7-5-2001

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LADB Article Id: 53411
ISSN: 1089-1560

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by LADB Staff
Category/Department: El Salvador
Published: 2001-07-05

On June 8, a five-member jury (jurado de consciencia) acquitted Roberto Mathies Hill and Mario Galdamez of fraud and embezzlement in a gigantic 1997 bank scandal. The attorney general and other officials are saying the jury was not competent to deal with the case and returned a bad verdict. The jury system is now under attack in El Salvador.

In July 1997, the government authorized the Superintendencia del Sistema Financiero (SSF) to take over two savings and loan companies Inversiones, Seguras y Productivas (INSEPRO) and its sister institution Financiera de Inversiones Seguras y Productivas (FINSEPRO). Mathies Hill was charged with embezzlement and defrauding the public. Galdamez was charged as an accessory. Charges against most of the other 20 associates implicated were eventually dropped because of insufficient evidence. The first estimates set the losses at US$22 million (see EcoCentral, 1997-07-24). Later estimates went as high as US$137 million.

In 1997, the government set up a fund to partially compensate depositors and to cancel FINSEPRO/INSEPRO debts to the central bank. Jose Dimas Quintanilla, president of the fund (Fondo Especial de Afectados del Grupo Insepro (FEAGIN), said after the verdict that the likelihood that the 6,000 depositors would recover much of the US$57 million they lost was "remote." The FEAGIN fund is not large enough and the known FINSEPRO/INSEPRO assets are inadequate. Investor money went to bail out partners' businesses Salvadoran and INTERPOL investigators found that, in 1988, Galdamez and his business associates set up INSEPRO to support their ailing businesses, which included Caribe Motors and Autosal.

INSEPRO attracted deposits by offering exorbitantly high interest rates on savings, then diverted the deposits through a complex scheme of secret transfers to various businesses and banks. Mathies Hill's father was president of Caribe Motors and vice president of Autosal. Galdamez owned Automotriz Sabater, another business that benefitted from the INSEPRO transfers.

In 1993, the partners used INSEPRO funds to set up businesses abroad, turning deposit obligations into covert assets in such places as the US and the US Virgin Islands. With the passage in 1991 of a new banking law aimed at regulating the use of depositors' money, INSEPRO, which was not authorized by the SSF to accept public investments, had to have a sister institution to accumulate the funds. INSEPRO partners then formed (FINSEPRO) under SSF authorization with Mathies Hill as its president. FINSEPRO then channeled additional funds to INSEPRO so it could keep meeting depositor demand on the high-interest accounts.

Investigators believe that some of the money was sent to offshore banks in Barbados, Luxembourg, Miami, Switzerland, and the US Virgin Islands and invested in businesses and real estate in El Salvador, the Caribbean islands, the US, and elsewhere. An example of how the funds were used to help the businesses belonging to the partners is Galdamez's purchase of a US$1.2 million building.

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Galdamez claimed the money came from an unsecured loan. But investigators said they found a document in a "bunker" at Automotriz Sabater that showed the company owed INSEPRO US$1.2 million. INSEPRO had no record of such a loan.

Accused says missing funds were invested in El Salvador

Galdamez claimed during the trial that the missing money was still in El Salvador, safely and legitimately invested in Salvadoran enterprises. However, the FINSEPRO/INSEPRO files showing how the funds were invested are missing. Going into the trial, the investigation convinced Attorney General Belisario Artiga that FINSEPRO/INSEPRO had also used their scattered covert investment schemes to launder drug money. The Legislative Assembly set up a special committee to investigate the fraud. But committee member Deputy Kirio Waldo Salgado said the attorney general's investigation was focused too narrowly and should have included a possible cover-up of the scandal by former officials in the administration of President Armando Calderon Sol (1994-1999), such as former attorney general Manuel Cordova Castellanos. Salgado said Cordova and others knew of money laundering but did not report it.

Another member of the committee, Deputy Ruben Zamora, complained that the attorney general had never passed information from its investigation on to the committee. The result of the weak investigation and the acquittals was that the systems failed, leaving the Salvadoran people to pay for the bank losses, he said.

Following the acquittal, legal experts and the attorney general began asking whether the use of juries of conscience should be abolished. Police chief Mauricio Sandoval said he was surprised that the jury reached a verdict within 48 hours because legal experts had said it would take the jury 10 to 12 days of deliberations to sift through the mountain of evidence. Attorney General Artiga accepted the jury's verdict and closed the FINSEPRO/INSEPRO case. However, he said it was "ridiculous" to leave trials involving technical matters in the hands of a jury, one in this case that lacked the ability to understand the evidence.

The jury was composed of a lawyer, an accountant, two bookkeepers, and a homemaker. "I warned from the first day that the people on the jury were not the best choices," said Artiga. "The lesson to be drawn from this is that the institution of the jury ought to disappear in our country." Besides technical competence, Artiga raised the issue of jury tampering. He said "contamination" of a jury is a well-known fact in El Salvador. Artiga's campaign to end the use of juries has acquired some support in the legislature and from Interior Minister Bertrand Galindo, who said he would send a reform proposal to the Assembly.

Judge Levis Italmir Orellana, who presided in the trial, said that the jury members had the ability to understand the juridical and financial technicalities of the case and that the jury system was an "exercise in democracy." At the same time, he recognized that verdicts such as this one could raise questions. Mathies Hill and four other former directors still face a charge brought by Carlos Perla, president of the Administracion Nacional de Acueductos y Alcantarillados (ANDA), of defrauding ANDA of US$1.7 million in 1997.

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In addition, Attorney General Artiga believes he has new evidence that could return Mathies Hill and Galdamez to court on money-laundering charges.

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