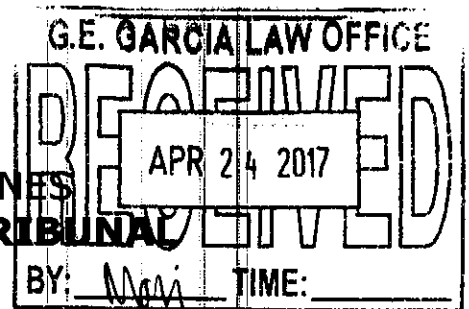


REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL ELECTORAL TRIBUNAL
Manila



**FERDINAND "BONGBONG" R.
MARCOS, JR.,**

Protestant,

- versus -

PET Case No. 005
FOR: Election Protest
Vice President

**MARIA LEONOR "LENI DAANG
MATUWID" G. ROBREDO,**

Protestee.

X - - - - -X

**MANIFESTATION WITH URGENT EX-PARTE OMNIBUS
MOTION (1) FOR CLARIFICATION; AND
(2) RECONSIDERATION OF THE RESOLUTION DATED
21 MARCH 2017**

PROTESTEE **MARIA LEONOR G. ROBREDO**, by the undersigned counsel, to the Honorable Tribunal, moves for a clarification and reconsideration of the Resolution dated 21 March 2017¹, and respectfully states:

1. Protestee Maria Leonor G. Robredo (hereafter "Robredo" for brevity) is willing to pay the cash deposit for her Counter-Protested clustered precincts.

2. The instant motion should not in any way be construed as a waiver or abandonment of her Counter-Protest.

3. However, as will be discussed hereunder, protestee Robredo is constrained to file this Omnibus Motion to seek clarification and reconsideration of the Resolution dated 21 March 2017 issued by the Honorable Tribunal.

¹ Copy of which was received by protestee Robredo on 11 April 2017.

4. By way of background, on 29 June 2016, protestant Ferdinand R. Marcos, Jr. (hereafter "Marcos" for brevity) filed the above-captioned Election Protest against protestee Maria Leonor G. Robredo (hereafter "Robredo" for brevity) with the Honorable Tribunal.

5. Protestant Marcos alleged that he is assailing and impugning the results of the elections for Vice-President during the 09 May 2016 National and Local Elections, based on the following reasons:

"2.1. This is an election protest contesting the election and proclamation of Maria Leonor "Leni Daang Matuwid" G. Robredo ("protestee Robredo") as Vice-President of the Republic of the Philippines in the 9 May 2016 National and Local Elections, which protestant Marcos **assails** and **impugns** for the following reasons:

a. **The COCs generated by the CCS are not authentic, and cannot be the basis of determining the number of votes that the candidates for vice-president received because the integrity and reliability of the AES, which includes the system employed to canvass the votes, were not established before the elections, and were compromised by several violations of the mandatory provisions of Republic Act No. 8436, as amended, all of which were exploited to favor protestee Robredo; and**

b. **The presence of electoral fraud, irregularities and anomalies, which pervaded the conduct of elections in twenty-five provinces and five highly-urbanized cities consisting of thirty-nine thousand two hundred**

twenty one (39,221) clustered precincts."² [Emphasis supplied.]

6. Consistent therewith, protestant Marcos proffered as his First Cause of Action that:

**"A.
(First Cause of Action)**

The proclamation of protestee Robredo as the duly elected Vice-President is null and void because the COCs generated by the CCS are not authentic, and may not be used as basis to determine the number of votes that the candidates for Vice-President received."³

7. In support of his First Cause of Action, protestant Marcos raised the following arguments:

"(1) The reliability of the system employed to canvass the votes received by the candidates for Vice-President was not established before the elections, which was exploited to favor protestee Robredo."⁴

- (a) The mandatory requirements of Republic Act No. 8436, as amended were not shown to have been complied with.⁵
- (b) The use of the AES supplied by Smartmatic violated Republic Act No. 8436, as amended.⁶

² Page 7, Election Protest.

³ Page 929, Election Protest.

⁴ Id.

⁵ Page 930, Election Protest.

⁶ Page 941, Election Protest.

(2) Other violations of Republic Act No. 8436, as amended, as well as a confluence of irregularities, and breaches of security protocols and procedures severely undermined the integrity and credibility of the entire electoral exercise, particularly the COCs on the basis of which protestee Robredo was proclaimed as the duly elected Vice-President.⁷

- (a) The COMELEC acted unlawfully by issuing and implementing certain resolutions relating to the SD cards of the VCM.⁸
- (b) The COMELEC acted unlawfully by reconfiguring 30 CCS of 4 provinces and 26 cities/municipalities contrary to its own contingency procedure.⁹
- (c) Smartmatic introduced a new program into the Transparency Server in breach of protocol and without proper authority, and betraying the fact that a software was used in a component of the AES without being subjected to review by political parties and candidates as required by Republic Act No. 8436, as amended.¹⁰
- (d) An intermediary/queue server was utilized in gross violation and disregard of Republic Act No. 8436, as amended, and COMELEC Resolution No. 10057.¹¹

⁷ Page 942, Election Protest.

⁸ Ibid.

⁹ Page 945, Election Protest.

¹⁰ Id.

¹¹ Page 948, Election Protest.

(e) The AES supplied by Smartmatic was a vulnerable system as per report of SLI.¹²

8. Meanwhile, in his **Second Cause of Action**, protestant Marcos, not only sought the re-opening of the ballot boxes and manual recount, judicial revision, technical examination, and forensic investigation of the paper ballots and/or the ballot images in thirty six thousand four hundred sixty five (36,465) protested clustered precincts¹³ but the annulment of the results of the elections in the two thousand seven hundred fifty-six (2,756) clustered precincts from the Provinces of Lanao del Sur, Maguindanao and Basilan¹⁴.

9. Thus, in his Prayer to the Honorable Tribunal, protestant Marcos asked for the following reliefs:

"(1) Upon filing of this Election Protest, to immediately **ISSUE** a **PRECAUTIONARY PROTECTION ORDER** directing the Commission on Elections, the Election Officers, City/Municipal Treasurers, the Bangko Sentral ng Pilipinas, Smartmatic-Total

¹² Page 950, Election Protest.

¹³ Paragraph 7.4. of the Election Protest states:

"7.4. Thus, the **re-opening** of the ballot boxes and the **manual recount, judicial revision, technical examination, and forensic investigation** of the paper ballots and/or the ballot images, voter's receipts, election returns, audit logs, transmission logs, the lists of voters, particularly the Election Day Computerized Voter's List ("EDCVL") and voter's registration records ("VRRs"), the books of voters, and other pertinent election documents and/or paraphernalia used in the elections, as well as the automated election equipment and records such as the VCM, the SD cards (main and back up), and other data storage devices containing electronic data and ballot images in **each** of the **thirty-six thousand four hundred sixty-five (36,465)** protested clustered precincts which functioned in the afore-mentioned protested areas are **CRUCIAL** for this Election Protest."

¹⁴ Paragraph 7.2. of the Election Protest states:

"7.2. Terrorism, force, violence, threats and intimidation were rampant in the protested clustered precincts of Lanao Del Sur, Maguindanao, and Basilan on Election Day. No actual election took place in the protested clustered precincts of Lanao Del Sur, Maguindanao, and Basilan because the registered voters thereat were prohibited from entering the polling precincts. Only the supporters of the Liberal Party candidates were allowed entrance in the polling precincts of Lanao Del Sur, Maguindanao, and Basilan to facilitate the batch-feeding of pre-shaded ballots in favor of protestee Robredo. Consequently, it is imperative that the election results from the **two thousand seven hundred fifty six (2,756)** protested clustered precincts of Lanao Del Sur, Maguindanao and Basilan be **annulled and set aside** by this Honorable Tribunal."

Information Management (TIM) Corporation, IP Converge Data Services, Inc. and all data centers, Smart Communications, Inc., Globe Telecom, Inc., PLDT Inc., Digitel Mobile Philippines, Inc. (Suncellular), and all telecommunications, Broadband Global Area Network (BGAN) and Very Small Aperture Terminal (VSAT) providers during the 9 May 2016 National and Local Elections (i) to take precautionary measures to preserve the integrity and safety of the following: (a) all the ballot boxes and their contents, including the ballots, voter's receipts and election returns; (b) the lists of voters, particularly the Election Day Computerized Voter's List (EDCVL), and voters' registration records (VRRs), and the books of voters; (c) the audit logs, transmission logs, and all log files; and (d) all other documents or paraphernalia used in the elections, including the automated election equipment and records such as the Vote Counting Machines (VCM), Consolidation and Canvass System (CCS) units, Secure Digital (SD) cards (main and back up), and other data storage devices containing electronic data and ballot images, evidencing the conduct and the results of the elections in ALL of the **ninety two thousand five hundred ninety nine (92,509)** clustered precincts that functioned during the 9 May 2016 National and Local Elections; and (ii) to ensure that the said documents and paraphernalia will not be tampered with pursuant to **Rule 36 of the PET Rules**;

On the First Cause of Action:

(2) After due proceedings: (a) to **DECLARE** as "unauthentic" the Certificates of Canvass on the basis of which both Houses of Congress proclaimed protestee Ma. Leonor "Leni Daang Matuwid" Robredo as the winning candidate for Vice-President of the Philippines during the 9 May 2016 National and Local Elections; (b) and thereafter, on the basis of proceedings which the Tribunal may prescribe, determine the candidate who received "the highest number of votes";

On the Second Cause of Action:

(3) After due proceedings, to **ANNUL** the election results for the position of Vice-President in the provinces of **MAGUINDANAO, LANA O DEL SUR** and **BASILAN** on the ground of terrorism, intimidation and harassment of voters as well as pre-shading of ballots in **ALL** of the **two thousand seven hundred fifty six (2,756)** protested clustered precincts that functioned in the aforesaid areas;"

10. On 12 July 2016, the Honorable Tribunal issued a Precautionary Protection Order (PPO) over the ballot boxes, election documents and paraphernalia, including the Vote Counting Machines (VCM), Consolidating Canvass System 9CCS) units, Secure Digital (SD) cards (main and back up) and other storage devices in not just the **Thirty Six Thousand Four Hundred Sixty Five (36,465) clustered precincts subject of revision** but all the **Ninety Two Thousand Five Hundred Ninety Nine (92,509) clustered precincts** which functioned during the 09 May 2016 National and Local Elections.

11. Due to alleged perceived irregularities in the proposed stripping activities of the Commission on Elections ("COMELEC"), on 15 August 2016, protestant Marcos filed a Manifestation of even date before the Honorable Tribunal.¹⁵

12. Thereafter, in the Comment dated 04 September 2016, protestant Marcos interposed his objection to the conduct of the closure/stripping activities of COMELEC.¹⁶

13. To date, protestant Marcos has not withdrawn his objections to the closure/stripping activities of COMELEC.

14. It is against these factual antecedents that protestee Robredo is seeking a clarification on the Resolution dated 21 March 2017 issued by the Honorable Tribunal.

15. Under the Resolution dated 21 March 2017, both parties are directed to each pay their respective cash deposits:

"Rule 33 (b) of the Tribunal's 2010 Rules provides that the cash deposit for the protest and counter-protest, if they require the bringing of the contested ballot boxes and election documents to the Tribunal, is 'P500.00 for each precinct involved'.

In his protest, Protestant assails the election results in 39,221 clustered precincts – 36,465 of which he prays for the conduct of manual count and judicial revision, while the remaining 2,756 he prays for the annulment of election results. Based on the Commission on Elections (COMELEC) data, the 39,221 clustered precincts are composed of 132,446 precincts. On the other hand, Protestee, as Counter-Protestant, assails

¹⁵ A copy of the Manifestation dated 15 August 2016 is hereto attached as **Annex "1"** and made an integral part hereof.

¹⁶ A copy of the Comment dated 04 September 2016 is hereto attached as **Annex "2"** and made an integral part hereof.

the election results in 8,042 clustered precincts, which are composed of 31,278 precincts, also based on COMELEC data. The protest and counter-protest require the bringing of ballot boxes and other election paraphernalia to the Tribunal for all the foregoing precincts.

Based on the foregoing, the cash deposit for Protestant is P500.00 for each of the 132,446 precincts, which amounts to P66,223,000.00. For the Counter-Protestant, the cash deposit is P500.00 for each of the 31,278 precincts, which totals P15,639,000.00. Deducting the initial deposit of P200,000.00 paid by each, the cash deposits due from Protestant and Counter-Protestant are as follows:

- a. For Protestant:
P66,023,000.00; and
- b. For Counter-Protestant:
P15,439,000.00.

Since, under Section 33 (c) of the Tribunal's 2010 Rules the Tribunal may require payment in installment, the Tribunal requires Protestant to pay the cash deposit in two installments, as follows: P36,023,000.00 on or before April 14, 2017, and P30,000,000.00 on or before July 14, 2017. Counter-Protestant is also required to pay the cash deposit in two installments, as follows: P8,000,000.00 on or before April 14, 2017 and P7,439,000.00 on or before July 14, 2017."

16. As aforesated, the Election Protest covers not only the **Thirty Six Thousand Four Hundred Sixty Five (36,465) clustered precincts** for recount and revision but all the **Ninety Two Thousand Five Hundred Ninety Nine**

(92,509) clustered precincts which functioned during the 09 May 2016 National and Local Elections.

17. In fact, it is for this reason that the PPO issued by the Honorable Tribunal covers the **Ninety Two Thousand Five Hundred Ninety Nine (92,509) clustered precincts** which functioned during the 09 May 2016 National and Local Elections.

18. Further, it is for the same reason that the turnover of the VCMs by COMELEC to Smartmatic was delayed.

19. This delay has resulted to the unresolved issue on the exercise of the option to purchase by COMELEC under its contract with Smartmatic and the issue as to who will shoulder the cost of the delay in the return of the VCMs and CCS which were all subject of the PPO sought for by protestant Marcos in his Election Protest. Thus, the Honorable Tribunal should reiterate its directive to COMELEC to submit an itemized cost of the fees due to be paid to Smartmatic for the delay in the return of the said equipment where, reports had it, that COMELEC would spend P2.078 Billion due to this Election Protest.¹⁷ It was also reported that COMELEC failed to return said equipment to Smartmatic "due to the protest filed by losing candidate Vice-Presidential candidate Ferdinand "Bongbong" Marcos."¹⁸

20. Thus, as the PPO covers not just the **Thirty Six Thousand Four Hundred Sixty Five (36,465) clustered precincts** for recount and revision, the cash deposit assessed to be paid by protestant Marcos should also include all the **Ninety Two Thousand Five Hundred Ninety Nine (92,509) clustered precincts** which functioned during the 09 May 2016 National and Local Elections.

21. Albeit, the **First of Action** does not require the bringing of the ballot boxes to the Honorable Tribunal, protestant Marcos still seeks the forensic and technical examination of the Vote Counting Machines (VCM),

¹⁷ <http://newsinfo.inquirer.net/859812/comelec-starts-returning-voting-machines-to-smartmatic#ixzz4dwoNLIyh>

¹⁸ <http://www.gmanetwork.com/news/story/592069/news/nation/smartmatic-asking-comelec-to-pay-p2b-for-unreturned-voting-machines>

Consolidation and Canvass System (CCS) units, Secure Digital (SD) cards (main and back up), and other data storage devices containing electronic data and ballot images.

22. Finally, as protestant Marcos not abandoned this cause of action, will he not be required to pay an additional cash deposit to cover the **Ninety Two Thousand Five Hundred Ninety Nine (92,509) clustered precincts** which functioned during the 09 May 2016 National and Local Elections subject of his **First Cause of Action**.

23. On the other hand, protestee Robredo asks that the payment of the cash deposit for her Counter-Contested clustered precincts be held in abeyance.

24. **Rule 65 of the 2010 Rules of the Presidential Electoral Tribunal** provides:

*"Dismissal; when proper. – The Tribunal may require the protestant or counter-protestant to indicate, within a fixed period, the province or provinces numbering not more than three, best exemplifying the frauds or irregularities alleged in his petition; and the revision of ballots and reception of evidence will begin with such provinces. **If upon examination of such ballots and proof, and after making reasonable allowances, the Tribunal is convinced that, taking all circumstances into account, the protestant or counter-protestant will most probably fail to make out his case, the protest may forthwith be dismissed, without further consideration of the other provinces mentioned in the protest.**"* [Emphasis supplied.]

25. Under Rule 65 of the 2010 Rules of the Presidential Electoral Tribunal, the initial revision and reception of evidence shall proceed with the three (3) provinces to be identified by protestant Marcos.

26. Should, after revision and reception of evidence, the Honorable Tribunal finds that protestant Marcos will most probably fail to make out his case, then, his Election Protest will be dismissed.

27. Thus, it is only after a finding that there is significant recovery can the recount and revision of the remaining protested clustered precincts can proceed.

28. Thereafter, it is only after all the protested clustered precincts have been recounted and revised, will the counter-protested clustered precincts be subjected to recount and revision.

29. Thus, without pre-empting the Honorable Tribunal, protestee Robredo asks that the payment of her cash deposit be deferred until such time that the recount and revision of all the **Thirty Six Thousand Four Hundred Sixty Five (36,465) protested clustered precincts** has terminated.

30. Protestee Robredo should be asked to pay the cash deposit only after there is a necessity to retrieve and collect her counter-protested clustered precincts.

31. To reiterate, and without pre-empting the Honorable Tribunal, it will be premature at this time for protestee Robredo to make said cash deposit for the Counter-Protested clustered precincts as the same is NOT yet necessary pending determination of the legitimacy of the merits of this Election Protest filed by protestant Marcos.

32. Furthermore, the Motion for Reconsideration of the Resolution finding the Election Protest as sufficient in form and substance is still pending consideration of the Honorable Tribunal and any favorable action on any of the reliefs prayed for therein will have an effect or bearing on the total number of clustered precincts that would be subject of the Election Protest.

33. Finally, as aforestated, should this Motion be denied, protestee Robredo is willing to pay the cash deposit for her Counter-Contested clustered precincts.

34. This motion is not intended for delay but dictated solely by the foregoing exigencies.

PRAYER

WHEREFORE, PREMISES CONSIDERED, it is respectfully prayed to the Honorable Tribunal that a Resolution be issued:

(1) CLARIFYING the cash deposit to be paid by protestant Marcos in that he should not only be asked to make a cash deposit for the Thirty Nine Thousand Two Hundred Twenty One (39,221) clustered precincts but for ALL the established precincts of the entire Ninety Two Thousand Five Hundred Nine (92,509) clustered precincts that **he himself impugned and assailed as alleged in his First Cause of Action**;

(2) COMELEC be DIRECTED to submit the itemized cost of the fees due to be paid to Smartmatic for the delay in the return of the Ninety Two Thousand Five Hundred Nine (92,509) VCMs used in the 09 May 2016 National and Local Elections which are the subject of the Election Protest and PPO; and

(3) HOLDING IN ABEYANCE the payment of the cash deposit for the Eight Thousand Forty Two (8,042) Counter-Contested Clustered Precincts of protestee Robredo.

Protestee Robredo prays for such other reliefs as may be just and equitable under the premises.

Pasig City for Manila. 12 April 2017.


ATTY. ROMULO B. MACALINTAL

Lead Counsel for Protestee

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By


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Roll No. 45897

PTR No. 2362138/03 January 2017/Pasig City

IBP Lifetime No. 07133

MCLE Compliance No. V-0010907/30 September 2015

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REQUEST

**THE SECRETARY OF THE TRIBUNAL
PRESIDENTIAL ELECTORAL TRIBUNAL
MANILA**

Please submit the foregoing "*Urgent Ex-Parte Omnibus Motion (1) For Clarification; and (2) Reconsideration of the Resolution dated 21 March 2017*" for the consideration and approval of the Honorable Tribunal immediately upon receipt hereof without need for oral arguments.


MARIA BERNADETTE V. SARDILLO

NOTICE OF HEARING

ATTY. GEORGE ERWIN M. GARCIA
ATTY. JOAN M. PADILLA
G. E GARCIA LAW OFFICE
Lead Counsel for Protestant
Ground Floor Laiko Building
372 Cabildo Street, Intramuros,
1002 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

Please take note that undersigned counsel will submit the foregoing "*Urgent Ex-Parte Omnibus Motion (1) For Clarification; and (2) Reconsideration of the Resolution dated 21 March 2017*" for the consideration and approval of the Honorable Tribunal immediately upon receipt thereof without need for further oral arguments.


MARIA BERNADETTE V. SARDILLO

Copy furnished:

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EXPLANATION

Due to unavailability of messengers and the distance of the parties, a copy of the herein "Motion" were sent to the above-named parties by registered mail.


MARIA BERNADETTE V. SARDILLO

Republic of the Philippines)
MANDALUYONG CITY)

**VERIFIED DECLARATION OF COMPLIANCE WITH THE
EFFICIENT USE OF PAPER RULE**


I, **KWELL SUYINN M. ZARASATE**, hereby declare that the Manifestation With Urgent Ex Parte Omnibus Motion (1) For Clarification; and (2) Reconsideration of the Resolution dated 21 March 2017 (and annex hereof) submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and true copies of the Manifestation With Urgent Ex Parte Omnibus Motion (1) For Clarification; and (2) Reconsideration of the Resolution dated 21 March 2017 (and annex hereof) filed with the Presidential Electoral Tribunal.

Pasig City. 12 April 2017.


KWELL SUYINN M. ZARASATE
Secretary
Sardillo Sardillo Salom Law Office

SUBSCRIBED AND SWORN TO BEFORE ME, a notary public in and for ^{MANDALUYONG CITY} Pasig City, this 12th day of April 2017 by affiant **KWELL SUYINN M. ZARASATE** who is personally known to me, and appeared with her SSS ID with No. 33-9056255-6 issued by Social Security System, known to me as the same person who personally signed the foregoing attestation before me and acknowledged that she executed the same.

Doc. No. 60 ;
Page No. 12 ;
Book No. 87 ;
Series of 2017.


ATTY. JOSE B. DULNUAN
NOTARY PUBLIC
FOR THE CITY OF MANDALUYONG
Until December 31, 2017
COMMISSION NO. 458-16
IBP LIFETIME NO. 0995268 / IFUGAO
PTR NO. 69252527, 1-3-17, Cainta, Rizal
ROLL NO. 26304
MCLE COMP. NO. V-0022171, 6-15-16
VALID UNTIL 04-14-2019
D22-AB GUVENTVILLE II, D.M. GUEVARA ST.,
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Republic of the Philippines
PRESIDENTIAL ELECTORAL TRIBUNAL
MANILA

FERDINAND 'BONGBONG'
R. MARCOS, JR.,

Protestant,

- versus -

P.E.T. Case No. 005

MARIA LEONOR 'LENI
DAANG MATUWID' G.
ROBREDO

Protestee.

x-----x

MANIFESTATION

Protestant Ferdinand 'Bongbong' R. Marcos, Jr., through the undersigned counsel, respectfully manifests that:

1. On 29 June 2016, Protestant filed before this Honorable Tribunal his Electoral Protest praying, *inter alia*, for the immediate issuance of a Precautionary Protection Order ("PPO") pursuant to Rule 36 of the 2010 Rules of the Presidential Electoral Tribunal.

2. On 12 July 2016, this Honorable Tribunal favorably resolved Protestant's prayer for the immediate issuance of a PPO, which reads as follows:

"NOW, THEREFORE, pursuant to Rule 36 of the 2010 Rules of the Presidential Electoral Tribunal, You, the Commission on Elections, your agents, representatives, or persons acting in your place or stead, including the city/ municipal treasurers, election officers, and the responsible personnel and custodians, are hereby **DIRECTED** to **PRESERVE** and **SAFEGUARD** the integrity of all the ballot boxes and their contents, including the ballots, voter's receipts and election returns; the lists of voters, particularly the Election Day Computerized Voter's List (EDCVL), and voters registration records (VRRs), and the books of voters; the audit logs, transmission logs, and all log files; and all other documents or paraphernalia used in the May 2016

elections for the position of Vice-President of the Republic of the Philippines, including the automated election equipment and records such as the Vote Counting Machines (VCM), Consolidation and Canvass System (CCS) units, Secure Digital (SD) cards (main and back up), and the other data storage devices in all of the ninety-two thousand five hundred nine (92,509) clustered precincts used in the May 2016 elections, effective immediately and continuing until further orders from this Tribunal." (*Emphasis supplied.*)

3. On the same day, 12 July 2016, this Honorable Tribunal, through Atty. Theodore Te, publicly announced its resolution to grant Protestant's prayer for a PPO pursuant to Rule 36 of the 2010 Rules of the Presidential Electoral Tribunal.

4. On 2 August 2016, the COMELEC duly received the PPO dated 12 July 2016.

The 12 July 2016 Comelec Resolution

5. Recently, however, Protestant learned that on the same day that this Honorable Tribunal announced the issuance of the PPO on 12 July 2016, the COMELEC issued an *En Banc* Resolution (the Resolution)¹ approving the recommendation of Commissioner Christian Robert S. Lim (through COMELEC Director Villaflor - Roxas) to conduct a stripping activity of the Vote Counting Machines (VCM) and CCS laptop units used during the May 9, 2016 elections.

5.1 The Memorandum of Villaflor-Ramos reads as follows:

"This refers to the stripping activity of the Vote Counting Machines and CSC Laptops that were used in the May 9, 2016 elections. This activity will be conducted starting July 16, 2016 at the COMELEC warehouse in Sta. Rosa, Laguna. During the stripping activity, it is suggested that the backing up of the SD cards and the CD will be simultaneously conducted." [*Emphasis supplied*]

¹ A copy of the Resolution from the "Excerpt from the Minutes of the Regular *En banc* Meeting of the Commission on Elections held on July 12, 2016" is attached herewith as Annex "A".

6. The approval of the COMELEC *En Banc* Resolution dated 12 July 2016 is highly **irregular** in many respects:

6.1 **First**, since the COMELEC Resolution was issued **soon after** the public announcement of the PPO, was the **timing** of the same merely coincidental or was it meant to indirectly violate the terms of the PPO?

6.2 **Second**, since the COMELEC Resolution stated that the **stripping activity** of the VCM and CCS laptop units "*would be conducted starting July 16, 2016*" - it appears that "**back door**" plans were already being made to **erase** the evidence needed for the election protest to prosper. Thus, if COMELEC already made plans to erase the election data **4 days after** the public announcement of the PPO - could it be that the COMELEC was trying to **fast track** the stripping of election data **before** the PPO could **officially** be served on them?

6.3 **Third**, since the COMELEC Resolution itself stated that "*with the backing-up of files from the CSC Laptops, the audit logs during election will be modified to include the activity performed after election*", there obviously exists a **serious threat** that **all** the election data will be tampered with.

6.4 **Fourth**, assuming *arguendo* that the COMELEC acted in good faith when it issued its Resolution, why did it limit the stripping activity **only** to "the COMELEC warehouse in Sta. Rosa, Laguna"? If truth be told, there were 6 **other** COMELEC warehouses where several VCM and CCS laptop units were stored during the May elections. Apart from the Sta. Rosa, Laguna warehouse, there were other "**officially sanctioned**" COMELEC warehouses located in La Union, Albay, Cebu, Zamboanga del Sur, Misamis Oriental, and South Cotabato. The deployment of the 6 **additional** warehouses was **suddenly** authorized on 3 May 2016² - barely **6 days before** the May 9, 2016 elections. Its existence was kept a **secret** from Protestant Marcos and all the other political parties who had a stake in the recently concluded

² A copy of COMELEC *En banc* Resolution No. 10114 dated 3 May 2016 is attached herewith as Annex "B".

elections. Had the candidates and/or political parties been given prior notice of the existence of these 6 **additional** warehouses, they would have immediately sent their watchers to observe the activities that transpired in these areas.

7. What is most appalling, however, is the cavalier manner in which the COMELEC has treated - **and continues to treat** - the written requests of Protestant Marcos for a **systems audit** of the various servers that were used during the May 2016 elections, and for the **preservation** of the data and said servers.

8. For the information of this Honorable Tribunal, Protestant Marcos has formally written to the COMELEC **4 times**³, asking them "to **preserve** and **secure** all the data and audit logs contained in all servers."

9. Instead of **replying** to the written requests and **complying** with its Constitutional mandate to preserve the integrity of the elections, the COMELEC decided to unilaterally issue its highly questionable Resolution on 12 July 2016.

10. On 11 August 2016, Protestant Marcos **again** wrote to the COMELEC seeking an explanation for the issuance of the said Resolution despite the publicly announced issuance of a PPO which directed the COMELEC to "preserve and safeguard the integrity" of all ballot boxes and their contents, voter registration records, audit and transmission logs, **automated election equipment, and other documents and paraphernalia** used in all the 92,509 clustered precincts nationwide.

11. Verily, the issuance of the Resolution approving the **backing up** of the SD Cards and CCS units and the subsequent **stripping** of the VCM and CCS laptop units is a **blatant violation** of the express and clear directive of this Honorable Tribunal as contained in the PPO, which categorically ordered COMELEC to preserve and safeguard the **integrity** of all the ballot boxes and their contents, voter registration records, audit

³ Copies of Protestant Marcos' letters dated 31 May 2016, 2 June 2016, 16 June 2016, and 14 July 2016 which were received by the COMELEC on 31 May 2016, 6 June 2016, 16 June 2016, and 14 July 2016, respectively, are attached herewith as Annex "C-series".

and transmission logs, automated election equipment, and other documents and paraphernalia used in all the 92,509 clustered precincts nationwide.

Harassment of Witnesses

12. From the time Protestee Robredo received the Summons on 3 August 2016, Protestant Marcos received numerous reports that harassment and intimidation were being employed upon his witnesses by supporters of Protestee Robredo.

13. Specifically, it was reported that a number of supporters from Protestee Robredo's camp have embarked on despicable operations in the provinces and areas being protested by Protestant Marcos such as: Quezon, Cavite, Leyte, Masbate, Northern Samar, Cebu City and Zamboanga City, to name a few.

13.1 Several witnesses of Protestant Marcos have complained that certain officials have been coercing and forcing them to recant their testimonies, in exchange for monetary consideration.

13.2 Other witnesses were told that if they refused to recant their testimony, they would be reported to the authorities for investigation and prosecution for alleged falsification or perjury.

13.3 These witnesses have decided to come forward and execute their Affidavits before a Judge and/or Fiscal so as to counter these nefarious schemes from the camp of Protestee Robredo.

13.4 Next week, protestant Marcos will be submitting an **additional** Manifestation to this Honorable Tribunal and submit the testimonies of the complaining witnesses.

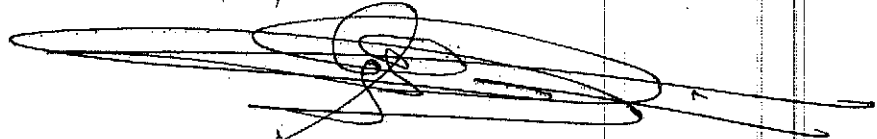
14. This Manifestation is being submitted to this Honorable Tribunal for its information and consideration.

RESPECTFULLY SUBMITTED.

City of Manila, 15 August 2016.

G.E. GARCIA LAW OFFICE
 Lead Counsel for the Protestant
 Ground Floor, LAIKO Building
 Cabildo St., Intramuros, Manila 1002
 Tele/Fax No. (02) 527-7261
 Email: geglaw.office@gmail.com

By:



GEORGE ERWIN M. GARCIA
 Roll of Attorney's No. 44950
 IBP Lifetime Member No. 02652; Cavite
 PTR No. 4922435; 01/04/2016; Manila
 MCLE Compliance No. V-0011708; 11/09/15

MOST LAW
 (Formerly: Marcos Ochoa Serapio & Tan Law Firm)
 Collaborating Counsel for the Protestant
 30th Floor, Tycoon Centre, Pearl Drive
 Ortigas Center, Pasig City 1605
 Tel No. (02) 634-6678
 (02) 638-20130 to 32
 Fax No. (02) 638 4255
 (02) 638-9151
 Email: inquiry@mostlawfirm.net

By:



JOSE AMOR M. AMORADO
 Roll of Attorney's No. 33887
 IBP Lifetime Member No. 00054; Batangas
 PTR No. 1216102; 01/05/16; Pasig City
 MCLE Compliance No. V-0012314; 12/08/15

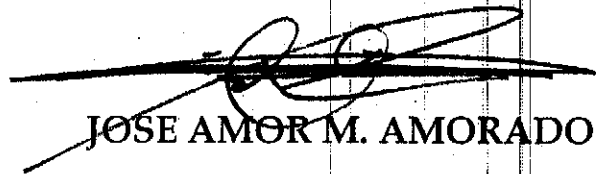
COPY FURNISHED:

Maria Leonor G. Robredo Office of the Vice-President Executive House No. 100 11 th Street New Manila, Quezon City	By Registered Mail Registry Receipt No. _____ Post Office: _____ Date: _____
--	--

EXPLANATION

(Pursuant to Section 11, Rule 13 of the Revised Rules of Court)

Service upon the Protestee of the foregoing Manifestation was made by registered mail due to distance, personnel, and time constraints.


JOSE AMOR M. AMORADO



ANNEX "A"

EXCERPT FROM THE MINUTES OF THE REGULAR EN BANC
MEETING OF THE COMMISSION ON ELECTIONS
HELD ON JULY 12, 2016

Present:

Chairman J. Andres D. Bautista
Commissioner Christian Robert S. Lim
Commissioner Al A. Parreño
Commissioner Arthur D. Lim
Commissioner Ma. Rowena Amelia V. Guanzon
Commissioner Sheriff M. Abas

On Leave:

Commissioner Luie Tito F. Gula

X X X

X X X

X X X

16-0439 *mf*
IN THE MATTER OF THE REQUEST TO BACK-UP THE FILES IN THE SD
CARDS AND CCS LAPTOPS

This pertains to the Memorandum dated July 01, 2016 of Commissioner Christian Robert S. Lim relative to the request of ERSD Director Ester L. Villafior-Roxas to back-up the files in the SD cards and CCS Laptops.

The Memorandum of Commissioner Lim reads:

"Undersigned respectfully refers herewith attached Memorandum dated June 30, 2016 of Director Ester L. Villafior-Roxas, Director IV, ERSD, relative to her request to back-up the files in the SD Cards and CCS Laptops.

At the onset, it is recommended to back-up the files in the SD Cards and CCS Laptops.

As to the VCM SD Cards, it is respectfully recommended that the Commission avail of Option 1 as the cost is lower at Php 3.6M as compared to Option 2 which costs Php7.1M. Further, since the amount involved is more than Php500,000.00, the servers worth Php3.6M will have to be procured through competitive bidding. It is further recommended that in order to avoid delay, the existing servers be used in the meantime until the servers for such purpose are procured and the file will be transferred.

All other matters in the Memorandum of Director Villafior-Roxas as to the Procedure and Budget are likewise respectfully recommended to be APPROVED.

Finally, it is recommended that Dir. Villafior-Roxas be directed to submit the specifications for the servers needed so it can be procured by the Bids and Awards Committee."

The Memorandum of Director Villafior-Roxas states:

"This refers to the stripping activity of the Vote Counting Machines (VCMs) and CCS Laptops that were used in the May 9, 2016 elections. This activity will be conducted starting July 16, 2016 at the COMELEC Warehouse in Sta. Rosa, Laguna. During the stripping activity it is suggested that the backing-up of the SD cards and the CD will be simultaneously conducted.

Commission on Elections
OFFICE OF THE COMMISSION SECRETARY
Certified True Copy of the ORIGINAL on File
CYNTHIA PATRICIA P. AQUINO
Board Secretary II

a. VCM SD Cards

The files contained in each SD card, on the average, consist of 600 MB. The ballot images require the biggest storage since it is a picture. Considering that there are 92,509 CF cards and 1,700 CCS to be backed-up, the total storage capacity needed is about 58 TB. However, since aside from the files an application will also be installed to process the information, Smartmatic is recommending having a Storage Area Network (SAN) with at least 64TB useable storage.

Unlike in the 2010 and 2013 elections, only 3TB were used since the ballot image is only about 256 KB while for the 2016 elections, each ballot image is 1.2 MB.

In this regard, there are two options that the Commission may consider in the backing-up of the files:

1. To back-up only the files containing various reports excluding the ballot images and this will only require five (5) servers consisting of two (2) application servers, 2 database servers and one (1) reporting server. This five servers estimated cost is approximately Php3.6M; or
2. To back-up all the files containing in the SD card which will require SAN with at least 64 TB useable storage and five (5) servers consisting of two (2) application servers, 2 database servers and one (1) reporting server. The estimated cost of the SAN storage and the five servers is approximately Php7.1 M.

b. CCS Back-up

Please be informed that the Boards of Canvassers did not perform the BACK-UP of the files generated by the Canvassing and Consolidation System (CCS). In this regard, it is respectfully suggested that the ERSD be authorized to perform the backing-up of said files. It is necessary to back-up the files generated by the CCS for this department to have a softcopy of all the results, especially if the laptops will be distributed to the field offices and/or various departments of the Commission.

Please be informed further, that with the backing-up of files from the CCS Laptops, the audit logs during election will be modified to include the activity performed after election.

Attached please find the procedure in the backing-up of the files from the CCS laptops.

The back-up activity is recommended to be conducted inside the MCR room and shall be completed within three (3) months, with twenty (20) workstations connected to the server. The workstations that are recommended to be used in this activity are i7 CCS laptops.

The representatives of the political parties shall be invited to witness the backing-up of files from the SD cards and CCS laptops, which will be conducted at the COMELEC warehouse in Sta. Rosa, Laguna.

The total budgetary requirement for the back-up activity is **Php1,612,650.00**, excluding the cost of the hardware, chargeable in the balance of the PMO budget.

For consideration."

Commission on Elections
OFFICE OF THE COMMISSION SECRETARY
Certified True Copy of the ORIGINAL File
11/16
CYNTHIA PATRICIA P. AQUINO
General Secretary II

The Commission **RESOLVED**, as it hereby **RESOLVES**, to **approve** the foregoing recommendation of Commissioner Christian Robert S. Lim to **grant** the requests of ERSD Director Ester L. Villaflor-Roxas, as follows:

1. To **authorize** the backing-up of the files in the SD cards and CCS laptops to be conducted simultaneously with the stripping activity of the Vote Counting Machines (VCMs) and CCS laptops that were used in the May 9, 2016 Elections at the COMELEC Warehouse in Sta. Rosa, Laguna;
2. To **procure**, through public bidding, five (5) servers consisting of two (2) application servers, two (2) database servers, and one (1) reporting server, to back-up only the files containing various reports excluding the ballot images, with an estimated cost of **Three Million Six Hundred Thousand Pesos (P3,600,000.00)**, subject to availability of funds and auditing rules and regulations;
3. To **use** the existing servers in the meantime that the abovementioned servers will be procured and the file will be transferred, in order to avoid delay;
4. To **approve** the attached nineteen (19) - page CCS Manual Back-up Procedure;
5. To **approve** the attached budgetary requirement for the back-up activity in the total amount of **One Million Six Hundred Twelve Thousand Six Hundred Fifty Pesos (P1,612,650.00)**, excluding the cost of the hardware, chargeable against the balance of the PMO budget, subject to COA rules and regulations;

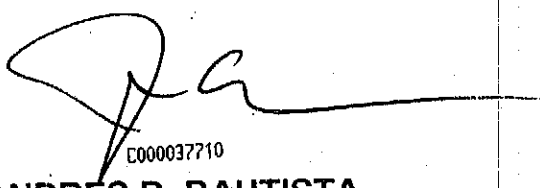
Commission on Elections
OFFICE OF THE COMMISSION SECRETARY
Certified True Copy of the ORIGINAL on File
11/20/16
CYNTHIA PATRICIA P. AQUINO

Expenditure Items	Number	Unit of Measurement	Duration (in month)	Rate	TOTAL
PERSONAL SERVICES					1,080,000.00
Salary of Casual Employees	20	pax	3	9,000.00	540,000.00
Overtime Services of Casual Employees	20	pax	3	9,000.00	540,000.00
MAINTENANCE AND OTHER OPEATING SERVICES					532, 650.00
Travelling Expenses	15	pax	3	225.00	222,750.00
Communication	3	pax	3	500.00	4,500.00
Toll Fees	3		3	500.00	99,000.00
Gasoline Allowance (for Official Cars)	3		3	1,000.00	198,000.00
Water	20	container	12 weeks	35.00	8,400.00
TOTAL BUDGET					P1,612,650.00

RESOLVED, moreover, to direct Director Villafior-Roxas to submit the specifications for the servers needed to be procured by the Bids and Awards Committee.

Let the Election Records and Statistics Department, the Finance Services Department, and the Bids and Awards Committee implement this Resolution.


SO ORDERED.


E000037710
J. ANDRES D. BAUTISTA
Chairman


CHRISTIAN ROBERT S. LIM
Commissioner

(On Leave)
LUIE TITO F. GUIA
Commissioner


MA. ROWENA AMELIA V. GUANZON
Commissioner


AL A. PARREÑO
Commissioner


ARTHUR D. LIM
Commissioner


SHERIFF M. ABAS
Commissioner

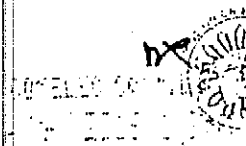
Cc: Chairman
All Commissioners
Executive Director
Deputy Executive Director for Operations
Deputy Executive Director for Administration
Election Records and Statistics Department
Finance Services Department
Bids and Awards Committee
Internal Audit Office
COA Resident Auditor
w

Commission on Elections
OFFICE OF THE COMMISSION SECRETARY
Certified True Copy of the ORIGINAL on File
1/14/14
CYNTHIA PATRICIA P. ABUNO
Board Secretary II

ANNEX "B"



Republic of the Philippines
COMMISSION ON ELECTIONS
Intramuros, Manila



IN THE MATTER OF THE
PROTOCOLS FOR REPLACEMENT
OF PAIRS OF SD CARDS AND THE
ESTABLISHMENT OF REGIONAL
SD CARD CONFIGURATION AND
DEPLOYMENT HUBS THEREFOR,
IN CONNECTION WITH THE 09
MAY 2016 NATIONAL, LOCAL AND
ARMM ELECTIONS

Bautista, J.A.D., *Chairman*
Lim, C.R.S., *Commissioner*
Parreño, A.A., *Commissioner*
Guia, L.T.F., *Commissioner*
Lim, A.D., *Commissioner*
Guanzon, R.A.V., *Commissioner*
Abas, S.M., *Commissioner*

Promulgated:

May 3, 2016

x ----- x

RESOLUTION NO. 10114

WHEREAS, the possibility of both the main and the back-up SD cards being damaged in transit, during the Final Testing and Sealing of the Vote Counting Machines (VCMs) or even during Election Day cannot be completely dispelled;

WHEREAS, a VCM cannot operate without both of the aforementioned SD cards and stoppage of VCM operation during Election Day has grave repercussions as to the length of voting hours and the peace and order situation of the affected precinct;

WHEREAS, there is an imperative on the part of the Commission to promptly remedy such situations and mitigate the effects thereof;

NOW, THEREFORE, the Commission, by virtue of the powers vested in it by the 1987 Constitution of the Republic of the Philippines, Omnibus Election Code and other election laws, **RESOLVED**, as it hereby **RESOLVES**, to promulgate the following protocols for replacement of a set of main and back-up SD cards, as follows:

In the event that both the main and back-up SD cards are found to be defective:

1. The members of Board of Election Inspectors (BEI) should inform the VCM Technician (VCMT);
2. After confirming that both SD Cards are defective, VCMT will report to the VCM Technical Coordinator (VCM-TC), who will relay the Request for Replacement to the National Technical Support Center (NTSC);
3. The NTSC will endorse the request to the Technology Group Head of the Project Management Office (TGH);
4. After validating that all the necessary trouble shooting procedures have been observed and that the situation indeed warrants replacement of both SD cards, the TGH will authorize the issuance of a new set of SD cards to the BEI and coordinate with the appropriate Regional Configuration and Deployment Hub anent its release;
5. As soon as the replacement SD cards are prepared, the Technology Group member manning the hub will employ the most expeditious means to deliver the same to the BEI, i.e. have the forwarding service provider hand the same or ask assistance from an available Commission Field Official, and will report to the TGH of the action taken;
6. The TGH will advise NTSC on how the replacement SD cards will be delivered; and
7. The VCM-TC shall update the NTSC on the acceptance by the BEI of the new set of SD cards.

RESOLVED FURTHER, to establish Regional Configuration and Deployment Hubs to immediately cater to incidents of sets of SD cards needing to be replaced in the following sites:

26

<i>Site</i>	<i>Areas covered</i>
Office of the Provincial Election Supervisor in San Fernando, La Union	Region 1, Region 2 and CAR
Commission Warehouse in Sta. Rosa, Laguna	Region 3, Region 4 and NCR
Office of the Provincial Election Supervisor in Legaspi City, Albay	Region 5 and the province of Northern Samar
Office of the Provincial Election Supervisor in Cebu, Cebu	Region 6, Region 7, Region 8 (except Northern Samar) and NLR
Office of the Regional Election Director in Zamboanga City, Zamboanga del Sur	Region 9 and the provinces of Basilan, Sulu and Tawi-tawi
Office of the Provincial Election Supervisor in Cagayan de Oro, Misamis Oriental	Region 10, CARAGA, ARMM (except the provinces of Basilan, Sulu, Tawi-tawi and Maguindanao)
Office of the Regional Election Director in General Santos City, South Cotabato	Region 11, Region 12 and the province of Maguindanao

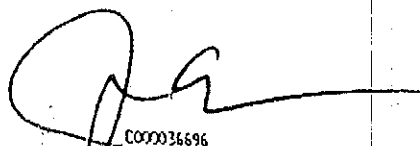
RESOLVED FURTHERMORE, to deploy Technology Group members to manage these Regional Configuration and Deployment Hubs and to configure the replacement SD cards.

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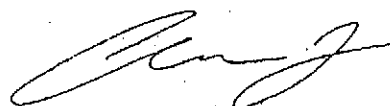
RESOLVED FINALLY, to approve the proposed budget amounting to One Hundred Ninety-Two Thousand Three Hundred Twenty-Five Pesos (P192,325.00) for the establishment and operation of the aforementioned Regional Configuration and Deployment Hubs, a detailed breakdown of which is attached herewith.

Let the Project Management Office for the 09 May 2016 National, Local and ARMM Election implement this Resolution

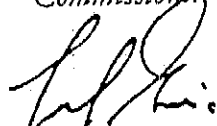
SO ORDERED.



J. ANDRIUS D. BAUTISTA
Chairman




CHRISTIAN ROBERT S. LIM
Commissioner



LUIS TITO F. GUIA
Commissioner



MA. ROWENA AMELIA V. GUANZON
Commissioner

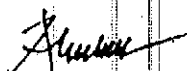


AL A. PARRENO
Commissioner

*subject to
CA 2016
Security of
Chair*



ARTHUR D. LIM
Commissioner



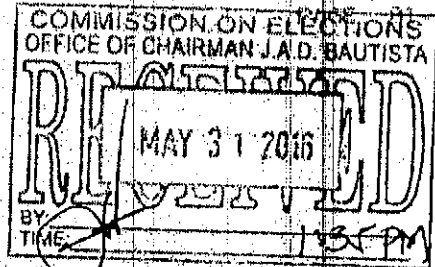
SHERIFF M. ABAS
Commissioner

ANNEX "C-Server"

16-03934

1/05/2016 13:05 6394255

bong Legal
VICE PRESIDENT
BBL National Headquarters



VIA FACSIMILE & EMAIL

31 May 2016

CHAIRMAN ANDRES D. BAUTISTA
COMMISSION ON ELECTIONS
Palacio Del Gobernador
Intramuros
Manila

Re : Urgent Request for the preservation and security of data and audit logs in the
Central Server

Dear Chairman Bautista:

This has reference to the letters dated 11 May 2016 and 17 May 2016, which we have sent to your office, and in relation to Mr. Ferdinand R. Marcos, Jr.'s urgent request for an audit of the transparency and central servers.

It has come to our attention that the hardware of the Central Server is scheduled to be unmounted at 1 o'clock in the afternoon, today 31 May 2016, from its present location at the IPC Data Center with address at 30th Street corner 2nd Avenue, Bonifacio Technology Center, Taguig City.

Considering the above action, we urgently request the Commission, all relevant departments and concerned personnel, to preserve and secure the data and the audit logs contained in all servers, and the Central Server in particular.

We confirm our intention to pursue our earlier requests to permit Mr. Marcos' team of experts to conduct an audit of the Transparency Server and the Central Server, under the close supervision of this Commission and its technical personnel.

2602 Tyrann Centre, Pearl Drive, Brgy. San Antonio,
Ortigas Center, Pasig City
Mobile Nos. SMART: 09206183253
GLOBE: 09056590393
Landline Nos. (02) 509-6548; (02) 490-0618; (02) 490-0078
Email: bblhq2016@gmail.com



I trust that this request will merit your timely and favorable response.

Thank you.

Very truly yours.

A handwritten signature in black ink, appearing to read 'Jose Amor M. Amorado', written over a horizontal line.

JOSE AMOR M. AMORADO
Legal Counsel

Cc: Commissioner Christian Robert S. Lim
Commissioner Al A. Parreño
Commissioner Luis Tito F. Gula
Commissioner Arthur D. Lim
Commissioner Ma. Rowena Amelia V. Guanzon
Commissioner Sheriff M. Abas

**bong
bongLegal**
VICE PRESIDENT
BBL National Headquarters

COMMISSION ON ELE-
OFFICE OF CHAIRMAN J. A.
ADMINISTRATIVE

RECEIVED
JUN 06 2016
BY: *[Signature]* 1:06

BY HAND

02 June 2016

CHAIRMAN ANDRES D. BAUTISTA
COMMISSION ON ELECTIONS
Palacio Del Gobernador
Intramuros
Manila

Re: Request for Audit of the Transparency Server and Central Server and Other Requests

Dear Chairman Bautista:

This is further to our letters dated 11 May 2016, 19 May 2016 and 31 May 2016, and to the letter of Senator Ferdinand R. Marcos, Jr., dated 17 May 2016 requesting for an audit of the COMELEC Transparency and Central Servers, which we have sent to your office.

In response to said letters, the Commission sitting *en banc* issued Minute Resolution No. 16-0387 which resolved to defer the action on our request for a system's audit of the Transparency Server and Central Server until after the completion of the canvassing by the National Board of Canvassers (NBOC). The Commission, in the same Minute Resolution, resolved to advise Senator Marcos of this Commission's willingness to the conduct of a system's audit if carried out by a group of disinterested and qualified information technology experts, citing the Department of Science and Technology (DOST) as one such body/group.

2602 Tycoon Centre, Pearl Drive, Brgy. San
Antonio, Ortigas Center, Pasig City
Mobile Nos. SMART:

09206583253

GLOBE:

09054590393

Landline Nos. (02) 509-6548; (02) 490-0618; (02) 490-0078
Email: BBLNHQ2016@gmail.com

On 27 May 2016, the Joint Canvass Committee sitting as the NBOC concluded the official canvassing of votes for the Presidential and Vice-Presidential candidates after the canvass of one hundred sixty seven (167) Certificates of Canvass. In fact, a committee report declaring the results of the May 9, 2016 National Elections for the offices of President and Vice-President has already been approved by Congress; and in fact, last 30 May 2016, the duly elected President and Vice-President of the Republic of the Philippines have already been proclaimed by both Houses of Congress.

Thus, considering the completion of the Presidential and Vice-Presidential canvass, we are now following up on our earlier requests for a system's audit of the COMELEC Transparency Server and Central Server.

We respectfully take exception to the use of government IT experts in the contemplated system audit, because they are not independent third party experts. In any event, the IT experts of Senator Marcos would like to be given the opportunity to participate in said audit, together with other interested individuals and political parties.

Now, therefore, we earnestly reiterate on our earlier requests to this Commission to **permit Senator Marcos' OWN team of experts to conduct an audit of the Transparency Server and the Central Server**, under the close supervision of this Commission and its technical personnel. In the meantime, we reiterate immediate access by our IT experts to the following:

1. Transmission logs;
2. White list of the VCMs, USB devices, BBGANs that were used during the elections;
3. Digitally Signed Election Returns; and
4. Public Key and Decryption Key to open the transmitted files.

With respect to our letter request dated 19 May 2016, please be informed that we have not received any information on the following:

1. The number of CCS laptops/ servers that were reported to contain rogue votes allegedly coming from the Pre-Election Logical Accuracy Test (PRELAT) and Mock Elections on Election Day;
2. The municipalities, cities and provinces affected; and,
3. The measures or procedures which this honorable Commission took to rectify this supposed anomaly or error.

Clearly, this Commission has not addressed the above requests. With the foregoing, are we to consider that this Commission has rejected our requests or are we just to assume that this Commission is not in possession of said information and documents?

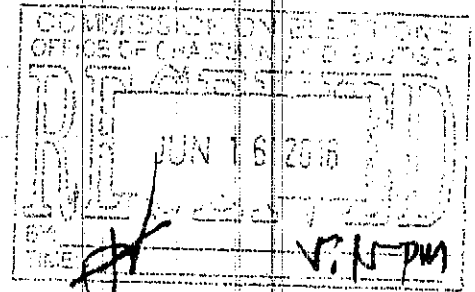
Finally, with regard to our letter, dated 31 May 2016, we would like to follow-up the action this Commission took "to preserve and secure the data and the audit logs contained in all servers, and the Central Server in particular." IN ADDITION, AND MOST IMPORTANTLY, we would like to request that this Commission PRESERVE and SECURE any and all other servers, including but not limited to the Data Base Server and any and all "INTERMEDIARY SERVERS" (also known as the QUEUE SERVERS), together with all routers, switches, listeners, among others.

I trust that this request will merit your timely and favorable response.

Very truly yours,

JOSE AMOR M. AMORADO
Legal Counsel

Cc: Commissioner Christian Robert S. Lim *gpe 6/6/16 1:21 pm*
 Commissioner Al A. Parreño - *ana 6/6/16 1:02pm*
 Commissioner Luie Tito F. Guia - *Lou 6-6-16 1:05pm*
 Commissioner Arthur D. Lim - *JSA 6-6-16 1:06pm*
 Commissioner Ma. Rowena Amelia V. Guanzon - *GABANT 6-6-16 1:12pm*
 Commissioner Sheriff M. Abas - *She 06/06/16 1:02pm*



BY HAND

16 June 2016

CHAIRMAN ANDRES D. BAUTISTA
COMMISSION ON ELECTIONS
Palacio Del Gobernador
General Luna St.
Intramuros, Manila

Re: Request for Information as to Compliance with the Requirements of R.A.
No. 8436, as amended by R.A. No. 9369

Dear Chairman Bautista:

We write in behalf of Senator Ferdinand R. Marcos, Jr., a Vice- Presidential candidate in the last elections.

Pursuant to R.A. No. 8436, as amended by R.A. No. 9369, to assure that the results of an election conducted through "an automated election system" are "fast, accurate and reflective of the genuine will of the people",¹ certain requirements are mandated by the law, among others, in its Section 6 (*Minimum System Capabilities*), Section 7 (*Communication Channels for Electronic Transmissions*), Section 11 (*Functions of the Technical Evaluation Committee*), Section 12 (*Procurement of Equipment and Materials*), Section 29 (*Random Manual Audit*) and Section 30 (*Authentication of Electronically Transmitted Election Results*).

May we respectfully request information as to whether the requirements of the aforementioned provisions of R.A. No. 8436, as amended by R.A. No. 9369, have been

¹ Section 1.

CHAIRMAN ANDRES D. BAUTISTA
COMMISSION ON ELECTIONS
Palacio Del Gobernador
General Luna St.
Intramuros, Manila
16 June 2016
.....Page 2 of 2

complied with, the dates when compliance was effected, persons who conducted the required tests or verification, those present and copies of all reports pertaining thereto.

Since we urgently need the above information in connection with a determination of whether Senator Marcos is filing a protest to contest the proclamation of candidate Maria Leonor G. Robredo as Vice-President, and the grounds therefore, we would appreciate receiving your response no later than 22 June 2016. To avoid any delay, kindly advise us by telephone so that we may send a messenger to receive your response.

Further, we would like to call your attention to our previous letter requests dated 11 May 2016, 17 May 2016, 19 May 2016, 31 May 2016 and 02 June 2016. For the record, we have not received any reply to any of these letters, except the letter from Atty. Ronaldo R. Gutierrez dated 23 May 2016 in response to our 17 and 19 May 2016 letters, which merely stated that the request for a system's audit was forwarded to the Commission en banc for consideration. Copies of these letters as received by your office are herewith attached.

Finally, we would like to make special mention of our letter dated 11 May 2016, as well as to our letters dated 17 and 19 May 2016 (with respect to the other requests). To date, we still have to receive your reply to said letters. On this score, please be reminded of the pertinent provisions of R.A. No. 6713.

Thank you and best regards.

Very Truly Yours,


Jose Amor M. Amorado
Legal Counsel

Cc: Commissioner Christian Robert S. Lim *REMARK: 6/16/16 5:30 PM*
Commissioner Al A. Parreño *man 6/16/16 5:20*
Commissioner Lue Tito F. Guia *Rhac - 5:20 - 6/16/2016*
Commissioner Arthur D. Lim *- ASA 6-16-16 5:21 PM*
Commissioner Ma. Rowena Amelia V. Guanzon *SM 6-16-16 5:15 PM*
Commissioner Sheriff M. Abas *- She 5:15 6/16/16*

MOST

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FILE COPY

Louise Arrieta - Marcos
Edward S. Serapio *
Joseph C. Tan

BY HAND

Lose Amor M. Amorado
Liza G. Logan
Peter M. Manzano

14 July 2016

Mutarco B. Bawagan, Jr.
John Z. Lee
Nicola S. Teston
Anne G. Lapuz *
Elicine T. Masukat
Fernando S. Maronilla
Jonathan B. Ronulo

CHAIRMAN ANDRES D. BAUTISTA
COMMISSION ON ELECTIONS
Palacio Del Gobernador
General Luna St.
Intramuros, Manila

Frances C. Ramos
Stephen G. Valera
Ryan J. Esplana
Francesca M. Huang
Katelynne O. Yu
Robert G. Rigets
Miguel C. Herrera
Laraiza M. Talbin
Adrian F. Aumentado
Jack D. Hufano
On leave

Re: Follow up Request

Dear Chairman Bautista:

This is a reply to your letter dated 20 June 2016, copy attached for easy reference.

With respect to the Technical and Evaluation Committee (TEC) Certification, please explain why the certification on the source codes was only issued on 30 April 2016, contrary to Section 11 of the Republic Act 9369 which expressly requires the TEC to issue a certification not later than three months before the date of the electoral exercise.

With respect to our request for a systems audit, COMELEC issued Resolution No. 16-0387 which deferred the conduct of the audit "until after the completion of the Presidential and Vice Presidential canvass." Since the canvassing has long been over, we would like to follow-up our demand for a systems audit. In relation thereto, we request that the representatives of various political parties who participated during the source codes review, be likewise invited in the systems audit.

In paragraph 4 of your letter, you assured us that "the Commission has taken measures to preserve and secure all data" in "all the servers, as well as the Central Server." We would like to inquire on the specific measures taken by COMELEC regarding this matter.

Finally, we observed that your letter did not address our request to "preserve and secure any and all other server, including but not limited to the **DATABASE SERVER** and any and all **"INTERMEDIARY SERVERS"** (also known as the **QUEUE SERVERS**), together with all routers, switches, listeners,

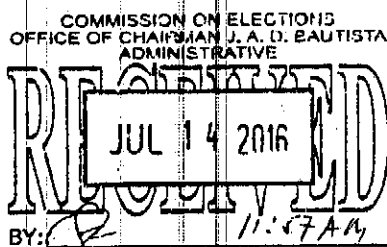
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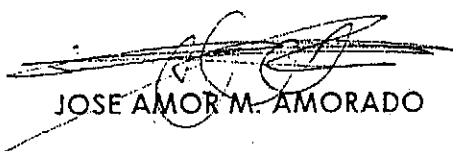
CHAIRMAN ANDRES D. BAUTISTA
COMMISSION ON ELECTIONS
Palacio Del Gobernador
General Luna St.
Intramuros, Manila
14 July 2016

Page 2 of 2

among others." We will highly appreciate it if you can please inform us of the measures you have taken regarding this particular request.

Thank you.

Very truly yours,
FOR THE FIRM


JOSE AMOR M. AMORADO

Cc: Commissioner Christian Robert S. Lim *Amth 7/14/16 12:27 PM*
Commissioner Al A. Parreño *mean 7/14/16 12:05*
Commissioner Luie Tito F. Guia *Lcu 7-14-2016 12:00 PM*
Commissioner Arthur D. Lim *Chris July 14, 2016 12:10 PM*
Commissioner Ma. Rowena Amelia V. Guanzon *Am 7-14-16 12:00 PM*

ANNEX 2
8/8/16

Republic of the Philippines
PRESIDENTIAL ELECTORAL TRIBUNAL
Manila

7

**FERDINAND "BONGBONG" R.
MARCOS, JR.,**

Protestant,

-versus-

PET Case No. 005
For: Election Protest
Vice-President

**MARIA LEONOR "LENI DAANG
MATUWID" G. ROBREDO,**

Protestee.

X- - - - - X

COMMENT

Protestant **FERDINAND "BONGBONG" R. MARCOS, JR.** ("protestant Marcos"), through the undersigned counsels, unto this Honorable Presidential Electoral Tribunal ("PET"), most respectfully submits the foregoing Comment/Opposition to the Letter dated 10 August 2016 of the Commission on Elections ("COMELEC") and further states that:

1. On **24 August 2016**, protestant Marcos, through his lead counsel, received a copy of this Honorable Tribunal's *Resolution* dated 16 August 2016, which directed the parties in this case to comment on the Letter dated 10 August 2016 of Commissioner Christian Robert S. Lim ("Commissioner Lim"), Project Director, 2016-AES Project, COMELEC, relative to the Precautionary Protection Order ("PPO") dated 12 July 2016.

2. A copy of COMELEC's Letter dated 10 August 2016 was received by protestant Marcos, through his lead counsel, on **26 August 2016**. As such, protestant Marcos is given *ten (10)* days from 26 August 2016 or until **5 September 2016** to file his Comment thereon. This submission is therefore timely filed in compliance with the directive of this Honorable Tribunal.

3. In its 10 August 2016 letter, the COMELEC, through Commissioner Lim, sought clarification from this Honorable Tribunal regarding the extent and implication of the PPO issued on 12 July 2016 *"directing the preservation and safeguarding of all documents, paraphernalia, automated election equipment and records, and other data storage devices of all 92,509 clustered precincts in the May 2016 elections for the position of Vice-President."*

4. The PPO, which was issued by this Honorable Tribunal on 12 July 2016, covers *"all the ballot boxes and their contents, including the ballots, voter's receipts and election returns; the lists of voters, particularly the Election Day Computerized Voter's List (EDCVL), and voters registration records (VRRs), and the books of voters; audit logs, transmission logs, and all log files; and all other documents or paraphernalia used in the May 2016 elections for the position of Vice-President of the Republic of the Philippines, including the automated election equipment and records such as the Vote Counting Machines (VCM), Consolidation and Canvass System (CCS) units, Secure Digital (SD) cards (main and back up), and the other data storage devices in all of the ninety two thousand five hundred nine (92,509) clustered precincts used in the May 2016 elections."*

5. While it is clear that the PPO covers election materials and paraphernalia regardless of whether these items contain any election results data, protestant Marcos is willing to waive the coverage of the PPO with respect to the following items: *external back-up batteries, VCM electric power supply and adaptor, headphones, battery cable, marking pens, printer and toner*, since these materials and paraphernalia will **not** be included in the technical examination and forensic investigation requested by herein protestant.

6. As for the conduct of COMELEC's AES Project closure/stripping activities, protestant Marcos maintains his vehement **opposition** thereto insofar as the servers, routers, transmission mediums, Vote Counting Machines (VCM), Consolidation and Canvass System (CCS) units, Secure Digital (SD) cards (main, back up and such other Written Once Read Many (WORM) cards) and other automated election paraphernalia containing election results data are concerned. Protestant Marcos intends to request for the technical examination and forensic investigation of the above automated election equipment, devices and records, which contain evidence of the conduct and the results of the elections, in ALL of the **ninety**

two thousand five hundred nine (92,509) clustered precincts that functioned during the 9 May 2016 National and Local Elections.

7. The result of the technical examination and forensic investigation is **critical** because one of the issues in this election protest is whether the automated electoral system employed in the 2016 election was **credible, accurate and reflective of the genuine will of the people**. Clearly, it is vital for the COMELEC to preserve the integrity and safety of these automated election paraphernalia and to maintain their present condition during the pendency of this election protest.

8. It is instructive to note that in the last 3 months, protestant Marcos had written to COMELEC at least **5 times**¹, requesting them "to **preserve** and **secure** all the data and audit logs contained in all servers." Instead of **complying** with its Constitutional mandate to preserve the integrity of the elections, the COMELEC decided to **unilaterally** issue its highly questionable Resolution on 12 July 2016 – on the **very same day** that this Honorable Tribunal issued its PPO.

9. As regards the financial constraints in preserving the integrity and safety of these automated election equipment and paraphernalia, the same is not a valid and reasonable justification to excuse the COMELEC from complying with the PPO issued by this Honorable Tribunal.

10. The public interest involved in this election protest demands that the integrity and safety of ALL election materials and paraphernalia evidencing the conduct and the results of the elections in ALL of the **ninety two thousand five hundred nine (92,509)** clustered precincts that functioned during the 9 May 2016 National and Local Elections be preserved and maintained during the pendency of this proceedings.

11. With regard to the proposed manual backing-up activities to be undertaken by the Election Records and Statistics Department ("ERSD") of COMELEC, protestant Marcos will not interpose any objection thereto as long as ALL the files contained in the Secure

¹ Copies of protestant Marcos' letters dated 31 May 2016, 2 June 2016, 16 June 2016, 14 July 2016 and 11 August 2016 were received by the COMELEC on 31 May 2016, 6 June 2016, 16 June 2016, 14 July 2016 and 11 August 2016 respectively, and have been attached to his Manifestation dated 15 August 2016 under Annex "C - series".

Digital (SD) cards (main, back up and such other Written Once Read Many (WORM) cards) including the ballot images shall be included in the back-up copy of the COMELEC.

12. Finally, protestant Marcos joins the request of the COMELEC to conduct of a preliminary discussion between the COMELEC, parties and their counsels, watchers, technical teams and other representatives, and this Honorable Tribunal before proceeding with the proposed AES Project closure/stripping and backing-up activities for the purpose of setting the protocol for these undertakings.

PRAYER

ACCORDINGLY, it is respectfully prayed that this Honorable Tribunal :


- i. **DENY** the request of COMELEC relevant to the conduct of the 2016 Automated Election System Project closure/stripping activities insofar as the servers, routers, transmission mediums, Vote Counting Machines (VCM), Consolidation and Canvass System (CCS) units, Secure Digital (SD) cards (main, back up and such other Written Once Read Many (WORM) cards) and other automated election paraphernalia containing election results data are concerned in ALL of the **ninety two thousand five hundred nine (92,509)** clustered precincts that functioned during the 9 May 2016 National and Local Elections;
- ii. **DIRECT** the COMELEC to explain the closure/stripping activities of the BGANs undertaken by it supposedly **prior** to the receipt of the PPO;
- iii. **SCHEDULE** the conduct of a preliminary discussion between the COMELEC, parties and their counsels, watchers, technical teams and other representatives, and this Honorable Tribunal before proceeding with the proposed AES Project closure/stripping and backing-up activities for the purpose of setting the protocol for these undertakings; and
- iv. duly **NOTE** the foregoing submission.

Other reliefs, just and equitable under the premises, are also prayed for.

City of Manila, Philippines, **4 September 2016.**

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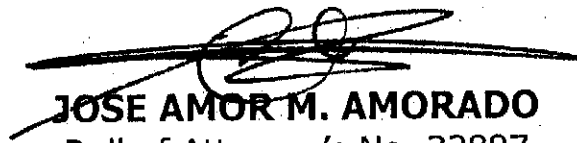
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Copy furnished:

ATTY. ROMULO B. MACALINTAL

Lead Counsel for Protestee Robredo

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Philamlife Village, Las Piñas City

EXPLANATION

[Pursuant to Rule 30 and 31 of the PET Rules in relation to Section 11, Rule 13
of the 1997 Rules of Civil Procedure]

Copy of the foregoing *Comment* was served to the counsel of
the protestee by registered mail, personal service being impractical
due to distance, time and manpower constraints.



GEORGE ERWIN M. GARCIA