

Legal Review of Expert Evidence in Calculation of State Losses Originating from the Prosecutor's Internal Auditor

Novryantino Jati Vahlevi¹⁾ & Jawade Hafidz²⁾

¹⁾ Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, E-mail: njativahlevi@gmail.com

²⁾ Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, E-mail: jawade@unissula.ac.id

Abstract. *The purpose of this study is to determine and analyze the legal review of expert evidence on the calculation of state losses originating from the prosecutor's internal auditor. To determine and analyze the obstacles to the legal review of expert evidence on the calculation of state losses originating from the prosecutor's internal auditor and its shortcomings. This study uses a normative legal approach. Normative legal research is research conducted by examining library materials (secondary data) or library legal research. Type The study in this research is more descriptive and analytical in nature. The sources and types of data in this study are secondary data obtained from literature studies. The data is analyzed qualitatively. Based on the results of the research that Legal review of expert evidence on calculating state losses comes from the prosecutor's internal auditor is carried out with the stages of the criminal justice process which begins with an investigation by the prosecutor's investigator, continues with the investigation process, and ends with the transfer of the case files and the suspect to the public prosecutor. The obstacle to the legal review of expert evidence for calculating state losses originating from the prosecutor's internal auditor is the Probative Value of Expert Evidence from the Auditor's Internal Auditor in Corruption Cases because the judge may argue that the results of the calculation of state losses are not objective. To overcome this obstacle, in the formulation of legal regulations for the prosecutor's internal auditor as an expert on state losses in corruption crimes, it is necessary to provide regulations equivalent to the Law so that the principle of fast, simple and low-cost justice can be achieved.*

Keywords: Internal; Legal; Prosecutor's; Review.

1. Introduction

Law, is a word that according to the Big Indonesian Dictionary has the meaning 1. Regulations or customs that are officially considered binding, which are confirmed by the ruler or government; 2. Laws, Regulations, and so on to regulate social interaction; 3. Benchmarks (Rules, Provisions) regarding certain events (Nature and so on); 4. Decisions (Considerations) determined by the judge (in court); Verdict. On this matter, there is much debate among experts regarding the definition of law. In principle, the understanding or definition of law is very difficult to formulate in the most perfect limits. This is based on the fact that law has many aspects and always follows the development of the times. Immanuel Kant¹ as quoted by Van Apeldoorn reminds that almost all legal experts are looking for the most appropriate definition of law (..Noch Suchen Die Juristen Eine Definition Zu Ihrem Begriffe Von Recht..). However, whatever the definition, according to CST Kansil Law has the following elements²:

- a. Regulations regarding human behavior in social interactions.
- b. These regulations are implemented by official competent bodies.
- c. The regulation is mandatory.
- d. Sanctions for violating these regulations are strict.

Then according to CST Kansil, to be able to recognize the law, we must be able to recognize the characteristics of the law, namely:

- a. The existence of orders and/or prohibitions
- b. These orders and/or prohibitions must be obeyed by everyone.

Everyone is obliged to act in such a way in society, so that order in society is maintained as well as possible. For this reason, law includes various regulations that determine and regulate the relationships between people and each other, namely the rules of social life which are called legal rules, anyone who deliberately violates a legal rule will be subject to sanctions. Thus, the law has a regulatory and coercive nature. Laws are rules of social life that can force people to obey the rules of society and provide strict sanctions (in the form of punishment) against those who do not want to obey them.

Thus, the law aims to ensure legal certainty in society and the law must also be based on justice, namely the principles of justice in that society.³.Mertokusumo⁴,

¹Van Apeldoorn, Introduction to Legal Science, Pradnya Paramita. Jakarta. 1999. Page 1

²Kansil, CST and Kansil, Cristine, Introduction to Indonesian Law and Legal System, Second Edition, Balai Pustaka. Jakarta, 2003. Pp. 38-39

³Fence M. Wantu, Introduction to Legal Science, Reviva Cendekia, 2015, p. 5

⁴Ibid, p. 5

mentions that there are 3 (three) elements of legal ideals that must exist proportionally, namely legal certainty (*Rechtssicherheit*), Justice (*Gerechtigkeit*), and Benefit (*Zweckmasigkeit*). These legal ideals are a unity, cannot be separated one by one, all three must be attempted to exist in every legal regulation. In its implementation, the three elements of the legal ideal need each other, Justice cannot be achieved if the society is chaotic or disorderly, public order requires legal certainty, conversely legal certainty is useless if it turns out that the law is unjust and not beneficial to society. Law is interpreted as determining what must be done and or what may be done and what is prohibited, the target of the law to be achieved is not only a person who is considered to have violated the law, but also legal acts will occur, and to the state apparatus to act in accordance with the law.⁵

Apart from the objectives of law, according to Ahmad Ali, law also has functions, which are differentiated as follows:⁶:

- 1) The function of law as a tool of social control.
- 2) The function of law as a tool of social engineering.
- 3) The function of law as a symbol.
- 4) The function of law as a political instrument.
- 5) The function of law as an integrator.

In Indonesia itself, with all the diversity and heterogeneity of its society, various kinds of legal regulations are made according to their needs. In the classification according to its content, Law in Indonesia is divided into public law and private law. Public Law is the law that regulates the relationship between citizens and citizens, citizens and state apparatus, citizens and the state, state apparatus and state apparatus. Public law includes criminal law, constitutional law, state administrative law, international law, agrarian law and military law. While private law is the law that regulates the relationship between one person and another with an emphasis on civil law, private law includes civil law, state administrative law, international law and agrarian law.⁷.

This time, the author will focus on Criminal Law in Indonesia, which in short according to Moeljatno, the definition of criminal law as part of the entire law in force in a country that establishes the basis and regulates provisions regarding acts

⁵AA Parimita, Gede Khrisna Putra, Edward Thomas Lamury, The Authority of the Corruption Eradication Commission in Wiretapping to Reveal Corruption Cases, *Kertha Negara: Journal of Legal Studies*, Volume 7 Number 8 2019, p. 3

⁶Ali, Ahmad, *Unveiling the Veil of Law*, PT. Gunung Agung, Jakarta. 2002. P. 101.

⁷Sahat, Maruli T.Situmeang, *Indonesian Legal System: Legal Substance and Institutional Components in Criminal Justice*, Logoz Publishing. Year 2020, p. 77.

that may not be carried out, are prohibited with the threat of criminal sanctions for anyone who does them, when and in what cases those who have violated the prohibition can be subject to criminal sanctions and in what way the imposition of criminal sanctions can be carried out.⁸ In Indonesia, criminal law is divided into two types, namely in a codification book (KUHP) which is general criminal law and spread across various laws on certain matters which are special criminal law.⁹ Material Criminal Law is the entirety of criminal law regulations, the contents of which indicate criminal events accompanied by the threat of punishment for violations.¹⁰ An act can be declared a criminal act if it fulfills two elements, namely:

- a. The objective element is the existence of actions regulated by criminal law regulations.
- b. The subjective element is the existence of a person or perpetrator who is responsible for the act, namely the perpetrator intended the act to occur, if he can be held responsible he can be blamed, so the main element is regarding the error, the person must be blamed.

Furthermore, Criminal Procedure Law is the entire legal regulation that regulates how law enforcement agencies implement and maintain criminal law. According to R. Soesilo, the definition of criminal procedure law or formal criminal law is a collection of legal regulations that contain provisions regulating the following matters:¹¹:

- a. How to take action if there is a suspicion that a crime has occurred, how to find out the truth about what crime has been committed.
- b. Once it is clear that a crime has been committed, who and how should search for, investigate and prosecute the people suspected of being guilty of the crime, and how to arrest, detain and examine those people.
- c. How to collect evidence, inspect and search buildings and other places and confiscate the items to prove the suspect's guilt.
- d. How the judge examines the defendant in court until a criminal sentence can be imposed
- e. By whom and in what manner the decision to impose a criminal sentence must be implemented and so on or in short it can be said that it regulates how to

⁸Moeljatno, Principles of Criminal Law, Rineka Cipta, Jakarta, 2008, p.1

⁹Sahat Maruli Tua Situmeang, Detention of Suspects Discretion in the Criminal Justice Process, Logoz Publishing, Bandung, 2017 p. 38

¹⁰Bachsan Mustafa, Integrated Indonesian Legal System, PT Citra Aditya Bakti, Bandung, 2016, p.139

¹¹R. Soesilo, Criminal Procedure Law, Politeia, Bogor, 1981, p. 3

maintain or implement material criminal law, so as to obtain a judge's decision and how the contents of the decision must be implemented.

And it is known that evidence in criminal procedure law in Indonesia is regulated in the Criminal Procedure Code, namely Article 184 paragraph 1 of Law Number 8 of 1981, which details the types of evidence in criminal procedure law, namely as follows:

- 1) Witness testimony
- 2) Expert testimony
- 3) Letter
- 4) Instruction
- 5) Defendant's statement.

In this regard, against the "Expert" Evidence in corruption cases, the Prosecutor as a law enforcer who is given the burden of proof in court, is obliged to prove the Charges and Allegations against the Defendant who committed the Corruption Crime. The term corruption comes from one word in Latin, namely *corruption* or *corruptus* which is copied into English as *corruption* or *corrupt*, in French as *corruption* and in Dutch as *corruptive* (*korruptie*).¹² Kartini Kartono said that corruption is the behavior of individuals who use authority and position to gain personal gain, harming public and state interests.¹³

In proving the Defendant's actions, the Prosecutor can ask an Expert to help him convince the judge that the Defendant is guilty. One of the Experts who can be asked for assistance is the State Financial Calculation Expert as stated in the Republic of Indonesia Law Number 15 of 2006 concerning the Audit Board of Indonesia Article 10 paragraph (1) BPK assesses and/or determines the amount of state losses caused by unlawful acts, whether intentional or negligent, carried out by treasurers, BUMN/BUMD managers, and other institutions or bodies that manage state finances. However, in the Corruption Case of the Sale of Former PDAM Wastewater Assets at the Regional Finance Agency in the Cirebon City Government in 2018 & 2019, during the evidence the Public Prosecutor used the Internal Auditor from the West Java High Prosecutor's Office, This is to provide legal certainty as some negative views still accompany Law Enforcement Officers by the Community in Indonesia who feel that anti-corruption activists, especially law enforcers, are still half-hearted so that they do not run optimally because law

¹²Adami Chazawi, *Material and Formal Criminal Law of Corruption in Indonesia*, 2nd Edition, Bayu Media, Malang, 2005, p.1

¹³Mahardika, Firman Wijaya, *Legal Study of the Preventive Function of the Corruption Eradication Commission in Eradicating Criminal Acts of Corruption in Electronic Procurement of Goods and Services in DKI Jakarta Province*, *Adigama Law Journal*, Volume 1 No 2, January 2018, p.3

enforcers are being manipulated by interested parties such as the Police, Prosecutors, Lawyers to Corruption perpetrators, the result is that Corruption is not decreasing but is actually growing in this country¹⁴

So this research was conducted to determine and analyze the evidentiary value of the expert auditor's testimony from the prosecutor's internal auditor in the case of corruption in the form of irregularities in the sale of former PDAM wastewater assets at the Regional Finance Agency in the Cirebon City Government in 2018 & 2019.

2. Research methods

This research uses a normative legal approach. Type The study in this research is more descriptive and analytical in nature.¹⁵ The sources and types of data in this study are secondary data obtained from literature studies. The data is analyzed qualitatively.

3. Results and Discussion

3.1. The Evidential Value of the Expert Auditor's Evidence from the Internal Auditor of the Prosecutor's Office in the Corruption Case of Misappropriation of the Sale of Former PDAM Wastewater Assets at the Regional Finance Agency in the Cirebon City Government in 2018 & 2019.

The Proof System in Criminal Procedure Law in Indonesia uses a Negative Proof System which is a system of proof in front of the court so that a criminal sentence can be imposed by a judge, must meet two absolute requirements, namely sufficient evidence and the judge's conviction. Thus, the availability of evidence alone is not enough to sentence a suspect. Conversely, even though the judge is quite sure of the suspect's guilt, if there is no sufficient evidence, the judge cannot impose a sentence. This negative proof system is explicitly recognized by the Criminal Procedure Code through Article 183 which states:¹⁶

"A judge may not sentence a person to a crime unless, with at least two valid pieces of evidence, he or she is convinced that a crime has actually occurred and that the defendant is guilty of committing it."

As is known, evidence in criminal procedure law is regulated in the Criminal Procedure Code, namely Article 184 paragraph 1 of Law Number 8 of 1981 which details the types of evidence in criminal procedure law, namely as follows:

1) Witness Statement

¹⁴A. Ahsin Thohari, (Not) Holding Back the Smoke of Eradicating Corruption in Indonesia, Indonesian Legislation Journal, Volume 8 No.2, 2011, pp. 340-321.

¹⁵Bambang Waluyo, 1996, Legal Research in Practice, Sinar Grafika, Jakarta, p.8

¹⁶Munir Fuady, Criminal and Civil Evidence Law Theory, PT Citra Aditya Bakti, Bandung, 2012 p. 2.

- 2) Expert Statement
- 3) Letter
- 4) Instruction
- 5) Defendant's Statement

That based on Article 184 paragraph 1 of the Criminal Procedure Code, expert testimony is a valid evidence. Which is placed after the witness's testimony, seeing the layout, the lawmakers consider it as one of the important evidence in criminal examination. Referring to the provisions of Article 1 number 28 of the Criminal Procedure Code, Expert testimony is information given by a person who has special expertise on matters needed to clarify a criminal case for the purposes of examination. Then in the provisions of Article 186 of the Criminal Procedure Code, expert testimony is what an expert states in court.

According to the provisions of Article 186 of the Criminal Procedure Code, in the explanation it is stated that this expert testimony can also have been given at the time of examination by the Investigator, or Public Prosecutor which is stated in a form of report and made with the oath at the time he received the position or job. If it is not given at the time of examination by the Investigator and Public Prosecutor, then at the examination at the expert hearing, he is asked to provide information and recorded in the Examination Report. The information is given after he takes an oath or promise before the Judge. Referring to the provisions of the Criminal Procedure Code, the expertise of a person who provides expert information is not only based on the knowledge he has through formal education, but that expertise can also be obtained based on his experience. It should be noted that the Criminal Procedure Code distinguishes between an expert's testimony in court and written expert testimony delivered before the court hearing. Other provisions provide a definition of an expert witness, namely from the California Evidence Code the definition of "an expert" as follows; *"A person is qualified to testify as an expert if he has special knowledge, skill, experience, training, or education sufficient to qualify him as an expert on the subject to which his testimony relates."*¹⁷ (A person may provide information as an expert if he has sufficient knowledge, expertise, experience, training or special education to meet the requirements as an expert on matters related to his information). This also needs to be taken into account regarding the strength of expert witness evidence, which is inseparable from the provisions of Article 161 paragraph (1) of the Criminal Procedure Code, expert witnesses must be sworn in when providing their information, because without being sworn in, their information is considered as an additional form of belief by the judge to be taken into consideration as a strength of proof.

¹⁷Andi Hamzah, 2004, Criminal Procedure Law, Sinar Grafika, Jakarta, p. 268-269.

Expert testimony as valid evidence according to the law is only regulated in one article as formulated in Article 186 of the Criminal Procedure Code. To find and discover a broader understanding, it can be linked to the articles of the Criminal Procedure Code, starting from Article 1 number 28, Article 120, Article 133, Article 179 and Article 180.

In the Proof Procedure of a Criminal Case, there is still an important thought that the case is proven materially, whereas the process of collecting evidence by paying attention to formal requirements is no less important to support the Material Proof. As it is known as *Bewijsvoering* is a theory that explains how to submit evidence to a judge in court. The method of submitting this evidence is quite important and gets attention, especially for countries that use the due process model in their criminal justice system. According to Eddy OS Hiariej, "In the due process model, the state highly upholds human rights, especially the rights of a suspect, so that a suspect is often acquitted by the court judge during a pretrial hearing because the evidence was obtained in an illegal manner or commonly called unlawful legal evidence".¹⁸

Information this concept tends to be more formal, so that it often ignores the facts and truths that exist. For example, the story told by the Professor of Sociology of Law at Diponegoro University, Satjipto Rahardjo in an article entitled "Lesser Known Police". The article tells the story of a frustrated police officer when he saw his fugitive escape only because of legal technicalities. The story begins when a police officer finds a drug dealer who is making a transaction with someone who is a buyer of the drugs. Seeing this, the police immediately ambush the dealer, but when he was ambushed, without hesitation, the dealer immediately swallowed the drugs he was going to sell. Because of the dealer's actions, the police took the dealer to the hospital. At the hospital, the dealer's stomach contents were pumped and in the end the drugs that the dealer was going to sell came out and the dealer was immediately processed. Long story short, when the dealer was questioned by the court, the court actually acquitted the dealer because the police's method of obtaining evidence was contrary to the law (unlawful legal evidence).¹⁹

The story above is a problem in *bewijsvoering*, which questions how to submit evidence to the judge, how to obtain evidence to be submitted to the judge. The issue of *bewijsvoering* in the world is an issue that has received quite a lot of public attention, including in Indonesia.

That the Case Position of the Corruption Case of Misappropriation of the Sale of Former PDAM Wastewater Assets at the Regional Finance Agency in the Cirebon City Government in 2018 & 2019 is as follows:

¹⁸Eddy OS Hiariej, 2012, *Theory and Law of Evidence*, Jakarta, Erlangga, p.20

¹⁹Ibid, p. 20-21

1) That initially on September 24, 2016, the Tirta Giri Nata PDAM of Cirebon City sent a letter Number: 658.31/620-PDAM regarding Wastewater Management to the Mayor of Cirebon, then the Tirta Giri Nata PDAM of Cirebon City sent a letter Number: 658-31/18-PDAM dated January 13, 2017 regarding Submission of Data and Request for Suggestions and Opinions. Financial and Development Supervisory Agency (BPKP) Representative Office of West Java Province, then the BPKP Representative Office of West Java Province issued a Letter of Assignment Number: ST-314/PW10/4/2017 dated February 10, 2017 concerning Clearance of Wastewater Assets of Cirebon City PDAM. From the implementation of the letter of assignment, the BPKP Representative Office of West Java Province issued a Review Report on the Results of the Inventory and Clearance of Wastewater Assets of Cirebon City PDAM Number: LR-79/PW10/4/2017 dated March 15, 2017.

2) That then the Cirebon City Government issued Regional Regulation Number 4 of 2017 concerning Amendments to Regional Regulation Number 4 of 2012 concerning Regional Drinking Water Companies dated August 9, 2017, but this Regional Regulation does not refer to the Report on the Results of the Review of the Results of the Inventory and Clearance of Wastewater Assets of the Cirebon City PDAM Number: LR-79 / PW10 / 4/2017 dated March 15, 2017, then the Mayor of Cirebon issued a Decree of the Mayor of Cirebon Number: 028.05 / KEP.419-BKD / 2017 dated November 6, 2017 concerning the Establishment of a Validation and Reconciliation Team for the Transfer of Wastewater Facilities and Infrastructure from the Tirta Giri Nata Regional Drinking Water Company to the Cirebon City Regional Government and then the Mayor of Cirebon issued a letter Number: 658.31 / 1663 / BKD dated November 9, 2017 concerning the Transfer of Facilities and Infrastructure Wastewater Infrastructure to the Public Works and Public Housing Agency of Cirebon City and the Tirta Giri Nata Drinking Water Company of Cirebon City based on Regional Regulation Number 4 of 2017.

3) That furthermore the Board of Directors of PDAM Tirta Giri Nata, Cirebon City formed a Companion Team based on the Letter of Assignment Number: 658.31/ST.III.I-Perumda.AM dated April 30, 2018 concerning the Companion Team for Validation and Reconciliation of the Transfer of Wastewater Facilities and Infrastructure from Perumda Air Minum Tirta Giri Nata to the Cirebon City Government, with the intention of supporting the assistance in the preparation of the transfer of assets and management of wastewater from PDAM Tirta Giri Nata, Cirebon City to the Cirebon City Government, the task of the Companion Team from PDAM Tirta Giri Nata, Cirebon City is to prepare wastewater asset inventory data to the Cirebon City Regional Finance Agency as the Head of the Asset Validation and Reconciliation Team, furthermore the Companion Team from PDAM Tirta Giri Nata, Cirebon City together with the Validation Team from the Cirebon City Government conducted a field survey and coordination meeting related to wastewater assets from July 23, 2018 to July 25, 2018. 2018, but no

Physical Asset Inspection Minutes were made and only an attendance list was made.

4) That the Cirebon City Regional Finance Agency then sent a letter Number: 005/1199-BKD/2018 dated August 6, 2018 regarding Coordination and Forum Group Discussion to PDAM Tirta Giri Nata Cirebon City, then on August 13, 2018 a Forum Group Discussion was held at the Naripan Hotel Bandung and the signing of the Minutes of Physical Inspection of Wastewater Assets of Perumda Air Minum Tirta Giri Nata Cirebon City Number: 028/BA.16/BKD/2018 and Number: 658.31/BA.13.1-Perumda.AM/2018 dated August 13, 2018, then the Cirebon City Regional Finance Agency sent a letter Number: 005/1365-BKD/2018 dated September 12, 2018 regarding the Signing of the Minutes of Handover of Wastewater Assets to PDAM Tirta Giri Nata Cirebon City Cirebon, then at the Tirta Giri Nata PDAM Office in Cirebon City on September 18, 2018, the signing of the Minutes of Handover of Wastewater Assets Number: 658.31/19-Perumda.AM/2018 and Number: 028/BA.01/BMD/BKD/2018 was carried out, one of the assets of which was 3 (three) units of Sewer Pump Machines and 2 (two) units of Screw Pump Machines between Witness SOFYAN SATARI as the President Director of Tirta Giri Nata PDAM in Cirebon City with Witness SUKIRMAN as the Head of the Cirebon City Regional Finance Agency based on Regional Regulation Number 4 of 2017 concerning Amendments to Regional Regulation Number 4 of 2012 concerning Regional Drinking Water Companies with a total asset value of IDR 21,275,074,068.60 (twenty one billion two hundred seventy five million seventy four thousand sixty eight point sixty rupiah) with details of Goods assets of IDR 20,362,488,928.87 (twenty billion three hundred sixty two million four hundred eighty eight thousand nine hundred twenty eight point eighty seven rupiah), assets of Severely Damaged Goods amounting to IDR 968,002,957.38 (nine hundred sixty eight million two thousand nine hundred fifty seven point thirty eight rupiah), assets of Destroyed Goods amounting to IDR 139,056,907.59 (one hundred thirty nine million fifty six thousand nine hundred seven point fifty nine rupiah), then Goods Proposed to be Reused amounting to IDR 376,686,954.55 (three hundred seventy six million six hundred eighty six thousand nine hundred fifty four point fifty five rupiah).

5) That on November 9, 2018, the signing of the Minutes of Physical Handover of Severely Damaged and Destroyed Wastewater Assets from PDAM Tirta Giri Nata, Cirebon City to the Cirebon City Regional Finance Agency worth IDR 1,608,164,076.29 (one billion six hundred eight million one hundred sixty four thousand seventy six point twenty nine rupiah) with Minutes Number: 028 / BA.37 / BMD / BKD / 2018 and Number: 658.31 / BA.21.1-Perumda.AM / 2018. Based on the Minutes of Physical Handover of Severely Damaged and Destroyed Wastewater Assets, there are 5 (five) locations, namely the Ade Irma Suryani Oxidation Pond with details of KIB B worth IDR 801,250,637.38 (eight hundred one million two hundred fifty thousand six hundred thirty seven point thirty eight

rupiah), KIB C worth IDR 314,472,179.65 (three hundred fourteen million four hundred seventy two thousand one hundred seventy nine point sixty five rupiah) and KIB D worth IDR 424,891,093.13 (four hundred twenty four million eight hundred ninety one thousand ninety three point thirteen rupiah) with a total amount of IDR 1,540,613,910.16 (one billion five hundred forty million six hundred thirteen thousand nine hundred ten point sixteen rupiah). Then the Kesenden Oxidation Pond with details of KIB D worth IDR 15,302,320.00 (fifteen million three hundred two thousand three hundred twenty rupiah), then the Gelatik Oxidation Pond KIB A worth IDR 14,179,000.00 (fourteen million one hundred seventy nine thousand rupiah) and finally the Tirta Giri Nata PDAM Office, Cirebon City worth IDR 38,068,846.13 (thirty eight million sixty eight thousand eight hundred and forty six point thirteen rupiah).

6) That in February 2019, the Defendant WIDIANTORO SIGIT RAHARDJO, SS TP, MM Bin (Alm) IMAN SANTOSO as the Head of Regional Property Division at the Cirebon City Regional Finance Agency ordered the Defendant RUKIDA alias PEDRO Bin RADIMAN as the Building Demolition Contractor to dismantle and transport goods in the form of iron from former PDAM Tirta Giri Nata Wastewater assets in Cirebon City located at the Kesenden Pump Station in the form of Screens and Water Gates (High Pressure Washing Equipment) with a purchase value of IDR 15,302,320.00 (fifteen million three hundred two thousand three hundred and twenty rupiah) and on the same day at the Ade Irma Suryani Pump Station to pick up goods in the form of a booster pump and iron and bring and store them in the warehouse belonging to the Defendant RUKIDA alias PEDRO Bin RADIMAN in the Tengah Tani area of Cirebon Regency using a pick-up car with the aim of selling them to the Defendant WIDIANTORO SIGIT RAHARDJO, SS TP, MM Bin (the late) IMAN SANTOSO.

7) That on July 8, 2019, the Defendant WIDIANTORO SIGIT RAHARDJO, SS TP, MM Bin (Alm) IMAN SANTOSO issued a Letter of Assignment Number: 090/137-BMD/BKD/2019 dated July 8, 2019 to carry out the task of Security and Assistance in the Framework of the Elimination and Transfer of Regional Property in Severely Damaged Condition to the Regional Property Team, namely:

1. KARMAN, S.Sos.	(Head of Utilization and Disposal).
2. MM.	(Head of Utilization and Disposal Section).
3. ARIEF RAMANDHANI, SPd.	(Head of Utilization and Disposal Section).
4. DADAN WINDY DJUNAEDI, SE.	(Head of Utilization and Disposal Section).
5. PERY SANDI IRIANTO, SH.	(Head of Utilization and Disposal Section).
6. Other Elements	Technical Implementer of Security and Assessment (Attached).

8) That in the attachment to the letter of assignment, the Defendant WIDIANTORO SIGIT RAHARDJO, SS TP, MM Bin (Alm) IMAN SANTOSO appointed the Defendant RUKIDA Alias PEDRO Bin RADIMAN as the Building Demolition Contractor to be the Executor of Security for Regional Property (Heavily Damaged) Scrap Waste Water located at the Ade Irma Suryani Pump House by cutting and

taking pieces of iron and the Booster Pump from part 3 (three) units of the Sewer Pump Machine to be taken to the private warehouse belonging to the Defendant RUKIDA Alias PEDRO Bin RADIMAN in the Tengah Tani area of Cirebon Regency.

9) That furthermore, the Defendant WIDIANTORO SIGIT RAHARDJO, SS TP, MM Bin (Alm) IMAN SANTOSO sold the former wastewater assets of PDAM Tirta Giri Nata, Cirebon City without going through the procedure for selling regional property assets as determined by law in the form of: Trailer Mounted Light Vacuum Tanks with an acquisition value of IDR 119,692,070.47 (one hundred and nineteen million six hundred and ninety two thousand seventy point forty seven rupiah) sold for IDR 7,500,000.00 (seven million five hundred thousand rupiah), several remaining parts of the Bucket Machine Supply of Sewer Maintenance Equipment (Part II) with an acquisition value of IDR 110,787,257.90 (one hundred and ten million seven hundred and eighty seven thousand two hundred and fifty seven point ninety rupiah) sold for IDR 7,500,000.00 (seven million five hundred thousand rupiah) and 1 (one) set of Screen and High Pressure Washing Equipment water gate with an acquisition value of IDR 15,302,320.00 (fifteen million three hundred two thousand three hundred and twenty rupiah) and pieces of iron frame of the building at the Ade Irma Pump Station were sold for IDR 10,000,000.00 (ten million rupiah). From the total proceeds from the sale of the former PDAM Wastewater assets of IDR 25,000,000.00 (twenty five million rupiah), the Defendant WIDIANTORO SIGIT RAHARDJO, SS TP, MM Bin (the late) IMAN SANTOSO then gave money to the Defendant RUKIDA Alias PEDRO Bin RADIMAN of IDR 2,500,000.00 (two million five hundred thousand rupiah) and the remainder of IDR 22,500,000.00 (twenty two million five hundred thousand rupiah) was used by the Defendant WIDIANTORO SIGIT RAHARDJO, SS TP, MM Bin (the late) IMAN SANTOSO for personal interests.

10) That subsequently in July 2019 there was a change in the Head of the Regional Assets Division at the Cirebon City Regional Finance Agency, which was previously held by the Defendant WIDIANTORO SIGIT RAHARDJO, SS TP, MM Bin (the late) IMAN SANTOSO, replaced by the Defendant LOLOK TIVIVANTO, SE. Msi. Bin (Alm) DONG ABDURAHMAN based on the Decree of the Mayor of Cirebon Number: 821.23 / KEP.256-BKPPD / 2019 dated July 10, 2019. Furthermore, on August 27, 2019, the Regional Property Team conducted a survey to the location of wastewater assets at the Ade Irma Suryani Pump House and the former PMI Ade Irma Suryani Maternity House Building together with the Defendant ANTON Bin (Alm) ARWADI as the Building Demolition Contractor and a Survey Results Report Number: 028/171-BMD dated August 27, 2019 was made. Furthermore, a Minutes of Assessment of Other Inventory Goods Number: 028 / BA.02 / PP / IX / 2019 dated September 4, 2019 concerning Considerations for the Transfer and Elimination of PDAM Tirta Giri Nata Wastewater Assets, Cirebon City.

11) That on September 4, 2019, Witness ANWAR SANUSI as the Acting Regional Secretary of Cirebon City issued a letter Number: 028/2935-BKD dated September 4, 2019 concerning the Application for Approval of the Transfer and Disposal of Regional Property to the Mayor of Cirebon without going through a careful check, resulting in the Mayor of Cirebon issuing and signing a Letter Number: 028/2936/BKD concerning the Approval of the Disposal and Transfer of Regional Property which in essence approved the Application for the Disposal and Transfer of Regional Property, which in the letter included the Sewer Pump located at the Ade Irma Suryani Pump House, Cirebon City, as if the Sewer Pump was still intact (not cut into pieces and not sold).

12) That on September 9, 2019, the Defendant LOLOK TIVIYANTO, SE. MSi. Bin (Alm) DONG ABDURAHMAN issued a Letter of Assignment Number: 090/184-BMD/BKD/2019 dated September 9, 2019 to carry out the task of Security and Assistance in the Framework of Asset Assessment of Land, Leased Buildings, Former Building Materials/Office Buildings to be Rebuilt and/or Rehabilitated/In the Process of Deletion/Rehabilitation/And Transfer of Inventory Goods Owned by the Cirebon City Regional Government to the Regional Assets Team, namely:

1. KARMAN, S.Sos.	(Head of Utilization and Disposal).
2. AJMI NUR ILMANIA, SE. MM	(Head of Utilization and Disposal Section).
3. ARIEF RAMANDHANI, S.Pd.	(Head of Utilization and Disposal Section).
4. DADAN WINDY DJUNAEDI, SE.	(Head of Utilization and Disposal Section).
5. PERY SANDI IRIANTO, SH.	(Head of Utilization and Disposal Section).
6. Other Elements	Technical Implementer of Security and Assessment (Attached).

13) That in the attachment to the Assignment Letter, the Defendant LOLOK TIVIYANTO, SE. MSi. The son of (the late) DONG ABDURAHMAN appointing the Defendant ANTON Bin (Alm) ARWADI as the Technical Executor for the Demolition of PDAM's Severely Damaged Assets in Ade Irma Suryani to carry out the dismantling (cutting into pieces) and sale of 3 (three) units of Sewer Pump Machines from the Ade Irma Suryani Pump House and 2 (two) units of Screw Pump Machines from the Rinjani Pump House.

14) That furthermore based on the letter of assignment, the Defendant ANTON Bin (Alm) ARWADI asked for assistance from Witness HERI PRAMONO as the sibling of Witness ANTON Bin (Alm) ARWADI to work on the dismantling and sale of 3 (three) units of Sewer Pump Machines consisting of 2 (two) Iron Wheels and 1 (one) that was no longer intact, 2 (two) Drive Machines and 1 (one) that was no longer intact, 3 (three) Snail Irons including the drain pipe in the pool, and WF Iron for the board base that was together with the snail-shaped iron from the Ade Irma Suryani Pump House by cutting it into pieces using a welding machine and selling it directly to Witness SARWEDI as a scrap collector for IDR 61,375,200.00 (sixty one million three hundred seventy five thousand two hundred rupiah), while for 2 (two) units of Screw Pump Machines from the Rinjani Pump House were sold

directly to Witness SARWEDI for IDR 6,785,000.00 (six million seven hundred and eighty five thousand rupiah).

15) That the money from the sale of scrap iron from the Sewer Pump Machine amounting to IDR 61,375,200.00 (sixty one million three hundred seventy five thousand two hundred rupiah) was not deposited into the Cirebon City Government Regional Treasury but was instead used by the Defendant LOLOK TIVIYANTO, SE. MSi. The son of (the late) DONG ABDURAHMAN with pretexts and reasons, among others, to pay:

1. Operational/Third Party Costs:

Information	Unit	Price		Amount Paid (Rp)
Craftsman	4	150,000	4	2,400,000
Wind Tube	9	60,000		540,000
Tube	6	72,500		435,000
Shop Welding Equipment				1,280,200
Thug Services				2,000,000
Car Rental and Gasoline				1,500,000
AMOUNT				8,155,200

2. Assisting the Leader includes:

Information	Amount Paid (Rp)
Vehicle Registration Certificate	1,700,000
Car Tax	1,700,000
Tax 588	1,700,000
Motorbike Tax	420,000
PAJERO Polish	675,000
AMOUNT	6,195,000

3. Help with case costs including:

Information	Amount Paid (Rp)
Evacuation Operations	20,000,000
Decision Making	500,000
Gincu Building Evacuation	750,000
Panjunan's Appreciation	10,000,000
Amount	31,250,000
Total Amount of Expenditure	45,600,200
Net Remainder	15,775,000

16) And only deposited into the Cirebon City Government Regional Treasury in the amount of IDR 15,775,000.00 (fifteen million seven hundred seventy five thousand rupiah) based on the Deposit Receipt Number: 14/STS/BKD/X/2019 dated October 22, 2019. While the proceeds from the sale of 2 (two) Screw Pump units from the Rinjani Pump House amounted to IDR 6,785,000.00 (six million seven hundred eighty five thousand rupiah) by the Defendant LOLOK TIVIYANTO, SE. MSi. The son of (the late) DONG ABDURAHMAN not deposited again into the Cirebon City Regional Treasury and instead used under the pretext and reasons for operational activities of the Regional Property Sector.

17) That consequence Defendant's actions LOLOK TIVIYANTO, SE. MSi. Bin (late) DONG ABDURAHMAN together with the Witness ANTON Bin (Alm) ARWADI and the Defendant WIDIANTORO SIGIT RAHARDJO, SS TP, MM Bin (the late) IMAN

SANTOSO together with the Defendant RUKIDA alias PEDRO Bin RADIMAN has caused losses to the State Finances amounting to IDR 93,161,200.00 (ninety three million one hundred sixty one thousand two hundred rupiah) based on Audit Result Report of the Specific Purpose Auditor Team of the West Java High Prosecutor's Office Number: R-06/H.VI.3/08/2022 dated August 8, 2022. In the context of calculating state financial losses in cases of alleged corruption in the form of irregularities in the sale of former PDAM wastewater assets at the Regional Finance Agency in the Cirebon City Government in 2018 and 2019, with details of state losses:

No	Information	Mark
1.	Sales of Green Screens (High Pressure Washing Equipment), Trailer Mounted Light Vacuum Tanks, Bucket Machine Supply Of Sewer Maintenance Equipment.	IDR 25,000,000,-
2.	Direct sales of 3 Set Pump Machines (EX-PEMDA) and 3 Set Perumnas Screw Pumps (EX-PEMDA).	IDR 68,161,200,-
Amount of State Financial Losses		IDR 93,161,200,-

That in the Corruption Case of Misappropriation of the Sale of Former PDAM Wastewater Assets at the Regional Finance Agency in the Cirebon City Government in 2018 & 2019, the Team of Prosecutors and Investigators at the Cirebon City District Attorney's Office used a State Loss Expert from the West Java High Prosecutor's Office Auditor as an effort to adhere to the principle of fast, simple and low-cost justice as stipulated in Article 2 paragraph 4 of Law No. 48 of 2009 concerning Judicial Power so that Legal Certainty is created. The Cirebon City District Attorney's Office Investigator Team in handling the above case, did not then use the West Java High Prosecutor's Office Internal Auditor as an Expert in the first choice in handling the Corruption Case of Misappropriation of the Sale of Ex-Wastewater Assets at the Regional Financial Agency in the Cirebon City Government in 2018 & 2019, this happened after the Cirebon City District Attorney's Office Investigator Team asked for Expert Assistance in Calculating State Losses to the BPK RI MAIN AUDITORATE OF INVESTIGATION REGIONAL FINANCIAL INVESTIGATION AUDITORATE, BPKP West Java Province and the Cirebon City Inspectorate but did not get the support needed. So the Cirebon City District Attorney's Office Prosecutor Team used the Internal Audit Expert from the West Java High Prosecutor's Office to calculate the state losses mentioned above.

Furthermore, the State Financial Loss Expert who provided information in the Expert Examination Minutes in the Cirebon City District Attorney's Office Case File in the Sewer Pump Case and in the Trial with Case Number 97/Pid.Sus-TPK/2022/PN Bdg an Defendant Widiantoro Sigit Rahardjo, Case Number 98/Pid.Sus-TPK/2022/PN Bdg an Defendant Rukida alias Pedro Bin Radiman, Case Number 99/Pid.Sus-TPK/2022/PN Bdg an Defendant Lolok Tiviyanto, and Case Number 100/Pid.Sus-TPK/2022/PN Bdg an Defendant Anton Bin Alm Arwadi is Mr. Kadek Aditya Pramana SE, M.Ak. That Mr. Kadek Aditya Pramana SE, M.Ak is a Junior Auditor at the Assistant for Supervision of the West Java High Prosecutor's Office when providing expert testimony whose duties and functions include:

- 1) Conducting a Review and Audit of Financial Management in the regional work units of the West Java High Prosecutor's Office and the District Prosecutors' Offices throughout West Java.
- 2) Conducting Financial Report Reviews and Audits in the regional work units of the West Java High Prosecutor's Office and District Prosecutors' Offices throughout West Java.
- 3) Conducting Audits for Specific Purposes in Calculating State Financial Losses in corruption cases.

The following are the skills certifications that are held, among others:

1. Register of State Accountants with Number: RNA 12337 issued by the Secretariat General of the Center for Development of Financial Professions, Ministry of Finance.
2. First Expert Auditor Certification Number: SERT-13087/JFA-AI/04/X/2015 dated November 6, 2015.
3. Junior Auditor Certification Number: SERT-13657/JFA-KT/02/IV/2021 dated May 21, 2021.

In addition, Mr. Kadek Aditya Pramana SE, M.Ak. has experience in providing expert testimony at the trial, namely:

- 1) 2018: as an expert in the alleged corruption case of the construction of the main/connecting road between Ngovi and Bonemarawa villages, Rio Pakava sub-district, Donggala district in 2017 at the Directorate General of PKP2TRANS, Ministry of Villages, Development of Disadvantaged Regions and Transmigration of the Republic of Indonesia with a total loss of IDR 1,485,301,150.45,
- 2) 2019: as an expert in a criminal case of corruption in village fund allocation (ADD) in Bunta village in Banggai sub-district with a total loss of IDR 877,000,000,
- 3) 2019: as an expert in a corruption case in the construction of the TransBanggai Bunta road with a total loss of IDR 467,800,000.
- 4) 2020: as an expert in a corruption case of alleged misappropriation of the use of the 2018 and 2019 budgets in waste management at the Cirebon City Environmental Service with a total loss of IDR 332,384,176,71,
- 5) 2020: as an expert in a corruption case in the 2 (two)-story Nutrition Laboratory Building Renovation Construction Project, Cilolohan Campus, Poltekes, Ministry of Health of the Republic of Indonesia in 2017 with a total loss of IDR 131,701,032.63

6) 2021: as an expert in the corruption case of Misappropriation in the Procurement of Fingerprint Attendance Machines at Elementary Schools and Junior High Schools throughout Ciamis Regency in the 2017/2018 Budget Year with a total loss of IDR 804,315,000,

That the data/evidence/documents used in calculating state financial losses in the case of Alleged Corruption Crimes of Misappropriation of the Sale of Former PDAM Wastewater Assets at the Regional Finance Agency in the Cirebon City Government in 2018 and 2019, are as follows:

1) Photocopy of the Regulation of the Board of Directors of the Tirta Giri Nata Regional Drinking Water Company of Cirebon City Number: 4 of 2018 concerning Procedures for the Disposal of Fixed Assets of the Tirta Giri Nata Regional Drinking Water Company of Cirebon City dated July 6, 2018.

2) Photocopy of the Regulation of the Board of Directors of the Tirta Giri Nata Regional Drinking Water Company of Cirebon City Number: 01 of 2019 concerning Procedures for Securing Fixed Assets of the Tirta Giri Nata Regional Drinking Water Company of Cirebon City dated May 29, 2019.

3) The Inventory Card of Goods (KIB) belonging to the Cirebon City Drinking Water Company includes:

- a. CUDP II Land, Kesenden Location and Ade Irma Suryani IPAL, CUDP III Land, Kesenden Location.
- b. CUDP II Equipment and Machinery Ade Irma Suryani.
- c. CUDP III Equipment and Machinery Locations Kesenden and South Perumnas and North Perumnas.
- d. CUDP II Building and Structures Ade Irma Suryani Location.
- e. CUDP III Buildings and Structures, Kesenden Location, North Perumnas and South Perumnas.
- f. Roads, Irrigation, and CUDP II Networks Ade Irma Suryani Location.
- g. Roads, Irrigation, and CUDP III Networks, Kesenden Location, North Perumnas and South Perumnas Ade Irma Suryani.

4) Photocopy of Minutes of Handover of Wastewater Assets Between SOPYAN SATARI, SE., MM. as the President Director of the Regional Public Company Tirta Giri Nata Drinking Water of Cirebon City with H. SUKIRMAN, SE., MM. as the Head of the Regional Finance Agency of Cirebon City Number: 658.31/19-Perumda.AM/2018 and Number 028/BA.01/BMD/BKD/2018 dated September 18, 2018 along with its attachments.

- 5) Photocopy of the Audit Report on the Financial Report of the Cirebon City Government by the Indonesian Audit Board dated June 30, 2008 along with its attachments.
- 6) Photocopy of the Review Report on the Inventory and Clearance Results of PDAM Wastewater Assets of Cirebon City from the BPKP Representative Office of West Java Province Number: LR-79/PW10/4/2017 dated March 15, 2017.
- 7) Photocopy of Minutes Number: 024/BA.23-Perumda.AM/2019 concerning Handover of Vehicle in the form of 1 (one) Pick Up Car with Police No.: E 8036 A dated September 25, 2019 along with its attachments.
- 8) Service Note Number: 028/171-BMD dated August 27, 2019 from the Head of Regional Assets Division to the Head of the Cirebon City Regional Finance Agency regarding the Report on the results of the survey of the location of wastewater assets (Ade Irma Riool Pump) and the former PMI Ade Irma Maternity House building and its attachments.
- 9) Decree of the Mayor of Cirebon Number: 821.22/255-BKPPD/2019 Concerning Transfer/Reappointment to the Position of High-Level Pratama (Echelon II.b) in the Cirebon City Regional Government dated July 10, 2019.
- 10) Decree of the Mayor of Cirebon Number: 032/Kep.457-BKD/2019 concerning the Determination of the Write-off of Severely Damaged Wastewater Assets of the Former Regional Public Drinking Water Company Tirta Giri Nata, Cirebon City in 2019 dated December 31, 2019 along with its attachments.
- 11) Minutes of Valuation of Other Inventory Goods Number: 028/BA.02/PP/IX/2019 dated September 4, 2019.
- 12) Photocopy of Minutes of Handover of Inventory Goods Belonging to the Cirebon City Government Number: 028/948/BKD-2019 dated July 9, 2019 between H. SUKIRMAN, SE. MM. as Head of the Cirebon City Regional Finance Agency with Drs. AGUS MULYADI, M. Si. as Plt. Head of the Public Works and Spatial Planning Service of Cirebon City along with its attachments.
- 13) Minutes of Transfer of Goods to be Deleted in the Cirebon City Regional Government Environment in 2019 Number: 028/BA.04a-PPP/X/2019 dated October 8, 2019.
- 14) Deposit Certificate (STS) of the Regional Finance Agency (BKD) of the Cirebon City Government Number: 14/STS/BKD/X/2019 Account Number: 0000290653001 Bank Jabar Banten Deposit amount of IDR 15,775,000.00 (fifteen million seven hundred and seventyfive million rupiah) dated 10-22-2019.
- 15) Minutes of Utilization and Management of State Property Between Ir. BUSTAMI, MM. from the Directorate of Environmental Health Development of

Settlement Directorate General of Human Settlements Ministry of Public Works and Public Housing and Drs. ASEP DEDI, M.Sc. from Cirebon City Government Number: HK.02.03/PPLPS/232/II/2016 and Number: 539/BA.14-Adm.Perek dated 17-02-2016 along with its attachments.

16) Regional Regulation No. 4 of 2017 concerning Amendments to Regional Regulation No. 4 of 2012 concerning Regional Drinking Water Companies (P2D PDAM Air Limbah) of the Cirebon City Regional Finance Agency.

17) Letter from the Mayor of Cirebon Number: 028/2936/BKD regarding Approval of the Removal and Transfer of Regional Property dated September 5, 2019.

18) Cirebon City Regional Secretariat Letter Number: 028/2935-BKD regarding Application for Approval of Transfer and Disposal of Regional Property dated September 4, 2019.

19) Decree of the Mayor of Cirebon Number: 032/Kep.497-BKD/2019 concerning the Determination of the Write-off of Severely Damaged Wastewater Assets of the Former Regional Public Drinking Water Company Tirta Giri Nata, Cirebon City in 2019 dated December 31, 2019 along with its attachments.

20) Report on the Results of the Public Complaint Investigation Audit Regarding the Loss of Regional Assets in the Form of 3 (three) Riool Pump Units in Cirebon City from the Cirebon City Regional Inspectorate Number: 700/LH.083-SEKRE/2021 dated September 2, 2021.

21) Recapitulation of Goods to the Balance Sheet of the Cirebon City Regional Financial Agency as of December 31, 2018.

22) Recapitulation of Inventory Cards for Goods (KIB) A Land, (KIB) B Equipment and Machinery, (KIB) C Buildings and Structures, and (KIB) D Roads, Irrigation, and Networks, Cirebon City Regional Finance Agency in 2018, 2019 and 2020.

23) Other Asset Inventory Book of Cirebon City Regional Finance Agency.

24) Results of the Inventory of Other Assets of the Cirebon City District Attorney's Office Team Reviewing the Field of Handover of Wastewater P2D from PDAM to the Cirebon City Government amounting to IDR 1,608,164,076.29,

25) Details of the transfer of assets from the Cirebon City Regional Finance Agency to the DPUPR in 2019.

26) Photocopy of letter from Tirta Giri Nata Regional Drinking Water Company Number: 690/63.2-Perumda.AM dated January 31, 2019 regarding Reused Wastewater Facilities and Infrastructure.

27) Report on Depreciation of the Cirebon City Regional Finance Agency in 2018, 2019 and 2020.

Then, from the results of the examination, the Expert found that there was an unlawful act, namely violating the Regulation of the Ministry of Home Affairs Number 19 of 2016 concerning Guidelines for the Management of Regional Property, including:

Article 339 paragraph (1)"The sale of regional property is carried out by auction, except in certain cases", paragraph (4) Exceptions in certain cases as referred to in paragraph (1) include:

- a. Regional assets of a special nature in accordance with statutory regulations.
- b. Other regional assets as further determined by the Governor/Regent/Mayor.

Verse (6)Other regional assets, as referred to in paragraph (4) letter b, include:

- a. land and/or buildings to be used for public interest;
- b. land plots which according to the initial procurement plan are used for the construction of housing for civil servants of the relevant regional government, as stated in the Budget Implementation Document (DPA);
- c. other than land and/or buildings as a result of force majeure;
- d. a building standing on another party's land which is sold to another party who owns the land;
- e. results of demolition of buildings or buildings to be rebuilt; or
- f. other than land and/or buildings that do not have proof of ownership with a maximum fair value of IDR 1,000,000 (one million rupiah) per unit.

Sales made of other assets violate Article 339 paragraph (1) where every sale of state property must be carried out by auction, except in certain cases. Article 339 paragraph (4) Exceptions in certain cases letter b Other regional property as further determined by the Governor/Regent/Mayor and in Article 339 paragraph (6) There are no points that can be met to carry out direct sales.

Based on the facts that occurred, there were sales of other assets under the control of the BKD which were sold directly not in accordance with the Regulation of the Ministry of Home Affairs Number 19 of 2016 concerning Guidelines for the Management of Regional Property, and the results of the direct sales were not reported in writing and did not become Non-Tax State Revenue.

From the results of the examination, the Expert found that there was a state financial loss of IDR 93,161,200,- (Ninety three million one hundred sixty one thousand two hundred rupiah) due to the sale of other assets that were sold directly which did not become Non-Tax State Revenue which was not in

accordance with the Regulation of the Ministry of Home Affairs Number 19 of 2016 concerning Guidelines for Management of Regional Property, which consists of:

- a. *Trailer Mounted Light Vacuum Tanks* at a price of IDR 7,500,000,- (seven million five hundred rupiah)
- b. *Bucket Machine Supply of Sewer Maintenance Equipment* at a price of IDR 7,500,000,- (seven million five hundred rupiah).
- c. One set of green screen (High Pressure washing equipment) and pieces of iron frame for the building at the Ade Irma Pump Station for IDR 10,000,000,- (Ten million rupiah).
- d. The iron pieces of Ade Irma's sewer pump are as big as IDR 61,375,200,- (Sixty one million three hundred seventy five thousand two hundred rupiah).

Rinjani Screw Pump Discount of IDR 6,785,000.00 (Six million seven hundred and eighty five rupiah).

That the method used in calculating state financial losses is using the Net Loss Method, in accordance with the Regional Financial Agency Balance Sheet which states that other assets are included in the category of severely damaged/lost/other conditions, but goods that are stated to be severely damaged/lost/other conditions still have economic value so that there is a sale of other assets that are severely damaged/lost/other conditions which should be a state revenue that can be measured in real and definite terms. So that the value of the state financial loss that we can conclude is IDR 93,161,200, - (ninety-three million one hundred sixty-one thousand two hundred rupiah) which is carried out by sales activities that are not in accordance with the procedures of the Ministry of Home Affairs Regulation Number 19 of 2016 concerning Guidelines for Management of Regional Property.

Regarding this matter, the Public Prosecutor proved that Article 3 Jo. Article 18 of the Republic of Indonesia Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption Jo. Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption Jo. Article 55 paragraph (1) point 1 of the Criminal Code in his demands, the following Panel of Judges in the Decision with Case Number 97/Pid.Sus-TPK/2022/PN Bdg an Defendant Widiatoro Sigit Rahardjo, Case Number 98/Pid.Sus-TPK/2022/PN Bdg an Defendant Rukida Alias Pedro Bin Radiman, Case Number 99/Pid.Sus-TPK/2022/PN Bdg an Defendant Lolok Tiviyanto, and Case Number 100/Pid.Sus-TPK/2022/PN Bdg an Defendant Anton Bin Alm Arwadi, agreed to prove Article 3 Jo. Article 18 of the Republic of Indonesia Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption Jo. Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia

Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in its Decision. In the four Decisions mentioned above, in the considerations of the judges in the Expert & State Financial Loss Elements section, one of the main points is to agree and refer to the following matters:

1) Based on the opinion of auditor expert KADEK ADITYA PRAMANA, SE, M.Ak who explained that the defendant's actions in selling regional government assets without going through an auction are contrary to Article 339 paragraph 1 of the Regulation of the Minister of Home Affairs of the Republic of Indonesia No. 19 of 2016 which states that "The Sale of Regional Property is carried out by auction, except in certain cases", paragraph 4 Exceptions in certain cases as referred to in paragraph (1) include: Regional property that is special in accordance with laws and regulations and other regional property that is further determined by the Governor/Regent/Mayor. Based on Article 339 paragraph (6) There are no points that can be met to carry out direct sales, including letter f which states that exceptions to goods that can be sold without auction are goods other than land and/or buildings that do not have proof of ownership with a maximum fair value of IDR 1,000,000 (One million Rupiah) per unit. That based on the trial facts, the goods sold by the Defendant Widianoro Sigit Rahardjo together with RUKIDA alias Pedro, namely in the form of Iron Pieces and Booster Pumps from 3 (three) Sewer Pump Machine units were sold for Rp10,000,000,- (Ten Million Rupiah), Trailer Mounted Light Vacuum Tanks were sold for Rp7,500,000,- (Seven Million Five Hundred Thousand Rupiah) and Bucket Machine Supply Of Sewer Maintenance Equipment (Part II) was sold for Rp7,500,000,- (Seven Million Five Hundred Thousand Rupiah), so that the Total Sales Proceeds amounted to Rp25,000,000,- (Twenty Five Million Rupiah) each of which had a sales value exceeding Rp1,000,000,- (One Million Rupiah) so that it did not fall into the category of goods that could be sold without auction, all of which were not deposited into the regional treasury. Considering, that as explained in Article 32 paragraph 1 of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, and or referring to the Circular of the Supreme Court Number 4 of 2016, it can be concluded that in terms of real financial losses, losses that can be calculated based on the findings of the authorized agency or appointed public accountant, even in certain circumstances the judge can assess the existence and extent of state financial losses based on trial facts. That in the aquo case, the Panel of Judges is of the opinion that the value of the proceeds from the sale of goods by the Defendant amounting to IDR 25,000,000 (Twenty Five Million Rupiah) all of which were not deposited into the regional treasury are calculated as State Financial Losses.

Based on the opinion of auditor expert KADEK ADITYA PRAMANA, SE, M.Ak who explained that the defendant's actions in selling regional government assets

without going through an auction are contrary to Article 339 paragraph 1 of the Regulation of the Minister of Home Affairs of the Republic of Indonesia No. 19 of 2016 which states that "The Sale of Regional Property is carried out by auction, except in certain cases", paragraph 4 Exceptions in certain cases as referred to in paragraph (1) include: Regional property that is special in accordance with laws and regulations and other regional property that is further determined by the Governor/Regent/Mayor. Based on Article 339 paragraph (6) There are no points that can be met to carry out direct sales, including letter f which states that exceptions to goods that can be sold without auction are goods other than land and/or buildings that do not have proof of ownership with a maximum fair value of IDR 1,000,000 (One million Rupiah) per unit. That based on the trial facts, the goods sold by the Defendant Lolok Tiviyanto together with Anton Bin Alm Arwadi, namely 2 (two) Screw Pump Machine Units were sold at a price of IDR 6,785,000,- (Six Million Seven Hundred Eighty Five Thousand Rupiah) and 3 Sewer Pump Machine Units consisting of 2 Iron Wheels and 1 piece that was not intact, 2 Drive Machines and 1 piece that was not intact, 3 Snail Iron including a drain pipe in the pool, and WF Iron for the board base which was together with the snail-shaped iron was sold at a price of IDR 61,375,200,- (Sixty One Million Three Hundred Seventy Five Thousand Two Hundred Rupiah) which was not deposited into the Cirebon City Government Regional Treasury. From the total proceeds from the sale of former PDAM Wastewater assets amounting to Rp 68,161,200,- (Sixty Eight Million One Hundred Sixty One Thousand Two Hundred Rupiah) each of which has a sales value exceeding Rp 1,000,000,- (One Million Rupiah) so that it does not fall into the category of goods that can be sold without auction, all of which were not deposited into the regional treasury. Considering, that in the aquo case the Panel of Judges agrees with the expert opinion which is used as the basis for the prosecution for the Public Prosecutor in the aquo case that the calculation of state financial losses is calculated from the proceeds from the sale of former PDAM Wastewater assets that were not deposited into the regional treasury of Cirebon City. However, the panel of judges did not agree with the calculation of the expert auditor of state financial losses presented at the trial which was used by the Public Prosecutor in his charges by not taking into account the money that had been deposited into the Cirebon City Government Regional Treasury amounting to IDR 15,775,000,- (Fifteen Million Seven Hundred Seventy Five Thousand Rupiah) based on Deposit Receipt Number 14/STS/BKD/X/2019 dated October 22, 2019 as a reduction in state financial losses in this case. Considering that therefore based on the considerations as mentioned above, The actions of the Defendant Lolok Tiviyanto together with the witness Anton Bin Alm Arwadi constitute actions that have caused state financial losses of IDR 52,385,000,- (Fifty Two Million Three Hundred Eighty Five Thousand Rupiah) in real terms, so that the element of "Which is detrimental to state finances or the state economy", as stipulated in Article 3 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended and supplemented by Law Number 20 of 2001 concerning

Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption has been fulfilled.

That from the considerations regarding the Statement of the Expert on Calculation of State Financial Losses above, the following conclusions can be drawn:

1) Expert Statement on Calculation of State Financial Losses from the Internal Auditor of the West Java High Prosecutor's Office, namely Mr. Kadek Aditya Pramana, SE, M.Ak in the Decision of Case Number 97/Pid.Sus-TPK/2022/PN Bdg an Defendant Widiatoro Sigit Rahardjo, Case Number 98/Pid.Sus-TPK/2022/PN Bdg an Defendant Rukida Alias Pedro Bin Radiman, Case Number 99/Pid.Sus-TPK/2022/PN Bdg an Defendant Lolok Tiviyanto, and Case Number 100/Pid.Sus-TPK/2022/PN Bdg an Defendant Anton Bin Alm Arwadi has Probative Value as evidence based on the Judge's consideration because it has fulfilled the minimum principle of proof regulated in Article 183 of the Criminal Procedure Code, namely supported by other evidence of at least 2 pieces of evidence (including expert evidence for Calculation of State Losses) to convince the judge in the case above, proven by the juxtaposition of the sentence between "statement expert in Calculating State Losses with sentences based on trial facts which are of course based on other evidence, namely Witness Statements, Letters, Instructions, Defendant's Statements and not forgetting the Evidence presented by the Public Prosecutor at the trial".

2) Although the Expert Statement on Calculation of State Financial Losses came from the Internal Auditor of the West Java High Prosecutor's Office, namely Mr. Kadek Aditya Pramana, SE, M.Ak in Decision Number of Case 97/Pid.Sus-TPK/2022/PN Bdg an Defendant Widiatoro Sigit Rahardjo, Number of Case 98/Pid.Sus-TPK/2022/PN Bdg an Defendant Rukida Alias Pedro Bin Radiman, Number of Case 99/Pid.Sus-TPK/2022/PN Bdg an Defendant Lolok Tiviyanto, and Number of Case 100/Pid.Sus-TPK/2022/PN Bdg an Defendant Anton Bin Alm Arwadi has Probative Value as evidence, but the Panel of Judges did not immediately use all of the Expert Statements as considerations in determining the State Financial Losses that were accounted for by the Defendants, because the Panel of Judges in determining the State Financial Losses still considered Other Evidence based on Article 184 of the Criminal Procedure Code and Evidence based on Article 39 KUHAP, as in the case of Defendant Lolok Tiviyanto & Defendant Anton Bin Alm Arwadi, it is known that Defendant Lolok Tiviyanto has deposited Rp15,775,000,- (Fifteen Million Seven Hundred Seventy Five Thousand Rupiah) based on Deposit Receipt Number 14/STS/BKD/X/2019 dated October 22, 2019 which was then used by the Panel of Judges as a reduction in state financial losses from the Total State Loss in the case of Rp68,161,200,- (Sixty Eight Million One Hundred Sixty One Thousand Two Hundred Rupiah) so that it becomes Rp52,385,000,- (Fifty Two Million Three Hundred Eighty Five Thousand Rupiah), This shows that the Panel of Judges has the Freedom to Assess the Expert Evidence

of the Internal Auditor of the West Java High Prosecutor's Office as an Expert in Calculating State Financial Losses.

3.2. Lack of Evidence of Expert Auditor's Statement from the Internal Auditor of the Prosecutor's Office in the Case of Corruption of Misappropriation of the Sale of Former PDAM Wastewater Assets at the Regional Finance Agency in the Cirebon City Government in 2018 & 2019

That in practice, according to the Author, there are several shortcomings of the Expert Auditor's Evidence from the Internal Auditor of the Prosecutor's Office in the Corruption Case of Misappropriation of the Sale of Former PDAM Wastewater Assets at the Regional Finance Agency in the Cirebon City Government in 2018 & 2019:

- a. It seems to have no clear legal basis
- b. Tends to Look Not Objective

That the Internal Auditor of the West Java High Prosecutor's Office as an Expert in Calculating State Financial Losses in the aquo case and other cases, his existence and position seem weak and do not have a clear legal basis. In the aquo case, it was proven that starting from the pre-trial stage, the Exceptions and Defenses of the Defendants and/or their Legal Counsel questioned the Existence and Expert Statement of the Internal Auditor of the West Java High Prosecutor's Office because based on Law of the Republic of Indonesia Number 15 of 2006 Concerning the Audit Board of Indonesia Article 10 paragraph (1) the BPK assesses and/or determines the amount of state losses caused by unlawful acts, whether intentional or negligent, carried out by treasurers, managers of BUMN/BUMD, and other institutions or bodies that manage state finances. Even in the case of alleged corruption in the sale and transfer of asset rights of the Cirebon City Development Regional Company in the form of land measuring 6,137m² located in the Siwodi Block, Sunyaragi Village, Kesambi District, Cirebon City, in the Decision of Case Number 12/Pid.Sus-TPK/2024/PN Bdg an Defendant Drs H. Edy Jumhana Cholil, MM which is also being handled by the Prosecutor Team from the Cirebon City District Attorney's Office, the Panel of Judges stated that the Internal Audit Expert from the West Java High Prosecutor's Office as an Expert in Calculating State Finances does not have the authority to calculate State Finance Losses so that the Calculation of State Finance Losses from the Expert must be rejected, and the judge took over the Calculation of State Finance Losses.

In addition, other problems will arise if the State Financial Calculation Expert from the Internal Auditor of the West Java High Prosecutor's Office is confronted with the Defendant and/or the Defendant's Legal Counsel who has the power/capacity or strength to present the State Financial Calculation Expert from the BPK, BPKP, and/or Independent Public Accountant.

However, it all comes back to the extent to which the expert's statement and other evidence are able to convince the panel of judges. Because in reality the Internal Audit Expert of the West Java High Prosecutor's Office meets the qualifications and definition as an Expert in Calculating State Financial Losses based on Article 32 of the Corruption Law, Article 1 paragraph 28, Article 184 letter b, & Article 186 of the Criminal Procedure Code, as follows in the Decision of Case Number 97/Pid.Sus-TPK/2022/PN Bdg an Defendant Widianoro Sigit Rahardjo, Case Number 98/Pid.Sus-TPK/2022/PN Bdg an Defendant Rukida Alias Pedro Bin Radiman, Case Number 99/Pid.Sus-TPK/2022/PN Bdg an Defendant Lolok Tiviyanto, and Case Number 100/Pid.Sus-TPK/2022/PN Bdg an Defendant Anton Bin Alm Arwadi, the Panel of Judges agreed and used the Statement of the Internal Audit Expert of the West Java High Prosecutor's Office as the Value Calculation of State Financial Losses, as the Decision of the Panel of Judges in the aquo case, is a Law and can be used by another Panel of Judges as a Legal Basis to decide on a Case whose Expert in Calculating State Financial Losses comes from the Internal Auditor of the West Java High Prosecutor's Office as Jurisprudence.

That as explained in the previous chapter, the burden of proof belongs to the Public Prosecutor including in the case above, when viewed from an objective perspective, it can be a debate, because in the aquo case, from the investigation stage to the execution, all the series involve the role of the Public Prosecutor. That starting from the Investigator, Investigator, Public Prosecutor is a Team of Prosecutors from the Cirebon City District Attorney's Office, especially the Expert in Calculating State Financial Losses, namely the Internal Auditor of the West Java High Prosecutor's Office who can also be said to be part of the Team of Prosecutors from the Cirebon City District Attorney's Office, although according to the Law it is indeed permitted but in terms of thought, the Cirebon City District Attorney's Team will definitely carry out the settlement for the benefit of Handling the Case so that it is successful with the condition of prioritizing the Presumption of Guilt including in the aquo case, however this is limited by the Principle of Presumption of Innocence adopted by the Criminal Procedure Code. The principle of "presumption of innocence" or presumption of innocence is found in the general explanation of the Criminal Procedure Code, point 3 letter c. By including the presumption of innocence in the explanation of the Criminal Procedure Code, it can be concluded that the legislators have determined it as a legal principle underlying the Criminal Procedure Code and law enforcement. The principle of presumption of innocence reviewed from a technical legal perspective or from an investigative technical perspective is called the "accusatory principle" or accusatorial procedure (accusatorial system), the principle of accrual places the position of the suspect/defendant at each level of examination:²⁰

²⁰M Yahya Harahap, 2018, Discussion of Problems and Implementation of Criminal Procedure Code in Examination of Court of Appeal, Cassation and Review, Sinar Grafika, p. 274

- Is a subject; not an object of examination, therefore the suspect or defendant must be seated and treated in the position of a human being who has dignity and self-respect.
- The object of examination in the accusatory principle is the "error" (criminal act) committed by the suspect/defendant, this is the direction the examination is directed towards.

With the principle of presumption of innocence adopted by the Criminal Procedure Code, providing guidelines for law enforcement officers to use the principle of accusature in every level of examination, law enforcement officers distance themselves from the methods of examination that are "inquisitorial" or inquisitorial system that places suspects / defendants in examination as objects that can be treated arbitrarily. The following in providing his statement, the Internal Audit Expert of the West Java High Prosecutor's Office conducted a Calculation of State Financial Losses with an objective Method according to the standards for State Financial Loss Calculation Experts (According to the Auditor's knowledge), Certified to have Competence and Experience and without any interference from Investigators, Investigators, Public Prosecutors, or anyone else in Determining State Financial Losses.

4. Conclusion

Based on the results of the research and discussion, it is concluded as follows: The evidentiary value of the expert auditor's testimony from the Internal Auditor of the Prosecutor's Office in the Corruption Case of Misappropriation of the Sale of Former PDAM Wastewater Assets at the Regional Finance Agency in the Cirebon City Government in 2018 & 2019 in the Decision Case Number 97 / Pid.Sus-TPK / 2022 / PN Bdg an Defendant Widianoro Sigit Rahardjo, Case Number 98 / Pid.Sus-TPK / 2022 / PN Bdg an Defendant Rukida Alias Pedro Bin Radiman, Case Number 99 / Pid.Sus-TPK / 2022 / PN Bdg an Defendant Lolok Tiviyanto, and Case Number 100 / Pid.Sus-TPK / 2022 / PN Bdg an Defendant Anton Bin Alm Arwadi has evidentiary value as evidence based on the Judge's considerations. because it has fulfilled the minimum principle of proof stipulated in Article 183 of the Criminal Procedure Code, namely supported by other evidence of at least 2 pieces of evidence (including expert evidence on Calculation of State Losses) to convince the judge in the case above, proven by the juxtaposition of the sentence between "expert testimony on Calculation of State Losses with sentences based on trial facts which are of course based on other evidence, namely Witness Statements, Letters, Instructions, Defendant's Statements and not forgetting the Evidence presented by the Public Prosecutor at the trial".

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