



FEDERAL JUSTICE  
Judicial District of Paraná  
13th Federal Court of Curitiba

Av. Anita Garibaldi, 888, 2º andar – Bairro: Cabral – CEP: 80540-400 – Phone: (41)3210-1681

- www.jfpr.jus.br – Email: pretb13dir@jfpr.jus.br

**CRIMINAL ACTION No. 5046512-94.2016.4.04.7000 / PR**

**PLAINTIFF:** FEDERAL PROSECUTION SERVICE

**PLAINTIFF:** PETROLEO BRASILEIRO S A PETROBRAS

**DEFENDANT:** ROBERTO MOREIRA FERREIRA

**DEFENDANT:** LUIZ INACIO LULA DA SILVA

**DEFENDANT:** FABIO HORI YONAMINE

**DEFENDANT:** MARISA LETICIA LULA DA SILVA

**DEFENDANT:** PAULO TARCISO OKAMOTTO

**DEFENDANT:** AGENOR FRANKLIN MAGALHAES MEDEIROS

**DEFENDANT:** JOSE ADELMARIO PINHEIRO FILHO

**DEFENDANT:** PAULO ROBERTO VALENTE GORDILHO

**VERDICT**

13<sup>th</sup> FEDERAL CRIMINAL COURT OF CURITIBA

PROCEDURE No. 5046512-94.2016.4.04.7000

CRIMINAL ACTION

Plaintiff: Federal Prosecution Service

1. Agenor Franklin Magalhães Medeiros, Brazilian, married, engineer, born on 08/06/1948, bearer of CIRG n. 58.746.414-8 / SSP / SP, registered with the CPF under No. 068.787.575-34, with address known at the Secretariat;

2. Fábio Hori Yonamine, Brazilian, married, business administrator, born on 06/15/1972, bearer of CIRG no. 17256000 / SSP / SP, enrolled with the CPF under No. 163.120.278-21, with address at Rua Itacolomi, 420, apartment 9, Higienópolis, in São Paulo / SP;

3. José Adelmário Pinheiro Filho, commonly known as Léo Pinheiro, Brazilian, married, engineer, born on 09/29/1951, bearer of CI RG 918407-

4. Luiz Inácio Lula da Silva, Brazilian, widower, former President, born on 10/10/1945, enrolled with the CPF under no. 070.680.938-68, resident and domiciled at Av. Francisco Prestes Maia, nº 1501, bloco 1, ap. 122, bairro Santa Terezinha, em São Bernardo do Campo/SP;

5. Paulo Roberto Valente Gordilho, Brazilian, divorced, engineer, born on 08/06/1946, bearer of CIRG No. 558458 / BA, enrolled with CPF under no. 039.146.155-91, resident and domiciled at Avenida Santa Luzia, 610, ap. 1802, Ed. Ravello, Horto, in Salvador / BA;

6. Paulo Tarciso Okamoto, Brazilian, married, business administrator, born on 02/28/1956, bearer of CIRG No. 7.906.164-3 / SP, enrolled with the CPF under number 167.248.248-34, resident and domiciled in Rua Araújo Viana, nº 57, Jardim Silvina, in São Bernardo do Campo / SP, and with a professional address at Rua Pouso Alegre, 21, Ipiranda, in São Paulo / SP; and

7. Roberto Moreira Ferreira, Brazilian, married, architect, born on 08/09/1974, bearer of CIRG nº 21486554 / SP, enrolled with the CPF under no. 249.713.938-54, resident and domiciled at Alameda Itu, 859, ap. 31, em São Paulo/SP.

## I. REPORT

1. It is a complaint filed by the MPF for the commission of crimes of corruption (arts. 317 and 333 of the CP) and money laundering, several times, (section 1, heading V, of Law No. 9.613 / 1998), under the so-called Lava Jato Investigation, against the defendants named above (event 1).

2. The complaint is based on the inquiries 5035204-61.2016.4.04.7000, 5006597-38.2016.4.04.7000, 5003496-90.2016.4.04.7000 and 5049557-14.2013.404.7000, and related processes, among which are processes 5006617-29.2016.4.04.7000, 5007401-06.2016.4.04.7000, 5006205-98.2016.4.04.7000, 5061744-83.2015.4.04.7000, 5005896-77.2016.4.04.7000 and 5073475-13.2014.404.7000. All these processes, as a result of the virtues of the electronic process system of the Fourth Federal Region, are available and accessible to the parties to this event and have been available for consultation of the Defense since at least the offer of the complaint, and ample reference in the course of criminal proceedings. All the documents contained therein therefore instruct the records of this criminal action.

3. In summary, according to the complaint, in the scope of the investigations of the so-called Lava Jato Investigation, evidence was gathered that Petroleo Brasileiro S / A – Petrobras' suppliers would systematically pay an undue advantage to the company's directors.

4. However, evidence has emerged that the case transcends the corruption – and consequent washing – of Petrobras agents, serving the criminal scheme to also corrupt political agents and to finance, with resources from the crime, political parties.

5. The political agents could support the appointment and permanence in the positions of Petrobras of said Directors. To this end, they received periodic remuneration.

6. The present criminal action has as its object a fraction of these crimes of the criminal scheme of Petrobras.

7. The MPF (Federal Prosecution Service) alleges that former President Luiz Inacio Lula da Silva would have consciously participated in the criminal scheme, even knowing that Petrobras' Officers used their positions to receive an undue advantage in favor of political agents and political parties.

8. On the other hand, the OAS Group, presided over by the defendant José Adelmário Pinheiro Filho, also known as Leo Pinheiro, would be one of the business groups that would have systematically paid undue advantage in Petrobras contracts with public agents and political agents or parties.

9. MPF estimates that the total paid in bribes by the OAS Group resulting from its contracting by Petrobras, specifically in the CONEST / RNEST Consortium in works at the Refinery of the Nordeste Abreu e Lima – RNEST and in the CONPAR Consortium in works at the Presidente Getúlio Vargas Refinery – REPAR, R\$ 87,624,971.26, corresponding to 3% of the corresponding part of Construtora OAS in the referred undertakings.

10. Part of these figures, about 1%, would have been specifically geared towards political agents of the Workers' Party and would have integrated a sort of general checking account of bribes between the OAS Group and Workers' Party agents.

11. Of these amounts, R\$ 3,738,738.00 would have been earmarked specifically for former President Luiz Inácio Lula da Silva.

12. The amounts would have been consolidated in the provision to former President as the apartment 164-A, triplex, Condominium Solaris, registration 104.801 of the Registry of Real Estate of Guarujá / SP, without payment of the corresponding price. To be more exact, the former President, when the real estate project was with BANCOOP – Cooperativa Habitacional dos Bancarios, would have paid for a simple apartment, No. 141-A, about R\$ 209,119.73, but the OAS Group made available to him, still in 2009, apartment 164-A, triplex, without being charged the price difference. Subsequently, in 2014, the apartment would have undergone renovations and improvements by the OAS Group to attend the former President, without any payment made. The Federal Prosecution Service (MPF) estimates the amounts of the undue advantage at approximately R\$ 2,424,991.00, thus broken down, R\$ 1,147,770.00 corresponding to the difference between the amount paid and the price of the apartment delivered and R\$ 1,277,221.00 in reforms and in the acquisition of goods for the apartment.

13. Likewise, it alleges that the OAS Group would have granted the former President an undue advantage resulting from the payment of expenses of R\$ 1,313,747.00 due to the storage between 2011 and 2016 of assets owned by him or received as gifts during the presidential term.

14. In both cases, surreptitious stratagems would have been used to conceal transactions.

15. The transfer of the apartment and the renovations, as well as the payment of storage costs, would represent an undue advantage in a corruption arrangement and the illegal scheme used for such transfer and would be a money laundering offense.

16. Luiz Inacio Lula da Silva would respond for official misconduct and money laundering.

17. José Adelmário Pinheiro Filho, President of the OAS Group at the time of the events, would respond for official misconduct and money laundering.

18. Agenor Franklin Magalhães Medeiros, Director of Construtora OAS, would respond for official misconduct.

19. Fábio Hori Yonamine, President, Paulo Roberto Valente Gordilho, Director of Engineering and Technique, and Roberto Moreira Ferreira, Regional Director of Mergers, all of OAS Empreendimentos, for money laundering related exclusively to the transfer of the property.

20. Paulo Tarciso Okamoto, President of Lula Institute, for money laundering related exclusively to the payment of storage expenses.

21. Marisa Letícia Lula da Silva was accused, but she passed away in the course of the process, cause of termination of punishability;(events 527 and 624).

22. The complaint was received on 09/20/2016 (event 28).

23. The defendant presented preliminary responses by appointed defenders (events 64, 69, 82, 85, 103, 104, and 112).

24. Preliminary responses were considered in the decision of 10/28/2016 (event 114), with complements in the decisions of 11/17/2016 (event 230), 11/25/2016 (event 275), 12/13/2016 (event 358), 2/17/2017 (event 578) and 03/03/2017 (event 624)

25. Petrobrás was admitted as Assistant to the Prosecution by decision of 11/17/2016 (event 230).

26. The prosecution witnesses (events 252, 268, 279, 294, 296, 343, 372, 388, 394,

395, 417, 419, 424, 425, 426) and defense (events 508, 514, 517, 520, 523, 575, 582, 585, 590, 604, 605, 606, 607, 612, 615, 622, 640, 647, 652, 669, 672, 690, 691, 698, 702 and 714).

27. With the agreement of the parties, evidence from another case was used in relation to the testimony of some defense witnesses (decisions of 10/28/2016, 11/11/2016, 10/11/2016 and 09/02/2017, in events 114, 175 and 199, and testimonials in events 187, 200, 287 and 513).

28. In the course of the criminal action, an investigation was carried out on documents attached to the records regarding the purchase of an apartment in Condomínio Solaris, and the assistant's report and opinion were gathered at events 474 and 481.

29. The defendant were interrogated (events 736, 750, 774, 789, 809, 816, 820, 869 and 885).

30. The requirements of the parties at the stage of art. 402 of the CPP were reviewed under the decision of 05/15/2017 (event 836).

31. By decision of 05/26/2017, a request for the production of evidence by the Defense of Luiz Inácio Lula da Silva (event 894) was denied. Again on 07/11/2017 (event 945).

32. The MPF, in final arguments (event 912), argued: a) that there are no nullities to be recognized; b) that the complaint is not defective; c) that there is no reason for suspension of the criminal action to await investigation in the Federal Supreme Court; d) there was no violation of the assigned promoter principle; e) that there are no invalidities to be recognized; f) that evidence has a relevant role in relation to complex criminality; g) that there was evidence of a criminal scheme under Petrobrás contracts involving fraudulent adjustment of bids by contractors; h) that there was no extortion, but corruption; i) that the consummation of the crimes of corruption does not depend on the effective practice of an official act by the public agent; j) that it is not necessary for the undue advantage to be related to a specific official act; k) that former President Luiz Inácio Lula da Silva was responsible for nominating the names of Petrobras' Officers to the Board of Directors of the state company; l) that the Directors of Petrobrás Paulo Roberto Costa, Renato de Souza Duque, Nestor Cuñat Cerveró and Jorge Luiz Zelada participated in the agreements on corruption in Petrobrás contracts, directing part of the amounts to agents and political parties; m) that the Petrobrás Officers, on the other hand, remained inert regarding the measures they could take against the cartel and fraudulent adjustment of bids in Petrobrás contracts; n) that the former President directed the creation of a criminal scheme of diversion of public resources, aimed at buying parliamentary support, unduly enriching those involved and financing electoral campaigns of the Workers' Party; o) that in 2009 the former President vetoed the inclusion of works by RNEST, REPAR and COMPERJ in the list of works and services with evidence of serious irregularities in the 2010 Budget Law; p) that the former President participated in the crimes by appointing Petrobrás Officers in charge of collecting undue advantage for agents and political parties and benefiting directly from the paid bribe; q) that the undue advantage was passed on by the OAS Group to the former President through the acquisition, personalization and decoration of a triplex apartment in Guarujá, as well as through the payment of amounts related to a contract for the storage of assets of the presidential collection with Granero; r) that there is documentary, testimonial and expert evidence that the former president was the owner of the property and that the renovations were intended for him, without payment of any amount of the renovations by him; s) that the price of the triplex apartment and the cost of the renovations were deducted from the general checking account maintained between the OAS Group and the Workers Party agents; t) that the former president should be convicted of misconduct of office, that José Adelmário Pinheiro Filho and Agenor Franklin Magalhães Medeiros for official misconduct u) that Luiz Inácio Lula da Silva, José Adelmário Pinheiro Filho, Paulo Tarciso Okamoto, Fábio Hori Yonamine, Paulo Roberto Valente Gordilho and Roberto Moreira Ferreira should be convicted of money laundering; and that, in the application of the sentence, the sanctions of José Adelmário Pinheiro Filho, Agenor Franklin Magalhães Medeiros and Paulo Roberto Valente Gordilho should be halved not only due to their confession, but also because they provided relevant collaboration to clarify the facts, even without an agreement. It requests the criminal conviction in the form of the complaint and also the fixing of minimum damages for the crime, corresponding to R\$

87,624,971.26.

33. Petrobras, in its final arguments, ratified the Federal Prosecution Service reasons (event 921), also requiring monetary correction of the minimum amount of damage and the addition of default interest.

34. The Defense of José Adelmário Pinheiro Filho, in final arguments (event 931), argues: a) that in his interrogation, José Adelmário Pinheiro Filho confessed to the crime and revealed that apartment 164-A, a triplex, always belonged to the family of former President Luiz Inácio Lula da Silva; b) that he was asked to keep the property in the name of OAS Empreendimentos; c) that the renovations were made at the request of the former President and his wife; d) that the renovations projects were approved by the former President and his wife; e) that the price of the property and the cost of the reforms were deducted from the current checking account maintained between the OAS Group and agents of the Workers' Party; f) that the Defense has attached documents that corroborate the allegations of the defendant; g) that the defendant confessed that he financed the storage of assets of former President Luiz Inacio Lula da Silva to strengthen their relations, mainly because of the international market; and h) that the defendant's collaboration with the clarification of the facts should be recognized, even without formalization of an agreement, with a reduction of the sentence by 2/3 and compliance with the open regime.

35. The Defense of Paulo Tarciso Okamoto, in final arguments (event 932), argues: a) that there is no evidence of the crime of corruption or general tip-off between the OAS Group and agents of the Workers' Party; b) that the amounts paid by the OAS Group for the maintenance of the presidential collection do not constitute an undue advantage; c) that such payments were justified for the protection of the Brazilian cultural heritage; d) that the circumstance of the contract of deposit of the goods was clarified by the witness Emerson Granero and that there was no laundering; e) that José Adelmário Pinheiro Filho himself stated that such payments were not made for illicit reasons; f) that there was a denial of a fair opportunity to be heard because it denied access to the Defense to the cellular devices, HDs and other documents seized during the investigation or the issuance of notification to be informed donations made to the Foundations of José Sarney and Fernando Henrique Cardoso; and g) that the Judgment is incompetent.

36. The Defense of Paulo Roberto Valente Gordilho, in final arguments (event 933), argues: a) that there was a denial of a fair opportunity to be heard because even in the face of the complexity of the fact, the 10-day deadline for presenting a response to the indictment was not extended; b) that there was a denial of a fair opportunity to be heard for holding a hearing on 11/30/2016 for hearing of witnesses, since the defender of the defendant was not able to attend since there was cancellation of his flight leaving Salvador to Curitiba / PR; c) that OAS Empreendimentos is not confused with Construtora OAS; d) that the defendant had no knowledge that the attribution and the renovations of apartment 164-A involved a settlement of corruption; e) that the defendant only complied with orders of José Adelmário Pinheiro Filho; f) that the defendant participated in the renovations of the Ranch in Atibaia, but not in the triplex apartment; g) that the defendant was not aware of prior crimes and can not be held responsible for money laundering. Acquittal is requested.

37. The Defense of Agenor Franklin Magalhães Medeiros, in final arguments (event 935), argues: a) that the defendant had a long professional career in the OAS Group; b) that at the time of the facts he was Director of Oil and Gas of Construtora OAS; c) that the defendant confessed the facts in court and collaborated with the justice; (d) that in OAS, the so-called generation or controlling area was responsible for passing on undue advantage; e) that the sector responded to José Adelmário Pinheiro Filho; f) that the OAS Group had to conduct business with a corrupt Government; g) that there was payment of an undue advantage in the contract at REPAR but it was made, with the knowledge of OAS, Odebrecht and UTC; h) that, in the case of RNEST contracts, a sum of R \$ 72 million was set, of which R \$ 16 million was allocated to the Workers' Party; i) that a new conviction of the defendant would represent double punishment because he has already been convicted in criminal action 5083376-05.2014.404.7000 for corruption in these contracts; and that, with respect to the triplex apartment and the reforms, the defendant was only informed by José Adelmário Pinheiro Filho that the respective costs would be deducted from the "general fund of

undue advantages that OAS owed to PT". Acquittal is requested.

38. The Defense of Fábio Hori Yonamine, in final arguments (event 936), argues: a) that the defendant was not aware of a corruption agreement between José Adelmário Pinheiro Filho and agents of the Workers' Party or Petrobras and did not act deceitfully; b) that the defendant can not answer for the crime of laundering without knowledge of the previous crime; c) that the defendant José Adelmário Pinheiro Filho, who confessed to the crimes, stated that he was not aware of the executives of OAS Empreendimentos; d) that the defendant Fabio Hori Yonamine was in charge of the administration of the enterprises, no specific units; e) that OAS Empreendimentos and Construtora OAS are not to be confused; and f) that the costs of the renovations were allocated as costs of the real estate project; and g) that the defendant participated in a meeting with José Adelmário Pinheiro Filho and João Vaccari Neto, but the issue of bribes would have been dealt with before his arrival. Acquittal is requested.

39. The defense of Luiz Inácio Lula da Silva, in final arguments (event 937), argues: a) that the former President suffers political persecution and is victim of a "legal war" or "lawfare", "with support from traditional media sectors"; b) that the rights of former President Luiz Inácio Lula da Silva were violated, with a thorough investigation of his private life and of his relatives, searches and seizures, breaches of confidentiality, compulsory process and disclosure of interception audios; c) that there was a telephone interception of the former President's lawyers, including the defense strategy, as pointed out in pp. 73-74 of the allegations; d) that the media was used to attack the image of the former President through a press conference, on 09/14/2016, by the MPF when the complaint was made; e) that the court is incompetent to judge the criminal action; f) that the judge is considered suspicious to try the case; g) that revealed animosity of the judge in relation to defenders of the defendant; h) that the complaint is defective; i) that the criminal action must be dismissed in order to await the results of the investigations in the Federal Supreme Court of Inquiry 4325 that seeks to determine the participation of the former president in the organized criminal group that committed crimes in the scope of Petrobrás; j) that there was a denial of a fair opportunity to be heard due to the rejection of evidence, such as access to the collaboration process of José Adelmário Pinheiro Filho, or questions to witnesses; k) that the former President was not aware of the crimes that had occurred in Petrobrás; l) that the former President, during his mandate, acted to strengthen the systems of prevention and repression against money laundering; m) that there was no official misconduct of the former President in the bids and contracts of the Presidente Getúlio Vargas Refinery (REPAR) and the Refinery of the Nordeste Abreu e Lima (RNEST); n) that Petrobras' internal or external audits did not identify any illegal act of the former President of the Republic; o) that Petrobras, in September 2010, made a public offering of securities, including in the New York Stock Exchange, and was subjected to a rigorous audit that did not identify the crimes; p) that the triplex apartment was never owned nor possessed by the former President; q) that the triplex apartment is of OAS Empreendimentos and that it disposed of the property; r) that the former president was seen as a potential client and the renovations aimed at boosting his interest in the property; s) that the costs of the apartment's renovation were included in the costs of the project, according to a document presented by José Adelmário Pinheiro Filho, and no bribe is posted in accounting; t) that the crimes of corruption and money laundering have not been established; u) that there is no proof that funds obtained in Petrobras contracts were used for the construction or renovation of the property; v) that the former president did not have "knowledge" on the delinquent facts that occurred at Petrobrás; (x) that the financing by the OAS Group of the storage of assets of the presidential collection was lawful; y) that the word of criminals who claim to seek to collaborate with the Justice needs proof of corroboration; and z) that the former President should be acquitted.

40. The Defense of Roberto Moreira Ferreira, in final allegations (event 938), argues: a) that the defendant was hired by OAS Empreendimentos in 07/2011, after the alleged acquisition of the triplex; b) that the defendant was not involved in the transfer of BANCOOP's real estate projects to OAS Empreendimentos; c) that the defendant was not aware of a corruption agreement between José Adelmário Pinheiro Filho and agents of the Workers Party or Petrobrás and did not act deceitfully; d) that the defendant can not answer for a crime of laundering without knowledge of the previous crime; e) that the defendant José Adelmário Pinheiro Filho, who confessed to the crimes,

stated that the was not aware of the executives of OAS Empreendimentos; and f) that the defendant took the position of Director of OAS Empreendimentos only in 2014; and (g) that, with regard to the renovation of the triplex, the defendant only followed orders from his superiors. Acquittal is requested.

41. Suspicion motions of no. 5051592-39.2016.4.04.7000 and 5053652-82.2016.4.04.7000 were presented by the Defenses of Luiz Inácio Lula da Silva and Paulo Tarciso Okamoto and were rejected, with copies of the decisions in events 107 and 109. The motions were also unanimously rejected by the Appellate Court of the 4th Region.

42. Before, during the investigation phase, the Defense of Luiz Inácio Lula da Silva had presented the suspicion motions 5032531-95.2016.4.04.7000, 5032521-51.2016.4.04.7000 and 5032506-82.2016.4.04.7000 and that, in addition to rejected by this Court, were also rejected by the Appellate Court of the 4th Region.

43. The Defense of Luiz Inácio Lula da Silva still filed the suspicion motion n. 5051579-40.2016.4.04.7000 against the Federal Prosecutors who signed the complaint, then rejected by this Court, with a copy of the decision in event 335.

44. Motions of *lis pendens* were presented by the Defendants of José Adelmário Pinheiro Filho and Agenor Franklin Magalhães Medeiros, who were rejected, with a copy of the decisions at events 725 and 726.

45. Motions for jurisdictional defense 5051562-04.2016.4.04.7000 and 5053657-07.2016.4.04.7000 were presented by the Defenses of Luiz Inácio Lula da Silva and Paulo Tarciso Okamoto and that they were dismissed, with a copy in event 570.

46. The Defense of Luiz Inácio Lula da Silva also filed a plea of forgery, which was assigned under n. 5022040-92.2017.4.04.7000, which was denied.

47. Case held by the judge under advisement.

## II. REASONING

### II.1

48. The impartiality of this judge is questioned by the Defenses of Luiz Inácio Lula da Silva and Paulo Tarciso Okamoto.

49. This is a matter that has already been settled.

50. Suspicion motions of n. 5051592-39.2016.4.04.7000 and 5053652-82.2016.4.04.7000 were presented by the Defenses of Luiz Inácio Lula da Silva and Paulo Tarciso Okamoto and were rejected, with copies of the decisions in events 107 and 109.

51. The motions were also unanimously rejected by the Appellate Court of the 4th Region:

*“CRIMINAL PROCEDURE. SUSPICION MOTION. ‘LAVA-JATO INVESTIGATION’. REPLY OF ORDERS ALREADY ANALYZED IN PREVIOUS FACTS. NO COGNIZANCE.*

1. Considering, therefore, that the arguments of the defendants' defense have already been examined in the records listed under n. 5032506-82.2016.4.04.7000, 5032521-51.2016.4.04.7000, and 5032531-95.2016.4.04.7000, and that the mere indication of "new facts" that deal with foundations already analyzed does not reopen the discussion on matter already decided, it is verified that this fact reveals itself mere reiteration of request, being unavailable the knowledge in this Court.

2. Exception of unknown suspicion." (Suspicion motion 5051592-39.2016.4.04.7000 – Rapporteur Appellate Judge João Pedro Gebran Neto – 8th Class of TRF4 – un. - j. 03/08/2017)

*“CRIMINAL PROCEDURE. SUSPICION MOTION. ‘LAVA-JATO INVESTIGATION’. ACTS OF THE PROCESS. DUTY TO REASON. PUBLISHED ARTICLES. IMPARTIALITY NOT CHARACTERIZED. INEXISTANCE OF ANTICIPATION OR INTEREST IN THE CAUSE. PUBLICATION OF JOURNALISTIC MATTERS. IMPAIRMENT OF THE EXCEPTION OF CRIMINAL SUSPICION.*

1. It is established that the suspicion motion is groundless, nor does it imply in anticipation of the judgment of merit, the externalization of the reasons for deciding on procedures, arrests and receipt of the complaint, common to the judicial activity and required by the duty to reason stated in the Federal Constitution.

2. The determination of procedures in the investigative phase, such as telematic secrecy breaks and provisional detention do not imply anticipation of merit, but merely a procedural impulse related to the procedural terms.

3. The wide news coverage of the so-called 'Lava-Jato Investigation', as well as the expression of public opinion, favorable or otherwise, for which the magistrate does not do have, do not result in a breach of the magistrate's impartiality.

4. Considerations of the magistrate in a legal text published in a specialized magazine regarding Operation Clean Hands (Italy) are purely academic, descriptive and informative, and do not lead to their suspicion to judge the processes related to 'Lava-Jato Investigation' many years later.

5. Art. 256 of the Penal Code provides that the suspicion can not be granted nor acknowledged, when the party injures the judge or purpose gives reason to create it, thus avoiding deliberate actions aimed at removing the magistrate from the case. Hypothesis in which the representation of co-defendant in face of the Defendant before the Office of the Prosecutor General for abuse, suspicion is groundless.

6. Suspicion motion is groundless " (Suspicion motion 5053652-82.2016.4.04.7000 – Rapporteur Appellate Judge João Pedro Gebran Neto – 8th Panel of TRF4 – un. - j. 03/08/2017).

52. Before, during the investigation phase, the Defense of Luiz Inácio Lula da Silva had already presented the suspicion motions 5032531-95.2016.4.04.7000, 5032521-51.2016.4.04.7000 and 5032506-82.2016.4.04.7000 and they were rejected by this Court, also rejected by the Appellate Court of the 4th Region. Synopsis of one of the decisions:

*“CRIMINAL PROCEDURE. SUSPICION MOTION. ‘LAVA-JATO INVESTIGATION’. ACTS OF THE PROCESS. DUTY TO REASON. EXCEPTION NOT CONFIGURED. PUBLISHED ARTICLES. IMPARTIALITY NOT CHARACTERIZED. INEXISTANCE OF ANTICIPATION OR INTEREST IN THE CAUSE PUBLICATION OF JOURNALISTIC MATTERS. CRIMINAL SUSPICION MOTION GROUNDLESS.*

1. It is established that the suspicion motion is groundless, nor does it imply in anticipation of the

*judgment of merit, the externalization of the reasons for deciding on procedures, arrests and receipt of the complaint, common to the judicial activity and required by the duty to reason stated in the Federal Constitution.*

*2. The determination of procedures in the investigative phase, such as telemetry secrecy breaks and provisional detention do not imply anticipation of merit, but merely a procedural impulse related to the procedural terms.*

*3. The wide news coverage of the so-called 'Lava-Jato Investigation', as well as the expression of public opinion, favorable or otherwise, for which the magistrate does not do have, do not result in a breach of the magistrate's impartiality.*

*4. Considerations of the magistrate in a legal text published in a specialized magazine regarding Operation Clean Hands (Italy) are purely academic, descriptive and informative, and do not lead to their suspicion to judge the processes related to 'Lava-Jato Investigation' many years later.*

*5. Considerations of the magistrate in a legal text published in a specialized magazine regarding Operation Clean Hands (Italy) are purely academic, descriptive and informative, and do not lead to their suspicion to judge the processes related to 'Lava-Jato Investigation' many years later.*

*6. Art. 256 of the Penal Code provides that the suspicion can not be granted nor acknowledged, when the party injures the judge or purpose gives reason to create it, thus avoiding deliberate actions aimed at removing the magistrate from the case. Hypothesis in which the representation of co-defendant in face of the Defendant before the Office of the Prosecutor General for abuse, suspicion is groundless.*

*7. The limitation of the assigning of cases to the court except for the administration of justice of the jurisdiction of the Appellate Court of the 4th Region and does not correspond to the grounds for suspicion provided for in the Penal Code nor exempts the defendant.*

*8. Suspicion motion dismissal.". "(Suspicion motion 5032531-95.2016.4.04.7000 – Rapporteur Appellate Judge João Pedro Gebran Neto – 8th Class of TRF4 – un. - j. 03/08/2017)*

53. The suspicion motions were also unanimously rejected by the Appellate Court of the 4th Region:

54. In summary and treating the question in a very objective way, former President Luiz Inácio Lula da Silva is not being judged for his political opinion and the policies adopted by him during his term in office are not being evaluated.

55. Neither is it relevant to any future claims to participate in new elections or to hold public office.

56. Objectively, former President Luiz Inacio Lula da Silva and his associate Paulo Tarciso Okamoto were charged by the Federal Prosecution Service with corruption and money laundering, and in the judgment, the prosecution will be examined exclusively, period.

57. Questions about the impartiality of this judge are mere diversionism and, although understandable as a defense strategy, they are not deplorable since they find no grounds for the arguments, as already decided, as reviewed by the Appellate Court of the 4th Region.

## II.2

58. In line with Luiz Inácio Lula da Silva's defense strategy of disqualifying this judge, for apparently fearing an unfavorable procedural outcome, questionable measures were taken by her outside this criminal action.

59. Thus, for example, former President Luiz Inacio Lula da Silva, assisted by the same lawyers, filed a criminal complaint for abuse of authority and also for breach of confidentiality on telephone interception against the present judge before the Appellate Court of the 4th Region.

60. That Court, by its Fourth Section, composed of eight judges, unanimously rejected the criminal complaint filed by Luiz Inácio Lula da Silva against this judge (Petition 0001022-85.2016.4.04.0000), considering the unlawfulness facts and lacking the action criminal prosecution of just cause (Petition 0001022-85.2016.4.04.0000, Rapporteur Appellate Judge Sebastião Ogê Muniz – 4th Section – un. - j. 03/03/2017). Synopsis of one of the decisions (event 360):

*“CRIMINAL PROCEDURE. SUBSIDIARY COMPLAINT OF CRIME. ABUSE OF POWER AND BREACH OF INTERCEPTED TELEPHONE COMMUNICATIONS. JUDICIAL ACTS. COMPULSORY PROCESS. BREACH OF TELEPHONE SECRECY. LIFT OF SECRECY. SEARCH AND SEIZURE. FILING NEWS OF FACTS, TO THE REQUEST OF THE Federal Prosecution Service. INORGANIC INERTIA. AS TO THE REMAINING FACT – SEARCH AND APPEARANCE – ABUSE OF POWER IS GROUNDLESS. REJECTION OF THE SUBSIDIARY COMPLAINT OF CRIME.*

*1. In order for the private criminal action, a subsidiary of the public criminal action, to be filed, it is necessary to show the inertia of the Federal Prosecution Service.*

*2. This inertia is not characterized when the Public Prosecutor's Office requires the filing of criminal news, and the competent judicial body accepts its request.*

*3. In this case, in the present case, the facts covered by previously granted filings (that is, coercive conduct, the decree of breach of telephone confidentiality and the lifting of the confidentiality of intercepted communications) can not give rise to the filing of a subsidiary criminal complaint.*

*4. In addition, the filings were made based on the lawfulness of the conducts questioned, forming, based on them, material res judicata.*

*5. Although this obstacle is overcome, there are no new facts that justify the filing of the criminal action, as to the matter that was the object of previous filing.*

*6. A part of this matter was subject to a complaint, to the STF (Rcl. No. 23,457), which did not determine the measures provided for in article 40 of the Penal Code.*

*7. As for the remaining fact – search and seizure -, there are no concrete elements that indicate the presence of abuse of authority referred to in the petition that conveys the subsidiary crime.*

*8. Subsidiary complaint of crime rejected. ”*

61. Previously, the same Court had already ordered the filing of crime new on the same facts, on the occasion of which it understood that none of the judicial decisions characterized abuse of authority, breach of telephone interception or violation of functional secrecy. Synopsis of one of the decisions:

*“FACTUAL BASIS. COMPULSORY PROCESS. ABUSE OF AUTHORITY. THING JUDGED MATERIAL. PREVARATION. UNLAWFULNESS SURVEY OF CARS AND TELEPHONE INTERPRETATION. VIOLATION OF FUNCTIONAL SECRECY. ILLEGAL TELEPHONE INTERCEPTION. LAWFULNESS. FILING*

*1. The characterization of abuse of authority in the conduct of the Magistrate that determined the coercive conduct of investigated was analyzed by the 4th Section of this Court, which acknowledged the atypical conduct, a decision on which falls the effects of res judicata formal and material.*

*2. No intention to satisfy personal interest or feeling, the conduct is not subsumed to the criminal type of article 319 of the Penal Code.*

*3. Evidenced that the Magistrate did not voluntarily carry out telephone interception without being covered by the necessary judicial authorization, and there is no fraud in the conduct, there is no mention of substituting the criminal type provided for in article 10 of Law 9.296 / 96.*

*4. Absent the intention to reveal fact that he was aware of the position and should remain in secrecy, the conduct is not subsumed under the criminal type of article 325 of the Penal Code.*

*5. Accepted the promotion of archiving by the Federal Prosecution Service, in view of the atypical conduct. " (Process 5019052-83.2016.4.04.0000, Rapporteur Appellate Judge Summoned Danilo Pereira Júnior – 4th Section – un., J. 9/29/2016)*

*“FACTUAL BASIS. ABUSE OF AUTHORITY. ARTICLES 3, ITEM 'A', AND 4, ITEM 'A', LAW 4,898 / 65. COMPULSORY PROCESS. ABSENCE OF ILLEGALITY. LAWFULNESS. FILING.*

*1. The coercive conduct of a person investigated or witnessed, while imposing a restriction on individual liberty, does not entail deprivation, and therefore does not characterize deprivation of liberty. In this scope, there is no mention of the incidence of the article 4, item 'a', of Law 4,898 / 65.*

*2. In this case, the order of coercive conduct of the investigated person was determined by the competent authority in a reasoned decision based on concrete elements justifying its necessity, adequacy and proportionality, and supported by the general discretion exercised by magistrates, provided for in article 3, item 'a', of Law 4,898 / 65.*

*3. Once the promotion of archiving by the Federal Prosecution Service has been accepted, given the atypical conduct. " (Process 5015109-58.2016.4.04.0000, Rapporteur -Assigned Federal Judge Adel Américo Dias de Oliveira – 4th Section, a. 4/14/2016)*

62. It should be noted that the latter two judgments are covered by final and unappealable judgments.

63. The Special Court of the Appellate Court of the Fourth Region also ordered the dismissal of a disciplinary representation filed against the judge by former President Luiz Inácio Lula da Silva, by an absolute majority (with an isolated defeated vote) on September 22, and based on the same facts (Administrative Special Court No. 0003021-32.2016.4.04.8000 / RS). At the time, it was understood that the acts practiced by this Court occurred in the regular exercise of its jurisdiction.

64. Thus, contrary to what Luiz Inácio Lula da Silva's Defense persists, even in its final claims, to judicial decisions of this Court, as already reviewed, were not criminal and constituted regular acts in the exercise of jurisdiction.

65. Again, let me repeat, this is mere diversionism adopted as a defense strategy. Instead of

discussing the merits of the charges, they complain about the judge and also of those responsible for the indictment.

66. But, as the issues were raised, some questions about these judicial decisions are examined, albeit briefly, and that, according to the defense of former President Luiz Inacio Lula da Silva, they would represent a "legal war" against his client.

67. This court, at the request of the MPF, granted authorization for the co-operation of the former president on 02/29/2016, (event 3), of case 500740106.2016.4.04.7000.

68. Well- reasoned decisions.

69. In addition to the grounds set out in the Decision, it should be pointed out that, at the time of its delivery, no additional reasons could be invoked as to the necessity of the measure and that resulted from the telephone interception of former President Luiz Inacio Lula da Silva and his associates held in the process 5006205-98.2016.4.04.7000 and then kept confidential.

70. As a matter of fact, some of the dialogues suggested that the former president and associates would take action to disturb the process, which could endanger police officers and even third parties.

71. For example, an intercepted dialogue like that of 02/27/2016, between former President Luiz Inacio Lula da Silva and the President of the Workers' Party, in which the former claims to have prior knowledge that the search and seizure would be carried out and reveals cogitate "to summon some deputies to surprise them", a measure which, in the end, was not finalized but could jeopardize due diligence. As a result, the police authority responsible for the investigation recorded in one of the interception records (telephone interception note 054/2016, case 5006205-98.2016.4.04.7000):

*"The monitoring has identified that some union groups and partisan associations are mobilizing in an attempt to thwart possible precautionary measures. These measures are likely to threaten the physical and moral integrity of both the investigated and the federal police involved.*

*Therefore, it is suggested that precautions and procedures be adopted to avoid the risks identified."*

72. This Court is not unaware of legal disputes over a bench warrant, without prior notice.

73. But in this case, the measure was necessary to avoid risks to the police officers who conducted the search and seizure on the same date.

74. It is also observed that time showed that the measure was necessary, since there was a riot at Congonhas Airport, where former President Luiz Inacio Lula da Silva was taken for deposition, due to the call of political militants to the place in order to pressure the police authorities. This was evidenced on that date and was also expressly stated in the statement made by him in the case of bench warrant (event 3, comp. 75, as is shown in several sections, such as "It is coming towards the place, "" You see, President, there are many people who came here to support you ").

75. The same call for party activists occurred when the judicial interrogation was carried out in the present criminal action, and there was a need for the adoption of special security mechanisms to prevent riots and conflict.

76. So the bench warrant was ordered that it was justified in context and time gave it even more reason.

77. Although it may be possible to disagree with the measure, it must be said that commanding someone for a few hours to testify, with the presence of the lawyer, absolute protection of the physical integrity and the right to silence, is not equivalent to a precautionary transformed the former President into a "political prisoner." Nothing like a "legal war".

78. At the request of the MPF (Federal Prosecution Service), this court, by decision of

02/24/2016 in case 5006617-29.2016.4.04.7000 (event 4), authorized the search and seizure of evidence at the addresses of the former President and his associates.

79. The decision is not only well reasoned, but delimits the object of the searches.

80. At the time, relevant evidence was collected, including for this criminal action, as verified in items 320-325.

81. Although the search and seizure has been carried out in several addresses, it is necessary to observe that the criminal scheme in investigation, involving the systematic practice of corruption and money laundering in contracts of Petrobras, with losses estimated by the state itself in about six billion reais, is also extensive, justifying measures of investigation, always based on law, but broad.

82. Although the complaints of those who suffer the search are understandable, fact is that searches and seizures are routine investigation measures in the daily criminal investigations.

83. Nothing like a "legal war".

84. Incidentally, the MPF, in the process 5006205-98.2016.4.04.7000, requested the telephone interception of former President Luiz Inácio Lula da Silva and associates.

85. The judicial decision of deferment is dated 02/19/2016 and is well founded (event 4 of the process 5006205-98.2016.4.04.7000).

86. On 26/02/2016, another relevant decision to extend the interception and which was requested by the police authority (event 42 of the process 5006205-98.2016.4.04.7000).

87. It is observed that the interception was authorized on 02/19/2016 and ceased, after judicial authorization of extension, on 03/16/2016, even completing one month. The extension decision is also well grounded.

88. The decisions to raise confidentiality of the interception, which met the request of the Federal Prosecution Service, are dated 03/16/2016 and 03/17/2016 (events 112, 135 and 140 of process 5006205-98.2016.4.04.7000).

89. Telephone interception is an investigative measure established by law, in this case Law 9.296 / 1996, and it has been strictly observed.

90. The investigative measure did not last long, nor did it complete a month, much less than it does in investigations involving less complex crimes.

91. As to the allegations that undue publicity had been given to the private speeches of the former President and his family members, it should be clarified that only the dialogues added by the police authority to the interception proceedings 5006205-98.2016.4.04.7000 were announced, from the mere lifting of secrecy on the records themselves.

92. There are many more intercepted dialogues besides those that remain publicized, but which, because they were not relevant to the investigation, have been preserved and thus remain so far in archived media before the Judgment.

93. If it were the intent of this Judgment to expose the privacy of the former President and his relatives, they would all have been released, ie hundreds of additional dialogues, which was not done.

94. There are, indeed, some dialogues that seem banal and eminently private, but careful examination reveals their relevance to research facts, such as dialogues in which the interlocutors set meetings, including in a rural property in the Atibaia region, and although they do not have their own illicit content, they suggest the relation of the former President with the said property, which is object of another criminal action. It is worth remembering that the selection of the relevant dialogues that were added to the case records was made by the police authority and not by this Court.

95. As for the allegation that Luiz Inácio Lula da Silva's defense strategy was monitored

through interception of the lawyers' cellphone, it, although constantly repeated, is false.

96. It was authorized, by decision of 26/02/2016 in case 5006205-98.2016.4.04.7000 (event 42), the telephone interception only of the number 11 98144-7777 owned by the lawyer Roberto Teixeira, but in the condition of being investigated, he himself, and not as a lawyer.

97. There was the suggestion that he would be involved in money laundering operations and this was already exposed in the initial decision of the interception of 02/19/2016.

98. If the lawyer, in the Roberto Teixeira case, is involved in criminal conduct, in the case of alleged money laundering for assisting the former President in acquiring assets with the Defendants ones, there is no immunity from the investigation to be preserved, nor about his communication with his then client also investigated.

99. To illustrate the well-grounded suspicion that he would be involved in criminal offenses, he responds, Roberto Teixeira, to the related criminal action 5063130-17.2016.404.7000 and is reported in another criminal action, no. 5021365-32.2017.404.7000.

100. Regarding the telephone number 11 3060-3310, allegedly from the Teixeira Martins e Advogados law firm, the interception was authorized bearing in mind that the number would be in the name of company LILS Lectures by former President Luiz Inácio Lula da Silva and not by a law firm. This is expressed in the decision of 02/19/2016 (event 4, case 5006205-98.2016.4.04.7000).

101. And in the reports of the police authority regarding the interception, it has always been pointed to such number as pertinent to LILS Lectures.

102. According to the MPF, such telephone number would be indicated in the CNPJ record as the company LILS Palestras. Such affirmation is proven in fl. 2 of file attachment out2 of event 166 of process 5006205-98.2016.4.04.7000 and in the CNPJ register of LILS Lectures constant in event 166, out, of the same process.

103. Still according to the MPF in the same petition, the company LILS Palestras, after the lifting of secrecy related to the interception, changed the CNPJ records to exclude the mentioned telephone. This affirmation is proven in p. 3 from file out2 of event 166 of process 5006205-98.2016.4.04.7000.

104. The procedure seems fraudulent, since it represents a change in the state of the evidence by the Defense of Luiz Inácio Lula da Silva in the course of the investigation.

105. Although in principle it could be considered valid the authorization to intercept the number, even if it was from the office since the main partner, Roberto Teixeira, was investigated and the user granted authorization, granted by this court was assumed that the number belonged to the company of the former President and not by the law firm.

106. This judge was only aware that the number was owned by the law firm when the party itself alleged that, after the interception had ceased.

107. It is a matter of fact that the telephone operator had previously sent court papers stating that the interceptions had been implemented and in which, among other numbers, reference had been made to the aforementioned number as the law firm's number, but these offices, in which the fact is not the subject of any emphasis and do not convey any request, were not actually perceived by the Judge, with attention taken by hundreds of complex processes before him. What this judge had in mind is that the number, as it appears in the CNPJ records and in the interception files, was of the LILS Lectures.

108. It is also worthy of note that, even if intercepted number 11 3060-3310, no relevant dialogues from it were selected by the police authority.

109. In fact, despite the dramatic argument of Luiz Inácio Lula da Silva's defense that twenty-five lawyers had been intercepted for the implementation of the measure in number 113060-3310, there is no specific mention of dialogues intercepted in the aforementioned number. other lawyers than Roberto Teixeira himself, and no dialogues whose content concerns the right of defense.

110. It is unfortunate that, because LILS Lectures suggest in their CNPJ records the contact telephone number of a law firm, telephone calls that were extraneous to the investigation may have been mistakenly intercepted, but if this occurred, such dialogues were not even selected as relevant, preserving its contents.

111. So it does not correspond to the reality of the facts that all the lawyers of the law firm Teixeira Martins were searched or intercepted.

112. In order to justify its claim that there would be monitoring of the defense strategy, the Defense of Luiz Inácio Lula da Silva still quotes in p. 74 of the final allegations (event 937), two dialogues between former President Luiz Inacio Lula da Silva and Roberto Teixeira.

113. It should be noted, initially, that these dialogues do not even make up the evidence elements that instruct the complaint, that is, they were not used.

114. However, it is noted that the intercepted telephone number was 11 963843690, owned by the former President Valmir Moares da Silva, the security team of the former president. Such a telephone was intercepted, as the security officer routinely relented, as illustrated by the dialogue cited by the Defense, the terminal used by former President Luiz Inacio Lula da Silva.

115. So it is not even here the proof of the interception of the number used by Roberto Teixeira.

116. In any case, the dialogues do not deal with a defense strategy, but as their content is clear, the attempt to contact the then Chief of Staff Jaques Wagner with goals not fully clarified, but certainly does not involve the legitimate exercise of defense.

117. Thus, there was no attempt to "monitor" the defense strategy of former President Luiz Inacio Lula da Silva, despite the repeated insistence of Luiz Inácio Lula da Silva's defense.

118. Lastly, as regards the decisions taken to characterize the "legal war" against former President Luiz Inacio Lula da Silva, there is a lift of secrecy on interceptions authorized by the court of 03/16/2016 and 03/17/2016.

119. Reference should be made to the grounds of the decision itself and also to the lengthy reasons set out in Official Letter 700001743752 submitted by this court in the context of Complaint 23,457 (event 161 of the case 5006205-98.2016.4.04.7000).

120. The following summary made by the magistrate himself in the said letter addressed to the Federal Supreme Court is transcribed as appropriate:

*“a) the interception was just cause and was supported by the law;*

*b) the measure had, as its exclusive focus, the conducts of the former President and associates deprived of jurisdiction by function prerogative;*

*c) former President's dialogues were randomly taken with authorities on the basis of a prerogative of office without them having been investigated or intercepted;*

*d) several dialogues of the former President with relevant legal-criminal content were collected because they revealed conduct or attempts to obstruct or intimidate the judiciary or even to unduly influence magistrates, and dialogues were also collected that were relevant to the object of the ongoing investigation, of a well-grounded suspicion of concealment of assets on behalf of interposed persons;*

e) no evidence of criminal conduct of the interlocutors with jurisdiction was taken, including that one of them would have accepted the former President's requests to obstruct, intimidate or unduly influence magistrates;

f) Roberto Teixeira was intercepted because he was investigated, directly involved in the alleged crimes under investigation, the alleged acquisition of the ranch in Atibaia with the use of interposed persons, and not as a lawyer; without immunity, according to the jurisprudence of the Federal Supreme Court, when the lawyer is involved in criminal practices;

g) and only those dialogues considered to be legally relevant to the criminal investigation and the others, whether protected by professional secrecy or eminently private, have been posted in the file and, therefore, have been stored in electronic archives that are not published and which must be submitted, after the adversary, to the disabling procedure;

h) there are dialogues selected by the police authority as relevant and appear to be eminently private, but actually contain aspects relevant to the investigation, such as those indicating that the ranch in Atibaia is under the ownership of the family of the former President and not the formal owner;

i) the practice of this Judgment has always been to lift the secrecy about telephone interception processes, including for dialogues relevant to the investigation, after the conclusion of the proceedings, which does not disagree with the practice adopted in other Judgments and, apparently, also by this Federal Supreme Court, according to precedent above; and

j) jurisdiction to focus on investigating the former President's conduct, to decide on the request for confidentiality of the case, which contained relevant dialogues for the criminal investigation of the former President's conduct, it was this court on March 16, when the former President had not yet taken office as Minister.

*The lifting of secrecy was not intended to generate a political-partisan incident, controversy or conflict, something that is foreign to the jurisdictional function, but, given the request of the MPF, to publicize the process and especially the relevant legal and criminal conduct of the investigated former President Luiz Inácio Lula da Silva, who may eventually characterize obstruction of Justice or attempts to obstruct Justice (article 2, §1, of Law 12.850 / 2013).*

*To summarize these acts and attempts, I recall here the above-mentioned dialogue of the former President in which, when referring to those responsible for the processes related to the criminal scheme of Petrobrás and what should be done in relation to this, he said, without major modesty, that 'THEY HAVE TO FEAR'. This is not an affirmation that does not generate natural fears for those responsible for the processes related to the criminal scheme of Petrobrás. "*

121. It is certain that Minister Teori Zavascki, in the decision dated 06/13/2016 in Complaint 23,457, when he granted an injunction to open the interception process, used harsh words against the decision of the court to remove the secrecy on the file.

122. However, when he then submitted a preliminary injunction for ratification of the Plenary of the Federal Supreme Court, he no longer made any reference to the alleged arbitrary performance of the magistrate or to the need for any kind of accountability. In the same sense, nothing was said in this respect by his peers, the other eminent Ministers of the Federal Supreme Court when ratification of the injunction on 03/31/2016.

123. And finally, by decision of 06/13/2016 in the same Complaint, Minister Teori

Zavascki returned to the Judgment the cases related to the former President, including telephone interception, not recognizing the jurisdiction of the Ministers of the Federal Supreme Court to prosecute him, at the time, he also made no reference to the need for disciplinary measures.

124. Therefore, in spite of the initial censorship, Minister Teori Zavascki later returned the proceedings concerning the former President, not recognizing the competence of the Federal Supreme Court to prosecute him.

125. In the opinion of this judge, respecting the partial censorship of Minister Teori Zavascki, the problem in the intercepted dialogues was not the lifting of secrecy, but its content, which revealed attempts by former President Luiz Inacio Lula da Silva to obstruct investigations and his intention to act against them with all his political power ("they have to be afraid") when he took the position of Chief of Staff.

126. The Judiciary should not be the guardian of dark secrets of the Rulers of the moment and the lifting of secrecy was mandatory except by the Judgment, then by the Federal Supreme Court. Although, in respect to the decision of the Federal Supreme Court, this judge may have failed to raise confidentiality, at least considering the issue of jurisdiction, the review of judicial decisions by higher courts is part of the judicial system of errors and correctness.

127. Telephone interception for less than thirty days in complex investigations and the raising of secrecy about the content of interceptions, even if the question of jurisdiction can be questioned, is nothing equivalent to a "legal war".

128. The Defense of Luiz Inácio Lula da Silva also claims that the "legal war" would be characterized by the accomplishment of Federal Prosecutors during a press conference, on 09/14/2016, in which they would have attacked the image of the former President by explaining the content of the complaint.

129. On this issue, this Court has already rejected the exception of suspicion promoted by the Defense against Federal Prosecutors who undersigned the complaint and attendants of the aforementioned press conference, with a copy in the event 335. It is referred to therein.

130. Even if it is possible to criticize the language used in said press conference, this has no practical effect for the present criminal action, because what matters is the procedural pieces produced.

131. While it may eventually be understood that the interview was not appropriate in form, it seems far from characterizing a "legal war" against the former President.

132. Finally, still on the so-called "legal war", it would also be the result of "instrumentalization of the media" or be carried out "with the support of traditional media sectors."

133. In an environment of freedom of expression, the press is free to report the facts freely. The successive negative news for certain politicians, not only in relation to former President Luiz Inacio Lula da Silva, seems, as a rule, to be more a reflection of the fulfillment by the press of their duty to report the facts than some kind of persecution policy to anyone. There is no doubt that the policy should be removed from the police pages, but this is solved by taking away the crime of politics and not the freedom of the press.

134. Among the recent events is a criminal scandal with corruption losses estimated at around six billion reais by Petrobras itself and that would have occurred during the mandates of former President Luiz Inacio Lula da Silva and his successor. It is natural, in the context, that the press has news to disseminate.

135. In any case, this Court does not control and does not intend to control the press, nor does it have any influence on what it publishes.

136. Moreover, as this same Court explained, even unnecessarily, in the judicial interrogation of the former President, the case will be decided on the basis of laws and evidence ("I assure you that it will be judged solely on the basis of the laws and evidence of the proceedings, you

can be sure about that "), regardless of any press position on the case.

137. Finally, all these decisions were taken in the regular exercise of jurisdiction and allegations that former President Luiz Inacio Lula da Silva would suffer some kind of "lawfare" do not find support in the facts of the investigation and the process, seeming to be a complete exaggeration by part of the defendant's defense that responds to the process in freedom, not only of movement, but expression, and that has been exercising its defense widely.

138. In essence, therefore, it is more an attempt at diversion in relation to the merits of the prosecution and to present the former President as a victim of a non-existent "legal war".

### II.3

139. The Defense of Luiz Inácio Lula da Silva also alleges that this judge would have revealed "animosity" towards the defenders constituted of the former President.

140. It is enough to read the various transcribed statements of defendant and witnesses in this criminal action to establish that this judge always treated the defenders with civility, even if they did not have reciprocity.

141. In the hearings, the Defense of Luiz Inacio Lula da Silva and in this point also of Paulo Tarciso Okamoto raised successively questions of order during the inquiries of the MPF or those of this Judge, disturbing the act. Obviously, any party may raise points of order, but once they have been presented and rejected, it is not possible to restate them indefinitely and undermine the normal development of the audience.

142. Punctually, the Judgment was still offended by the defenders, as is seen in some parts of these sad episodes. Transcribed just a few:

*"Federal Judge: - Sir, the defense by the way will be raising a point of order every two minutes in this inquiry, is inappropriate, Sir, is disturbing the audience.*

*Defense: - It may be inappropriate, but it is perfectly legal.*

*Federal Judge: - They are upsetting the audience.*

*Defense: - Because the judge presides the presidential regime, but the judge is not the owner of the process.*

*Federal Judge: Okay, but then it is...*

*Defense: - Here the limits are the law, the law is the measure of all things, and the law of the process disciplines this hearing, the defense has the right to speak in the order to argue a point of order, or if your honor wants to delete the and **I imagined that this had already been buried in 1945 by the allies and I see you reappearing here in this agricultural region of our country**, if your honor wants to suppress the defense, then I think there is no need for us to continue that hearing.*

*Federal Judge: - Sir, the defense is disturbing the hearing, raising a point of order behind a point of order, not allowing here the prosecutor produce the proof, both the prosecution has the right to produce the evidence and the defense. " (event 388)*

*"Federal Judge: - Sir, this question has already been appreciated in a context, the judge is allowing.*

Defense: - Context, what is the context? **It is only in your mind, your honor.**, what context is this, the context for us is the denunciation, what context? The context is the complaint.

Federal Judge: - Sir, it is denied.

Defense: - **A context that is only in your mind, your honor**, the context is the denunciation...

Federal Judge: - Sir... " (event 388)

"Federal Judge: - They are the clarification of the testimony, I heard, respect, now I ask you to respect the position of the judgment to make the questions here also pertinent in the form of the law and in the interpretation of the judgment.

Defense: - Okay, I'll protest because the **interpretation of the court's judgment is different from the constitution and criminal procedural law.**

Federal Judge: - Then leave it to the final allegations, with all that rhetoric and everything. I'll continue...

Defense: - Your Honor, do you understand that the defense's participation is rhetorical?

Federal Judge: No, Sir, I just think the defense is lacking politeness.

Defense: - No, I'm asking a question, I did not, I'm asking your honor if our participation here is merely rhetoric?

Federal Judge: No, Sir. So let's move on, Can I ask my questions? Will the defense allow?

Defense: - If your honor does this in the proper procedural order, yes.

Federal Judge: - That is what I am doing it, Sir.

Defense: - **Following the criminal process, at least the code we know.**

Federal Judge: - No further intervention, please. You stated in your testimony of these appointments that 'Collection' Intention, can you clarify this? " (event 388)

"Federal Judge:" Okay, Sir, as I hold this hearing, then I understand what I can do in my interpretation.

Defense: - Then there is the protest of the defense against the behavior of your honor, which violates the Penal Code.

Federal Judge: - Right, in your interpretation, Sir, in the correct interpretation of the code...

Defense: - The interpretation of those who work in criminal proceedings.

Federal Judge: - Ah, Sir.

Defense: - **We are criminal procedure professors.**

Federal Judge: - That's great, Sir. So I will follow my inquiries here, if the defense allows, of course. So it was mentioned, there was this question of the fragility you mentioned, but there was a need then to raise more money, that's it, bribe, I do not know if this was clear?

"Federal Prosecution Service: - Of course. Mrs. Mariuza, at that moment was Mrs. Marisa treated by the OAS Group as the buyer of the property, as a person who was visiting the property to see if they had an interest in buying or as a person who was already the recipient of the property?

Defense: Your Honor, you are inducing the answer:

Federal Judge: No, you're not getting the answer.

Defense: - He' is inducing...

Federal Judge: - He mentions three alternatives.

Defense: - Yes, but anyway...

Federal Judge: - It is rejected.

Defense: - It's an opinion he's asking.

Federal Judge: "Can you please respond, Madame Mariuza, if you can answer?"

*Deponent: "I'm not listening, I could not hear. Federal Judge: Can you rephrase the question?"*

*Federal Prosecution Service: - Ms. Mariuza, it was clear, Mrs. Mariuza, during this visit was Mrs. Marisa Leticia being treated by the OAS Group as a possible buyer of the property or as a person for whom this property had already been destined?*

*Defense: - Your honor...*

*Federal Judge: No, Ma'am, it is dismissed.*

*Defense: - No, no, Your Honor, in order, please, I have the right to make an intervention.*

*Federal Judge: Yes. Nothing is being recorded except you, Ma'am, you're talking.*

*Defense: Your honor, that question has already been asked, your honor consistently in all hearings has dismissed questions that were already asked, including by the process of celerity of the audience, the question has already been asked and the witness replied, was a potential client in her words.*

*Federal Judge: - No, Sir, I do not think that question was asked and your intervention is denied. You can repeat the question again, I would request no further interventions.*

*Federal Prosecution Service: - Mrs. Mariuza, on this visit, Mrs. Marisa Leticia was being treated by the OAS Group as a person who could eventually acquire the property or as a person who had already acquired, already owned the property, the property was already destined to her.*

*Defense: "Here's the protest again, Your Honor.*

*Federal Judge: "Sir, you're being inconvenient, Sir.*

*Defense: - He is asking for the opinion of the witness, the defense is not inconvenient in the measure that we are in the exercise of the profession.*

*Federal Judge: - Your question has already been dismissed.*

*Defense: - But I know, you can not...*

*Federal Judge: - Your question has been dismissed, Sir.*

*Defense: - Your Honor can not take the floor from the defense.*

*Federal Judge: - I can, Sir.*

*Defense: - You can not, because we are posing a very important, relevant issue, the illustrious prosecutor is asking the opinion of the witness and he can not ask the opinion of the witness.*

*Federal Judge: - You are very inconvenient now, your question has already been dismissed, you are already registered and you respect the judgment!*

*Defense: - But, listen, I do not respect your honor while your honor does not respect me as a defender of the defendant!*

*Federal Judge: - You respect the judgment, you have already been denied!*

*Defense: - Your Honor has to respect me as defender of the defendant, then your Honor has the respect that is due to your honor.*

*Federal Judge: - It has already been rejected.*

*Defense: But if your honor acts here as the chief accuser, your honor loses all respect.*

*Federal Judge: - Your question has already been rejected, you do not have the floor. You can repeat this question that was already asked. Can you answer that question, since she was treated as a potential acquirer or a person for whom the property was already intended?*

*Mariuza Marques: - Treated as if the property had already been destined to. " (event 425)*

*"Federal Judge: So you knew it was a request from the PMDB to the government?"*

*Deponent: - By the press, but in the council this was not discussed.*

*Federal Judge: And you never asked, never...*

*José Gabrielli: - No, actually we did not have...*

*Defense: - By order, Your Honor, there is a limit. Federal Judge: - I'm asking the questions, Sir.*

*Defense: - Your Honor is insisting.*

*Federal Judge: I am asking the questions, Sir, I am not inducing the witness.*

*Defense: - You are inducing, is the fifth question. Already answered. These are questions already answered, will be answered again, Your Honor.*

*Federal Judge: - I've patiently listened to the questions from the defense and the prosecution, I'm asking my questions, right?*

*Defense: - **But your questions are the questions of an inquisitor and not the questions of a judge who wants to clarify a fact.***

*Federal Judge: - Sir, respect the judgment.*

*Defense: - I am (unintelligible) Your Honor.*

*Defense: - Your Honor should respect the procedural order.*

*Federal Judge: - Respect the judgment, Sir. You had no knowledge then? " (event 607)*

143. The inadequate behavior of the Defense of Luiz Inacio Lula da Silva and that of Paulo Tarciso Okamoto was even subject to censorship by the **renowned and veteran criminal lawyer René Ariel Dotti**, acting as a representative of Petrobrás, during the judicial interrogation of former President Luiz Inácio Lula da Silva (event 885):

*"Assistant Prosecutor: - I ask for the floor again. We can not create a personal confrontation of the lawyers with the court judge in this interrogation, that is obvious, it is even counterproductive as it is elementary, I have the impression that the incidents of the hearing will be reported with all the fidelity by our colleague of the Bar Association and the excesses that may arise, because it is his obligation here in the Bar Association to portray the behavior of the parties represented and the incidents. I finished my point of order. "*

*"Federal Judge: - Perfect, let's proceed. Mr President, do you see any contradiction in your position, you claim that you have no responsibility for all these crimes, but also do not publicly acknowledge any responsibility of the people working in the party and the government?*

*Defense of Luiz Inácio Lula da Silva: - This is a political question, recognition of something, your honor is asking for the political position of the deponent, so the orientation of the technical defense is that it does not issue at this moment any type of pronouncement, other than in relation to the process.*

*Assistant Prosecutor: - On a point of order, allow me, my colleague, the magistrate has evidently in the interest of ascertaining the fact and the personal conditions of the defendant in the individualization of the sentence, if any, its antecedents, its personality, in the end, personal conditions, their morals inclusive, especially their moral case.*

*Defense of Luiz Inácio Lula da Silva: - What are you judging?*

*Assistant Prosecutor: - I am not judging anyone, I am justifying the question of the judge, and the judge may ask why it is matter of fixing the sentence, the judge can do this, is fixing the penalty, personality, I am not representing anyone.*

*Federal Judge: - Sir, Sir, respect the lawyer who is speaking now, it is not your turn, the Sir has spoken at that hearing all the time tiresomely, the lawyer is talking now.*

*Assistant Prosecutor: - It seems that the authority of the judge of the case is not respected, it is evident this, including speaking without asking the word, this is not done, Fernando, this is not done, this is not done in an audience, evidently not do it in a hearing that, protest against the*

*judge, appeal against the judge, but do not face the judge personally in the hearing, the public is present and you too, you too, you speak without asking permission, you speak without asking permission.*

*Defense of Paulo Okamoto: - Not at all, professor. "*

144. The defense claim of Luiz Inacio Lula da Silva that he had been offended by the deponent Jose Afonso Pinheiro and that the court would have remained inert is groundless. The offense did indeed occur (event 426), but it started from a simple person who claimed to have lost his job because of the issue involving apartment 164-A, triplex, and who responded to a line of hostile defense inquiry by Luiz Inácio Lula da Silva. Even so, the witness was censored immediately ("Federal Judge Mr. José Afonso, Mr. José Afonso. Mr. José Afonso, please, let us calm down here, this is no time to offend anyone here, I ask you to calm down, okay? So, from what I understood, you were unemployed and decided to enter politics, was that it? ").

145. In this context of inadequate procedural behavior on the part of Luiz Inácio Lula da Silva's defense, it is quite peculiar to her claim that this judge would have acted with animosity against the defenders in question.

146. What this judge did was to conduct the hearings in the best possible way in order to take the evidence, and to avoid that the riots generated by the inappropriate behavior of the defense, including punctual offenses, hindered the good progress of the process.

147. The Judge could have taken more forceful action on this improper procedural behavior, but chose to continue with the deed to avoid unnecessary parallel matters.

148. So the claim of Luiz Inacio Lula da Silva's defense has no rationale and once again is a strategy of pure diversionism, here examined only for having been alleged.

## **II.4**

149. Despite the provisions in the previous topics regarding the questionable procedural measures taken by the Defense of Luiz Inácio Lula da Silva against the judge and also the inadequate procedural behavior of the judge and also of the Defense of Paulo Tarciso Okamoto, it should be noted that these facts do not affect the impartiality of this Court.

150. It is up to the defendant to decide only on the basis of law and evidence, and the procedural behavior of their defenders is irrelevant.

151. Illustratively, the judgment is absolutist in relation to Paulo Tarciso Okamoto and this despite the inappropriate behavior of the defender.

152. In any case, in relation to these questionable procedural measures and improper procedural behavior, the rule set forth in art. 256 of the CPP ("the suspicion can not be declared or recognized, when the party injures the judge or on purpose gives reason to create it").

## **II.5**

153. The Defenses questioned the jurisdiction of this Court.

154. It occurs that the same issues have already been refuted in the judgment of the exceptions of incompetence presented by the parties (exceptions 5051562-04.2016.4.04.7000 and 5053657-07.2016.4.04.7000, with copy in event 570).

155. They refer to the basis of those decisions.

156. Very syntactically, a few points stand out.

157. The jurisdiction is of the Federal Justice.

158. According to the complaint, undue advantages agreed in Petrobras contracts with the OAS Group would have been directed to President Luiz Inacio Lula da Silva because of his position.

159. It does not matter that Petrobrás is a mixed-economy corporation when the bribes, according to the indictment, were directed to a federal public agent.

160. In addition, Luiz Inácio Lula da Silva, the President of the Republic, would be responsible for the Federal Supreme Court.

161. No longer exercising the mandate, the jurisdiction will be Federal Court, because, as the object of the complaint, there is corruption of federal public agent.

162. On the other hand, according to the complaint, the crime was committed under the criminal scheme that victimized Petrobrás, in which Petrobrás contracts with its main suppliers, such as Construtora OAS, generated an undue advantage that was shared between Petrobras agents and political parties.

163. The criminal scheme would also involve fraudulent bidding adjustments among Petrobras' suppliers.

164. There is a whole context and has already been recognized by the Court of Appeal and the High Courts that these cases are related and require joint analysis, by a same court, under risk of dispersion of evidence.

165. Illustratively, the Federal Supreme Court has systematically sent to this Court dismembered cases or evidence gathered regarding this same criminal scheme. To take a single example, mention the proposed criminal action against the former Federal Deputy Eduardo Cosentino da Cunha in the Inquiry 4146 and, after the revocation of the mandate, was sent to this court, where it was assigned number 5051606-23.2016. 404.7000.

166. On the other hand, this court became preminent for these cases since the investigation began with a crime of money laundering consummated in Londrina / PR and that, was subject of the criminal action 5047229-77.2014.404.7000 (copy of the sentence in event 847).

167. Also noteworthy is the close connection of the present criminal action with the crimes that were object of the criminal action 5083376-05.2014.404.7000 in which the directors of OAS José Adelmário Pinheiro Filho and Agenor Franklin Magalhães Medeiros were convicted for corruption and money laundering for payment of undue advantage and its concealment to Petrobrás Director Paulo Roberto Costa in contracts of the CONPAR Consortium and the RNEST / CONEST Consortium (copy of the sentence in event 847). According to the complaint, the same hiring and the same tips would have generated credits that would have benefited former President Luiz Inácio Lula da Silva, and therefore the connection is even closer than that verified in relation to the other cases covered in the so-called Lava Jato Investigation.

168. It is not relevant to the jurisdiction of the defendants of Luiz Inacio Lula da Silva and Paulo Tarciso Okamoto that the crimes would not have occurred or would not be related to the criminal scheme that victimized Petrobrás. In the definition of competence, it is not possible to analyze merit, but only the terms of the imputation.

169. Therefore, the jurisdiction is of the Federal Justice, for the existence of federal crimes, and specifically of this Judgment for the prevention and the connection and contiguity between the processes that have as object the criminal scheme that victimized Petrobrás investigated within the scope of the so-called Lava Jato Investigation, and between them the referred criminal action 5083376-05.2014.404.7000, but also others in progress.

## **II.6**

170. Some Defenses claim defective complaint and lack of just cause.

171. However, the article adequately describes the delinquent conduct of corruption and money laundering, as summarized in items 3-37, retro.

172. On the other hand, it was instructed with documentary evidence and with the extrajudicial statements of employees and witnesses.

173. So there is no way to claim defective complaint or lack of just cause.

174. Whether or not it is appropriate, it is a matter of substance, which does not concern the formal adequacy of the complaint.

## **II.7**

175. The Defense of Luiz Inácio Lula da Silva alleges that the criminal action must be dismissed in order to await the results of the investigations in the Federal Supreme Court of Inquiry 4325 that seeks to determine the participation of the former President in the organized criminal group that committed crimes in the scope of Petrobrás;

176. The purpose of this criminal action is specifically corruption and laundering crimes.

177. Their judgment does not depend on the conclusion of the investigation or possible criminal action against the former President Luiz Inácio Lula da Silva for a crime of belonging to an organized criminal group or a crime of criminal association and that constitutes the object of the aforementioned Inquiry 4325.

178. Therefore, the intended suspension is not applicable.

## **II. 8**

179. Some of the Defense Counsels claim that there has been denial of a fair opportunity to be heard.

180. In the course of the criminal prosecution, dozens of requests for evidence from the Prosecution and the Defense have been assessed.

181. Several requests have been granted and others denied.

182. The specific reasons have been expressly explained in the relevant decisions, specially in those in which the requests of the preliminary responses have been assessed, in the decision of 10/28/2016 (annex 114), with additional information in the decisions of 11/17/2016 (annex 230), 11/25/2016 (annex 275), 12/13/2016 (annex 358), 02/17/2017 (annex 578) and 03/03/2017 (annex 624), and in that in which the parties' requests during the phase related to Article 402 of the CPP was assessed, more specifically in the decision of 05/15/2017 (annex 836). However, the proceedings bring others that could be mentioned, such as the decision of 05/26/2017 (annex 894), when there was an attempt to initiate an action for fraudulent misrepresentation of a document which would not be a piece of evidence, and the one of 07/11/2017 (annex 945).

183. This Court makes reference to the content of those decisions.

184. It is important to understand that the fundamental right to a fair hearing does not mean broad and unrestricted right to produce any pieces of evidence, even those deemed impossible, costly and frivolous.

185. It is the judge's responsibility, according to what is set forth in Article 400, §1º, of the Penal Code – CPP, to control appropriateness, relevance and the need for evidence. Although this control shall be carried out with caution, the use of evidence which is clearly unnecessary, not relevant or aiming at a delay is not justified. Regarding the constitutional vitality of that legal rule, I hereby register the following precedent of our Supreme Court:

*“HABEAS CORPUS. EVIDENCE DENIAL. SUBSTITUTION OF THE ACT OF DURESS. PRECEDENT 691. 1. There is no absolute right to evidence production. The judge shall, according to Article 400, §1º, of the Penal Code., deny evidence deemed impertinent, irrelevant and delaying. It is allowed to have, during the phase for additional proceedings, requests for evidence needed during the evidentiary stage. As for complex cases, one shall trust the judge's prudent discretion, who is closer to the facts, regarding the evaluation of the suitable and relevant nature of the evidence requested by the parties, subject to the critical assessment of the Court of Appeals when judging a potential appeal against the sentence. 2. Habeas Corpus filed against a preliminary injunction by a Rapporteur is not known in habeas corpus requested by a Higher Court. Precedent 691. Impediment feasible only in the hypothesis of teratology. 3. In case there is an appellate decision by a Higher Court, there will be a new act of duress which requires appropriate action.” (HC 100.988/RJ -: Justice Rosa Weber – 1ª Panel – majority – j. 5.15.2012)*

186. Therefore, the requested evidence, even for caution, might be assessed for its relevance, need and appropriateness by the Court.

187. Several requests for evidence have been made in the course of this case and they were clearly unnecessary in addition to being complex to produce.

188. In order to provide just some examples:

189. Luiz Inácio Lula da Silva's Defense has requested, in a preliminary decision, that Petrobras gathers all minutes of the Board of Directors' meetings of the Audit Committee and of dozens or hundreds of bid committees inside Petrobras in the period from 2003 and 2016.

190. The request was denied, according to the decision of 10/28/2016 (annex 114), due to a lack of purpose to produce such documentation related to a period of thirteen years.

191. Luiz Inácio Lula da Silva's Defense has requested, in a preliminary decision, that a copy of the documents related to the bidding procedures and the contracts and annexes of the initial

complaint, specially contracts signed with the CONPAR Consortium and the CONEST/RNEST Consortium, be entered in the docket.

192. What occurs is that it involves contracts of billions of reais and the full documentation involves thousands of documents, which makes it unfeasible to be annexed to the proceedings.

193. It is not the case, therefore, to enter the documents in the docket, which would result in substantial cost.

194. On the other hand, the case counts on fundamental documents of the bidding procedures and the contracts, as clarified in items 651-698 below, which allows for a fair hearing without constraints.

195. Luiz Inácio Lula da Silva's Defense has also requested, in a preliminary response: "May the NATIONAL CONGRESS be ordered to inform the status of all the bills filed by the Presidency of the Republic between the years of 2003 and 2010, including, among other things, the amendments presented and the likely approval quorum".

196. After requesting explanation regarding the relevance of the evidence, the Court denied the request according to the decision of 11/17/2016 (annex 230).

197. In addition to the difficulty of producing evidence of such nature, referral of information on the progress and current status of all the bills filed between the years of 2003 and 2010, there is the fact that this data is not confidential and the Defense itself could have gathered those pieces of information, without transferring the burden of work to third parties.

198. Seemingly, unnecessary are the expert examinations requested by Luiz Inácio Lula da Silva's Defense regarding verification whether the funds used to build the *Condomínio Solaris* and to renovate Apartment 164-A, a triplex, could have been tracked and reached the contracts with the CONPAR Consortium and the CONEST/RNEST Consortium.

199. In the decision of 10/28/2016 (annex 114), expert examinations were denied due to the fact that "there was no statement in the complaint, at first, regarding the fact that the money received by the OAS Group for the contracts with Petrobras was specifically directed in favor of the former President". Also, "money is fungible and the complaint does not state that there is a financial tracking between Petrobras coffers and the former President's coffers, but rather the fact that the benefits received by the former President would be part of a bribe agreement between the OAS Group and Petrobras' directors and that it would benefit the former President". Thus, the expert examination would be irrelevant, for the prosecution is not based on a specific tracking.

200. In its closing arguments, Luiz Inácio Lula da Silva's Defense claims that the right to a fair hearing has been denied, since it did not have access to the plea bargain agreement procedures involving José Adelmário Pinheiro Filho and Agenor Franklin Magalhães Medeiros.

201. The issue was addressed in the decision of 05/15/2017 (annex 836):

*"2.1 Luiz Inácio Lula da Silva's Defense asks the MPF to clarify the status of the negotiations involving the plea bargain agreements of José Adelmário Pinheiro Filho and Agenor Franklin Magalhães Medeiros and the benefits offered. The issue has already been addressed during examination hearings, in which the defendants claimed that they would be trying to sign a plea bargain agreement, but nothing had been finalized and no offer of a concrete benefit had been made.*

*Therefore, the issue became moot.*

*It is not viable to require the provision of information on a potential or uncertain plea bargain agreement which has not been signed yet.*

*In case such plea bargain agreement has been signed and is under confidential status by a higher jurisdiction, I hereby authorize only that the MPF, in its closing arguments, inform its content”*

202. The information available to this Court is that the two above mentioned persons' collaboration is still pending negotiation between the defense and the Office of the Prosecutor-General.

203. Thus, there are no formal plea bargain agreements or testimonies and Luiz Inácio Lula da Silva's Defense is aiming at having access to elements that do not exist, which is impossible to provide and does not result in denial of a fair opportunity to be heard.

204. Still in the closing arguments, denial of a fair opportunity to be heard is mentioned because of the denial of some questioning to some collaborating criminals who have been heard as witnesses.

205. Denying the questioning to witnesses was specific and is related to questions provided by Luiz Inácio Lula da Silva's Defense about a potential plea bargain agreement signed in the United States.

206. The referred witnesses have been oriented by their lawyers not to answer questions on that matter. For illustrative purposes, part of Pedro José Barusco Filho's testimony is registered (annex 388):

*“Defense: - Have you signed or are you signing any type of agreement with any other country?”*

*Pedro José Barusco Filho: - Look...*

*Pedro José Barusco Filho's Defense: - Your Honor, these matters regarding agreements outside Brazil have been treated as confidential and are not part of this complaint. I would ask the witness not to answer at this time.*

*Federal Judge: - So, Sir, the questions have become moot.*

*Defense:- Ok, Your Honor, but I would like at least to know where the agreement is being signed, which court. The witness is committed to saying the truth.*

*Federal Judge:- Is the orientation of the Defense to the witness not to talk about these facts?*

*Pedro José Barusco Filho's Defense: - Yes, Your Honor, they are being negotiated outside Brazil, they hold no connections with the matters treated here and confidentiality is required during negotiations of any agreement outside the country.*

*Defense: - Your Honor, this information could have been provided before Mr. Pedro Barusco came to this Court or even at the moment he appeared before it. Now, as his examination as a witness has been defined, the matter comes up again, denial of a fair opportunity to be heard due to the fact that this provision is not in law.*

*Federal Judge: - Right. Sir, as there is instruction from the lawyer to their client as a suggestion that it might jeopardize the other agreement, the court will respect the orientation.*

*Defense: - I will make questions here and Your Honor leads the way you find more feasible, but I will record the questions I would like to be made to the witness.*

*Federal Judge: - Go ahead, Sir.*

*Defense: - Which country are you negotiating this agreement with? The witness, that does not exist that contact that way...*

*Pedro José Barusco Filho: - Sir, I need to keep it confidential, you are asking me to breach confidentiality.*

*Federal Judge: - Overruled, Sir.*

*Defense: - Can you tell me if you have traveled to sign this agreement or if you are signing it here in Brazil?*

*Federal Judge: - You might answer following your lawyer's orientation or the way you prefer.*

*Pedro José Barusco Filho: - The matter is confidential, you keep asking me details of it. As soon as confidentiality is lifted, I will not have any problems to answer all the questions, but as long as it is confidential, I have been under confidentiality before with this agreement, I know how I have behaved and I will behave the same way. The moment confidentiality is lifted I will have the greatest..*

*Federal Judge: - But I ask you to answer objectively whether you are going to answer the question or not, right?*

*Pedro José Barusco Filho: -No, I am keeping it confidential.*

*(..)"*

207. When there was no objection on the lawyer's part or the witness' part, the witnesses, as it is the case of Dalton dos Santos Avancini and Eduardo Hermelino Leite, answered questions about the fact without adding to the case (annex 388).

208. This Court does not know the American law, but if it is similar to the Brazilian law regarding the matter, here it is provided that the agreement be kept confidential concerning third parties until the complaint is filed (Article 7º of the Law n. 12850/2013). In case there are similar norms, forcing the witness to respond would represent a potential breach of the agreement in the United States.

209. It is not feasible to make the witness, even being a collaborating criminal, take a legal risk under another jurisdiction without the matter being relevant to the trial in Brazil.

210. The existence or not of a plea bargain agreement signed by these witnesses in the United States is not, at first, a relevant matter for this trial.

211. When Luiz Inácio Lula da Silva's Defense was questioned to clarify the relevance or appropriateness of the matter, the answered received was "I am not obliged to bring the Defense's strategy forward", as it also occurred when the same questions were made to the witness Augusto Ribeiro de Mendonça Neto (Annex 388).

212. As a matter of fact, even at this time, when claiming denial of fair opportunity to be heard, Luiz Inácio Lula da Silva's Defense did not explain the relevance for this case of knowing if there is or not a plea bargain agreement regarding these witnesses also abroad and, if positive, the content of it.

213. The extensive requests for evidence filed by Paulo Roberto Okamoto's Defense were assessed in the decision of 02/17/2017 (annex 578).

214. As for the two points which have been highlighted in the closing arguments, claiming that there has been denial of fair opportunity to be heard, the following is registered:

*“9. Paulo Okamoto’s Defense requested the following as evidence:*

*viii. Expert evidence, including the examination of the telephone devices whose messages have been mentioned throughout the complaint aiming at having access to the full content of the exchanged messages and confirming the material preservation, including potential edition and cuts, ensuring its originality. In addition, it is requested that an official letter be sent to the telephone companies in order for them to provide previous invoices of the mentioned telephone numbers;’*

*Due to inaccuracy, the Defense was summoned, annex 114, to:*

*‘provide clarifications on which telephone number or numbers whose messages have been referred to, in details, as well as the address and representative of each phone company to be contacted. Once more – and the Defense is aware of that – it is the party’s responsibility to provide detailed and complete requests. Period of five days.’*

*Besides the Defense’s petitions in annexes 244 and 526, there was not any specification.*

*It is not the Court’s duty to search the complaint for potential relevant phone numbers or messages the Defense wishes to be examined.*

*Since the Defense did not carry out its duties, providing detailed requests for evidence, I hereby consider the period for providing evidence expired.”*

*“6. Paulo Okamoto’s Defense requested the following as evidence:*

*‘iv. evidentiary documents, consisting of an official letter sent to the Itamar Franco Republic Memorial, to the José Sarney and the Fernando Henrique Foundations, and to the Federal Revenue Service, aiming at informing which companies have donated to such entities, specifying if the amount was destined to preserving the collection, even without the benefits of Rouanet Law;’*

*Regarding the decision of annex 144, I included that:*

*‘Regarding the request herein, the Defense shall indicate the address and the representative of each entity to be cited. It is the party’s responsibility to provide detailed and complete requests. Period of five days.’*

*The Defense informed the addresses in the clarifications in annexes 244 and 526.*

*The evidence shall be denied. A request before the Revenue Service would result in breach of fiscal secrecy of the mentioned foundations or institutes without any evidence of their involvement with illegal activities.*

*As for obtaining information directly with the entities, I hereby partially authorize it. Paulo Okamoto’s Defense shall do it directly, without the intervention of this Court. It is up to the mentioned entities to decide on providing or not the information requested by the Defense regarding the data. A legal summons would not be appropriate since it would be taken as an obligation, which would equally represent breach of secrecy of the entities without evidence of crimes. Concerning the amounts eventually received through the Rouanet Law, subject to public scrutiny, they have been requested to the Ministry of Culture as mentioned above.*

*It is worth clarifying, however, that this Court believes that these entities, as well as the Lula Institute, could have legally received donations from companies. The matter is that the complaint*

*states that OAS' payment of expenses for the storage of the presidential collection at Granero would have been done illegally and as part of a bribe agreement. The Defense denies it. If there was or not an illegal fact, that depends on additional evidence and the fact that similar entities would have received donations from companies is not apparently relevant.*

215. It is noted that the first request was denied due to the fact that the Defense was negligent when it did not follow the decision's orientations in annex 114 as to better detailing the request.

216. If it had been approved, the evidence could have been produced.

217. Believing that the Defense was referring to the messages related to José Adelmário Pinheiro Filho's mobile phone, it is worth noting that this Court does not hold full availability of the evidentiary material since there are messages which are part of investigations involving authorities with jurisdictional prerogative and, therefore, this Court would not be able to authorize access to the whole evidentiary material.

218. In any event, as for the messages concerning that fact, not only were their documentary registers included, but also José Adelmário Pinheiro Filho, heard before Court, confirmed their authenticity, as well as his main facilitator, Paulo Roberto Valente Gordilho, as detailed hereinafter.

219. Therefore, denial of fair opportunity to be heard did not take place and there is evidence in the proceedings to ensure the integrity and authenticity of the evidence.

220. As for the second request, there are no additional comments to the decision. It would not be feasible to lift fiscal secrecy of third parties who are not a party or are not being investigated in the criminal action in order for Paulo Tarcisio Okamoto's Defense to be able to compare with the funds received by the Lula Institute.

221. Regarding this point, there was no denial of a fair opportunity to be heard either.

222. Just on a trial basis, it is worth noting that the fact that Paulo Tarcisio Okamoto's Defense claims denial of a fair opportunity to be heard shall not be taken into account since he has been acquitted.

223. Still regarding denial of a fair opportunity to be heard, Paulo Roberto Valente Gordilho's Defense claimed that there has been denial of a fair opportunity to be heard due to the fact that even with the complexity of case, the period of 10 days has not been extended for providing a response to the prosecution. In fact, it is not viable to extend the period for a preliminary response. The petition herein does not aim at finishing all defense matters. In addition, in the case that the problem was the inability to request, in due time, any evidence, the Defense could have filed new requests for evidence during the case, even during the phase of Article 402 of the CPP, but it did not.

224. It also claims that there was denial of a fair opportunity to be heard when on 12/16/2016, at a hearing for witnesses' testimonies, the defendant's lawyer could not be present due to a flight canceled from Salvador to Curitiba/PR. The defendant had been noticed about the hearing beforehand and should have been present. Despite the flight problem, he should have planned to be there beforehand. Anyway, due to the problem, this Court heard the witnesses and registered that in the hearing document (annex 372):

*"Paulo Gordilho's Defense requested that the hearing be postponed due to a flight cancellation. The Court decided to have the hearing for it believes that two of the witnesses do not even relate to the charges against Paulo Gordilho and the other did not even mention*

*him and another, when questioned, declared not knowing it. Therefore, the witnesses who were heard today do not apparently hold evidentiary relevance when it comes to Paulo Gordilho. In addition, a hearing carried out by video conference with four witnesses in two different locations would not be easily scheduled. If that is the case, Paulo Gordilho's Defense could, after watching the testimonies, say if there is the need to have a hearing again or if there are additional matters."*

225. Even with the option of having the hearing again, the Defense did not request it. Therefore, it cannot at this time, in its closing arguments, claim denial of the fair opportunity to be heard.

226. Just on a trial basis, it is worth noting that the fact that Paulo Roberto Valente Gordilho's Defense claims denial of a fair opportunity to be heard shall not be taken into account since he has been acquitted.

227. When concluding this issue, in the Court's assessment, the evidence produced in the course of the case has been significant and complete and it is ready for trial as seen below. There is no need of additional evidence, since there has been denial of evidence which is clearly irrelevant or impertinent, when relevance and appropriateness have not been demonstrated even when the party was called to do so and, specially related to the requests for evidence, which would be too difficult to produce, such as the request for thousands of documents with no apparent objective.

## II. 9

228. Augusto Ribeiro de Mendonça Neto, Dalton dos Santos Avancini, Eduardo Hermelino Leite, Pedro José Barusco Filho, Milton Pascowitch, Delcídio do Amaral Gomez, Paulo Roberto Costa, Nestor Cuñat Cerveró, Alberto Youssef and Fernando Antônio Falcão Soares have been heard during this criminal action as witnesses called by the Prosecution.

229. The first five have signed plea bargain agreements with the Federal Prosecution Service and they were ratified by this Court. The last five signed signed plea bargain agreements with the Office of the Prosecutor General and they were ratified by the Federal Supreme Court.

230. Copies of the plea bargain agreements and the relevant testimonies, even merely relevant, to this criminal action have been made available in the proceedings (annex 3, files comp43, comp44, comp45, comp46, comp47, comp53, comp54, comp60, comp61, comp62, comp63, comp64, comp65, comp69, comp70, comp78, comp79, comp80, comp90, comp92, comp97, comp105, comp124, comp132, comp137, comp140, comp161, comp166, comp167, comp170, comp176, comp177, comp287, comp288, comp289, comp290, comp291, comp292, comp293, comp294, comp295 and comp296, and event 241, file acordo2).

231. Copies of the judicial decisions which ratified the agreements have been annexed to the proceedings (annex 846).

232. In addition, videos of the existing testimonies of these collaborators, at least those available to this Court, have been made disclosed, according to the certificate on annex 61 and videos of the annexes 7, 8 and 10.

233. All of them have been heard at Court as witnesses, with the commitment of saying the truth and their lawyers were ensured the right of the adversary principle, being informed of the existence of the agreements (annexes 388, 394, 395 and 417).

234. None of them have been illegally forced to collaborate. Collaboration is always voluntary, even if not spontaneous.

235. There has never been any illegal pressure against anybody on the part of this Court, the Federal Prosecution Service or the Federal Police during the so called Lava Jato Investigation. The provisional detentions have been requested and ordered due to the fact that their preconditions and grounds have been met, and there was good evidence of the crimes and, specially, risk of recurrent crimes since there was proof of recurrent criminal usual and professional activity. Nobody has ever been arrested with the intent of confession or collaboration.

236. The precautionary detentions ordered herein and in similar cases shall be understood within their context. Although as exception, precautionary detentions have been ordered in a scenario of complex, usual and professional criminality, serving as a deterrent of a systematic practice of crimes against the Public Administration, besides preserving the investigations and the production of evidence in the criminal action.

237. Just to illustrate the lack of connection between detention and collaboration, two collaborators in this case signed an agreement when they were free.

238. Recurrent argumentation made by the Defenses, in associated facts, that there would have been coercion, it should be said that not only are they inconsistent with real facts, but they are also offensive to the Federal Supreme Court, since it ratified part of the most relevant plea bargain agreements in the scope of the Lava Jato Investigation, having previously assured that there had been validity and willingness.

239. In this case, as a matter of fact, it was the Federal Supreme Court that ratified the five plea bargain agreements.

240. The only threat against the collaborators was the due process of law and the correct enforcement of criminal law. It is not a matter of illegal coercion.

241. In addition, it does not make sense that a collaborator's Defense, as seen in similar cases, claims that the collaboration was involuntary when the collaborator himself and his Defense deny that defect.

242. In any event, the collaborating criminal's words shall be corroborated by other evidence and there are no obstacles for the denounced people to question the credibility of the testimony as well as its corroboration by other evidence.

243. In any case, validity shall not be confused with evidence valuation.

244. Arguing, for example, that the collaborator is a criminal is to question the credibility of the collaborator's testimony and there is no relation to the validity of the agreement or the evidence.

245. Matters related to the testimony's credibility are resolved by evidence valuation, by analyzing the quality of the testimonies, taking into account, for example, density, internal and external consistence and, mainly, the existence or not of corroboration evidence.

246. As can be seen below, this criminal action is based on independent evidence, specially documentary evidence collected during search and seizure measures. Strictly, it was a solid evidentiary group that resulted in the collaborations and not those that resulted in the remaining evidence. There was, therefore, solid corroborating evidence which existed before, most of time, the collaborators' contribution itself.

247. This judge is aware of the controversy regarding the plea bargain agreement.

248. However, even seen with caution, the evidentiary value of the plea bargain agreement, shall not be discarded. It is an investigating tool which brings valid and efficient evidence, specially regarding complex crimes, such as white-collar crimes or those committed by criminal groups. There is only a need to follow the rules for making use of it and the need for corroborating evidence.

249. Without the plea bargain agreement resource, several complex crimes would remain unsolved and without possible evidence. Regarding all the criticism around the institute of plea bargain agreement, we take the room to register the following comments coming from the Circuit Judge of the United States Ninth Federal Circuit of the Court of Appeals, Stephen S. Trott:

*“Notwithstanding all the problems that accompany using criminals as witnesses, however, the fact of the matter is that police and prosecutors cannot do without them-period. Often they do tell the truth, and on occasion they must be used in court. If a policy were adopted never to deal with criminals as prosecution witnesses, many important prosecutions-especially in the area of organized and conspiratorial crimes-could never make it to court. In the words of Judge Learned Hand in United States v. Dennis, 183 F.2d 201 (2d Cir. 1950) aff’d, 341 U.S. 494 (1951): ‘Courts have countenanced the use of informers from time immemorial; in cases of conspiracy, or in other cases when the crime consists of preparing for another crime, it is usually necessary to rely upon them or upon accomplices because the criminals will almost certainly proceed covertly.’ As established by the Supreme Court: ‘Society can ill afford to throw away the evidence produced by the falling out, jealousies, and quarrels of those who live by outwitting the law.’ (On Lee v. United States, 343 U.S. 747, 756 1952).*

*Our system of justice requires percipience from a person who would testify in court. It is a simple fact that frequently the only persons who qualify as witnesses to serious crime are the criminals themselves. Terrorist cells are difficult to penetrate. Mafia leaders use underlings to do their dirty work. They hold court in plush quarters and send their soldiers out to kill, maim, extort, sell drugs, run rackets, and corrupt public officials. To put a stop to this, to get at the bosses and ruin their organizations, it is necessary to turn underlings against those at the top. Otherwise, the big fish go free and all you get are the minnows. They are criminal minnows to be sure, but one of their functions is to assist the sharks to avoid prosecution. Snitches, informers, co-conspirators, and accomplices are therefore indispensable weapons in a prosecutor's battle to protect a community from criminals. For every setback such as the ones mentioned above, there are scores of sensational triumphs in cases where the worst scum of the earth have been called to the stand by the government. The prosecutions of Charles Manson, the Watergate conspirators, the infamous Hillside Strangler, the Grandma Mafia, the Walker-Whitworth espionage ring, and the last John Gotti prosecution are only a few of the thousands of examples of cases where such witnesses have been effectively used with stunning success.” (TROTT, Stephen S. Words of Warning for Prosecutors Using Criminals as Witnesses. Revista dos Tribunais. São Paulo, year 96, vo. 866, December of 2007, p. 413-414.)*

250. In other words, crimes are not committed in heaven and, therefore, the only persons to be witnesses are equally criminals.

251. Those, in general, who have criticized the plea bargain agreement are apparently favorable to the silence rule, the criminal organizations’ *omertà*, which is rather unacceptable. Piercamilo Davigo, one of the members of the famous milanese Mani Pulite Operation, spoke very pointedly: “Corruption involves people who pay and people who receive. If they remain silent, you will never find out” (SIMON, Pedro coord. Operação: Mãos Limpas: Audiência pública com magistrados italianos. Brasília: Senado Federal, 1998, p. 27).

252. It is true that the plea bargain agreement is not carried out without rules and caution, and one of the most important is the one that says that the collaborating criminal’s words shall always be confirmed through independent evidence and, in case it is found out that he did not tell the truth, they lose all the benefits of the agreement, and fully respond for the punitive sanction, and they might commit a new crime, a special classification of defamatory statement provided by Article 19 of the Law 12850/2013.

253. In the case herein, it is worth noting that one of the conditions for the agreements is

that the MPF ordered that the collaborating criminals pay millionaire amounts, about ten dozens of million reais. To illustrate, Pedro José Barusco Filho returned about 98 million dollars which he kept in secret accounts in Switzerland and Paulo Roberto Costa returned 25,8 million dollars which he kept in secret accounts in Switzerland and, in addition, committed himself to paying a fine of five million reais and delivering assets in the amount of more than five million dollars in reais (annex 3, files anexo291 anexo293).

254. Certainly, due to the collaboration, they might not be sentenced adequate sanctions, but the plea bargain agreement necessarily implies benefits.

255. Also, several of the statements given by the collaborating defendants need to be deeply checked, aiming at verifying whether they find corroborating evidence or not.

256. That relates specifically to the investigation cases, for the criminal action herein brings corroborating evidence in large scale.

## II. 10

257. During the hearings, Luiz Inácio Lula da Silva's Defense questioned the collaborators' testimonies as witnesses, since they "had interest in maintaining benefits", as it can be verified, for example, in Augusto Ribeiro de Mendonça Neto's (annex 388) and Paulo Roberto Costa's testimonies (annex 394):

*"Federal Judge: - So in this criminal action 5046512-94.2016.404.7000, Mr. Augusto Ribeiro de Mendonça's testimony. Mr. Mendonça, you...*

*Defense: - Your Honor, for the sake of order, I would like to contradict the witness.*

*Federal Judge: - On the same reasons as of the prior?*

*Defense:- Yes. It refers to a collaborator who is interested in maintaining his benefits before the Prosecution Service and, therefore, does not hold the necessary exemption that a witness should according to the law. He is a collaborator before this Court and also, as it is informed, also in another country, in the United States of America.*

*Federal Judge: - Right. According to Law 12850, the collaborator is not exempt from testifying without the commitment to say the truth; therefore, this commitment will be made, even though the contradiction shall be considered and registered. Mr. Augusto Ribeiro de Mendonça Neto, you have been called in this action as a witness. In the position of a witness, do you commit yourself with the justice to say the truth and answer all the questions that will be made to you, right?*

*Augusto Ribeiro;- yes, Sir.*

*Federal Judge:- I am going to warn you that, by operation of law, if you lie, you are subject to a criminal action, ok?*

*Augusto Ribeiro:- Yes, Sir.*

*Federal Judge:- In addition, Mr. Mendonça, it is known that you have signed a plea bargain agreement with the Federal Prosecution Service which has been ratified by this Court and through which you take the commitment to say the truth before the Justice, is that it?*

*Augusto Ribeiro:- Right. Yes, Sir.*

*Federal Judge:- I am going to warn you that if you lie, you are subject to a criminal action and, besides that, you will lose your plea bargain agreement, ok?*

*Augusto ribeiro:- Yes, Sir.*

*“Federal Judge: - So in this criminal action 5046512-94.2016.04.7000, Mr. Paulo Roberto Costa’s testimony. Mr. Costa...*

*Defense: Your Honor, I would like to contradict Mr. Paulo Roberto Costa on the terms of Article 214 of the Penal Code since he is a collaborator, he has signed an agreement with the Prosecution Service and has interest in this act. Therefore, he is not an exempt person for contributing with the truth of the facts.*

*Federal Judge:- However, without prejudice of the witness’ credibility, the fact is that the Law 12850 determines that the collaborator shall make a commitment, so the contradiction shall be registered, but the commitment is authorized. Mr. Paulo Roberto Costa, you are in the position of a witness, and therefore, do you take the commitment with the justice to say the truth and answer all the questions that will be made to you, right?*

*Paulo Costa:- Right.*

*Federal Judge:- I am going to warn you, Mr. Costa, that if you lie or avoid saying the truth, you are subject to a criminal action, ok?*

*Paulo Costa:- Perfect.*

*Federal Judge:- Besides, Mr. Costa, it is known that you have signed a plea bargain agreement with the Office of the Prosecutor General, is that right?*

*Paulo Costa:- Perfect, Your Honor.*

*Federal Judge:- And was it ratified by the Federal Supreme Court?*

*Witness:- Correct.*

*Federal Judge:-By that agreement, have you made a commitment to say only the truth before Justice?*

*Paulo Costa:- Perfectly.*

*Federal Judge:- So, also due to the power of this agreement, Mr. Costa, I am going to warn you that if you lie, besides responding for perjuring yourself, you will also lose your agreement, right?*

*Paulo Costa:- Right.*

*Federal Judge:-That said, let us follow the questions of the prosecution. ”*

258. As explained before in the hearing excerpts, the questioning on submitting the collaborators to the commitment to say the truth is inappropriate.

259. Collaborators, whether heard as witnesses or as defendants, testify under the commitment of saying the truth, according to Article 4.º, §14, of the Law n. 12850/2013:

*“In the testimonies given, the collaborator will waive, in the presence of their lawyer, his right to remain silent and will be committed to saying the truth.”*

260. On the other hand, the Accused, here defendants, do not hold legal interest in complaining against the commitment to say the truth on the part of the collaborators.

261. As a matter of fact, the measure consists of protecting the denounced persons against a false testimony and it does not interfere with the possibility of them questioning the credibility of the testimonies or a likely flaw related to the corroborating evidence.

262. Thus, it is not up to the denounced person to question a legal measure which benefits them, something that Luiz Inácio Lula da Silva’s lawyer apparently did not understand.

263. Therefore, there is not any nullity in submitting the collaborators to the commitment to saying the truth, either heard by witnesses or as defendants, counting on the express legal provision and aiming at protecting the denounced persons, at this time accused of perjury.

## II.11

264. Several police investigations, criminal actions and related actions to the so called Car Wash Operation are pending before this Court.

265. The investigation, with its origin in the scope of the police investigations 2009.7000003250-0 and 2006.7000018662-8, initiated with the proceedings on the crime of money laundering which took place in Londrina/PR, subject, therefore, to that Court’s jurisdiction. That fact originated the criminal action 5047229-77.2014.404.7000, tried later (copy of the sentence in annex 847).

266. In summary, as investigations developed, evidence of a large criminal scheme of cartel, fraud, corruption and money laundering within the scope of the company Petroleo Brasileiro S/A – Petrobras has been collected. The company’s main shareholder and controller is the Federal Union.

267. Large construction companies in Brazil, among which OAS, UTC, Camargo Correa, Odebrecht, Andrade Gutierrez, Mendes Júnior, Queiroz Galvão, Engevix, SETAL, Galvão Engenharia, Techint, Promon, MPE, Skanska, IESA and GDK would have formed a cartel, through which they would systematically rig biddings at Petrobras aiming at hiring major building projects.

268. In addition, the companies belonging to the cartel, would systematically pay bribes to officers of the state-owned company and they were calculated in percentages, from one to three per cent on average over the large contracts signed and their amendments.

269. It has also been concluded that other suppliers to Petrobras, even not belonging to the cartel, would systematically pay bribes to officers of the state-owned company, also in percentages over the large contracts signed and their amendments.

270. The practice, being so common and systematized, has been described by some of the involved persons as the “rule of the game”.

271. At Petrobras, officers received bribes at the following departments: Downstream Department, Engineering and Services Department and the International Department, especially

Paulo Roberto Costa, Renato de Souza Duque, Pedro José Barusco Filho, Nestor Cuñat Cerveró, Jorge Luiz Zelada and Eduardo Costa Vaz Musa.

272. Evidence elements, however, have been collected and they lead to the conclusion that the case goes beyond corruption – and money laundering – performed by Petrobras’ agents. The criminal scheme also serves to corrupt politicians and finance, with proceeds of crime, political parties.

273. The politicians and political parties were responsible for facilitating the appointment and continuity of the mentioned Directors in their offices. To do so, they would get recurring remuneration.

274. Acting among the construction companies, Petrobras’ Directors and the politicians were third parties responsible for transferring the bribes and the proceeds from money laundering to the so-called operators.

275. Several criminal actions and police investigations involving these crimes are pending before this Court, part of them have been tried.

276. I hereby highlight, among those cases already tried, the sentences rendered for the criminal actions 5083258-29.2014.4.04.7000 (Camargo Correa), 5083376-05.2014.404.7000 (OAS) 5013405-59.2016.4.04.7000 (Keppel Fels), 5045241-84.2015.4.04.7000 (Engevix), 5023162-14.2015.4.04.7000, 5023135-31.2015.4.04.7000, 5039475-50.2015.4.04.7000 (Titanium Explorer Vessel), 5083838-59.2014.404.7000 (Petrobrás Vessel 10.000 and Vitória 10.000), 5061578-51.2015.4.04.7000 (Schahin), 5047229-77.2014.4.04.7000 (laundering in Londrina), 5036528-23.2015.4.04.7000 (Odebrecht) and 5012331-04.2015.4.04.7000 (Setal e Mendes). Copies of these sentences have been included in annex 3, comp96, comp106 and comp131, and in annex 847.

277. Although in all of them there are reports of bribe payments among Petrobras’ agents and politicians, the latter, in their majority, defend the criminal actions and investigations before the Honorable Federal Supreme Court due to jurisdictional prerogative.

278. In very few cases, as for political agents who do not hold a mandate or office, and therefore, with no jurisdictional prerogative, they defended the criminal actions before this Court, and they have been convicted.

279. That is the case, for example, of José Dirceu de Oliveira e Silva, former congressman and former Minister Chief of Staff, convicted for corruption and money laundering involving bribes dealt with in Petrobras’ contracts (criminal action 5045241-84.2015.4.04.7000, copy of the sentence in annex 847).

280. The same fact has been verified regarding the former Federal Representative João Luiz Correia dos Santos, who has been convicted for receiving bribes through Petrobras’ contracts, in the criminal action 5023162-14.2015.4.04.7000, and regarding the former Federal Representative Pedro da Silva Correa da Oliveira Andrade Neto, convicted in the criminal action 5023135-31.2015.4.04.7000 (copy of the sentences in annex 847).

281. It is worth highlighting the sentence rendered in the criminal action 5051606-23.2016.4.04.7000, in which it was proved that the purchase by Petrobras of an oil exploration area in Africa resulted in a bribe payment to the former Federal Representative Eduardo Cosentino da Cunha (copy in annex 847).

282. In other criminal actions, it has been proved, in the trial, that part of the bribe agreed with Petrobras’ agents in the state-owned contracts has been destined to illegally financing electoral campaigns or paying for campaigns expenses.

283. That, for instance, was verified in the sentence of the criminal action 5012331-04.2015.4.04.7000, in which the fact that part of the bribes in Petrobras' contracts with Mendes Júnior and Setal Engenharia was destined to electoral donations for the Workers Party (copy of the sentence in annex 847).

284. Something similar was evidenced in the sentence of the criminal action 5061578-51.2015.4.04.7000,, when a loan granted on behalf of the Workers Party's agents was illegally paid off with proceeds of a contract between Petrobras and Schahin Group (copy of the sentence in annex 847).

285. It has also been verified in the sentence of the criminal action 5013405-59.2016.4.04.7000 that part of the bribes agreed in the contracts between Petrobras and Keppel Group has been destined to paying services rendered by professionals of political marketing to the Workers Party. In that case, a relevant differential was that the bribes have been deposited in a secret account kept in Switzerland (copy of the sentence in annex 847).

286. All these cases confirm the pattern that the agreements related to bribes in contracts of Petrobras do not serve only for unjust enrichment of Petrobras' agents, but also to unjust enrichment of the politicians who provided political support to Petrobras' agents and, similarly, for illegally financing political parties.

287. It is interesting to note that beginning with the investigations, the practice of similar crimes within the scope of other federal entities has been verified.

288. In the sentence rendered in the criminal action 5023121-47.2015.4.04.7000, it is proved that there has been bribe payment to the former Federal Representative André Luiz Vargas Ilário in advertising contracts with Caixa Econômica Federal (copy of the sentence in annex 3, file comp39).

289. Also, in the sentence rendered in the criminal action 05010926-86.2015.4.02.5101, it is proved that there has been bribe payment to Eletrobrás Eletronuclear President Othon Luiz Pinheiro da Silva in construction contracts related to Angra 3, when the amounts were supposedly destined to political parties as well (copy of the sentence in annex 3, file comp40). The sentence has been rendered by the Honorable Federal Judge Marcelo da Costa Bretas, from the 7<sup>th</sup> Federal Criminal Court of Rio de Janeiro, who is well-known by his work in that Federal Judicial District.

290. The case herein may perfectly be taken in the same context, but more specifically regarding bribe sharing in contracts between Petrobras and Construtora OAS, paid to the state-owned agents, and politicians, specifically the former President Luiz Inácio Lula da Silva.

291. According to the Prosecution, in summary, the OAS Group, whose president was the defendant José Adelmário Pinheiro Filho, known as Léo Pinheiro, managed a type of informal checking account for bribes to politicians of the Workers Party, among whom the former President Luiz Inácio Lula da Silva.

292. There would have been an agreement for Construtora OAS, a company which belonged to the OAS Group, to pay bribes in the contracts between Petrobras and the CONEST/RNEST Consortium, related to works in the Nordeste Abreu e Lima – RNEST Oil Refinery, and the CONPAR Consortium related to works in the Presidente Getúlio Vargas – REPAR Oil Refinery, in the amount of R\$ 87,624,971.26, corresponding to 3% over the corresponding part that Construtora OAS has in the referred ventures.

293. That agreement kept the mentioned general checking account for bribes between the OAS Group and the Workers Party agents.

294. According to the Prosecution, R\$ 3,738,738.00 would have specifically been

destined to the former President Luiz Inácio Lula da Silva.

295. The amount would be made available to the former President through the apartment 164-A, the triplex, of *Condomínio Solaris*, whose registration number is 104.801 at the Property Registry of Guarujá/SP, without payment of the corresponding price.

296. To be more accurate, the former President, when the real estate project was with BANCOOP, would have paid for a modest apartment, n. 141-A, about R\$ 209,119.73, but the OAS Group gave him, still in 2009, the apartment 164-A, the triplex, without charging him for the difference in price. Later, in 2014, the apartment would go through some renovation paid by the OAS Group in order to serve the former president, again without any payments. The MPF estimates the bribes to be about R\$ 2,424,991.00, as follows, R\$ 1,147,770.00 corresponding to the difference between the amount paid and the price of the apartment handed in and R\$ 1,277,221.00 in renovation and purchases for the apartment.

297. In that context, the MPF claims that the OAS Group would have paid the former President bribes in the form of expense payments of R\$ 1,313,747.00. They would have been split between 2011 and 2016 as assets belonging to him or presents during his presidential term.

298. Before evaluating the Construtora OAS contracts with Petrobras, the ones which have originated the bribes, it is relevant to evaluate the facts and evidence regarding the apartment 164-A, the triplex.

## II.12

299. Says, in summary, the accusation that the OAS Group gave the former President Luiz Inácio Lula da Silva the apartment 164, triplex, Condomínio Solaris, with address at Av. General Monteiro de Barros, 656, in Guarujá/SP, and also the reform of the apartment, such as undue advantage.

300. There would have been no payment to former President, nor related to the apartment, nor the renovations. Before, I would have the former President paid, when the estate was still with the BANCOOP – Co-operative Housing Bank of around R\$ 209,119.73 for a simple apartment, price much lower than the triplex apartment.

301. The defense of Luiz Inácio Lula da Silva has already stated that the apartment 164, triplex, never belonged to him, and, although he had been offered in the year 2014, there has been interest in acquiring and, therefore, there was no purchase.

302. **This is a crucial issue in this process**, because, if determined that the apartment was indeed granted to former President by the OAS, without payment of the corresponding price, even the reforms, there will be evidence of the granting by the OAS to him a considerable asset benefit, estimated at R\$ 2,424,991.00 and for which there would be a lawful cause or explanation.

303. On the contrary, if determined that this has not occurred, i.e., that the apartment was never granted to former President, the prosecution must be dismissed.

304. In resolving this issue, is not enough a purely formal examination of the ownership or transfer of ownership.

305. Is that, according to the indictment, the granting of the apartment to former President

would have occurred of surreptitious manner, with the maintenance of formal ownership of the goods with the OAS Group, also with the purpose of concealing or disguising the illicit.

306. So, while there is no doubt that the record of registration of the property, No 104801 of registration of brokers of Guarujá, and that is in the event 3, COMP228, point out that the property remains registered in the name of the OAS Empreendimentos S/A, company of the group LOS, this is not enough to solve the case.

307. After all, neither the setting of the crime of corruption, which meets with the solicitation or acceptance of undue advantage by public agent, nor the characterization of the crime of washing, which presupposes stratagems of concealment and dissimulation, require for its consummation the formal transfer of ownership of the Group OAS to the former President Luiz Inácio Lula da Silva.

308. There is, lastly, discussing matters of civil law, i.e., the formal ownership of the property, but criminal issue, the characterization or not crimes of corruption and washing. You should never forget that it is corruption and money laundering.

309. Therefore, the resolution of the issue demands a more detailed examination of the evidence before the court.

310. For both, the best and most reliable evidence to be considered is documents.

311. The documents contained in the acts are checked whether regarding the relationship of former President with the Condomínio Solaris.

312. The estate in question was initiated by the BANCOOP – Co-operative housing of banking. Subsequently, facing financial difficulties of the cooperative, the venture was transferred, this formally in 08/10/2009, for the OAS Empreendimentos that took the works and the contractual relations with the former members.

313. When the transfer of the undertaking occurred, there have been some changes implemented by the OAS Empreendimentos.

314. There was a change of name of the enterprise. Along the BANCOOP had the title of Residencial Mar Cantábrico, with the OAS Joint ventures came to be called the Condomínio Solaris.

315. The Building named Navia, corresponding to Block A, came to be called Salinas, also Building Block A.

316. There was a change in the number of the apartments. Apartments 141-A and 174-A, are now 131-A and 164-A, respectively.

317. About these changes of name and numbering, there is no controversy in the acts of the parties and are attesting the documents gathered at the event 3, COMP219 and comp220.

318. At the request of the MPF (Federal Prosecution Service), have been authorized, by decision of 24/02/2016, in case 5006617-29.2016.4.04.7000 (event 4), searches and seizures in the household of former President Luiz Inácio Lula da Silva, Apartment 122, Block 01, 1120 Francisco Prestes Maia, no. 1,501, Center, in São Bernardo do Campo/SP.

319. There were found various documents relating to the acquisition of apartment by former President and his wife in the then Mar Cantábrico Residencial.

320. Among the documents are those gathered in the investigation 5006597-38.2016.4.04.7000, Event 5, file ap-inqpol6, pp. 18-29, and file- inqpol ap7, and ap-inqpol file8,

pp. 1-3. The MPF joined a copy of these documents in this criminal action, along with the complaint (event 3, COMP192).

321. Contained in the documents seized at the residence of the former President Luiz Inácio Lula da Silva, a term of adherence and commitment to participation, dated 01/04/2005 and signed by Marisa Letícia Lula da Silva, in relation to the acquisition of rights on a unit identified as 141 residential apartment building, in Navia, in the Caribbean Sea Residential, in Guarujá. It is a unit with three bedrooms in the housing project, with estimated price for acquisition financed from R\$ 195,000.00 (event 3, COMP192, pp. 2-15). The document is also signed by the representatives of BANCOOP.

322. It also appears in the documents seized at the residence of former President Luiz Inácio Lula da Silva, a term of adherence and commitment to participation, dated 01/04/2005 and signed by Marisa Letícia Lula da Silva, in relation to the acquisition of rights on a unit identified as 141 residential apartment building, in Navia, the Mar Cantábrico Residencial in Guarujá. It is a unit with three bedrooms in the housing project, with estimated price for acquisition financed from R\$ 195,000.00 (event 3, COMP192, pp. 16-26). The document is also signed by the representatives of BANCOOP.

323. Neither the Prosecution nor the defenses, explained the reason for the first contract, referring to the Residencial Mar do Caribe. Perhaps there has been a mere error of filling, because the Residencial Mar do Caribe would remain in the Tatuapé/SP and not in Guarujá, as is the case in fl. The file 12 comp192, event 3.

324. But it was also seized a third term of adherence and commitment to participation, also in the residence of the former President Luiz Inácio Lula da Silva, in relation to the acquisition of rights on a unit identified as 174 residential apartment building, in Navia, then a duplex, the same apartment that, with the transfer of the undertaking to the OAS, become in the triplex apartment no. 164-A (event 1, COMP192, Fls. 27-39). The document, however, is not signed.

325. Still in the same place, was seized document entitled "Proposal for membership subject to approval" signed by Marisa Letícia Lula da Silva on 12/04/2005 in relation to the acquisition in the Navia Building in undertaking the Residencial Mar Cantábrico, the value of R\$ 195,000,00, a housing unit (event3, comp192, fl. 40). This document constitutes species of carbon copy of the original form, mentioned below.

326. At the request of the MPF, have been authorized, by decision of 01/21/2016, in case 5061744-83.2015.4.04.7000 (event 9), searches and seizures in the BANCOOP.

327. There were also found various documents relating to the acquisition of apartment by former President in the then Residencial Mar Cantabrico.

328. These documents were gathered in the investigation 5003496-90.2016.4.04.7000, while the relevant documents in the event 33, file ap-inqpol13 ap-inqpol18.

329. The MPF joined a copy of part of these documents in the event 3 files, comp193 to 195.

330. Among the documents, is the original form of the above "Proposal for membership subject to approval" signed by Marisa Letícia Lula da Silva on 12/04/2005 in relation to the acquisition in the Navia Building in undertaking the Mar Cantábrico, the value of R\$ 195,000,00, a housing unit (event3, comp193). Were also found two more tracks from the same document (event 3, COMP194 and comp195).

331. As is the case at first sight in this document, the identification of the housing unit in acquisition is scribed in the aforementioned proposal form of accession.

332. In the same way in the left side of the form there is another significant erasure.

333. About this form of "Proposal for membership subject to approval" signed by Marisa Leticia Lula da Silva was produced the Expert Report 1576/2016 by experts from the Federal Police. In the course of criminal action, was held, at the request of the defense of Luiz Inácio Lula da Silva, complementary expertise on these documents, taking the supplementary report and the opinion of the technical assistant been joined in events 474 and 481.

334. The conclusion of the expert valuation is that "the original numbering bet in the field able/HOME changed by adding called insertion, without prior amendment substrativa, that is, the previous releases were not deleted." It is concluded that the proposal was originally populated with the number "174" for the identification of the unit in acquisition, and then superimposed to it the number "141".

335. The apartment 174 corresponds to the apartment that, with the transfer of the undertaking to the OAS, become in the triplex apartment #164-A.

336. The supplementary report and the opinion of the technical assistant does not differ as to this conclusion.

337. Regarding the erasure on the left side, it was found that the document was launched the word "TRIPLEX", in this way, it being subsequently scribed.

338. It was not possible to identify the author of the manuscripts or the temporal moment of the scribes.

339. Despite this, it is certain that the erasure was not done after the seizure of the documents. It occurred in two places and this is the original, with a copy, with characters copied, and the erasures could only have been done when the original and copies were still together.

340. It should also be ruled out any possibility of alteration of proof after the seizure, because, having been overridden the "141" on the "174", this does not bring any increment of evidence of the Accusation, in fact the opposite.

341. What, then, is that, in the documents of acquisition, has already made reference to the unit 174, which is evident not only in the erasures in the "Offer to Purchase", as the "Term of adherence and commitment to participation" seized in the residence of the former President and in which you made reference to the unit 174, the corresponding, subsequently, the triplex.

342. The procurement documents also reveal that the insistence of Defense of Luiz Inácio Lula da Silva and his own colleagues, as we shall see (item 422), on the argument that he and his wife had purchased an unlimited share of BANCOOP's estate, it is not consistent, because the share was linked to a specific real estate unit, in case the apartment 141 or 174.

343. Subsequently, BANCOOP started going through financial difficulties and transferred several real estate ventures to Grupo OAS, but specifically to the OAS Empreendimentos, the group company dedicated to real estate ventures.

344. In the case of Mar Cantabrico Venture, the agreement for completion of the construction of buildings and the transfer of rights of BANCOOP to OAS Empreendimentos was celebrated on 08/10/2009 (event 3, COMP213).

345. In the agreement, it was expected that he would be submitted to the members' assembly of Mar Cantábrio Venture. If approved, they, the members, would be obliged to:

*"a) require, expressly and individual, his resignation of the frameworks of associated Mar*

*Cantábrio Residential Sectional Of Bancoop, by completing the request for resignation, model annex (Annex IV), within ten days from the date of adoption of this term by Sectional Assembly;*

*b) Should Attend the Bancoop and signing the term of repayment of credit, which contain the values and the form of refund the cooperative disposed to do justice to the receipt of its assets by the OAS;*

*c) Signing with the OAS in up to thirty days after the adoption of this term in Sectional Assembly of the Residencial Mar Cantábrico,, a fear of acceptance of the Commercial Proposal (TAC) - (Annex V), which will be contained, among other all conditions described herein;*

*c.1) The cooperated will be recognized by the OAS, the full amount paid to Bancoop, duly described in term of resignation to be signed by the cooperating, after the adoption of this term and agreement by the sectional Assembly. On this value will be calculated at the fine provided for in item H.1 of clause 7.1.1 of this term, the slaughter of the 'loan' solidarity;*

*(...)*

*h) sign with the OAS promissory contract of purchase and sale of housing unit, after the registration of the merger, under the conditions laid down in this term, formally accepting the amendment of the price to be paid by the housing unit, as disaggregated values in Annex VI, establishing the forms of payment of the new debtor balance, given the direct payment to the OAS or through bank financing, where the interests of the cooperative is to stay with the unit originally designated by Bancoop;*

*h.1) When there is no interest in staying in the venture, cooperate with the OAS should sign a term agreement for receipt of amounts paid and duly corrected in accordance with the statutory rules, observed the item H.1 of clause 7.1.1.;*

*(...)"*

346. The meeting between the members of the Mar Cantábrio Venture was held on 27/10/2009, as shown in the publication of 14/10/2009 signed by then President and CEO of BANCOOP João Vaccari Neto (event 3, COMP214).

347. The BANCOOP and the OAS Empreendimentos have requested the judicial approval of the agreement, as it is evident in the workpiece gathered at the event 3, COMP216. There is information that the agreement was approved in the assembly "by a large majority, with only three abstentions and no votes against."

348. In civil judicial proceedings filed by the members against BANCOOP and the OAS Empreendimentos, was presented to the answer of the event 3, comp18, by the OAS Empreendimentos, in which it was made broad description of the history of the Condomínio Solaris, former Mar Cantábria Venture.

349. There is information that the enterprise would have 112 apartments and that until 2007 only 21.9% of the Navia Building have been concluded, after which the works have been paralyzed.

350. Also there is information that the Assembly of cooperative members approved by a large majority, the agreement between the BANCOOP and the OAS Empreendimentos, and after approval, had the members the term of 30 days to sign new contracts with the OAS joint ventures or abandon the acquisition, receiving part of the values paid back:

*"The cooperative members had, still, with the possibility of (i) withdraw from the purchase of the apartment, receiving the OAS the values partially paid to Bancoop or (ii) purchase the*

*apartment of the OAS, accepting the amendment of the price to be paid for the discharge of the apartment which corresponded to the cost for the resumption and conclusion of the works, within 30 days of the ratification of the Agreement, in accordance with the Terms 8.1. And 10.2 of the Agreement (doc.2)."*

351. It is important to highlight that the second option, the acquisition of the apartment, celebrating new contract with the OAS Empreendimentos, would imply new payments by cooperative members, because the OAS took an unfinished project. This was explained in this petition:

*"The sale of the undertaking for the OAS has entailed the inflow of own resources of the Contractor to resume and complete the works that were paralyzed, for which reason the proposed value for which the cooperative could settle their apartments should at least approaching the new cost of works that was Lagged many years ago."*

352. In the petition submitted on 29/08/2011 by OAS Empreendimentos to the Prosecution Service of the state of São Paulo in relation to real estate ventures for she transferred from BANCOOP, is also a history of all of them and even of the Condomínio Solaris, former Mar Cantábrio Venture (event 3, COMP226). Also there is information that there would be 112 condominium units in Condomínio Solaris, and that "they were sold 111(one hundred and eleven) units of the undertaking for ex-members of Bancoop, as well as 1 (a) unit of the project for the new buyer."

353. Although such information, that all units have been sold, the agreement would have been approved by the shareholders meeting of 27/10/2009, that the older members had the deadline of 30 days to conclude new contracts with the OAS Empreendimentos to acquire the units previously designated by the BANCOOP or to request the return of the amounts paid, is not that the ex- President Luiz Inácio Lula da Silva and his wife Marisa Letícia Lula da Silva would have taken any steps.

354. Certainly not celebrated written contract for the acquisition of the apartment 141 or 174 or the corresponding 131 and 164, whereas the new names after the transfer of the undertaking. At least it was located any contract in writing.

355. We found two applications for the refund of money paid and withdrawal of the enterprise, that in this search and seizure conducted in case 5061744-83.2015.4.04.7000 (event 9) on BANCOOP and who were gathered in the investigation 5003496-90.2016.4.04.7000.

356. With effect on pp. 19-20 of the file ap-inqpol13, the event 33, stated " Statement, commitment and request for resignation from membership of the Mar Cantábrio Of Bancoop sectional" on behalf of Marisa Letícia Lula da Silva, in relation to the unit 141, and that is why she subscribed.

357. It says there that the total amount paid would be R\$ 209,119,73, which would correspond to payments corrected until August 2009, with early return scheduled for 27/10/2010.

358. The expiry date is not, however, filled with only a reference to the year 2009.

359. In the file ap-inqpol14, the event 33, pp. 1-3, the investigation 5003496-90.2016.4.04.7000, is another track from the same term, this time accompanied with calculations of the values paid corrected (pp. 3-4 of the file ap- inqpol14 investigated 5003496-90.2016.4.04.7000). By the calculations listed there, it appears that the former President and Marisa Letícia Lula da Silva paid fifty to seventy benefits, in a total of R\$ 179,650,80. The latest installment would have been paid. In 15/09/2009.

360. In p. File 5 ap-inqpol14, the event 33, the investigation 5003496-

90.2016.4.04.7000, is another "Statement, commitment and request for resignation from membership of Bancoop", also signed by Marisa Letícia Lula da Silva, but this time dated 02/12/2013. Below, in the same document, completed by the BANCOOP passage stating that the "resignation" would have been heeded in 26/11/2015.

361. The dates listed in these documents, 2009 and 02/12/2013, can be fraudulent, because even confer with the excuse presented by the Defense of Luiz Inácio Lula da Silva, who would have only been a discontinuance of the acquisition in 2014, as we shall see below. In fact, civil action proposed in 2016, by Marisa Letícia Lula da Silva against OAS Empreendimentos and the BANCOOP is the assertion that these documents have been signed only in November 2015 (item 415).

362. It is true, however, that, despite these documents, there was the return of amounts paid to former President and Marisa Letícia Lula da Silva, nor by the OAS Empreendimentos, nor by the BANCOOP, which is indicative that the said terms of withdrawal were signed extemporaneously.

363. In case 5005896-77.2016.4.04.7000, there was, at the request of the MPF, breach proceedings of tax secrecy of former President Luiz Inácio Lula da Silva (Decision 23/02/2016, 6). Copies of the statements of income were gathered at the event 3, COMP227. There, it appears that Luiz Inácio Lula da Silva had income statement jointly with Marisa Letícia Lula da Silva in declarations of 2010 to 2015, calendar years 2009 to 2014, contained in the declaration of ownership rights over the housing unit No. 141, Building Navia, Residencial Mar Cantábrico, amounting to R\$ 179,298,96, without any change in value in the period.

364. Only in the declaration of 2016, the calendar year 2015, presented in 27/04/2016, therefore, subsequent to the initiation of investigations, in amendment regarding the referred to as well, being informed that there would have been withdrawal and request for return of amounts paid in November 2015 along the BANCOOP, without effective return (p. The file 114 comp227, event3).

365. Then, by their own income statements made by former President Luiz Inácio Lula da Silva, has found that there was no formal amendment of the contract next to BANCOOP OR OAS joint ventures before the initiation of investigations.

367. Despite this, it should be noted that the OAS Empreendimentos sold the old apartment building 141, Navia, the Residencial Mar Cantábrico, then changed to 131 apartment, Salinas Condominium Building, Solaris, on 08/05/2014, to third, named Eduardo Bardavira, as it can be seen in the corresponding registration no. 104790, the registration of brokers of Guarujá/SP (event 3, COMP299). It notes that the acquisition was proposed in 26/04/2014 by total price of R\$ 450,000,00.

368. On the other hand, there are documents that reveal that the apartment 174, duplex, Navia Building Mar Cantábrio Project, later changed to apartment 164, triplex, Salinas, the Condominio Solaris, was never put up for sale by the OAS Projects since she took over the estate in 08/10/2009, which indicates that was reserved.

369. Proof that this property was reserved can be found even in documents of BANCOOP. Expertise was performed on the computer equipment seized in BANCOOP as process of search and seizure referred to above (decision of 01/21/2016, 9 event, in case 5061744-83.2015.4.04.7000), which produced the report 368/2016 by experts from the Federal Police (event 214, attached file2). Among the files, in respect of the units of the Mar Cantábrio and the situation of them on 20/11/2008, as reproduction in event 3, COMP197. Despite the reference to Marisa Letícia Lula da Silva as purchaser of the apartment 141, consists, in relation to the 174, which is

"reserved spot", the single unit to find such observation.

370. Contained in the records table of sale of apartment in Condominio Solaris with date of February 2012 (event 3, COMP231). As it happens, especially in p. 8, 164-apartment, Condominium Building Salinas, Solaris, is not offered for sale.

371. In documents seized in the OAS Empreendimentos, as joined in the event 3, COMP232, with lists of contracts and owners of apartments in Condominio Solaris, no identification of the owner of the apartment 164, as well as the constant relationship in the event 3, COMP224, list of owners of apartments in Condominio Solaris. Such documents are part of lists seized in OAS broader ventures and who were gathered in the investigation 5003496-90.2016.4.04.7000, Event 40 files, ap-inqpol2 and ap-inqpol3.

372. Notice if the document contained in the p. file. 2-3 ap- inqpol3, Event 40, the investigation 5003496-90.2016.4.04.7000, consistent in a letter dated 15/02/2011 directed by BANCOOP for OAS Empreendimentos, in which we request information about the situation of specific cooperative transferred to the OAS, "once they have still not signed the terms of resignation/refund". The Mar Cantábrio, there is reference to two names of members who do not have signed withdrawal until this date. Among them, are not Luiz Inácio Lula da Silva and his wife. What happens is that they should be there already who also had not signed withdrawal until then, nor had formalized the purchase option.

373. As we shall see below, employees of the OAS joint venture have confirmed that the 164-apartment, Condominium Salinas Building, Solaris, was never put up for sale (v.g.:Items 490, 504 and 566).

374. So what has this so far is that Luiz Inácio Lula da Silva and his wife, unlike other members of the former undertaking Mar Cantábrio, then changed the name to Solar Condominium, did not meet the deadline of 30 days counted from the assembly, in 27/10/2009, the cooperative members to conclude a new contract with the OAS joint ventures or to require the return of amounts paid.

375. Nor is there any record of which were collected by the BANCOOP OR BY THE OAS Empreendimentos to perform formally any of the options.

376. It reveals to highlight that, in the year following the transfer of the estate for the OAS Empreendimentos, the Newspaper O Globo, published the journalist Tatiana Farah, more specifically in 10/03/2010, with update on 01/11/2011, with the following title: "Bancoop Case: Lula's triplex is delayed" (event 3, COMP230). Transcribe, it is opportune, excerpts from the article:

*"The President Luiz Inácio Lula da Silva and his wife, Marisa Leticia, are the owners of a cover on the beach of Asturias, in Guarujá, but struggle for five years in the queue members of Bancoop (Co-operative Housing Bank of São Paulo) to receive the property. The solution found by about 120 future owners of the venture was leaving aside the Bancoop and deliver the Residencial Mar Cantábrio Sea to Construtora OAS who promised to complete the works in two years. Sought, the Presidency confirmed that Lula remains the owner of the property.*

(...)

*The building is, however, raw: without complement, nor doors, windows or lifts. It is here that the family Lula da Silva should occupy the triplex coverage, with view to the sea. Despite the impressive 19-story and a project that foresees two towers, with apartments between 80 and 240 square meters, the Mar Cantábrio is known in the neighborhood as the 'abandoned building'. (Base pro tips request for convening of the promoter of the event Bancoop)*

(...)

*President said property in 2006 on behalf of the first lady*

*In the declaration of assets made to the candidacy for reelection in 2006, the President informed about the property, claiming to have participation in co-operative housing for the apartment under construction. The contract was signed in May 2005, on behalf of the first lady. According to the statement made by Lula to TSE (Court Top Electress), the family had already paid R\$ 47,695,38. But the most simple apartment of three rooms, was offered by the Bancoop by R\$ 192,533,20. The fear of many of them is that now the final price reaches the triple, now that the enterprise was incorporated by the OAS, who shall not charge the promised cost price of Bancoop."*

377. The substance in question is very relevant from the point of view of evidence, because it was made in 10/03/2010, with update on 01/11/2011, i.e., when there is no research or even the intention of research involving Luiz Inácio Lula da Silva or triplex apartment. There was, of course, as the journalist in 2010 or 2011 foresee that, at the end of 2014, i.e. three years later, the issue involving the former President and the triplex apartment would be coated with controversy and give cause to a criminal investigation.

378. Continuing in time, the Condomínio Solaris was ready in 31/08/2013, when the General Assembly to install Condomínio Solaris.

379. During the whole year of 2014, it was observed that the OAS Empreendimentos, by determination of the Chairman of the Group of OAS, the Defendant José Adelmário Pinheiro Son mixt Léo Pinheiro, began to carry out reforms expressive in apartment 164, triplex, Salinas, a condominium building Solaris, in Guarujá.

380. The material evidence contained in the records allow you to relate these reforms to the former President Luiz Inácio Lula da Silva and his wife.

381. The costs of the reform totaled R\$ 1,104,702.00 and included the installation of private elevator in the triplex apartment, kitchens, cabinets, fitting of dormitories, withdrawal of sauna, expansion of the pool deck and even buying home appliances.

382. The evidence is in order, as we shall see below, that the OAS Empreendimentos held these reforms with exclusivity, i.e., no other apartment of real estate ventures of the OAS, either in building in Guarujá, either in other, suffered the same sort of reform.

383. Part of the reform was carried out by the company Tallento Construtora Ltda., outsourced by the OAS Empreendimentos.

384. The Tallento construtora presented to the MPF, the documents proving these services and works and who were gathered at the event 3, COMP241.

385. There are Fiscal Invoice 423, the value of R\$ 400,000,00 issued on 08/07/2014, the Fiscal Invoice 448, the value of R\$ 54,000,000, issued in 18/08/2014, the Fiscal Invoice 508, the value of R\$ 323,189,13 issued on 18/11/2014. All of them were issued against the OAS Empreendimentos and have per object "execution of the work of civil construction, located at the address Rua Monteiro de Barros, 638, Vila Luiz Antônio, Guarujá, SP". Total of around R\$ 777,189,00.

386. Also there are plans for strengthening the metal floor of the triplex apartment, coverage, in building the Mar Cantábrio, the chit 8542 issued on 15/09/2014, by the assembly of Latin America Lifts against the Tallento, the value of R\$ 798.00, regarding the sale of oil to lift, the Fiscal Invoice 8545, issued on 09/16/2014, by the assembly of Latin America Lifts against the Tallento, amounting to R\$47,702,00, regarding the sale of lift, the Fiscal Invoice 103, issued in 20/10/2014, by TNG Lifts against the Tallento, amounting to R\$21,200,00, regarding the installation services of lift, with three stops, the "work solaris, Guarujá". These services and works contracted by Tallento were included in the prices charged to the OAS Empreendimentos.

387. There's also present there proposals forwarded by the Tallento construtora OAS Empreendimentos for currency reform on "coverage", dated 28/04/2014 to 09/18/2014 and 21/10/2014, and that includes several changes in the property consistent in apartment 164, such as paintings, hydraulic adjustments, reform in the barbecue, installation of plaster ceiling, installing new deck for outdoor, including the installation of the lift. It is observed, by timely, that the proposal of 09/18/2014, includes, among other measures, modification of the coating kitchen, installing granite countertop in the kitchen and the barbecue, installation of new access ladder to the mezzanine, demolition of a dormitory and withdrawal of sauna, increased room to the elevator. The proposal 21/10/2014, more modest, only includes supply and installation of gas heater and screen protection for Windows.

388. The contract between the OAS and the Tallento Ventures Construtora is dated 30/06/2014 and is signed by the Defendant Roberto Moreira Ferreira, then Regional Director of incorporation of the OAS Projects, representing the first. There is also an additive signed, this time without identification of the representative of the OAS, and without the date of their appointment.

389. In addition to the reform carried out by the Tallento construtora in apartment 164, the OAS Empreendimentos hired Kitchens Kitchens and decorations for the placement of cabinets and furniture in the Kitchen, Barbecue, Dining services and private, in the amount of R\$ 320,000,00. In the event 3, COMP246, the MPF joined the relevant documentation. It verifies that the request has been endorsed by the Defendant Roberto Moreira Ferreira and formulated in 03/09/2014, being finalized the sale 10/13/2014, with the approval of the projects listed in the event 3, COMP247 and comp251, also with the signature of Roberto Moreira Ferreira.

390. The OAS Empreendimentos purchased appliances, hob, microwave and side by side, to the apartment 164 it along to Fast Shop S/A, according to information provided by this company and joined in the event 3, COMP256. There is the Fiscal Invoice 830842 issued by the Fast Shop in 03/11/2014, against the OAS Enterprises, the value of R\$ 7,513,00, and with delivery note to Mariuza Marques, employee of the OAS Projects, at the address of the Condominio Solaris. The Mariuza Aparecida da Silva Marques, as view- be ahead, confirmed, heard as a witness, that the appliances were installed in apartment 164-A, triplex (item 490).

391. Then, it has a total of reforms and improvements made by the OAS Empreendimentos in the triplex apartment 164, during the entire year of 2014, and which costs around R\$ 1,104,702.00 (sum of R\$ 777,189,00, R\$ 320,000.00 and R\$ 7,513,00).

392. Clarify that the MPF points out the value of R\$ 1,147,770.96 in the complaint because updated the values since the expenditure until July 2016.

393. Even before the examination of the oral test, it is possible to relate the apartment 164 and the reforms it made to former President Luiz Inácio Lula da Silva and his wife based on messages seized in phones of executives of the OAS.

394. On 10/11/2014, at the request of the police authority and the MPF, was enacted, in

case 5073475-13.2014.404.7000 (event 10), the precautionary imprisonment of several executives of major contractors in the country, including José Adelmário Pinheiro Filho, President of the OAS, and authorized to search and seizure of evidence, including the phones of executives. The arrest and the searches and seizures were effective on the day 14/11/2014.

395. At the request of the MPF, have been authorized, by decision of 24/02/2016, in case 5006617-29.2016.4.04.7000 (event 10), searches and seizures in addresses related to the investigation of this case, among them the addresses of the Defendant Paulo Roberto Valente Gordilho, Director of Engineering and Technical Support of the OAS Empreedimentos. On that occasion, also authorized the seizure of mobile devices.

396. Among the phones seized in the first search, was the Defendant José Adelmário Pinheiro Son, and in the second search, the Defendant Paulo Roberto Valent Gordilho.

397. For both, expressly authorized the examination of the contents of mobile devices.

398. In the event 3, COMP178, is contained in the report of Analysis of Judicial Police paragraph 32, which contains examination of messages found in the mobile device of Joseph Adelmário Pinheiro Son related to this criminal action and still with the object of criminal action 5021365-32.2017.4.04.7000 and which concerns the alleged crimes of corruption and money laundering involving the former President Luiz Inácio Lula da Silva and a ranch in Atibaia/SP.

399. On the phone of Joseph Adelmário Pinheiro Son, were found in the contacts list, the phones of Paulo Roberto Valente Gordilho (p. 5 the report).

400. Also found the following exchange of messages in 12 and 13/02/2014, José Adelmário Pinheiro Son with Paulo Cesar Gordilho (pp. 6 and 7 of the report):

*"Paul Gordilho: The design of the chef's kitchen is ready to schedule with Madam, it can be anytime you want.*

*Leo Pinheiro: Tomorrow the 19hs. I will confirm. It would be good to see if the Guarujá's design is ready.*

*Paul Gordilho: It is also ready.*

*Leo Pinheiro: In principle tomorrow by 19h.*

*Paul Gordilho: Leo. Is it confirmed? Going where at what time?*

*Leo Pinheiro: Fábio called canceling. At first, it will be on Monday at 2pm. I have to check, because I'm going to Uruguay.*

*Paul Gordilho: I'll wait.*

*Leo Pinheiro: Ok."*

401. The references relate to the reforms of kitchen design the ranch in Atibaia/SP and the renovation project of the apartment 164, triplex, Condominio Solaris, in Guarujá/SP. "Madame" is a reference to Marisa Letícia Lula da Siva. "Fabio" is a reference to the son of former President Luiz Inácio Lula da Silva, the name Fabio Luis Lula da Silva.

402. As we shall see below, this was the content of the messages revealed by own interlocutors in audience (534, 552 and 553).

403. The Histologicalanalysis 1.475/2016 experts from the Federal Police had to examine any evidence relating to the ranch in Atibaia (event 3, COMP303).

404. In the appraisal report it refers to several messages from the Defendant Paulo Roberto Valent Gordilho which were found in his cell seized and dealing with reform of the ranch in Atibaia, such as those contained in the fls. 31 and 32 of the report, with explicit reference to the former President Luiz Inácio Lula da Silva, the wife Marisa Letícia Lula da Silva and the visit that he, Paulo Roberto Valent Gordilho, would have done with Joseph Adelmário Pinheiro Filho a.k.a Léo Pinheiro, on ranch in Atibaia. It was even found on your mobile photo taken on site, where you visualize, together the Defendant Paulo Roberto Valent Gordilho and Luiz Inácio Lula da Silva (fl. 33 of the report).

405. Among the relevant messages, reproduced in fl. 36 of the award and who are also partly in fl. 8 the previously mentioned reports of Analysis of Judicial Police no. 32 (event 3, COMP178). In the report, the exchange of messages, 26/02/2014, was attributed to Joseph Adelmário Pinheiro Son and Paulo Roberto Valent Gordilho. In the report, the José Adelmário Pinheiro Son and the unidentified caller:

*"I think the influx went and broke the water pipe. We will have to open.*

*Ok. Let's begin when. We open 2 cost center: 1° Zeca Pagodinho (Site) 2ND Zeca Pagodinho (Beach)*

*Ok.*

*That's it. Let's go.*

*Dr. Leo the Fernando Bittar approved along the Lady the Guarujá and site projects. Only the complete kitchen Kitchens asked for 149 thousand even without negotiation. I can begin in the coming weeks. Is that it?*

*Hit it.*

*Ok I'll do it.*

*Ok. Did I already send you the cost centers?*

*Talking with Joilson he created 2 centers in investments. 1. Ranch 2. Beach. The team comes from SSA, they are people of our trust that conducts reforms in the oas. It is decided that they'll live on site. the lady asked them not to stay in the city.*

*Ok."*

406. The references relate to the reforms of kitchen design the ranch in Atibaia/SP, "Sítio", and the renovation project of the apartment 164, Condomínio Solaris, in Guarujá/SP, "beach". "Lady" is a reference to Marisa Letícia Lula da Siva. Fernando Bittar is the formal owner of one of the building compose the ranch in Atibaia (55,422 registration the registration of brokers of Atibaia). "Bloom", in turn, is a Facetious reference related to the codename "Brahma" that was assigned to the former President Luiz Inácio Lula da Silva by executives of the OAS and the well-known musical preference of former President.

407. As we shall see below, this was the content of the messages revealed by own interlocutors in audience (534, 552 and 553).

408. In 21/08/2014, there was a new exchange of relevant messages, between Adelmário José Pinheiro Son (Leo) and Marcos Ramalho, chief executive of the OAS, in relation to the IDA and his visit and the relatives of Luiz Inácio Lula da Silva to apartment 164, *Condominio Solaris*, in Guarujá (Report of Analysis of Judicial Police No. 32,3 event, compl78, Fls. 11-12):

*"Marcos Ramalho: Dr. Leo. The estimated time of landing will be around 09:40, some guidance as to the appointment time. Obs.: Reinaldo believes that will arrive at the place which you indicated by around 10:30.*

*Leo Pinheiro: Tell Claudia (sec) of our friend so the meeting changes to 10:30 in the same location.*

*Marcos Ramalho: Ok.*

*Leo Pinheiro: Done?*

*Marcos Ramalho: I Spoke with Priscilla. She tried to transfer Claudia's cellphone, but she is in the bathroom and agreed to call me in 15 minutes.*

*By the time she should be calling me. Notice you as soon as possible.*

*Leo Pinheiro: it is urgent.*

*Marcos Ramalho: Dr. Leo. Changed to 10:30. I spoke with Claudia and had just spoken with Fábio (Filho).*

*Marcos Ramalho: Dr. Leo. Follow the cell from Dr. Fabio. 04111999739606.*

*Leo Pinheiro: warn Dr. Paul Gordilho.*

*Marcos Ramalho: I just warned Dr. Paul gordilho.*

*Marcos Ramalho: Dr. Leo, Dr. Lara can only serve the Lord 14:30. I confirmed and stayed to give Ok for her so to speak with the Lord."*

409. References to "Mesquita" or "Dr. Fabio" concern again the son of former President Luiz Inácio Lula da Silva, the name Fabio Luis Lula da Silva, having the Federal Police checked that the phone 99973-9606 11 is used (pp. 12 and 13 of the report).

410. The messages, concludes that the OAS Empreedimentos, by order of José Adelmário Pinheiro Son, was involved in the reform of the aforementioned ranch in Atibaia and even in the reform of the apartment 164-A, triplex in Guarujá. Both, carried out in the year of 2014, and the concomitant, aimed to meet the former President Luiz Inácio Lula da Silva and his wife Marisa Letícia Lula da Silva.

411. Still in the unfolding of events, in 14/11/2014, was provisionally arrested , in the framework of the Operation Nichollstown, José Adelmário Pinheiro Son, what occurred, as in advance, by order entered in the process 5073475-13.2014.404.7000 (event 10).

412. Not long after, on 12/07/2014, the Official O Globo published matter Journalists Germano Oliveira and Cleide Carvalho about the triplex apartment Condominio Solaris, in Guarujá, and that, according to her, would belong to the Luiz Inácio Lula da Silva

and his wife Marisa Letícia Lula da Silva <https://oglobo.globo.com/brasil/cooperativa-entrega-triplex-de-lula-mas-tres-thousand-yet-expect-property-14761809>. It transcribes excerpt:

*"The former President Luiz Inácio Lula da Silva may already having the New eve on the beach of Asturias, in Guarujá, noble area of the southern coast of São Paulo. Its large balcony, you can see the burning of photos, what happens on the edge as well in front of your building made by the OAS, company investigated by jet washer operation. Is that in the past as SABSAB ended the works of reform of the triplex apartment in Solar Building, that he and Mrs. Marisa Letícia, his wife, bought by means of Bancoop – the Housing Bank Of Cooperativa – still in the plant, in 2006. Accused of irregularities and in the financial crisis, the Bancoop left three thousand families without receiving the dreamed apartment."*

413. In relation to this matter and others that followed, was published on 12/12/2014, a note by the Lula Institute, stating that Marisa Letícia had only the quota paid in the enterprise (event 724, Annex11). Listed in note:

*"Note about supposed apartment of Lula in Guarujá*

*Mrs. Marisa Letícia Lula da Silva acquired in 2005, a quota for the participation of Bancoop, paid in 2010, referring to an apartment, which had as delivery forecast 2007. With the delay, the members decided in assembly, at the end of 2009, transfer the conclusão the venture to the OAS, the work was handed over by the contractor in 2013. In this case, all members might choose to ask for reimbursement of the amount paid or buy an apartment in the venture. At the time, Lady Marisa didn't opt for any of these alternatives waiting for the solution of all cases of cooperative entrepreneurship. As this process is being finalized, she now evaluates whether will opt for the reimbursement of the amount paid or by the acquisition of some apartment, if there are units available. Any of the options will be exercised under the same conditions offered to all members."*

414. The note contains several statements that do not correspond to reality. As seen by the documents of hiring (321-335), from the beginning the dimension in this venture was related to a specific unit. In addition, all members had to make a choice by the purchase and withdrawal in 2009 and no longer had the right to do so in 2014. Finally, the dimension was not paid, having been paid only fifty to seventy benefits in relation to the specific unit.

415. In any case, the question remained undefined, except for matters of newspapers until 19/07/2016, Marisa Letícia Lula da Silva joined with civil action against the BANCOOP and the OAS Empreendimentos pleading for the return of amounts paid (event 85, OCT12). In the body of the civil action, it is stated that the documents referred to in items 356-359, have been signed on 26/11/2015. For the difference in relation to data contained in documents, 2009, contained the following statement:

*"At this point asks to open a parenthesis in order to clarify that, as it was used a standard form, created at the time that the members were called to choose between require the dimension or adhere to the contract with the OAS (September and October 2009), at the end of the document in the year 2009."*

416. In relation to the document with 02/12/2013 (item 360), was not presented any explanation of the discrepancy.

417. These are essentially the documentary evidence available regarding the apartments 131-A and 164-A, Salinas Building, Condominio Solaris, in Guaruja, previously 141 and 174, Navia, Residential Building of the Mar Cantábrio.

418. Based in these Some Provisional Conclusions are possible:

a) In the documents themselves for acquisition of rights over unity of the Residencial Mar Cantábrio subscribed by Marisa Letícia Lula da Silva had already notes concerning the triplex apartment, then 174, as shown in the "Proposal for membership subject to approval" rasurada, with original and tracks both in the BANCOOP seized as the residence of the former President Luiz Inácio Lula da Silva;

b) Among the documents of acquisition of rights on residential unit of the Mar Cantábrio, was learned "Term of adherence and commitment to participation" in the residence of the former President and which, although not signed, relates specifically to the unit 174, corresponding to the triplex;

c) Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva paid fifty to seventy benefits, being the last of them paid on 15/09/2009;

d) The BANCOOP transferred in 27/10/2009 the rights over the Estate Mar Cantábrio to the OAS Empreendimentos that the renamed Condominio Solaris;

e) All members with the right to certain units had to choose, within thirty days of 27/10/2009, by concluding new contracts of purchase and sale commitment with the OAS Empreendimentos or give up and request a cash refund;

f) Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva did not at that time chose one of the options, also did not resumed the payment of the installments and, despite the terms of resignation dated from 2009 and 2013, say, in a civil action for refund of values promoted in 2016, which only required the withdrawal in 26/11/2015;

g) The OAS Empreendimentos or BANCOOP never promoted any measure for that Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva held the option between formalization of purchase or withdrawal, nor took any initiative to resume the collection of outstanding installments;

h) The OAS Empreendimentos sold to third the apartment 131, corresponding to the old 141-A, indicated in the contract for the acquisition of rights signed by Marisa Letícia Lula da Silva;

i) The OAS Empreendimentos since 08/10/2009 never tried to sell the apartment 164, triplex, Salinas, a condominium building *Condominio Solaris*, in Guaruja.

j) Internal documents of the OAS Projects indicate that the apartment 164 it was reserved;

k) The Newspaper O Globo Published on 10/03/2010, with Upgrade In 01/11/2011, i.e., long before the start of the research or any intention of research, which has already stated that the triplex apartment condominium in Solaris belonged to the Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva and that delivery was delayed;

l) The OAS Empreedimentos, by determination of the Chairman of the Group of OAS, the Defendant José Adelmário Pinheiro Filho, known as Léo Pinheiro, held expressive renovations in apartment 164, triplex, throughout the year of 2014, with expenses of R\$ 1,104.702.00, and that included the installation of large bathrooms for the triplex, installation of kitchens and cabinets, demolition of dorm, removal of sauna, expansion of the pool deck and placement of appliances;

m) The OAS Empreedimentos did not in relation to any other apartment in *Condominio Solaris*, nor is to practice doing it in its other real estate ventures;

n) Electronic messages exchanged between executives of the OAS relate the reforms of the apartment 164 to former President Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva, while they are still being made at the same time that made reforms in Atibaia ranch frequented by former President; and

o) After prison precaution of Joseph Adelmário Pinheiro Son in 14/11/2014 and the publication from 12/07/2014 materials in newspapers about the triplex apartment, Marisa Letícia Lula da Silva formalized next to BANCOOP, on 26/11/2015, the withdrawal of acquisition of residential unit in the Mar Cantábrico.

419. Even before examining the testimony of witnesses and the other Defendant, it is appropriate to analyze the statements provided by former President Luiz Inácio Lula da Silva to respect these facts related to the triplex apartment 164-A.

## II.13

420. The former President Luiz Inácio Lula da Silva was questioned in court, and the transcription was inserted in the records in the event 885.

421. At the time, he was expressly questioned about the purchase of an apartment at the *Residencial Mar Cantábrico*, after, *Condomínio Solaris*.

422. Summarizing, he stated that his wife, Marisa Letícia Lula da Silva, decided "to purchase a unit of ownership of the cooperative BANCOOP" in respect of a simple apartment.

423. He denied that at any time they had the intention of acquiring a triplex property.

424. Regarding the documents mentioned on items 325 and 330, above, comprising the original and copy of "Adhesion proposal subject to approval", with number 174, then overwritten to 141, the former President said he was unaware of the matter, even though one of the overwritten copies was seized at his residence.

425. Regarding the document mentioned on item 324, the third instrument of adhesion

and participation commitment and which expressly refers to apartment 174 of the Edifício Navia, that is, to the apartment that would become the triplex, the former President stated that he was unaware of the matter and claimed that, as the document was not signed, there was no explanation to be given. Apparently, he suggested that the document would have been placed there unduly ("I do not know, maybe those who are accusing me know how it got there, I do not know how there is a document at my house, with no membership, of 2004, when my wife bought the apartment in 2005"), suggestion not reproduced by his Technical Defense.

426. He affirmed that he did not remember the amount paid by the apartment, he acknowledged that he had filed his acquisition in the income tax, and denied that he, Luiz Inácio Lula da Silva, and his wife, had made any option for formal acquisition of the apartment or withdrawal after the transfer of the apartment of BANCOOP to OAS Empreendimentos. This part is transcribed hereinbelow:

*"Federal Judge:- It is stated in the accusation and in documents that OAS formally assumed this venture on October 08, 2009, at this same time, OAS granted to Bancoop cooperative members the right over the Mar Cantábrego venture, 30 days term to opt for reimbursement of amounts previously paid to Bancoop or to enter into a contract for sale of the unit and to continue to pay the debtor balance, this was the subject of a meeting of the members on October 27, 2009, these documents are in the records, event 3, annex 213 and annex 214, I do not know if you'd like to see it..."*

*Luiz Inácio Lula da Silva:- I don't need to see it, doctor, I just want to repeat that I knew of the apartment in 2005, when it was purchased, and it was filed on the income tax of 2006, and I knew about it in 2003, when Léo Pinheiro came to me.*

*Defense:- In 2013.*

*Luiz Inácio Lula da Silva:- In 2013.*

*Federal Judge:- Perfect. Did you and your wife made any choice in the 30 days term, counted from that meeting on October 27, 2009?*

*Luiz Inácio Lula da Silva:- No, no.*

*Federal Judge:- No? Do you remember how much has been paid by you and your wife, in total, for this contracted apartment, simple unit?*

*Luiz Inácio Lula da Silva:- I don't remember, doctor Moro, but it is all filed on the income tax, and it must be in the process already, what has been said is more than bad news.*

*Federal Judge:- Perfect. The Federal Prosecution Service states that about 209 thousand reais were paid up to September 2009, would you be able to say if it was about that?*

*Luiz Inácio Lula da Silva:- I don't know.*

*Federal Judge:- Would you be able to tell me if has any new payment been made for the apartment after OAS took over the venture on October, 2009?*

*Luiz Inácio Lula da Silva:- I think no.*

*Federal Judge:- Would you be able to explain me why, unlike all other cooperative members of Bancoop who had to opt, in 2009, for the continuation of the purchase, signing contracts with OAS, or requesting the reimbursement of the money, including a 30-day term, counted from the meeting on October 27, 2009, you and your wife did not have to make that choice?*

*Luiz Inácio Lula da Silva:- I have a hypothesis, Mrs. Marisa may not have received the invitation to attend the meeting.*

*Federal Judge:- Is this just a hypothesis or do you have specific knowledge?*

*Luiz Inácio Lula da Silva:- It is the only one I can imagine.*

*Federal Judge:- Have you never been told anything about it?*

*Luiz Inácio Lula da Silva:- Never.*

*Federal Judge:- Not even by your wife?*

*Luiz Inácio Lula da Silva:- No, I'll repeat, I heard about the apartment at the time of purchase that it was an investment and I found out in 2013, when they came for me. "*

427. He also stated that he was not informed that apartment 131, corresponding to unit 141, whose acquisition rights had been contracted by his wife, would have been sold by OAS Empreendimentos on April 26, 2014 to a third party. This part is transcribed herein below:

*Federal Judge:- Perfect. It is stated that this apartment 141, which this unit of ownership refers to, which instrument of adhesion was signed by your wife, it is stated that appears that this apartment was sold by OAS Empreendimentos with the number 131, due to the change in the numbering of the building, to a third person on April 26, 2014, is in the process in event 3, file COMP299, was you aware of the sale of this apartment at the time? have you been consulted regarding this sale, since it concerned the apartment corresponding to your unit of ownership?*

*Luiz Inácio Lula da Silva:- Doctor Moro, as I did not request the apartment and I did not receive the apartment, there was no reason for me to be informed.*

*Federal Judge:- This apartment is related to that apartment that was connected to your unit of ownership on the Bancoop.*

*Luiz Inácio Lula da Silva:- I was not informed.*

*Federal Judge:- Has your wife been informed?*

*Luiz Inácio Lula da Silva:- I don't think so, from what I have heard in the testimonies here, it seems that this apartment was pledged about 50 times, it seems, to other people to whom OAS owed money."*

428. He was also not able to inform the reason why the apartment 164-A has never been offered to sale by OAS Empreendimentos.

429. The former President Luiz Inácio Lula da Silva admitted that he had been only once in triplex apartment 164-A, in February 2014, invited by José Adelmário Pinheiro Filho, that "wanted to sell the apartment". At the time, he was accompanied by his wife and he said that the apartment would have several defects, and Jose Adelmário Pinheiro Filho informed to him: "I'll take a look and then I'll talk to you." According to the former President, José Adelmário Pinheiro Filho never affirmed that OAS would refurbish the apartment. He also denied that he or his wife have requested any renovations in the apartment. It is herein below transcribed:

*"Federal Judge:- Did you visit the apartment triplex 164-A, Condomínio Solaris?*

*Luiz Inácio Lula da Silva:- I was there in 2014.*

*Federal Judge:- How many times have you been there?*

*Luiz Inácio Lula da Silva:- Once.*

*Federal Judge:- Could you describe to me the circumstances, the reason for this visit? Luiz Inácio Lula da Silva:- Léo was there, I already said it here, Leo was there in the office saying that the apartment had been sold and that he had, I think, one more normal apartment and the triplex, I went there to see the apartment, I went there to see the apartment , I saw five hundred defects in the apartment, I came back and I never talked to Léo about the apartment anymore.*

*Federal Judge:- Do you remember who went to this visit with you?*

*Luiz Inácio Lula da Silva:- Me and my wife only.*

*Federal Judge:- And who of OAS was there?*

*Luiz Inácio Lula da Silva:- Oh, I don't know, I know that Léo was there.*

*Federal Judge:- Was Léo Pinheiro there?*

*Luiz Inácio Lula da Silva:- Yes, he was.*

*Federal Judge:- And what was the content of the conversation on this visit, Mr. former President, do you remember?*

*Luiz Inácio Lula da Silva:- The content of the conversation is that Leo wanted to sell the apartment, and you know that, as any seller, he wanted to sell that anyway, I do not know if you have already looked for a house to buy to know how the seller wants to do, and I told Léo that the apartment had five hundred defects, you know?*

*Federal Judge:- Did you refuse right away to buy this apartment?*

*Luiz Inácio Lula da Silva:- No, I did not refuse right away because Léo said 'I will take a look and then I will talk to you'.*

*Federal Judge:- Did Mr. Léo Pinheiro say that he would refurbish the apartment?*

*Luiz Inácio Lula da Silva:- No, the day I went there, he did not say it.*

*Federal Judge:- Did he say it latter?*

*Luiz Inácio Lula da Silva:- He said that he would take a look and then he would come to me to talk.*

*Federal Judge:- Okay...*

*Luiz Inácio Lula da Silva:- This was in February 2014, if I am not wrong.*

*Federal Judge:- 2014, right. Did you or your wife requested any kind of renovations on this apartment?*

*Luiz Inácio Lula da Silva:- No."*

430. Here, in this part transcribed, a first and apparent contradiction with what he had just stated, that he had not been informed that apartment 131/141 had been sold (item 427).

431. The former President Luiz Inácio Lula da Silva admitted that his wife would have been in the apartment at another time in August 2014, with their son Fábio Luis Lula da Silva. He also stated that, since his first visit, he, Luiz Inácio Lula da Silva, would have come to the conclusion that he would have no interest in the apartment. And Marisa Letícia Lula da Silva would have come to this conclusion after the second visit, in August 2014. It is transcribed hereinbelow:

*"Federal Judge:- You have been there only once, do you know whether your wife or family, or people in your service, have been in this property again?"*

*Luiz Inácio Lula da Silva:-I believe my wife have been there once more.*

*Federal Judge:- You say 'I believe' or you are sure?*

*Luiz Inácio Lula da Silva:-I believe, I believe that she went there, I believe she went there with my son Fábio and when they arrived there, the apartment, I believe, was dismantled, totally dismantled, that is what my son told me, not her.*

*Federal Judge:- What was the purpose, Mr. former president, of her visit?*

*Luiz Inácio Lula da Silva:- Huh?*

*Federal Judge:- What was the purpose of the visit of your wife?*

*Luiz Inácio Lula da Silva:- Certainly she would say that I did not want the apartment anymore, because when I went to the apartment I realized that the apartment was practically unusable for me because I was, independently of my will, a public figure and I could only go on that beach on Monday or Ash Wednesday.*

*Federal Judge:- Right. It is stated in the process records that this second visit of your wife would have been on August 21 or 22, 2014...*

*Luiz Inácio Lula da Silva:- I don't know the date, doctor Moro.*

*Federal Judge:- Would you know when approximately?*

*Luiz Inácio Lula da Silva:- I don't know, it was in August, it was in August.*

*Federal Judge:- I have already asked you this, but just to be clear, you and your wife, or family members, gave direction for renovations on the triplex apartment, installation of kitchen or private elevator?*

*Luiz Inácio Lula da Silva:- I did not give directions, what I know is that the day I went there, there were many defects in the building, many, defects on the stairs, defects on the kitchen.*

*Federal Judge:- You, Mr. former President, when exactly did you decide that you would not keep this property, with this triplex?*

*Luiz Inácio Lula da Silva:- Actually, the day I went to see it, I realized that it was not possible for me to have an apartment in Asturias Beach, in that place, I would not have been able to visit the beach. Then: the apartment was too small for a family of five children, eight grandchildren, and now a great-granddaughter.*

*Federal Judge:- So, on your first visit, did you realize that you would not keep the apartment?*

*Luiz Inácio Lula da Silva:- I was aware that I could not.*

*Federal Judge:- Did you told anyone this...*

*Luiz Inácio Lula da Silva:- We discussed this because even Mrs. Marisa had one important thing, she did not like the beach, she never liked the beach, she certainly wanted the apartment to make an investment.*

*Federal Judge:- And did you tell Mr. Léo Pinheiro that you would not keep the apartment?*

*Luiz Inácio Lula da Silva:- No, no, I don't know why, but I did not told him.*

*Federal Judge:- You understood that you would not keep the apartment, but you did not tell him, I do not know if I understood.*

*Luiz Inácio Lula da Silva:- I did not understand, I was not going to keep the apartment, but Mrs. Marisa still had doubts whether she would stay to do business or not.*

*Federal Judge:- And at any point, did she decide not to keep the apartment?*

*Luiz Inácio Lula da Silva:- No, she did not discuss it with me anymore, she did not discuss.*

*Federal Judge:- Do you know that if after that second visit, she decided to keep the apartment?*

*Luiz Inácio Lula da Silva:- No.*

*Federal Judge:- You do not know or she decided not to keep?*

*Luiz Inácio Lula da Silva:- After I heard that Mrs. Marisa went there a second time, I found out later that she had gone to the apartment and that she had no interest in buying either.*

*Federal Judge:- When did you find out that she went there a second time?*

*Luiz Inácio Lula da Silva:- Oh, one day, it was on August, it was not the day she went, it was after.*

*Federal Judge:- After how long, approximately?*

*Luiz Inácio Lula da Silva:- It's hard to tell now, if it was 10 days, 15, 20 days. "*

432. Later, he reiterated that he had never discussed about renovations on the apartment:

*"Federal Judge:- At any point in your conversations with Léo Pinheiro or with other OAS representatives, was there any discussion about the cost of the renovation on the triplex unit, the price to be paid?*

*Luiz Inácio Lula da Silva:- No. No, never. Even because they didn't tell me about renovation.*

*Federal Judge:- The Federal Prosecution Service states that these costs of the renovation were about 1 million and 277 thousand, and it would have included installation of private elevator, kitchens, cabinets, bedroom fittings, have you never discussed anything about this, Mr. former President?*

*Luiz Inácio Lula da Silva:- No discussion, and as I consider that this process lacks standing and the accusation is a farce, I am here because I respect the law, I respect our constitution, but with reservation in relation to the behavior of the prosecutors of the Operation Car Wash. "*

433. The argument of the former President does not fully converge with what he stated when he was heard during the investigations, in his testimony taken on March 04, 2016 by the police authority (event 3, comp75). At that time, when inquired about the property, he answered the following:

*"Luiz Inácio Lula da Silva: The first time I went there, I told Léo that the building was inadequate because, in addition to being small, a triplex of 215 meters is a triplex 'Minha Casa, Minha Vida', it was small..*

*DPF (Department of Federal Police): Is it good or bad?*

*Luiz Inácio Lula da Silva: It was very small, the rooms, the stairs was very, very... I told him: 'Leo, it's inappropriate, for an old man like me, it's inappropriate. ' Léo told me 'I'll try to think in a project for this'. When Marisa returned there, nothing had been done yet. And then I told Marisa: 'You know, I'll make the decision not to, I do not want to'. One of the reasons is because I came to the conclusion that it would be useless to me an apartment on the beach, I could only go the beach on All souls' Day, if it was raining. I decided not to keep the apartment.. "*

*"DPF: Mrs. Marisa, when she occasionally went there to see if she had any interest, as you explained, were the kitchen, elevator installed yet?*

*Luiz Inácio Lula da Silva: There was nothing. According to her, there was nothing.*

*DPF: On the second, nothing, no furniture...*

*Luiz Inácio Lula da Silva: Nothing, nothing.."*

434. In fact, in the police interrogation, he stated that he, Luiz Inácio Lula da Silva, decided to refuse to purchase the apartment after his wife's second visit ("I made the decision not to keep the apartment"), but in the judicial interrogation, he would have refuted the acquisition already on the first visit, his wife persisted with interest for investment, but she also gave up buying after the second visit in August.

435. In the police interrogation, he stated that, after he indicated the defects of the apartment, José Adelmário told him that he would present him a "project" ("I'll try to think in a project for this"). But in the judicial interrogation, José Adelmário only told him "I'll take a look and then I'll talk to you", not affirming that he would refurbish or in the property [sic], and it was not even requested to him ("Federal Judge:- Did Mr. Léo Pinheiro say that he would refurbish the apartment? Luiz Inácio Lula da Silva:- No, the day I went there, he did not say it.").

436. In the police interrogation, he suggested that one of the reasons why he would have decided not to keep the property is that Marisa Leticia Lula da Silva, on her second visit, would have verified that they would not have made any renovation yet ("When Marisa returned there, nothing had been done yet"). It is difficult to reconcile this statements to the one gave in court that José Adelmário Pinheiro Filho would not even have informed that he would do a renovation on the property.

437. The former President Luiz Inácio Lula da Silva was questioned about these contradictions in the judicial interrogation and, despite the inadequate interventions of his Defense at the time, he failed to explain them satisfactorily:

*"Federal Judge:- When you first rendered a testimony on the investigation of these facts, you said the following 'The first time I went there, I told Léo that the building was inadequate because, in addition to being small, a triplex of 215 meters is a triplex 'Minha Casa, Minha Vida', it was small, then the police authority asked 'Is it good or bad?', then you answered It was very small, the rooms, the stairs was very, very... I told 'Léo, it's inappropriate, for an old man like me, it's inappropriate, Léo told me 'I'll try to think in a project for this', then Marisa returned there, nothing had been done yet, and then I told Marisa: 'You know, I'll make the decision not to, I do not want to, One of the reasons is because I came to the conclusion that it would be useless to me an apartment on the beach, I could only go the beach on All souls' Day, if it was raining, I decided not to keep the apartment'. Could you clarify it to me, because it seems that you...*

*Defense:- Your Honor, according to the order...*

*Luiz Inácio Lula da Silva:- (inaudible) different.*

*Defense:- I was only going to make a question. You Honor, you said 'the investigation', could you identify which investigation, and also, clarify whether this is the testimony given on the day that Your Honor determined the compulsory process of the party being questioned?*

*Federal Judge:- Yes, it's that testimony taken by the police on that time. Defense:- Right.*

*Federal Judge:- Could you clarify for me, because you affirm here that you made the decision not to keep the apartment, that you would have already expressed dissatisfaction on the first visit and on the second visit of your wife, because the renovation would not even be ready, you would have decided not to keep the apartment.*

*Luiz Inácio Lula da Silva:- I said exactly the two things, both in the first testimony and now, the same thing, I admit it is difficult, as I am not reading repeat the same words, but I said all the defects that had to say in the apartment, and Leo said exactly 'I'll think about a proposal and I'll talk to you', and I never talked to Leo about the apartment again.*

*Federal Judge:-But, a proposal to refurbish the apartment?*

*Luiz Inácio Lula da Silva:- I don't know what was the proposal, he told me he was going to make a proposal, (inaudible) refurbish.*

*Federal Judge:- I will interrupt the audio here because of its size, we will resume soon.*

*Federal Judge:- So, in this criminal action 5046512-94.2016.404.7000 continuing the testimony of Mr. former president Luiz Inácio Lula da Silva. So, Mr. former President, I asked you these questions, it is still not clear to me who made that decision not to stay with the apartment or if this decision was actually taken, because you, in the testimony given in the compulsory process, you used these expressions that you would have decided not to keep the apartment after the second visit of your wife to this apartment, is this correct or how was it?*

*Luiz Inácio Lula da Silva:- I had said the same thing, I just do not have clarity, Mrs. Marisa did not tell me the same day that she went there and that she was not going to stay with the apartment, I had shown her that the apartment was inappropriate, she went there, I think she wanted to see if she could keep it to sell, because the apartment actually, the apartment was never, never offered to me before the date I went there to see it, and*

*when I went there to see, I did not like it, that's it.*

*Federal Judge:- And Mr. Léo did not told you that he was going to refurbish the apartment to see if you would be interested then?*

*Luiz Inácio Lula da Silva:- Léo told me that he was going to talk to me again, after all the defects I saw, he said, 'Look, I'll make you a proposal' and I never spoke to Leo again.*

*Federal Judge:- When your wife went to the apartment for the second time and returned from this visit, did she tell you or you asked about the renovation...*

*Defense:- Your Honor, he has just explained that, Your Honor, he has answered this question a few times to your already.*

*Luiz Inácio Lula da Silva:- (inaudible) and she said again that she had not liked the apartment, and as I had insisted to her that she did not like the beach and that I liked it but that was inappropriate for me, I think she made the decision not to purchase.*

*Federal Judge:- Right, but what I am asking is if she told you anything about the renovation?*

*Luiz Inácio Lula da Silva:- No, she did not and, unfortunately, she is not alive to ask her.*

*Federal Judge:- It is stated in the testimony that you also gave in this compulsory process, the chief of police asked you "Mrs. Marisa, when she occasionally went there to see if she had any interest, as you explained, were the kitchen, elevator installed yet?", you answered 'There was nothing, according to her, there was nothing', then he asked again On the second, nothing, no furniture?', Then you replied 'Nothing, nothing'. Did she tell you or not about the status of the renovation?*

*Luiz Inácio Lula da Silva:- No. No.*

*Federal Judge:- And how do you explain this answer that you gave in the testimony of the compulsory process?*

*Luiz Inácio Lula da Silva:- That she said that there was nothing?*

*Federal Judge:- Yes.*

*Luiz Inácio Lula da Silva:- She said that there was nothing...*

*Federal Judge:- She did mention this then...*

*Luiz Inácio Lula da Silva:- I already said that after about 10 days, I did not give the exact date, that Marisa said that there was nothing and that she did not want the apartment anymore.*

*Federal Judge:- All right, but she did tell you then that the renovation had not been made, that the kitchen had not been installed?*

*Luiz Inácio Lula da Silva:- I do not know if it's about renovation, she said there was nothing in the apartment, it was the same way it did when we went there.*

*Federal Judge:- Could you tell me if the failure to carry out these renovation, or to install a kitchen, or an elevator, in August 2014, was one of the reasons why you decided not to keep the property?*

*Luiz Inácio Lula da Silva:- I was not keeping it, because there was no way to keep it.*

*Federal Judge:- Was that one of the reasons that influenced the decision or not?*

*Luiz Inácio Lula da Silva:- This reason was that I had not requested it and did not want the apartment.*

*Defense:- Your Honor, I know that you have a report with questions previously formulated, but I would ask you to adapt such list of questions previously formulated to the answers already given by the former President Lula, because you are repeating many questions already answered by him in previous answers. "*

438. Those are, for sure, circumstantial contradictions, but they concern relevant aspects, about the refurbish of the apartment and who took the decision not acquiring the property and when. In the testimony before the police authority, there are renovation and the former President made the decision of not keeping the property, and in the testimony in court, the renovations disappear, in addition to Marisa Leticia Lula da Silva being indicated as responsible for the final decision.

439. Still in the judicial testimony, the former President Luiz Inácio Lula da Silva stated that, after August 2014, he had no further news of the property, "because I did not asked anymore":

*"Federal Judge:- I'm clarifying some points here, Doctor, but I appreciate your consideration. Did you formally communicated OAS that you have decided not to keep the property?"*

*Luiz Inácio Lula da Silva:- I already said no.*

*Federal Judge:- Did you communicate in any other way?"*

*Luiz Inácio Lula da Silva:- Doctor, I'll repeat, the apartment was in my wife's name, I had said, in February, that I did not want the apartment, she was certainly thinking of anything to do business, if she was going to stay with the apartment.*

*Federal Judge:- Do you know if your wife formally communicated OAS that she had decided not to keep the property?"*

*Luiz Inácio Lula da Silva:- I don't know. I don't know.*

*Federal Judge:- Have you or your family ever visited the apartment after August 2014?"*

*Luiz Inácio Lula da Silva:- Never.*

*Federal Judge:- How did things develop after the visits of February and August of 2014 in relation to this property?"*

*Luiz Inácio Lula da Silva:- For me, nothing new happened, because I did not asked anymore.*

*Federal Judge:- After José Adelmário Pinheiro, Léo Pinheiro, was arrested in November 2014, did the triplex issue had any development?"*

*Luiz Inácio Lula da Silva:- No. "*

440. Also according the former President Luiz Inácio Lula da Silva, José Adelmário Pinheiro Filho would have appeared in the Instituto Lula in 2013 and, at the time, in a meeting also attended by co-defendant Paulo Tarciso Okamoto, José Adelmário Pinheiro Filho would have offered the triplex apartment, however, highlighting that the acquisition, if it occurred, would have to be made at the market price. It would have been the first time they had treated the triplex apartment issue. It is hereinbelow transcribed:

*"Federal Judge:- At any point in your conversations with Léo Pinheiro or with other OAS representatives, was there any discussion about the payment of the difference between the price of the single unit, which unit of ownership had been acquired, and the price of the triplex unit?"*

*Luiz Inácio Lula da Silva:- There was, yes, there was at the meeting of 2013, when Pinheiro went to the institute to talk to me, I was with my comrade Paulo Okamoto, and Léo started to show the idea of the apartment, Paulo Okamoto asked 'Léo, how much is the square meter of the apartment? ', I do not know, he said '6 or 7 thousand reais, 8, I don't know', I know that Paulo Okamoto said 'Look, then you know that selling the apartment, it has to be sold at the market price, I am against Lula buying it, but if he buys, it shall be at market price', that was the only time he discussed money.*

*Federal Judge:- Was in that meeting of 2013, then, the first time that he mentioned the triplex?"*

*Luiz Inácio Lula da Silva:- That was the first time.*

*Federal Judge:- Never before?"*

*Luiz Inácio Lula da Silva:- No.*

*Federal Judge:- Do you recall whether this difference in prices, value, was mentioned at the time?"*

*Luiz Inácio Lula da Silva:- It was mentioned by Paulo Okamoto.*

*Federal Judge:-But the exact amount that would be the difference in price, isn't it?"*

*Luiz Inácio Lula da Silva:- No, no. "*

441. Such meeting was confirmed by the co-defendant Paulo Tarciso Okamoto, as can be seen further (items 584-585).

442. In view of the relevance of the alleged meeting for the alibi of former President Luiz Inácio Lula da Silva, it is somewhat strange that it was not mentioned by him in the testimony rendered on March 04, 2016 for the police authority (event 3, comp75)

443. Also in the judicial interrogation, the former President Luiz Inácio Lula da Silva was inquired about the messages mentioned in items 400, 405 and 408, in which it is mentioned

the renovation on the Atibaia ranch and the apartment of Guarujá by OAS Empreendimentos, however, he only affirmed: "I cannot respond by emails or by phone calls between third parties".

444. Also in this part of the testimony, there were several inappropriate interferences of Luiz Inácio Lula da Silva defense, with the intention of preventing the defendant from being asked about these messages, this on the pretext that the Atibaia ranch was not part of the complaint. However, as can be seen in the text of the messages, they mention renovation both at the Atibaia smallholding and in Guarujá apartment, that is, issues of absolute relevance to the process. In fact, such messages are expressed in the complaint.

445. In summary, in his defense, in the interrogation in court, regarding the triplex apartment, the former President Luiz Inácio Lula da Silva claims that his wife Marisa Leticia Lula da Silva would have acquired "unit of ownership" from BANCOOP of the *Condominio Solaris*, formerly Mar Residencial Cantabrico, he was informed of the purchase in 2005, and only heard again about the apartment in 2013 in the aforementioned meeting with José Adelmário Pinheiro Filho, who visited the property, now the triplex apartment and no longer the simple unit in February 2014, who immediately gave up the acquisition of the property, neither he nor his wife requested or were informed of any renovation in the property, and that his wife visited again the property in August 2014, as she intended to acquire the property for investment, but gave up buying it.

446. But in the testimony given before the police authority, there are specific differences, as that he stated that José Adelmário Pinheiro Filho had informed him, on his visit in February 2014, that he would have a project for the property, that was him, Luiz Inácio Lula da Silva, who made the decision of not keeping the property shortly after his wife's second visit to the apartment, when it was found that "nothing had been done yet".

447. In addition to the circumstantial contradictions, the problem of the version of the facts presented by former President Luiz Inácio Lula da Silva is that it is not consistent with the other evidence in the case, specifically with those analyzed in the previous topic, this without even examining the parol evidence, which is even more incompatible with this version.

448. Based on the summary presented in item 418, above, of the documentary evidence of the previous topic, we may highlight the following inconsistencies.

449. There are documentary records that, originally, in the acquisition of rights of a Residencial Mar Cantabrico unit, there was the intention of acquiring another apartment, other than that of No. 141 and specifically art. 174- A, after 164-A, triplex, as per "a" and "b" of item 418.

450. The testimony of former President Luiz Inácio Lula da Silva is not consistent with these documents, since he affirms that there was never any intention of acquiring apartment 164-A, triplex, nor even originally. When such documents were presented to him in audience, he offered no concrete explanation.

451. There is a journalistic article published on March 10, 2010, updated on November 01, 2010, which it was already stated that the triplex apartment in the Condominio Solaris belonged to Luiz Inácio Lula da Silva and Marisa Leticia Lula da Silva and that the delivery was delayed (item 418, "k").

452. Any hypothesis of manipulation of the press must be rejected, since at that time neither the former president was investigated nor the triplex issue, which only began at the end of 2014. The testimony of former President Luiz Inácio Lula da Silva is also not consistent with this supporting element, since it states that there was never an intention of acquiring the triplex

apartment, not even originally.

453. There are documentary records that the payments for the unit in the Mar Cantábrico Venture were interrupted on September 15<sup>th</sup>, 2009, still missing twenty installments. There are also documentary records that all the cooperative members with rights to certain units had to opt, within thirty days from October 27<sup>th</sup>, 2009, to execute new contracts for sale with OAS Empreendimentos or to give up and request the restitution of the money. There is documentary evidence that Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva did not choose, at the time, any option or were told to do so. All of this is summarized in item 418, "c", "d", "e", "f" and "h".

454. On these facts, former President Luiz Inácio Lula da Silva did not provide any concrete explanation.

455. There is documentary evidence that OAS Empreendimentos sold the apartment 131-A, formerly 141-A, indicated in the vesting contract subscribed by Marisa Letícia Lula da Silva, and that it has reserved, without selling it, the triplex apartment since it took over the venture on October 08<sup>th</sup>, 2009, according to item 418, "h" and "i".

456. On these facts, former President Luiz Inácio Lula da Silva did not provide any concrete explanation.

457. As summarized in item 418, "l", OAS Empreendimentos, by determination of the President of the OAS Group, the Defendant José Adelmário Pinheiro Filho, also known as Léo Pinheiro, made significant renovations in apartment 164-A, triplex, throughout the year 2014, with expenses of R\$ 1,104,702.00, and which included the installation of a private elevator for the triplex, installation of kitchens and cabinets, removal of the sauna, demolition of dormitory and placement of appliances.

458. OAS Empreendimentos did not do this in relation to any other apartment in Condomínio Solares, nor does it have the practice of doing so in its other real estate projects.

459. As can be seen from the documents relating to the renovation, it was extensive, with the installation of a private elevator, installation of a new staircase, removal of the sauna, placement of walls, alteration and demolition of dormitories.

460. These are characteristics of customized reform, to meet the needs of a specific customer, and not of a general renovation to increase the value of sale to an indeterminate public.

461. Thus, for example, one does not enlarge the pool deck, demolish a dormitory or remove the sauna from a luxury apartment to increase its value to the external public, but rather to suit the preferences of a client, who already owns the property, who wants to enlarge the pool deck, who wants to eliminate a dormitory to gain free space for another purpose, and who is not interested in sauna and wants to use the space for another purpose.

462. As will be seen later, there are several testimonies that reinforce the conclusion that the reforms were of a personal nature (items 488, 489, 493, 499, 527, 555, 561 and 582).

463. Despite the contradictions of the testimony of former President Luiz Inácio Lula da Silva in Court with that taken in the police sphere, relying on the second version that he was neither informed of the renovations nor requested them, nor his wife did so, the renovations made by OAS Empreendimentos have no sense at all.

464. After all, why would OAS carry out customized renovations in the apartment if it

were not to meet the needs of a specific client?

465. As if it were not enough, as indicated in item 418, "n", the electronic messages exchanged between OAS executives relate the renovations of apartment 164-A to former President Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva, and they were also made at the same time that the renovations at the ranch Atibaia frequented by the former President.

466. There is an explicit reference in the messages to the "Guarujá" and "Praia" projects, and that they were submitted to the approval of the "Madam" or "Lady" (items 400 and 405), in a context in which it is unequivocal that they are projects submitted to the wife of Luiz Inácio Lula da Silva, as confirmed by the interlocutors (items 534, 552 and 553).

467. Nevertheless, in his testimony, former President Luiz Inácio Lula da Silva states that neither he nor his wife requested the renovations and that the projects were not submitted to them. There is absolute inconsistency with the documentary evidence documentary evidence.

468. On the other hand, considering that the renovations were being carried out by OAS Empreendimentos to serve a specific client, Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva, she would obviously have interrupted them if she had, as stated by the former President in his testimony, given up buying the apartment in February 2014 or still in August 2014.

469. The material evidence allows us to conclude that there was no withdrawal in February 2014 or even in August 2014.

470. Instead, the renovation of apartment 164-A, triplex, lasted all the year 2014, including with several acts executed and even contracted after August, 2014.

471. In fact, the private elevator itself was installed in October 2014, according to item 386.

472. Some proposals for the renovation of the apartment have been approved by OAS Empreendimentos to be provided by Tallento Construtora. The proposals accepted are of September 18<sup>th</sup>, 2014 and October 21<sup>st</sup>, 2014 (item 384). The testimony of former President Luiz Inácio Lula da Silva stating that he had given up the purchase in February or August 2014 is not consistent with the contracting of new customized renovations by OAS Empreendimentos in September and October, that is, afterward.

473. The installation of the kitchen and cabinets by OAS Empreendimentos by Kitchens Cozinhas was contracted on September 03<sup>rd</sup>, 2014, with the approval of the projects on October 13<sup>th</sup>, 2014 (item 389). If the President had given up on the purchase of apartment 164-A, triplex, why would OAS Empreendimentos have insisted on furnishing it, since the renovations were personalized and furnishing the apartments for sale was not a common practice?

474. Finally, the testimony of former President Luiz Inácio Lula da Silva is even inconsistent with the note published on December 12<sup>th</sup>, 2014 by Instituto Lula in response to the articles published in the press at the time (item 413).

475. If former President Luiz Inácio Lula da Silva and his wife had given up on the purchase of the property in February or August 2014, why did the note say that, on December 12<sup>th</sup>, 2014, she was still evaluating "whether she would choose recovery of the amount paid or the purchase of any apartment, in case there were units still available"?

476. It is true that the note was issued by Instituto Lula, but, since it was a personal question concerning the former President, it is impossible that the institute did not consult him

about the content of the note.

477. It is not a question of raising evidence that former President Luiz Inácio Lula da Silva and his wife Marisa Letícia Lula da Silva were the real owners of the property consisting of apartment 164-A, triplex, of Condomínio Solaris, in Guarujá.

478. It is about pointing out that the testimony given in Court, and even before, the one given to the police authority, by former President Luiz Inácio Lula da Silva, even leaving aside the circumstantial contradictions between them, are absolutely inconsistent with the facts documented in the case.

479. It is noted that former President Luiz Inácio Lula da Silva, during his judicial testimony (event 885), was questioned about all these contradictions between his statements and the contents of the documents, but, as advanced in items 424, 425, 426, 428, 443, 450, retro, he did not present concrete clarifications.

480. The only explanation available for the inconsistencies and the lack of concrete clarification is that, unfortunately, the former President lied about the facts in his statements about apartment 164-A, triplex, in Guarujá.

481. These conclusions are reinforced by the rest of the evidence produced, which will be detailed.

## II.14

482. A number of employees and suppliers of OAS Empreendimentos' were heard, as Plaintiff's witnesses, about apartment 164-A, triplex, and its relationship with former President Luiz Inácio Lula da Silva.

483. It is worth summarizing the statements from the most relevant testimonies.

484. Ricardo Marques Imabassy, heard in court (event 419), was financial manager and Chief Financial Officer of OAS Empreendimentos' at the time of the facts. In his testimony, he confirmed more general aspects of the transfer of BANCOOP's real estate ventures to OAS Empreendimentos. He claimed to have knowledge that Luiz Inácio Lula da Silva had a unit in Condomínio Solaris and that this was common knowledge in the Board of OAS Empreendimentos, but the witness also stated that he did not know the details. More relevant were his statements that OAS Empreendimentos did not have the practice of making customized renovation or furnishing apartments for sale. Excerpt transcription:

*"Federal Prosecution Service:- For the time you were part of the OAS group, what was the work developed by OAS Empreendimentos in relation to residential condominiums, for example, only for instance, in addition to the construction of the building, were customization of the units carried out according to the taste of the client, were modifications carried out that exceeded the content of the project description?"*

*Ricardo Marques:- No, at the beginning of OAS Empreendimentos, in 2006, in the early years, I do not remember when we stopped, it seems that it was from the beginning until 2009, 2010, or something like that, we also offered a customization service for clients in the sense of plant modification, if the project had 4 rooms and the client would like to modify to 3, he discussed with the architect that he contracted and delivered this project in*

*the company, and if he wanted to hire us, we would customize in this way, but as of 2009 or 2010, we no longer offered this as a company product, I do not remember here the specific date, but in a certain period.*

*Federal Prosecution Service:- In relation to the change, for example, change of stairs, installation of private elevators on the upper floors, was this service done by OAS if the client wanted to customize or not, was it restricted to the change of the plant?*

*Ricardo Marques:- Well, until the time I left the company, until that time, I had not done anything like that, it was more of a modification from four to three rooms, something like that.*

*Federal Prosecution Service:- In relation to the furniture of the apartments, did OAS carry out, furnish the apartments before the acquisition by some client, did OAS furnish the apartments?*

*Ricardo Marques:- No, it was not an object, it was not strategy or purpose of the real estate development business, except for some ventures in which when you started to build, you furnished the first floor, but that depended on the speed of sale of the project, but it was not the purpose of the company.*

*Federal Prosecution Service:- Would they be apartments decorated for disclosure, would that be more or less the case?*

*Ricardo Marques:-Yes, exactly, exactly.*

*Federal Prosecution Service:- Specifically in relation to the Solaris Condominium, was this done?*

*Ricardo Marques:- Doctor, I do not remember if it has been done in Solaris, because as the financial area, this is more a sales instrument, so it was more connected to the area of incorporation or sales, it was not financial area, I am not able to speak specifically of all the company's ventures, I cannot tell you what venture had or did not have this first floor, this model apartment.*

*Federal Prosecution Service:- On the floors, except the first, do OAS commercialize properties with kitchen cabinets, customized rooms, appliances, stove, microwave, oven, refrigerator, to be placed in the apartment?*

*Ricardo Marques:-No, it was not a rule, it was not a company rule."*

485. Carmine de Siervi Neto, heard in court (event 419). He was the Director-Superintendent of OAS Empreendimentos until 2013. In his testimony, he confirmed more general aspects of the transfer of BANCOOP's real estate projects to OAS Empreendimentos. He affirmed to have knowledge that Luiz Inácio Lula da Silva had a unit of ownership bond to a unit in Condomínio Solaris and that this was known by the Board of OAS Empreendimentos, but the witness also said that he did not know the details. The most relevant, in his statements, in the same line of Ricardo Marques Imabassy's testimony that it was not a rule of OAS Empreendimentos to carry out customized renovations or to furnish apartments for sale.

486. Mariuza Aparecida da Silva Marques, heard in Court (event 425), was a contracted engineer, since May 2014, at by OAS Empreendimentos for technical assistance to the client. In court, she stated that she was responsible for the technical assistance at Condomínio Solaris. She confirmed that OAS Empreendimentos contracted Tallento Construtora to refurbish apartment 164-A, triplex, for a potential client to buy the unit and that would be the former President Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva.

487. She also confirmed that it was not the practice of OAS Empreendimentos to carry out customized renovations for a new apartment, but that it was done in apartment 164-A:

*"Federal Prosecution Service: - Did OAS carried out some kind of private work, i.e. a client who wanted to do something different hired the construction company to do so?"*

*Mariuza Marques: - No.*

*Federal Prosecution Service: - How did the customization of the plan work, was it something that could be done?"*

*Mariuza Marques: - Yes, when the project is under construction, you have one or two plan alteration options, then they would already establish a standard. You could remove a wall in the living room, split a bedroom, or wall between the kitchen and the living room, it would be something like it.*

*Federal Prosecution Service: - It was performed only for customers who had already purchased the units?"*

*Mariuza Marques: - Yes, on the plan.*

*Federal Prosecution Service: - On the plan?"*

*Mariuza Marques: - Yes.*

*Federal Prosecution Service: - And could this kind of service include a larger renovation, such as changing stairs, installing private elevators?"*

*Mariuza Marques: - No.*

*Federal Prosecution Service: - It was done in the case of apartment 164-A, wasn't it?"*

*Mariuza Marques: - Yes. "*

*"Federal Judge: - Brief clarification of the judgment here very quickly. This Condomínio Solaris building, 164-A was the only triplex in the building?"*

*Mariuza Marques: No, there are 8 units, we have 8 triplexes there.*

*Federal Judge: - Has OAS performed renovation or installation of furniture, or purchase of appliances in any of these other triplexes?"*

*Mariuza Marques: - No. "*

488. She revealed that she was present during a visit held at the end of August 2014 in apartment 164-A by Marisa Letícia Lula da Silva and Fábio Luis Lula da Silva. Jose Adelmário Pinheiro Filho, Paulo Roberto Valente Gordilho, Roberto Moreira Ferreira among others were supposedly present as well. According to her, the visit had the purpose of verifying whether the apartment was becoming good with the renovation. She also said that she did not hear any discussion about the price of the renovation during the visit. The excerpt related to the visit is transcribed:

*"Federal Prosecution Service:- So you accompanied the visit, what was the purpose of this visit?"*

*Mariuza Marques: - Look, check the progress of the renovation, I believe.*

*Federal Prosecution Service: - But it was, let us say, to list the property for sale or to check if these people who visited agreed with the renovations, if they liked the renovations, if the renovation was, could you see if this renovation was what they, if they had asked, if it was what they had asked for, is that it?*

*Mariuza Marques: Yes, it was what they asked for.*

*Federal Prosecution Service: - Just for you to elaborate a little more, it was clear, during this visit, that this renovation was in accordance with what former President Lula and Mrs. Marisa Leticia had asked for, is that it?*

*Defense: - Your Honor, there was no such statement, the prosecutor is making a statement that was not made by the witness, what the witness said is that there was a potential buyer.*

*Federal Prosecution Service: - That is why I am asking her to clarify.*

*Defense: - Then, just ask a question, don't make a statement.*

*Federal Judge: - It is denied.*

*Federal Prosecution Service: - Mrs. Mariuza, did you hear the question, Mrs. Mariuza?*

*Mariuza Marques: - In fact, so, what they asked for was finishing aspects, the placement, the finishing of the floor, a painting, if it was ok like this.*

*Federal Prosecution Service: - Did you accompany former president Lula and Mrs. Marisa Leticia talking about these items?*

*Mariuza Marques: No, no, I was not in the presence of former President Lula.*

*Federal Prosecution Service: - I'm sorry, Mrs. Marisa Leticia and the son, is that it?*

*Mariuza Marques: - Yes.*

*Federal Prosecution Service: And did you see them talking, asking about this matter that you talked about regarding the floor?*

*Mariuza Marques: - No, the only thing I heard was she saying, I was very close to them, "Ah, it's getting good", then it was understood that it was what they asked for.*

*(...)*

*Federal Judge:- The price, the cost of this renovation on the occasion of such visit, has there been any discussions in this regard that you have witnessed?*

*Mariuza Marques: No, I did not witness any discussion regarding values.*

*Federal Judge: No one said, 'How much is this going to cost us, how much do we have to pay?'*

*Mariuza Marques:- No, it was not discussed."*

489. Still according to the evaluation of witness Mariuza Aparecida da Silva Marques, Marisa Leticia Lula da Silva was treated not as a potential buyer of the property but as a person to whom it had already been destined:

*"Federal Prosecution Service: - Of course. Mrs. Mariuza, at that moment was Mrs. Marisa treated by OAS Group as the buyer of the property, as a person who was visiting the property to see if they had an interest in buying or as a person who was already the recipient of the property?"*

*Defense: Your Honor, he is inducing the answer.*

*Federal Judge: No, he is not inducing the answer.*

*Defense: - He is putting ...*

*Federal Judge: - He puts three options.*

*Defense: - Yes, but anyway ...*

*Federal Judge: - It is denied.*

*(...)*

*Federal Judge: - Your question has already been denied, you do not have the floor. You can repeat this question that was asked by the. You may answer that question, after all, was she treated as a potential buyer or was she treated as a person for whom the property was already destined?"*

*Mariuza Marques: - Treated as if the property had already been destined. "*

490. The witness, Mariuza Aparecida da Silva Marques, also stated that no other interested party visited said triplex apartment, 164-A, that the apartment was not listed for sale ("not listed for sale"), that OAS Empreendimentos did not have as a habit to carry out renovations in apartments listed for sale or installing cabinets and furniture or appliances and that OAS hired the installation of kitchens and cabinets by Kitchens in apartment 164-A. The witness also confirmed that OAS Empreendimentos bought at Fast Shop appliances for apartment 164-A and that they were delivered at the apartment, and she received them, thus confirming the authenticity of the invoices of item 390, retro.

491. Igor Ramos Pontes, regional contract manager of OAS Empreendimentos since July 2013, was heard in court (event 425).

492. He declared, in summary, that, at the beginning of 2014, he went to apartment 164-A, having participated in the visit of former President Luiz Inácio Lula da Silva and his wife, at which José Adelmário Pinheiro Filho was also present. He was supposedly told that it would be a visit "to see if he was going to keep the unit", being a "potential buyer." The following month, a renovation of the property started, for which Tallento Construtora was hired. He received guidance on the renovation from defendant Roberto Moreira Ferreira.

493. He described the renovations as follows:

*"The apartment had no flooring, finishing on the floors, so floor was placed in the living room, in the bedrooms, a bedroom was created on the ground floor, a suite was created, in the kitchen, the door was repositioned, created, the proportion of the door was changed, a private elevator was installed, and to install the private elevator they had to change the position of the stairs, the stairs were changed and a mezzanine was created, a metallic*

*structure to support the a mezzanine was installed, that at an intermediate stage, and on the rooftop, on the third floor, an extension of the deck was made for the pool and a roof was created with the installation of a barbecue grill, basically this, in addition to painting, anyway."*

494. He also confirmed that the same procedure had never been adopted in relation to any other property of OAS Empreendimentos:

*"Federal Prosecution Service: - How long have you been working at OAS, which you mentioned?"*

*Igor Ramos: - I was hired in 2012, so it has been 4 years.*

*Federal Prosecution Service: - Have you seen this procedure in relation to any other property of OAS, of making a renovation to see if the client was interested?"*

*Igor Ramos: No, I have never seen it.*

*Federal Prosecution Service: - Only in this property?"*

*Igor Ramos: - Only in this property*

*(...)*

*Federal Judge: - A very quick clarification of the judgment here, Mr. Igor. Mr. Igor, I do not know if I understood correctly, did you take care of the other apartments in Condomínio Solaris, or was your assignment restricted to this triplex?"*

*Igor Ramos: - No, to all the apartments in technical assistance of Condomínio Solaris.*

*Federal Judge: - Was there another triplex in the building?"*

*Igor Ramos: - Yes, there were 8.*

*Federal Judge: In any of the 8 triplexes, was anything equivalent to that of 164-A made?"*

*Igor Ramos: - No one. "*

495. He also confirmed the second visit in August 2014, this time by Marisa Letícia Lula da Silva and Fábio Luis Lula da Silva. Jose Adelmário Pinheiro Filho, Paulo Roberto Valente Gordilho, Roberto Moreira Ferreira among others, were supposedly present as well.

496. He also stated that during the two visits he attended, he did not hear any discussion regarding the price of the property or the cost of the renovations:

*"Federal Judge: - In these visits, in the two visits that you witnessed, were there any comments or discussion regarding the cost or price of the renovation or the property?"*

*Igor Ramos: No, not that I have heard. "*

497. Rodrigo Garcia da Silva worked at Kitchens Cozinhas e Decorações between 2004 and 2015. Heard in Court (event 419), he confirmed that the company was hired by OAS Empreendimentos for “a design of a kitchen for a smallholding in Atibaia, and the other was of several rooms for an apartment in Guarujá.” He clarified that the last one was a triplex in Condomínio Solaris, that the design and installation had the price of about R\$ 320,000.00 and that it involved the installation of cabinets and furniture in the “kitchen, barbecue, laundry area, bathrooms and bedrooms, if I am not mistaken, I think they were three or four bedrooms, five or six bathrooms, kitchen, laundry area and barbecue”. He also stated that he was not informed that the project would be destined to former President Luiz Inácio Lula da Silva, and he was “treated as destined to a OAS’ officer”.

498. Mario Da Silva Amaro and Arthur Hermógenes Sampaio Neto, commercial managers of Kitchens Cozinhas e Decorações, confirmed, in summary, the testimony of Rodrigo Garcia da Silva (event 425), although they knew fewer details. The most relevant was the confirmation that they carried out the sale of furniture for both the apartment in Guarujá and the smallholding in Atibaia.

499. Armando Dagle Magri is a partner and works at Tallento Construtora Ltda. In testimony in Court (event 424), he confirmed that Tallento carried out a renovation “in an apartment in Guarujá”, in Condomínio Solaris, at the request of OAS Empreendimentos. He stated that the price was about seven hundred and seventy-thousand reais and that it was the only service of the sort performed for OAS Empreendimentos. He supposedly dealt with defendant Roberto Moreira Ferreira regarding the service and his subordinates. According to the witness, the renovation involved “a general makeover in the triplex apartment, change of finishing aspects, layout adjustment, changes of walls, new walls, installation of an elevator, change in the pool, to put roof with general waterproofing.” He also stated that, at the end of August 2014, he visited the property and José Adelmário Pinheiro Filho, Paulo Roberto Valente Gordilho, Marisa Leticia Lula da Silva and Fábio Luis Lula da Silva were there as well. In his opinion, the renovations made in the apartment would be a customization work. A short excerpt is transcribed as follows:

*"Federal Prosecution Service: - Mr. Armando, I will rephrase the question. So, with the experience you have, considering these other works that you have already done, was this renovation that you made on the triplex in apartment 164-A in Guarujá a work of apartment delivery or customization?"*

*Armando Magri: - Customization"*

500. Also of Tallento Construtora, Hernani Guimarães Júnior (event 424) and Rosivane Soares Cândido were also heard, which basically confirmed, in less details, the performance of the renovation in apartment 164-A, in Condomínio Solaris, in Guarujá, and the visit of Marisa Leticia Lula da Silva to the property. The most relevant element was the statement of Rosivane Soares Cândido that it was a common knowledge in the building and stores in the area that the apartment was owned by the former President:

*"Federal Prosecution Service: - At any point did someone tell you that this apartment would be, could it be of the family of former president Lula?"*

*Rosivane Soares: - Yes, most of the residents of the building, the stores in the area,*

*I found it surprising when I started working there, because I didn't know it, and I was informed, until the first time I was with a shopkeeper when I went to make a registration of the company for invoice purposes, to be able to buy basic building materials, and it was he who said "Ah, it's Lula's apartment, right", but I was not informed from the beginning, not formally, I do not have any kind of document formalizing this information.*

*Federal Prosecution Service: - Besides the shopkeeper, did other people comment on this with you?*

*Rosivane Soares: - People in the building, the staff of the building.*

*Federal Prosecution Service: - What did they say?*

*Defense:- Just an objection, that's a question of rumor, I think we are moving away from the question, whether it is property or not, rumor is something that strikes me as odd in collection of evidence.*

*Federal Judge: - I deny it, it is relevant to know from whom this comment was heard, that is the question that is being asked.*

*Federal Prosecution Service: "Resuming, Mrs. Rosivane, what did people say, the neighbors, what did you hear?"*

*Rosivane Soares: - That the apartment was of President Lula's."*

501. Alberto Ratola de Azevedo, civil engineer of AZI Engenharia, was heard in court and confirmed the authenticity of ART in event 3, appendix 242, regarding the project to install the private elevator in the triplex apartment in Condomínio Solaris (event 424).

502. José Afonso Pinheiro (event 426) was also heard, who supposedly worked as caretaker of Condomínio Solaris from 11/2013 to 04/2016. He confirmed that apartment 164-A, triplex, was refurbished and that the former President and Marisa Letícia Lula da Silva had visited the property.

503. According to his statement, it was common knowledge in the building that the apartment belonged to former President Luiz Inácio Lula da Silva:

*"Federal Prosecution Service: - (...) And was it somehow said that this apartment belonged to former President Lula?"*

*José Afonso Pinheiro: - Yes, everyone knew that the apartment belonged to former president Lula, even the building residents knew that the apartment was his, there was always that comment there.*

*Federal Prosecution Service: - This comment was after the visit or before the visit, or did everyone already know that?*

*José Afonso Pinheiro: - Before the visit, people already commented that the apartment was his.*

*(...)*

*Defense: - Yes, Your Honor. When you said, answering questions from the Federal Prosecutor, that the building residents said that former president Lula had an apartment*

*on the premises, is that what you answered?*

*José Afonso Pinheiro: - What? Repeat.*

*Defense: - Did the building residents tell you that former President Lula had an apartment in Condomínio Solaris?*

*Jose Afonso Pinheiro: - There were even brokers who sold apartments in Condomínio Solaris, exactly people bought it because they thought the former President had an apartment there, brokers even advertised the apartment.*

*Defense: - Did they advertise that former President Lula had an apartment there?*

*José Afonso Pinheiro: - Exactly, that he had, that he has, right.*

*Defense:- Was that used in the sales advertisement, then?"*

*José Afonso Pinheiro: - Yes, because there was a broker who would say Look, here is the building where President Lula has an apartment. "*

504. He also stated that there were no third-party visits to the apartment:

*"Federal Prosecution Service: - This apartment, at some point it was listed for visits of people who went there wanting to buy the apartment, or that apartment did not have that kind of people going there, third people?"*

*José Afonso Pinheiro:- No, no, this apartment has never been visited, visited with a broker or someone else for sale, it was given as Mr. Luiz Inácio's apartment."*

505. He says that he was also advised by engineer Igor Pontes Ramos of OAS Empreendimentos, above mentioned, "that he was not supposed to say that the apartment belonged to Mr. Luiz Inácio and Mrs. Marisa, nor that they visited the apartment, he was supposed to say that the apartment belonged to OAS, on which he was very emphatic to me".

506. In one of the visits of Marisa Letícia Lula da Silva, the witness affirms that he showed her the areas of the building and that, in his opinion, she behaved as the property owner and not as a potential buyer ("When the person is interested in buying an apartment and the apartment is not theirs, the broker shows the apartment, so I'm telling you, the visit was held by me to Mrs. Marisa as if she was the owner and not as if she was a future buyer").

507. The witness also said that former President Luiz Inácio Lula da Silva had been twice in Condomínio Solaris, but apparently there was a misconception of the witness regarding the second visit in August by Marisa Letícia Lula da Silva, when she was not accompanied by the former President.

508. The Defenses practically did not list witnesses with specific knowledge regarding apartment 164-A, triplex, in Guarujá.

509. It should be noted that Marcelo Miguel Mendes Ajuz, André Mussi Melo de Amorim, Daniel Cardoso Gonzalez, Antônio Cláudio Pires Ribeiro, Aline Mascarenhas de Souza, Fábio Oliveira do Vale, Alana Silva Batista, Carlos Alberto Dias dos Santos, Manira de Souza Mustafa Nunes, Maria Angélica Belchote Trocoli, Rafael Perez Caldas Coni, André Santana Cerqueira, Otávio Santos Lima, Fernando Hiroyuki Inoshita and Lauro Gomes Ladeia, executives or employees of OAS Empreendimentos, who described aspects of the work at OAS Empreendimentos, but who stated that they did not have specific knowledge regarding apartment 164-A, triplex, in Guarujá (events 605, 607, 612, 622, 640 and 669). The most important of their assertions was, in general, that OAS did not use to carry out custom

renovations in the apartments it sold, except in very exceptional circumstances and especially without defined client. In this regard, we highlight the following excerpt from Daniel Cardoso Gonzalez's testimony that there was a specific program of that kind, but for clients who had already acquired the property:

*"Federal Prosecution Service:- You also said that you performed the financial control of a general framework of the financial part of the activities of OAS Empreendimentos. I wonder, do you know if OAS Empreendimentos developed the activity of customizing apartments?"*

*Daniel Cardoso: - There was, I remember, it was a kind of service that was charged to customers, I remember that this model actually came from Gafisa, which is called, if I am not mistaken, it was a product called OAS Exclusive, something like that, where the customer wanted 'ah, I do not want three bedrooms, I want to have two bedrooms and one open to the room', there was a moment during the construction when the client could hire this or make some changes in terms of floor specification or the like. This was agreed during the construction, there was a deadline for it, it was a kind of service offered by the building area of the company to avoid that, when the unit was ready, the person would have to do that, break a wall or put a different floor, according to the taste of the person, that existed, a service, yes, of customization.*

*Federal Prosecution Service: - Right. And was it done with potential customers or customers who had already purchased the unit?"*

*Daniel Cardoso: - Usually with the people who had purchased the units. "*

510. Out of the employees of OAS Empreendimentos listed by the Defense, it is worth mentioning only the testimony of Genésio da Silva Paraíso (event 612), planning coordinator, who confirmed the renovations in apartment 164-A and who allegedly received information from Igor Ponte Ramos that he had a potential buyer, the former president ("The information I received is that he had a potential buyer, who was the former president, and that in order to make the property more attractive we were going to make some renovations"). He also confirmed that this was a unique procedure within OAS Empreendimentos:

*"Federal Prosecution Service: - You also mentioned that you were responsible for hiring Tallento to carry out the renovation in that unit.*

*Geneseio Paraíso:- Yes.*

*Federal Prosecution Service: - Did you hire companies for renovations in other housing units of OAS Empreendimentos in any other occasion?"*

*Genésio Paraíso: - No, here in São Paulo this kind of service of customizing the apartments, the only time we did it was there at Solaris, we had never done it before.*

*Federal Prosecution Service: - Right. At Solaris, specifically at Condomínio Solaris, did you have any other unit that was customized or just that triplex unit?"*

*Genésio Paraíso: - No, just this one.*

*Federal Prosecution Service: - Have you ever hired or witnessed the hiring by OAS Empreendimentos of furniture companies for customization of housing units?"*

*Genesio Paraíso: - No.*

*Federal Prosecution Service: - Did you participate in the hiring of Kitchens company to install furniture in the bedrooms and kitchen of this triplex unit?*

*Genésio Paraíso: - No, I participated in the hiring of Tallento.*

*Federal Prosecution Service: - Right. Did you participate in the installation of stairs or private elevators in housing units any other time at OAS Empreendimentos?*

*Genesio Paraíso: - No.”*

511. He stated that, as far as he knew, apartment 164-A “was always for sale”, but it should be pointed out that the alleged evidence does not meet the documentary evidence of the case, as seen in items 368-372, nor the testimony of other witnesses and defendants (e.g., items 490, 504 and 566).

512. The court also heard witnesses who had knowledge on the transfer procedure of real estate project Mar Cantábrico, later called Condomínio Solaris, from BANCOOP to OAS Empreendimentos, such as João Lopes Guimarães Júnior and Pedro Bohomoletz de Abreu Dallari, but without specific knowledge on the object of the prosecution, unit 164-A, triplex (event 606).

513. Among the witnesses listed by the Defenses that are the most relevant for the issue of apartment 164-A, we highlight the testimony of Senior Lieutenant Valmir Moraes da Silva, who works with former President Luiz Inácio Lula da Silva, accompanying him for security issues (event 652).

514. He stated that he accompanied the former President and his wife in 2014 during a visit to the apartment in Guarujá. At such time, Jose Adelmário Pinheiro Filho was also present. During the return trip, the witness states that the former president told him that he would not keep the apartment and that he would ask for the money already paid back. Transcribed:

*“Defense:” And after you left the place along with former President Lula and Mrs. Marisa, did you hear any comments from them regarding the property? ”*

*Valmir Moraes: - No, in this transit Guarujá - São Bernardo do Campo, I did not hear anything, they did not comment, a detail that I remember perfectly was when ... We left the president on an appointment in São Paulo, we came to São Bernardo, Mrs. Marisa got out of the car in the garage, got out of the car in the garage, until that moment the president was quiet, he did not say anything, he was talking about other matters, then when Mrs. Marisa got out, and we started going to São Paulo, he was very clear, he said, let me remember his exact words, he said like this 'Do you know when I'm going to go to this apartment? Never', those were his words, there he said 'Do you know what I'm going to do? I'm going to ask Marisa not to buy this apartment', he went on, 'I'll ask what she paid back, I want it back, and she's not going to buy this apartment', those were the president's words when he left Dona Marisa and opened up, talking about this apartment, until then they were quiet, they did not say anything.”*

515. These are the statements of the witnesses in the case regarding apartment 164-A, triplex, Condomínio Solaris, in Guarujá.

516. Defendant José Adelmário Pinheiro Filho, President of OAS, in his interrogation

in Court (event 809), confirmed, in summary, the thesis of the Prosecution.

517. He initially stated that he intended to collaborate with the Justice, even without a formal agreement of collaboration, although he also stated that he intended to execute one.

518. In view of the intention expressed by the defendant, this Court, despite granting him the right to remain silent, stated that, even without agreement, the defendant would be liable for a crime of defaming denunciation if he falsely attributed crime to another. After all, defendants, although they do not respond for the crime of perjury of art. 342 of the CP, are not exempt from the liability for defaming denunciation of art. 339 of the same law.

519. José Adelmário Pinheiro Filho, commonly known as Leo Pinheiro, stated that he took the position of President of OAS Group in 2001 and that he remained there until the end of 2014.

520. In summary, he states that the construction company OAS began taking part in the rigging of bidding processes around 2007 or 2008 and that the OAS Group took part in the criminal scheme which harmed Petrobras, having paid, frequently, unlawful benefits to the Officers of Petrobras, including in the contracts for the Presidente Getúlio Vargas Refinery (REPAR) and Nordeste Abreu e Lima Refinery (RNEST). He also stated that part of the payments were made to political agents or parties. He states that, with regard to the contract for the Nordeste Abreu e Lima Refinery (RNEST), he had been directly approached by João Vaccari Neto for the payment of 1% of the contract value to the Workers' Party. He claimed not to remember specifically whether the same arrangement occurred in the contract for the Presidente Getúlio Vargas Refinery (REPAR).

521. Excerpts are transcribed as follows:

*"Federal Judge: This relates to another criminal action, but it is widely mentioned in this information, there was already a case that was tried, in which you were convicted, and it was concluded that these contracts had generated the payment of unlawful benefits to agents of Petrobras, especially to Mr. Paulo Roberto Costa, did these Petrobras contracts involve payments to Petrobras agents?"*

*José Adelmário Pinheiro Filho: Yes.*

*Federal Judge: Did this happen frequently or were they isolated cases?"*

*José Adelmário Pinheiro Filho: Frequently.*

*Federal Judge: Can you confirm whether Mr. Paulo Roberto Costa received these amounts?"*

*José Adelmário Pinheiro Filho: I came to know Mr. Paulo Roberto in 2009, 2010, I think, but he knew, yes.*

*Federal Judge: These unlawful benefits, for example, in these contracts for Rnest or Conpar, who negotiated these payments for OAS?"*

*José Adelmário Pinheiro Filho: For Repar and Rnest it must have been, on the part of Paulo Roberto, no?"*

*Federal Judge: Yes.*

*José Adelmário Pinheiro Filho: It must have been through the members of our consortium, we had minority stakes in the case of Repar and equal stakes in the case of*

*Rnest, but we were not the leaders of the Rnest contract. But we had full knowledge of what was going on, we were told, and there was a method for these payments.*

*Federal Judge: Also, in these contracts, as well as payments to Petrobras agents, were part of the amounts being paid to political agents or to political parties?*

*José Adelmário Pinheiro Filho: Yes.*

*Federal Judge: Was there any rule relative to these payments?*

*José Adelmário Pinheiro Filho: No, there was no rule. There was a rule for the payment to each party, but within each operator of these parties the method of payment depended on the payee, on each company.*

*Federal Judge: Mr. Paulo Roberto Costa, testifying in this very proceeding and in the other, mentioned that there was a kind of percentage of payment of unlawful benefits of 1%, which was supposedly divided between agents of Petrobras and political agents, did this exist?*

*José Adelmário Pinheiro Filho: It did.*

*Federal Judge: In the case of Mr. Paulo Roberto Costa, was there any payment to any particular political party?*

*José Adelmário Pinheiro Filho: In the case...*

*Federal Judge: Or to any specific political agent, the downstream director's office?*

*José Adelmário Pinheiro Filho: I believe so, I think that the party, the PP [Progressive Party], but I don't know exactly how OAS made these payments, whether they were paid directly. It is because some other companies were used to receive our funds and then distribute them. In the case of Rnest, yes, there was, specifically to the PSB [Brazilian Socialist Party] in Pernambuco.*

*Federal Judge: Were there also payments to Petrobras agents in the services director's office? For instance, Mr. Renato Duque, Mr. Pedro Barusco?*

*José Adelmário Pinheiro Filho: Yes, there were.*

*Federal Judge: Were you aware of these facts at the time?*

*José Adelmário Pinheiro Filho: I was.*

*Federal Judge: Why were you aware of them?*

*José Adelmário Pinheiro Filho: Because they informed me about every transaction we had over the years. The company is decentralized, but yes, I had knowledge of major works, and I authorized them.*

*Federal Judge: Do you remember who informed you with regard to the payments, for instance, to Mr. Pedro Barusco and to Mr. Renato Duque, within OAS? Or did you negotiate them directly?*

*José Adelmário Pinheiro Filho: I was approached by Mr. João Vaccari and he told me that there was a payment of 1% for the PT [Workers' Party], that was directly through me.*

*Federal Judge: In that work of Rnest?*

*José Adelmário Pinheiro Filho: In that work of Rnest. In Repar, your honor, I do not*

*remember, but it may have also been the case, too."*

522. He then revealed that the payment of unlawful benefits to the Workers' Party, brokered by João Vaccari Neto, was controlled by an informal current account, of debits and credits, with OAS. The credits were generated by contracts with Petrobras, but also by contracts beyond Petrobras, with the Federal Government. Transcription:

*"Federal Judge: Did this money go to Mr. João Vaccari personally or did he broker payments to someone else?"*

*José Adelmário Pinheiro Filho: This money, there was a method from time to time, every once in a while we were in debt and he indicated how the payment would be made, several times via official donations both to the national administration of the Workers' Party and to other administrations, or, in some cases, to some politicians.*

*Federal Judge: I don't know if I understand, was there a kind of current account?"*

*José Adelmário Pinheiro Filho: Yes.*

*Federal Judge: Not a current account in a bank, a current account..."*

*José Adelmário Pinheiro Filho: No, no, informal, debits and credits.*

*Federal Judge: And what generated the credits in this current account?"*

*José Adelmário Pinheiro Filho: The credits were each invoice received, on each bill received, a percentage of 1% was applied and this was recorded informally, and from time to time an agreement was made with Mr. João Vaccari and he would tell us, he would advise us on how we should pay.*

*Federal Judge: Were these credits only generated by the works of Petrobras, Conpar and Rnest? Or were there others too?"*

*José Adelmário Pinheiro Filho: No, others too. From Petrobras?"*

*Federal Judge: Yes.*

*José Adelmário Pinheiro Filho: Others too.*

*Federal Judge: Beyond Petrobras as well?"*

*José Adelmário Pinheiro Filho: Beyond Petrobras as well.*

*Federal Judge: Could you tell us, more or less, when this began, when this procedure began, approximately?"*

*José Adelmário Pinheiro Filho: 2004, 2003, 2004, your honor, I believe in our case it was 2004."*

523. Part of the fee allegedly resulted from the acceptance of construction company OAS on the Petrobras register to be invited to bid for major contracts, which led to the entry of the company into the group of construction companies which rigged the bidding processes:

*"Federal Judge: OK. Were you responsible, let's put it this way, at the beginning of this process, for this negotiation? Or were other people?"*

*José Adelmário Pinheiro Filho: No, we were not a part of that initial club of Petrobras.*

*OAS was not a part because we had not been operating, therefore this club had a privilege on some major contracts. At the time I personally approached the government to show our frustration, due to the size we had at the time and not being able to perform, or participate in the bidding processes of these contracts, and Petrobras has a system of evaluating business groups and such, so we needed our registration to be improved. It was a very big struggle for us to be able to participate in these works, being that in the first one, which was Repar, we had to have a very firm attitude with the market, saying 'either we are going to take part in this or we are going to offer a lower price and this will end this kind of restriction on our presence.' And that's how it was done, we were included in the Repar works. We participated, if I remember correctly, in 24 or 25 per cent of the work, and then we began to take part in the club as of 2007, 2008.*

*Federal Judge: And within this club were bidding processes rigged?*

*José Adelmário Pinheiro Filho: Transactions, bidding processes, yes.*

*Federal Judge: In Petrobras?*

*José Adelmário Pinheiro Filho: In Petrobras.*

*Federal Judge: And did you mention that you approached the government?*

*José Adelmário Pinheiro Filho: I did.*

*Federal Judge: I don't understand, so, what did the government have to do with the club?*

*José Adelmário Pinheiro Filho: No, it had nothing to do with the club, but it had to do with the possibility of OAS being accepted in the register of Petrobras for that level of competition."*

524. José Adelmário Pinheiro Filho also stated that he was approached by João Vaccari Neto in 2009 to check whether OAS could take on the real estate developments of Bancoop. He states that the transaction was of interest to OAS Empreendimentos Imobiliários, which sought to expand its operation in São Paulo and major state capitals. However, with regard to the real estate development in Guarujá, João Vaccari Neto allegedly told him that there was a unit belonging to the 'family of President Lula,' in order to convince him to take on a project which was not located in any state capital. After approval by the technical sector of OAS Empreendimentos, he agreed to take on the works. Excerpts are transcribed as follows:

*"Federal Judge: Well, now let's move on to the matter of the triplex. According to the proceedings, OAS took on the real estate developments of Bancoop. Did you take part in this procedure, in this negotiation?*

*José Adelmário Pinheiro Filho: I took part, yes.*

*Federal Judge: Can you describe to me what happened?*

*José Adelmário Pinheiro Filho: In the year 2009, I was approached by Mr. João Vaccari, who had been or still was, I don't remember, President of Bancoop, and he told me about Bancoop's situation of near insolvency. They weren't able to make progress on the developments, some had been stalled, they had already started, and others had not been finished yet. He showed me 6 or 7 developments which Bancoop would be interested in negotiating with us, I told him that some assumptions would have to be established, that it interested us at that time. Our real estate area operated, we operated in Bahia, we were starting a few developments in Brasilia, and São Paulo was the place we had the most*

*interest in, and the fact that some developments were already almost sold out made it easier for us, so that helped a lot. At that time the land was also overpriced as a result of the real estate boom, so it was agreed, he showed me the physical and geographical situation of each development. When he showed me these two buildings in Guarujá I made one caveat that we were not interested in operating, we had a business policy in our real estate area, which was actually adopted by me, of only operating, that the company would only operate in major state capitals, and our targets were Salvador, Rio de Janeiro, São Paulo, Brasilia and Porto Alegre because of a large development we were carrying out there, and there was a real estate project, beyond this we were not interested. He told me, 'look, we have something different here, there is a development that belongs to the family of President Lula, in light of your relationship with the President, the relationship of the company, I think that, we are inviting you to be a part of it on account of this relationship and the degree of trust that we place in your company and in your person,' whereupon I said, 'look, if we are dealing with something of this scale then I will...', either way I would have to order a feasibility study for each development, I told him, 'look, I don't see any problem, I'll pass that on to our real estate area, which is an independent company, the company will carry out the studies, I'll get back to you and we will see if it is feasible, if it is not feasible, and what we can negotiate.'*

*Federal Judge: This conversation took place in 2009, is that right?*

*José Adelmário Pinheiro Filho: In 2009, 2009.*

*Federal Judge: Well, when this conversation was finished I approached Paulo Okamoto, who was a person with a close relationship with the President and myself. So, I approached Paulo Okamoto and said: 'Paulo, João Vaccari came to me and told me this and that, what do you recommend, what do you think I should do?' He said: 'No, we know about this and it is very important, firstly, Bancoop is a union that has a lot of connections with us, with the party and, secondly, because it has an apartment belonging to the President, and I think you are the person to do this because of the trust we have in you.' I said, 'then we can do it, OK,' 'you may do it,' 'OK.' I went back to Vaccari and, with the studies done, the two companies, he specified the people at Bancoop who had authority to do it, the members of the board, and I specified the people at OAS who could negotiate in business terms, because it really was a very difficult negotiation, developments which had not begun, others which were in progress, there were already problems with cases of the Prosecution Service, it was very complex, but that all ended up going well and the works for each development were started, not all simultaneously because of a matter related to one would be cleared before the other."*

525. He also stated that he was told, in 2009, that the triplex apartment, 164-A, belonged to the family of President Luiz Inácio Lula da Silva and that OAS could not sell it to a third party. He was, however, allowed to sell unit 141-A, which was included in the contract signed between BANCOOP and Marisa Leticia Lula da Silva. At no time was he informed that President Luiz Inácio Lula da Silva was to pay the difference in price between the standard apartment and the triplex apartment. Transcription:

*"José Adelmário Pinheiro Filho: Well, in 2010, approximately... Not approximately, sorry. In 2010, the newspaper O Globo published a huge story about this development, and saying that the triplex belonged to the President, at the time President Lula. I was concerned by the exposure of the matter. I approached Paulo Okamoto, I met with João Vaccari and then I approached Paulo Okamoto, asking how we should proceed, as the triplex was in our name and the acquisition on behalf of the President's family was in units of ownership and there had not been any accession so that the development, I also had authorization to sell the one which had been reserved before, which was a standard apartment. The information, the advice given to me at that time was, 'treat the matter in*

*the same way as you have been doing, the apartment cannot be sold, the apartment remains in the name of OAS and later we will see what we are going to do to make the transfer or what have you.' And that is what was done. Yes, and we dealt with the matter again in 2013, if I remember correctly.*

*Federal Judge: But before going into 2013, there are some details here that I'd like to, there are some documents in the case which, according to the Prosecution Service, indicate that the acquisition of the apartment by the former President and his wife were in regard to apartment 141...*

*José Adelmário Pinheiro Filho: Correct.*

*Federal Judge: While this triplex appears to have had a different number, 174 originally?*

*José Adelmário Pinheiro Filho: 164.*

*Federal Judge: 164. Is this what you referred to just now?*

*José Adelmário Pinheiro Filho: Exactly.*

*Federal Judge: Was this ownership in regard to another unit?*

*José Adelmário Pinheiro Filho: The ownership was in regard to this other unit, which was a standard apartment, and when we negotiated with Bancoop all of the developments had a standard procedure that the people who had previously acquired them directly from Bancoop could join our real estate development or simply have their funds returned, adjusted by a rule which was established. Committees were created for each development, of the acquirers, and this was negotiated for each development with each acquirer. In the case of this apartment it wasn't, there was no signing of any term of accession.*

*Federal Judge: But what was the explanation? Why didn't everyone have to do this accession?*

*José Adelmário Pinheiro Filho: Everyone had to either keep the unit or have their funds returned, by a pre-established rule. On this apartment I was told not to, that I was allowed to sell it because the apartment which belonged to the family was the triplex.*

*Federal Judge: The one you were allowed to sell was 141?*

*José Adelmário Pinheiro Filho: 141, exactly, and it was sold.*

*Federal Judge: Not the triplex?*

*José Adelmário Pinheiro Filho: No.*

*Federal Judge: You weren't allowed to sell it?*

*José Adelmário Pinheiro Filho: I wasn't allowed.*

*Federal Judge: But who told you that?*

*José Adelmário Pinheiro Filho: Mr. João Vaccari and Paulo Okamoto.*

*Federal Judge: It says here that apartment 141, there were payments from the former President and his wife to the order of BRL 200,000 during the time of Bancoop, but this was in respect to apartment 141. Was the price of the triplex the same as that of this apartment 141?*

*José Adelmário Pinheiro Filho: No, no, the standard apartment, your honor, if I ... It is*

*some figure, it is because it was a long time ago and we also had 150 transactions at the same time in the company. The details are difficult, but it was a development involving a president, of course I had more knowledge of it.*

*Federal Judge: And was there any, after you were informed that they would keep the triplex, not 141, were you told anything about the price, the difference in price to be paid, then, by the former President?*

*José Adelmário Pinheiro Filho: Answering your question, which I ended up not... The standard apartment was in the order of 80 square meters, the triplex apartment was 3 times this area. Of course, it's not a case of simply multiplying the area by 3, as there is also the terrace, which has uncovered areas, but it is as if it were two and a half times the price, more or less.*

*Federal Judge: But at this time, in 2009, did anyone tell you, 'don't worry because the price will be paid by the former President on the side'?*

*José Adelmário Pinheiro Filho: No, not that.*

*Federal Judge: And did you also not want to charge the price?*

*José Adelmário Pinheiro Filho: I did not. At that time, in 2009, I was told, 'the triplex apartment, this unit is a specific unit, you are not to sell it, it belongs to the family of the President, the standard unit you can sell because they're not going to keep this unit, the unit is the triplex.' I said, 'how do we resolve this matter?' No, let's start in 2010. I approached Mr. Vaccari to talk with him about what I should do, he said, 'no, we're not going to touch this matter; we have the presidential campaign, don't touch this matter now, let's leave it, after the election we will see the way, I'll see with the President how we are going to do this.' Well, after the election, I don't know at what time more or less, the former President contracted a serious illness and I didn't feel comfortable talking about a matter such as this. I only touched on it again later with João Vaccari and Paulo Okamoto, I always dealt with João Vaccari and then approached Paulo, that was the way of... The President was in hospital, after chemotherapy treatment, and I only touched on this subject again with the President in 2013, me personally with him.*

*(...)*

*Federal Judge: (...) Just before we get into this matter of 2013, the Prosecution Service states, along with documents that supposedly say this, that this apartment, this triplex, was never put on sale by OAS.*

*José Adelmário Pinheiro Filho: It was never put on sale by OAS.*

*Federal Judge: Since 2009?*

*José Adelmário Pinheiro Filho: Since 2009, I was advised not to put it on sale, that it belonged to the family of the president."*

526. He stated that he had a meeting in 2013, at the Instituto Lula, with the former President Luiz Inácio Lula da Silva, after being advised to approach him by João Vaccari Neto. The subject of the meeting was apartment 164-A, to resolve the issue of ownership and to check whether he intended to make any changes. At a second meeting in January 2014, a visit to the apartment in Guarujá was scheduled for February 17, 2014.

527. According to José Adelmário Pinheiro Filho, changes to the property were requested to meet the needs of the former President, with the remodeling being ordered:

*"Federal Judge: And you said that in 2013, could you continue?"*

*José Adelmário Pinheiro Filho: In 2013, I approached João Vaccari and told him: 'Hey João, we're having some problems, the board of OAS Empreendimentos informed me that some of the developments were having problems with liabilities which we were not aware of at the time of negotiations, and we also have to resolve the matter of the triplex, how we are going to resolve it, the issue of ownership, the issue of the difference in price, we have to resolve these matters.' Vaccari told me the following: 'Look, in regard to the problem of the triplex I advise you to approach the President, he is already working at the institute, request a meeting with him to find out exactly what should be done. In regard to the other developments, give me a complete study of this, what happened and such, so that we can take a look.' 'OK.' I approached the president, I believe it was in November or December of 2013. I showed him the progress of the building in Guarujá, it was already at a very advanced stage, and I wanted him to tell me how we should proceed, whether the family intended to make any modifications, how we should proceed with the matter of ownership and such. The President said, 'look, I'm going to see with my family and I'll get back to you.' Well, in the month of January...*

*Federal Judge: Just a minute. Where was this meeting?*

*José Adelmário Pinheiro Filho: At the Instituto Lula, in Ipiranga.*

*Federal Judge: OK.*

*José Adelmário Pinheiro Filho: In January 2014, the President invited me to the institute. I met with him, and he said, 'look, I'd like to go with my wife to visit the apartment, could you designate someone?' and such. I said, 'no, absolutely, Mr. President, I will go personally,' and we scheduled a visit. It was him, his wife, he went, we arranged to meet on Via Anchieta, he gave me the number of a factory gate, so that I would wait there, and he would leave home and at the agreed time he would pass by, he went in his car and I went in our car, and that was how we did it. We met, we went to Guarujá, we entered by the garage, we went to the apartment. It was a visit, your honor, of approximately two hours, I believe, an hour and a half, two hours.*

*Federal Judge: Who was there on this date of this visit?*

*José Adelmário Pinheiro Filho: The President, [his wife] Marisa, myself, the newly, the newly appointed president of OAS Empreendimentos, Fábio Yonamine, the regional officer of OAS, Roberto, there was also a manager from the real estate area, Igor, and there was someone else, forgive me, I cannot remember the name, who was also there. Well, we went, the President wanted to visit. On the first floor, the President's wife made a comment, she said, 'look, we're going to need another room here on the first floor,' because as a matter of family logistics they needed another room. There was also an issue about the kitchen, which needed some modifications for the better use of the space, and I remember there was a spiral staircase, that the president had just come from a procedure, I even got worried, I said, 'look, Mr. President, if you don't want to go up you can...' He said 'no, no, it's no problem, I can go up.' We went up, and then it was also decided that we would have to make modifications to the stairs, and later we made another staircase, as well as the stairs we also put in an elevator. On the second floor there were a few particular changes highlighted by the President's wife and on the terrace, then they were worried about the matter of privacy. There was a building adjacent which wasn't part of the Solaris development and it took away some of the privacy and really, we had to produce something architecturally to give privacy, so then the position of the pool was moved, a new deck was built. The entries were modified because they told me, because of the grandchildren, there was a problem with (inaudible) made of glass which truly was dangerous. We had to, a barbecue was requested, a sauna, which later I think ended up becoming a storage room. Well, a series of modifications which were not, as we say, a decoration project, no, it was a personalized project, no other triplex, there were 8 in the two buildings, 4 in each one, would have these specific changes, not even the space that*

*was created, the extra room, modifications and all, so it wouldn't serve as a model for any other apartment, it was different from the others. Well, that was agreed upon. They wanted to visit the common areas of the building, I went down with them, we went to the playground, in the common areas, the function room, we went to the outdoor pool area, and when it was finished I accompanied the couple to the garage and the president told me, 'look, you can come with us in the car, your car can follow us, in the middle of the trip you go to your car to continue your route and we will go to another place.' 'OK, Mr. President.' He had an advisor accompanying him, this advisor went in our car and I went with the President and Marisa, and in this conversation in the car the following was agreed: 'Mr. President, there are a lot of modifications, I would need to show this to the architecture department so that they can develop a project and then show you for your appraisal. Now there are some things which I would advise us to do soon because residents will soon start moving into the building, with you being the former President I think it might cause some kind of disruption.' Because there was a leaking problem, we had to break things, we had to make modifications to the walls and such, it would cause disruption to the other residents who were arriving, so we agreed that we would begin this immediately and soon afterward I would take them so they could take a look and see if everything was OK, done in the way they had requested, and that is what we did. That was in February, January or February 2014. Soon afterward I received word that the President wanted to speak to me at the institute. I went back to the institute, beforehand Paulo Okamoto explained to me that he wanted to talk to me about a ranch, to make modifications to a ranch in Atibaia. I said, 'OK.' I went, the President explained to me that they wanted to make modifications to the main entrance of the main house, that..."*

528. As is seen in the final part, José Adelmário Pinheiro Filho also confirmed that, at the same time, he was requested to make renovations at the Ranch in Atibaia. He also stated that the remodeling projects of the ranch and the apartment in Guarujá were discussed with former President Luiz Inácio Lula da Silva. He also confirmed the second visit to the apartment in Guarujá, this time only with Marisa Leticia Lula da Silva and Fábio Luis Lula da Silva. During the visit, Marisa Leticia Lula da Silva told him that she would like to spend the end-of-year holidays in the apartment and, therefore, requested the apartment be ready for the event:

*"Federal Judge: OK. Let us continue then with this procedural act, which is the interrogation of the defendant, let the objection be recorded here and be denied repeatedly. Can you continue your explanation?"*

*José Adelmário Pinheiro Filho: So, arriving at the Instituto Lula, Paulo Okamoto informed me that he wanted to speak to me about the matter of the ranch. I went up and he said that he wanted to make a modification to the main house and there was a problem, according to him a serious problem, two lakes and there was a small dam which had a problem. I said: 'Look, Mr. President, we have to look at it.' He said: 'Look, you could send someone there on Saturday, I'll be there.' I said: 'Look, Mr. President, I'll go.' And I went, me and Paulo Gordilho, who was the engineering officer and technical officer of OAS Empreendimentos, and we went on a Saturday. The President arranged with me, I didn't know where it was, that on the first toll of the Fernão Dias highway I was to wait, and when he passed I was to follow the car he was in, that is what happened. We made a visit to the ranch..."*

*Federal Judge: No, but I don't think that you need to go into details about the matter of the ranch, I understood that you were continuing an explanation about the matter of the condominium..."*

*José Adelmário Pinheiro Filho: They will be..."*

*Federal Judge: Basically, you can summarize this part about the ranch, and then move on to the part where they intersect.*

*José Adelmário Pinheiro Filho: All right. We saw there what needed to be done and we*

*had to make a project, we couldn't send technicians to see the part of the dam. We left and Paulo Gordilho, then, went to produce what had to be done and we arranged a, when they were ready, I arranged with the President and we met at his home in São Bernardo do Campo, on a Saturday, myself, Paulo Gordilho, the President and his wife, where we discussed some details which were lacking with regard to the triplex and the details of the ranch. On this date it was agreed that everything which was requested was been met, that we could continue on the triplex with all of the renovations which had been agreed, which had been requested by them, and that was what happened. In July or August 2014, I don't know if it was on our initiative or on the initiative of the President's family, who wanted to return to visit the triplex apartment. I told him, I went to the institute and the President told me: 'Look, there's an election campaign, it won't be good, it wouldn't be good for me to attend, it is too close to the campaign, it will be exploited, there would be a problem with me going, my son will go with [the President's wife] Marisa and you send someone,' and such. Again, I offered to go myself and I went, we visited it, and everything was OK, they approved everything that was... The remodeling was already in an advanced stage, they said, 'it's all OK,' then Marisa made me a request, she said: 'Look, we would like to spend the end-of-year holidays here in the apartment, will it be ready?' I said: 'Look, you can be sure that before that we will deliver everything ready,' and that was what happened. If you would allow me, forgive me, I skipped a detail that I find very important, which was the reply that I was to give to João Vaccari about the settlement of accounts, I ended up not saying it, I you would allow me I..."*

529. José Adelmário Pinheiro Filho also stated that he met with João Vaccari Neto in May or June of 2014 and it was agreed that the difference in price between the simple unit and the triplex apartment, as well as the costs of the remodeling of the apartment and the ranch in Atibaia, would be settled from the aforementioned general bribe account that the OAS Group had with the Workers' Party. João Vaccari Neto confirmed this possibility only after a second meeting with José Adelmário Pinheiro Filho. Other costs of BANCOOP developments would also be settled, hidden liabilities - according to him, which were taken on by OAS. Transcription:

*"José Adelmário Pinheiro Filho: In May or June of 2014, with the costs of all the Bancoop developments already well calculated and also every specification, everything that was going to be done both at the ranch and on the triplex, I approached João Vaccari and told him, 'look, I have all of the elements in hand and I'd like to discuss them.' He arranged, he said: 'Look, the mood between your company and Bancoop is not good. Call your people and let's sit down beforehand.' So he arranged a meeting with me at the same place, in the restaurant, where I took all of these credits and debits. I took him what we, OAS, owed as a result of these payments of unlawful benefits to the Workers' Party at that time, that which was late and that which was yet to happen, and the costs of the developments we were doing, these liabilities, which I'm calling hidden liabilities, the term used for things which we were not aware of, as well as the costs of the triplex and the ranch. João Vaccari said, 'look, everything is OK, it's within a principle we always adopt,' because every time, from time to time, that we had a settlement of accounts with him, he would say, 'no, you pay this to such and such an administration, pay this to such and such a politician.' This was done, and it was commonplace, so, 'we will not change the method, let's continue with the method, now there are personal things here, related to the President, I'm going to talk to him about this and I'll get back to you. Now in this meeting that we will have with the board of Bancoop and your people, I would like for you not to touch on this settlement of accounts, I would like the company to reassure the board of Bancoop that the developments will continue, that there will be no solution of continuity,' and that's how it was done, that is what happened. A few days later, maybe a week or two at the most, Vaccari got back to me saying that everything was OK, that we could adopt the system of settlement of accounts between credits and debits we had with him.*

*Federal Judge: Also, in relation to the debits owed by OAS in the triplex?*

*José Adelmário Pinheiro Filho: In the triplex, the ranch and other developments, I think it added up to around BRL 15 million.*

*(...)*

*Federal Judge: Have the former President and his family paid any amount since 2009, 2010, relative to this apartment in a way...*

*José Adelmário Pinheiro Filho: No, no.*

*Federal Judge: Relative to the remodeling which was carried out on the apartment, I don't think you mentioned but was there also a private elevator installed?*

*José Adelmário Pinheiro Filho: There was, we installed a private elevator, it was a part, it was also a part of the remodeling.*

*Federal Judge: Do you remember approximately how much was the cost of all of the renovations which were carried out in the apartment?*

*José Adelmário Pinheiro Filho: In the triplex I believe it was over BRL 1,100,000. BRL 700,000 or 800,000 were paid to a company we hired to carry out the remodeling and the rest went on the purchase of some equipment which were not acquired directly with companies, rather directly from OAS.*

*Federal Judge: The Prosecution Service indicates in its information an amount of around BRL 1,277,000, perhaps it would be around that?*

*José Adelmário Pinheiro Filho: Yes.*

*Federal Judge: And the matter of the difference in price between the property they purchased previously and the price of the triplex, was this also settled in some form?*

*José Adelmário Pinheiro Filho: It was also settled in this settlement of accounts I had with João Vaccari.*

*Federal Judge: Do you remember what the difference was, approximately?*

*José Adelmário Pinheiro Filho: About BRL 800,000, 750 to 800 thousand."*

530. José Adelmário Pinheiro Filho also stated that, although the apartment had been ready before the end of the year, he was no longer able to follow events due to his arrest on November 14, 2014.

531. He also stated that it was never agreed how the formal transfer of the apartment would be made, having been asked that it remained in the name of OAS Empreendimentos Imobiliários. Transcription:

*"Federal Judge: And later, how did this unfold after August? You said that the apartment would be ready before the end of the year, was it?*

*José Adelmário Pinheiro Filho: It was ready.*

*Federal Judge: But was it then handed over to the family of the former President?*

*José Adelmário Pinheiro Filho: I was arrested on November 14, 2014, so I did not follow*

*it further.*

*Federal Judge: And when would the transfer of the deed of the property from OAS be carried out?*

*José Adelmário Pinheiro Filho: This matter bothered us many times because there's the issue of the registration of the construction, you have to establish the condominium, other people had to, these two developments, if I remember correctly, there are just over one hundred units, in the two, and the advice we were given is that it remain in our name, and that at the opportune moment we would see how this would be done.*

*Federal Judge: Was the way of doing this ever discussed with you, how this could be done?*

*José Adelmário Pinheiro Filho: It never was.*

*(...)*

*Defense: I'm going to ask you objectively. Do you understand that you gave the property of this apartment to former President Lula?*

*José Adelmário Pinheiro Filho: The apartment belonged to President Lula since the day they told me to study the Bancoop developments. I had already been told it belonged to President Lula and his family, that I was not to sell it and was to treat it as property of the President. Just to add something, I approached João Vaccari a few times and Paulo Okamoto, about how we were going to carry out the process of transferring it from our name, we had a link between the Instituto Lula, with several donations made which are all declared, and lectures abroad. We held, if I remember correctly, 5 lectures. OAS alone paid more than USD 1 million for lectures.*

532. He also stated that at no time was he informed, even before his preventive detention, that the former President and his family would not keep the property or that they would pay the difference of the property or the cost of remodeling:

*"Federal Judge: OK. In principle, these are the questions of the court. At any point in these conversations that you had with the former President or with his family, up until the time you were arrested, did they tell you that they wouldn't keep the property? The triplex?  
José Adelmário Pinheiro Filho: No, this was never talked about.*

*Federal Judge: Their last request, from what I understand, correct me if I'm wrong, was to the effect that the property be ready before the end of the year, is that right?*

*José Adelmário Pinheiro Filho: Mrs. Marisa Leticia spoke to me in the presence of Paulo Gordilho and of Fábio, her son.*

*Federal Judge: Did you...*

*José Adelmário Pinheiro Filho: In this visit in August. Excuse me, your honor.*

*Federal Judge: Do you believe that your preventive detention in November 2014 ended up hindering this transfer?*

*José Adelmário Pinheiro Filho: Definitely.*

*Federal Judge: After, or even during the period that you were imprisoned, or after you left, did you ever try to find out what had happened with the matter of the property?*

*José Adelmário Pinheiro Filho: No, not least because of the Supreme Court decision I did not have any more contact with the company, I am prohibited to, previously, when I was at liberty, to have any kind of contact with the company or the suspects, so I didn't try to find out.*

*Federal Judge: At any point, between 2009 and 2014, in the conversations you had with the former President, with his family, did they tell you specifically that they would pay you the difference in price of the property or the price of the remodeling works in any specific way?*

*José Adelmário Pinheiro Filho: No, they never told me, I also never asked."*

*(...)*

*Defense: So, you never heard an affirmation from them that they would not pay the difference in the value of the property?*

*José Adelmário Pinheiro Filho: No, the difference of the value of the property should have already been paid in 2010, here we are dealing with 2014, that was never dealt with.*

*Defense: Why should it have been paid in 2010?*

*José Adelmário Pinheiro Filho: The difference, because if you were going from a standard apartment, which was 80 square meters, to an apartment of 240 square meters, an area 3 times larger, there was a difference in price, obviously. I asked this of João Vaccari, I asked this of Paulo Okamoto, and Paulo Okamoto was the one who always took care, from my understanding and the information from the President, of this part. He took care of the institute, he took care of the lectures, it was always him who worked with this financial part. I spoke to him several times, 'no, let's wait.' First, we waited because of the election campaign of 2010, then the President had a health issue, I wasn't going to talk about it, then came the campaign of 2014, and then this matter, 'resolve it later.' Except the investments made in the apartment weren't for a decorated apartment, they were for an apartment built specially for a family, and also, with all respect to the former President, the apartment was a personalized apartment, not a decorated apartment. It was made for a family to live in. If the President didn't want it, then we would have a big problem. I don't know what I would have done with the apartment because it is very personalized, it was valued much higher than the renovations carried out, the decoration, what the apartment was worth, this is public and well-known, it is in the record, so this very clear.*

*Defense: It appears to be clear for you, but it isn't for me, which is why I continue asking you, did the former President tell you at any moment that he would not pay the difference between the amount paid by Marisa to Bancoop and the remaining balance?*

*José Adelmário Pinheiro Filho: The President never talked to me about this, and I never asked."*

533. He stated that, within the scope of OAS, only he dealt with this matter and the other executives of OAS Empreendimentos were not aware that the amounts would not be paid or that they would be settled in a corruption scheme:

*"Federal Judge: Who from OAS, who from within the OAS group dealt with this matter besides yourself?*

*José Adelmário Pinheiro Filho: The matter involving...*

*Federal Judge: About the triplex.*

*José Adelmário Pinheiro Filho: About the triplex, me. The company OAS Empreendimentos only carried out that which was decided by me.*

*Federal Judge: Were the other executives of OAS Empreendimentos aware that there was a, that these amounts would not be paid, and this would be settled from a general account OAS had with the Workers' Party?*

*José Adelmário Pinheiro Filho: No, within OAS Empreendimentos, as it didn't have and doesn't have any involvement with any government agency, it is a company which provides real estate development services, there was no reason for it to be involved in this, they only knew, the OAS executives knew that they would not make a loss, that this was a cost of the construction firm."*

534. José Adelmário Pinheiro Filho also confirmed the authenticity of the electronic messages already mentioned in items 400, 405 and 408:

*"Federal Judge: The case includes, some extracts were attached of electronic conversations you allegedly had with some executives. These conversations are linked to the email address lpinheiro@oas.com, did you use this email address?*

*José Adelmário Pinheiro Filho: That is my email address.*

*Federal Judge: There is also a telephone number, 11-981491952.*

*José Adelmário Pinheiro Filho: That was my cellphone number.*

*Federal Judge: That was your cellphone number. In event 3, annex 303, there are a few extracts from a conversation on page 34, which supposedly involved you and Mr. Paulo Gordilho. I'll show you here, it is in report 1,475, I'd like to ask you to take a look at this exchange, is that it? I will interrupt the audio for a minute due to its size.*

*Federal Judge: So, in this criminal action no. 5046512-94.2016.404.7000, continuing with the testimony of Mr. José Adelmário Pinheiro Filho. I showed you the report here, the extract of the electronic conversations, report 1,475, event 3, file 303, I'll actually give it to you because I have a copy here. This conversation on page 34, it begins: 'I think the massif has shifted and broken the overflow pipe.' This continues on the report in what is supposedly a conversation involving you, do you recall this conversation?*

*José Adelmário Pinheiro Filho: I recall it.*

*Federal Judge: It says there: 'OK, when are we going to start, we are going to open two cost centers, 1. Zeca Pagodinho (Ranch), 2. Zeca Pagodinho (Beach).' Could you clarify this for me?*

*José Adelmário Pinheiro Filho: The content of these emails, regarding 'the massif has shifted,' it's the matter of the dam between the two lakes in the ranch. The matter of the kitchen is because these purchases were made by OAS Empreendimentos and it had been expected that the conversation I referred to earlier would be approved, with the approval*

*of the projects of the ranch and the triplex. Cost centers are a practice of the company that means any expense must be recorded in a cost center. The advice which was given in the case of the triplex was that the expenses were to be recorded in the Solaris development, but there had to be a cost center, hence the name Zeca Pagodinho, which refers to a nickname we had for the President. We had some messages from Brahma, and Zeca Pagodinho did advertisements for Brahma.*

*Federal Judge: The 'ranch' mentioned here is the ranch in Atibaia?*

*José Adelmário Pinheiro Filho: It's the ranch in Atibaia.*

*Federal Judge: 'Beach' mentioned here is the apartment in Guarujá?*

*José Adelmário Pinheiro Filho: It's the apartment in Guarujá.*

*Federal Judge: Then it also says, afterward: 'Mr. Léo, Fernando Bittar approved the projects with the Lady, both Guarujá and the ranch. For the complete Kitchens kitchen alone, they asked for 149,000, as of yet without negotiation, I can start next week. Is that it?' And then you replied, 'go ahead.'*

*José Adelmário Pinheiro Filho: Correct, the project of the kitchens of the ranch, a new kitchen was built...*

*Federal Judge: For the ranch in Atibaia?*

*José Adelmário Pinheiro Filho: For Atibaia and the triplex apartment, as it was the same supplier Paulo was just asking me if he could do it, and I authorized it.*

*Federal Judge: And who is 'Lady'?*

*José Adelmário Pinheiro Filho: The first lady, the former first lady.*

*Federal Judge: Marisa?*

*José Adelmário Pinheiro Filho: Correct.*

*Federal Judge: Afterward it says: 'Speaking with Joilson, he created 2 investment centers. 1. Ranch, 2. Beach, the team comes from SSA...'*

*José Adelmário Pinheiro Filho: From Salvador.*

*Federal Judge: '...They are trusted people who make renovations in OAS, it was agreed that they would stay in the ranch, the lady asked me this, so they wouldn't stay in the city.' Could you clarify this?*

*José Adelmário Pinheiro Filho: It is Paulo Gordilho explaining to me, worried about who was going to do these services at the ranch. At the triplex we hired a company which already had already worked with us for a long time making sales stands and it carried out the entire remodeling of the ranch. In the case of the kitchen, as it was a direct purchase from the supplier, Kitchens does it directly, there was no need for an intermediary.*

*Federal Judge: I don't know if I understand, but the kitchens were installed by OAS in both the ranch and in the apartment?*

*José Adelmário Pinheiro Filho: There are two kitchen projects, of the triplex and of the ranch.*

*Federal Judge: Were they hired at the same time?*

*José Adelmário Pinheiro Filho: I believe that if it wasn't at the same time, negotiated at the same time, but we have a negotiation advantage.*

*Federal Judge: Who paid for the kitchens?*

*José Adelmário Pinheiro Filho: We did.*

*Federal Judge: We who?*

*José Adelmário Pinheiro Filho: OAS Empreendimentos.*

*Federal Judge: In event 3, annex 178, there is an exchange of messages from February 12, 2014. I'll show you here, it's in the record...*

*José Adelmário Pinheiro Filho: Can I take it?*

*Federal Judge: Yes, yes. Just return it afterward. Do you recognize these messages exchanged with Mr. Paulo Gordilho?*

*José Adelmário Pinheiro Filho: Yes.*

*Federal Judge: It says there: 'The boss's kitchen project is ready, if you arrange with the madam it can be whenever you want.' To what was he referring to?*

*José Adelmário Pinheiro Filho: Here he was referring to the kitchen project of the ranch, then I reply to him saying: 'I'm going to confirm whether they can meet with us, it would also be good if the one in Guarujá is ready,' which was the triplex, so that we could have the joint approval of the projects in order to perform them.*

*Federal Judge: And then he replied?*

*José Adelmário Pinheiro Filho: 'In principle tomorrow at 7 PM.' I arranged for Paulo to go, I wasn't there at this meeting.*

*Federal Judge: But then he replied, 'Guarujá is also ready.'*

*José Adelmário Pinheiro Filho: Right, and then he took both of them, of the kitchens.*

*Federal Judge: So, this refers to the kitchen of the apartment in Guarujá, the triplex, and the kitchen of the ranch?*

*José Adelmário Pinheiro Filho: Exactly.*

*Federal Judge: Who is this 'madam' here, who was mentioned?*

*José Adelmário Pinheiro Filho: The former first lady.*

*Federal Judge: On page 7 of this document of event 3, annex 178, there are other extracts here from a conversation on February 13, 2014, I'll show them to you here. It says: 'Léo, it's confirmed, where are we leaving from and at what time?'*

*José Adelmário Pinheiro Filho: Correct, this must be the visit to the ranch.*

*Federal Judge: To the ranch?*

*José Adelmário Pinheiro Filho: Yes.*

*Federal Judge: 'Fábio called to cancel.' Which Fábio is this?*

*José Adelmário Pinheiro Filho: I don't know whether it is the President's son. It must be the President's son.*

*Federal Judge: In the same document, on page 11 there is another exchange of messages which supposedly took place on August 21, 2014. It begins: 'Mr. Léo, landing is expected around 9:40.' I ask for you to take a look. Do you remember this conversation?*

*José Adelmário Pinheiro Filho: This conversation was in regard to the meeting where Marisa and her son were at the triplex.*

*Federal Judge: Was it around this time?*

*José Adelmário Pinheiro Filho: It was.*

*Federal Judge: Was it on August 21?*

*José Adelmário Pinheiro Filho: It was in August, she returned to the triplex to see the completion of the works which had been done.*

*Federal Judge: It says there in the final message: 'Mr. Léo, changed to 10:30, I spoke with Cláudio and now I spoke with Fábio (Filho).'*

*José Adelmário Pinheiro Filho: It's the son.*

*Federal Judge: Whose son?*

*José Adelmário Pinheiro Filho: The son of the former President.*

*Federal Judge: Then, continuing this conversation, on page 12 of the same document. In this conversation, it says: 'Mr. Leo, here is the cellphone number of Mr. Fábio.' Then there is the number, 999739606, who is this Fábio?*

*José Adelmário Pinheiro Filho: That is Fábio, the President's son.*

*Federal Judge: Then, 'tell Mr. Paulo Gordilho,' then, 'told Mr. Paulo Gordilho.' This is in relation to the visit to...*

*José Adelmário Pinheiro Filho: To the triplex, in Guarujá."*

535. With regards to the motive of the payment of unlawful benefits on Petrobras contracts, the defendant José Adelmário Pinheiro Filho declared that it was a "rule of the market", and that other companies paid as well:

*"Federal Judge: OK, so let's rectify the question. Why did OAS pay these amounts, this current account of credits to the Workers' Party and to João Vaccari, which, according to what you have said, involved the amounts paid to the property of the former President?*

*José Adelmário Pinheiro Filho: Firstly, OAS paid because it was a rule of the market. It had been established that in some markets at that time there were contributions of 1% to the Workers' Party and that the management of this would be the responsibility of the party treasurers. Over time we realized that it wasn't just party expenses, it was much broader, it was a political project and that is why the treasurers designated us to make the payments as diverse as possible. So, the payments OAS made were within a rule there was in the market, which I...*

*Federal Judge: Did other companies pay as well?*

*José Adelmário Pinheiro Filho: In Petrobras, certainly.*

*Federal Judge: Were you aware of this?*

*José Adelmário Pinheiro Filho: I was, certainly.*

*Federal Judge: But did you know about this at that time?*

*José Adelmário Pinheiro Filho: Since we entered Petrobras I already knew this existed, I knew.*

*Federal Judge: This rule of the market was agents of Petrobras and the political side, or not?*

*José Adelmário Pinheiro Filho: The payment to the Workers' Party was made to the treasurers of the Workers' Party, not to government agents. To my knowledge it was always settled with João Vaccari.*

*Federal Judge: But you said before that there were also payments to Petrobras officers, for example.*

*José Adelmário Pinheiro Filho: Yes."*

536. At the end of the testimony of José Adelmário Pinheiro Filho, he, while answering the question posed by the Defense of Luiz Inácio Lula da Silva, confirmed that the difference in price of the property and the cost of remodeling were settled from the bribery debts of the OAS Group with the Workers' Party. And he also talked about a meeting with the former President in June 2014 in which he was asked about the payment of bribes to João Vaccari Neto abroad and was also advised to destroy any written evidence concerning the bribes:

*"Defense: So, could you answer objectively, did former President Lula ever tell you that if he bought it he wouldn't pay for the remodeling?*

*José Adelmário Pinheiro Filho: President Lula did not ask me. João Vaccari, when I showed him the debts we had to pay to João Vaccari of unlawful payments on these works and the expenses we were incurring on each development, what he also asked me in the case of the triplex was that I should find out from the President. I met with the President, the President went to the apartment to say what they wanted, because I had no idea how much would be spent. When Marisa and the President were at the apartment, and we made the project, we had quantified it, I took it to Vaccari and this was part of a settlement of accounts I had with him. Vaccari told me on that occasion that, as we were dealing with expenses for personal commitments, he would speak with the President. He got back to me and said: 'Everything is OK, you can do the settlement of the accounts.' So, I have no doubt about whether he knew or not, of course he knew.*

*Defense: But you never dealt with this directly with him?*

*José Adelmário Pinheiro Filho: I had a meeting with the President in June. Well, this is*

*noted in my diary. There were various meetings, where the President asked me the following question verbatim: 'Léo...' - I even noticed that he was a bit irritated - 'Léo, did you make any payments to João Vaccari abroad?' I said: 'No, Mr. President, I never made any payments to these accounts we have with Vaccari abroad.' 'How were you carrying out the payments to the Workers' Party?' 'By way of João Vaccari, I'm making the payments in accordance with the advice of Vaccari of parallel accounts and various donations that we have made to administrations and such.' 'Do you have any record of any settlement of accounts, of anything done between you and João Vaccari? If you do, destroy it.' Period. I don't think there is any doubt with regard to this."*

537. Then in addition:

*"Federal Judge: Some clarifications of the court, when was this meeting approximately?*

*José Adelmário Pinheiro Filho: April or May 2014.*

*Federal Judge: And where was it?*

*José Adelmário Pinheiro Filho: At the Instituto Lula, I always met with him there.*

*Federal Judge: I don't know if it is clear to me, but you answered earlier that he advised you to destroy documents?*

*José Adelmário Pinheiro Filho: He told me in this meeting that if I had, if I was keeping any documents of the dealings with Vaccari, of settlement of accounts, which was what was owed and would be paid, I told him no, that I was not accustomed to doing that, and he told me: 'Look, if you are making documents then it's best you don't take part in anything.' He was very hard in the conversation with me, I didn't know how to reply, unfortunately, because he was very irritated about this fact, it wasn't a matter which had anything to do with OAS.*

*Federal Judge: If I'm not mistaken, when you replied to the lawyer's question did you mention something about destroying documents?*

*José Adelmário Pinheiro Filho: Yes.*

*Federal Judge: He advised you to destroy...*

*José Adelmário Pinheiro Filho: He told me, 'if you have it, destroy it.'*

*Federal Judge: Regarding these settlements of accounts?*

*José Adelmário Pinheiro Filho: Regarding our dealings with João Vaccari of the payment of 1% of the works, that we had this type of agreement."*

538. At the end of the process, the Defense of José Adelmário Pinheiro Filho (event 849), presented some additional documents intended to corroborate his statements made in the interrogation.

539. In event 849, annex 2, pages 18 and 20, he attached copies of electronic messages sent by Lucas Pithon Gordilho, an employee of OAS Empreendimentos, to Tonolli Telmo,

Officer of OAS Empreendimentos, with defendant Roberto Moreira Ferreira being copied into the message. The message says:

*"Telmo*

*It would be good to know which of the penthouses it is that we need to give special attention.*

*Lucas"*

540. The reply was:

*"Lucas,*

*The unit in question is 164-Salinas.*

*Hugs."*

541. The message is not that conclusive, but it is another piece of evidence which reveals that, even before 2014 (the messages are dated September 6, 2012) there was already concern, within the scope of OAS Empreendimentos, about apartment 164-A of the Solaris condominium. It is also another piece of documentary evidence which shows the inconsistency of the alibis of former President Luiz Inácio Lula da Silva, according to which apartment 164-A, the triplex, in the Solaris condominium, was only offered to him in 2014.

542. In event 849, annex 4, he attached copies of electronic messages exchanged on WhatsApp Messenger between him and other people.

543. Among the messages, there are some which tell of a meeting on June 9, 2014, of José Adelmário Pinheiro Filho with João Vaccari Neto, with the presence of OAS executives Fábio Hori Yonamine and Telmo Tonoli (page 6 of annex 4, event 849). As can be seen from one message, José Adelmário Pinheiro Filho and João Vaccari Neto, identified as "JV", supposedly met at 7 PM at the restaurant Bassi, with the others arriving around 8 PM.

544. Also, among the messages, there is one dated June 22, 2014 (page 5 of annex 4, event 849):

*"1) CB confirmed for 14:30 on Thursday at the office.*

*2) I was with JV this morning. He asked to tell Telmo that his request for IPTU + other taxes to the amount of BRL 2.7 million is OK. It's to settle a debt of ours with him. (Machado) is aware (1 million).*

*I have already told the CMPF [Disciplinary Board of the Federal Prosecution Office] that instead of paying, Empreendimentos will have to be credited.*

*Kisses.*

*Kisses."*

545. According to the closing arguments of José Adelmário Pinheiro Filho (event 931, page 24), the matter of the debit from the general account of bribes between the OAS Group and agents of the Workers' Party was dealt with in the first part of the meeting on June 9, 2014, while the second message concerned the confirmation of the debit, again in a meeting with "JV," who is supposedly João Vaccari Neto.

546. The testimony of the defendant Paulo Roberto Gordilho (event 816) converges with that of José Adelmário Pinheiro Filho.

547. He stated that between 2008 and 2014 he held the position of Technical Officer of OAS Empreendimentos.

548. He claimed to be aware that apartment 164-A, the triplex, was reserved for former President Luiz Inácio Lula da Silva, since 2011:

*"Federal Judge: Relative to the Edifício Solaris in Guarujá, it had a triplex apartment, 164-A, which is a specific object of the charge here. Did you take part in the remodeling, in the execution, in the project, or in any way, related to the remodeling of this specific unit?"*

*Paulo Roberto Valente Gordilho: Well, until the end of 2013 it was known that there was this apartment reserved for former President Lula, but we didn't do any customization on any Solaris building until 2013. These customizations began in another area of the company, that I lost the works area, I no longer took care of the works area, it existed as of 2014.*

*Federal Judge: And did you not take part in the customization of this unit?"*

*Paulo Roberto Valente Gordilho: Not in the project itself, the purchasing, not anything. I took part because I was brought in by Mr. Leo. I, Roberto Moreira, Léo, one day we picked up Léo, we picked him up at the airport, as he had come from the Northeast, in the area of small craft, small planes, he took the car, sent to pick us up, and we went to Congonhas airport, we picked him up and went to Guarujá, which was where Mrs. Leticia was.*

*Federal Judge: And the former President as well?"*

*Paulo Roberto Valente Gordilho: I never went there with the President.*

*Federal Judge: Did you only go to the apartment once, or did you visit more than once?"*

*Paulo Roberto Valente Gordilho: Before 2013 I was there around four or five times, during the works, from 2011 to 2013. I made some annual visits to the building as a whole.*

*Federal Judge: Perfect. You stated just now that before 2013 this apartment had not been remodeled in any way, but it was reserved for former President Luiz Inácio. Could you*

*clarify this better for me, this affirmation of yours that 'it was reserved'? Were you told this? How did you become aware of this?*

*Paulo Roberto Valente Gordilho: No, it had been reserved, but it was treated as a normal apartment. There was no 'do this or that on that apartment,' no. Until 2013 it was treated as a normal apartment, so much so that there is a photo of a visit made by Mr. Léo and the former President, and other people, I was not there, this was probably in February 2014, where if you look at the apartment, the apartment is still in concrete. The building is ready, but it is delivered without flooring.*

*Federal Judge: But how did you know that the apartment was reserved, that the apartment was reserved for President Lula?*

*Paulo Roberto Valente Gordilho: Everyone at OAS knew that.*

*Federal Judge: At OAS Empreendimentos?*

*Paulo Roberto Valente Gordilho: Yes.*

*Federal Judge: Were you told this by anyone in particular?*

*Paulo Roberto Valente Gordilho: It was in a board meeting, someone asked, 'which apartment is it?' Then they showed it with the laser pen: 'It's this one here.'*

*Federal Judge: Which was whose apartment? I don't understand.*

*Paulo Roberto Valente Gordilho: No, in a board meeting in 2011, around that time, the apartment was shown, this is reserved for the former President.*

*Federal Judge: Do you remember who attended this meeting?*

*Paulo Roberto Valente Gordilho: The entire OAS Empreendimentos board was there, with the board of the construction firm.*

549. As we see in the transcribed extracts, he also confirmed his involvement in the remodeling of the apartment and that he took part in the visit to the property in August 2014.

550. He also confirmed, around the same time, the remodeling of the Ranch in Atibaia, also for former President Luiz Inácio Lula da Silva.

551. He also stated that the remodeling projects of the Ranch and the apartment in Guarujá were approved in a meeting with former President Luiz Inácio Lula da Silva in São Bernardo do Campo.

552. He also confirmed the authenticity of the electronic messages transcribed in items 400 and 405.

553. Transcription:

*"Federal Judge: In the case here, I'll just identify, event 3, annex 178, there is a report, no, sorry, there are some documents which have some messages that you supposedly exchanged regarding, according to the prosecution, this apartment. I'm going to show it to*

*you here, I ask you take a look, if you could take a look at what is on page 6, the document is there, an exchange of messages which occurred on February 12, 2014. It begins: 'The boss's kitchen project is ready, if you arrange with the madam it can be whenever you want.' I ask that you take a look.*

*Paulo Roberto Valente Gordilho: So, yes, your honor, I had these messages and, in the message, where Léo asks, 'and is Guarujá ready?' I was in the room, because at OAS Empreendimentos, unlike OAS Construtora, the officers sat in a single room. So, when he asked about Guarujá, if it was ready, Roberto was only about this far away from me, so I asked, 'Roberto, is Guarujá ready?' he said, 'it is.' So, then I replied to Léo, 'Guarujá is also ready,' because I wasn't responsible for Guarujá, for this project, these things, I wasn't responsible for Guarujá, I was taken there mostly for some kind of proximity that I had. Roberto had been in the company for 1 year and I had been there for many years, so I knew Léo, so he always brought me in on these things which needed a technical opinion. 'Man, we're going to take down this wall, but man, there's a pillar, we can't, there's a joist, we can't,' these kinds of technical things, you understand?*

*Federal Judge: I understand. When it mentions Guarujá, what is this a reference to, what is Guarujá?*

*Paulo Roberto Valente Gordilho: Guarujá is Solaris.*

*Federal Judge: A reference to the apartment of the former President?*

*Paulo Roberto Valente Gordilho: Yes, which was intended for him. He asked us, 'is Guarujá ready?' So, I asked, 'Roberto, is Guarujá ready?' 'It is.' So, I replied, 'it is ready as well.'*

*Federal Judge: When you say the Guarujá project, you are talking about the project of the unit of the former President?*

*Paulo Roberto Valente Gordilho: It's because it was the only work that OAS had in the region.*

*Federal Judge: But not the building, it refers to the project of the unit, is that it?*

*Paulo Roberto Valente Gordilho: Here it refers to the project of the unit.*

*Federal Judge: The project of the kitchen of this unit, as it says there, the boss's kitchen project?*

*Paulo Roberto Valente Gordilho: Well, the boss's kitchen project was in Atibaia.*

*Federal Judge: Ah yes, right.*

*Paulo Roberto Valente Gordilho: I also saw Mr. Léo's testimony here and there was something I think he did not remember, but the kitchen for Atibaia was purchased in February, and the kitchen for Guarujá, for Solaris, was purchased 4 or 5 months later. It was actually purchased, if I'm not mistaken, after the visit of Marisa. The two kitchens were not purchased together. I also clarified this in a testimony I gave in Salvador, you understand? Because they showed me an invoice from 2010, I said, 'From 2010?' and that OAS had not bought anything in 2010, then they turned off the camera and such, and then we went to clarify it. You were there, were you not?*

*Federal Prosecution Service: Yes.*

*(...)*

*Federal Judge: But so, when you say here 'the boss's kitchen project,' are you referring to the kitchen project in Atibaia?*

*Paulo Roberto Valente Gordilho: Yes.*

*Federal Judge: And who was the boss?*

*Paulo Roberto Valente Gordilho: The former President.*

*Federal Judge: And when it mentions 'Madam,' 'You can arrange with the Madam'...*

*Paulo Roberto Valente Gordilho: The first lady, the former first lady.*

*Federal Judge: And then when it says: 'I'm going to confirm, it would also be good if the one in Guarujá is ready.' Is the 'one in Guarujá' the kitchen project for Guarujá?*

*Paulo Roberto Valente Gordilho: Yes... No...*

*Federal Judge: No?*

*Paulo Roberto Valente Gordilho: It was the customization project for Guarujá. Because here's the thing, there was a visit made in February, which I did not take part in, which had some people from OAS Empreendimentos with the former President and with Mr. Léo, on a Saturday. On this day he went to see the apartment, the apartment was still bones, as we say in engineering, that is to say, the floors weren't finished and such, which is usual for construction companies to hand over apartments like that. Then it was decided in this meeting, when it was brought up on Monday at our meeting, of OAS Empreendimentos, the people who went came back with the news that we had to customize it, make changes to one or two walls in the building, inside the apartment, and put in flooring. When Marisa went to the apartment she went to see it with this flooring already in place.*

*Federal Judge: And this matter of putting in a private elevator, for instance?*

*Paulo Roberto Valente Gordilho: That came over the course of the project.*

*Federal Judge: Who was responsible for this customization project of the apartment in Guarujá?*

*Paulo Roberto Valente Gordilho: In Guarujá, it was Roberto Moreira's department.*

*Federal Judge: Were you directly involved in this matter?*

*Paulo Roberto Valente Gordilho: In the project, no.*

*Federal Judge: Also, in this document I mentioned, in event 3, annex 178, here on page 7 there are conversations from February 13, 2014. I'm going to show them to you, I ask you to take a look here at the top. It is at the beginning there. 'Léo, it's confirmed, where are we leaving from and at what time?' Do you recall this exchange of messages?*

*Paulo Roberto Valente Gordilho: I recall it, yes.*

*Federal Judge: Can you explain it?*

*Paulo Roberto Valente Gordilho: This here, when Léo wanted both projects ready, he wanted to give the former President and the former first lady the projects. There were three sheets of paper with the photo of Atibaia, the kitchen of Atibaia, and a notebook with the customization project of Guarujá. And he wanted to give this to them, but he was traveling and couldn't do it, so he asked for the driver to pick me up on Saturday morning and we went to São Bernardo do Campo, me and him...*

*Federal Judge: Sorry, you and who else?*

*Paulo Roberto Valente Gordilho: Me and Léo.*

*Federal Judge: OK.*

*Paulo Roberto Valente Gordilho: We went there and explained the two projects. I got the project from Roberto to analyze it, to see what it was, so I could arrive there and explain it.*

*Federal Judge: Of Guarujá and of the Ranch in Atibaia?*

*Paulo Roberto Valente Gordilho: In actual fact, the ranch in Atibaia wasn't even a project, because Kitchens did the project, but it made some furnished floor plans that even a total layman would be able to understand, with a photo of a finished kitchen despite not being finished, drawn, colored, with plates, cutlery, everything there, but it was an architectural photo, not a project in itself.*

*Federal Judge: But on this occasion, let's say, was the plan for the ranch in Atibaia and the project of the apartment of Guarujá shown?*

*Paulo Roberto Valente Gordilho: On that day in São Bernardo do Campo, the two of them were shown.*

*Federal Judge: To the former President?*

*Paulo Roberto Valente Gordilho: Yes.*

*Federal Judge: And was there an agreement about the project?*

*Paulo Roberto Valente Gordilho: I would say that there was, because it was done. But let's put it this way, they didn't completely understand. Because the kitchen in Atibaia was a photo, you can't also expect Marisa and the former President to know how to read ground plans, sections of architecture projects, so...*

*Federal Judge: I understand. In event 3, annex 303, there are other exchanges of messages which, according to the Prosecution Service, involve you. I'm going to show you them here, then I will ask a few questions about them. On page 34, it starts: 'I think the massif has shifted.'*

*Paulo Roberto Valente Gordilho: So, my visit to the ranch was to see, because during the time of the Cantareira, when it was down to its dead volume of water, the water table of the ranch went down, and with this it has a lake on the upper part and a lake on the lower part, and the lake on the upper part was draining completely. So Léo took me there to provide a technical solution. We weren't able to completely fix the problem, we fixed it by about 80%, we did a stopgap solution, we drained the lake, and then the lake was on top of a layer of mud and a layer of rubber lining, and the water was going under the stone masonry and leaking through the spillway and going down to the lake below. The technical solutions of this were all heavy works, there were lots of solutions, you could remove it and build a new one, you could drain the whole lake, remove the mud and put rubber lining over the whole lake, and you could take a big piling machine to make a concrete curtain to stop the water going with these foundations to solid land, if not all the way to the rock, to stop the water going from the upper lake to the lower lake, and these were solutions which were not done because it would have ruined the ranch, the streets, the whole region, because they required heavy machinery...*

*Federal Judge: But, then, what does this affirmation mean: 'OK, when are we going to start? We are going to open two cost centers, first Zeca Pagodinho - Ranch, second Zeca Pagodinho - Beach'.*

*Paulo Roberto Valente Gordilho: I didn't open cost centers, and then Léo told me to open this here, two cost centers, because there would be expenses and every expense, even works expenses, would open a work, expense, open a cost center named 'Project X', then another work in Salvador, Brasilia, everything has a cost center. So, he wanted the cost center to control, to know what money was being spent on in this type of thing.*

*Federal Judge: Is 'Ranch' the ranch in Atibaia?*

*Paulo Roberto Valente Gordilho: Ranch is the ranch in Atibaia?*

*Federal Judge: And is 'Beach' the apartment in Guarujá?*

*Paulo Roberto Valente Gordilho: Huh?*

*Federal Judge: And is 'Beach' the triplex apartment?*

*Paulo Roberto Valente Gordilho: Yes, it is. Then it came to when I went to the administrative officer to say: 'Look, Mr. Léo is asking to open two cost centers, Zeca Pagodinho 1 and Zeca Pagodinho 2,' and he said: 'Paulo, the cost centers are already open.' So, then we opened the cost centers beach and ranch, so much so that these cost centers called Zeca Pagodinho didn't exist, they only existed here on this paper.*

*Federal Judge: Were the cost centers already opened, then?*

*Paulo Roberto Valente Gordilho: Yes, because the administrative officer of the company of (inaudible) had already opened them.*

*Federal Judge: Who was he?*

*Paulo Roberto Valente Gordilho: Joilson Goes.*

*Federal Judge: 'Begin on at least March 15.' Was that regarding the remodeling? Is this for the ranch?*

*Paulo Roberto Valente Gordilho: The works on the lake.*

*Federal Judge: Ah, the lake.*

*Paulo Roberto Valente Gordilho: Yes.*

*(...)*

*Federal Judge: I only have two copies, it is in the case under report 1.475/2016, event 3, annex 303.*

*Paulo Roberto Valente Gordilho: It is in Veja.*

*Federal Judge: Here in the last sentence it says: 'Speaking with Joilson, he created two investment centers.' Was this you speaking?*

*Paulo Roberto Valente Gordilho: Yes, that's me speaking, I think I said this in my testimony in Salvador.*

*Federal Judge: But then there's the statement, 'the team comes from SSA.' Salvador?*

*Paulo Roberto Valente Gordilho: Yes.*

*Federal Judge: 'They are trusted people who make renovations in OAS.'*

*Paulo Roberto Valente Gordilho: Because when I no longer had the work structure in hand, I looked around to see who was going to do it because, OK, the kitchen is coming in hand, but I need to have new tiles, they extended a wall, I had to take down the wall, put in tiles, put in ceramic floor tiles, and then it was that this area, which was called Swat, because they remodeled OAS offices in all of Brazil, they were from Salvador, it was one stonemason and a guy who did plastering and the electrical systems.*

*Federal Judge: This statement here: 'It was agreed that they would stay in the ranch, the lady asked me this, so they wouldn't stay in the city.' Why?*

*Paulo Roberto Valente Gordilho: Certainly, so that the people wouldn't be talking about it in the city, that sort of thing.*

*(...)"*

554. Only in relation to the extract of the message of item 405, he stated that he was not the interlocutor of the sentence "Mr. Léo, Fernando Bittar approved the projects with the Lady, both Guarujá and the ranch. For the complete Kitchens kitchen alone, they asked for 149,000, as of yet without negotiation":

*"Federal Judge: Perfect. Then it says, afterward, I think this is a sentence of yours, correct me if I'm wrong: 'Mr. Léo, Fernando Bittar approved the projects with the Lady, both Guarujá and the ranch. For the complete Kitchens kitchen alone, they asked for 149,000, as of yet without negotiation, I can start next week, is that it?'*

*Paulo Roberto Valente Gordilho: Well, that was not me who said that...*

*Federal Judge: Ah, it wasn't you?*

*Paulo Roberto Valente Gordilho: You will see that in Veja magazine this item is written there as unidentified, unidentified individual, so I did not say that.*

*Federal Judge: And do you know who did?*

*Paulo Roberto Valente Gordilho: Because my phone, because of the way of calling him Mr. Léo, which I sometimes called Léo, Léo, you will see in other places here I say Léo, it might have been Roberto Moreira asking permission to begin the work.*

*Federal Judge: To begin the work...*

*Paulo Roberto Valente Gordilho: So, in Veja it was published as IND, unidentified individual, because my phone number is up here."*

555. He also states that, during the visit in August 2014 to the apartment in Guarujá, Marisa Leticia Lula da Silva and Fábio Luis Lula da Silva requested additional alterations, such as the removal of the sauna, and that at no point did they state they would not keep the property:

*"Federal Judge: These were the questions of the court. Or better, before moving on, just a few more things, after this visit you participated in, were the renovations already underway on the apartment or were they yet to begin?"*

*Paulo Roberto Valente Gordilho: On this visit I made to Guarujá?*

*Federal Judge: Correct.*

*Paulo Roberto Valente Gordilho: The ceramics, the tiles, and the room they built on the bottom floor were ready, and the box of the elevator was ready.*

*Federal Judge: Who did you say was present at this meeting?*

*Paulo Roberto Valente Gordilho: At this visit it was me, Léo, and Roberto, then we arrived there and met Marisa and Fábio. Upon arrival there were construction technicians of OAS there, there was an OAS engineer whom I didn't know, because as I left the construction area, she was a girl who had only been at OAS for 3 or 4 months, so I didn't know her, I didn't know the technicians either, and the guy from Tallento who was there I also didn't know.*

*Federal Judge: And did they say, did they like the remodeling, what did they say?*

*Paulo Roberto Valente Gordilho: Yes, they requested some things on the upper floor, they asked to put in a cover over the barbecue area, to change the sauna, because they didn't use it, into a storeroom, they asked to expand the deck, they asked to put a reflective film on the glass that surrounded the pool above.*

*Federal Judge: And that was accepted, it was done?*

*Paulo Roberto Valente Gordilho: This must have been done.*

*(...)*

*Paulo Roberto Valente Gordilho: No, I didn't see that. Well, I didn't see that, because they were walking, Fábio, Marisa and Léo, and we were in a procession, accompanying them, so I wasn't able to hear everything, no.*

*Federal Judge: At any point during this visit was it stated that they would not keep the apartment?*

*Paulo Roberto Valente Gordilho: No."*

556. Paulo Roberto Valente Gordilho also stated that, at no point did he speak with former President Luiz Inácio Lula da Silva or with Marisa Letícia Lula da Silva about the price of the apartment or the cost of remodeling the apartment or the ranch in Atibaia, and that they never asked about this:

*"Federal Judge: Did this customization of the apartment in Guarujá also follow a pre-determined model or was it done in accordance with the client's wishes?"*

*Paulo Roberto Valente Gordilho: It was done by Roberto's architecture team, and it was, it wasn't a lot, it was a balcony wall which was turned into a room, something like that,*

*and laying the ceramic tiles on the floor.*

*Federal Judge: And the elevator?*

*Paulo Roberto Valente Gordilho: Yes, and then came the elevator, the elevator was done, the position of the stairs was changed.*

*Federal Judge: And do you know whether they developed this project with the client, or how they decided it, to do this, do that?*

*Paulo Roberto Valente Gordilho: They decided it and it was delivered, on the day I went with Léo to São Bernardo do Campo it was already delivered in this condition.*

*Federal Judge: In these conversations, these meetings that you had with the former President Lula, at any point did you talk about the price of the apartment or the cost of the remodeling?*

*Paulo Roberto Valente Gordilho: No.*

*Federal Judge: No?*

*Paulo Roberto Valente Gordilho: No.*

*Federal Judge: At any time, did the former President or the former first lady ask about the cost of the remodeling, either for the ranch in Atibaia or the apartment in Guarujá?*

*Paulo Roberto Valente Gordilho: No."*

557. He denied, however, that he was aware of the reason why OAS Empreendimentos carried out the remodeling in the apartment and the ranch. He also denied having taken part or been aware of any corruption scheme involving the property.

558. Roberto Moreira Ferreira was interrogated in Court (event 869). He stated that in January 2014 he took over the Regional Real Estate Development Board in São Paulo, and before that he was one of the managers. The testimony does not diverge from that of Paulo Roberto Valente Gordilho.

559. He stated not to have followed the process of transferring the real estate development Residencial Mar Cantábrico, later named Condomínio Solaris, from BANCOOP to OAS Empreendimentos.

560. However, he admitted that he was informed at the end of 2013 that Marisa Leticia Lula da Silva owned unit 141, but he was informed it was apartment 164-A, the triplex, which was reserved for the former President. He was not, however, told the reason. Transcription:

*"Federal Judge: (...) It says in this accession agreement and acquisition participation contract of this unit of ownership that it corresponds to 141 in Mar Cantábrico, still of Bancoop, did you follow, let's say, this development in relation to this specific unit, this acquisition?*

*Roberto Moreira Ferreira:- No, no, I learned by the end of 2013 that Mrs. Marisa Leticia had a quota referring to unit 141 and that unit 164 referring to the triplex apartment was reserved to Mrs. Marisa and the former President.*

*Federal Judge:- Can you clarify why this quota corresponds to a unit and the triplex is*

*another unit? Can you clarify what happened?*

*Roberto Moreira Ferreira:- I cannot tell what happened, Your Honor, I know that she had that quota corresponding to the standard unit and I was informed by Telmo, my director at that time, that the 164 was the reserved unit.*

*Federal Judge:- 164?*

*Roberto Moreira Ferreira:- Yes.*

*Federal Judge:- Did you request, did he make any clarifications, or did you ask the reason for that?*

*Roberto Moreira Ferreira:- No, no, he called me and told me that, that was all."*

561. Defendant Roberto Moreira Ferreira also confirmed that there was not any payment by the former President and his wife for the property. He also admitted that he was present during the visit to the apartment in Guarujá in February 2014. After the visit, he was asked for a project to renovate the apartment, including a change of staircase, flooring placement, swimming pool repairs, adequacy of the swimming pool deck, placement of a barbecue grill, installation of a private elevator, kitchen placement, and closets in the bedrooms, as well as household appliances, among other things. Some excerpts are transcribed below:

*"Federal Judge:- (...) Can you clarify whether you are aware of payments regarding this triplex apartment by Mrs. Marisa Leticia or by the former President?*

*Roberto Moreira Ferreira:- No, I am not, no payments were made.*

*Federal Judge:- Have you subsequently been anyhow involved in the renovation of alterations at that triplex unit?*

*Roberto Moreira Ferreira:- Yes, Your Honor, I accompanied the two visits at that unit and, in compliance with a request from my boss, from my leader, I was responsible for carrying out the renovation and placing closets and household appliances at the unit.*

*Federal Judge:- Can you describe those circumstances?*

*Roberto Moreira Ferreira:- Soon after I arrived from Paris and became a director, around January 20, at the end of the month Fábio, my leader, my president, called me and asked me to accompany him in a visit to the unit in order to clarify any technical doubts related to the unit, whether an air conditioner could be installed, what type of shower could be installed, doubts related to the unit operation, and so I did, at the beginning of February I went to Guarujá and waited there for him to carry out this follow-up.*

*Federal Judge:- Who did you wait for?*

*Roberto Moreira Ferreira:- I waited for Fábio, I knew that Fábio was going together*

*with doctor Léo and that the former President would go.*

*Federal Judge:- Is Fábio Yonamine the Fábio you refer to?*

*Roberto Moreira Ferreira:- Fábio Yonamine, Fábio Yonamine who was the CEO of OAS Empreendimentos, my boss.*

*Federal Judge:- And did the former President and other persons arrive afterwards?*

*Roberto Moreira Ferreira:- Then they arrived, I was already there with Igor, I went before them to the unit, stayed there waiting, and then, in two cards, the former President, Mrs. Marisa, doctor Léo and Fábio Yonamine arrived.*

*Federal Judge:- Did you accompany that visit to the property by the former President?*

*Roberto Moreira Ferreira:- I went upstairs with them, doctor Léo showed the unit, I stayed at the rear-guard waiting to be called, I barely knew doctor Léo, I have rarely seen him, and waited in case he had any doubts and I would be called for that.*

*(...)”*

*Roberto Moreira Ferreira:- After that visit they went away, I stayed longer in Guarujá with Igor, and sometime later, weeks later, Fábio called me and asked to make some adequations, some renovations in the apartment, that I initially drafted a project, a quote, and submitted them to him in order to be implemented in the apartment.*

*Federal Judge:- And did you draft that project?*

*Roberto Moreira Ferreira:- Not directly, but I had a team of architects who worked with me, I asked them to draft it and that besides the project they submitted a quote, which I took to Fábio together with the quote for his approval.*

*Federal Judge:- Which alterations were there in the project, let us say?*

*Roberto Moreira Ferreira:- The main alteration was the staircase, there was a staircase leading from the first floor to the second floor, a round, helicoidal staircase, very bad. Then that staircase should be removed and replaced with a straight staircase, a bedroom should be added downstairs, flooring should be placed, as the apartment was delivered on cement, with a mortar bed. Then, flooring should be placed on all areas, the swimming pool should be repaired as it had an infiltration problem in the swimming pool which as a matter of fact still exists, at the terrace on the third floor, an adequacy should be made in the upstairs deck, and a barbecue grill should be built.*

*Federal Judge:- And where did those instructions to carry out those specific renovations come from?*

*Roberto Moreira Ferreira:- I received them through Fábio, I believe doctor Léo asked him and he forwarded the instructions to me.*

*Federal Judge:- Have you ever contacted the former President or Mrs. Marisa Leticia?*

*Roberto Moreira Ferreira:- No, I have never contacted them.*

*Federal Judge:- Any of his subordinates or advisors?*

*Roberto Moreira Ferreira:- No, no one, my contact has always been Fábio.*

*Federal Judge:- And the kitchen issue, were you involved as well?*

*Roberto Moreira Ferreira:- I was also involved in the kitchen issue, that scope order also contained requests to install cupboards in the kitchen, closets in the bedrooms...*

*Federal Judge:- At that same occasion?*

*Roberto Moreira Ferreira:- In the same request Fábio made to me.*

*Federal Judge:- Oh, yes.*

*Roberto Moreira Ferreira:- And place household appliances too. In that interval there was a suggestion by Paulo Gordilho to install a private elevator in the unit, to facilitate access to the three floors.*

*Federal Judge:- Were all those renovations carried out?*

*Roberto Moreira Ferreira:- Yes, they were."*

563. The reason for the renovations was not explained to him, as their execution was not usual at OAS Empreendimentos, the only justification was that "they were to be provided to the former President". He also confirmed authenticity of the documents already mentioned in items 388 and 389 referring to the renovations, and that he participated in the second visit to the property in August 2014, also attended by Marisa Letícia Lula da Silva and Fábio Luiz Lula da Silva:

*"Federal Judge:- Was it usual for OAS to carry out this type of renovation, install kitchens, cupboards, that sort of things?*

*Roberto Moreira Ferreira:- Of such dimension and in the way it was done it was not usual. It happened, we have done that in some other opportunities, but common kitchen installations, works of such dimension, that had never been done.*

*Federal Judge:- And what were the justifications informed to you, if any, for OAS to be doing that in relation to that specific unit?*

*Roberto Moreira Ferreira:- No justifications were given, it should be done for delivery to the former President, I received no other...*

*Federal Judge:- Do you remember approximately how much was spent on those*

*renovations, kitchens and cupboards?*

*Roberto Moreira Ferreira:- Around one million and 100.*

*Federal Judge:- Are there any documents in the case, projects containing your signature, you must have seen those documents.*

*Roberto Moreira Ferreira:- Yes.*

*Federal Judge:- Do you acknowledged their authenticity?*

*Roberto Moreira Ferreira:- Yes, I signed them.*

*Federal Judge:- Right, and have you participated in any second visit to that apartment?*

*Roberto Moreira Ferreira:- In the second semester, around August, Fábio called me again to his room, said that there would be a new visit to the unit to see how the renovation was going, that he would not participate that time and that I should arrange to go together with Paulo Gordilho.*

*Federal Judge:- And did you go?*

*Roberto Moreira Ferreira:- And then I went, made arrangements with Paulo Gordilho, he took all steps and we went again.*

*Federal Judge:- Around when, did you say?*

*Roberto Moreira Ferreira:- August, end of August 2014. Federal*

*Judge:- And whom did you meet there at the unit?*

*Roberto Moreira Ferreira:- At that time I met Mrs. Marisa and a son of her, whom I did not know then, not even his name. Later I learned that he was Fábio.*

*Federal Judge:- And what was discussed at that visit?*

*Roberto Moreira Ferreira:- I did not accompany it either, just like at the first visit, Your Honor, I stayed together. At that second visit there were more persons, the Tallento engineers as well, other persons who worked with me, Igor himself, whom I always asked to be with me, and I stayed with them and doctor Léo presented the unit and the works status."*

564. He also stated not to have seen any discussions about the renovation cost at that time and that no payments were made by the former President and his wife regarding the renovation costs. They have not said that they would not keep the property either:

*"Federal Judge:- And were there any discussions, have you witnessed any discussions*

*about the cost of those renovations, those kitchens?*

*Roberto Moreira Ferreira:- No, never.*

*Federal Judge:- Do you know whether there was any payment by the former President or Mrs. Marisa Leticia regarding the costs of those renovations or the kitchen?*

*Roberto Moreira Ferreira:- No payment was made.*

*Federal Judge:- Who paid for those renovations?*

*Roberto Moreira Ferreira:- OAS Empreendimentos itself, at the very cost center of the venture, as it had been done during the building construction, of the Solaris venture itself.*

*Federal Judge:- Did you see any conversation or heard anything in the sense that the former President or Mrs. Marisa Leticia would not keep that property?*

*Roberto Moreira Ferreira:- No."*

2014: 565. He also confirmed that the renovations continued, even after the visit in August

*"Federal Judge:- The Prosecution Service asked, but your answer was not clear: After August 2014 have you received any instruments "Stop the renovations, they no longer need to be done"?"*

*Roberto Moreira Ferreira:- No, nothing.*

*Federal Judge:- No?*

*Roberto Moreira Ferreira:- I believe that the renovations continued until October, and they were finished."*

566. He also admitted the property had never been offered for public sale by OAS Empreendimentos:

*"Federal Judge:- Do you know whether that triplex apartment was offered for public sale by OAS at any moment?*

*Roberto Moreira Ferreira:- No, it has never been offered for sale."*

567. Like Paulo Roberto Valente Gordilho, however, he denied knowing the reason why OAS Empreendimentos carried out those renovations in the apartment. He also denied having

participated in or known any corruption settlements involving the property or the renovations.

568. Defendant Agenor Franklin Magalhães Medeiros, Chief Oil and Gas Officer at Construtora OAS from 2003 to 2014 (event 869) was questioned too. He has already been convicted for corruption and money laundering crimes in criminal lawsuit 5083376-05.2014.404.7000, and copy of the ruling is in event 847.

569. He testified under similar conditions to those regarding José Adelmário Pinheiro Filho.

570. He initially stated that he intended to collaborate with Justice, even without a formal collaboration agreement, although he also stated his intention to enter into such an agreement.

571. In view of the intention manifested by the defendant, this Court, in spite of having assured him the right to remain silent, pointed out that, even without an agreement, the defendant would be held liable for the crime of slanderous denunciation should he falsely attribute crimes to other persons. Finally, defendants, although not being liable for the crime of perjury of Article 342 of the Penal Code, they are not immune to being liable for slanderous denunciation pursuant to Article 339 of the Penal Code.

572. In his testimony, in synthesis, he confirmed the criminal scheme that victimized Petrobrás, settlements to defraud Petrobrás biddings, and systematic bribe payments to Petrobrás agents and public agents with bribe splitting.

573. He even confirmed bribe payments in contracts referring to Nordeste Abreu e Lima Refinery (RNEST) and Presidente Getúlio Vargas Refinery (REPAR).

574. He had contact with Alberto Youssef, Pedro José Barusco Filho, Renato de Souza Duque and João Vaccari Neto regarding bribe settlements and payments in Petrobrás contracts.

575. bribes were calculated in the approximate amount of 2% of the contracts values.

576. Some excerpts are transcribed below:

*"Federal Judge:- The Prosecution Service stated that there bidding settlements, bidding result settlements among several contractors, and even that those OAS participated in those settlements. Do you confirm? Did that used to happen or not?"*

*Agenor Franklin Magalhães Medeiros:- That happened, Your Honor, if you allow me I can make a brief report on how that happened.*

*Federal Judge:- Right.*

*Agenor Franklin Magalhães Medeiros:- There was a group of companies, nine companies, dominating Petrobras biddings regarding industrial works. When I mention industrial works, I mean refining area works, a group of nine companies. Those nine companies directed the invitation letters in complicity with some Petrobras agents, the suppliers and services areas chief officers, and we were making a significant effort to participate in those biddings. Three years had already lapsed since we were last invited for that type of bidding, and it was then that we acted through Léo. He used to question that I feasilized the chief officers, that we did not have any works in that industrial area, and at the same time we used to comment that we were in difficulties due to the nine companies domination with respect to those biddings. Léo acted at the federal government, as he was competent for that due to the relations he had with the federal government, and from then on we were invited in 2006, at the last quarter of 2006, we were invited to the Repar gasoline portfolio and we associated to a company which was not part of the nine companies group, we associated to Etesco, a consortium in which we*

had 70% and Etesco had 30%. Etesco was a traditional company in good standing with Petrobras, then we associated to that company and began to prepare our bid. When the market knew, when that nine-company market knew that we were really quoting, why did they know? Because the suppliers knew that we were getting quotes and it is common that contractors know who is quoting firmly with those suppliers and based on that they felt that we could bother them. That was when Léo had a contact with Ricardo Pessoa and told him: 'Look, we will participate in that bidding'. They felt threatened, the fact is that we were, I remember that fact well because it was quite remarkable. We were at an executive committee meeting held monthly at OAS, around 9:00 p.m. to 10:00 p.m., and Mr. Ricardo Pessoa called Léo and said: 'Look, let us schedule a meeting today, now'. I was present and Léo said 'let's go', and we went to a dinner a restaurant named Bar Des Artes, in Itaim, São Paulo. That restaurant was quite famous at that time. We arrived there around 10:00 p.n.. Nowadays there is a building at that restaurant location. It was very famous, Bar Des Artes, in Itaim; there we met Ricardo and Márcio Faria, and then they made us an offer to participate in the consortium with them. That discussion went on for two, three hours. I know that we were the last to leave that dinner, that restaurant, that is why the fact is remarkable. Based on that they offered us 24% of the joint venture, of which Odebrecht would have 51%, a UTC 25% and we would keep 24%, and subsequently we negotiated with Etesco, which had 30% of those 24% and would keep a little over 6%. We negotiated Etesco's exit and were alone in that consortium with 24% and Odebrecht had the leadership. The fact is that were then told both by Márcio Faria and by Ricardo Pessoa that we would have to contingentiate 2% in the bid to meet political commitments, and we understood that there would be public and political agents, but we did not know who they were because we were still beginning in that process and the coverage bidding for that bidding were already organized.

Federal Judge:- Was that informed at the meeting?

Agenor Franklin Magalhães Medeiros:- It was informed at that meeting. The fact is that there were other packages at Repar; there was the Coke package, the Repar Offsite package. The Offsite package had the Mendes Júnior, Setal and Promon consortium, and the Coke package had Camargo Correa, then in those three packages the companies made mutual coverages, the fact is that those three packages were obtained by the companies I listed. We entered into that Repar contract on August 30, 2007 in the approximate amount of two billion, and with additives it amounted to approximately two billion and 400, that work last from 2007 to 2012 approximately. The fact is that, in order to pay the undue advantages to those agents in the consortium organization instrument there was an additive stating that we would pay a leadership fee, the consortium would pay Odebrecht a leadership fee in the amount of... There were two additives in the case, the final amount for Odebrecht was around 33 million and a half and for UTC 20 million and a half, UTC had 25% and there was a leadership fee, then the sum of those two leadership fees totaled approximately 54 million, those were the amounts the consortium passed on to the Odebrecht cashier, to UTC cashier, to pay undue advantages owed to public and political agents. We imagined who those agents would be, but we did not know how much was for each public agent and for each political agent, nor how that was done. This is just a summary and I am open provide any clarifications.

Federal Judge:- You mentioned that Mr. Léo Pinheiro developed an action with the federal government for OAS to be invited...

Agenor Franklin Magalhães Medeiros:- Exactly.

Federal Judge:- Can you clarify what action was that?

Agenor Franklin Magalhães Medeiros:- Look, that action, Léo had a strong connection

*with the party that governed the country at the that time, in 2005, 2006, which was PT, and he had, he had, I would say that he had a differentiated political asset with that party.*

*Federal Judge:- But you know exactly what he did, don't you?*

*Agenor Franklin Magalhães Medeiros:- What he did was to ask, because there was a block so that we were not invited, although we were already registered with Petrobras, we already had the CSC, we were already registered, but those companies directed, directed...*

*(...)*

*Agenor Franklin Magalhães Medeiros:- Then what happens is that this group of nine companies, after that moment, became ten with the inclusion of OAS, and from then on it became a group of 16 companies. Why has that group grown so much? Due to the volume of investments that Petrobras had in its strategic planning to invest in the refining area, Brazilian refineries had been without investments for over 20 years, then in function of that there was a flow, a huge demand for works, and that club which had ten companies, it had nine, then ten, and then 16.*

*Federal Judge:- And did you begin to participate or did somebody from OAS begin to participate in those bidding settlements in other contracts?*

*Agenor Franklin Magalhães Medeiros:- Look, we had, I participate in some, some settlements, and there was a colleague of mine who also followed up those settlements, I remember that soon afterwards there was a big package of works both at Comperj and at Rnest, and if we want switch to Rnest now, if you allow me...*

*Federal Judge:- Yes.*

*Agenor Franklin Magalhães Medeiros:- Complete by description. That was in 2007. In 2008 there were some meetings of that group of companies, of 16 companies, I remember that I talked to, had a previous conversation with Márcio Faria in the sense that we should qualify to go together; we and Odebrecht, in some packages to be defined at Rnest, this would be more distant.*

*Federal Judge:- At Rnest, yes.*

*Agenor Franklin Magalhães Medeiros:- And then we decided that should there be any packages at Rnest we would go together. Why have we defined with Odebrecht? Because in fact at that opportunity there was business affinity, and even personal affinity as well.*

*Federal Judge:- Right. Were there any settlements at those Rnest biddings?*

*Agenor Franklin Magalhães Medeiros:- There were settlements...*

*Federal Judge:- Settlements, I mean, companies arranging bidding results, not forming consortia.*

*Agenor Franklin Magalhães Medeiros:- I remember that out of the three packages that were simultaneously launched we chose the UDA, HDT and UGH packages, there were two contracts, Camargo Correia opted for Coke and Queiroz Galvão and IESA opted for Offsites, pipeways, and those three groups also made mutual coverages in the sense of*

*deceiving the bidding, and thus it was done, those companies entered into the contracts.*

*Federal Judge:- You mentioned that there was this Conpar consortium information, regarding amounts that would be contingenced for bribe payments to public agents. Did that happen in the other contracts too?*

*Agenor Franklin Magalhães Medeiros:- Yes, that happened.*

*Federal Judge:- Was there a more or less consolidated rule in relation to those payments?*

*Agenor Franklin Magalhães Medeiros:- I would say that it was not a consolidated rule, it depended, for instance, those two contracts are higher-amount contracts, then the contingenced amount was around 2% of the two contracts.*

*Federal Judge:- Are you talking about Rnest?*

*Agenor Franklin Magalhães Medeiros:- Rnest 2% too, it was contingenced.*

*Federal:- And in relation to that contract, did already have further information with respect to how that happened, who were the beneficiaries, how that was shared?*

*Agenor Franklin Magalhães Medeiros:- Your Honor, what has become clear as from the moment when we entered into the Repart contract is that the Petrobras agents who acted in that work were the chief services and suppliers officers, in the case Mr. Renato Duque, chief services officer, and Mr. Paulo Roberto, supplies, allied to Pedro Barusco, who was an executive manager, closer to the officer's level, who worked in the services area, then about those three it was clear, although in those two contracts we at OAS did not discuss those amounts with no one of them. Why? Because there was a strong leadership which was Odebrecht's leadership, Odebrecht had already been operating in that sector much longer than us, then those agents preferred to work with Odebrecht than with a newbie company such as ourselves. I am not trying to eliminate our responsibility regarding the fact.*

*Federal Judge:- You mentioned that there was a political destination as well. Agenor*

*Franklin Magalhães Medeiros:- Yes, there was.*

*Federal Judge:- Can you clarify?*

*Agenor Franklin Magalhães Medeiros:- In case of Rnest it was quite clear and it was said by Márcio Faria, and thus it was done, that he had established an absolute amount instead of mentioning a percentage, as it was a significant value work, those two Rnest contracts totaled 4.7 billion approximately, we had 50%, but Odebrecht had the leadership, and he, Márcio, had agreed the amount of 72 million to pay undue advantages, of which each company would bear 36 million; out of those 72, the consortium, by means of a dividend distribution, distributed 36 to Odebrecht and 36 to OAS. What would be the responsibilities of each company? Odebrecht took charge over the responsibilities in relation to Petrobras agents, in which it was said that there was "house 1", "house 2". I understood, it was not mentioned to me, but it could be easily noticed that "house 1" was the services division and "house 2" was the supplies division, which already had an old relationship of trust, security, and as it was comfortable both for Odebrecht and for those Petrobras agents they continued to keep*

*the way as it had been done.*

*Federal Judge:- But then, for instance, have you never dealt with those payments with Mr. Paulo Roberto Costa?*

*Agenor Franklin Magalhães Medeiros:- I never dealt with Mr. Paulo Roberto Costa.*

*Federal Judge:- With Mr. Alberto Youssef?*

*Agenor Franklin Magalhães Medeiros:- Alberto, then I will go through the details, I will go through the details regarding the 36 million of OAS that was arranged by Márcio Faria, Márcio Faria told me as follows: 'Look, for PP...', he told me he had met Janene, I did not know Mr. José Janene, I could never have been with him, I did not know him, it was not my attribution, it has never been my attribution in the company to deal with political agents, congresspersons, there are no records that I have dealt with them, it was not my function, then he met José Janene, agreed that 13 million and a half to PP would be paid through Alberto Youssef, Mr. Márcio Faria introduced Mr. Alberto Youssef to meet at the Starbucks Cafe at Eldorado Shopping Mall, close to the Odebrecht Tower nearby, he introduced me said the following: 'Listen, it has to be paid...', it was time of the majority campaign, 2010, because we entered into the Rnest contract in December 2009, soon afterwards there were the majority elections, 'Then we have to pay those 13 million to PP in this year 2010, during the campaign', in the first quarter; in the first quarter he introduced Mr. Alberto Youssef to me at that Starbucks Cafe and then we agreed that in order to meet that 13 million and a half schedule there would be approximately nine installments of one million and a half which would total those 13 million and a half, those installments began to be paid as from May 2010, subsequently I introduced the person who took care of that at OAS to Mr. Alberto Youssef, soon afterwards, one or two weeks later, at the same Starbucks Cafe, so that it were operationalized, after I had informed the company, as it is the company that defines the way to donate to parties.*

*(...)*

*Agenor Franklin Magalhães Medeiros:- Then I am talking about the 36 million under our responsibility, then 13 million and a half were determined the consortium leader after the conversation with Janene, which would be for PP, six million and a half would be for PSB, the Eduardo Campos campaign in 2010 for the government of Pernambuco. Márcio introduced me to Aldo Guedes at the headquarters of Odebrecht, located at that tower close to the Eldorado mall, and at that opportunity it was agreed that we would pay, OAS would pay six million and a half through suppliers for the 2010 campaign of Eduardo Campos, PSB. In a conversation with Léo, he said 'Listen, I will be with Fernando Bezerra and will ratify that, I will see how things are', the information I had afterwards from Léo, that he said, 'It should really be proceeded that way', then the instructions given by Márcio Faria are true, then...*

*Federal Judge:- And for the services division, do you know whether there have been any payments?*

*Agenor Franklin Magalhães Medeiros:- That is the point, 13 million and a half plus six million and a half total 20, for the 36 there were 16 million left for PT, and thus it was done, Léo was in contact with João Vaccari and it was decided that 16 million reais, due to our share at Rnest, would be for PT.*

*Federal Judge:- Have you never dealt with this subject, for instance, with Mr. Renato Duque?*

*Agenor Franklin Magalhães Medeiros:- I never dealt with Mr. Renato Duque. Federal*

*Judge:- With Pedro Barusco?*

*Agenor Franklin Magalhães Medeiros:- Never, I have never dealt with those two contracts.*

*Federal Judge:- Have there been any bribe payments in the other contracts between OAS and Petrobras?*

*Agenor Franklin Magalhães Medeiros:- Yes.*

*Federal Judge:- You do not need to through so many details, as they are not subject to this case.*

*Agenor Franklin Magalhães Medeiros:- There were both to Petrobras and to political agents.*

*Federal Judge:- Perfect. Then, my question: in those contracts, did you say that there were not any direct contacts with Mr. Renato Duque?*

*Agenor Franklin Magalhães Medeiros:- Not in those two.*

*Federal Judge:- In those two?*

*Agenor Franklin Magalhães Medeiros:- Not in this subject, that was an attribution of the leader.*

*Federal Judge:- In the other contracts, have you had contacts with any of them?*

*Agenor Franklin Magalhães Medeiros:- I had, with Pedro Barusco.*

*Federal Judge:- Pedro Barusco?*

*Agenor Franklin Magalhães Medeiros:- Pedro Barusco. Federal*

*Judge:- And with Mr. Renato Duque?*

*Agenor Franklin Magalhães Medeiros:- And subsequently ratified by Mr. Renato Duque.*

*Federal Judge:- about the undue advantage?*

*Agenor Franklin Magalhães Medeiros:- About the undue advantage, I met Pedro Barusco and afterwards had a conversation with Renato Duque; he said: "No, do not proceed this way".*

*Federal Judge:- Have you had direct contact with Mr. João Vaccari too?*

*Agenor Franklin Magalhães Medeiros:- Yes, I have several contacts with Mr. João Vaccari to deal with those and other subjects, which I can... They are not part of the case, but I had.*

*Federal Judge:- Regarding João Vaccari, have you had contacts with him involving*

*pass-throughs of undue advantages?*

*Agenor Franklin Magalhães Medeiros:- Also. As in the case of Renest Mr. João Vaccari, as a fixed amount was established, and they always wanted percentages over the contract value, that was crazy because it was a contract of approximately six billion.*

*(...)*

*Defense:- Very well. Then you mentioned 16 million in undue advantages for PT.*

*Agenor Franklin Magalhães Medeiros:- For PT.*

*Defense:- Who took care of that?*

*Agenor Franklin Magalhães Medeiros:- PT was given a differentiated treatment, why? Exactly because it was a party that had, I tell you, higher amounts involved, those parties which were mentioned, regarding them I have little knowledge that they had many amounts involved, PSB and PP, but PT had, it had because everybody knew that some other contracts had amounts, I do not know exactly which, I cannot state.*

*Defense:- Who took care of the payment of those 16 million, who controlled that?*

*Agenor Franklin Magalhães Medeiros:- It was Léo who controlled that.*

*Defense:- Léo?*

*Agenor Franklin Magalhães Medeiros:- PT's single cash was controlled by Léo.*

*Defense:- Right, and do you know who operationalized that?*

*Agenor Franklin Magalhães Medeiros:- The controllership area operationalized that."*

577. Regarding former President Luiz Inácio Lula da Silva, you stated that you had never negotiated with him about bribes. It was José Adelmário Pinheiro who had a relationship with the former President. However, you reported to have heard in 2014 from José Adelmário Pinheiro Filho that losses sustained by OAS with BANCOOP works and also with renovations at the triplex apartment and at the country house at Atibaia would be deviated from credits of Partido dos Trabalhadores with undue advantages, including those derived from Petrobrás contracts. Transcription:

*"Agenor Franklin Magalhães Medeiros:- I remember an international work trip I took with Léo in mid-2014. I was already in the international area and in one of those trips he told me that he had had a settlement with João Vaccari in the sense of offsetting losses sustained by the company, sustained by OAS, four events, he told me at that time, which were events of, the losses sustained with Bancoop works that OAS Empreendimentos, he did not tell which losses were those, but mentioned the reservation of a triplex apartment in Guarujá for former President Lula, he mentioned renovations that he was carrying out at that triplex apartment, he also mentioned renovations that he was carrying out at the*

*country house in Atibaia, which would also belong to former President Lula, and that that had caused millionaire losses, and as himself, Léo, managed a PT account as a whole, not only Petrobras works, but other works as well, then I do not remember, he had made an offset in relation to those losses caused by those four events, as I was already out, on February 2014 I took over the international area, this was over six months before, then I listened to that and did not analyze the merits, even because it avoided the...*

*Federal Judge:- But was it Mr. Léo Pinheiro who gave you this information?*

*Agenor Franklin Magalhães Medeiros:- No, that was at the international trip we took, and he informed that, that he had made that offset, the losses were millionaire and there was a settlement, should the amounts have been lower they would not have settled.*

*Federal Judge:- And was there anybody else there when you had that conversation?*

*Agenor Franklin Magalhães Medeiros:- No, we were travelling, a trip, I travelled a lot in the international area, Africa, Caribbean..."*

578. It should be pointed out, as admitted by the defendant, that his knowledge about the use of bribe funds in benefit of former President Luiz Inácio Lula da Silva is indirect.

579. Defendant Fábio Hori Yonamine, in his court testimony (event 816), stated that he took over as CEO of OAS Empreendimentos in January 2014. Before, between 2008 and 2011, he was the Chief Finance Officer of the same company, and in the interval a position at another company of the group.

580. He confirmed general aspects of the transfers of BANCOOP ventures to OAS Empreendimentos, including Residencial Mar Cantábrico, subsequently referred to as Condomínio Solaris, regarding which the old cooperative members had to enter into new contracts with OAS Empreendimentos and pay financial complements.

581. Transcription:

*"Federal Judge:- That person who was a Bancoop cooperative member, when they became an OAS customer, did they need to continue making payments?*

*Fábio Hori Yonamine:- Yes. Within that option, if they opted for remaining, exercised the option of keeping the unit, they signed a sale and purchase promise and became a customer, as from that moment they made the payments as previously agreed.*

*Federal Judge:- And did they have to make payments, those who entered into those contracts, or were there cases in which no payments were necessary?*

*Fábio Hori Yonamine:- In all cases construction was interrupted or*

*the work had not advanced, then it did not make economic sense for OAS to simply assume that obligation without consideration from the old cooperative members, now customers, then in all cases there was a complement.*

*Federal Judge:- Was there a*

*complement?*

*Fábio Hori Yonamine:- Yes.*

*Federal Judge:- And as from the moment when OAS took over those works, those former cooperative members began to have, let us say, individualized units, or they remained with a quota?*

*Fábio Hori Yonamine:- No, as from the moment when that sectional was closed they became to have a relationship with the company, then it signs a sale and purchase promise binding both the company and the now customer to a determined unit."*

582. He also denied having had knowledge that apartment 164-A, triplex, at Condomínio Solaris, was destined to former President Luiz Inácio Lula da Silva. He stated that José Adelmário Pinheiro Filho had never asked him to reserve the referred unit but admitted that José Adelmário Pinheiro Filho asked him to carry out a renovation at the apartment and subsequently organized a visit to the triples in February 2014, which would also be attended by himself, José Adelmário Pinheiro Filho, the former President and his wife. The defendant acknowledges that he was at the visit and accompanied it but remained at the "rearguard". He confirmed that it was a "totally atypical" renovation, but he did not get any explanations from José Adelmário Pinheiro Filho about the reason. He also stated not to have seen or known any discussions with respect to the price difference of the apartment or of the renovation cost with the former President and his wife.

583. Paulo Tarciso Okamoto, president of Instituto Lula, was accused only of a money laundering crime exclusively related to the payment of storage expenses by Grupo OAS referring to the presidential heritage with the company Granero Transportes S/A.

584. Despite that, upon his court questioning (event 869), he made the following report as to what he knew in relation to apartment 164-A, triplex, at Condomínio Solaris:

*"Federal Prosecution Service:- You can keep it, it even facilitates for us to follow-up, I have a copy here.*

*Paulo Tarciso Okamoto:- I think it would be good to try to clarify a little bit before reaching that date, doctor. It is the following, then, I think that it is public and notorious that I am a friend of president Lula his family, and besides bring a friend I have also been a supporter of partido dos trabalhadores for many years, I have a journey of political fight during many years, then I would like to point out that when I had news regarding that apartment of Lula for the first time, which later became that so-called*

triplex, when a companion of ours died, named Satall, who prepared the president's income tax, Mrs. Marisa, who knew me and was aware that I prepared the income tax of several persons, of friends, then she asked me to help with her income tax, in 2000, then from 2000 to 2010, during many years I prepared Mr. Marisa's or the couple Luiz Inácio Lula da Silva's income tax, and when I was preparing the income tax in 2006 then the entry of the quota in the income tax appeared for the first time, which Mrs. Marisa had acquired in 2005 a participation quota of standard apartment 141 and everything else, and during several years, it has been entered every year, attach documents, seek all those things that everyone know to be necessary in order to prepare an income tax and enter that thing; well, it went until 2010, we have been entering it in the income tax, when do I have news, I have news about the apartment around 2011, from the end of 2011 to the end of 2012 Lula was ill, the president was ill, I remember that he was ill, somebody from OAS connected to the commercial area contacts me saying: 'Listen, I would like a contact with Mrs. Marisa'; I said: 'Why do you want a contact with Mrs. Marisa?', 'No, we want some instructions, we want to discuss some instructions with her'. Then I received the person and then that person explained the following to me: Mrs. Marisa had not signed the term of adhesion to continue with the apartment he had previously acquired, and should she not... But as she had not signed, he wanted to know whether she was still interested in buying the apartment that she had previously acquired, and he also explained, he said: 'Listen, that apartment is not even the best in the building, its view does not face the sea, but please talk to her because we would like to know whether, although she has not signed, she is still interested in buying that apartment. I asked: 'But she did not sign, so what happens?' He explained that the amounts she paid were restated, that she could receive that amount back, at that time should would 12 months to receive it back, she would receive in 36 months, but as she had not signed her right was assured, and she could take advantage of that credit to buy the apartment itself, which was still available, or another apartment that she wanted at the building, and he also said that she could use that credit to buy another apartment in any other venture of OAS Empreendimentos. Well, I said, 'I will try to talk to Mrs. Marisa'. I went to talk to Mrs. Marisa, then I said: 'Mrs. Marisa, there is a person from OAS who would like to talk to you to receive instructions, that you did not sign ...', repeating, 'you did not sign, and if you do not sign you lose the entitlement, and now he wants to know whether you are still interested, even not having signed, the apartment is vacant, if you want then still assure that you can buy' and everything else, at that occasion she said she had already paid until 2006, if I am not wrong, and afterwards that she had paid 20 installments more of some sort of complementation, that the building was to be delivered in 2008, that that building already had, you know, every time people gave the run around her; and I said: 'But you have to go there and sign'. She said: 'I will not sign anything, I will no longer sign anything, I will leave things as they are, afterwards we see how to solve that, I am too worried', and it was really a moment when her husband was facing a fight against cancer; it was not appropriate to say, then, 'Wouldn't you like to talk to him, to enter into an agreement?', 'No', 'Then you must release the apartment to be sold, as you cannot keep this deal if you do not have the adhesion term'. She said: 'Then you may release it, if the apartment is not better you may release it'. I then informed the person who contacted me from OAS Empreendimentos, and that was what happened at the end of 2011, 2012, right?

*Federal Prosecution Service:- In 2014, for us to reach the question, Mr. Paulo...*

*Paulo Tarciso Okamoto:- No, but in the successions, before 2014 there is 2013. In 2013 at some moments I met Léo due to our speeches or met him somewhere and he said: 'It is necessary to ask the president's family whether they are interested in keeping any property there at the building, if they are interested the moment is now', well, then it seems to me that president Lula scheduled a conversation with Léo and they were taking, end of 2013, it must be, or November 2013, I am not quite sure because I had a speech in November, but it was at that occasion, at that occasion they had a meeting there at the Institute, at the end of the meeting doctor Léo invited him to know the venture, I was*

*there at the meeting, I saw, I began to attend their conversation, then Léo was explaining the following to president Lula: the building had turned out nicely, a beautiful façade, yellow, etc. etc., that the apartment had turned out beautifully, that there was a triplex with an extraordinary view for the Guarujá beach and that it was very beautiful, that the president needed to know, that 'You need to know' and everything else, and the president, having heard all that, 'Léo, but how is that triplex?' He described that the triplex had, it seems that on the first, in the rooms, downstairs there was a living room, I think that on the second floors there were bedrooms, and maybe upstairs there was a swimming pool, I do not know, but that it was very beautiful; well, he described it, and Lula even commented with me 'But how can I use an apartment in Guarujá, how will I use it?' He even commented that he has not been to a restaurant for many years, he has not been to the movies for many years, he has not been to the theater for many years, that is, he spent all his time in the government without being able to go to public places because whenever he goes he ends up causing problems to the other people present, and he said: 'I just imagine going to a...', but the fact is that I think doctor Léo persuaded him to know the venture. Then I asked him, 'Doctor Léo, how much is the square meter of the apartment there in Guarujá?' He said, 'Well, it is about seven to eight thousand reals, I am not quite sure, but it is...'. I said, 'But it is expensive, isn't it?'. He said, 'Yes, it is expensive because the demand is high, because you do not know but there will be many investments due to the pre-salt at the lowlands and property prices there are increasing', that property would be good even for investment purposes, then I said, 'Well, but it is expensive anyway', I told him, 'But, doctor Léo, if president Lula wants to purchase any property, any apartment, the president has to pay the market price', 'Oh, sure, sure, sure'. Well, then they left, and I think that around February 2014 I learned, he told me that he visited the venture and after he visited the venture I asked him whether he liked that venture and he said, 'Well, there is no way...', he complained about the sauna, that there was a hole in the sauna, he complained that there was a space that nobody used, well, he said, 'But really there is no way I could keep the apartment because there is no way... How can I use that apartment, only if I was to go to the beach on Wednesday', I understood that that apartment would no longer be, no longer be of interest, and then I was surprised later by the stories that they went to the apartment, that the apartment would be delivered, that it was a triplex, things like that."*

585. Although it is a bit strange that, as stated by Paulo Tarciso Okamoto, apartment 141-A at Condomínio Solaris - which was designated in the rights acquisition contract signed by Marisa Leticia Lula da Silva - had been released for sale by OAS Empreendimentos by means merely verbal instructions, the statements by defendant Paulo Tarciso Okamoto confirm the alibi submitted by former President Luiz Inácio Lula da Silva.

586. This is the report, although long, regarding the verbal evidence.

587. It is obvious that there are several contradictions among the testimonies, among the defendants' testimonies, among the witnesses' testimonies, and between the defendants' and witnesses' testimonies.

588. Part of the divergences may be explained by the imperfect knowledge of the facts.

589. Should the apartment attribution to former President Luiz Inácio Lula da Silva and the renovations involve corruption and money laundering crimes, it is obvious that José Adelmário Pinheiro Filho, CEO of OAS, did not have any reasons to disclose among his subordinates, executives and employees of OAS Empreendimento, explanations or details as to what the facts would involve.

590. Incidentally, according to item 533, he expressly stated not to have informed those facts to the executives and employees of OAS Empreendimentos Imobiliários.

591. On the other hand, some testimonies of executives and employees of OAS Empreendimentos Imobiliários in these case proceedings seem to have been affected by some fear of self-incrimination.

592. Although the contradictions may be partially explained, they exist.

593. Thus, there are testimonies in the sense that former President Luiz Inácio Lula da Silva and his wife Marisa Leticia Lula da Silva were the owners or were treated as owners of apartment 164-A, triplex, at Condomínio Solaris, and there are testimonies in the sense that they were potential buyers.

594. In the first sense there are the testimonies from Mariuza Aparecida da Silva Marques, José Afonso Pinheiro, José Adelmário Pinheiro Filho, Paulo Roberto Valente Gordilho, Roberto Moreira Ferreira and Agenor Franklin Magalhães Medeiros. To a certain extent, also that from Rosivane Soares Cândido, although she had heard third-party comments in that respect.

595. In the second sense there the testimonies from Luiz Inácio Lula da Silva, Igor Ramos Pontes, Genésio da Silva Paraíso, Valmir Soares da Silva, Fábio Hori Yonamine and Paulo Tarciso Okamoto. However, it should be pointed out that even Igor Ramos Pontes, Genésio da Silva Paraíso and Fábio Hori Yonamine acknowledge, using the latter's words, that the renovations at the apartment were atypical.

596. There other elements which are not conclusive in a sense or the other, inasmuch as the witness would have just a limited knowledge of the facts or stated not to know their details. In that line, the testimonies from Ricardo Marques Embassy, Carmine de Siervi Neto, Rodrigo Garcia da Silva, Mario da Silva Amaro, Arthus Hermógenes Sampaio Neto, Armando Dagne Magri, Hernani Guimarães Júnior, Alberto Ratola de Azevedo, and those listed in item 509,

597. Although the verbal evidence is not unisonous, there is just one version of the facts which is consistent with the documental evidence already reviewed in item II.12.

598. In fact, as already analyzed in relation to the testimonies from former President Luiz Inácio Lula da Silva, the documental evidence summarized in item 418 confirm the accusation thesis that apartment 164-A, triplex, was attributed to the former President and his wife since the beginning of contracting, and that the renovations at the property were carried out in order to serve him specifically.

599. The documental evidence is transcribed again:

*"a) in the very documents of acquisition of rights over a unit at Residencial Mar Cantábrico signed by Marisa Leticia Lula da Silva there already were annotations regarding the triplex apartment, then 174, as verified on the amended 'Adhesion proposal subject to approval', with original and counterparts seized both BANCOOP and at the home of former President Luiz Inácio Lula da Silva;*

*b) among the documents of acquisition of rights over a unit at Residencial Mar Cantábrico, it was seized a 'term of adhesion and participation commitment' at the former President's home which, although not signed, refers specifically to unit*

174, that corresponding to the triplex;

c) Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva paid fifty out of seventy installments, the last of which was paid on September 15, 2009;

d) BANCOOP transferred on October 27, 2009 the rights over Empreendimento Imobiliário Mar Cantábrico to OAS Empreendimentos, which renamed it as Condomínio Solaris;

e) all cooperative members entitled to determined units had to opt, within thirty days counted as from October 27, 2009, to enter into new sale and purchase commitment agreements with OAS Empreendimentos or relinquish and request a reimburse in cash;

f) Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva did not make any option at the time and did not resume the installment payments either, and despite terms of discharge dated 2009 and 2013, they stated, at an action for restitution of amounts brought in 2016, that they only applied for waive on November 26, 2015;

g) OAS Empreendimentos or BANCOOP have never taken any measures for Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva to make the option between formalizing the purchase or the waive and did not take any initiative to resume the outstanding installments collection either;

h) OAS Empreendimento sold apartment 131-A, formerly corresponding to 141-A to a third party, indicated in the rights acquisition agreement signed by Marisa Letícia Lula da Silva;

i) OAS Empreendimentos, since October 8, 2009 has never offered apartment 164-A, triplex, Edifício Salinas, Condomínio Solaris, in Guarujá, for sale.

j) internal documents of OAS Empreendimentos indicate that apartment 164-A was reserved;

k) The O Globo newspaper published a matter on March 10, 2010, with an update on November 1, 2011, that is, long before the beginning of the investigation or of any intent to investigate, in which it already stated that the triplex apartment at Condomínio Solaris belonged to Luiz Inácio Lula da Silva and to Marisa Letícia Lula da Silva and that delivery was delayed;

l) OAS Empreendimentos, by determination of the Grupo OAS CEO, defendant José Adelmário Pinheiro Filho, also known as Léo Pinheiro, carried out expressive renovations at apartment 164-A, triplex, during the entire year 2014, with expenses amounting to BRL 1,104,702.00, which included the installation of a private elevator for the triplex, installation of kitchens and closets, demolition of a bedroom, removal of the sauna, expansion of the swimming pool deck and installation of household appliances;

m) OAS Empreendimentos has not done that in relation to any other apartment at Condomínio Solaris and does not use to do that at its other real estate ventures;

n) electronic messages exchange between OAS executives relate the renovations of

*apartment 164-A to former President Luiz Inácio Lula da Silva and Marisa Letícia Lula da Silva, and they were also carried out at the same time of the renovations carried out at the country house in Atibaia used by the former President; and*

*o) after the provisional detention of José Adelmário Pinheiro Filho on November 14, 2014 and the publication after December 7, 2014 of newspaper matters about the triplex apartment, Marisa Letícia Lula da Silva formalized with BANCOOP the waiver of acquisition of a unit at Residencial mar Cantábrico on November 26, 2015."*

600. They must be added of the documental evidence attached at the end of the case by the defense of José Adelmário Pinheiro Filho (items 538-545), which reveal that in 2012, internally at OAS Empreendimentos, there already was special concern with apartment 164-A, as well as of the meetings held by José Adelmário Pinheiro Filho with João Vaccari Neto on June 9, 2014 and on June 22, 2014 to, according to José Adelmário Pinheiro Filho, define the deduction of the triplex apartment and renovation costs from the general bribe account.

601. Considering the set of documental evidence and of the verbal evidence consistent with the documental evidence, we consider the following to have been proven.

602. Marisa Letícia Lula da Silva, Luiz Inácio Lula da Silva's wife, entered into an agreement with BANCOOP to formally acquire apartment 141-A, Residencial Mar Cantábrico.

603. Since the beginning, what can be inferred from the erasures on the "Adhesion proposal subject to approval" and from the adhesion term and participation commitment expressly referring to apartment 174, which, although not signed, was seized at the former President's home, there was a hidden intention to acquire apartment 174-A, which subsequently became apartment 164-A, triplex, Edifício Salinas, Condomínio Solaris, in Guarujá.

604. Just fifty out of seventy installments of apartment 141 were paid, amounting to a total of BRL 179,650.80, the last of which was paid on September 15, 2009.

605. Such payments are mentioned in the income tax returns of Luiz Inácio Lula da Silva, in which Marisa Letícia Lula da Silva was a dependent.

606. Despite the real estate venture transfer from BANCOOP to OAS Empreendimentos on October 10, 2009, with approval at a meeting on October 27, 2009, there has never been concern by Luiz Inácio Lula da Silva or Marisa Letícia Lula da Silva as to following the rules enforced on the other cooperative members, of opting for purchasing or waiving up to thirty days after the meeting, as their situation was in fact already consolidated, with the attribution of apartment 174-A to them, which subsequently became apartment 164-A, triplex.

607. This explains not only the couple's omission but also the omission of BANCOOP and OAS Empreendimentos to demand that they made the option of purchasing or waving or resumed the outstanding installment payments regarding apartment 141-A.

608. This is also explained by the fact that the property is registered as "reserved" on the internal documentation of OAS Empreendimentos and has never been offered to the public for sale.

609. It is also the explanation for the mentioned matter published on the newspaper O Globo on March 10, 2010 and on November 1, 2011, in which the triplex apartment ownership was attributed to former President Luiz Inácio Lula da Silva and his wife, at a time when there was not any investigation or intention to investigate the fact. The information was leaked through an unknown way, it was published and was not contradicted. Incidentally, according to the referred matter "the President's Office confirmed that Lula still owns the property" (triplex apartment).

610. Without forgetting the mentioned electronic messages of September 6, 2012, which reveal that already at that time apartment 164-A, triplex, Edifício Salinas, Condomínio Solaris, received "special attention" from OAS Empreendimentos (item 539).

611. That documental evidence corroborates the testimonies attributing to former President Luiz Inácio Lula da Silva and his wife the apartment ownership since the real estate venture transfer from BANCOOP to OAS Empreendimentos.

612. Repeating what José Adelmário Pinheiro Filho said, "the apartment belonged to President Lula since the day when I was told to study the BANCOOP ventures, I was already told that it belonged to President Lula and his family, that I should not commercialize it and dealt with that as something owned by the President."

613. The contrary testimonies are just not compatible with those documents, as they do not explain the indication of apartment 174 (subsequently 164) on the original acquisition document or the erased word "triplex", do not explain the seizure at the former President's address of an adhesion term referring to apartment 174 (subsequently 164), do not explain the reason for the former President and his wife not to have, as all other cooperative members, made the option between purchasing or waiving the property, as they were obligated to do, still in year 2009, and do not explain the reason why they were not required to do so by BANCOOP either or by OAS Empreendimentos to make the property purchaser or waive option, do not explain the mentioned matter on the newspaper O Globo on March 10, 2010 either, with an update on November 1, 2011, therefore much before the investigation or intention to investigate, it already indicated that the former President and his wife were the owners of a triplex apartment at Residencial Cantábrico, subsequently named as Condomínio Solaris, in Guarujá, and also do not explain the mentioned electronic message of September 6, 2012 referring to the "special attention" by OAS Empreendimentos regarding apartment 164-A.

614. Continuing, in 2014, José Adelmário Pinheiro Filho, CEO of Grupo OAS, presented the property to former President Luiz Inácio Lula da Silva and his wife Marisa Leticia Lula da Silva at a visit to the apartment on February 17, 2014.

615. In view of their dissatisfaction with aspects of the apartment, during the entire year 2014 a broad personalized renovation was carried out by OAS Empreendimentos, with the total cost of BRL 1,104,702.00.

616. There was a new visit to the apartment, that time by Marisa Leticia Lula da Silva, approximately on August 21, 2014.

617. Despite the contradictions verified between the testimonies provided by the former President before the police authority and in Court, it is possible to safely conclude that there was not, in February or August 2014, any waive by him or his wife to keep the apartment.

618. The waive would be inconsistent with the execution and contracting of new personalized renovations at the apartment, even after August 21, 2014, which included the

effective installation of the elevator, the contracting and effective demolition of a bedroom, the swimming pool deck expansion, the sauna removal and the installation of cupboards and furniture in the kitchen, barbecue grill, services area and bathroom, as well the purchase and installation of household appliances.

619. As seen, there is documental evidence that the renovation lasted the entire second semester of 2014, and even Kitchens, which installed the cupboards in the kitchen, in the barbecue grill, bathroom and services area, was contracted on September 3, 2010, and the sale was closed on October 13, 2014.

620. Practically all testimonies from executives and employees of OAS Empreendimentos are in the sense that the company did not provide that type of service, renovation or personalization of housing units, especially for persons who were not owners yet. All also acknowledged that apartment 164-A, triplex, was the only one at Condomínio Solaris - and there were other triplex apartments - to receive that type of renovation.

621. Even Fábio Hori Yonamine, who did not acknowledge to know that the apartment already belonged to the former President and his wife, at least admitted that the renovation was "totally atypical".

622. On the other hand, witness testimonies are not even necessary to conclude that renovations, such as those described, are not, in most cases, general renovations intended to increment the property value, but they intend to serve a specific customer, and meeting the customer's specific wishes they only make sense when that customer already owns the property.

623. After all, as already mentioned and just for the sake of example, a swimming pool deck is not expanded, a bedroom is not demolished, new walls are not built, sauna installations are not removed, in order to gain a deposit, to add value to an apartment, but to fulfill the owner-customer wishes instead.

624. The proven facts that the renovation intended to suit the property to the owners' wishes, that is, that it was carried out to "personalize" the property, and that it continued after the end of August 2014, are sufficient to discard the versions of facts that the former President and his wife would have waived the acquisition in February or August 2014.

625. As if that weren't enough, as also mentioned, the version of waive in February and August 2014 is also inconsistent with the note published by Instituto Lula itself on December 12, 2014, that the issue, whether they would acquire the property or apply for a refund, was still pending.

626. Still about the renovations issue, there is documental evidence consisting of electronic messages exchanged by José Adelmário Pinheiro Filho with OAS executives, which were seized during the investigation and revealed that the apartment renovation project and the Atibaia country house renovation project were carried out at the same time and were submitted to and approved by the former President and his wife.

627. That documental evidence is compatible with the testimonies in the sense that the apartment renovation was intended to meet the interests of former President Luiz Inácio Lula da Silva and his wife, and the sense that they already effectively owned the property then.

628. The contrary testimonies, on their turn, are not consistent with that documental evidence, as they do not explain the reason for the personalized renovations, do not explain the renovations continuation beyond August 2014 and do not explain the electronic messages seized.

629. Following along time, the plans in relation to apartment 164-A, triplex, were interrupted, as José Adelmário Pinheiro Filho was provisionally detained on November 14, 2014 within Operation Car Wash, and as from December 7, 2014 the media began to publish matters about the triplex apartment.

630. In the context, the effectivation of the formal transfer of ownership from OAS Empreendimentos to former President Luiz Inácio Lula da Silva and Marisa Leticia Lula da Silva or to an indicated third party became something risky.

631. Consequently, the option, by the end of 2015, was for the formalization on November 26, 2015 of the waive to acquire the property with BANCOOP, which was made by Marisa Leticia Lula da Silva.

632. On the other hand, no documents were found and there are not any testimonies in the sense that there would have been any discussions with Luiz Inácio Lula da Silva or Marisa Leticia Lula da Silva and OAS Empreendimentos regarding the need that they paid the renovation cost, amounting to BRL 1,104,702.00.

633. The same can be said in relation to the property price difference, as Luiz Inácio Lula da Silva and Marisa Leticia Lula da Silva would have paid, although partially, for a simple apartment, about BRL 179,650.80 until September 15, 2009, while the triplex apartment has a much higher value, even disregarding the renovations.

634. The Federal Prosecution Service, based on documents seized at BANCOOP (event 3, comp236), verified that, in April 2009, apartments 171 and 172, at the time duplexes, at Residencial Mar Cantábriico, were priced at around BRL 922,603.26, and then it calculated the difference of gain with the deduction, after monetary restatement, of the amounts paid for apartment 141, which resulted in the calculated difference of BRL 1,147,770.96 in July 2016 (folios 111-112 of the denunciation).

635. Should the status of former President Luiz Inácio Lula da Silva and Marisa Leticia Lula da Silva in relation to apartment 164-A, triplex, be that of potential buyers, it would be natural that there were some discussions about the apartment price and about the amount spent in the renovations, as in a usual purchase they would have to bear those prices, deducting only the amount already previously paid.

636. Nonetheless, as mentioned, there is not any evidence in this sense, any document, for instance, or witness report about a possible discussion of that sort.

637. The testimonies in the sense that former President Luiz Inácio Lula da Silva and his wife already owned the property and that OAS itself would bear the renovations cost are consistent with that evidence, that there were not any discussions regarding prices or the renovation cost.

638. On the other hand, the contrary testimonies are not consistent with that evidence, as they do not explain the reason why that has never been discussed, not even during the visits to the property, or the lack of any documental registration of information sent referring to the price or renovation cost from OAS Empreendimentos to Luiz Inácio Lula da Silva or his wife.

639. Although it has already been verified that the testimony from former President Luiz Inácio Lula da Silva referring to the denial of effective titularity of the property is inconsistent with the other evidence, his testimony, in the aspect of denial of discussions regarding the property price and the renovations amount is consistent with the testimony from José Adelmário Pinheiro Filho, who also state not to have discussed prices, as the amounts would

be covered by a corruption settlement.

640. Thus, in conclusion, there must be discarded as false, because inconsistent with the documental evidence contained in the case proceedings, the testimonies in the sense that former President Luiz Inácio Lula da Silva and his wife were mere "potential buyers" of apartment 164-A, triplex, at Condomínio Solaris, as well as the testimonies in the sense that the former President and his wife would have waived such acquisition in February or August 2014, including the testimonies, although contradictory, provided by the former President himself in Court and before the police authority.

641. On the other hand, there must be considered as true the testimonies of Mariuza Aparecida da Silva Marques, José Afonso Pinheiro, José Adelmário Pinheiro Filho, Paulo Roberto Valente Gordilho, Roberto Moreira Ferreira and, Agenor Franklin Magalhães Medeiros, who, at different degrees and capacity, revealed that former President Luiz Inácio Lula da Silva and his wife already held the property in fact in 2014 and, even in some of them, since the real estate venture transfer from BANCOOP to OAS Empreendimentos, as they are consistent with the documental evidence.

642. There are not any doubts that the testimonies of José Adelmário Pinheiro Filho and Agenor Franklin Magalhães Medeiros are questionable, as they are avowed criminals who decided to collaborate in order to get penalty reduction benefits. But that does not mean that the testimonies cannot be true.

643. In the case, both testimonies, lighting that from José Adelmário Pinheiro Filho, with deeper involvement in the facts, are intrinsically coherent and, more importantly, are convergent with the documental evidence produced in the case proceedings, not only with the evidence submitted by the defense of José Adelmário Pinheiro Filho itself, but with evidence collected independently of any contributions from the collaborator, specifically upon searches and seizures.

644. As the testimonies from the avowed criminals are widely supported by documental evidence, which does not occur with the contradictory alibis of the former President, their statements must be deemed corroborated.

645. It should also be noted that the testimony from José Adelmário Pinheiro Filho, as it will be seen in item 934, confirms just part of the accusation thesis, the attribution of crime regarding apartment 164-A, triplex, and its renovations, exempting former President Luiz Inácio Lula da Silva, however, regarding the part of the attribution related to payment of the presidential heritage expenses payment. Should his intention be to lie in Court just to obtain legal benefits, he would confirm both crimes.

646. As the titularity of a property is not an illicit fact in itself, even without formal registration, the effort by former President Luiz Inácio Lula da Silva to conceal it is another evidence corroborating the accusation thesis, that the difference between the price paid by apartment 141, simples, and the renovations cost, would not be paid by the former President and his wife to OAS Empreendimentos, but consumed as undue advantages in a corruption settlement, as stated by José Adelmário Pinheiro Filho and Agenor Franklin Magalhães Medeiros.

647. Before extracting the consequences of such conclusions, it is necessary to review the stated cause of the undue advantage, the Petrobrás contracts itemized in the denunciation.

## II.15

648. According to the denunciation, in a wide synthesis, contractor Construtora OAS participated in the contractors cartel and would have gained, through a cartel agreement, works contracted by Petrobrás and paid a bribe of around 3% over the contract and additive amounts to Petrobrás Supplies Area, commanded by Officer Paulo Roberto Costa, and to Petrobrás Services and Engineering Area, commanded by Officer Renato de Souza Duque and by executive manager Pedro José Barusco Filho.

649. The undue advantage would be shared among Petrobrás agents and political agents or political parties that supported them. Part of that eventually integrated the general bribe account kept between Grupo OAS and Partido dos Trabalhadores, from which the price of apartment 164-A, triplex, and the renovations cost embodying undue advantage paid to former President Luiz Inácio Lula da Silva were deducted.

650. The denunciation refers to the following contracts obtained from Petrobrás due to the cartel or which generated bribes to Petrobrás executives and political agents and parties:

- Petrobrás contract with Consortium CONPAR (Odebrecht, UTC Engenharia and OAS) for execution of ISBL works of the Gasoline Portfolio and UGHE and HDT works of the Coke Portfolio of Presidente Getúlio Vargas Refinery - REPAR, in the metropolitan Region of Curitiba, in the amount of 3% of the total contract value to Petrobras executives at the Supplies Division and at the Services Division;
- Petrobrás contracts with Consortium RNEST-CONEST (Odebrecht and OAS) to implement the UDAs and, UHDT and UGH of Nordeste Abreu e Lima Refinery, in Ipojuca, state of Pernambuco, in the amount of 3% of the total contract value to Petrobras executives at the Supplies Division and at the Services Division;

651. Referring to the works at Presidente Getúlio Vargas Refinery - REPAR, in the metropolitan region of Curitiba, state of Paraná, the denunciation reports to the OAS contracting jointly with Odebrecht and UTC Engenharia in Consortium CONPAR by Petrobrás for the building of the Coke UHDTI, UGH and UDEA and Units composing the Gasoline Portfolio.

652. Consortium CONPAR is composed by OAS, with a 24% share, UTC, 25%, and Odebrecht, 51%.

653. The documentation regarding that contracting was sent to this Court by Petrobrás and, for the extension, part of that is in electronic media filed in Court and made available to the parties (events 154).

654. Part of the documentation regarding that contracting was inserted directly into the case proceedings, additives, and a report from an internal assessment commission created within Petrobras (event 3, files comp141 to comp157, and event 153).

655. The Bidding Commission Report and the Direct Negotiation Commission Report, which were in the media made available at event 154, contain reports of the facts and circumstances of the bidding and of the contracting.

656. The data can also be gathered from the Report of the Internal Assessment Commission organized within Petrobrás to assess nonconformities in the contracts of Presidente

Getúlio Vargas Refinery - REPAR (event 3, comp141 and comp142).

657. Summaries in tables made available by Petrobrás and by the Federal Audit court were attached to the case proceedings at event 3, comp143, and event 154, out2, out3 and out4.

658. Petrobrás Cost and Deadline Estimate Management estimated the contracting costs at about BRL 1,372,799,201.00, subsequently revised to BRL 1,475,523,356.00, admitting a variation between a minimum of BRL 1,254,194,852.60 and a maximum of BRL 1,770,628,027.20.

659. Petrobrás standard is to admit contractings for prices at a maximum of 20% higher than its estimate, and at a minimum of 15% lower than that. Above 20% the price is deemed excessive, below 15% the bid is considered unenforceable.

660. Twenty-two companies were invited, but bids were submitted just by Consortium CONPAR, formed by OAS, UTC Engenharia and Odebrecht (BRL 2,079,593,082.66) and the Consortium formed by Construtora Camargo Correa and Promon Engenharia (R\$ 2,273,217,113.27).

661. As the bids displayed higher prices than the maximum value admitted, a direct contracting was carried out with Consortium CONPAR, which reduced the bid to BRL 1,821,012,130.93, which therefore led to the contract entry into on August 31, 2007 under number 0800.0035013.07-2.

662. The direct contracting authorization was signed by defendant Pedro José Barusco Filho, according to Petrobrás System Internal Document - DIP no. 000571/2007, and it was approved by Petrobrás Executive Board composed by, among others, Officers Paulo Roberto Costa and Renato de Souza Duque (event 3, attachment 144).

663. The contract final value still was above the maximum price acceptable by Petrobras, which, as seen, is 20% above the initial estimate, specifically about 23% above the estimate.

664. That was possible just by altering the work price initial estimate by Petrobrás, which was deemed irregular by the internal commission created to assess nonconformities in the words contracts of Presidente Getúlio Vargas Refinery - REPAR (event 3, comp141 and comp142, pages 30-34 of the report).

665. Defendant Agenor Franklin Magalhães Medeiros signed the contract representing Construtora OAS, in his capacity of Officer.

666. There were thirteen additives to the contract as well, in the period from June 6, 2008 to January 23, 2012, which increased its value in BRL 517,421,286.84, according to the contracts and additives demonstrative chart submitted by Petrobrás and to documents at event 3, comp147 to comp156.

667. Regarding the works at Nordeste Abreu e Lima Refinery - RNEST, the denunciation refers to two contractings of OAS jointly with Odebrecht in Consortium RNEST/CONEST by Petrobrás, one to implement the Diesel Hydrotreatment Units, Naphtha Hydrotreatment Units and Hydrogen Generation Units (UHDTs and UGH), and another one to implement the Atmospheric Distilling Units (UDAs).

668. It should be clarified that Consortium CONEST/RNEST is composed by OAS and by Odebrecht, each of them with fifty percent of the venture.

669. The documentation regarding that contracting was sent to this Court by Petrobrás and, for the extension, part of that is in electronic media filed in Court and made available to the parties (event 154).

670. Part of the documentation regarding that contracting was inserted directly into the case proceedings, additives, and a report from an internal assessment commission created within Petrobras (event 3, files comp115, comp123, comp158, comp160 to comp157, and event 153).

671. Summaries in tables made available by Petrobrás and by the Federal Audit court were attached to the case proceedings at event 3, comp143, and event 154, out2, out3 and out4.

672. The data can also be gathered from the Report of the Internal Assessment Commission organized within Petrobrás to assess nonconformities in the contracts of Nordeste Abreu e Lima Refinery - RNEST (event 3, comp115).

673. For the contract to implement the UHDTs and UGHs, the Petrobrás Cost and Deadline Estimate Management estimated the price at BRL 2,621,843,534.67, admitting a variation between the minimum of BRL 2,228,567,004.46 and the maximum of BRL 3,146,212,241.60.

674. It should be pointed out that the Petrobrás pattern is to admit contracting at a price not higher than 20% above its estimate, and not lower than 15% below it. Above 20% the price is deemed excessive, below 15% the bid is considered unenforceable.

675. Fifteen companies were invited, but just four bids were submitted. The lowest bid, from Consortium RNEST/CONEST, composed by OAS and by Odebrecht, was BRL 4,226,197,431.48. Then, in this sequence, the bids from Camargo Correa (BRL 4,451,388,145.30), Mendes Júnior (BRL 4,583,856,912.18), and Consortium Techint/AG (BRL 4,764,094,707.65).

675. All submitted bids were higher than the maximum value acceptable by Petrobras, which motivated a new bidding.

676. In the second bidding (REBID) the same fifteen companies were invited. The price estimate was revised to BRL 2.653 billion, admitting a variation between a minimum of BRL 2.255 billion and a maximum of BRL 3.183 billion.

677. Again, four bids were submitted. The lowest bid, from Consortium RNEST/CONEST, composed by OAS and by Odebrecht, was BRL 3,260,394,026.95. Then, in this sequence, the bids from Mendes Júnior (BRL 3,658,112,809.23), Camargo Correa (BRL 3,786,234,817.85), and Consortium Techint/AG (BRL 4,018,104,070.23). In the ranking, there was an inversion of positions between Mendes and Camargo in relation to the previous bidding.

678. All submitted bids were higher than the maximum value acceptable by Petrobras again.

679. A new bidding round was held.

680. The price estimate was revised again to BRL 2,692,667,038.77 billion, admitting a

variation between a minimum of BRL 2,288,766,982.95 and a maximum of BRL 3,231,200,446.52.

681. At that time, three bids were submitted. The lowest bid, from Consortium RNEST/CONEST, composed by OAS and by Odebrecht, was BRL 3,209,798,726.57. Then, in this sequence, the bids from Mendes Júnior (BRL 3,583,016,751.53) and Camargo Correa (BRL 3,781,034,644.94). The Consortium Techint/AG did submit a bid that time. The only bid below the maximum limit was the winner.

682. Then there were negotiations between Petrobrás and Consortium RNEST/CONEST, which led to the bid reduction to an amount a little below the maximum limit, and therefore to the contract entry into on December 10, 2009 at BRL 3,190,646,501.15, under number 0800.0055148.09.2.

683. The contract final value was close to the maximum price acceptable by Petrobras, which, as seen, is 20% above the initial estimate (BRL 2,692,667,038.77 + 20% = BRL 3,231,200,446.52), specifically about 18% above the estimate.

684. Defendant Agenor Franklin Magalhães Medeiros signed the contract representing Construtora OAS, in his capacity of Officer.

685. For the contract to implement the UHDTs and UGHs, on its turn, the Petrobrás Cost and Deadline Estimate Management estimated the contracting costs at around BRL 1,118,702,220.06, admitting a variation between the minimum of BRL 950,896,667.05 and the maximum of BRL 1,342,442,664.07.

686. It should be pointed out that the Petrobrás pattern is to admit contracting at a price not higher than 20% above its estimate, and not lower than 15% below it. Above 20% the price is deemed excessive, below 15% the bid is considered unenforceable.

687. Fifteen companies were invited, but just three bids were submitted. The lowest bid, from Consortium RNEST/CONEST, composed by OAS and by Odebrecht, was BRL 1,899,536,167.04. Then, in this sequence, the bids from Consortium CONEST, composed by UTC and Engevix (BRL 2,066,047,281.00), and of Consortium UDA/RNEST, composed by Queiroz Galvão and IESA (BRL 2,148,085,960.34).

688. All submitted bids were higher than the maximum value acceptable by Petrobras, which motivated a new bidding.

689. The Petrobrás Cost and Deadline Estimate Management revised the contracting costs estimate, increasing it to BRL 1.297.508.070,80, admitting a variation between the minimum of BRL 1,102,881,860.18 and the maximum of BRL 1,557,009,684.96.

690. In the second bidding (REBID) the same fifteen companies were invited.

691. Again, three bids were submitted.

692. The lowest bid, from Consortium RNEST/CONEST, composed by OAS and by Odebrecht, was BRL 1,505,789,122.90. Then, in this sequence, the bids from Consortium UDA/RNEST, composed by Queiroz Galvão and IESA (BRL 1,166,941,515.64) and from Consortium CONEST, composed by UTC and Engevix (BRL 1,781,960,954.00). In the ranking, there was an inversion of positions between the second and third places in relation to the

previous bidding.

693. All submitted bids, except the winner, were higher than the maximum value acceptable by Petrobras.

694. Even so, there were negotiations between Petrobrás and Consortium RNEST/CONEST, which led to the bid reduction to BRL 1,485,103,583.21 and to the contract entry into on December 10, 2009, under number 8500.0000057.09.2.

695. The contract final value was close to the maximum price acceptable by Petrobras, which, as seen, is 20% above the initial estimate (BRL 1,297,508,070.67 + 20% = BRL 1,557,009,684.96), specifically about 14% above the estimate.

696. Defendant Agenor Franklin Magalhães Medeiros signed the contract representing Construtora OAS, in his capacity of Officer.

697. There was also a contract additive on December 28, 2011, which increased its value in BRL 8,032,340.38, according to the contracts and additives demonstrative chart submitted by Petrobrás.

698. Although the cartel and bid rigging are not specifically subject to the present case, the existence of significant evidence that the three OAS contracts with REPAR and RNEST were obtained through them has to be acknowledged.

699. Initially, there is indirect evidence in the bidding and contracting process itself.

700. Several companies were summoned, on all three biddings few proposals were presented, only four in the bidding of UDHT and UGH on RNEST, three on the bidding of UDAs on RNEST and two on REPAR.

701. All presented proposals by the competitors on the three biddings had prices over the limit acceptable by Petrobrás (20% over our estimate) and, for that, weren't competitive.

702. The winning proposals and the final value of the contract, in turn, were very close from the maximum value acceptable by Petrobrás for the contract. On RNEST, on the bidding of UHDT and UGH, 18% over estimate. On RNEST, on the bidding of UDAs, 14% over estimate. On REPAR, 23% over estimate, in this case, even over the maximum limit.

703. On the RNEST bidding there are additional indirect proof.

704. On the first round of bids, for UHDT, UGH and of UDAs, all proposals were over the limit acceptable by Petrobrás, which led to a new competition.

705. Petrobrás, instead of taking the obvious measures and invite other companies for the bidding, renewed the invitation for the same companies that had participated on the last bidding.

706. The lack of inclusion of new companies in the renewal of the bidding, in addition to being obviously detrimental to Petrobrás, also violated the provisions of item 5.6.2 of Petrobras' Simplified Bidding Regulation, which was approved by Decree No. 2,745/1998 ("for each new invitation, made for an identical or similar object, the call shall be extended to at least one other firm, among those registered and classified in the relevant branch"). The violation of this established regulation was the object of an appointment by the internal assessment

committee of Petrobrás (notes on the committee on event 3, comp 115, item 6.5.)

707. As a result of the renewal of the bidding with the same invitations, during the second bidding, only the same companies presented new proposals e again the winning one was the same, beside maintenance, except for specific modifications, the same order of classification.

708. This repetitive pattern of results on biddings was verified in other Petrobrás' biddings in the construction of RNEST, as shows on the report presented by the assessment committee established by Petrobrás (event 3, com 115.)

709. Of course the repetition on the result can be a coincidence but is unlikely that this repetition happened only for coincidence in at least two of the biddings, one with three rounds and the other with two rounds, indicating that the competitions were being controlled by settlements done prior the biddings.

710. These elements collaborate with the declarations made by the defendant José Adelmário Pinheiro Filho and Agenor Franklin Magalhães, executives from the OAS Group, that confirmed the existence of a group of contractors and a fraudulent bid adjustment.

711. They also confirmed that there was the payment of an improper advantage regarding corruption settlements on all three contracts.

712. The payment of the improper advantage to the Supply Area of Petrobrás, having among its specific beneficiaries the Director Paulo Roberto Costa was already recognized in the rendered sentence on the criminal action 5083376-05.20144/4/7000 (copy of the sentence on event 847). As written therein:

*"356. As pointed out on items 224-226, above mentioned, the RNEST contract for the implementation of UHDT and UGH had its price at BRL 3,190,646,501.15 with the add value on 01/12/2012 of BRL 38,562,031.42, totaling BRL 3,229,208,532.57. The bribe would be around BRL 32,292,085.00. However, the MPF, considering that OAS had 50% of participation on the RNEST/CONEST Consortium, calculated the bribe of its responsibility for this contract in BRL 16,146,042.00.*

*357. As pointed out on items 236-238, above mentioned, the RNEST contract for the implementation of UDAs had its price at BRL 1,485,103,583.21 with the add value on 12/28/2011 of BRL 8,032,340.38, totaling BRL 1,493,135,923.59. The bribe would be around BRL 14,931,359.00. However, the MPF, considering that OAS had 50% of participation on the RNEST/CONEST Consortium, calculated the bribe of its responsibility for this contract in BRL 7,465,679.50.*

*358. As pointed out on items 247-249, above mentioned, the REPAR contract had its price at BRL 1,821,012,130.93 with the add value between 06/2008 to 01/2012 that added the value of BRL 517,421,286.84, totaling BRL 2,338,433,417.77. The bribe would be around BRL 23,384,334.17. However, the MPF, considering that OAS had 24% of participation on the CONPAR Consortium, calculated the bribe of its responsibility for this contract in BRL 5,612,240.00.*

*359. The total bribe payment for the three constructions by OAS to the Supply Director's Board of Petrobrás, commanded by Paulo Roberto Costa, was, therefore, of BRL 29,223,961.00."*

713. There wasn't just a sentence recognizing the fact, but also it was fully confirmed, in this aspect, on the trial of appeal by the 3rd Panel of the Federal Regional Court of the 4th Region, having as a Reporter the honorable Federal Appellate Judge João Pedro Gebran Neto. The syllabus transcripts as follows:

*"CRIMINAL CRIMINAL PROCEEDING. 'LAVA JATO OPERATION'. COMPETENCE OF THE 13TH FEDERAL COURT OF CURITIBA. ALLEGATION OF PARTIALITY OF THE JUDGMENT TO QUO. TELEMATIC INTERCEPTIONS. VIOLATION OF THE MUTUAL TERM OF ASSISTANCE IN CRIMINAL MATTER BETWEEN BRAZIL AND CANADA. NOT EXISTING. INDEPENDENT OF EVIDENCE. JUSTIFY. DENIAL OF RIGHT TO BE HEARD. NO GRANTING. COLLABORATION AGREEMENT. OBJECTION FOR DEFENDANT. NO LEGITMENT. REPORT BY CRIMES PREVIOUS FROM THE MONEY LAUNDRY. NO NEED. USE OF THE PRESS PRINCIPLES OF WIDE DEFENSE AND CONTRADICTORY. NO VIOLATION. DISTANT PRELIMINARIES. FUMBLE OF REPORT. PARTIALLY AKNOWLEDGE. LISPENDENCE. AWAY. COLLABORATIVE DEFENDANT. ACTION SEQUENCE. MERITS. CRIMINAL ORGANIZATION. ARTICLE 2ND OF LAW NO. 12.850/2013. MONEY LAUNDERING. ACTIVE AND PASSIVE CORRUPTION. CONFIGURATION. DOSIMETRY OF PENALTIES. DAMAGE REPAIR. MINIMUM AMOUNT. APPLICABILITY. REGIME PROGRESSION. CONDITION. IMMEDIATE EXECUTION OF PENALTIES.*

- 1. The jurisdiction for the prosecution and judgment of the proceedings related to 'Lava Jato Operation' before the court of origin is the 13th Federal Court of Curitiba/PR, specialized in financial crimes and money laundering.*
- 2. The Supreme Federal Court, in judging an incident relating to the 'Lava Jato Operation', determined the dismemberment of those investigated who have a privileged jurisdiction regarding to those who do not have it. Absent in the passive pole of this criminal action, authorities with privileged jurisdiction, do not prosper the defensive claim of incompetence of the original court.*
- 3. The wide press coverage of the so-called 'Lava Jato Operation' investigation, as well as the public manifestation of opinion, for or against, for which the magistrate did not contribute, does not impair the judge's impartiality.*
- 4. Eventual generic manifestation of the magistrate in juridical texts of academic nature regarding crimes of corruption, do not lead to his suspicion to judge the processes related to the Lava Jato Operation.*
- 5. The magistrate is not merely a spectator of the will of the parts, and is fit for him not only question the witnesses about the points that weren't clarified, but also to reject the questions that may induce the answer, have no relation to the cause or import in the repetition of another already answered, as provided for in article 212 of the Code of Procedure.*
- 6. The fact that the company that stores the messages exchanged among Brazilian, on national grounds, is based on Canadian soil does not modify the legal context in which the request for data was given, especially when the supplier company has a subsidiary in Brazil. In this line, international legal cooperation would only be necessary in the event of interception of people residing abroad, which is not the case, and there is no illegality in the evidence resulting from telematic communication.*
- 7. The judge is the addressee of the evidence and may refuse to carry out those that are*

*irrelevant, impertinent or deferred, as provided for in article 400, paragraph 1, of the Penal Code, and no duly substantiated rejection of the requests for performance of accounting expertise in the works and BlackBerry employee oitiva.*

*8. The gathering of the collaborators' statements was made as soon as possible and in enough time for their analysis by the defenses.*

*9. The co-defendants, even if expressly summoned by the collaborator, do not have standing to plead the declaration of invalidity regarding the collaboration agreement, which is a negotiating legal act of a procedural and personal nature.*

*10. The process and judgment of the crimes of money laundering are independent from the process and judgment of the previous criminal infractions, even if committed in another country, and the decision under the unit and process and judgment for the crimes foreseen in this law are of the judge. Hypothesis in which the ministerial body failed to impute in the same complaint the cartel crimes and fraud to the bidding with the objective of facilitating the process of the initial action, that involves prisoners' defendants, not mentioning in defense restriction.*

*11. The use of the media by the Federal Prosecution Service for clarifying the 'Lava Jato Operation' do not violate the principles of wide defense and contradictory, especially considering the extraordinary dimension that the case received and the freedom of action guaranteed by the Federal Constitution to the press, as well as for not demanding from the ministerial body the impartiality of the judge.*

*12. The report, under pain of ineptitude, should clarify the criminal fact that is imputed to the defendant, with all its circumstances, that is, delimiting all the indispensable elements to the perfect individualization. Hypothesis in which the report, when describing the contracts made and the conduct practiced by each of the defendant in the alleged money laundering offenses, makes no allusion to the participation of one of the appellants. Ineptitude of the report acknowledged in point.*

*13. Absence of lispendens, since although the system used is similar, the facts related to the crime of money laundering, object of this act, are different from those dealt with in the referred criminal action. Sentenced amended to convict the defendant for such an offense.*

*14. The suspension of the criminal action for collaborating defendants, when the time requirement of the unified sanction (provided for in clause 5th of the agreement) has not yet been reached, with final judgments granted to both parties, pursuant to the Question of Order appreciated by this Class.*

*15. The presumption of innocence, the cardinal principle in the criminal process, is both a rule of proof and a shield against premature punishment. As a rule of proof, the best formulation is the Anglo-Saxon standard - criminal liability is to be proven above any reasonable doubt - provided for in art. 66, item 3, of the Rome Statute of the International*

*Criminal Court.*, As precedent of the STF, in AP 521, Rel. Min. Rosa Weber, DJe 02/05/2015.

16. It was demonstrated that some of the agents worked in a structured association, with sophistication in the conduct and some degree of subordination among those involved, with the aim of obtaining an economic advantage through the practice of crimes, is to be preserved the condemnation for the crime of pertinence to the criminal organization.

17. Hypothesis in which, although the specific facts relating to the offenses of corruption and money laundering in the present case were practiced prior to Law No. 12.850/2013, the group's activities persisted, and the criminal organization remained active.

18. Remaining reasonable doubt about the involvement of one of the agents in the criminal organization and in the acts related to money laundering, it is necessary to reform the sentence to acquit him based on article 386, VII, of the Penal Code.

19. The laundering of assets is an autonomous crime in relation to the antecedent crime (it is not merely ancillary to previous crimes), since it has a typical independent structure (primary and secondary precept), specific penalty, content of own guilt and does not constitute a form of participation post-delictum.

20. The deposits regarding the money laundering justified by contracts and ideologically false invoices occurred in a period prior to the suppression of the list of crimes antecedent to article 1 of Law No. 9.613/98, which did not provide for cartel offenses. On the other hand, there is enough evidence of the practice of the previous offense of fraud to the competitive nature of the bidding (Article 90 of Law No. 8.666/93) that falls under item V of the type (against Public Administration).

21. Keeping the conviction of the agents for the practice of crimes of active and passive corruption, since the demonstrated payment of undue advantage to Petrobrás' Officer so that, due to the function exercised, would made easy the activities of the criminal group, especially to ensure effectiveness of existing adjustments between contractors.

22. Even if there was a prior agreement between the contractors, there is a new act of autonomous and independent corruption for each contract entered, with the recognition of the material competition.

23. Preserved absolute in relation to the agent who, although proven to be involved with the criminal organization, shows no evidence to prove, beyond reasonable doubt, his or her knowledge of the specific purpose of enabling the transfer of bribes to the director of the state-owned.

24. The Brazilian legislation adopted the three-phase criteria for establishing the penalty, according to the provisions of art. 68 of the Penal Code. The basic penalty attracts the examination of the culpability of the agent (decomposed in article 59 of the Penal Code in

*the circumstances of the crime) and in prevention criteria. There is, however, no mathematical formula or objective criteria for this, since the dosimetry of the penalty is subject to a certain judicial discretion. The Penal Code does not establish rigid mathematical schemes or absolute objective rules for the establishment of the sentence (HC 107.409/PE, 1st Class of STF, Rel. Min. Rosa Weber, un., j. 10.4.2012, DJe-091, 09.5.2012). It is in the subjective judgment of reprobation that lies the censorship that falls on conduct.*

*25. Reformed the sentence to consider as negative the guilt on the part of the defendant.*

*26. The application of the cause of increase provided for in article 1, §4, of Law No. 9.613/98 is not justified when the agent is already responsible for the crime of pertinence to the criminal organization, and double punishment is not applicable.*

*27. The application of the aggravating factor of paragraph 3 of article 2 of Law no. 12.850/2013 was ruled out, since the criminal organization involved several contractors and their leaders, as well as political agents, and there was no evidence to indicate that the defendants were leading them.*

*28. It is possible to set the minimum value for damages, since they were not exclusively the result of fraud in the bidding processes, but also in the practice of corruption and money laundering.*

*29. Both classes of the Superior Court of Justice have settled the understanding that Law 11.719/2008 has a procedural legal nature regarding the establishment of a 'minimum value for compensation for damages caused by the infraction' in the conviction. Consequently, the normative innovation brought by section IV of article 387 of the Penal Code follows the general rule *tempus regit actum*, that is, it has immediate applicability, affecting all ongoing criminal proceedings, regardless of whether the crime occurred before Law 11.719/2008 entered into force. (TRF4, EINUL n° 0040329-38.2006.404.7100, 4th Section, Des. Federal Luiz Fernando Wowk Penteadó, unanimously, D.E. 01/10/2013, published 01/11/2013).*

*30. Sufficiently demonstrated that the amount paid as active corruption was included as part of the costs of the works and thus supported by Petrobras, it is appropriate to establish compensation for damages as a condition for the progression of the regime, pursuant to Article 33, §4 of the Penal Code.*

*31. It is not possible to accumulate the determination of the minimum value to repair the damage with the decree of loss of the proceeds of crime.*

*32. Even if the law deals with a minimum value, the recompositing of damages caused to the victim must be composed not only of monetary restatement, but also of the incidence of interest. Provision of appeal of the prosecution assistant.*

33. *In compliance with the decision of the Supreme Court of Brazil in Habeas Corpus no. 126.292/SP, as soon as the deadlines have elapsed for lodging appeals with a suspensory effect, or if they have been judged, it must be officially sent to the origin to begin the execution of the judgment, or of the terms of agreement of collaboration, according to the specific case of each convict. (ACR 5083376-05.2014.4.04.7000 - Rel. Des. Federal João Pedro Gebran Neto - 8th Class of TRF4 - by majority - j. 11/23/20060."*

714. It should be noted that the divergence between the distinguished judges relates to aspects of the application of the sentence and that they were then remedied in the case of infringing liens considered by the same Court of Appeal (Infringement and Invalidation Embargoes No. 5083376-05.2014.4.04.7000 - Rel. to the judgment Des. Federal João Pedro Gebran Neto - 4th Section of TRF4 - by majority - j. 06/01/2017) there was no disagreement regarding the recognition of corruption offenses, specifically that OAS officials paid undue advantage to Petrobrás agents, specifically in the case of the Petrobrás Supply Director's Board.

715. In that event, it was pointed out that the undue advantage agreed with the Director Paulo Roberto Costa was transferred by the OAS Group through the operator Alberto Youssef through deposits in accounts of front companies that were used by him, specifically MO Consultoria, the Contractor Rigidez (items 338-350 of the sentence).

716. These same contracts, in addition to a copy of the bank statements, evidence of corruption and laundering involving the part of the Supply Director's Board, were gathered in these proceedings (event 3, comp 127, comp128 and comp129).

717. Regarding the payments of undue advantage in the contracts for CONPAR and RNEST/CONEST consortium in the Presidente Getúlio Vargas Refinery (REPAR) and Refinery of the Nordeste Abreu e Lima (RNEST) to the Petrobrás Services and Engineering Director's Board, there was no report against leaders of OAS.

718. There was, however, a ruling regarding the payment of undue advantages in these contracts by directors of the consortium Odebrecht in criminal action 5036528-23.2015.4.04.7000.

719. They were sentenced, by judgment of first instance, with a copy in event 3, comp131, for crimes of active corruption, money laundering and criminal association, the leaders of the Odebrecht Group Alexandrino de Salles Ramos de Alencar, Cesar Ramos Rocha, Márcio Faria da Silva, Rogério Santos de Araújo and Marcelo Bahia Odebrecht and, for passive corruption and money laundering, Paulo Roberto Costa, Pedro José Barusco Filho, Renato de Souza Duque and Alberto Youssef.

720. Under the terms of the sentence, the payment of a bribe of BRL 108,809,565.00 and USD 35 million by the Odebrecht Group to the Supply Director's Board and the Engineering and Services Director's Board of Petrobrás, involving several contracts between Odebrecht and Petrobrás, was proven.

721. As is shown, especially in items 113 to 174 of the judgment, it was possible to trace documentary part of the undue advantage to Petrobrás agents by the Odebrecht Group.

722. As an effect, the Odebrecht Group paid an undue advantage between 06/2007 and 08/2011 of USD 14,386,890.04 plus 1,925,100.00 Swiss francs to Petrobrás agents, specifically USD 9,495,645.70 plus 1,925,100 Swiss francs to Paulo Roberto Costa, USD 2,709,875.87 to Renato de Souza Duque and USD 2,181,369.34 to Pedro José Barusco Filho. To do so, he used secret accounts in the name of off-shores and controlled directly or indirectly in several countries abroad. From these accounts, transfers of millions of dollars were made to secret accounts in the name of off-shores controlled by the Directors of Petrobrás Renato de Souza Duque and Paulo Roberto Costa and by the manager Pedro José Barusco Filho.

723. As it can be seen in the judgment (items 408-564), between the contracts that gave rise to the payments of bribes include Petrobras contracts with CONPAR and RNEST/CONEST consortium in the Presidente Getúlio Vargas refinery (REPAR) and Refinery of Nordeste Abreu e Lima (RNEST).

724. Although it was Odebrecht's payments, it was the joint venture with OAS in both projects.

725. In addition to the material evidence of the payment of undue advantages in Petrobras' contracts with the CONPAR and RNEST/CONEST Consortium in the Presidente Getúlio Vargas Refinery (REPAR) and the Refinery of Nordeste Abreu e Lima (RNEST), an oral test was produced in these records.

726. As an effect, several witnesses testified in Court that confirmed the existence of the criminal scheme that victimized Petrobras and involved the fraudulent adjustments of bids and the payment of undue advantages to Petrobras agents, political agents and political parties.

727. Two of them, Delcídio do Amaral Gomez and Pedro da Silva Correa de Oliveira Andrade Neto, made more direct reference to the role of former President Luis Inacio Lula da Silva in the criminal scheme that victimized Petrobrás.

728. It must be synthesized what was declared by them.

729. Delcídio do Amaral Gomez, Republic Senator at the time of the facts, signed a collaboration agreement that was approved by the Federal Supreme Court. In Judgment (event 388), he stated, in summary, that there was a distribution of positions by the Federal Government within the scope of the Federal Public Administration directly or indirectly. This distribution covered Petrobras. According to the witness, those appointed to positions at Petrobrás had an obligation to collect a bribe for political parties, which was known, though not in detail, by then-President Luiz Inácio Lula da Silva. Despite the statements made by the former senator, he also stated that he did not deal directly with former President Luiz Inacio Lula da Silva because "he did not have this close relationship with the president to have this kind of dialog with him."

730. Augusto Ribeiro de Mendonça Neto, manager of the companies that made up the Setal Group at the time of the events, also testified in Court (event 388). He also signed a collaboration agreement and was approved by this Court. He was convicted of crimes of corruption and laundering in criminal action 5012331-04.2015.4.04.7000, for paying undue advantage and dissimulation and concealment of proceeds of the crime, in contracts with Petrobras in the Interpar and CMMS Consortium involving constructions at the Presidente Getúlio Vargas Refinery (REPAR) and the Paulínia Refinery (REPLAN), with a copy of the sentence in event 847.

731. In Court, he confirmed that there was a group of contractors, of which Setal and OAS were part of, that meet periodically and fraudulently adjusted among themselves who would have the preference in each Petrobras bid. The companies deprived of preference promised not to participate in the bids or to submit non-competitive proposals.

732. He also confirmed the payment of an undue advantage in Petrobrás contracts to Petrobras agents, specifically to the Director Renato de Souza Duque and to the manager Pedro José Barusco Filho, of the Services and Engineering Department, and to the Director Paulo Roberto Costa, of the Supply Area. He declared that part of the resources agreed with the Director Renato de Souza Duque were assigned to the Workers Party - PT ("these were values that the Duke, instead of paying to him, I paid the two Workers' Party at his request").

733. However, the leader of Setal Group denied having knowledge of the request or payment of undue advantage to the then-President Luiz Inácio Lula da Silva.

734. Dalton dos Santos Avancini was President of the Contractor Camargo Correa at the time of the facts and also signed a collaboration agreement and that was approved by this Court. He was convicted of crimes of corruption and laundering in criminal action 5083258-

29.2014.4.04.7000, for paying undue advantage and dissimulation and concealment of proceeds of the crime, in contracts with Petrobras for constructions at the Presidente Getúlio Vargas Refinery (REPAR) and the Nordeste Abreu e Lima Refinery (RENEST), with a copy of the sentence in event 847.

735. In testimony on Court (event 388), he confirmed that there was a group of contractors, of which Camargo Correa and OAS were part of, that meet periodically and fraudulently adjusted among themselves who would have the preference in each Petrobras bid. The companies deprived of preference promised not to participate in the bids or to submit non-competitive proposals.

736. He also confirmed the payment of an undue advantage in Petrobrás contracts to Petrobras agents, specifically to the Director Renato de Souza Duque and to the manager Pedro José Barusco Filho, of the Services and Engineering Department, and to the Director Paulo Roberto Costa, of the Supply Area. The amount would be 1% on the value of the contracts for each Area. He claimed that some of the values were said to be intended for political associations that supported the directors, in this case, the Workers' Party (PT) and the Progressive Party (PP), respectively, but that he had no direct knowledge of this fact ("he had no specific person, your honor, as we had agreed we spoke through the market itself, people from the market, that existed, this value was distributed, even by ours, by the people that we used as agents, that is, Youssef said that it was in the name of PP that he talked and Julio Camargo that the values went to the Workers' Party, which was from the service director's board').

737. Eduardo Hermelino Leite, Director of Oil and Gas of Camargo Correa, at the time of the events, and in a similar situation to Dalton dos Santos Avancini, with an agreement of collaboration and criminal conviction in the criminal action 5083258-29.2014.4.04.7000, confirmed, in summary, the same facts that he, Dalton dos Santos Avancini, declared in court, that is, the fraudulent bidding and payment of undue advantages in Petrobrás contracts to Petrobrás agents and their partial allocation to political parties (event 388).

738. However, no manager from Camargo Correa affirmed having knowledge of the request or payment of undue advantage to the then-President Luiz Inácio Lula da Silva.

739. Pedro da Silva Correa de Oliveira Andrade Neto was heard in court as witness (event 394). He was convicted of corruption and money laundering in criminal action 5023135-31.2015.4.04.7000 (copy of sentence in event 847).

740. He served as a federal deputy until his annulment on 03/15/2006 as a result of investigations by the Joint Parliamentary Commission of Postal Inquiry. He was one of the leaders of Progressive Party (PP). In Court he stated that, even without a collaboration agreement, he intended to tell the truth and collaborate with Justice.

741. In his testimony, he described the appointment process of Paulo Roberto Costa to the Petrobras Supply Director's Board. He declared that he was appointed by the Progressive Party (PP) to the position and that there was much resistance from the Petrobrás Board of Directors, which would have been defeated only through the personal intervention of the then-President Luiz Inácio Lula da Silva and after the Progressive Party, with allies, have agreed to unblock the ruling on Congress. In passing, it should be noted that the Federal Prosecution Service has gathered several newspaper articles on the obstruction of the voting list of the Congress at the time of the appointment of Paulo Roberto Costa (event 724, attachment 12 and attachment 13).

742. He further admitted that the object of the Progressive Party with the nomination was to raise funds for him. He confirmed the allocation of resources among Petrobras agents and political agents of the Progressive Party. He stated that at one point in the 2006 campaign, he would have heard from the then-President of the Republic that Paulo Roberto Costa would be working for the party's financial needs.

743. As written therein:

*"Pedro Correa:- Ok then. That's ok, it's alright. So we made that understanding and then began to ask for the positions to the minister José Dirceu, which one was a consensus, that is, if we could, unlike what there was in another government, police stations, ministry in the states, municipalities, managements, super intendencies , were generally occupied by the CUT, the CUT had an interest and was occupying, all those members of PT who were many years outside the government started occupying these positions that are usually indicated by parliamentarians. And then there were the national positions and we asked the Petrobras supply board of directors, the supply board of directors, we asked for ministries, asked the national secretary for strategic matters of the ministry of health, asked for TBG, requested a board of directors in (inaudible) the board of Anvisa, a pension fund, evidently that it was always in our interest to have people in government to help the party maintain its political power, and then we came to the Petrobras supply board of directors; initially Dr. Paulo Roberto, whom we had met at the airport, me and Janene had met at the Santos Dumont airport in Rio de Janeiro, we indicated him to the supply board of directors, but there was a commitment from the minister Antonio Palocci with the transitional government of Fernando Henrique Cardoso to keep Dr. Rogério Manso on the Petrobras supply board of directors for at least one year; then he was agreed that he would give a TBG to Paulo Roberto and we would talk about the supply board of directors. The supply board of directors, Minister José Dirceu tried to get us to sponsor it, that Dr. Rogério Manso became part of our party, we had some conversations with Dr. Rogério Manso, but he already had a commitment to José Eduardo Dutra, it was said that he had a commitment to him, so we could not make an understanding with him and we asked him to leave, and we got to name Paulo Roberto Costa. José Dirceu, as I said, Minister José Dirceu solved the issues that had consensus in the indications of the Allied parties, the dissensions only who solved was President Lula, so we arrived at the Petrobras board, we had already agreed with José Dirceu that the indication would be ours, that we were going to indicate Dr. Paulo Roberto Costa, and he was then clear in saying that he had exhausted all the power he had, that he had no way to name Paulo Roberto Costa, and that was set for that Lula, President Lula, came to a conclusion on this. Then this thing was taking 6 months, we made an obstruction in the congress, us from PP, the PTB and the PL that today is the PR, we made an obstruction because also the parties were being cooked, as we say, misled, the appointments were not being made, and we got to obstruct the ruling of the Congress of Deputies with 17 provisional measures, for 3 months the congress did not work until the situation of our indications was resolved.*

*Federal Judge: - Just before you proceed, sorry, just a clarification, what period was that, those 3 months?*

*Pedro Correa: - This in 2004.*

*Federal Judge: - In 2004?*

*Pedro Correa: - In early 2004, late 2003, early 2004, Paulo Roberto was appointed in May 2004. Then José Dirceu said that he had no way of solving this and that it had to be a conversation with President Lula in his office, and that the presence of Petrobras's president, Dr. José Eduardo Dutra, would be necessary, and then there was a dialog , which has been broadcast several times, in which President Lula asked José Eduardo Dutra, who was the president of Petrobras, why Paulo Roberto was not being named, had not been nominated, and he said that it was not he who named , it was the board of directors, so Lula asked 'And the board of directors, why are they not naming him?' he said, 'Because the board is independent,' he said, 'Who appointed this council?', he said, 'Most of this council was appointed by you, mister president,' he called 'you', even because he did not have this liturgy of the position. 'You, Lula, that appointed them', he said 'Can I fired them?', 'Yes', 'So tell them that if they don't name Paulo Roberto Costa, if they don't to this, I'll dismiss the council, 'and then Jose Eduardo Dutra, who had a connection with Rogério Manso, said 'Look, Lula, it's not in the tradition of Petrobras to be changing director', and then he said Look, Dutra, if it was tradition, even you would not be president of Petrobras, nor I the president of Brazil, so I'll give a deadline of one week, if he is not named we will change the council and we will appoint Dr. Paulo Roberto ', and*

*he was named, 15 days later Paulo Roberto was the director of supply.*

*Federal Prosecution Office: - At this meeting, Dr. Pedro, with President Lula, were present you...*

*Pedro Correa: - Minister José Dirceu, Minister Aldo Rebelo, Dr. José Eduardo Dutra, myself, Congressman José Janene and Congressman Pedro Henry, and President Lula.*

*Federal Prosecution Office: - Ok. In fact, did the appointment of Paulo Roberto Costa take place?*

*Pedro Correa: - The appointment took place 15 days later, we left there, we cleared the agenda and things started to happen, and this is very clear, it's just taking the period of ... This has a record, records of that conversation in the office of the president of the republic, and also records the obstructions we did for 3 months in the congress, when 17 provisional measures obstructed the agenda, nothing was voted, nothing was done in the congress while the agenda was obstructed.*

*Federal Prosecution Office: - Ok. What was the pretense, what was the purpose of the party with the appointment of Paulo Roberto Costa in the supply board of director?*

*Pedro Correa: - The purpose of the party was to favor businessmen to collect resources, so that we could keep the party. Today the party fund is already with a much larger collection, but at that time the party fund was small, and the party fund did not cover the party expenses, expenses with television program, expenses ... The meetings of the parliamentarians, the party meetings, conventions, then did not cover, so we had to look for entrepreneurs that were able to help us, and indeed a supply director with a budget that had, 30, 40 billion dollars, evidently that this would greatly facilitate the life of our party.*

*Federal Prosecution Office: - Are you aware that the other Petrobras board of directors, the services directorate and the international board of directors have been assigned to some other party?*

*Pedro Correa: - All had been destined yes, the services director of Dr. Renato Duque was assigned to PT, the international board ... Previously, we had participated, even in the Fernando Henrique government, in the appointment of former senator Delcídio do Amaral in the gas and oil directorate, it was the PMDB who indicated that, after Delcídio left the board, he was to be the secretary of PT's governor Zeca in Mato Grosso and became a senator from PT; then Renato Duque was an indication of PT, Nestor Cerveró had an indication of PMDB with PT, because he had Delcídio do Amaral plus Zeca, governor of PT, and a part of PMDB indicated Delcídio do Amaral, then all the directors of Petrobras had always ... The choice of José Eduardo Dutra had been a personal choice of President Lula, so all the boards always had the support of a political party, or several parties.*

*(...)*

*Federal Prosecution Office: - Doctor Pedro, in the 2006 elections, Paulo Roberto Costa was already supply director, was there a new claim of the party to have new positions in the government?*

*Pedro Correa: - Actually in 2005 the progressive party was hit hard, PT and the progressive party were hit hard by the "mensalão", so much so that I, Deputy Jose Janene and Pedro, we ended up as defendants and convicts, Janene was not condemned because he passed away before, but we lost the mandate, me and Pedro Henry, and were condemned in action 4 70. Although I am a witness who the credibility may be questioned, I want to say that I did politics all these years and I did not have an account abroad, I did not increase my equity, on the contrary, I decrease the equity and what I have in life was*

*inherited, but even so it does not matter I'm just making an addendum, and I apologize to you. But, what happened, then in 2005 we were weakened and Paulo Roberto Costa traveled, went to Asia, Korea, I do not know where he has been, and he came back and had a pneumonia that put him almost 30 days in the ICU, and he had a manager Alan Kardec, who wanted to take his place and started working in that direction, we went to President Lula, me, Janene and, to hold Paulo Roberto Costa, me, Janene and Pedro Henry, and even went to complain about the interference from the president of PMDB, because PMDB was taking advantage of our weakness, we were partners of the allied base, we were helping the government, facing the "mensalão" on behalf of the government, and if it was known that it was not slush funds, that they knew it was bribe money, but we went there and complained about the PMDB's invasion of our board, that's when the president said, 'Look, this board is a very large board, it's got a really big budget, and Paulinho ...' that he called it Paulo R the Paulo of Paulinho, 'And Paulinho has told me that you are very well cared for and that you cannot complain about what he is doing, you are well attended financially.' In 2006, in the election, Janene and I went to President Lula, because as he was a candidate for reelection, in every election whoever does politics, doctor, Dr. José Roberto Batocchio was a deputy twice, he knows what it is, Chamber of Deputies, was a member of the same committee, he knows that when the election arrives you seek the majority candidate to make the party expenses, and as the majority candidate was Lula, candidate for reelection in 2006, we went there for money, to cheer for a bigger cut and, of course, the party to grow politically and have more power, then Lula went on to say, 'You cannot complain because Paulinho has told me that you are very well supported financially and that will make a very chilled election, and will re-elect all your deputies'. So, we had this issue in 2006 and 2005, and there was then a larger PMDB entry, hence Paulo Roberto Costa has even diverted several resources, from this bribe, bribe resources, which were supposed to be ours, he diverted that to the PMDB.*

"

744. Paulo Roberto Costa, Supply Director of Petrobrás between 2004 and 2012, also signed a collaboration agreement and was approved by the Supreme Federal Court. He has already been convicted in several criminal proceedings before this court for corruption and money laundering crimes (copy of the sentences in the event 847). He testified in Judgment as witness (event 394).

745. In his testimony in Court, he confirmed the criminal scheme synthesized by the Judgment in items 266-274, above mentioned, with receipt of undue advantage in contracts of Petrobrás with large contractors and the apportionment of it between him and political agents of the Progressive Party. He also stated that he was aware that bribes were also paid to the Petrobrás Services and Engineering Directorate, this time directed towards the Workers' Party (PT).

746. The bribes were calculated in the percentages of 1% to 3% on the value of the contracts ("No, as I already mentioned, for PP was 1% for PT, sometimes 2%, 1%, depending on the value that was given in the bidding, sometimes the PP received less than 1%").

747. He confirmed that he had received an undue advantage from the Contractor OAS, including the contracts for the Presidente Getúlio Vargas Refinery (REPAR) and the Refinery of the Nordeste Abreu e Lima (RNEST), and that it would have dealt with this matter with the defendants Agenor Franklin Magalhães Medeiros and José Adelmário Pinheiro Filho:

*"Federal Prosecution Service: - Specifically in the case of the company OAS, do you remember which executives were responsible for negotiating bribes?"*

*Paulo Costa: I had some meetings there with Mr. Agenor and few meetings, I do not know if one or two, with Léo Pinheiro, but the greatest contact I had was with Mr. Agenor.*

*Federal Prosecution Service: - And with both there was the negotiation, bribe deals, being more precise, the term, the bribe subject was mentioned?"*

*Paulo Costa: - I remember meeting with Mr. Agenor, I remember a meeting, one or more meetings that we had there in São Paulo, I participated, who led the meeting was José Janene, so the direct treatment was done through him.*

(...)

*Federal Prosecution Service: - This lawsuit deals with some contracts, I'm going to ask you only if you remember if there was a bribe payment in these contracts, work of OAS and petrol portfolio of Repar.*

*Paulo Costa: - Which companies participated?*

*Federal Prosecution Service: - OAS and Odebrecht.*

*Paulo Costa: - These cartel companies always had.*

*Federal Prosecution Service: - Always had, but I go, just to detail, specifically in the cases denounced. Implantation of UHDT and UGH of the Abreu e Lima Refinery, Rnest/Conest consortium, formed by OAS and Odebrecht.*

*Paulo Costa: - Yes.*

*Federal Prosecution Service: - Work of UDA of Abreu e Lima Refinery, Rnest also, OAS.*

*Paulo Costa: - Yes.*

*Federal Prosecution Service: - Ok. "*

748. He admitted to having met then-President Luiz Inácio Lula da Silva and discussed, in meetings with him, Petrobras affairs:

*"Prosecution Assistant: Quickly, Your Honor, there are few questions. What was the witness's relationship with former President Lula?*

*Paulo Costa: - Well, President Lula was the biggest representative there, we had some meetings in Brasília always accompanied by the President of Petrobras or the entire board, when there was some specific project that he showed interest for state development and etc., I went there a few times in Brasília, initially with President José Eduardo Dutra, who already passed away, and then I also had some meetings with the participation of José Sergio Gabrielli along with President Lula, so they were matters of the corporation that he was interested in seeing in some states, for the development of states.*

*Prosecution Assistant: - There are some witnesses, and even the press says that President Lula called you Paulinho, what was your relationship with him, was it close, was not it, why did he have that affectionate nickname for you?*

*Paulo Costa: - I have never had intimacy with the president, President Lula, I do not recall it, I can say, affirm that there was no use of this term in relation to me directly, if he used it with third parties then I cannot say but I personally, first of all I never had any meetings with President Lula alone, as I said I always had meetings with the president of Petrobras or the board of Petrobras, and I had no intimacy with President Lula, but if he I called Paulinho in front of others I cannot tell you, I do not have that knowledge. "*

749. However, he denied having knowledge of requests or payments of undue advantage to the then President Luiz Inácio Lula da Silva.

750. Pedro José Barusco Filho, executive manager of the Petrobrás Services and Engineering Area between 2003 and 2011, also signed a collaboration agreement and was approved by this Court. He has already been convicted in several criminal proceedings before this court for corruption and money laundering crimes (copy of the sentences in the event 847). He testified in Judgment as witness (event 394).

751. In his testimony in court, he confirmed the criminal scheme synthesized by the Judgment in items 266-274, above mentioned, with receipt of undue advantage in Petrobrás contracts with large contractors and the distribution of it between him, the Director Renato de Souza Duque and political agents of the Worker' Party (PT) or for the party itself represented by João Vaccari Neto. He also stated that he was aware that bribes were also paid to the Petrobras Supply Directorate.

752. Bribes were calculated in the percentages of 1% to 2% on the value of the contracts:

*"Federal Prosecution Service: - And when the bribe was charged, what was the percentage that affected?"*

*Pedro Barusco: - Well, that's where it starts to be detailed, but, for example, because Petrobras has three areas of business, gas and energy, exploration and production, called EP, and the supply area, whose director was director Paulo Roberto Coast at the time, so when the services department worked on contracts for the supply area the bribe was usually or almost always 2%, as far as I knew, as far as I know it was 2%, 1% was sent to the director Paulo Roberto Costa, and he kept this 1% and decided how it was distributed, and another 1% came to the service area, and then who gave, let's say, who directed how should be divided was the director Duke, and normally the 1% that came to the service area was half the workers' party (PT) and half was for what we called "house", which was usually Doctor Duke and myself. When the contracts went to the area of other directors, such as gas and energy, EP and sometimes through the service area itself, this percentage of 2% was totally, let's say, managed by director Duke, there was 1% for PT and 1% for the "house". "*

753. He confirmed that he had received an undue advantage from the Contractor OAS, including contracts relating to the Presidente Getúlio Vargas Refinery (REPAR). He affirmed that there had been a bribe in the contracts of the Refinery of the Nordeste Abreu and Lima (RNEST), but that he left the company before receiving it. He stated that he dealt with the defendant Agenor Franklin Magalhães Medeiros about bribes and that he knew that João Vaccari Neto treated part of the party with José Adelmário Pinheiro Filho:

*"Federal Prosecution Service: - Specifically in the case of the company OAS, do you remember who were the executives who treated bribes?"*

*Pedro Barusco: Yes, now you have to separate a little, there were companies whose agent that dealt with, let's say, I also dealt with the party, and there were companies that the agent that dealt with me was different and who dealt with the party was another agent, OAS, I dealt with Mr. Agenor Medeiros, and I believe that, because I'm not sure, I did not know exactly how, that João Vaccari dealt with Mr. Léo Pinheiro directly.*

*Federal Prosecution Service: -But this 'I believe' of you is based on what?"*

*Pedro Barusco: - In conversations, in ...*

*Federal Prosecution Service: - Someone reported to you, what happened that you started to believe in this?"*

*Pedro Barusco: - No, because Vaccari was talking to the owners of the companies, he usually had an interlocutor a bit higher than mine.*

*Federal Prosecution Service: - Ok. Well, this report talks about three contracts, I would like to know if you have negotiated a bribe in these contracts, HDT - Repar portfolio, Compar consortium formed by OAS and Odebrecht, is one of...*

*Pedro Barusco: - I think it had an agreement, yes, this is the typical contract in which there was an agreement.*

*Federal Prosecution Service: - I'm asking another question here while I take the spreadsheet and show the worksheet with the three. UHDT and UGH from Rnest?*

*Pedro Barusco: - That one had an agreement, but I did not get it because when it started to be implemented I soon left Petrobras.*

*Federal Prosecution Service: -But there was a settlement?*

*Pedro Barusco: - There was.*

*Federal Prosecution Service: - Ok. UDA from Rnest.*

*Pedro Barusco: - There was also a settlement, UDA."*

754. Nestor Cunat Cerveró, Director of the International Area of Petrobrás from 2003 to 2008, also signed a collaboration agreement and was approved by the Supreme Federal Court. He has already been convicted in several criminal proceedings before this court for corruption and money laundering crimes in criminal action 5083838-59.2014.404.7000 (copy of the sentences in the event 847). He testified in Judgment as witness (event 395).

755. In his testimony in Court, he declared that he was appointed director by political indication of the then Governor Zeca of PT and by the influence of Senator Delcídio do Amaral Gomez. He confirmed that, as director, he had to raise funds in Petrobras contracts for political agents. He also confirmed that he received bribes for his own benefit. He affirmed that, by 2006, due to the weakening of the Workers' Party (PT) by the "Mensalão" scandal, he had to meet the needs of the Party of the Brazilian Democratic Movement - PMDB of the Senate. On that occasion, he was informed that the then President Luiz Inacio Lula da Silva was aware of and agreed with this amendment. He later lost his position because of the influence of PMDB of the Congress, because he has started to influence the area and could not meet the collection commitments that were requested. Nevertheless, he was appointed Director of BR Distribuidora. According to information that were then passed to him by José Eduardo Dutra, his resignation as Director of the International Area and his appointment as Director of BR Distribuidora would be known to the then President Luiz Inácio Lula da Silva. He received information from third parties that the appointment to BR Distribuidora would have occurred because the defendant would have been able in the past to resolve an electoral debt of the Workers' Party (PT) with the Schahin Group by hiring him to operate a drill ship. Already at BR Distribuidora, he continued to attend collection commitments for political groups, and mentioned Senator Fernando Color de Mello.

756. It should be noted that this episode involving the discharge of workers' party debt through the contracting by Petrobras of the Schahin Group was the subject of the ruling issued in criminal action 5061578-51.2015.4.04.7000 (copy of sentence in event 847).

757. The passage in which he details the alteration in 2006 of the party responsible for his political support and in which he states that he was informed that it was known to the then President of the Republic:

*"Federal Judge: - And you mentioned that as of 2006 you were informed then that you also had to attend to the interests of PMDB of the Congress, that's right?"*

*Nestor Cerveró: - From the Senate.*

*Federal Judge: - Of the senate, pardon, and who was the bearer of this information, you can repeat?"*

*Nestor Cerveró: - At the time Minister Silas Rondeau.*

*Federal Judge: - Any parliamentarians too?"*

*Nestor Cerveró: No, there the Minister Silas Rondeau took me, introduced me to whom I did not know personally, the Senate group that was in charge, which was basically Senator Renan and Deputy Jader Barbalho.*

*Federal Judge: - And you mentioned that when you answered here to the Federal Prosecution Service that they would have taken this information and it was not clear, taken this information to whom?"*

*Nestor Cerveró: - Would have taken it?"*

*Federal Judge: Yes, you mentioned that you were asked if the executive branch had knowledge of this, that you would have to comply with these commitments and you mentioned that you would have been told that they would have taken the information?"*

*Nestor Cerveró: - Ah yes, this group told me that President Lula knew they were, they were part of my support as well.*

*Federal Judge: - Was that what it was said to you?"*

*Nestor Cerveró: - It was said by these people, this group which whom I talked. And I was also told that Senator Delcídio had already talked to him about this division of sponsorship.*

*Federal Judge: And what made you secure, for example, that there was really this division of sponsorship?"*

*Nestor Cerveró: - There was nothing, it is more a question of word and of the political action, but there is no, that is to say, there is no firm commitment, there is no such guarantee.*

*Federal Judge: You later talked about this, for example, with Senator Delcídio to see if that was the case, if he was (inaudible) with the staff?"*

*Nestor Cerveró: - Yes, I did.*

*Federal Judge: - And he confirmed that was this. And did they mention the name of the former president?"*

*Nestor Cerveró: - They mentioned that it had already been communicated to the president that I was part of their sponsorship, enjoyed the sponsorship, the support of these...*

*Federal Judge: When you speak of sponsorship, do you speak in political support or do you speak in financial support as well?"*

*Nestor Cerveró: No, political support.*

*Federal Judge: - Political support?"*

*Nestor Cerveró: - Financial support I was the one that have to give."*

758. Transcript of the excerpt related to his removal from the International Area Board of Director:

*"Federal Prosecution Service: I would like you to tell Mr. Nestor how you left the international board, why did you leave the international board?"*

*Nestor Cerveró: - My departure came because there was a great deal of pressure, a group of parliamentarians from the House of Representative, as I said, at that time there was the PMDB, that time and continues, PMDB of the House and PMDB of the Senate, PMDB of the Senate was strongly weakened by the issue of Senator Renan Calheiros, issues with his daughter; he had to resign the mandate to the position of president of the Senate and PMDB of the House has already gained a very large power and coincided with the issue that was very throbbing at the time of the approval of the continuation of the CPMF, and a group of 50 parliamentarians, this I was even told by President Michel Temer; at the time I had talked to him, of PMDB led by the late Deputy Fernando Diniz of PMDB of Minas Gerais who decided to occupy the international board, even though I had the support of PT and PMDB of the Senate, these 50 deputies who were a very strong group posed as a sine qua non condition that they would only vote in favor of CPMF if the international board was occupied by a nominee of this group, then, because this is not like this, it's a whole negotiation, has the supports, I have been talking with a number of deputies, even of this group who told me clearly that for them it made no difference that it was anyone since they committed, even though, there was a demand that I could be nominated by this group as long as I pledged to the monthly payment of 700,000 dollars for this group, ensure the minimum, one floor; let's call it like that, and with that they would keep me, I mean, they would change, it would become supported also by PMDB of the House, I did not accept this kind of commitment, thanked for the support and such, but with that the pressure that they were going to vote against was growing, that they were going to vote against and the president although there was support from PMDB that even the senate who tried, but as it was weakened, went and gave in and the council, following instructions from the government, the government is a majority in the board, appointed my replacement on the international board in March 2008.*

*Federal Prosecution Service – Do you remember if there was any obstruction of agenda at this time?*

*Nestor Cerveró: "There was what, sorry?"*

*Federal Prosecution Service: - Obstruction of agenda at this time?*

*Nestor Cerveró: - Obstruction of agenda?*

*Federal Prosecution Service: Yes.*

*Nestor Cerveró: - No, no, I remember that there was a commitment of the PMDB of the House if this substitution were not made, they would vote against the CPMF, as the nomination was made, they voted in favor of the CPMF and then the Senate overturned the CPMF.*

*Federal Prosecution Service: - And then you went to the Distribuidora BR?*

*Nestor Cerveró: -The same day.*

*Federal Prosecution Service: - Right.*

*Nestor Cerveró: -The same day I was named.*

*Federal Prosecution Service: How was your appointment to Distribuidora BR?*

*Nestor Cerveró: - I was appointed in the morning, the Petrobras board of directors that is the same at that time, was the same, exactly the same members of the board of directors of the Distribuidora BR, so the board meeting took place in the morning at Petrobras and the same counselors in the afternoon held the BR council meeting, so in the morning I was replaced by Dr. Jorge Zelada on the international board and in the afternoon I was appointed chief financial officer of the Distribuidora BR by this council.*

*Federal Prosecution Service: - Also here in your; finally, you had some political sponsorship to have this indication of the Distribuidora BR?*

*Nestor Cerveró: - No, what happened was, I heard about that from the late president of BR, he had been President of Petrobras, José Eduardo Dutra, that in the morning I was informed by President Gabrielli that I would be being replaced, that there had been a*

meeting the day before, that meeting was a Monday, this board meeting, so Gabrielli told me that there had been a meeting in Brasilia on Sunday, I think it was Sunday, Saturday, weekend, when President Lula said "Oh no, this cannot happen. It needs to be replaced tomorrow, so Nestor will be replaced' and asked, well, this was told to me by president Dutra, late Dutra, why, why only I was told about this indication, nobody asked me, I mean, there was no invitation, there was no question whether I wanted to be or not, it was more or less a compensation for my leaving the international board and President Lula would have said, in José's report, sorry in President Dutra's, would have said 'Well, but what happens to Nestor?' and at that time the board of directors, financial directors of BR were without a its holder; that there had been the departure of the chief financial officer, had clashed with Grace Foster who was the president of Petrobras and had resigned from the position, then the position was empty for a few months, and Dutra reported, 'Look, the BR financial director is free' to what Lula would have said 'Well, if Nestor agrees, tomorrow the board will appoint Nestor as financial director from BR ', so that's why in the afternoon, early in the morning Gabrielli informed me that I was leaving the international board and in the afternoon, to my surprise, Dutra was there in my office, my secretary said, 'Ó President Dutra wants to speak with you 'and he came into my room and said' Let's go 'and I said' Let's go where, what's this? ' and he said, 'No, us, you go to BR', because BR is in the other building, at the time it was near the Maracanã, 'You go, you were appointed, you're not aware, BR's chief financial officer? ' I said, 'No, no one told me anything.' 'No, Lula already settled yesterday, you're going to be named later today', and in the afternoon, the board confirmed my name as CFO. Then the same day I stopped being the international director of the holding and became the chief financial officer of Distribuidora BR.

(...)

Federal Prosecution Service: - Do you know that this, as stated here in the testimony, if your indication for Distribuidora BR would have any relation to the loan, with the question of the 10000 probe Vitória that was hired by Schahin?

Nestor Cerveró: - No, sorry, I'll contextualize, what I say in my testimony is that I had information, the doctor did not talk about it, that this would have been a compensation, a thank you for the fact that in 2006, end of 2006 , early 2007 I have managed to liquidate through the hiring of Schahin Oil and Gas operator for the 10000 Vitória, the second probe that the international area hired and there was a campaign debt in 2006 from the PT, I was asked by Gabrielli to solve this problem because I was going to bring Gabrielli a problem that Silas was pressing me to settle a PMDB debt of 10 or 15 million reais from the 2006 campaign, I went to Gabrielli for help and Gabrielli said, let's do an exchange, I remember this conversation, it was a conversation just the two of us in which Gabrielli spoke, let's make an exchange, let me solve the problem of Silas and you solve the PT problem, I did not know about this problem, then he told me that PT has a debt of 50 million reais that was borrowed from Schahin bank and you see what you can do, I know that you are negotiating with Schahin ', then I called the son of the owners of Schahin, Fernando Schahin who is the director of Schahin Oil and Gas and I knew they had that aim and I said, 'Look, we can close the deal, I put you in as probe operators' because they were already operating a probe here in the Campos bay, 'As long as the \$ 50 million debt is settled' he complained 'No, but this is the bank' I said 'Well, that's your problem, it's not my problem, I know the group is the same' and 2 days later or 2 or 3 days later Gabrielli called me and said, 'Look, the problem is solved, you can go ahead, and I was told that this settlement, that is, having been able to settle that debt would have been the reason, or one of the reasons a compensation, that is, would have been a form of thanks due to the fact that I was able to settle this debt of PT. "

759. Alberto Youssef also gave testimony in Court (event 417). He also signed a collaboration agreement approved by the Federal Supreme Court. In his testimony, he stated that he intermediated the payment of an undue advantage between the contractors and the Petrobrás Supply Director Paulo Roberto Costa and also to political agents of the Progressive Party. He also confirmed the fraudulent bidding adjustments between Petrobrás' contractors.

760. He too has already been convicted of corruption and laundering by this Court

(copy of the sentences in the event 847).

761. The bribe was usually fixed at 1% of the value of the contract. OAS participated in bidding adjustments and also the payment of the bribe. The witness dealt with Agenor Franklin Magalhães Medeiros for OAS. He stated that he was aware that there was also a bribe payment to Petrobrás's Services and Engineering Department and that part of the amounts were destined for the Workers' Party.

762. He also confirmed the payment of bribes in the contracts mentioned in the report, involving the Presidente Getúlio Vargas Refinery (REPAR) and the Refinery of the Nordeste Abreu e Lima (RNEST).

763. He confirmed that he has used the front company's MO Consultoria and Empreiteira Rigidez to receive and pass on the resources of bribes, including in these contracts.

764. He declared that he had no knowledge of a request or payment of undue advantage to the former President Luis Inácio Lula da Silva.

765. As written therein:

*"Federal Prosecution Service: - This criminal action refers to three specific contracts, the first of which is a contract signed in 2007 with additives at least until 2012, which is Petrobras' contract with the consortium Compar, formed by OAS, Odebrecht and UTC, the execution of works in Repar. Do you remember if there was a bribe payment in this contract?"*

*Alberto Youssef: - Yes, I remember, in this specific work who dealt directly was Mr. Jose Janene and I remember that I received those values at UTC Engenharia.*

*Federal Prosecution Service: - What was the percentage affected?"*

*Alberto Youssef: - I do not remember, but I think it was agreed I think in 10 million or 20 million, something like that in that sense.*

*Federal Prosecution Service: - The second and third contracts dealt in this report were signed in 2009 with additives until at least 2012, Petrobras contracts with the consortium Rnest/Conest, formed by OAS and Odebrecht, for works in the Abreu e Lima Refinery, Rnest. Do you remember if there was a bribe payment in these specific contracts?"*

*Alberto Youssef: - There was. These contracts initially started with Mr. José, he was still in good health, and then ended up with me, and that's where I met Agenor Medeiros and Márcio Faria to solve this situation of this consortium, this contract.*

*Federal Prosecution Service: - And do you remember what was the percentage that affected this bribe payment agreement?"*

*Alberto Youssef: - Look, this had a downturn, but it seems that between the two was something of 30 million.*

*Federal Prosecution Service: - How did you receive these amounts; did you use companies that you controlled to receive these amounts?"*

*Alberto Youssef: - From Odebrecht I received these amounts in cash and from OAS I got to make some contracts for receipt.*

*Federal Prosecution Service: - These contracts with companies such as Rigidez Contractor, RCI Software, MO Consultoria?"*

*Alberto Youssef: - Yes, sir.*

*Federal Prosecution Service: - And these contracts were entered by the OAS Construtora itself, by companies controlled by OAS?"*

*Alberto Youssef: - Yes, sir.*

*Federal Prosecution Service: - So these companies were used specifically to receive these amounts from these consortiums I mentioned earlier?"*

*Alberto Youssef: - Ok.*

*Federal Prosecution Service: - And these companies provided some kind of service?*

*Alberto Youssef: - No, sir.*

*Federal Prosecution Service: - There are even contracts, reports that were submitted by MO Consultoria, technical reports in favor of OAS, are these reports false?*

*Alberto Youssef: - Are fake.*

*Federal Prosecution Service: - Perfect. Given these values, to whom you passed on, I know that you have already said, but specifically in relation to these contracts?*

*Alberto Youssef: - 60% went to the party, 30% to Dr. Paulo Roberto and the other 10% were between me and Genu. "*

766. Fernando Antônio Falcão Soares also gave testimony in Court (event 417). He also signed a collaboration agreement approved by the Federal Supreme Court. In his testimony, he stated that he intermediated the payment of an undue advantage between the suppliers from Petrobras and Petrobrás Supply Director Paulo Roberto Costa and for the International Area Director from Petrobrás Nestor Cunat Cerveró. He was convicted of corruption and money laundering in this Court, as, for example, on criminal action 5083838-59.2014.4.04.7000 (copy of sentence in event 847).

767. He also admitted that part of the undue advantage was passed on to political agents of the Workers' Party and the Party of the Brazilian Democratic Movement.

768. He confirmed the episode already reported by Nestor Cunat Cerveró about his departure from the Petrobrás International Area Directorate and his appointment to the Board of Directors at Distribuidora BR. He further confirmed that the appointment to Distribuidora BR would have been a compensation for the work of Nestor Cunat Cerveró for assisting in the settlement of the debt of Workers' Party agents with the Schahin Group. He stated that in order to try to assist Nestor Cunat Cerveró, to remain on the International Board he appealed to José Carlos Costa Marques Bumlai, who informed him that he would have to deal with then President Luiz Inacio Lula da Silva, but that he would not have been successful.

769. As written therein:

*"Federal Prosecution Service: - At any time did Mr. Nestor Cerveró come to you fearing to lose his job?*

*Fernando Soares: - Yes.*

*Federal Prosecution Service: - How was that, why did he come to you?*

*Fernando Soares: - In two thousand, after the second, President Lula's second term, when he was reelected, began a move inside Petrobras because PMDB wanted to have a board of directors at Petrobras, which until then did not have a board of PMDB, was what I knew at the time, and began a dispute for positions inside Petrobras and, at a certain point, it began to be strongly said that the international board would have been given to PMDB, that PMDB would assume this board; Nestor came to me and told me what was happening and asked me to talk with the people I knew to see if I could help his stay at the time, so the closest person I could see was the José Carlos Bumlai, I talked to him, I told him what was going on, he told me he was going to find out, and it went on for some time, a few months, he returned to me saying that there really was a commitment to give the international board to PMDB and I asked him if he could not help, he said he would try, and then he returned to me saying that I had talked to President Lula and that President Lula had told him to talk at the time with Michel Temer, who was president of PMDB. He had a conversation with Michel Temer, Nestor was even present in this conversation, and indeed Michel Temer said that there was a commitment with PMDB and that he had no way of helping in this matter, that he would have to, who was leading this bench at the time was deputy Fernando Diniz and would be the person to talk, he had no way to push for the permanence of Nestor. That is what happened.*

*Federal Judge: -But just to clarify, sorry doctor for the intervention, your source of information in this case is Mr. Nestor Cerveró?*

*Fernando Soares: No, it was José Carlos Bumlai. Me and José Carlos Bumlai, I talked to him and, from my conversation with him, he schedules and took Nestor to Temer, so that meeting was reported to me by him and Nestor who was present at the meeting as well.*

*Federal Prosecution Service: - Perfect. You were asked by Cerveró to take these, trying to resolve this situation, did you return to him and say that he would have to leave the international board?*

*Fernando Soares: - I said, I mean, he came back to me after this meeting and he talked about what the conversation was like, and he told me that from what he was seeing the thing was already more or less defined, still he spent some time in this arm wrestle, let's say, we trying to keep Nestor and the people there, from PMDB, pressing for it to be changed. Sometime later, I received a call from Bumlai, he telling me that, it was a Sunday day, he telling me that he really had done everything to keep Nestor in the position because there was a gratitude for the help Nestor had given in a certain subject, I do not know what, but that he was not able to, the information he gave me was that there was a great pressure and that even the group of the House had said that if there was not an immediate solution they would break with the government, this is the information I had, and he said he really could not hold him, it had been the decision, that the next day Nestor was going to be notified of his exit, but that to compensate, due to all the help he Nestor had already given them there, he would be going to be the financial director of Distribuidora BR, that was the information I had.*

*Federal Prosecution Service: - Perfect. You mentioned 'help given them there,' who?*

*Fernando Soares: - In the case was a matter that is included in one of my terms of collaboration, which is a debt that the workers' party had with Banco Schahin, about a loan that had been taken, the information I had at the time is that this was discussed with me, this loan had been taken to pay the PT's campaign debts and they were not, and the party was not able to pay off this debt, it was making a settlement there through hiring two low height water probes on Petrobrás, only this issue was going on for some tempo insine Petrobrás, for more than a year now, and the thing was not going forward, it was not going away, so the Schahin Bank was pushing a lot for the this to be resolved or that the debt was payed. I was approached by Bumlai, they told me what was going on, asking if I could help, I do not know, I told him, that this was an issue that was on the exploration and production board, I said to him, 'Look, no. I know nobody on the board of exploration and production, I cannot help you, but there is a subject that is taking form, which is the hiring of a second probe that has not yet partnered, nor operator.. '*

*Federal Prosecution Service: - Sorry to interrupt, can you be more synthetic in this point?*

*Fernando Soares: That was the subject of the probes.*

*Federal Prosecution Service: So, the help was, just to see if I understood correctly, was to help to solve this probe?*

*Fernando Soares: - Exactly.*

*Federal Prosecution Service: - Perfect. And when you refer to them, 'Help them', who is them?*

*Fernando Soares: - In the case of PT, PT and Bumlai, because Bumlai was the guarantor of this loan.*

*Federal Prosecution Service: - Right. And another question, why did you go to Bumlai to solve a possible dismissal of Petrobras director; what was the interference he could have?*

*Fernando Soares: - Bumlai was a person very well connected with President Lula, he was a person who enjoyed an intimacy with President Lula, so I know.*

*Federal Prosecution Service: - And the resolution of this issue of the dismissal of Nestor Cerveró and indication to the Distribuidora BR, Bumlai mentioned the interference of the*

*former president Luiz Inácio?*

*Fernando Soares: - Yes. According to him, even in my testimony, he says he was calling me from Palácio do Planalto."*

770. Milton Pascowitch also gave testimony in Court (event 417). First, included a collaboration agreement with the MPF and which was approved by the Court. In his testimony, he stated that it intermediated the payment of undue advantage between Petrobrás suppliers and Petrobrás Services and Engineering agents, Renato de Souza Duque and Pedro José Barusco Filho, as well as agents of the Workers' Party, including the former - Chief of Staff José Dirceu de Oliveira e Silva. Bribes were calculated at 1% of the contract value and divided between Petrobrás agents and political agents. Milton Pascowitch, as well as José Dirceu de Oliveira e Silva, were convicted of corruption and laundering crimes in criminal action 5045241-84.2015.4.04.7000, with a copy of the sentence in the event 847. He stated that he was not aware of the participation of former President Luiz Inácio Lula da Silva.

771. Also, as already said on items 516-537 and 568-578, José Adelmário Pinheiro Filho, President of OAS, and Agenor Franklin Magalhães Medeiros, acknowledged the existence of the criminal scheme that had undue advantage in contracts with Petrobras for agents of Petrobras, political agents and political parties.

772. They also specifically acknowledged the payment of undue advantage in Petrobras' contracts with the CONPAR Consortium and the RNEST/CONEST Consortium in the construction of Presidente Getúlio Vargas Refinery (REPAR) and the Refinery of the Nordeste Abreu e Lima (RNEST).

773. To be more precise, José Adelmário Pinheiro Filho stated that he did not specifically remember the settlements at the Presidente Getúlio Vargas Refinery (REPAR), but that he was contacted directly by João Vaccari Neto for the contract at the Abreu e Lima Refinery (RNEST) for the payment of 1% of the contract value to the Workers' Party ("I was contacted by Mr. João Vaccari and he told me that he had a 1% payment to the PT, that was directly with me"). He agreed to the request and the amount was incorporated into the general current account of bribes, then debited to, among other purposes, to reduce the difference in the price of apartment 164-A, triplex, of Solaris Condominium, and the cost of the reform of said apartment. He stated that the payment was initially motivated so that Construtora OAS was invited by Petrobrás to participate in major jobs, which made it possible to join the group of contractors who fraudulently adjusted the bids.

774. Agenor Franklin Magalhães Medeiros, specifically in charge of the contracts of Construtora OAS with Petrobrás, confirmed that José Adelmário Pinheiro Filho interfered with the Federal Government so that OAS would be invited, at the end of 2006, to be part major jobs at the state. He also stated that the contracts involved payment of 2% bribes to public agents and political agents and that contracts at the Presidente Getúlio Vargas Refinery (REPAR) and at the Refinery of Nordeste Abreu e Lima (RNEST) were obtained through a fraudulent bid adjustment.

775. He stated that in the CONPAR contract, at the Presidente Getúlio Vargas Refinery (REPAR), the undue advantage to public and political agents was from Odebrecht and UTC Engenharia, the deponent was not aware of the details of how this was done.

776. In the case of the CONEST/RNEST contracts, at the Refinery of the Nordeste Abreu e Lima (RNEST), he confirmed that there was a 2% adjustment of bribes on the value of the two contracts, which were intended for Petrobrás agents and political agents and that part of the amounts were paid by Odebrecht and part by OAS.

777. Of the total on bribes, sixteen million Reais were allocated to the Workers' Party, through João Vaccari Neto ("This is where it is, 13.5 million plus 6 million and a half total of 20,

of the 36, 16 were left for PT, and so it was done, Léo was in contact with João Vaccari and it was decided that 16 million Reais, on our part in Rnest, would be for the PT ").

778. It is necessary to recognize as proven, beyond all reasonable doubt, considering cumulatively physical evidence and the quantity of testimony, including of those who paid bribes, that the contracts discriminated against in the complaint between Petrobrás and CONPAR and CONEST/RNEST, integrated by Construtora OAS, followed the rules of the criminal scheme that victimized Petrobrás, that is, were obtained with fraudulent adjustment of bids and involved the payment of an undue advantage of about 2% over its value and that were destined to agents of Petrobras, but specifically to the Supply Directorate and the Services Directorate, as well as to political agents and political parties.

779. Of the amounts paid by the OAS, about sixteen million Reais were used exclusively for the general checking account maintained between the OAS Group and political agents of the Workers' Party.

## II. 16

780. Before the conclusions, a few remaining questions and evidence can be analyzed.

781. In the course of the criminal action, employees of Petrobrás who would have acted in the contracts narrated in the complaint were also heard, but who would not have been aware of the scheme of corruption in the contracts or the fraudulent adjustment of the bids, such as Flávio Fernando Casa Nova da Motta, Omar Antônio Krsitochek Filho, Silvio Pettengill Neto (events 605 and 652).

782. José Sergio Gabrielli de Azevedo, President of Petrobras between 2005 and 2012 was also heard (event 607). He denied, in short, that he had participation or knowledge of the corruption scheme that had victimized the company. He also stated that he was not aware of any actions of the former President in relation to these crimes of corruption and that he had never received any guidance from him.

783. The testimony of José Sergio Gabrielli de Azevedo is not very worthy, since he was the President of Petrobras during the period in which the criminal scheme that victimized the company flourished, putting him in a suspicious position.

784. But most of all, it was especially vague.

785. In particular, his vague replies to the political indications for positions on the Petrobrás Board of Directors are striking. Still more specifically, on the exchange of Nestor Cunat Cerveró by Jorge Luiz Zelada in 2008 in the position of Director of the International Area of Petrobrás. José Sergio Gabrielli de Azevedo, President of Petrobras, denied any specific knowledge about political influences in the exchange.

786. That there were political influences in the appointment of Directors of Petrobrás seems something indisputable even at the time of the facts. The fact itself is not illicit.

787. But the President of the company being unaware that Executive Directors are being replaced for purely political reasons, seems rather unlikely, casting doubt on either his aptitude for the office or the credibility of his testimony before this Court.

788. Also heard were witnesses who were unaware of relevant facts of the case, such as the journalist Maria Lúcia da Motta Gaspar (event 605). She was apparently listed as a witness

by Luiz Inácio Lula da Silva's defense only to demonstrate a supposed coercion of Delcídio do Amaral Gomez to sign the collaboration, something strange since he himself does not claim it. But she, in fact, has no specific knowledge about relevant facts of the process, no embargoes of her quality as a journalist.

789. There were also several witnesses listed by the Defense of Luiz Inacio Lula da Silva, basically political or public agents, who had no specific knowledge of the facts that are the subject of the complaint, especially about apartment 164-A, triplex, or about Petrobras corruption.

790. They are practically abonatory witnesses who stated in summary that the former president would not be a corrupt person, that the systems of prevention and repression of corruption would have been increased during the ex- President's mandate, that the systems of prevention and repression of corruption did not identify crimes of corruption in Petrobrás during the term of the former President, or that they would not have been aware of the use of bribing mechanisms in Petrobrás for the formation of the political base of support of the Federal Government.

791. Among them were statements by Alexandre Rocha Santos Padilha, former Minister of Institutional Relations and former Minister of Health (event 606), Jaques Wagner, former Governor and former Minister of Institutional Relations (event 607), Tarso Fernando Herz Genro, former Minister of Justice and former Governor (event 622), Cláudio Lemos Fonteles, former Attorney General of the Republic (event 690), Antônio Fernando Barros e Silva de Souza, former Attorney General of the Republic (event 691), Jorge Hage Sobrinho, former Minister of the General Controllershship of the Union (event 698), Luiz Fernando Furlan, former Minister of Development of Industry and Foreign Trade (event 702), José Múcio Monteiro Filho, former Minister of Institutional Relations (event 714 ), Paulo Fernando da Costa Lacerda, former Director General of the Federal Police (event 714), Luiz Fernando Correa, former Director General of the Federal Police (event 714), and Walfrido Silvino dos Mares Guia Neto, former Minister of Institutional Relations (event 714), and even Henrique de Campos Meirelles, former President of the Central Bank and currently Minister of Finance (event 702).

792. Regardless of the quality of the deponents, people who know the facts of the process and properly qualify as witnesses. Such testimonies at most tangentialize the facts of the process, since the deponents had no specific knowledge of them.

793. It is imperative to recognize the merit of the Government of former President Luiz Inacio Lula da Silva in strengthening control mechanisms, including prevention and repression, of the crime of corruption, especially in the investments made in the Federal Police during the first term, in making the General Controllershship of the Union stronger and in preserving the independence of the Federal Prosecution Service by choosing, for the position of Attorney General, a member of the list voted among members of the institution.

794. It is true that this is not only a presidential initiative, since dealing with corruption is a demand stemming from the maturing of democracies, but the merit of political leadership cannot be ignored.

795. Some crucial measures, however, have been left aside, such as the necessary change in the requirement of a final conviction of the criminal sentence to start of execution of the penalty, which is fundamental to the effectiveness of criminal justice, and which jurisprudence of the Supreme Federal Court (in HC 126,292, adjudicated on 02/17/2016, and in ADCs 43 and 44, adjudicated on 10/05/2016). This could have been promoted by the Federal Government by amendment to the Constitution or he could have acted to try before reversing the jurisprudence of the Federal Supreme Court.

796. In any case, strengthening the means of controlling corruption does not authorize any conclusion regarding the guilt of former President Luiz Inacio Lula da Silva in the crimes that are the subject of this criminal action.

797. He will not be the first ruler who underestimated the possibility that increased means of control could lead to the discovery of his own crimes, such as political leaders of Hong Kong who were surprised by the performance of the ICAC (Honk Kong's Independent Commission Against Corruption), such as former Governors Rafael Hu Si-yan and Donald Tsang Yam-kuo, political leaders from Croatia who were surprised by the independent performance of the Office for the Suppression of Corruption and Organized Crime ("USKOK - Ured za suzbijanje korupcije i organiziranog kriminaliteta"), as the former Prime Minister Ivo Sanader, who, in his term, acted to strengthen the said area (ROTBERG, Robert I. The corruption cure: how citizens & leaders can combat graft. Princeton University Press, 2017, p. 121 and 128), without forgetting former United States President Richard Nixon, who sanctioned the 1970 "Organized Crime Control Act", legislation was subsequently used to confer partial immunity on John W. Dean III, who confirmed the involvement of the former President at Watergate (RAAB, Selwyn. Five families: The rise, decline, and resurgence of America's most powerful Mafia empires. St. Martin's Press, 2005, p. 182-183).

798. Nor is it a conclusive argument that, at the time of the term of office of former President Luiz Inacio Lula da Silva, the control bodies did not identify the crimes of corruption and money laundering in the criminal scheme that victimized Petrobrás.

799. Crimes of this type are practiced in secrecy and are difficult to detect and the fact that they have not been discovered before does not mean connivance of the control organs, nor does it mean that in different circumstances this could not have happened (the discovery).

800. This would perhaps be a relevant issue if former President Luiz Inacio Lula da Silva were defendant of responsibility for the criminal scheme that victimized Petrobras for omission, but it appears that the accusation is that he would have actively participated in it, including benefiting indirectly, since resources of undue advantage would have been directed to the Workers Party and other parties of its allied base, and also directly to personal enrichment, as stated in the part of the report concerning the triplex apartment.

801. It seems a little strange that, given the magnitude of the criminal scheme, illustrated by the fact that Petrobrás had recognized about six billion reais in accounting losses with corruption in the balance sheet of 2015, the former president did not have any knowledge, especially since he would also have involved the use of bribes in corruption at Petrobrás to finance election campaigns, including the Workers' Party and for which the former President was elected and elected his successor.

802. In addition, it draws attention to the absence of any judgment of the former President's disapproval of public officials and politicians who, during his government, would have participated in the criminal scheme that victimized Petrobrás.

803. In order to better understand the relation of the former President with his subordinates surprised in criminal practices that this Court carried out in the interrogation of the criminal action (event 885) questions about its position in relation to the criminal scheme denominated "Mensalão" whose existence was recognized, being still in trial, with final judgment by the Supreme Federal Court in Criminal Action 470, with criminal convictions against exponent of the Workers' Party such as José Dirceu de Oliveira e Silva, Delúbio Soares de Castro and João Paulo Cunha. On the occasion, the Court drew the defendant's attention to successive contradictory interviews he had received in the press on the subject, sometimes stating that he had been "betrayed by unacceptable practices", now stating that there was no evidence and that the decision of the Federal Supreme Court would be political (the "mensalão", time

will be in charge of proving that the "mensalão", you had 80% political decision and 20% legal decision"), but did not get clarification. The various contradictory interviews granted by the former President on the facts covered by Criminal Action 470 are found in event 724, attachment 19, attachment 20 and attachment 22.

804. Usually, if a subordinate practice a crime with the ignorance of the superior, when the crime is revealed, the behavior expected of the superior is the disapproval of the conduct and the requirement that it be punished. There was no such behavior on the part of the former President, at least nothing more than generic statements that the guilty should be punished but without any specific designation, as if there were no guilty parties whose responsibility had not yet been determined, in the case, moreover, of Penal Action 470, with final and unappealable decision. This is a relevant indication of connivance regarding the criminal behavior of subordinates and can be considered as evidence.

805. Another evidential element to be highlighted is the unusual meeting between former President Luiz Inacio Lula da Silva and former Petrobrás Director Renato de Souza Duque in 2014. Renato de Souza Duque has already been convicted of corruption and money laundering crimes in several criminal proceedings, including the aforementioned criminal action 5012331-04.2015.4.04.7000 (copy of sentence in event 847). In another criminal action, no. 5054932-88.2016.4.04.7000, Renato de Souza Duque, on the pretext of collaborating with the Justice, revealed, in a hearing of 05/05/2017, a meeting with the former President that, until that time, had been kept secret. Although it is evidence produced in another case, it was former President Luiz Inacio Lula da Silva who, in his judicial interrogation of 05/10/2017, brought the fact to the light, confirming the meeting, at an airport, with Renato de Souza Duque (event 885). According to the former president, the meeting would have been brokered by João Vaccari Neto, with whom Renato de Souza Duque would have, according to the former president, a relation of friendship. It is noteworthy that a few minutes earlier, in the same testimony, the former president had stated that he was unaware of any relationship between them. It also draws attention to the stated motive for the secret meeting, that the former president, according to what he said, wanted to know if Renato de Souza Duque would have accounts abroad because the press would thus be disclosing. It happens that by the time of the meeting, in mid-2014, there was no news of the accounts of Renato de Souza Duque abroad, which only arose after his arrest on 11/14/2014.

806. Anyhow, it is not necessary at the moment to decide whether the former President Luiz Inácio Lula da Silva was or not the main principal of the criminal scheme that victimized Petrobrás. It is comprehensible, by evidence, that MPF (Federal Prosecution Service) has thus asserted in the information, evidently, since it is an argument designed for the breast of the Court.

807 However for trial of this case, it is sufficient to verify if there is evidence of his participation in crimes of corruption and money laundering stated in the information, related to Petrobrás's three contacts with the Consortium CONPAR and with the Consortium CONEST/RNEST, an if he was benefited with part of the illicit advantage, which will be examined conclusively on the next topic.

808. Before this, let some alibis invoked by Luiz Inácio Lula da Silva's Defense Attorney be examined.

809. Even before the closing argument, on the motion of the event 730, Luiz Inácio Lula da Silva's Defense Attorney alleged that there would be documentary evidence that the apartment 164-A, triplex, in Condomínio Solaris, in Guarujá, would not be of his ownership since it would have been listed among OAS Empreendimentos's assets in the proceeding of judicial recovery that proceeds in the 1<sup>st</sup> Bankruptcy and Judicial Recovery Court of the State Justice of São Paulo (proceeding 0018687-94.2015.8.26.01000) I hereby attach documents.

810. Then, as it is anticipated on items 304-309, the formal ownership or questions of Civil Rights are not being discussed herein, but in fact crimes of official misconduct e money laundering, the latter presuming conducts of dissimulation and concealment. The unit, according to the registration N° 104801 (event 3, comp228), if in the name of OAS Empreendimentos, however, the concealment of the real ownership requested to José Adelmário Pinheiro Filho, that of the former President, and that the unit should remain in the name of OAS.

811. The unit being formally in the name of OAS Empreendimentos it was expected to be listed in the proceeding of judicial recovery of the company, since this is obligated to declare all its assets. This was even more expected, taking into account that the judicial recovery began in 2015, that is, after José Adelmário Pinheiro Filho's provisional detention and after news divulged by the press about crimes involving the triplex apartment, when transfer of the unit to the former President became something risky.

812. Therefore the Defense Attorney's argumentation is absolutely insubstantial.

813. On closing argument (event937), and also during the process Luiz Inácio Lula da Silva's Defense Attorney gave great importance to the fact that the unit consisting in the apartment 164-A, triplex, had been offered as a mortgage by OAS Empreendimentos to Planner Trustee Distribuidora de Títulos e Valores Mobiliários, in operation of issue of debentures, as it is expressly indicated on the registration 10480 (event 3, comp228). The Defense Attorney also alleged that values arising from eventual sale of the unit would be designed for the accounts related to Caixa Econômica Federal, so OAS Empreendimentos too would never have them available.

814. Despite the argumentation, the fact it is here about a financial operation, by the issuing debentures and offering in guaranty real estates to be built.

815. The apartment 164-A, triplex, was not the only guaranty offered of Condomínio Solaris, but all the units of the building.

816. Just as illustration, there are also in the records the registrations 104757 and 104790 relative to the apartments 44-A e 131-A, of Condomínio Solaris and in both there is also the register of offer of the units in mortgage to Planner Trustee Distribuidora de Títulos e Valores Mobiliários (even 3, comp 223 and comp 229).

817. It is observed, on the three registrations, of the apartments 164-A, 44-A and 131-A, that the guaranty was constituted on the same date, specifically on 07/24/2013, and the concealment of the guaranty, on the same date, specifically on 09/20/2013, that is, it was a common process for the capitation of credit, the whole building being used for guaranty, the guaranty heaving been concealed immediately after the conclusion of the building, what occurred about August 2013.

818. Then the argumentation of the Defense Attorney, as the precedent one, is inconsistent.

819. The Defense Attorney of Luiz Inácio Lula da Silva also alleged, on closing argument, that the costs of the repair were included into the costs of the building, according to a document exhibited by José Adelmário Pinheiro Filho on event 849, file annex2, pg. 6, and that bribery would not be entered in accounting.

820. There is disconnection between the premise and the conclusions.

821. The repairs to the apartment 164-A, triplex, needed to be entered in formal accounting of OAS Empreendimentos, since invoices were issued against same. The problem is

on the performance of such repairs by the company in favor of former President Luiz Inácio Lula da Silva and, instead of the recovery, the abatement of the value from a general account, this one not accounted.

822 Luiz Inácio Lula da Silva's Defense Attorney also invokes that his innocence would have been proved by lack of findings on internal or external audits of Petrobras or on audits carried out on the occasion of the issue of real estate market prices of Petrobras, in September, of any official misconduct scheme or lack of findings of any wrongfulness committed by him.

824. The argumentation is not minimally convincing. Audits are relevant, but they have limited power of finding, not rarely being limited to formal analyses of accounting documents. They do not have investigative powers to reveal crimes committed in secret, as payments of bribery to public agents in accounts abroad or with other surreptitious stratagems.

825. Former President Luiz Inácio Lula da Silva's name could be easily replaced, on the information of auditing companies, by the name of Petrobras's Director Renato de Souza Duque, since the audits referred to did not identify on the occasion of his job the crimes of corruption practiced by him either, but that does not mean that they did not exist, as attested by millions of euros found in secret accounts controlled by him abroad.

826. Therefore, this argument of Luiz Inácio Lula da Silva's Defense Attorney is also inconsistent.

827. Also as an alibi of Luiz Inácio Lula da Silva's Defense Attorney, an apparent attempt to transfer the responsibility to deceased Marisa Letícia Lula da Silva.

828. It was she who in fact signed the documents of acquisition of rights of the apartment, then 141-A or 174-A, in the Residencial Mar Cantábrico, at BANCOOP.

929. But it is clear that it was about an initiative common to the couple, since the real property is transferred to the spouse, in community property system.

830. The expenditures for acquisition of the unit, R\$ 179.298,96, were declared, incidentally, by former President Luiz Inácio Lula da Silva.

831 Besides, the direct involvement of the former President on the acquisition of the property is revealed by the fact of him having visited the unit, the project of repair having been submitted to him and mainly by the fact of difference between the price and the value paid and also the cost of repair having been abated from a general banking account of bribery of Grupo OAS with the Partido dos Trabalhadores (Workers Party), having among the credits settlements of corruption involving agreements executed with Petrobras during his term of office as President of the Republic.

832. It is clear that Grupo OAS, run by the defendant José Adelmário Pinheiro Filho, designed the unit for, without charging the correspondent price, and assumed the costs of the repair, having in mind a benefit designed for President Luiz Inácio Lula da Silva and not to his wife only.

833. Then the apparent attempt to transfer the responsibility to the First Lady is not convincing.

## II.17

834. By examination of all the demonstrative evidence, witnesses' testimonies, defendant's interrogations it is possible to draw conclusions.

835. The criminal scheme that victimized Petrobrás was proved and that involved fraudulent agreements of bidding and the payment of illicit advantages to Petrobrás's agent, political agents and political parties.

836. It was about a complex criminal scheme that involved the division of illicit advantages among Petrobrás's agents, political agents and political parties.

837. Key executives in Petrobrás, as in case of Paulo Roberto Costa and Renato de Souza Duque, were kept in the state-owned corporation as Directors with the obligation of, besides exercising their ordinary duties, collecting resources for political agents and political parties, who, in their turn, maintained them in their position. In the process, they also gathered resources in their own favor.

838. Former President Luiz Inácio Lula da Silva had a relevant role in the criminal scheme., since it was for him to indicate the name of Director to the Council of Administration of Petrobrás and the word from the Federal Government was obeyed. He, incidentally, admitted, in his interrogation, that he was responsible for giving the last word about indications, even if they were not necessarily his personal choice and even if they passed by a system of control.

*“Federal Judge – Right. It seems that you have already answered, however to make it clear then, it was the presidency of the republic that sent and indicate the name of the president and directors of Petrobras for the council of administration of the corporation?”*

*Luiz Inácio Lula da Silva – The president of the republic, after hearing the parties, the groups of representatives and the ministers, indicated the council of Petrobras, indicated the persons.*

*Federal Judge – Was the final word from the presidency of the republic?”*

*Luiz Inácio Lula da Silva – The final word no, the final indication was from Petrobras's council.*

*Federal Judge – The indication for the council of Petrobras, was the final word of this indication from the Presidency of the Republic?”*

*Luiz Inácio Lula da Silva – It was, for if not the president would not be necessary.*

*Federal Judge – Perfect. Did this involve not only the presidents of Petrobras, but directors too?”*

*Luiz Inácio Lula da Silva – All Petrobras's board of directors”*

839. It is also proved that the scheme comprised Petrobrás's contracts with the Consortium CONPAR and with the Consortium CONEST/RNEST in Refinery President Getúlio Vargas (REPAR) and Refinery of Nordeste Abreu and Lima (RNEST).

840. It is proved that Construtora OAS, that was part of the Consortiums, participated

in the fraudulent agreements of bidding and paid illicit advantage to political agents and politicians, including in the first case to Petrobrás's executives.

841. In the contract related to the Consortium CONEST/RNEST, sixteen millions was designed by OAS for the general current account maintained between Grupo OAS and agents of Partido dos Trabalhadores (Workers Party).

842. The general current account of bribery was fed by agreements of corruption in several contracts with Petrobrás.

843. The general current account of bribery was managed by OAS's President José Adelmário Pinheiro Filho.

844. He stated in Court that he debited the account referred to the expenses that OAS would have with the transfer of buildings from BANCOOP to OAS Empreendimentos.

845. Among these debts there was the difference between the price paid for acquisition by former President Luiz Inácio Lula da Silva and by his wife for the apartment 141 and the price of the apartment 164-A, triplex, in the Condomínio Solaris, in Guarujá, in amount of about R\$ 1.147.770,96, according to calculation of item 634.

846. Among such debts there was the cost of the repairs performed in 2014 to the apartment 164-A, triplex, in the Condomínio Solaris, in Guarujá, of about R\$ 1.104.702,00.

847. It proved that the two versions presented by former President Luiz Inácio Lula da Silva on what occurred in relation to the apartment 164-A, triplex, in the Condomínio Solaris, are not consistent with the documentary evidence found in the proceeding.

848. It proved equally that the testimonies toward the fact that former President Luiz Inácio Lula da Silva and his wife were the owners in fact of the apartment 164-A, triplex, in the Condomínio Solaris, in Guarujá, and that the repairs were designed for them, are consistent with the documentary evidence found in the records.

849. It proved also that the testimonies toward the fact that they would be simple "potential buyers" are not consistent with the documentary evidence found in the records.

850. Considering then that former President Luiz Inácio Lula da Silva and his wife were in fact owners of the apartment 164-A, triplex, in the Condomínio Solaris, in Guarujá, that the repairs were designed for them, and the alibis of the former President are false, there are corroborations of the testimonies of the defendant José Adelmário Pinheiro Filho and of Agenor Franklin Magalhães Medeiros, that there occurred a settlement of corruption, having as specific beneficiary former President Luiz Inácio Lula da Silva.

851. At last and that was admitted by the very former President, although with false arguments, there have never been concrete discussion with him about the price of the apartment 164-A, triplex, it has never discussed concretely that former President would pay the necessary difference, and there has never been discussion about the recovery from OAS Empreendimentos for expenses occurred with the repair, incidentally there was no question about the difference of price of the repairs.

852. Defined that the apartment 164-A, triplex, was in fact of former President Luiz Inácio Lula da Silva and that the repairs benefited him, there is not in the alibi of the defendant Luiz Inácio Lula da Silva the indication of a legal cause for granting him such demonstrative benefits by OAS Empreendimentos, being in the records, as the only explanation, only the settlement of corruption arising from part of the contracts with Petrobrás;

853. The crime of official misconduct proved, then..

854. Grupo OAS, run by José Adelmário Pinheiro Filho, kept a general current account of bribery with agents of Partido dos Trabalhadores (Workers Party) and that was fed by credits derived from contracts executed by Grupo OAS with the Federal Government.

855. Some of these credits were derived from the mentioned contracts of Construtora OAS, in the ambit of the Consortium CONEST/RNEST, in the amount of sixteen million Brazilian Reals, as part of illicit advantages greed in the amount of about 2 or 3% on the value of the contract.

856. Former President Luiz Inácio Lula da Silva was benefited materially by debts in the general current account of bribes, with the attribution to him and to his wife, without the payment of the correspondent price, of an apartment triplex, and with the performance of valuable repairs to the apartment, at the expenses of Grupo OAS.

857. As the crime of official misconduct was proved, inclusively that former President Luiz Inácio Lula da Silva was directly and materially benefited, discussion about the sufficiency or not of oral examination to confirm whether he had or not knowledge of the specific role of Petrobrás's Directors in the collection of bribes took to be redundant.

858. It does not matter that the general current account of bribes has been made by credits of settlement of corruption in other contracts of the Federal Government. It is sufficient to establish the causal relation that Petrobrás's contract with Construtora OAS, in the ambit of Consortium CONEST/RNEST has also originated credits in the general account.

859. The credits of bribes and the general current account of bribes aimed to establish an advantageous relationship of Grupo OAS with the Federal Government, with part of them having source on specific offset.

860. In the case in question, the responsible for the settlements and payments of bribes, José Adelmário Pinheiro Filho and Agenor Franklin Magalhães Medeiros, say that the illicit advantages in the contracts of Petrobrás were a "practice of market" and that not necessarily would be related to a specific offset. Once more, from the President of OAS's:

*"OAS paid firstly because it was a rule of market, it had been established on that occasion that there would exist contribution of 1% for the partido dos trabalhadores (Workers Party) and that the administration of that would med by the treasurers of the party, along the time we realize that it was not only expenses of the party, that had a much larger extension, it was of political project and because of this the treasurers designated for us to make payments of more possible classes, then the payments made OAS were within a rule that the market had, that I "event 809)*

861. Nevertheless, among the cause of the payments in question, both say that there was alteration to the procedures of Petrobrás, that took to invite Construtora OAS to large works from 2006 or 2007, what qualified it to enter in the "clube" of contractors that agreed fraudulently the biddings.

862. There is crime of corruption if there is payment of illicit advantage to public agent for reason of the position they occupy.

863. The effective practice of misconduct is cause of the increase of punishment, but is not required for specification of the crimes in articles 317 and 333 of the CP (Penal Code).

864. Thus, a company cannot make payments to public agents, may it have or not a specific offset at that moment.

865. It is sufficient for its constitution configuration that the payments be made for reason of the position even in exchange of undetermined acts of office, to be practiced as soon as the opportunities appear. Citing Comparative Jurisprudence, “it is sufficient that the public agent understand that from him or her it was expected that they exercised some influence in favor of the payer as soon as the opportunities appear” US v.DiMasi”, N° 11-2163, 1<sup>st</sup> Cir.2013, same way, v. g., “US v Abbey”, 6<sup>th</sup> Cir. 2009, “US v. Terry, 6<sup>th</sup>. 2013, “US v. Jefferson”, 4<sup>th</sup> Cir.2012, all from Federal Appellate Courts of the United States).

866. In Brazilian jurisprudence, the question is yet an object of debates, but the more recent judgments incline in the direction that constitution of the crime of official misconduct does not depend o the practice of the act of office and that there is not the need of a precise determination of same. In this regard, v.g.,the High Superior Tribunal of Justice`s decision, by the eminent Minister Gurgel de Faria`s authorship:

*“( ) crime of official misconduct is formal and dispense with the practice of act of office, it being unbearable the allegation that the functional act should be individualized and undoubtedly related to the advantage received, through a plurality of acts of difficult individualization” (RHC 48400 – Assig. Min. Gurgel de Faria – 5<sup>th</sup> Panel od the STJ-un-J. 03/17/2017).*

867. On the Criminal Action 470, judged by the Panel of the High Supreme Court (AP 470/MG, Assignee Min. Joaquim Barbosa, by majority, J.12/17/2012), the question was discussed, but, according this Court`s interpretation, there is not a conclusive affirmation in respect of it, at least expressly, in the fundamental of the judgment.

868. Anyhow, it is noted, in the result of the judgment, that federal representatives were convicted for receiving illicit advantages in exchange of political support to the Federal Government, as is in the syllabus “for formation of allied base to the Federal Government in the House of Representatives” (to more precise, it is also found in the syllabus “proof of large scheme of distribution of money to representatives, who, in exchange, offered their support and their peers` support to projects of interest to the Federal Government in the House of Representatives”), that is, by acts of office with some degree of indetermination, without their strict relation with specific acts.

869.Such comprehension is essential in cases of macro misconduct involving high public authorities , especially when the crime of corruption involves not an isolated act in length of time and space , but a permanent relationship what is the case when the payment of illicit advantage is dealt with as “rule of market” or “consented obligation” or involves “an informal current account of briberies” between a business group and public agents.

870. Certainly, there are cases of payments of values in benefit of public agents that for having legal cause are not specified as corruption.

871. Thus, for instance, electoral donations.

872. Registered electoral donations are legal conducts and are obviously not characterized as corruption, save exceptionally if related to a very specific compensation, as, e.g., lack of notification to an investigated businessman by the Congressional investigating committee by virtue of corrupted representative's action (case of former Senator Jorge Afonso Argello convicted in the criminal action 5033179-78.2016.4.04.7000).

873. Electoral donations not registered are illegal conducts, can characterize the crime of article 350 of Electoral Code, and are specified, as a rule, as corruption, save cases similar to those pointed out in precedent paragraph.

874. Notwithstanding, we cannot qualify the credits and payments in this current case, which arise from Petrobrás and have destination and benefit to former President as characterizing some type of electoral donation.

875 It is also clear, by the relationship kept between Grupo OAS and the Federal Government, that the payments were not made simple to satisfy agents of the Partido dos Trabalhadores (Workers Party) and, so, in order to satisfy agents of the Partido dos Trabalhadores (Workers Party) held positions in the Federal Government's high command among them the former President Luiz Inácio Lula da Silva.

876. So this is about payments made to federal public agent at the request or approval of this, what constitutes crime of official misconduct and not another crime or misconduct.

877. Part of the material benefits was made available in 2009, when OAS Empreendimentos took over the estate, and part in 2014, when of the repair and likewise, when in the middle of 2014, when it was defined that the price of the unit and the costs of the repairs would be deduced from the general current account of bribery, what would have occurred, in accordance with José Adelmário Pinheiro Filho, at meetings held on June 09 and 22, 2014.

878. It was, then, a complex crime of corruption that involved the practice of several acts in distinct temporary moments from October 2009 to June 2014, approximately.

879. Part of the agreement of corruption happened during the presidential term of office, that is, when Luiz Inácio Lula da Silva still held the standing of federal public agent.

880. Even part of the material benefits having been made available further, during the 2014 year, they having origin in credits derived from contracts of Construtora OAS executed on 12/10/2009 (Dec 10), considering herein only the contracts of the Consortium CONEST/RNEST, they constitute illicit advantage made available for reason of the office of federal public agent, not only for the ten President, but likewise for the beneficiary executives of Petrobrás.

881. It does matter that the agreement of corruption has its ultimate only in 2014, when Luiz Inácio Lula da Silva no more exercised the presidential term of office, since the illicit advantages were paid to him for reason of acts of the period when he was President of the Republic.

882. José Adelmário Pinheiro Filho and Agenor Franklin Magalhães Medeiros are charged with the crime of official misconduct in the article 333 of CP (Penal Code).

883. Although they have already convicted, as seen in item 712-717, for the crime official misconduct involving the contracts of the Consortium CONEST/RNEST (criminal action 5083376-05.2014.4.03.7000, copy of the sentence on event 847), that conviction comprised only the part of the illicit advantage directed to Petrobrás's Supply Division whose political part was designed for agents of Partido dos Trabalhadores (Workers Party), including former President Luiz Inácio Lula da Silva as it was understood in that crime. Evidently, the unification of the sentences will occur in due course among these crimes.

884. Former President Luiz Inácio Lula da Silva is charged with the crime of official misconduct in the article 317 of the CP (Penal Code) for receiving illicit advantage arising in part from Consortium ONEST/RNEST's contracts executed with Petrobrás.

885. A crime of official misconduct exists only in relation to the contracts executed concomitantly by Consortium CONEST/RNEST with Petrobrás, since, according the testimonies given by José Adelmário Pinheiro Filho and Genor Franklin Magalhães Medeiros, only these produced parts of bribery designed by OAS for agents of the Partido dos Trabalhadores (Workers Party) and for the general account of bribes, since that in the Consortium CONPAR the part designed for political would have remained under control of the other members of the consortium. Although there are two contracts in the Consortium CONEST/RNEST, they were executed simultaneously and involved a unique agreement of corruption, reason why it is justifiable to consider the crime of corruption as unique.

886. There was the practice of misconduct by part of the consignees of the illicit advantage, sustaining application of the causes of increase in paragraph 1 of art. 317 or art. 333, sole paragraph of the CP (Penal Code).

887. In the sentence in the criminal action 5083258-229.2014.4.04.7000, it was recognized that bribes to Petrobrás's agents would have been paid in order that they did not hamper the work of the cartel and fraudulent agreements of the biddings, by buying their loyalty to the detriment of Petrobrás. Again, from the syllabus of the judgment of the Appeal:

*“The conviction of the agents for the practice of the offenses of official misconduct is maintained, since the payment of illicit advantage to Petrobrás's Director is demonstrated so same, for reason of the office exercised, facilitated the criminal concert's activities, especially to guarantee effectiveness between the organizations”. (ACR 5083376-05.2014.4.04.7000 – Assig. Fed. A.J. João Pedro Gebran Neto – 8<sup>th</sup> Court Division of the TRF4 – by majority – J – 11/23/206).*

888. It turned evident in this proceedings that, for example, Paulo Roberto Costa, Director of the Supply Division of Petrobrás, was acquainted with the existence of the cartel and even so omitted himself of taking any measure to impede its situation.

889. Besides, in these records, the misconduct could be admitted consistent in the alteration of Petrobrás's procedure, since this began, at the request of José Adelmário Pinheiro Filho to the Federal Government, to invite Construtora OAS to big works, but it was not demonstrated that the change of this practice although motivated by the bribes, was done with violation of the law.

890. Even in former President Luiz Inácio Lula da Silva's perspective, the indication by him of the Directors of Petrobrás who involved in crimes of corruption, such as Paulo Roberto Costa and Renato de Souza Duque and his maintenance in the office, even conscious of his involvement in the collection of bribes, what is a natural conclusion for hi, also being one of the beneficiaries of the agreements of corruption, represents the practice of misconducts in violation of the law. It is certain that, probably, former President Luiz Inácio Lula da Silva was not acquainted with the details nor was he involved directly in the collection of values, since he had subordinates for this purpose, but having been favored materially with part of bribes arising from agreements of corruption in Petrobrás's contracts, even through a general account of bribes, he does have how to deny knowledge of the criminal scheme.

891. There must not be doubt about the criminal scheme being complex, with several participants and, although it was for the Directors of Petrobrás or the operators to execute the agreements of corruption, their permanence in the office depended on their ability to collect resources from who supported them politically, among them the then President.

892. From the amount of the bribery adjusted in the agreement of corruption, about R\$ 2.252.472,00, consubstantiate in the difference between the payment and the price of the apartment triplex (R\$ 1.147.770,00) ad the cost of the repairs (R\$ 1.104.702,00), were designed as illicit advantages for former President Luiz Inácio Lula da Silva.

893. The attribution of a unit to him, without the payment of the correspondent price and with documentary fraud in the documents of acquisition, constitute conducts of concealment and dissimulation apt to characterize crimes of money laundering.

894. The maintenance of the unit in the name of OAS Empreendimentos, from 2009 to the end of 2014 at least, hiding the true owner, also constitutes conduct of concealment apt to characterize the crime of money laundering.

895. The aggregation of value to the apartment, by means of the performance of costly repairs, keeping at same time the concealment of the ownership in fact of the unit and the beneficiary of the repairs, also constitute conduct of concealment apt to characterize the crime of money laundering.

896. Although perhaps they may be simple conducts of concealment and dissimulation, the sophistication does not constitute an element necessary to the characterization of the crime of money laundering (the complexity is not inherent to the crime of money laundering according to precedent to RHC 80.816/SP, Assig. Min. Sepúlveda Pertence, 1<sup>st</sup> Division of STF (Federal Supreme Court), um-J.04/10/2001 (April 4).

897. I do not see consonance or confusion between the crimes of corruption and money laundering.

898. The unit was in fact attributed to former President from the transfer of the estate from BANCOOP to OAS Empreendimentos on 10/08/2009 (Oct 8), with ratification on 10/27/2009. Repeating what José Adelmário Pinheiro Filho said, “the apartment of the President Lula’s from the day I was asked to study the estates of BANCOOP, I was already advised that it was of President Lula’s and his family, that I did not sale it and treated that as something of the President’s ownership.” From that time on, through conducts of dissimulation and concealment, the real ownership of the unit was kept concealed until at least the end of 2014 or more properly until the current date.

899. In same way, the agreements of corruption date from 21009, during the hiring by Petrobrás of the Consortium CONEST/RNEST, even though the final definition of the use of part of the credits in favor former President had occurred further, in the middle of 2014.

900. Even taking into account the final definition of the agreement of corruption in June 2014, the conducts of concealment and dissimulation proceeded, including the repairs until the end of 2014, at least, or more properly until this date.

901. Also having in mind these facts, the conducts of concealment too place later or extended temporarily even after consummation of the last acts concerning the crime of corruption.

902. There is not, then, confusion, between corruption and money laundering, this having as precedent the crime of corruption.

903. The crime of laundering must be considered as unique since it comprises conducts that last in time and that are complemented, like the documentary frauds in documents of the acquisition of the unit, the maintenance in the name of OAS Empreendimentos, the aggregation of values to the unit by means of the repairs with concealment of the real value beneficiary by maintenance of the unit in the name of OAS Empreendimentos.

904. Let the individual responsibilities and the question of acting with criminal intent be examined.

905. José Adelmário Pinheiro Filho and Luiz Inácio Lula da Silva Are charged with the crime of Money laundering, both responsible for the conducts of concealment and dissimulation. There is no doubt as to them acting with criminal intent, since they are equally agents of the precedent crime.

906. As to Paulo Roberto Valente Gordilho, Roberto Moreira Ferreira and Fábio Hori Ynomine they participated, in some way, of the conducts of concealment and dissimulation involving the apartment 164-A, triplex, in the Condomínio Solaris, specifically keeping the unit in the name of OAS and making repairs to the apartment 164-A by OAS Empreendimentos covering up that the real beneficiary was the former President Luiz Inácio Lula da Silva.

907. Paulo Roberto Valente Gordilho admitted that all in the OAS knew that the unit in question was reserved for Luiz Inácio Lula da Silva and his wife and that the repairs were performed under their approval, while Roberto Moreira Ferreira declared that the unit was reserved for former President, that the repairs were made to satisfy him and that the unit has never been put up for sale to third parties. As to Fábio Hori Yonamine, he was evasive, just admitting that the repairs to the apartment were “totally atypical”.

908. He is not charged with the crime of official misconduct, nor even being defendant of such offense.

910. They acted in subordinated manner, complying with orders of José Adelmário Pinheiro Filho.

911. It seems unlikely that José Adelmário Pinheiro Filho has revealed to them the whole extension of the facts, specially that the concealment of the real ownership of the unit and of the beneficiary of the repairs had by origin crimes of corruption on Petrobrás's contacts.

912. The very José Adelmário Pinheiro Filho, as already seen (items 533), declared that they had some limited knowledge about the facts and that specifically they did not have news of some agreement of corruption. Transcription:

*“Federal Judge – Who of OAS, who in the group OAS dealt with this matter besides you?”*

*Jose Adelmário Pinheiro Filho – Of the matter that involve...*

*Federal Judge – Of the triplex*

*José Adelmário Pinheiro Filho – Of the triplex, I The company OAS Empreendimentos only executed what was deliberated by me.*

*Federal Judge - The other executives of OAS Empreendimentos knew that there was one, that these values were not going to be paid or that this would be abated from a general cash that OAS had with the partido dos trabalhadores (Workers Party)?*

*José Adelmário Pinheiro Filho – No, in the OAS Empreendimentos , as it did not have and has no involvement with any public body, it is a company that renders service of real estate activities, it did not have reason to be involved in this, they jus knew, OAD`s executives knew that they would not be harmed, that this was a cost of construction”*

913. Even the electronic message in item 543, that would deal with a meeting between José Adelmário Pinheiro Filho and João Vaccari Neto, on 06/09/2014 (June 9), is illustrative, since there is there written register of a first part of the meeting, in which José Adelmário Pinheiro Filho and João Vaccari Neto would participate, and a second part in which OAS Empreendimentos`s Directors would participate in.

914. Without better proof that the executives were aware of the maintenance of the unit unduly in the name of OAS Empreendimentos and of the performance of the repairs with concealment of the real beneficiary having origin on an agreement of corruption, they cannot be charged with crimes of laundering.

915. I do not consider here the constructions around the doctrine of blindness deliberated in the crime of money laundering and the charge with general intent, since they require the presence of a context that turn at least of high probability knowledge about the criminal source of the resources used on a transaction of laundering. Considering the peculiarities of the case, with transfer of the illicit advantage through estate transactions, it is possible that they have cogitated other hypotheses to justify the orders received from José Adelmário Pinheiro Filho, even that it was about a gift of Grupo OAS to former President.

916. Tis conclusion is not changed by the fact of the testimonies in Court do not seem to have been totally true, especially in the case of Fábio Hori Yonmine, since they may have been motivated just for an equivocated fear of self-incrimination.

917. Therefore, due lack of evidence of criminal intent, Paulo Roberto Valente Gordilho, Roberto Moreira Ferreira and Fábio Hori Yonamani must be acquitted.

918. In summary of the conclusions, it is verified that:

1) Luiz Inácio Lula da Silva must be convicted for one crime of official misconduct and one crime for money laundering in joinder of offenses;

2) José Adelmário Pinheiro Filho must be convicted for one crime of official misconduct and one crime for money laundering in joinder of offenses;

3) Agenor Franklin Magalhães Medeiros must be convicted for one crime of official misconduct; and

4) Paulo Roberto Valente Gordilho, Roberto Moreira Ferreira and Fábio Hori Yonamine must be acquitted of the imputation of crime of Money laundering.

## **II.18**

919. On a second part of the information, MPF (Federal Prosecution Service) affirms that Grupo OAS, by determination of José Adelmário Pinheiro Filho, would have granted to former President Luiz Inácio Lula da Silva illicit advantage consubstantiated in the payment of

the costs of R\$ 1.313.747,34, credited on the storage between 2011 and 2026 of the presidential assets.

920. As matter of fact, documentary proofs were gathered that part of the presidential assets of former President Luiz Inácio Lula da Silva, when of his departure from the Palácio do Planalto, was stored in deposit of the company Granero Transportes Ltda. And that the costs of this storage, of R\$ 1.313.747,24, were paid by Grupo OAS.

921'. It is recorded that, on 10/22/2010, the company Granero issued budget at the request of the defendant Paulo Tarciso Okamoto having been accepted on 12/27/2010. (event 3, comp268, comp274 and comp274).

922. Nevertheless, the contract of storage, with monthly value of R\$ 21.536,84, was executed on 01/91/2011, between Construtora OAS and Granero (event 3, comp269).

923. According the MPF, the real purpose of the contract was concealed, since it says that the object would be “*storage* of stationary and corporative furniture of ownership of Construtora OAS Ltda.”

924. Up to revision of the contract, on 04/15/2016, the cost of the service would have been R\$ 1.313.747,24 and would have paid by OAS, as verified in the invoices \*event 3, comp 270 and comp 272).

925. After the revision, Granero would have effected delivery of the property to persons indicated by Paulo Tarcio Okamoto, they being in the seat of Sindicato dos Metalúrgicos of ABC. In São Bernardo do Campo (event 3, comp 285).

926. There is not much controversy about the facts, but only on their interpretation.

927. There is no doubt as to the cultural and historical importance of the preservation of the presidential assets. The hearing of witnesses in this regard, listed by Paulo Tarciso Okamoto's Defense Attorney, was unnecessary.

928. The situation, then, a little different from the one that involves the apartment 164-A, triplex, since there the resources of Grupo OAS were deigned specifically for the personal enrichment without case of former President Luiz Inácio Lula da Silva.

929. It is undeniable, however, that there was irregularity on the storage of the presidential assets.

930. The most adequate procedure would be that the OAS formalized the support given to the conservation of the presidential assets by a written contract or that it made available the financial resources to the Instituto Lula, by donation, in order that this execute the contract with Granero and made the payments.

931. Anyhow, there is not material evidence that these irregularities have been practiced with criminal intent or that they made part of an agreement of corruption.

932. Emerson Granero, in the Granero Transportes, was heard as witness (event 604) and described the whole process of hiring, confirming that Construtora OAS hired Granero for the storage of the presidential assets.

933. In respect of the contract execute, he alleged that it was a standard draft and that the description of the goods originated from a mistake as them belonging to OAS and not constituting the presidential assets.

*“Federal Prosecution Service – Exactly, why did you execute a contract of storage and after receiving the material from the carrier 5 Stars, that came, as yourselves said, accompanied with a bill of lading and packing list, then I ask you, did know when the contract was executed that it was a contract of storage of assets of the presidential assets?”*

*Emrson Granero – Yes.*

*Federal Prosecution Service – Right. Why in the contact of storage in this dry part were stationery of Construtora OAS?*

*Emerson Granero – It was some lack of attention of ours, lack of care of ours, exclusively ours, because we did not pay attention to what this would mean there one, as the object it was really our lack of attention,*

*Federal Prosecution Service – Rith. In this contract with the value of twenty thousand BRL a month, paid along over 5 years, was not the error as regard the object noted, as to the service that was being rendered, as regard what was kept?*

*Emerson Granero – We always hoped that this contract would be rescinded there in a few months, and after, as it remained, nobody really perceived internally there that there would be a possible mistake, that it would a problem for our company, really no one gave attention to that internally.*

*Federal Prosecution Service – Right. You said that before executing this second contract, pardon, that it was divided into contract of storage for the climatic part and for the dry part, a first contract was made that comprised the two parts of storage, right?*

*Emerson Granero – The first contact referred to by me was just the signed proposal, that for us has the value of contract, perhaps I have express badly, it was a proposal signed by Mr Paulo Okamoto that for us had already the force of contract signed, it was this that I wanted to refer to.*

*Federal Prosecution Service – Perfect. And in this proposal, that for you has the value of contract, was there written information about the material belonging to OAS or about it belonging to assets of former president?*

*Emerson Granero – It was written that it was property or assets, I don't remember In detail, but yes, it mentioned former president Lula.*

*Federal Prosecution Service – And why wasn't the standard contract used, as you said, that it was used the second time?*

*Emerson Granero – No, first time it wasn't a contract, it was a commercial budget, which signed has force of contract, second time we used a standard contract of system, they are two pages, it is a standard contract of storage, we had this for several clients, it is a standard contract, that is changed only when it is individual and when it is legal person, I understand the question of the mistake, but there is nothing but this”.*

934. On the other hand, the very defendant José Adelmário Pinheiro Filho, Grupo OAS's Chairman, who confessed the practice of the crime of corruption and laundering in relation to the apartment 164-A, triplex, in the Condomínio Solaris, denied, in Court, that the payments by Grupo OAS of the storage of the presidential assets were involved in some agreement of corruption, It is recorded:

*Federal Judge – Let’s go to the second part of the matter; relatively here, according to Federal Prosecution Service, that the company OAS would have paid the transportation and storage of the property belonging o former president at the company Granero Transportes Ltda. Did you involve in this episode?*

*José Adelmário Pinheiro Filho – Yes. Paulo Okamoto called me at Instituto Lula in December, November 2010, last year of the president’s term of office, and told me that there was an intention of the president of building, making the viability of a museum, on the occasion he that it would be named “Museu da Democracia”, tell all the history of Brazilian democracy after the military dictatorship, and the president had received during his term in office several collaborations, several things that were not of personal wear, but that would be part of the assets of this museum, if I could assume this storage and make the payments, and I authorized, the company executed the contract with the Granero and we paid that for 23 or 3 years, approximately.*

*Federal Judge – Right. And does this have anything in relation to that general account with Vaccari?*

*José Adelmário Pinheiro Filho – No, this was a liberation of mine for it not being about a personal thing, for it being about a thing that was going to a museum, I did no find it convenient to mix these things.*

*Federal Judge – So for these payments don’t you understand that there was a type of wrongdoing or illicit advantage involved?*

*José Adelmário Pinheiro Filho – I thought not, and I continue thinking not,*

*Federal Judge – Right. Was any offset, any benefit for the account of this payment to Granero?*

*José Adelmário Pinheiro Filho – Not, directly no, it is clear that we had an intention for I already had knowledge about what the president intended to do when he left the presidency and assumed the institute, and we had much interest in narrowing these relationships above all because of the international trading”.*

935. The defendant’s declarations, that he did not sight wrongdoings or that there was not debt from the general account of bribes, remove the crime of corruption. The final part, with mention that the payment had as purpose the narrowing of relationships, is not sufficient to characterize corruption, since it did involve payment in consequence of the presidential office or agreement involving public contracts.

936. José Adelmário Pinheiro Filho’s declarations sound believable. Considering his manifested intention to cooperate, there is reason why he would admit the practice of corruption and deny the other. If his intention was to lie in his own favor or in favor of former President Luiz Inácio Lula da Silva, he would deny both crimes. In case the intention was to lie in Curt only to obtain legal benefits, he would assert the two crimes. Considering that his statement involving the apartment triplex meets support and cooperation in due documentary evidence, it is

the case of giving him credit on his statement about the storage of the presidential assets.

937. Therefore, despite the irregularities in the price of storage do presidential assets, there no evidence that it involved a crime of corruption or laundering, reason why Luiz Inácio Lula da Silva, Paulo Tarciso Okamoto and José Adelmário Pinheiro Filho must be acquitted of this imputation.

### III – PROVISION

938. For the foregoing reasons, I **GRANT IN PART** the right to punish.

939. I **acquitt** Luiz Inácio Lula da Silva and José Adelmário Pinheiro Filho of the imputations of corruption and Money laundering involving the storage od the presidential assets, for lack of sufficient evidence of the materiality (art. 386, VII of CPP-Penal Code).

940. I **acquitt** Paulo Tarciso Okamoto of the imputation of money laundering involving the storage of the presidential assets, for lack of sufficient evidence of the materiality (art. 386, VII do CPP (Penal Code).

941. I **acquitt** Paulo Roberto Valente Godilho, Fábio Gori Yonamine and Roberto Moreira Teixeira, of the imputation of money laundering involving the concealment and dissimulation of the ownership of the apartment 164-A, triplex, and of the beneficiary of the repairs performed, for lack of sufficient evidence of the act with intent (art. 386, VII do CPP (Penal Code).

942. I **convict** Agenor Franklin Magalhães Medeiros for the crime of official misconduct of art. 333 of CP (Penal Code), with cause of increase under the sole paragraph of same article, for the payment of illicit advantage to agents of the Partido dos Trabalhadores (Workers Party), among them former President Luiz Inácio Lula da Silva, owing to the contract of Consortium ONEST/RNESTR with Petrobrás.

943. I **convict** José Adelmário Pinheiro Filho:

a) for the crime of official misconduct of art. 333 of CP (Penal Code), with cause of increase under the sole paragraph of same article, for the payment of illicit advantage to agents of the Partido dos Trabalhadores (Workers Party), among them former President Luiz Inácio Lula da Silva, owing to the contract of Consortium ONEST/RNESTR with Petrobrás;

b) for the crime of money laundering of art.1, caput, item V, of the Law N° 9.613/1998, involving the concealment and dissimulation of the ownership of the apartment 164-A, triplex, and od beneficiary of the repairs performed.

944. I **convict** Luiz Inácio Lula da Silva:

a) for the crime of official misconduct of art. 317 CP (Penal Code), with cause of increase under the sole paragraph of same article, for the receipt of illicit advantage from Grupo OAS, owing to the contract of Consortium ONEST/RNESTR with Petrobrás; and

b) for the crime of money laundering of art.1, caput, item V, of the Law N° 9.613/1998, involving the concealment and dissimulation of the ownership of the apartment 164-A, triplex, and of beneficiary of the repairs performed.

945. Attentive to the provisions in article 59 of the Penal Code and taking into account

the real case, I take to the individualization and dosimetry of the punishments to be imposed on the convicts.

#### **946. José Adelmário Pinheiro Filho**

For the crime of official misconduct: José Adelmário Pinheiro Filho has already been convicted by this Court in more than one criminal action, but without becoming *res judicata*, reason why the negative record shall not be herein considered.

Social conduct, reasons, behavior of the victim are neuter elements. Circumstances should be valued negatively. The practice of the crime of corruption involved the destination of sixteen million of BRL to political agents of the Partido dos Trabalhadores (Workers Party), a value very high. Besides, the crime was committed in wide criminal scheme in which the payment of bribery had become a routine, Circumstances must also be valued negatively, since the cost of the bribery was transferred to Petrobrás, through the collection of price higher than the estimate, incidentally favored by the corruption, so the state-owned corporation assumed the loss in the equivalent value. Personality or culpability must be valued negatively, since it is not possible to ignore that part of the bribery was designed for the then President of the Republic, what reveals criminal audacity. Considering three negative vectors, of special disapproval, I fix, for the crime of official misconduct, punishment of five years in confinement.

I consider the mitigating circumstance of the confession compensated with the aggravation of article 62, I, of CP (Penal Code).

There is not admission of the aggravation intended by MPF (Federal Prosecution Service) of the article 62, II, "a", since it would be *bis in idem* with cause of increase of the paragraph 1 of the article 317 of the CP (Penal Code).

There having been the practice of misconducts with violation of functional duty, items 886-891, I impose the cause of increase of the paragraph of the article 333 of the CP (Criminal Code), increasing it for six years and eight month in confinement.

I fix a one-hundred- fifty-day-proportional penalty for the corruption in one hundred fifty days.

Considering the dimension of the crimes and especially José Adelmário Pinheiro Filho's economic ability, former Chairman in Grupo OAS, I fix the penalty-day in five minimum salaries in force on the last criminal action that I fix on 06/2014.

For the crime of official misconduct: José Adelmário Pinheiro Filho has already been convicted by this Court in more than one criminal action, but without becoming *res judicata*, reason why the negative record shall not be herein considered.

Social conduct, reasons, behavior of the victim are neuter elements. Circumstances should be considered neuter, since the laundering consistent in the concealment of the value of the unit and of the real beneficiary of repairs did not get dressed with a special complexity. Personality or culpability must be valued negatively, since it is not possible to ignore that the laundering involve the concealment of the product de corruption designed for the then President of the Republic, what reveals criminal audacity. Considering a vector, of special disapproval, I fix, for the crime of laundering punishment of four years in confinement.

I consider the mitigating circumstance of the confession compensated with the aggravation of article 62, I, of CP (Penal Code).

There are not causes of increase or reduction. The cause of increase in paragraph 4 of article 1 of the Law N° 9.613/1998 cannot be imposed, since it is about an only crime of

laundering, without repeated practice,. As to the practice of laundering by conspiracy, the acts of laundering occurred in the ambit of OAS Empreendimentos and not in the scope of the criminal group organized to injure Petrobrás.

I fix a proportional penalty for the laundering in sixty-day penalty.

Considering the dimension of the crimes and especially José Adelmário Pinheiro Filho's economic ability, former Chairman in Grupo OAS, I fix the penalty-day in five minimum salaries in force on the last criminal action that I fix on 06/2014.

Between the crimes of corruption and laundering, there is material, concert, reason why the punishments **amount to ten years and eight months in confinement**, that I consider definite on José Adelmário Pinheiro Filho. As to the penalties, they must be converted and summed.

Taking into account the rules in the article 33 of the Penal Code, I fix imprisonment the beginning of execution of the punishment.

José Adelmário Pinheiro Filho's Defense Attorney intends the cognizance of the convict's cooperation with the Courts and, consequently, reduction of the punishment in 2/3 and its modulation for more favorable system.

The MPF (Federal Prosecution Service), on closing argument, agreed that there was cooperation, requesting reduction of 50% over the punishment.

I see that, considering the proceedings in the ambit of the so called Operação Lavajato, José Adelmário Pinheiro Filho's corruption was tardy, as the criminal scheme had already been revealed by others.

It was only after the convict in the criminal action 5083376-05.2014.4.04.7000 that, apparently, the convict decide to change his procedural standing.

The big problem in recognizing the cooperation is the lack of agreement of state's evidence or plea bargaining with MPF (Federal Prosecution Service). The execution of an agreement of cooperation involves a discretionary aspect of incumbent on MPF (Federal Prosecution Service), since it is not for the persecution to execute agreements with all those involved in the crime, what would be a synonymy of impunity.

It is for the MPF (Federal Prosecution Service) to exam if the gins obtained on the cooperation, as the quality of the proof provided by the collaborator, justify the benefit granted to the criminal. For involving discretionary element, save extreme cases, it is not, in principle, the Judiciary to recognize benefit resulting of collaboration if it is not preceded by an agreement with MPF (Federal Prosecution Service) according to the law N° 12.850/2013.

In this case, however, the very MPF (Federal Prosecution Service) agreed with the granting of benefits, so the obstacle was minimized.

Even with delay and without an agreement of collaboration, it forcible to recognize that the convict José Adelmário Pinheiro Filho contributed, in this criminal action, for explanation of the truth, testifying and handing documents.

The case involving crimes committed by the highest Agent of the Republic, it is possible to ignore the relevance of José Adelmário Pinheiro Filho's testimony.

His testimony being consistent with the rest of probative scenario, especially with the documentary evidence produced and it having, the testimony, probative relevance for the judgment, the granting of legal benefits to him is justifiable.

It is also observed that the collaboration even tardy was carried out in other proceedings too, as in the criminal action 5022179-78.2016.4.04.7000.

The granting of benefits, however, stops on practical questions.

José Adelmário Pinheiro Filho has already been convicted criminally on two other criminal actions, specifically in the said criminal actions 503376-05.2014.4.04.7000 and 5022179-78.2016.4.04.7000 and also is charged with other criminal actions before this Court.

It is of help to grant isolated benefit, reducing or even excusing the punishment in this proceeding, as he is already convicted to high punishments in other proceedings.

New questions demand new solutions and it is much more appropriate that the Court of the criminal actions than the Court of the Execution, to whom the unification of the punishments would rest on, since he, despite his professional quality, did not follow the criminal cases and does not know deeply the culpability or relevance of the collaboration or the cases Judged.

Therefore and considering, cumulatively, the high culpability of the convict, his relevant role in the criminal scheme, the tardy collaboration, the consistence of the testimony with the documentary evidence in the records, the relevance of the testimony for the judgment of this proceeding, it is the of not imposing on the convict, as condition of progression of system, the complete indemnity of the damages arising from the crime, and to admit the progression of regime de execution of the sentence after the execution of two year and six months of imprisonment, this irrespective of the total of punishment summed, which would more time for execution of the sentence.

The period of punishment executed in provisional detention must be considered for jail credit.

Let it be cleared that the punishments provided in the agreement of collaboration of Marcelo Bahia Odebrecht, Odebrecht's Chairman are here taken as parameters, and that practice cries in material and personal conditions similar to José Adelmário Pinheiro Filho.

It is observed that the provisions in paragraph 5, art. 1, of the Law N° 9.613/1998, and the art. 13 of the Law N° 9.807/1999, allow the granting of great benefits, as judicial mercy, reduction of punishment or modulation of system of execution of punishment, to collaborative defendants.

The benefit must be extended to, by the Court of Execution, to the punishments unified on the other proceedings judged by this Court.

As the convictions and punishments of the criminal actions 5083376-05.2014.4.04.700 and 5022179-78.2016.4.04.7000 have already been submitted to the High Regional Federal Court of the 4<sup>th</sup> Region, **the effective granting of the benefit above mentioned is subject to its express confirmation by that Appellate Court what must be asked it by the Defense Attorney.**

The express confirmation of the benefit by the Appellate Court is a question relatively obvious question since the acts of this Court are always subject to its revision, but a leave this expressed lest be said that other jurisdiction is being invaded.

The granting of the benefit is also subject to the continuation of the collaboration only with the truth of the facts in all other criminal cases where the convict is called to testify.

The lack of collaboration or fail in telling the truth by convict shall make the shall provoke the stoppage of the benefit.

In case eventual agreement of collaboration is eventually executed between Federal Prosecution Service and the convict, the punishments may be revised.

#### **947. Agenor Franling Magalhães Medeiros**

For the crime of official misconduct: Agenor Franklin Magalhães Medeiros has already been convicted by this Court in more than one criminal action, but without becoming res judicata, reason why the negative record shall not be herein considered. Social conduct, reasons, behavior of the victim are neuter elements. Circumstances should be valued negatively. The practice of the crime of corruption involved the destination of sixteen million of BRL to political agents of the Partido dos Trabalhadores (Workers Party), a value very high. Besides, the crime was committed in wide criminal scheme in which the payment of bribery had become a routine. Circumstances must also be valued negatively, since the cost of the bribery was transferred to Petrobrás, through the collection of price higher than the estimate, incidentally favored by the corruption, so the state-owned corporation assumed the loss in the equivalent value. Personality or culpability must be valued negatively, since it is not possible to ignore that part of the bribery was designed for the then President of the Republic, what reveals criminal audacity. Considering three negative vectors, of special disapproval, I fix, for the crime of official misconduct, punishment of five years in confinement.

I consider the mitigating circumstance of the confession compensated with the aggravation of article 62, I, of CP (Penal Code).

There is not admission of the aggravation intended by MPF (Federal Prosecution Service) of the article 62, II, “a”, since it would be bis in idem with cause of increase of the paragraph 1 of the article 317 of the CP (Penal Code).

There having been the practice of misconducts with violation of functional duty, items 886-891, I impose the cause of increase of the paragraph of the article 333 of the CP (Penal Code), increasing it for six years and eight months in confinement.

I fix a one- hundred- fifty-day-proportional penalty for the corruption in one hundred fifty days.

Considering the dimension of the crimes and especially Agenor Franklin Magalhães Medeiros’s economic ability, former Chairman in Grupo OAS, I fix the penalty-day in five minimum salaries in force on the last criminal action that I fix on 06/2014.

Considering that the three vectors of article 59 of the Penal Code are not favorable to the convict, on the contrary, they are of special disapproval, with three negative vectors of special disapproval, I fix, based on the article 33, paragraph 3, of the Penal Code, the imprisonment for execution of the punishment, About the topic, precedent of Federal Supreme Court:

*“The fixation of initial system for execution of the punishment is not subject only to the quantum of the reprimand, but also to the examination of the judicial circumstances of the article 59 of the Penal Code, according to remission of the art, 33, parag. 3, of the same statute” (HC 114.580/MS – Assig. Min. Rosa Weber – 1<sup>st</sup> Division of STF – for majority – J. 04/23/2013).*

Agenor Franklin Magalhães Medewiros's Defense Attorney intends the cognizance of the convict's cooperation with the Courts. They did not indicate specific benefit.

The MPF (Federal Prosecution Service), on closing argument, agreed that there was cooperation, requesting reduction of 50% over the punishment.

I see that, considering the proceedings in the ambit of the so called Operação Lavajato, Agenor Franklin Magalhães Medeiros's cooperation was tardy, as the criminal scheme had already been revealed by others.

It was only after the convict in the criminal action 5083376-05.2014.4.04.7000 that, apparently, the convict decide to change his procedural standing.

I consider the mitigating circumstance of the confession compensated with the aggravation of article 62, I, of CPP (Penal Code).

There are not causes of increase or reduction. The cause of increase in paragraph 4 of article 1 of the Law N° 9.613/1998 cannot be imposed, since it is about an only crime of laundering, without repeated practice,. As to the practice of laundering by conspiracy, the acts of laundering occurred in the ambit of OAS Empreendimentos and not in the scope of the criminal group organized to injure Petrobrás.

I fix a proportional penalty for the laundering in sixty-day penalty.

Considering the dimension of the crimes and especially José Adelmário Pinheiro Filho's economic ability, former Chairman in Grupo OAS, I fix the penalty-day in five minimum salaries in force on the last criminal action that I fix on 06/2014.

Between the crimes of corruption and laundering, there is material, concert, reason why the punishments **amount to ten years and eight months in confinement**, that I consider definite on. As to the penalties, they must be converted and summed.

Taking into account the rules in the article 33 of the Penal Code, I fix imprisonment the beginning of execution of the punishment.

José Adelmário Pinheiro Filho's Defense Attorney intends the cognizance of the convict's cooperation with the Courts and, consequently, reduction of the punishment in 2/3 and its modulation for more favorable system.

The MPF (Federal Prosecution Service), on closing argument, agreed that there was cooperation, requesting reduction of 50% over the punishment.

I see that, considering the proceedings in the ambit of the so called Lava Jato Investigation, Agenor Franklin Magalhães Medeiros's cooperation was tardy, as the criminal scheme had already been revealed by others.

It was only after the convict in the criminal action 5083376-05.2014.4.04.7000 that, apparently, the convict decide to change his procedural standing.

The big problem in recognizing the cooperation is the lack of agreement of state's evidence or plea bargaining with MPF (Federal Prosecution Service). The execution of an agreement of cooperation involves a discretionary aspect of incumbent on MPF (Federal Prosecution Service), since it is not for the persecution to execute agreements with all those involved in the crime, what would be a synonymy of impunity.

It is for the MPF (Federal Prosecution Service) to exam if the gins obtained on the cooperation, as the quality of the proof provided by the collaborator, justify the benefit granted to the criminal. For involving discretionary element, save extreme cases, it is not, in principle, the Judiciary to recognize benefit resulting of collaboration if it is not preceded by an agreement with MPF (Federal Prosecution Service) according to the law N° 12.850/2013.

In this case, however, the very MPF (Federal Prosecution Service) agreed with the granting of benefits, so the obstacle was minimized.

Even with delay and without an agreement of collaboration, it forcible to recognize that the convict Agenor Franklin Magalhães Medeiros contributed, in this criminal action, for explanation of the truth, testifying and handing documents.

The case involving crimes committed by the highest Agent of the Republic, it is possible to ignore the relevance of José Adelmário Pinheiro Filho's testimony.

His testimony being consistent with the rest of probative scenario, especially with the documentary evidence produced and it having, the testimony, probative relevance for the judgment, the granting of legal benefits to him is justifiable.

It is also observed that the collaboration even tardy was carried out in other proceedings too, as in the criminal action 5022179-78.2016.4.04.7000.

The granting of benefits, however, stops on practical questions.

Agenor Frankling Magalhães Medeiros has already been convicted criminally on two other criminal actions, specifically in the said criminal action 5083376-05.2014.4.04.7000 and also is charged with other criminal actions before this Court.

It is of no help to grant isolated benefit, reducing or even excusing the punishment in this proceeding, as he is already convicted to high punishments in other proceedings.

New questions demand new solutions and it much more appropriate that the Court of the criminal actions than the Court of the Execution, to whom the unification of the punishments would rest on, since he, despite his professional quality, did not follow the criminal cases and does not know deeply the culpability or relevance of the collaboration or the cases Judged.

Therefore and considering, cumulatively, the high culpability of the convict, his relevant role in the criminal scheme, the tardy collaboration, the consistence of the testimony with the documentary evidence in the records, the relevance of the testimony for the judgment of this proceeding, it is the of not imposing on the convict, as condition of progression of system, the complete indemnity of the damages arising from the crime, and to admit the progression ode regime de execution of the sentence after the execution of two year and six months of imprisonment, this irrespective of the total of punishment summed, which would more time for execution of the sentence.

The period of punishment executed in provisional detention must be considered for jail credit.

Let it be cleared that the punishments provided in the agreement of collaboration of Marcelo Bahia Odebrecht, Odebrecht's Chairman are here taken as parameters, and that practice cries in material and personal conditions similar to José Adelmário Pinheiro Filho.

It is observed that the provisions in paragraph 5, art. 1, of the Law N° 9.613/1998, and the art. 13 of the Law N° 9.807/1999, allow the granting of great benefits, as judicial mercy, reduction of punishment or modulation of system of execution of punishment, to collaborative

defendants.

The benefit must be extended to, by the Court of Execution, to the punishments unified on the other proceedings judged by this Court.

As the convictions and punishments of the criminal actions 5083376-05.2014.4.04.700 and 5022179-78.2016.4.04.7000 have already been submitted to the Appellate Court of the 4<sup>th</sup> Region, **the effective granting of the benefit above mentioned is subject to its express confirmation by that Appellate Court what must be asked it by the Defense Attorney.**

The express confirmation of the benefit by the Appellate Court is a question relatively obvious question since the acts of this Court are always subject to its revision, but a leave this expressed lest be said that other jurisdiction is being invaded.

The granting of the benefit is also subject to the continuation of the collaboration only with the truth of the facts in all other criminal cases where the convict is called to testify.

The lack of collaboration or fail in telling the truth by convict shall make the shall provoke the stoppage of the benefit.

In case eventual agreement of collaboration is eventually executed between Federal Prosecution Service and the convict, the punishments may be revised.

#### **948. Luiz Inácio Lula da Silva**

For the crime of official misconduct: Luiz Inácio Lula da Silva is charged with other criminal action, including before this Court, but without judgment, reason why the negative record shall not be herein considered. Social conduct, reasons, behavior of the victim are neuter elements. Circumstances should be valued negatively. The practice of the crime of corruption involved the destination of sixteen million of BRL to political agents of the Partido dos Trabalhadores (Workers Party), a value very high. Besides, the crime was committed in wide criminal scheme in which the payment of bribery had become a routine, Consequences must also be valued negatively, since the cost of the bribery was transferred to Petrobrás, through the collection of price higher than the estimate, incidentally favored by the corruption, so the state-owned corporation assumed the loss in the equivalent value. The culpability is high the convict receive illicit advantage in consequence of the office of President of the republic that is, high agent. The responsibility of President of the republic is in normus and, consequently his culpability also when his practices this primes. That without forgetting that the crime is included in wild context, of systemic scheme of corruption in Petrobras in of spurious relation between him and Grupo OAS. He acted then, with demarked culpability what also must be valued negatively. Such vector too could be considered as negative as way of personality. Considering Three negative vectors, of special disapproval, I fix, for the crime of official misconduct, punishment of five years in confinement.

I reduce the punishment to six month by the mitigation of article 65, I, of CPP (Penal Code).

The aggravation intended by The MPF (Federal Prosecution Service), of the article 62, "a" since that it would be bis in idem with the cause of increase of paragraph 1 of article 317 of CP ( Penal Code).

There having been the practice of misconducts with violation of functional duty, items 886-891,I impose the cause of increase of the paragraph of the article 333 of the CP (Penal Code), increasing it for six years and eight month in confinement.

I fix a one-hundred- fifty-day-proportional penalty for the corruption in one hundred

fifty days.

Considering the dimension of the crimes and especially Luiz Inacio Lula da Silva declared revenue, (event 3 comp 227 about R\$ 952.814 in profits and dividends received from LILS PALESTRAS only in the year 2016), I fix the penalty-day in five minimum salaries in force on the last criminal action that I fix on 06/2014.

For the crime of laundry: Luis Inacio Lula da Silva is charged with the other criminal actions, inclusively before this Court, but yet without judgment, reason why the negative record shall not be herein considered. Social conduct, reasons, behavior of the victim are neuter elements. Circumstances should be considered neuter, since the laundering consistent in the concealment of the value of the unit and of the real beneficiary of repairs did not get dressed with a special complexity. The culpability is high. The convict concealed and the simulated illicitly advantage received owing to the office the President of the Republic, that is of major agent. The responsibility of President of the Republic is enormous and, consequently, his culpability to when practice crimes. This without forgetting that the crime is included in wild context of systemic scheme of corruption in Petrobras in of spurious relation ship between him and GRUPO OAS. He acted than with extreme culpability what must also be valued negatively. Considering a vector, of special disapproval, I fix, for the crime of laundering punishment of four years in confinement.

I reduce the punishment to six month by the mitigation of article 65, I, of CP( Criminal Cod).

There are not causes of increase or reduction. The cause of increase in paragraph 4 of article 1 of the Law N° 9.613/1998 cannot be imposed, since it is about an only crime of laundering, without repeated practice,. As to the practice of laundering by conspiracy, the acts of laundering occurred in the ambit of OAS Empreendimentos and not in the ambit of the criminal group organized to injure Petrobrás.

I fix a proportional penalty for the laundering in Thirty- five -days penalty.

Considering the dimension of the crimes and especially Luis Inacio Lula da Silva declared revenue, (event 3 comp 227 about R\$ 952.814 in profits and dividends received from LILS PALESTRAS only in the year 2016), I fix the penalty-day in five minimum salaries in force on the last criminal action that I fix on 06/2014.

Between the crimes of corruption and laundering, there is material, concert, reason why the punishments **amount to nine years and six months in confinement**, that I consider definite former President Luis Inacio Lula da Silva. As to the penalties, they must be converted and summed.

## **FALTA**

Taking into account the rules in the article 33 of the Penal Code, I fix imprisonment the beginning of execution of the punishment. The progression of system is, in principal subject to compensation of the damaged under the terms of the article 33, paragraph 4, of the CP (Penal Code)

949 – In consequence of the conviction for the crime of laundering I decree based on the article 7, II, of the laugh number 9613/1998 the interdiction of Jose Aldemário Pinheiro Filho e Luis Inacio Lula da Silva, for the exercise of the public office or function or of director, member of the council or of management of legal persons referred to in the article 9 of the same law for the double of Liberty deprivation.

950 – Considering that the apartment 164 A triplex A Edificio Salina, Condominio

Solaris, in Guarujá, registration 104801 of Register Deed of Guarujá, is product of crime of corruption and of money laundering, I decree the confiscation, based of article 91,II, “d”, of CP (Penal Code).

951 – In order to assure the confiscation, I Decree sequestration on the property referred to. **Irrespective of the res judicata**, let the rogatory be written under the term of sequestration in for the register of the confiscation at the register of deed. Valuation of the property is a necessary at the moment.

952 – **Irrespective of the res judicata**, give notice to the court in the proceed of judicial recovery pending before the 1<sup>st</sup> court of bankruptcies and Judicial Recovery of the state courts of Sao Paulo (Proceeding 0018687-94.2015.8.26.01000) Informing the sequestration and confiscation of the property as product of crime and that, therefore, and cannot no more be considered as guaranty in civil proceedings.

953 – Is necessary to estimate the minimum value for compensation of the damages arise from the crime, under the terms of the article 387, IV, of CCP (Penal Code) the MPF calculated the value based on the total of illicitly advantage agreed on the contracts of Consorcio CONPAR and RNEST/CONEST, about three percent over the value of them. Is considered more appropriated, as minimum value limited to the amount designed for general checking account of briberies of GRUPO OAS with agents of the Partido dos Trabalhadores. (Workers Party), that is in sixteen million BRL, to be escalated monetarily and aggregate of 0,5% of simple interest a month from 12/10/2009 (December 10).Evidently the indemnity the values confiscated relativity the apartment shell be discounted.

954 – **Irrespective of the res judicata**, I release the apprehension authorized in the proceeding 5006617/29.2016.4.04.7000 on the presidential assets that is currently deposited and sealed at Sindicato dos Metalurgicos do ABC, The a not being more reason to kepted.

955- The convicts shell pay the legal costs.

956 – José Aldemario Pinheiro Filho is provisionally in imprisonment for other proceed, criminal action, 5022179/78.2016.4.04.7000, and soon will begin to comply with the punishment of conviction in second instance in the criminal action 5083376/05.2014.4.04.7000. Agenor Franklin Magalhaes Medeiros will soon serve the punishment of conviction in second instance with the criminal action 5083376/05.2014.4.04.7000. In the context it’s a necessary to impose of them in the present criminal action the privation of liberty.

957 – Former President Luiz Inacio Lula da Silva was charged with the proceeding in liberty. There are testimonies of at list two persons in the regard that he would have guided the destruction of evidences, of Jose Aldemario Pinheiro Filho( Items 536/537), taken in this proceeding, and yet Renato de Souza Duque. Deposition of the letter was taken, but, in another criminal action, number 5054932/88.2016.4.04.7000.

958 – Is defense in this criminal action, he has, advised by his lawyers, adapted tactics very questionable, like intimidation of the now judge, with the file of criminal claimed, and of intimidation to other agents of the law, federal prosecutor and police officer, with the file of actions of recovered for crimes against the honor. He even promoted action of compensation against witness and that was judged inconsistent besides action of compensation against journalist who reveled relevant facts about the present case, also judged inconsistent (topics II.1 to II.4) He has also given public declarations at list inadequate about the proceeding, for example suggesting that if he takes over the power he will put the Federal Prosecutes in prison or Federal Police officer (May 5. 2017, “if they do not put me in prison them who knows some day I will order their prison for the lies that they tell, according to <http://politica.estadao.com.br/blogs/fausto-macedo/se-eles-nao-me-prederem-logo-quem-sabe->

eu-mando--prende-los-diz-lula/). This conducts are inappropriate and reveal attempts of intimidation of the Courts, of the agents of the law and even of the press in order that they do not execute their duty.

959 – Matching this behavior to episodes of orientation to third parties for destruction evidences, the decree of a the preventive detention or former President Luis Inacio Lula da Silva could be cogitated.

960 – Nevertheless let be registered that this conviction doesn't bring to this judge any person satisfaction, on the contrary. It is of all bad that in Former President of the Republic be criminally convicted but the cause of this a the crimes committed by him and the fault is not of regular application of the law.

961- Finally the proverb “It does not matter, how high you are, the law is still above you” ( In free adaption of” Be you never so high the law is above you”).

962 – Transited in res judicata let the name of the convicted be listed as guilt, let the annotations and notification of practice (including TRE for the proposed art 15, III of the federal constitution).

Curitiba, July 12, 2017

---

Electronic document signed by **SÉRGIO FERNANDO MORO**, Federal Judge according to article 1°, item III, of Law 11.419, of December 19, 2006 and Resolution TRF 4<sup>th</sup> Region N° 17, of March 26, 2010. The check of the authenticity of the document available at the electronic address <http://www.trf4.jus.br/processoes/verifica-php>, by filling the verifier code 700003590925v61 and of the code CRC 46016c4b.

Signature's additional information:

Signatory: **SÉRGIO FERNANDO MORO**

**Date and Time: 07/12/2017 13:52:56**

---

**5046512-94.2016.4.04.7000**

**700003590925.V61 FCM() SFM**

