

Legal Analysis of Suspect Determination and Asset Recovery in PIID-PEL Corruption Case, Sukau Kayo Village, Lebong, 2019

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ABSTRACT

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The process of investigating the corruption case of the Village Innovation Incubation Pilot-Local Economic Development (*Program Pilot Inkubasi Inovasi Desa Pengembangan Ekonomi Lokal* - PIID-PEL) in Sukau Kayo Village for the 2019 Fiscal Year has named three suspects and confiscated IDR 71,000,000 in cash (seventy-one million rupiah). The aims of this research are: (1). To understand the process of evaluating evidence to identify suspects in Corruption Crime cases, and (2). To find out how Lebong Police Criminal Investigation Unit Corruption Unit investigators make efforts to return assets for criminal acts of corruption (Asset Recovery) during investigations of Corruption Crimes in PIID-PEL Kemendes PD TT RI activities in Kec. Upper Lebong District. Lebong Fiscal Year of 2019. This type of research is empirical research. By using qualitative methods. Data collection was carried out by in-depth interviews and secondary data collection. The results of this research show: (1) The process of assessing evidence to determine a suspect in this case is by the Investigator and Assistant Investigator assessing 4 (four) pieces of evidence in the form of witness statements, expert statements, letters, and suspect statements, which are based on the results of the assessment. This indicates a legal subject that is suspect and strongly suspected of committing a criminal act of corruption (2) The way investigators from the Corruption Unit of the Lebong Police Criminal Investigation Unit make efforts to return the assets of criminal acts of corruption (Asset Recovery) at the investigation stage is by carrying out asset tracking. (asset tracing) where the results of the investigator's asset tracking activities obtain information about the flow of money and the investigator makes confiscation efforts.

INTRODUCTION

The Government of the Republic of Indonesia, through the Ministry of Villages, Development of Disadvantaged Regions and Transmigration, launched a community empowerment activity program called the Village Innovation Incubation Pilot - Local Economic Development (*Program Pilot Inkubasi Inovasi Desa Pengembangan Ekonomi Lokal* - PIID-PEL) which was implemented in one hundred village locations throughout Indonesia in 2019.¹

PIID-PEL is one of the activities of the Ministry of Villages PDPT RI where this activity is engaged in the field of community empowerment which aims to carry out incubation in the community to encourage productivity and increase the capacity of village communities in carrying out development involving community groups, village economic institutions and professional business actors. (PBP) to improve the welfare and socio-economic independence of village communities.²

Of the hundred villages in Indonesia that received PIID-PEL program assistance in 2019, Sukau Kayo Village, Lebong Atas District, Lebong Regency is one of the villages that received PIID-PEL assistance. Based on the Decree of the Director General of Village Community Development and Empowerment Number 30 of 2019, Sukau Kayo Village received PIID-PEL Activity assistance amounting to IDR 1,283,336,000 (one billion, two hundred and eighty-three million, three hundred and thirty-six thousand rupiah).

PIID-PEL activities in Sukau Kayo Village in 2019 were engaged in corn cultivation and processing where in this activity there were corn planting activities, processing of corn products such as marning, chips and corn flour, as well as incubation or training activities by inviting competent resource persons to increase the capacity of implementing these partnership activities. PIID-PEL activities in Sukau Kayo Village are carried out by the Partnership Activity Implementation Team (TPKK) which consists of several elements in the village community chaired by King Quisen.

In 2021, the Corruption Unit of the Lebong Police Criminal Investigation Unit conducted an investigation into PIID-PEL activities in Sukau Kayo Village for the 2019 Fiscal Year by naming 3 (three) people as suspects, including KQ Bin TA (Alm) as Chair of the TPCK, HDY Bin UM as Secretary of the TPCK and AM Bin SN (late) as the provider with state financial losses amounting to Rp. 767,691,642,- and investigators from the Corruption Unit of the Lebong Police Criminal Investigation Unit have carried out confiscation based on the return of assets in the form of cash amounting to Rp. 71,000,000,- and 1 unit of printer type L3110.³

The asset recovery value-based confiscation carried out by the Corruption Unit of the

¹ <https://pemberdayaan.kulonprogokab.go.id/detil/606/program-piid-pel-kegiatan-unit-perdagangan-dan-produksi-pertanian-bumdesa-binangun-jati-unggul>

² PIID-PEL General Guidelines Page 7

³ Results of Interview with Investigator Brigadier Bermen F. Naibaho S.H., M.H. and observation of case files

Lebong Police Criminal Investigation Unit should be appreciated because it can reduce the amount of financial losses experienced by the state due to corruption committed by the suspects, but when compared with the amount of state financial losses incurred in this case, the amount of assets The recovery that was successfully carried out by Lebong Police Criminal Investigation Unit Corruption Unit investigators was only 9.24% of the state financial losses experienced.

METHOD

This type of research uses a juridical-empirical approach with descriptive-analytical methods. Primary data was obtained from interviews, while secondary data came from literature study. The analysis was carried out qualitatively to understand the process of assessing evidence to identify a suspect and how investigators were trying to recover assets in this case.

RESULT AND DISCUSSION

1. Evidence Assessment Process to Determine Suspects in Corruption Crime Cases for PIID-PEL Activities in Sukau Kayo Village, District. Upper Lebong District

- a. Evidence Assessment Process to Determine Suspects in Corruption Crime Cases for PIID-PEL Activities in Sukau Kayo Village, District. Upper Lebong District

Based on the results of research conducted by the author by interviewing Aipda Investigator Maslikhan and Brigadier Police Bermen F. Naibaho S.H., M.H. and observations of the Letter Of Interview in the case files, research results were obtained in the form of evidence of witness statements from this case with the following details:⁴

- 1) Witnesses from the Ministry of Village of Indonesia, totaling 5 (five) people consisting of 2 (two) Commitment Making Officials and 3 (three) Experts, each of whom is an expert in the field of project capacity building, finance and in the procurement sector in the PIID-PEL program provides information:⁵
 - (a) two Commitment Making Officials for Satker VI a.n. FBA and MLR explained that the source of PIID-PEL funds in Sukau Kayo Village Fiscal Year of 2019 comes from the DIPA of the Ministry of Villages, Development of Disadvantaged Regions and Transmigration Number SP-DIPA 067.03.1.350456/2019, April 22 2019;

⁴ Some Witness Statement of three Case Files of PIID-PEL Resort Lebong Police

⁵ Based on interview with Brigadier Bermen F. Naibaho, S.H., M.H. and observation of case file on March 19th 2024

- (b) The witness explained that based on the Decree of the Director General of PPMD Number: 66 of 2019 dated 16 October 2019, the value of PIID-PEL Assistance in Sukau Kayo Village was IDR 1,283,366,000,-.
 - (c) FBA as the first PPK (before there were changes to the PPK) explained that he signed a Work Agreement Letter with several PIID- PEL Program Assistance Recipients who were mistakenly implementation team from Sukau Kayo Village Lebong District as per Agreement Letter Number: 008/SPK/DPPMD.3/PPK.VI/V/2019, dated 23 May 2019, and the TPKK party who signed the SPK is KQ.
 - (d) The Witnesses of the Partnership Activities Implementation Team (TPKK), totaling 6 (six) people, explained that:⁶ there is some fictitious spending in the implementation of PIID-PEL activities;
 - (e) PIID-PEL activities were not carried out according to the PIID-PEL Operational Technical Guidelines Book, namely in Chapter V point E regarding management of PIID-PEL Assets where the TPKK did not hand over PIID-PEL Assets to BUMDesa Sukau Kayo when the project had ended, violating the technical instructions of the Procurement Book PIID-PEL activity goods and services are precisely in Chapter V points A to C where they are procured unilaterally by the TPKK chairman a.n. KQ, as well as other rules as referred to in the PIID-PEL General and Technical Instruction Book;
 - (f) TPKK officials do not know their duties and responsibilities because most activities are only carried out by the TPKK Chairman a.n. KQ without involving other TPKK's member.
 - (g) There was a distribution of money amounting to IDR 20,000,000,- which was distributed to King, HDY, Sabirudin and RP with each receiving Rp. 5,000,000,- when PIID-PEL activities were still ongoing where the money was distributed by King with the reason money is more than spending from MOL Corporation;
 - (h) Witnesses KQ and HDY admitted that they had enriched themselves from PIID-PEL activities in Sukau Kayo Village For Fiscal Year of 2019
- 2) The witness of PIID-PEL's Incubator named MDY explained that he was the chairman of Dangau Datuk Foundation as the Incubator for PIID-PEL activities in Sukau Kayo village and he has supplied several experts in PIID-PEL training in Sukau Kayo Village. However, based on the Financial Accountability documents shown to him by investigators in the form of several receipts for payments to him amounting to IDR 79,400,000,-, he never received that amount of money, in fact he only received the money given to him by KQ amounting to IDR 8,400,000,-.⁷

⁶ Based on interview with Brigadier Bermen F. Naibaho, S.H., M.H. and observation on case files on March 19th 2024

⁷ Based on interview with Brigadier Bermen F. Naibaho, S.H., M.H. and observation on case files on March 19th 2024

- 3) The witness from Village Empower of Lebong Regency totaling four person, explained that they as the Working Group Team were tasked with facilitating and monitoring PIID-PEL activities in Lebong Regency. For PIID-PEL activities in Sukau Kayo Village. Witness from the District PMD Service. Lebong explained that the Working Group received funds amounting to IDR 26,000,000 to monitor activities at PIID-PEL Sukau Kayo village. The Chairman of the Working Group named Eko Budi Santoso explained that monitoring of the implementation of PIID-PEL in Sukau Kayo Village had already been carried out once but was only limited to visual monitoring.⁸
- 4) The Witness statement from Sukau Kayo Village Chairman named Rekyansa that he never received any inventory items from the TPKK after the end of the implementation period for PIID-PEL activities in Sukau Kayo Village.⁹
- 5) The Witnesses from Providers of PIID-PEL activities consisting of fourteen witnesses on average stated that after being shown several expenditure documents and general cash tabulations, they explained that the real expenditure of TPKK Sukau Kayo in their shop was not as large as it was stated in the document. In particular, witness AM as the provider of CV Material Online admitted that he had collaborated with KQ and HDY who were parties to the TPKK to carry out corrupt PIID-PEL activities in Sukau Kayo Village.

Adjunct Inspector MASLIKHAN and Brigadier BERMEN F. NAIBAHU, S.H., M.H. explained to the author that from the facts obtained from all the statements of 35 witnesses, including 3 (three) crown witnesses, it shows that the 3 (three) suspects a.n. KQ, HDY and AM deserve to be named as suspects in this case.¹⁰

The Investigators named Maslikhan and Bermen F. Naibaho S.H., M.H. conveyed to the author that regarding the assessment of evidence from witness statements in the PIID-PEL case investigation in Sukau Kayo Village, fiscal year 2019 has become a valid and valuable piece of evidence based on the results of the examination of witnesses in this case which shows that there is a correspondence between the existing witnesses regarding the existence of criminal acts of corruption in the implementation of PIID-PEL activities in Sukau Kayo Village for the 2019 Fiscal Year. explained by Investigator Brigadier Bermen F. Naibaho, S.H., M.H., that the basis for evaluating witness statements in this case is considered to be valid and valuable evidence, namely the existence of several things as follows:¹¹

(a) Personal qualities of witnesses who do not have any family relationship with the suspects (including crown witnesses); (b) What the witnesses explained regarding the source of their knowledge and the substance of the content of the witnesses' statements was appropriate because what the witnesses conveyed in this case was something they experienced themselves and was not a story from

⁸ Based on Interview with Investigator named Maslikhan on March 19th 2024

⁹ Based on Interview with Investigator named Maslikhan on March 19th 2024

¹⁰ Based on Interview with Investigator on March 20th 2024.

¹¹ Based on interview with Brigadier Bermen F. Naibaho, S.H., M.H. on March 20th 2024

other people and the substance conveyed by the witnesses in this case was not a estimates but are facts supported by other evidence such as bank statements and other documents; (c) The reason that the witnesses knew what they explained was acceptable with rationality and common sense considering what had been affected by the criminal act of corruption in the 2019 Sukau Kayo Incubation Pilot activities; (d) There is a correspondence between the witness statements and the statements of other witnesses in this case where the witnesses provided information about irregularities in the implementation of PIID-PEL activities in Sukau Kayo Village for the 2019 Fiscal Year and the statements of these witnesses also agree with other evidence.

Apart from witness statements, there are expert statements from 3 (three) experts in this case, including : **(a)** Expert Auditor of the Financial and Development Supervisory Agency (BPKP) Representative of Bengkulu Province named FENDI, S.E. Bin ARKUN FUTANTO (deceased)); **(b)** Criminal expert from Bengkulu University named Dr. HAMZAH HATRIK, S.H., M.H.; **(c)** State Finance Expert from the Directorate General of Treasury, Ministry of Finance of the Republic of Indonesia named SYAKRAN RUDI, SE, MM Bin DARSI AR

Based on the research that has been carried out, the expert information obtained by the author from this research is as follows:¹² **(a)** Fendi, S.E. as an Auditor explained in the letter in the Expert Interview report as followed: As an Expert Auditor, he has expertise in the fields of Accounting and Auditing and he has a Certificate as a Skilled Auditor; The Audit of the Calculation of State Financial Losses in this case was carried out for 35 days, namely from October 3th 2022 to November 18th 2022 based on an Assignment Order from BPKP Head of BPKP Bengkulu Representative dated October 3th 2022; There was six person who carried out the audit consisting of Quality Controller, Technical Controller, and Team Auditor, He Himself was the Team Leader; From the results of the audit which was carried out for 35 days, it was found that there had been a state financial loss from the implementation of PIID-PEL activities in Sukau Kayo Village for the 2019 Fiscal Year amounting to IDR. 767,691,642,- (seven hundred sixty-seven million six hundred and ninety one thousand six hundred and forty two rupiahs). *(This information was conveyed by Expert Auditor a.n. FENDI, S.E., Bin ARKUN FUTANTO in the Expert Interview Report)*. **(b)** The state financial expert named Syakran Rudi explained that in the Expert Interview report as followed : he worked in the Sub-Directorate for Treasury and Legal Business Process Development, Directorate of Treasury Systems, Head Office of the Directorate General of Treasury, Ministry of Finance, Jakarta and he serves as Head of the Sub-Directorate for Treasury and Legal Business Process Development; The PIID-PEL activities in Sukau Kayo Village for the 2019 Fiscal Year are by their nature part of state finances and the shortage of PIID-PEL funds in Sukau Kayo Village for the 2019 Fiscal Year is a State Loss; *(This information was conveyed by State Finance*

¹² Based on interview with Brigadier Bermen F. Naibaho, S.H., M.H. dan observation of case files on BP/87/XII/2022/Reskrim, dated December 9th 2022

Expert named SYAKRAN RUDI, SE, MM Bin DARSI AR in the Expert Interview Report); That the funds that have been distributed to community groups remain part of the State Finances, the management of which is deliberately intended to be managed within community groups with the aim of such management achieving the objectives as stated in the budget allocation for PIID-PEL assistance funds in the State Budget. Under these circumstances, the funds that were not spent by the Activity Implementation Team in this activity in the village of Sukau Kayo for fiscal year of 2019, while the implementation time for PIID-PEL activities ended on December 31st 2019, it remains part of State Finance. (This information was conveyed by State Finance Expert named SYAKRAN RUDI, SE, MM Bin DARSI AR in in the Expert Interview Report). **(c)** According to Criminal Expert of Bengkulu's University named Dr. HAMZAH HATRIK, S.H., M.H. explained that KQ Bin TAUFIK AQSA it is appropriate to be held accountable under criminal law in cases of criminal acts of corruption and MOL Corporation can be categorized as committing corporate crimes based on Article 20 Paragraph (1) and Paragraph (2) of the Corruption Law.

b. Assesment of Documentary Evidence and Circumstate Evidence

Investigator Mr. Maslikhan and Mr. BERMEN F. NAIBAHO, S.H., M.H. explained to the author that in the case of criminal acts of corruption in PIID-PEL activities in Sukau Kayo Village for the 2019 Fiscal Year, there was 1 (one) very important piece of documentary evidence, namely in the form of an Audit Report on Calculating State Financial Losses (LHA-PKKN) issued by the Supervisory Agency Finance and Development (BPKP) Representative of Bengkulu Province on November 28th 2022.¹³

Whereas the LHA-PKKN stated that there was a state financial loss in the implementation of PIID-PEL activities in Sukau Kayo Village for the 2019 Fiscal Year amounting to Rp. 767,691,642,- (seven hundred sixty-seven million six hundred ninety-one thousand six hundred and forty-two rupiah), with the following details: ¹⁴

¹³ Based on interview with Mr. Maslikhan and Mr. Bermen F. Naibaho, S.H., M.H. as The Investigators on March 20th 2024

¹⁴ Based on the result of observation to PIID-PEL's Case Files especially on Audit Result on March 20 2024

Tabel 1. State financial loss in the implementation of
PIID-PEL activities in Sukau Kayo Village for the 2019 Fiscal Year

No	Description	Amount (IDR)
1	Amount of SP2D which have disbursed from PIID- PEL project.	1.283.336.000,-
2	Amount of realization used of funds PIID-PEL project based on audited result	456.660.000,-
3	The difference in use of the PIID-PEL budget is according to the audit results before deducting the tax that has been paid.	826.676.000,-
4	The amount of tax that has been paid by the activity implementation team.	58.984.358,-
5	The amount of state financial losses (3-4)	767.691.642,-

Mr. Maslikhan conveyed to the author that the Audit Result Report on the investigation of this case is included in documentary evidence as intended in Article 187 letter c of the Criminal Procedure Code which:¹⁵

“a statement from an expert containing an opinion based on his expertise regarding a matter or situation that has been officially requested from him.”

Based on the author's analysis, the relationship between the documentary evidence in the form of LHA-PKKN in this case and the determination of 3 (three) legal subjects as suspects, namely the LHA-PKKN evidence, clearly shows the unlawful acts and abuse of authority of the suspects a.n. KQ, HDY and AM for these activities have resulted in real financial losses to the state and can be calculated in the amount of IDR 767,691,642,- (seven hundred sixty- seven million six hundred ninety-one thousand six hundred and forty-two rupiah) , and the three suspects have fulfilled all the elements as stated in the alleged articles, namely Article 2 and Article 3 of Law 31/1999.

Mr. Maslikhan and Mr. Bermen F. Naibaho, S.H., M.H. conveyed to the author that apart from the four pieces of evidence in the form of witness statements, expert

¹⁵ Based on Interview on March 21th 2024

statements, letters and statements from the defendant, investigators also produced materials to form indicative evidence in order to provide the judge with confidence that a criminal act had occurred and the three suspects a.n. KQ, HDY and AM were the ones who did it.¹⁶

Based on information from Investigator Brigadier Bermen F. Naibaho, S.H., M.H. There is a correspondence between one condition and another where: **(a)** There was a correspondence between the statements of all witnesses and the suspect regarding the existence of fictitious shopping and other unlawful acts as previously detail; **(b)** There was a discrepancy between the documentary evidence in the form of LHA-PKKN stating that there was state financial loss with the statements of witnesses and the suspects' statements as to the cause of the state financial loss; **(c)** There was a match between the evidence of the witness's statement, the suspect's statement regarding the flow of funds received by the suspects and supported by the bank statements of the parties which show the existence of cash flow transactions; **(d)** Regarding money flow transactions, the personal bank account documents of the suspects obtained by investigators showing the existence of money flow transactions which are suspected to be the result of corruption in the a quo case can be used as indicative evidence as stated in article 26A of Law Number 20 of 2001.

2. Methods Used by Corruption Crime Investigators at the Lebong Police Criminal Investigation Unit for Asset Recovery Efforts in the PIID-PEL Corruption Case in Sukau Kayo Village, Upper Lebong District, Fiscal Year 2019

Based on information from Mr. Maslikhan and Mr. Bermen F. Naibaho, S.H., M.H. In efforts to return assets for criminal acts of corruption in this case, the efforts made are by force in the form of confiscation of goods in the form of money and goods in the following manner:¹⁷

1) Implement Asset Tracking

Mr. Bermen F. Naibaho, S.H., M.H. explained to the author that the initial step taken by Investigators and Assistant Investigators in the alleged PIID-PEL corruption case in Sukau Kayo Village for the 2019 Fiscal Year was to carry out asset tracing. The activity of tracking assets for criminal acts of corruption is carried out by collecting information from witnesses and 3 (three) suspects. According to Mr. Maslikhan as The Corruption Eradication Committee's Head of Corruption Eradication of Assets is not immediately revealed, but requires material information from witnesses who are aware of the flow of money. Mr. Maslikhan

¹⁶ Based on Interview on March 20th 2024

¹⁷ Based on interview with Mr. Maslikhan and Mr. Bermen F. Naibaho, S.H., M.H. as The Investigators on March 20th 2024

also explained that the history of asset tracking can be known one by one, starting from the investigation stage and further developed at the investigation stage. He also revealed that the history of the flow of money from the investigation of this case could be revealed after the Investigator/Assistant Investigator obtained evidence of bank statements from the suspect AM at the investigation stage.¹⁸

The Investigators explained that in the bank statement documents belonging to Mr. AM, who was obtained for the first time, investigators saw several irregularities in the suspect AM's personal checking account from the period 01 September 2019 to 31 December 2019, where there was a difference between the balance amount entered in the suspect AM's checking account, which amounted to IDR 217,250,000,- while the report in the Realization Report on the Use of PIID-PEL funds by TPKK is Rp. 297,650,000,-.

The Investigators explained that based on the results of document analysis of bank statements and supported by an examination of the suspect AM, it was discovered that the funds amounting to Rp. to AM's account, in fact in connection with this project it is only used for:¹⁹

1. Purchase agricultural equipment at the Main Machinery shop in Rejang Lebong Regency by transferring money totaling IDR 90,150,000 (Ninety million one hundred and fifty thousand rupiah)
2. Purchase goods at the Sumber Anugrah shop for IDR 7,750,000 (seven million seven hundred and fifty thousand rupiah) with cash payment.
3. Purchase facilities related to activities from providers located in Jakarta in the amount of IDR 10,500,000 (ten million five hundred thousand rupiah).

So in reality MOL Corporation only purchased facilities and infrastructure related to Pilot Incubation activities in Sukau Kayo Village for only IDR 108,400,000 (one hundred eight million four hundred thousand rupiah).

From the difference between the money received and the money actually spent in the amount of IDR 108,850,000 (one hundred and eight million eight hundred and fifty thousand rupiah), the fact was that the money was divided among several parties with the distribution details as follows:

1. The suspect AM received a fee of IDR 12,000,000 (twelve million rupiah));
2. Suspect AM sent money using the transfer method to Suspect KQ with details:
 - a) On September 19th 2019, the amount of IDR 13,750,000 (thirteen million seven hundred and fifty thousand rupiah) was transferred;
 - b) On January 6th, 2020, the amount of IDR 9,300,000 (thirteen million seven hundred and fifty thousand rupiah) was transferred;
3. Suspect AM transferred the amount of Rp. 2,000,000,- (two million rupiah) to Suspect HD;
4. Suspect AM transferred Rp. 1,000,000 (one million rupiah) to suspect HD which was received through his wife's account;

¹⁸ Based on interview with Mr. Maslikhan as The Investigator on March 20th 2024

¹⁹ Based on interview on March 20th 2024

5. Suspect HD used IDR 10,800,000 (seven million eight hundred thousand rupiah) by exchanging it for materials and building materials to build his private house;
6. And the remaining amount of IDR 60,000,000 (sixty million rupiah) was taken in cash by suspect KQ to suspect AM.

After obtaining information from bank statements and supported by testimony from Suspect AM, investigators began to intensively investigate Suspect KQ and Suspect HDY regarding the flow of money from MOL Corporation in connection with PIID-PEL Project in Sukau Kayo Village for fiscal year of 2019. After conducting an examination of Mr. KQ and Mr. HDY, Mr. RK and Mr. SB, investigators discovered the fact that there was an activity of distributing money from purchases at MOL Corporation that had not been spent which occurred in May 2020 at the residence of the suspect HD's parents with the distribution of money totaling Rp. 20,000,000,- (twenty million rupiah) which was distributed to 4 people with details:

- a) KQ (The Chairman of TPKK);
- b) HDY (The Secretary of TPKK);
- c) SABIRUDIN (The Former Chairman of Sukau Kayo Government Village on 2019);
- d) RP (Procurement Officer)

Where the four people received money, each received Rp. 5,000,000 (five million rupiah). Not only that, Lebong Police Criminal Investigation Unit Corruption investigators also obtained facts from evidence documents in the form of transaction reports (bank statements) from the suspect AM, in the period 9 October 2020 where there was an incoming money transaction through cash deposits from the suspect KQ and the suspect HDY to the suspect AM's account in the amount of IDR 180,000,000 (one hundred and eighty million rupiah).

Whereas from the results of the examination of the suspects AM, HDY and KQ, of the total money deposited in cash amounting to IDR 180,000,000,- was resolved again after 3 (three) days of the cash deposit, precisely on October 12th 2020, witness AM as The Director of MOL Corporation ordered his driver named ADE PUTRA GUNAWANSAH to deposit IDR 80,000,000 (eighty million rupiah) into the personal account of suspect HDY as Secretary of the TPKK.

From the money received by suspect HDY amounting to IDR 80,000,000,- is further divided with details of the distribution of the money, namely that suspect HDY used it personally amounting to IDR 35,000,000,- (thirty five million rupiah) and he transferred it to the personal account of suspect KQ in the amount of IDR 45,000,000, - (forty-five million rupiah).

That for the remaining money still with Director of MOL Corporation named AM in the amount of IDR 100,000,000 (one hundred million rupiah) was used personally by the suspect KQ with details of use as follows :

- a. Used by KQ to buy a 1999 MITSUBISHI KUDA SILVER car belonging to witness

- LUBIS SUTARNO who is the uncle of suspect AM in the amount of IDR 55,000,000,- (fifty five million rupiah) around 2020 to 2021.
- b. Taken in cash by suspect KQ at suspect AM's house amounting to IDR 33,000,000 (thirty three million rupiah) with details of 2 (two) withdrawals amounting to IDR 20,000,000,- (twenty million rupiah) and IDR 13,000,000,- (thirteen million rupiah) in 2020 to 2021.
 - c. Transferred to the suspect HDY in the amount of IDR. 12,000,000,- on March 19th 2021.

Investigators and Assistant Investigators also discovered the fact that there were irregularities in purchases at the UD MAHKOTA TANI Store which were based on the General Cash Tabulation of PIID PEL Sukau Kayo Project spending at UD MAHKOTA TANI amounted to IDR 265,715,000.- (two hundred sixty five seven hundred and fifteen thousand rupiah) was not spent in full, only spent IDR 140,715,000,- (one hundred and forty million seven hundred and fifteen thousand rupiah).²⁰

That the remaining amount of IDR 125,000,000,- (one hundred twenty five million rupiah) which was not spent on the MAHKOTA TANI shop was taken in stages by the Suspect KQ after the project had ended.

2) Implemented Asset Coviscation

After carrying out asset tracking as described in point 1 above, the Investigator confiscated assets in the form of cash in the amount of IDR 71,000,000.- (seventy-one million rupiah) and 1 (one) printer Epson unit L3110 against several parties including:

In the case files of HDY, M.Pd. Bin UM

- a. Confiscation from Witness RP, in the form of cash amounting to IDR 5,000,000 (five million rupiah));
- b. Confiscation from Witness SB in the form of cash in the amount of Rp. 27,000,000.- (twenty seven million rupiah);
- c. Confiscation from Suspect HD in the form of cash in the amount of Rp. 27,000,000.- (twenty seven million rupiah) and 1 (one) unit of EPSON L3110 Printer

In the case files of AM Bin SN - Cash in the amount of IDR 12,000,000 (twelve million rupiah).

The Investigators MASLIKHAN and BERMEN F. NAIBAHO, S.H., M.H. explained that the method used by Investigators and Assistant Investigators in carrying out these confiscations was by seeking a persuasive process for the parties to recover state

²⁰ Based on interview and observation to the document on March 20th 2024

financial losses from the proceeds of criminal acts of corruption that had been committed.²¹

Based on the efforts of Investigators and Assistant Investigators in returning assets from criminal acts of corruption in this case, it can be seen that Investigators use a property-based asset confiscation method (property based system) where the biggest challenge in confiscating property-based assets is proving or producing evidence that connects the assets. assets with criminal acts committed.

In this case, it appears that the investigator and assistant investigator confiscated assets in the form of cash amounting to IDR 71,000,000 (seventy one million rupiah) based on asset tracking that had been carried out before the confiscation activity.

If we pay further attention and analysis, investigators link evidence in the form of a bank statement and match it with information from the person who has the bank account. In this case the author analyzes the basis for investigators confiscating assets from legal subjects in cases of alleged criminal acts of corruption in the object of this research as follows :

- a. The confiscation of cash in the amount of IDR 5,000,000 (five million rupiah) from witness RP was carried out on the basis of a confession from Mr. KQ, and Mr. SABIRUDIN and acknowledged by Mr. RP itself where the money is distribution money originating from TPKK money that was not spent at MOL Corporation in May 2020 at Mr.HDY's house. recorded in their respective Examination Minutes;
- b. Confiscation of cash amounting to Rp. 27,000,000 (twenty million rupiah) to Witness SABIRUDDIN can be detailed as follows :
 - (1). Rp. 5,000,000.- (five million rupiah) was obtained from the distribution made at Mr. HDY in May 2020 which was shared with Br. KQ, Bro. HDY, Br. REKI PROMERTA, Br. SABIRUDIN;
 - (2). Rp. 10,000,000,- (ten million rupiah) was obtained from the results of providing transportation services provided by Mr. KQ and Br. HDY around June 2020 with the intention of paying for transportation services from purchasing PIID-PEL goods using the village head's operational car;
 - (3). IDR 12,000,000 (twelve million rupiah) which was transferred from the Bengkulu Bank Account with the suspect HDY to the BRI account of witness SABIRUDDIN on March 19 2021 where the money was Mr. SABIRUDDIN got it on the grounds of borrowing, while the money was money transferred by Mr. AM to your account. HDY and transferred again from Br. HDY to Mr. SABIRUDDIN
- c. Confiscation of IDR 27,000,000,- (twenty million rupiah) from Suspect HDY was returned by him on the grounds that the money remaining to him was only IDR 27,000,000,- and he gave the rest to Mr. KQ in cash and in installments as recorded in the Minutes of Further Investigation of the Suspect on January 31th

²¹ Based on interview on March 20th 2024

2023.

- d. Confiscation of 1 (one) unit of Epson type L3110 brand printer was confiscated to Mr. HDY based on testimony from witness DB on January 10th 2023 which stated that at the beginning of PIID-PEL Project Br. KQ bought stationery and bought a printer from him, and when investigators asked Mr. KQ he said that the printer was at Mr. HDY 's house. And HDY also gave the printer to investigators.

From the details of the explanation above, the author concludes that investigators can confiscate assets from criminal acts of corruption from parties based on the results of asset tracking carried out by investigators from the investigation stage and further developed during the investigation by obtaining bank statements from the parties which are then analyzed and asked again to parties so that facts about the flow of money can be revealed. And confiscation can be carried out due to the intention of the parties mentioned above to return part of the flow of funds from PIID-PEL Project.

The author analyzes that if in this case there is no good faith from the parties who are traced to the flow of money, then investigators may have difficulty confiscating assets because the assets that have been obtained (*fructum sceleris*) have been used, changed and transferred.

That the author agrees and agrees with the method of investigators and assistant investigators in carrying out efforts to recover criminal assets because there is no legal instrument that regulates the confiscation of value-based assets (*value-based confiscation system*) at the investigation stage.

CONCLUSION

Based on the discussion and facts revealed in the research, the investigators have determined three people as suspects in the names of KQ, HDY and AM in the investigation, namely based on the process of assessing four pieces of evidence and forming a guiding evidence form which in the process of assessing the pieces of evidence This shows that criminal acts of corruption have occurred in PIID-PEL Project in Sukau Kayo Village in Fiscal Year 2019 and it is these three legal subjects who are strongly suspected of having done it. As well as investigators making efforts to return assets (asset recovery), namely by carrying out asset tracing, where at this stage investigators collect statements from witnesses, statements from suspects and collect evidence in the form of bank statements from witnesses and suspects. Regarding the checking account, investigators conducted document research and matched the statements of witnesses and suspects with the facts of transactions in the checking account. After obtaining information from the results of asset tracking, investigators made persuasive efforts to the parties suspected of receiving the money flow to return the money received in order to cover state financial losses that had arisen from these activities using the confiscation method.

Based on the research that has been carried out, the author analyzes that if in this case there is no good faith from the parties who are traced to the flow of money, then investigators may have difficulty confiscating assets because the assets that have been obtained (*fructum sceleris*) have been used, changed and transferred. That the author agrees and agrees with the method of investigators and assistant investigators in carrying out efforts to recover criminal assets because there is no legal instrument that regulates the confiscation of value-based assets (*value-based confiscation system*) at the investigation stage.

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