MARTIN C. LIMLINGAN, CELESTE MAYA RECTO LIMLINGAN, and MANUELITA LIMLINGAN, Petitioners, **v. REPUBLIC OF THE PHILIPPINES, represented by the ANTI-MONEY LAUNDERING COUNCIL,** Respondent.

G.R. No. 222313 – POWERLINK.COM CORP., Petitioner, **v. REPUBLIC OF THE PHILIPPINES, represented by the ANTI-MONEY LAUNDERING COUNCIL,** Respondent.

G.R. No. 222314 – CODEWORKS.PH, INC., Petitioner, **v. REPUBLIC OF THE PHILIPPINES, represented by the ANTI-MONEY LAUNDERING COUNCIL,** Respondent.

G.R. No. 222315 – OMNI SECURITY INVESTIGATION, INC., VIVE HOTEL INC., CORPORATE SOLUTIONS MANPOWER & GENERAL SERVICES, INC., and UNANIMOUS HOLDINGS, INC., Petitioners, **v. REPUBLIC OF THE PHILIPPINES, represented by the ANTI-MONEY LAUNDERING COUNCIL,** Respondent.

Promulgated:

May 20, 2025

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CONCURRING OPINION

LEONEN, *S.A.J.*:

I concur in the result. I also join the declaration that, based on the arguments of the present Petitions, Section 10 of Republic Act No. 9160, as amended, otherwise known as the Anti-Money Laundering Act, is not unconstitutional.

I further refine the findings and provide a discussion to definitively resolve the proper implementation of a freeze order concerning related and materially-linked accounts.

The case originated from the complaint filed against former Vice President Jejomar C. Binay (Binay) and certain members of the Sangguniang Panlungsod of Makati City for alleged violations of the Anti-Graft and

Corrupt Practices Act in relation to the Anti-Plunder Act, specifically concerning the overpricing of the New Makati City Parking II Building.[1] The Court of Appeals granted the *ex parte* petition filed by the Anti-Money Laundering Council and, on May 11, 2015, issued a freeze order on Binay's bank accounts, including all related accounts.[2]

The case presents a novel issue: whether the freeze order of the Court of Appeals may extend to related accounts and, if so, whether the procedure for its implementation under Section 10 of the Anti-Money Laundering Act inherently violates the constitutional right to due process.

I

The constitutional rights to privacy, as defined in Article III, Section 3 of the Constitution,[3] and the right to be secure in one's person and property in accordance with due process, under Sections 1 and 2 of Article III,[4] serve as fundamental safeguards against unwarranted government intrusion.

The penumbra of rights protected by the due process clause and the prohibition against unreasonable searches and seizures extends to intangible property essential to human life such as bank accounts and deposits.[5] Therefore, any inquiry into these accounts, including orders to freeze them, must adhere to constitutional limitations and must not result in the deprivation of property without due process of law. Freeze orders and bank inquiries under Sections 10 and 11 of the Anti-Money Laundering Act, as amended, must be carefully balanced with an individual's constitutional right to privacy and against unreasonable searches and seizure.

In *Subido v. Court of Appeals*,[6] this Court upheld the constitutionality of Section 11, ruling that it does not violate due process or the right to privacy. There is no unreasonable seizure, as the law does not contemplate physical

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1 *Ponencia*, p. 3.

2 *Id.* at 4–17.

3 CONST., art. III, sec. 3 provides:
SECTION 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.
(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

4 CONST., art. III, secs. 1, 2 provide:
SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.
SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

5 *Secretary of National Defense v. Manalo*, 589 Phil. 1, 50 (2008) [Per C.J. Puno, *En Banc*]. *See also* J. Leonen, Separate Concurring Opinion in *International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines)*, 774 Phil. 508 (2015) [Per J. Villarama, Jr., *En Banc*].

6 802 Phil. 314 (2016) [Per J. Perez, *En Banc*].

seizure but merely authorizes an inquiry in furtherance of the Anti-Money Laundering Council's investigative functions.[7]

As regards the right to privacy, this Court in *Subido*, citing *Republic v. Eugenio*,[8] reaffirmed that the right to privacy concerning bank deposits finds basis in statute, that is Republic Act No. 1405 or the Bank Secrecy Law,[9] and not in the Constitution. Consequently, the law can carve out exceptions, one of which is Section 11 of the Anti-Money Laundering Act.[10]

A similar issue arises: Does the current procedure of the implementation of a freeze order under Section 10 extend to "related accounts," and if so, is it constitutional?

II

When the Anti-Money Laundering Act was originally enacted, it authorized the Anti-Money Laundering Council to issue freeze orders upon a determination of probable cause. The original text of Section 10 reads:

> SECTION 10. *Authority to Freeze.* — Upon determination that probable cause exists that any deposit or similar account is in any way related to an unlawful activity, the [Anti-Money Laundering Council] may issue a freeze order, which shall be effective immediately, on the account for a period not exceeding fifteen (15) days. Notice to the depositor that his account has been frozen shall be issued simultaneously with the issuance of the freeze order. The depositor shall have seventy-two (72) hours upon receipt of the notice to explain why the freeze order should be lifted. The [Anti-Money Laundering Council] has seventy-two (72) hours to dispose of the depositor's explanation. If it fails to act within seventy-two (72) hours from receipt of the depositor's explanation, the freeze order shall automatically be dissolved. The fifteen (15)-day freeze order of the [Anti-Money Laundering Council] may be extended upon order of the court, provided that the fifteen (15)-day period shall be tolled pending the court's decision to extend the period.
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> No court shall issue a temporary restraining order or writ of injunction against any freeze order issued by the [Anti-Money Laundering Council] except the Court of Appeals or the Supreme Court.

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7 *Id.* at 338-339.

8 569 Phil. 98, 120 (2008) [Per J. Tinga, Second Division].

9 Republic Act No. 1405 (1955), An Act Prohibiting Disclosure of or Inquiry Into, Deposits With Any Banking Institution and Providing Penalty Therefor.

10 Republic Act No. 9160 (2001), Anti-Money Laundering Act, as amended, sec. 11 provides:
SECTION 11. Authority to Inquire into Bank Deposits. — Notwithstanding the provisions of Republic Act No. 1405, as amended; Republic Act No. 6426, as amended; Republic Act No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution upon order of any competent court in cases of violation of this Act when it has been established that there is probable cause that the deposits or investments involved are in any way related to a money laundering offense: Provided, That this provision shall not apply to deposits and investments made prior to the effectivity of this Act.

Subsequent amendments to Section 10 were introduced through Republic Act No. 9194 in 2003, Republic Act No. 10167 in 2012, Republic Act No. 10927 in 2017, and Republic Act No. 11521 in 2021. These amendments shifted the Anti-Money Laundering Council's role in freeze order proceedings from being the issuing authority to acting as a petitioner before the Court of Appeals.[11] Section 10 currently reads:

> SECTION 10. *Freezing Monetary Instrument or Property.* – (a) Upon a verified *ex parte* petition by the [Anti-Money Laundering Council] and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof, the Court of Appeals may issue a freeze order which shall be effective immediately for a period of twenty (20) days. Within the twenty (20)-day period, the Court of Appeals shall conduct a summary hearing, with notice to the parties, to determine whether or not to modify or lift the freeze order, or extend its effectivity. The total period of the freeze order issued by the Court of Appeals under this provision shall not exceed six (6) months. This is without prejudice to an asset preservation order that the Regional Trial Court having jurisdiction over the appropriate anti-money laundering case or civil forfeiture case may issue on the same account depending on the circumstances of the case, where the Court of Appeals will remand the case and its records: *Provided*, That if there is no case filed against a person whose account has been frozen within the period determined by the Court of Appeals, not exceeding six (6) months, the freeze order shall be deemed *ipso facto* lifted: *Provided, further,* That this new rule shall not apply to pending cases in the courts. In any case, the court should act on the petition to freeze within twenty-four (24) hours from filing of the petition. If the application is filed a day before a nonworking day, the computation of the twenty-four (24)-hour period shall exclude the nonworking days.
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> The freeze order or asset preservation order issued under this Act shall be limited only to the amount of cash or monetary instrument or value of property that court finds there is probable cause to be considered as proceeds of a predicate offense, and the freeze order or asset preservation order shall not apply to amounts in the same account in excess of the amount or value of the proceeds of the predicate offense.
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> A person whose account has been frozen may file a motion to lift the freeze order and the court must resolve this motion before the expiration of the freeze order.
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> No court shall issue a temporary restraining order or a writ of injunction against any freeze order, except the Supreme Court
>
> (b) For purposes of implementing targeted financial sanctions in relation to proliferation of weapons of mass destruction and its financing, as provided under Section [7] (15), the [Anti-Money Laundering Council] shall have the power to issue, *ex parte*, an order to freeze without delay.
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> The freeze order shall be effective until the basis for its issuance shall have been lifted. During the effectivity of the freeze order, the aggrieved party may, within twenty (20) days from issuance, file with the

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[11] Anti-Money Laundering Act, as amended, sec. 10.

> Court of Appeals a petition to determine the basis of the freeze order according to the principle of effective judicial protection: *Provided*, That the person whose property or funds have been frozen may withdraw such sums as the [Anti-Money Laundering Council] determines to be reasonably needed for monthly family needs and sustenance including the services of counsel and the family medical needs of such person.
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> The [Anti-Money Laundering Council], if circumstances warrant, may initiate civil forfeiture proceedings to preserve the assets and to protect it from dissipation. No court shall issue a temporary restraining order or a writ of injunction against the freeze order, except the Court of Appeals or the Supreme Court.

Republic v. Ongpin[12] shepherded the amendments to this provision until Republic Act No. 10927, the relevant portion of which was retained by Republic Act No. 11521, as follows:

> The original Section 10 vested the Anti-Money Laundering Council with the power to issue freeze orders. Once issued, the freeze order is effective immediately, and the account holder, who is notified of the freeze order, is given 72 hours to move for the freeze order's lifting. The motion to lift must be resolved within 72 hours from its filing. Unless extended by the court, the freeze order is effective for 15 days. Only the Court of Appeals and this Court may issue a temporary restraining order or writ of preliminary injunction against the freeze order.
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> . . . .
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> Republic Act No. 9194 transferred the jurisdiction to issue freeze orders from the Anti-Money Laundering Council to the Court of Appeals. This exclusive original jurisdiction has remained with the Court of Appeals since then. For a freeze order under Republic Act No. 9194 to be issued, the Anti-Money Laundering Council must file an ex parte application (meaning, without notice to the account holder) before the Court of Appeals. Once it determines that the accounts sought to be frozen are probably related to any of the predicate crimes under the Anti-Money Laundering Act, the Court of Appeals may issue a freeze order, which shall be effective for 20 days.
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> Notably, Republic Act No. 9194 removed the provision on the filing of a motion to lift the freeze order and the issuance of a temporary restraining order and/or writ of preliminary injunction.
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> . . . .
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> Republic Act No. 10167 retained the *ex parte* nature of the application for a freeze order. However, it further required that the application must be verified; that is, accompanied by an affidavit where the Anti-Money Laundering Council attests to reading the application and that, to its knowledge and belief, the allegations in the application are true and correct. The Court of Appeals was also explicitly required to determine within 24 hours from the application's filing if probable cause exists. Once issued, the freeze order is effective immediately and for 20 days, unless

[12] 923 Phil. 257 (2022) [Per J. Leonen, Second Division].

extended by the court. The remedies of a motion to lift the freeze order before the Court of Appeals and for the issuance of a temporary restraining order and/or writ of preliminary injunction before this Court were reinstated.

. . . .

Republic Act No. 10365 greatly extended the effectivity of a freeze order. From the relatively short 20 days, a freeze order lasted up to six months depending on the circumstances of the case. When no case against the account holder is filed within the six-month period, the freeze order is deemed automatically lifted.

Section 10 was [then] amended by Republic Act No. 10927 in 2017. . . . . [It provided] an initial 20-day period for the effectivity of the freeze order. Within this period, the Court of Appeals should conduct a summary hearing, with notice to the parties, to determine whether to lift the freeze order. Should it decide to extend the freeze order, the extended period may not exceed six months. Further, Section 10 specified that the freeze order shall be limited to the value of the money or property found to be related to a predicate crime and shall not apply to amounts in the same account in excess of the value of the proceeds of the predicate crime.

Section 10 also mentioned "asset preservation order." Although appearing for the first time in statute in 2017, the remedy has been provided as early as 2005 in A.M. No. 05-11-04-SC. Akin to a freeze order, the remedy of an asset preservation order is provisional, issued upon probable cause to "[forbid] any transaction, withdrawal, deposit, transfer, removal, conversion, concealment or other disposition of the subject monetary instrument, property, or proceeds." However, unlike a freeze order, it is issued by the executive judge of the regional trial court or, in their absence, the vice executive judge. If ever the vice executive judge is absent, any regional trial court judge available in the same station may do so.[13] (Citations omitted)

Notably, the requirement for a determination of probable cause remained; only the authority to make this determination shifted to the courts, specifically the Court of Appeals.

Based on the foregoing, the procedure for issuing a freeze order now requires two things: *first*, the Anti-Money Laundering Council must file an *ex parte* petition before the Court of Appeals; and *second*, the Court of Appeals must determine whether probable cause exists to believe that any monetary instrument or property is related to an unlawful activity as defined in Section 3(i) of the Anti-Money Laundering Act. If such probable cause is established, the Court of Appeals may issue a freeze order, which takes immediate effect and remains valid for a period of 20 days.

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[13] *Id.* at 306–311.

In *Ongpin,* citing *Ligot v. Republic,*[14] this Court also affirmed that this process complies with the constitutional safeguards against unreasonable searches and seizures, thus:

> Before a freeze order is issued, the Anti-Money Laundering Council must put forward *evidence of probable cause, or "such facts and circumstances which would lead a reasonably discreet, prudent or cautious [person] to believe that an unlawful activity and/or a money laundering offense is about to be, is being or has been committed and that the account or any monetary instrument or property subject thereof sought to be frozen is in any way related to said unlawful activity and/or money laundering offense.*" This requirement is consistent with the prohibition on unreasonable searches and seizure, our bank accounts and information about them being properties and effects within the meaning of the Constitution.[15] (Emphasis supplied, citations omitted)

This process pertains to the freezing of an account, which Section 10 refers to as "any monetary instrument [that] is in any way related to an unlawful activity."[16] However, the provision does not explicitly mention related or materially-linked accounts. These terms, however, are defined in the 2018 Implementing Rules and Regulations of the Anti-Money Laundering Act (2018 Rules).[17] Rule 2, Section 1(fff) defines it as follows:

> Rule 2 – Definition of Terms
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> SECTION 1. *Definitions.* – For purposes of this [Implementing Rules and Regulations], the following terms are hereby defined as follows:
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> . . . .
>
> (fff) "Monetary instrument or property related to an unlawful activity" refers to:
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> 1. All proceeds of an unlawful activity;
> 2. All monetary, financial or economic means, devices, accounts, documents, papers, items or things used in or having any relation to any unlawful activity;
> 3. All moneys, expenditures, payments, disbursements, costs, outlays, charges, accounts, refunds and other similar items for the financing, operations, and maintenance of any unlawful activity; and
> 4. For purposes of freeze order and bank inquiry: related and materially-linked accounts.

Additionally, the 2018 Rules further elaborate on the definitions of "related account" and "materially-linked account." These definitions were also incorporated into Section 904(i) of the 2021 Manual of Regulations for

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14 705 Phil. 477 (2013) [Per J. Brion, Second Division].

15 *Republic v. Ongpin*, 923 Phil. 257, 329 (2022) [Per J. Leonen, Second Division].

16 Anti-Money Laundering Act, as amended, sec. 10.

17 2018 Implementing Rules and Regulations of Republic Act No. 9160, Otherwise Known as the Anti-Money Laundering Act of 2001, as amended (2021).

Banks (2021 MORB), which serves as the primary regulatory framework governing entities supervised by the Bangko Sentral ng Pilipinas.[18] The 2018 Rules define these terms as follows:

> (ddd) "Materially-linked Accounts" refer to:
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> 1. All accounts or monetary instruments under the name of the person whose accounts, monetary instruments, or properties are the subject of the freeze order or an order of inquiry;
> 2. All accounts or monetary instruments held, owned, or controlled by the owner or holder of the accounts, monetary instruments, or properties subject of the freeze order or order of inquiry, whether such accounts are held, owned or controlled singly or jointly with another person;
> 3. All "In Trust For" accounts where either the trustee or the trustor pertains to a person whose accounts, monetary instruments, or properties are the subject of the freeze order or order of inquiry;
> 4. All accounts held for the benefit or in the interest of the person whose accounts, monetary instruments, or properties are the subject of the freeze order or order of inquiry;
> 5. All accounts of juridical persons or legal arrangements that are owned, controlled or ultimately effectively controlled by the natural person whose accounts, monetary instruments or properties are subject of the freeze order or order of inquiry, or where the latter has ultimate effective control; and
> 6. All other accounts, shares, units, or monetary instruments that are similar, analogous, or identical to any of the foregoing.
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> . . . .
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> (qqqq) "Related Account" refers to an account, the funds and sources of which directly originated from and/or are materially-linked to the monetary instruments or properties subject of the freeze order or an order of inquiry.

While the 2018 Rules and similar issuances, such as the 2021 MORB, clearly define what constitutes a related or a materially-linked account is, the application of Section 10 concerning the freezing of such accounts remains a point of contention.

III

The overarching policy of the Anti-Money Laundering Act is "to protect and preserve the integrity and confidentiality of bank accounts."[19] It seeks to disrupt networks of accounts used to facilitate unlawful activities, "[ensuring] that the Philippines shall not be used as a money laundering

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[18] Bangko Sentral ng Pilipinas, Manual of Regulations for Banks (2021), sec. 904(i). *See also* 2018 Implementing Rules and Regulations of Republic Act No. 9160, Otherwise Known as the Anti-Money Laundering Act of 2001, as amended (2021), Rule 2, sec. 3(ddd), 3(qqqq).

[19] Anti-Money Laundering Act, as amended, sec. 2.

site."[20] To achieve this, the law aims to dismantle the web of accounts involved in illicit financial transactions.[21]

Modern financial transactions occur rapidly, particularly through wire transfers. In my concurring opinion in *Subido,*[22] it was mentioned how we live in a day and age of instantaneous financial transactions, emphasizing the need to balance the right to privacy with the State's compelling interest in preventing money laundering:

> The absence of notice to the owner of a bank account that an ex parte application as well as an order to inquire has been granted by the Court of Appeals is not unreasonable nor arbitrary. The lack of notice does not violate the due process clause of the Constitution.
>
> It is reasonable for the State, through its law enforcers, to inquire *ex parte* and without notice because of the nature of a bank account at present.
>
> A bank deposit is an obligation. It is a debt owed by a bank to its client-depositor. It is understood that the bank will make use of the value of the money deposited to further create credit. This means that it may use the value to create loans with interest to another. Whoever takes out a loan likewise creates a deposit with another bank creating another obligation and empowering that other bank to create credit once mere through providing other loans.
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> Bank deposits are not isolated information similar to personal sets of preferences. Rather, bank deposits exist as economically essential social constructs. The inherent constitutionally protected private rights in bank deposits and other similar instruments are not absolute. These rights should, in proper cases, be weighed against the need to maintaining the integrity of our financial system. The integrity of our financial system on the other hand contributes to the viability of banks and financial intermediaries, and therefore the viability of keeping bank deposits.
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> *Furthermore, we are at an age of instantaneous financial transactions. It would be practically impossible to locate, preserve, and later on present evidence of crimes covered by the Anti-Money Laundering Act if the theory of the petitioner is correct. After all, as correctly pointed out by the majority opinion, the right to information accrues only after a freeze order is issued. It is then that limitations on the ability to transact the value of the bank account will truly affect the depositor.*[23] (Emphasis supplied)

Even the deliberations on Senate Bill No. 3009[24] as thoughtfully and meticulously included by the *ponente*,[25] the legislators clarified that the interpretation of a materially-linked account should be understood as

[20] Anti-Money Laundering Act, as amended, sec. 2.
[21] Anti-Money Laundering Act, as amended, sec. 2.
[22] 802 Phil. 314 (2016) [Per J. Perez, *En Banc*].
[23] J. Leonen, Concurring Opinion in *Subido v. Court of Appeals*, 802 Phil. 314 (2016) [Per J. Perez, *En Banc*].
[24] Senate Bill No. 3009 (2011), 15th Congress, Second Regular Session.
[25] *Ponencia*, p. 37.

"materially-linked to the monetary instrument or properties subject of the petition for the freeze order."[26] It need not be directly linked to the commission of the offense per se.[27]

Moreover, various definitions within the Anti-Money Laundering Act support an interpretation broad enough to encompass related or materially-linked accounts. The definition of "monetary instrument" includes instruments where ownership transfers by endorsement, assignment, or delivery.[28] Money laundering is defined as a crime where proceeds of unlawful activity are "transacted."[29] A "transaction" encompasses "any movement of funds by any means within a covered institution."[30] When read together, these provisions suggest a broad network where transactions are inherently interconnected. One can infer from the broad definition of a "transaction" that every movement of funds is linked to another, forming a continuous chain of financial activity—or, in the worst case, money laundering. This means that one transaction naturally gives rise to another. As such, within this statutory framework, every transaction could be considered a "related transaction" to another, reinforcing the idea that related or materially-linked accounts would fall within the scope of Section 10.

Despite this, the freezing of related accounts must still adhere to the constitutional guarantees of privacy and due process. Guided by these premises, there is a pressing need to refine the procedure governing the inclusion of related or materially-linked accounts in freeze orders, ensuring that its implementation remains consistent with constitutional due process requirements.

IV

The procedure for implementing freeze orders with respect to related accounts is outlined in the challenged provisions of the 2018 Rules. They read:

> RULE 10. FREEZE ORDER.
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> . . . .
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> SECTION 2. *Court-issued Freeze Order.*
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> . . . .
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> 2.2. Related Accounts. – Considering the intricate and diverse web of interlocking accounts that a person may create in different covered persons,

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[26] *Id.* at 38.

[27] *Id.*

[28] Anti-Money Laundering Act, sec. 3(c).

[29] Anti-Money Laundering Act, sec. 4.

[30] Anti-Money Laundering Act, sec. 4(h).

and the high probability that these accounts are utilized to divert, move, conceal, and disguise the monetary instrument or property subject of the freeze order, *the [Anti-Money Laundering Council] may include in its petition the freezing of related and materially-linked accounts.*

. . . .

SECTION 4. *Duties of Covered Persons and Concerned Government Agencies.*

. . . .

4.2. Freeze and Report Related Accounts.

a. Upon receipt of the freeze order that directs the freezing of related accounts, and upon verification by the covered person that there are accounts related to the monetary instrument or property subject of the freeze order, the covered person shall immediately freeze these related accounts wherever these may be found.
b. If the related accounts cannot be determined within twenty-four (24) hours from receipt of the freeze order due to the volume and/or complexity of the transactions, or any other justifiable factors, the covered person shall effect the freezing of the related accounts within a reasonable period and shall submit a supplemental return thereof to the Court of Appeals and the [Anti-Money Laundering Council] within twenty-four (24) hours from the freezing of said related accounts.

. . . .

4.3 Furnish Copy of Freeze Order to Owner or Holder.

a. The covered person and government agency concerned shall immediately furnish a copy of the freeze order upon the owner or holder of the monetary instrument or property or related accounts subject thereof.

. . . .

4.5. Contents of the Detailed Return.
The detailed return on the freeze order shall specify all the pertinent and relevant information, which shall include the following:

(a) For covered persons and government agencies, whichever are applicable:
1. The names of the account holders, personal property owners or possessors, or real property owners or occupants;
2. The value of the monetary instrument, property, or proceeds as of the time the assets were ordered frozen;
3. All relevant information as to the status and nature of the monetary instrument, property, or proceeds;
4. The date and time when the freeze order was served; and
5. The basis for the identification as related accounts.

. . . .[31] (Emphasis supplied)

Under these provisions, the process for freezing related accounts after a finding of probable cause by the Court of Appeals is as follows: *first,* the

[31] 2018 Implementing Rules and Regulations of Republic Act No. 9160, Otherwise Known as the Anti-Money Laundering Act of 2001, as amended (2021), Rule 10, sec. 4.

Court of Appeals directs the covered person to freeze any related accounts, if any exist; *second*, the covered person verifies whether there are accounts related to the monetary instrument subject of the freeze order; *third*, the covered person files a return after freezing the related accounts; *fourth,* in case of voluminous or complex transactions, the covered person implements the freezing of the related accounts within a reasonable period and file as supplemental return; and *finally,* the covered person furnishes a copy of the freeze order to the account holders.

As it stands, the freezing of related accounts occurs only after the issuance of the freeze order. It is incorporated into the freeze order issued by the Court of Appeals. In this case, the Freeze Order directed the covered persons "to submit . . . a detailed return specifying pertinent and relevant information on all frozen bank accounts, insurance policies, securities and investments, *including all related accounts, wherever they may be found*[.]"[32]

In *BCD Foreign Exchange v. Republic and Metrobank,*[33] the petitioner's account was frozen after Metrobank deemed it as a related account. Petitioner argued that Metrobank had no legal authority to freeze the account or determine whether it constituted a materially-linked account or was part of a broader web of related accounts.[34]

In dismissing BCD's argument, this Court held that Metrobank did not determine probable cause. It "merely complied with the instruction of the Court of Appeals to submit a detailed Return specifying all pertinent information on the accounts listed in the Freeze Order, with other related accounts and the corresponding grounds for the identification of each."[35]

This situation, however, underscores the ambiguity surrounding the role of covered persons in implementing the freeze orders and, consequently, identifying related and materially-linked accounts.

V

A freeze order may extend to related accounts if these accounts are included in the *ex parte* petition.[36] Under the rules, the Anti-Money Laundering Council, as petitioner, *may include in its petition the freezing of related and materially-linked accounts.*[37]

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32 *Ponencia*, p. 18.
33 913 Phil. 410 (2021) [Per J. Zalameda, Third Division].
34 *Id.* at 414.
35 *Id.* at 418.
36 *Ponencia*, p. 37.
37 2018 Implementing Rules and Regulations of Republic Act No. 9160, Otherwise Known as the Anti-Money Laundering Act of 2001, as amended (2021), Rule 10, sec. 2.2.

In A.M. No. 05-11-04-SC, issued by this Court in 2005,[38] the rules governing the procedure in cases of civil forfeiture, asset preservation, and freezing of monetary instrument, property, or proceeds representing, involving, or relating to an unlawful activity or money laundering offense, we enumerated the contents of the *ex parte* petition as follows:

> SECTION 46. *Contents of the Petition.* – The petition shall contain the following allegations:
>
> (a) The name and address of the respondent;
> (b) A specific description with particularity of the monetary instrument, property or proceeds, their location, the name of the owner, holder, lienholder or possessor, if known;
> (c) The grounds relied upon for the issuance of a freeze order; and
> (d) The supporting evidence showing that the subject monetary instrument, property, or proceeds are in any way related to or involved in an unlawful activity[.]

To reiterate, the definition of a monetary instrument inherently includes all forms of ownership transfer.[39] When applied in the context of an unlawful activity, it encompasses related account and materially-linked accounts.[40] Given the vast number of financial transactions involved, it is essential that the "specific description with particularity" also specify the amounts in question. Currently, the reckoning of the amounts within the accounts occurs only after the issuance of the freeze order. However, by including these amounts in the *ex parte* petition, the Anti-Money Laundering Council would not only provide clarity in the complex web of transactions but also strengthen the evidentiary basis for establishing a material link between the related accounts and the main account. More importantly, this level of specificity ensures compliance with due process protections, preventing arbitrary or overly broad applications of freeze orders.

I concur with the *ponencia* that the determination of probable cause in the context of money laundering is consistent with the prohibition on unreasonable searches and seizures. It does not transgress the individual person's right to privacy as protected under Section 2, Article III of the Constitution.[41] Accordingly, related accounts should also be included in the determination of probable cause. In *Republic v. Eugenio, Jr.*,[42] this Court emphasized that the determination of probable cause remains part and parcel the function of the courts, thus:

> Section 11 itself requires that it be established that "there is probable cause that the deposits or investments are related to unlawful activities," and it

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[38] A.M. No. 05-11-04-SC (2005), Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation, and Freezing of Monetary Instrument, Property, or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense Under Republic Act No. 9160, as Amended.

[39] Anti-Money Laundering Act, sec. 3(c).

[40] A.M. No. 05-11-04-SC (2005), sec. 46(d).

[41] *Ponencia,* p. 42.

[42] 569 Phil. 98 (2008) [Per J. Tinga, Second Division].

> obviously is the court which stands as arbiter whether there is indeed such probable cause. The process of inquiring into the existence of probable cause would involve the function of determination reposed on the trial court. Determination clearly implies a function of adjudication on the part of the trial court, and not a mechanical application of a standard predetermination by some other body. The word "determination"' implies deliberation and is, in normal legal contemplation, equivalent to "'the decision of a court of justice."
>
> The court receiving the application for inquiry order cannot simply take the AMLC's word that probable cause exists that the deposits or investments are related to an unlawful activity. It will have to exercise its own determinative function in order to be convinced of such fact.[43] (Citations omitted)

Considering the foregoing rules, the application and subsequent implementation of a freeze order should follow this procedure:

First, the Anti-Money Laundering Council shall file an *ex parte* petition before the Court of Appeals to freeze any monetary instrument or property that is in any way related to an unlawful activity. The *ex parte* petition shall include related and materially-linked accounts as defined under the 2018 Implementing Rules and Regulations of the Anti-Money Laundering Act and the 2021 Manual of Regulations for Banks. For both the main account and the related account, the Anti-Money Laundering Council must provide a specific description with particularity, including the amounts contained therein.

Second, the Court of Appeals shall independently determine whether probable cause exists to establish that the monetary instrument or property, including the related and materially-linked accounts, are related to an unlawful activity as defined under the Anti-Money Laundering Act.

Third, if probable cause is found, the Court of Appeals shall issue a freeze order, effective immediately for a period of 20 days. During this period, the Court of Appeals must conduct a summary hearing, with notice to the parties, to determine whether to modify or lift the freeze order or extend its effectivity, which should not exceed six months.

Fourth, any person whose account has been frozen may file a motion to lift the freeze order and the Court of Appeals must resolve this motion before the expiration of the freeze order.

[43] *Id.* at 126.

Fifth, if there is no case filed against a person whose account has been frozen within the period determined by the Court of Appeals, which in no case shall not exceed six months, the freeze order shall be deemed *ipso facto* lifted.

Accordingly, I vote to **DENY** the Petitions.

MARVIC M.V.F. LEONEN
Senior Associate Justice