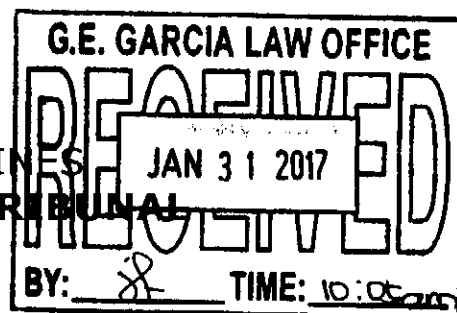


REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL ELECTORAL TRIBUNAL
Manila



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

Protestant,

-versus -

PET Case No. 005

For: Election Protest
Vice-President

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

Protestee.

X- - - - - X

MANIFESTATION AND MOTION

The **COMMISSION ON ELECTIONS**, through the **OFFICE OF THE SOLICITOR GENERAL**, and unto this Honorable Tribunal, respectfully states that:

1. Several incidents occurred on 30 December 2016 and 6 January 2017 which the COMELEC deems proper and necessary to manifest for the information of this Honorable Tribunal.

***Shutdown of servers on 30
December 2016***

2. On 30 December 2016, Mr. Rommel Sungahid ("Mr. Sungahid"), COMELEC Information Technology Department ("ITD") Technical Staff, submitted to COMELEC Chairman Andres D. Bautista ("Chairman Bautista") a *Memorandum* detailing an incident that occurred on even date in the Memory Configuration Room ("MCR") of the COMELEC Warehouse in Sta. Rosa, Laguna. A copy of the Memorandum is attached as Annex "A" and made an integral part hereof.

3. In said Memorandum, Mr. Sungahid reported that, on 30 December 2016, the air-conditioning units inside the server room of the MCR stopped functioning, and that the

server units heated up and emitted unusual noises. Mr. Sungahid thus undertook preventive and corrective measures, among which was the immediate shutdown of the server units, which he explained in detail in his report. This action was done to prevent the untoward scenario of the MCR and the entire COMELEC warehouse being razed by fire due to the overheating of the server units.

4. In order to appraise the effects of the incident on the servers and to ensure the physical integrity of the servers and the data stored therein, the COMELEC finds the need for the servers to be rebooted or powered-up, diagnostics conducted and undertaken thereon, and thereafter, shut-down or powered-off again.

***Dry-run Stripping of 127
VCMs on 6 January 2017***

5. To recall, the COMELEC ITD conducted stripping activities on vote-counting machines ("VCMs") on 26 October and 2 November 2016 for the retrieval of 1,356 VCMs. The stripping activities yielded 127 VCMs with Secure Digital ("SD") cards which were found to contain files.

6. On 22 November 2016, this Honorable Tribunal issued a *Resolution* allowing the COMELEC to conduct a decryption of these 127 SD cards, and directed the COMELEC: (1) inform it and the parties of the schedule of the decryption of the SD cards, and (2) allow the Tribunal's representative and the parties to observe and comment during the decryption.

7. On 5 January 2017, the COMELEC conducted a pre-scheduled briefing to discuss the protocols to be adopted for the retrieval, storage and handling of the 127 VCMs whose SD cards were found to contain files, and the procedure for decryption of these SD cards.

8. On 6 January 2017, the COMELEC conducted dry-run stripping on the 127 VCMs in preparation for the decryption of the SD cards still mounted on these machines.

9. However, Francis N. Tolentino, senatorial candidate and protestant before the Senate Electoral Tribunal Case No. 001-16, objected to the inclusion of 93 VCMs in the dry-run stripping. A copy of the objections raised by his representatives is attached as Annex "**B**" and made an integral part hereof.

10. The COMELEC is thus prevented from retrieving all 127 SD cards and conducting decryption thereon as directed by this Honorable Tribunal. As of this submission, the COMELEC has been able to retrieve only twenty-six (26) SD cards, while eight (8) others are still being located by Smartmatic-TIM, Inc.

PRAYER

WHEREFORE, the **COMMISSION ON ELECTIONS** respectfully prays that this Honorable Tribunal:

1. **NOTE** the foregoing manifestations, and
2. **ALLOW** the COMELEC (a) to reboot the servers located in the Memory Configuration Room at Sta. Rosa Warehouse, Laguna, (b) to conduct and undertake diagnostics thereon, and (c) to shut-down the servers once diagnostics have been conducted.

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

Makati City for the City of Manila, 16 January 2017.

JOSE C. CALIDA

Solicitor General

Roll No. 24852

IBP Lifetime No. 015360 – 08/18/16

MCLE Exemption No. VI-000016 – 9/28/16

HENRY S. ANGELES

Assistant Solicitor General

Roll No. 45837

IBP No. 1050040; 10/13/16

MCLE Compliance No. V-0026001 – 10/14/16

JOSE ANGELO A. DAVID

Associate Solicitor

Roll No. 64181

IBP Lifetime No. 1033274; 4/1/16

MCLE Compliance No. V-0016027; 3/15/16

OFFICE OF THE SOLICITOR GENERAL

134 Amorsolo St., Legaspi Village, Makati City

Tel. No. 8130086; Telefax No. 8137554

Email: docket@osg.gov.ph

Copy furnished:

ATTY. GEORGE ERWIN M. GARCIA

ATTY. JOAN M PADILLA

Counsel for Protestant

G.E. Garcia Law Office

Ground Floor Laiko Bldg.

372 Cabildo Street

Intramuros, 1002 Manila

ATTY. ROMULO B. MACALINTAL

Lead Counsel for Protestee

Sardillo Sardillo Salom Law Office

Unit 802, Taipan Place

F. Ortigas Avenue

Ortigas Center Pasig City

COMMISSION ON ELECTIONS

HON. ANDRES D. BAUTISTA

HON. CHRISTIAN ROBERT S. LIM

Intramuros, 1002 Manila

**EXPLANATION FOR SERVICE BY
LICENSED COURIER AND REGISTERED MAIL**

In compliance with Section 11, Rule 13 of the Rules of Court, counsel respectfully manifests that the foregoing **MANIFESTATION AND MOTION** will be served by licensed courier and registered mail because distance constraints, as well as the limited number of office messengers, make personal service thereof impracticable.



JOSE ANGELO A. DAVID



REPUBLIC OF THE PHILIPPINES
COMMISSION ON ELECTIONS
Intramuros, Manila
INFORMATION TECHNOLOGY DEPARTMENT
Tel. No. 527-2773 / E-Mail: itd@comelec.gov.ph

ANNEX "A"

3 JAN 2017 1:17 PM
COMELEC-COM-1138



MEMORANDUM

FOR: **ANDRES D. BAUTISTA**
Chairman

SUBJECT: **Report on the incident inside the MCR of the COMELEC warehouse in Sta. Rosa City, Laguna**

DATE: **30 December 2016**

This pertains to the incident that happened today, 30 December 2016 inside the Memory Configuration Room (MCR) of the COMELEC warehouse in Sta. Rosa City, Laguna:

"That on or about 9:00 am today, 30 December 2016 (Friday), Mr. Ariel Sandrino, one of the ASD staff who was assigned at the warehouse called me, Mr. Romel U. Sungahid, ITD Technical staff to inform that the ceiling of the MCR begins to fall down/collapse. So, I called up Dir. Ferdinand P. De Leon, Director IV, ITD right away to report the incident. He advised me to proceed immediately to the COMELEC warehouse to check the conditions of the MCR.

I arrived at the warehouse at around 10:15 am and proceeded immediately inside the MCR to check the conditions of the ceiling. But, aside from the ceiling, I noticed that the temperature inside the room was very hot and I heard an unusual noise coming from the Server room. So, I checked the air conditioning units of the room including the Server room. All of the air conditioning units were not working and the server units were very hot upon touching them. I hurriedly requested industrial fans from the ASD personnel who was assigned at the warehouse to be able to release or lessen the heat inside the MCR. Then, I called up Dir. Ferdie again to report what has transpired inside the MCR. He told me to call Atty. Rene P. Cruz, Jr., Chief of Staff of Comm. Christian Robert S. Lim to report the incident and seek for approval regarding the immediate shutdown of the server units, as advised by Mr. Neil Baniqued, Technology Manager, Smartmatic-TIM, Inc. who was informed by Mr. Fellimon R. Enrile III, Division Chief of SPD after I told him about the incident. Mr. Neil informed that the proper shutdown of the server units cannot be performed

immediately because of the non-availability of Smartmatic technical personnel who can rush to the warehouse to resolve the problem. For that moment, he advised me and Sir Felimon for the abnormal/immediate shutdown of the server units because of the possibility that damages might happen with the data inside the server units or worse case scenario is seeing the MCR razed on fire which could greatly affect the entire COMELEC warehouse, if this incident will not be acted upon with URGENCY.

At 11:00 am, I called up Atty. Rene and told him about the incident and said that he will inform first Comm. Lim and the Chairman's office about the situation and will request for the immediate shutdown of the server units. After some follow ups, he called me up at around 12:25 pm to inform that he has talked to Atty. Nesrin E. Cali, Legal Officer of the Office of Chairman Bautista and already approved the request for the immediate shutdown of the server units. With that, I rushed in the MCR to turn off the main circuit breaker as solution to the problem for the meantime. At around 2:30 pm, I waited for the UPS to be drained before going out of the MCR.

In view of the incident, the undersigned requested the Security Officer-On-Duty and the Chief Security Officer assigned at the COMELEC warehouse to make a separate report regarding the incident to be submitted to Dir. Julio Thaddeus P. Hernan, Director IV, ASD. The report should include surrounding circumstances and cause of the problems in the ceiling & air conditioning units, including the backup of the CCTV files. Please see attached pictures as supporting document to attest to the said report.

For your information and appropriate action, please.

30 December 2016.


ROMEL U. SUNGA
ITD/Technical Staff

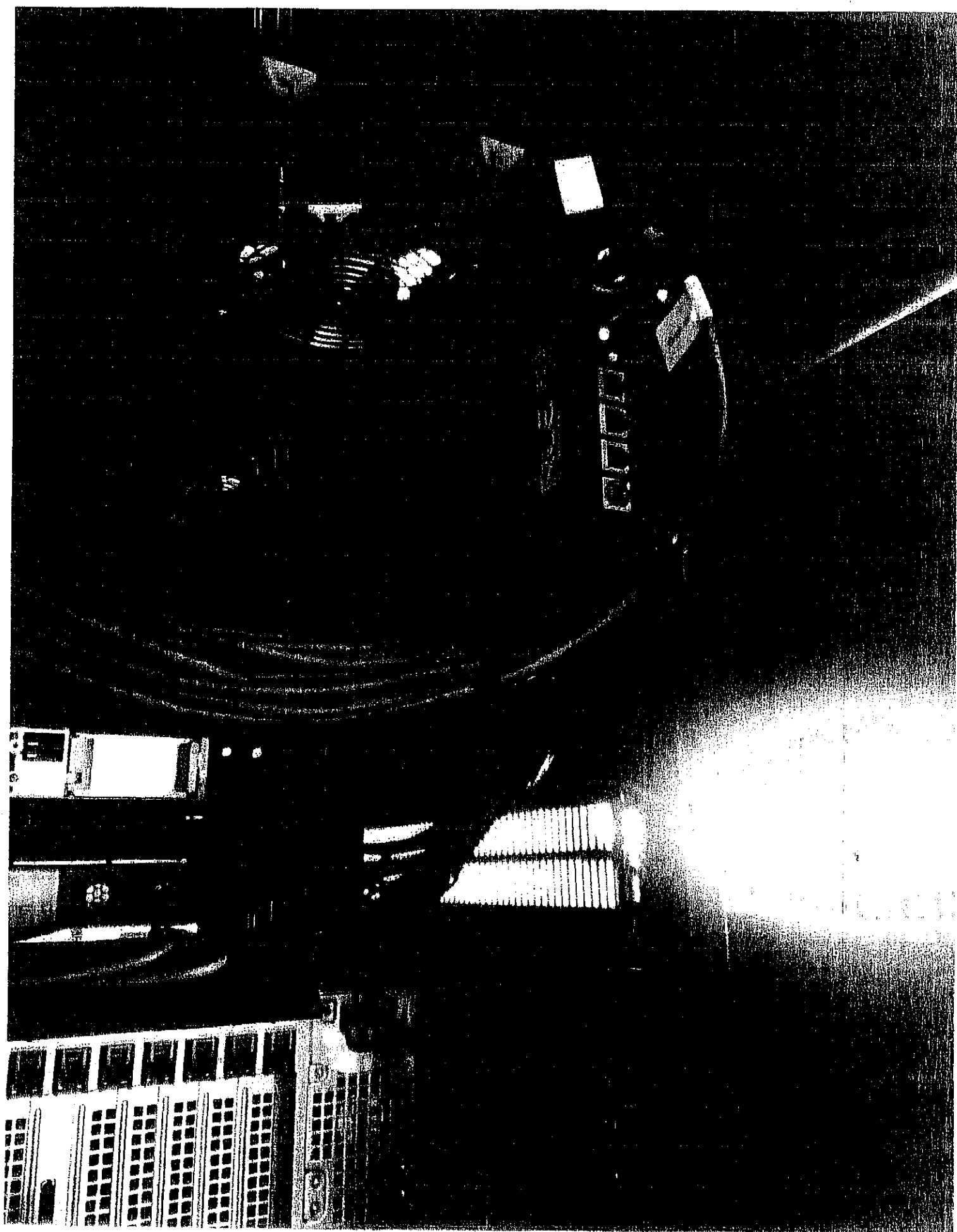
Noted by:

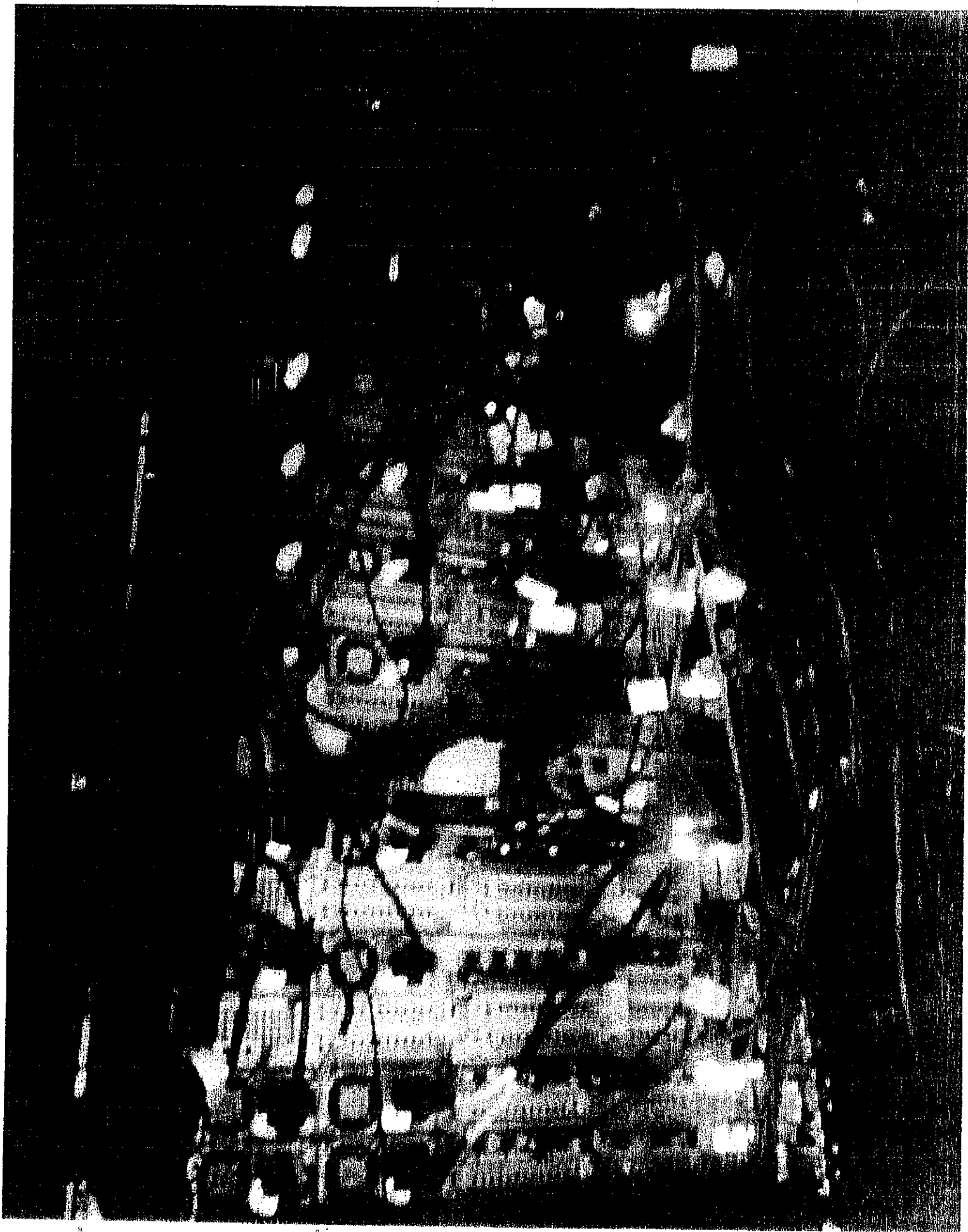

FERDINAND P. DE LEON
Director IV

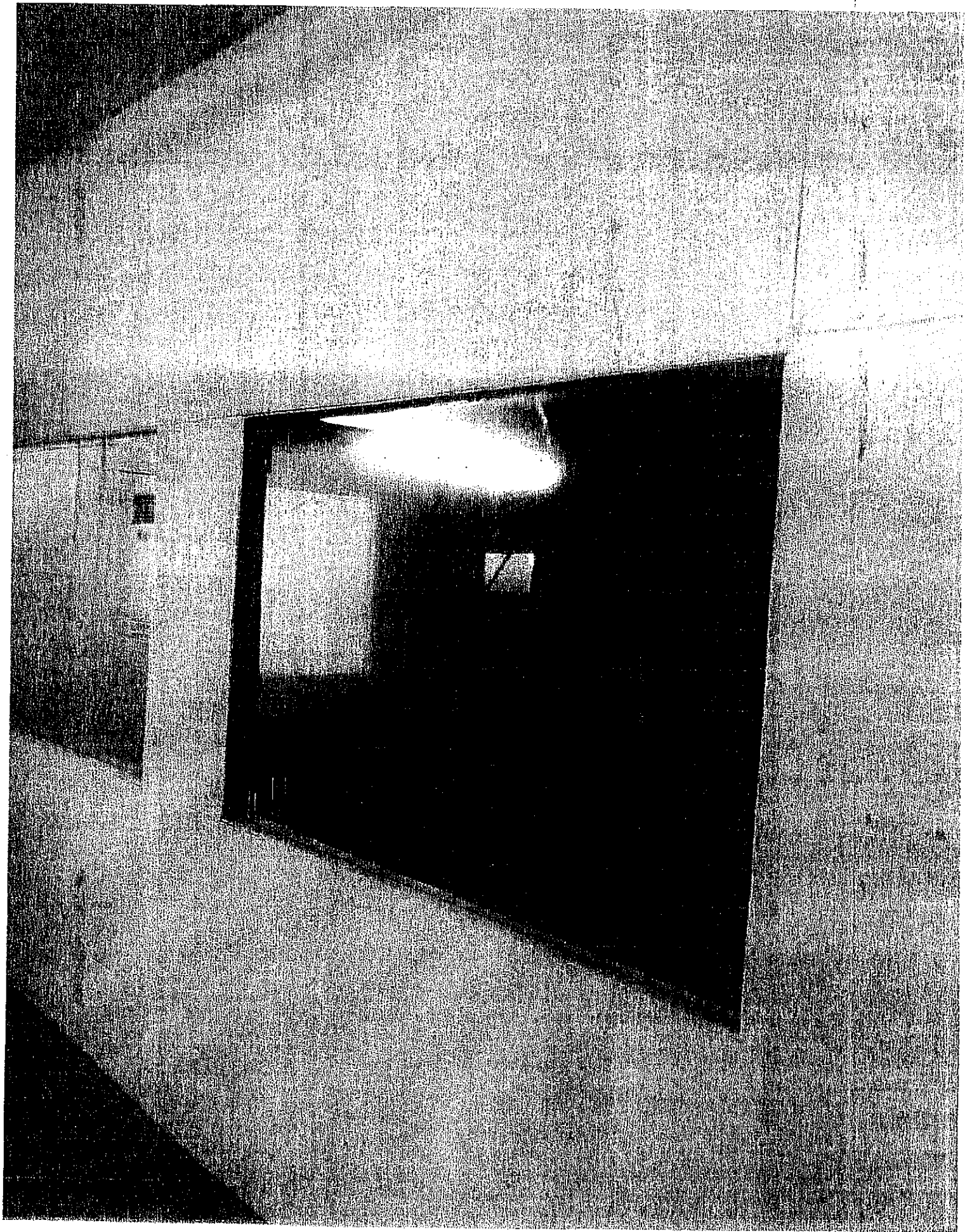
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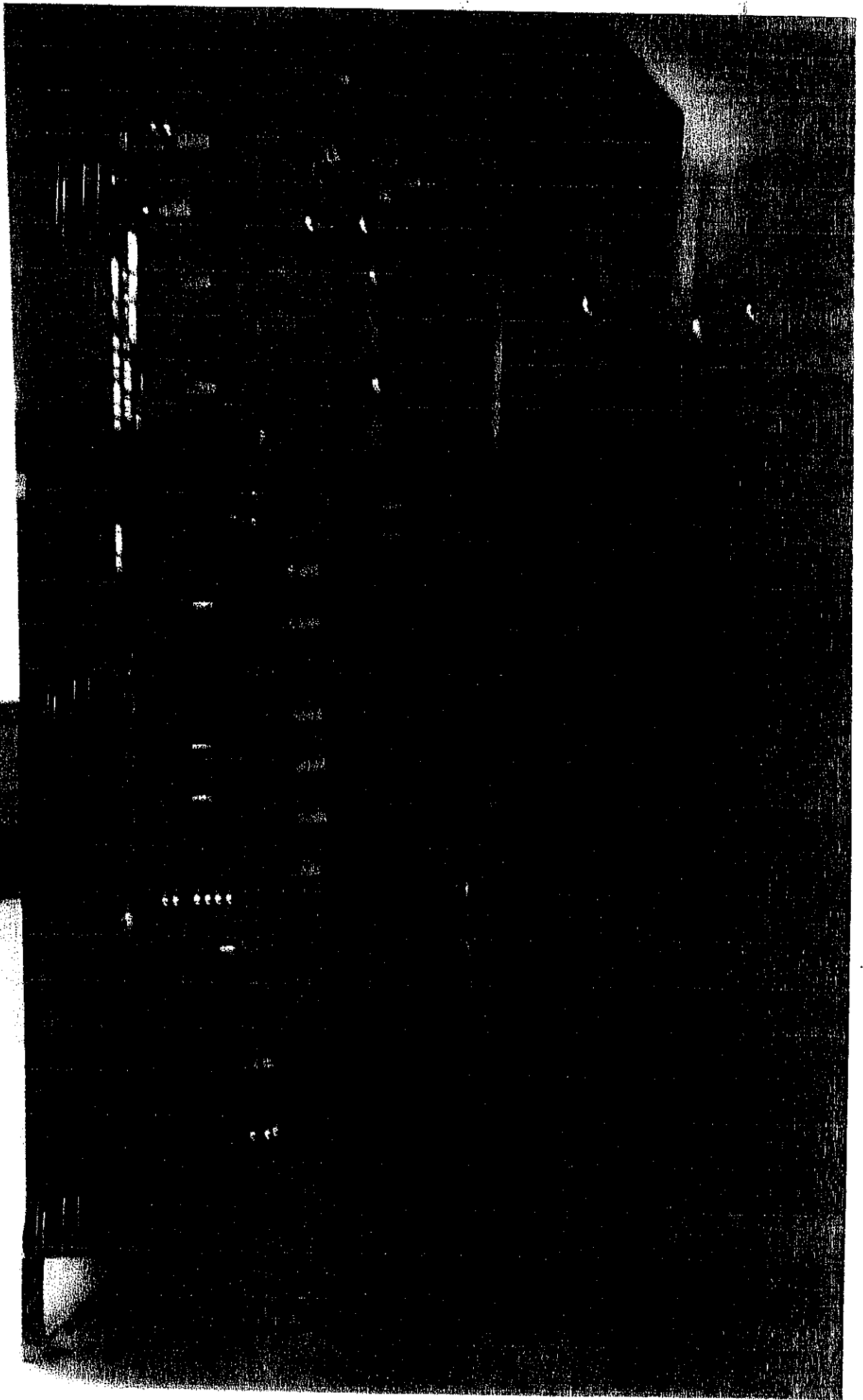
Comm. Christian Robert S. Lim
Atty. Jose M. Tolentino, Jr. - Executive Director
Atty. Julio Thaddeus P. Hernan - Dir. IV, ASD
Mr. Neil Baniqued - Technology Manager, SMNT-TIM, Inc.

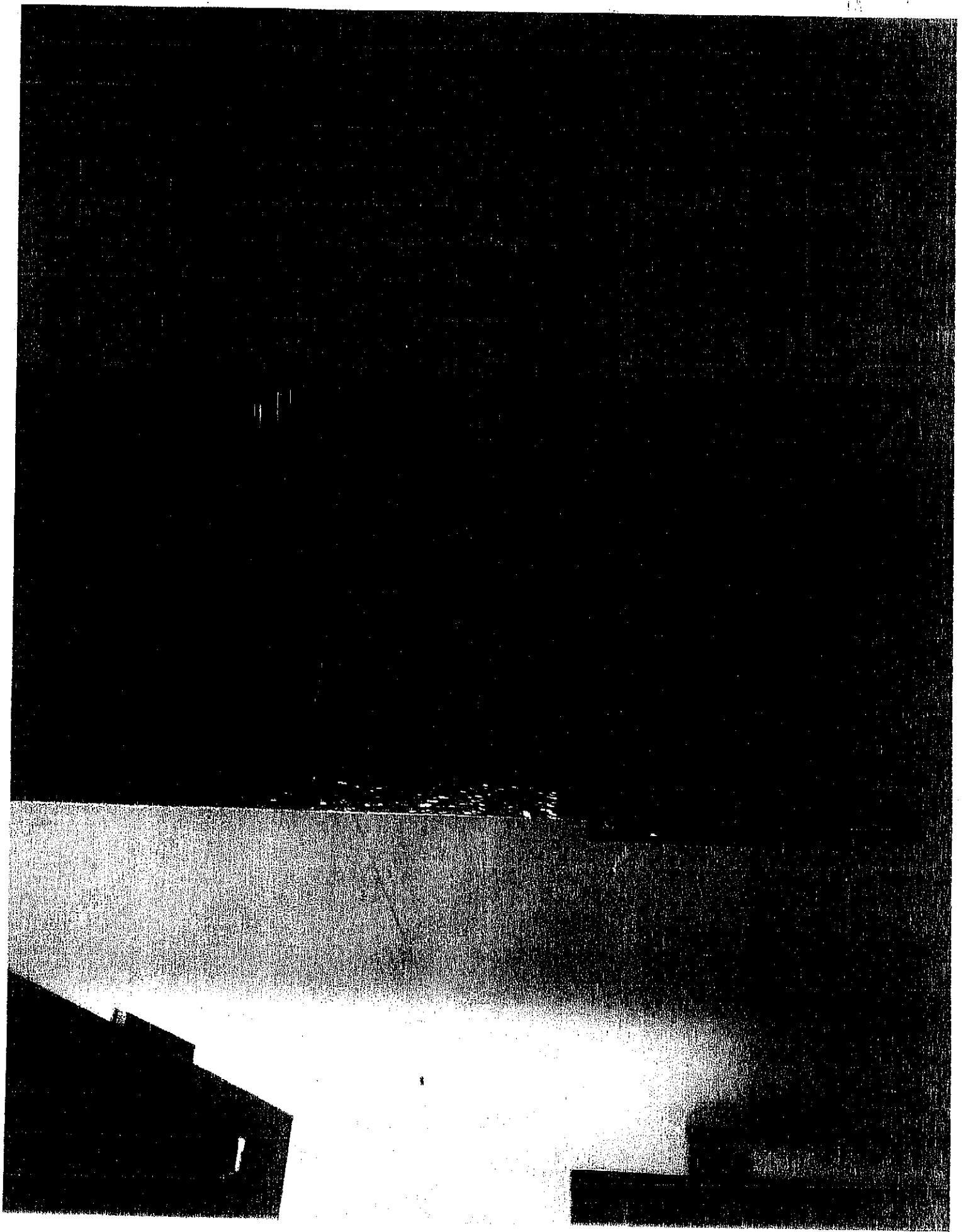


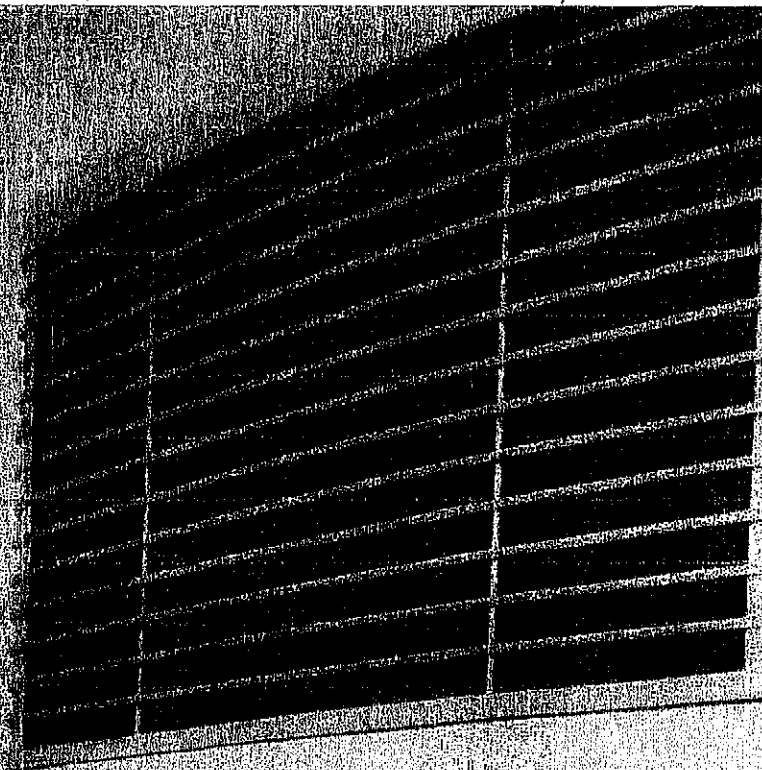




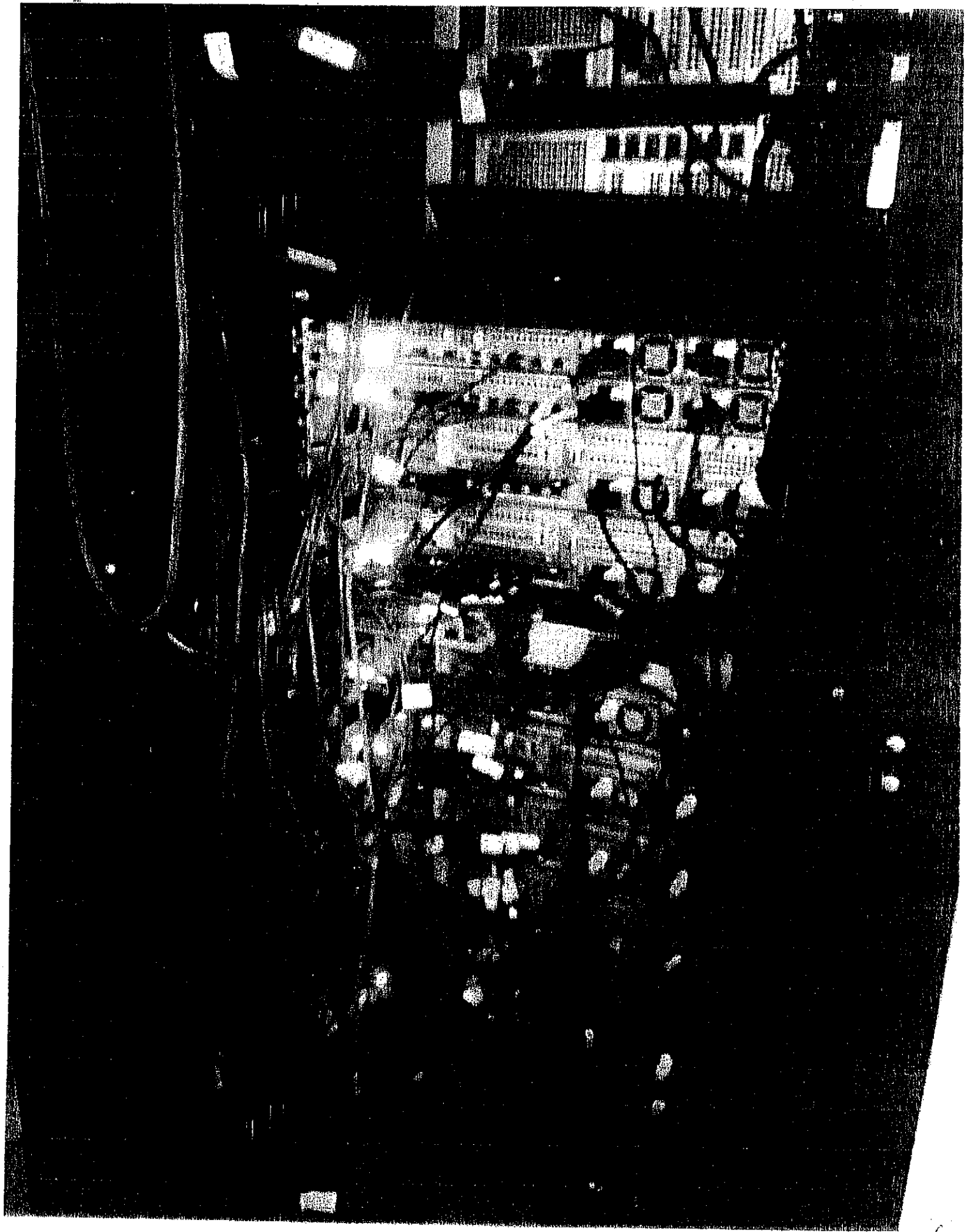


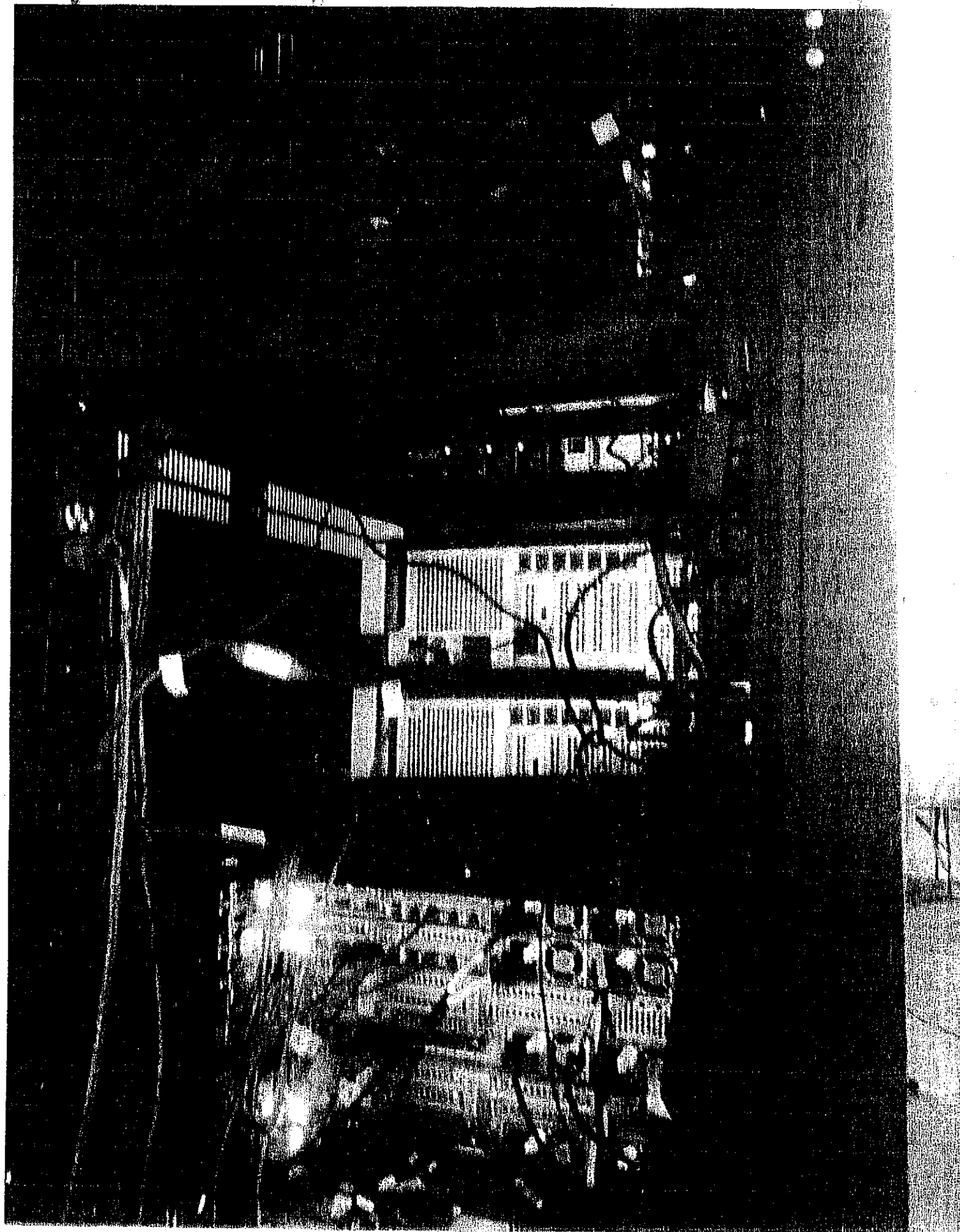


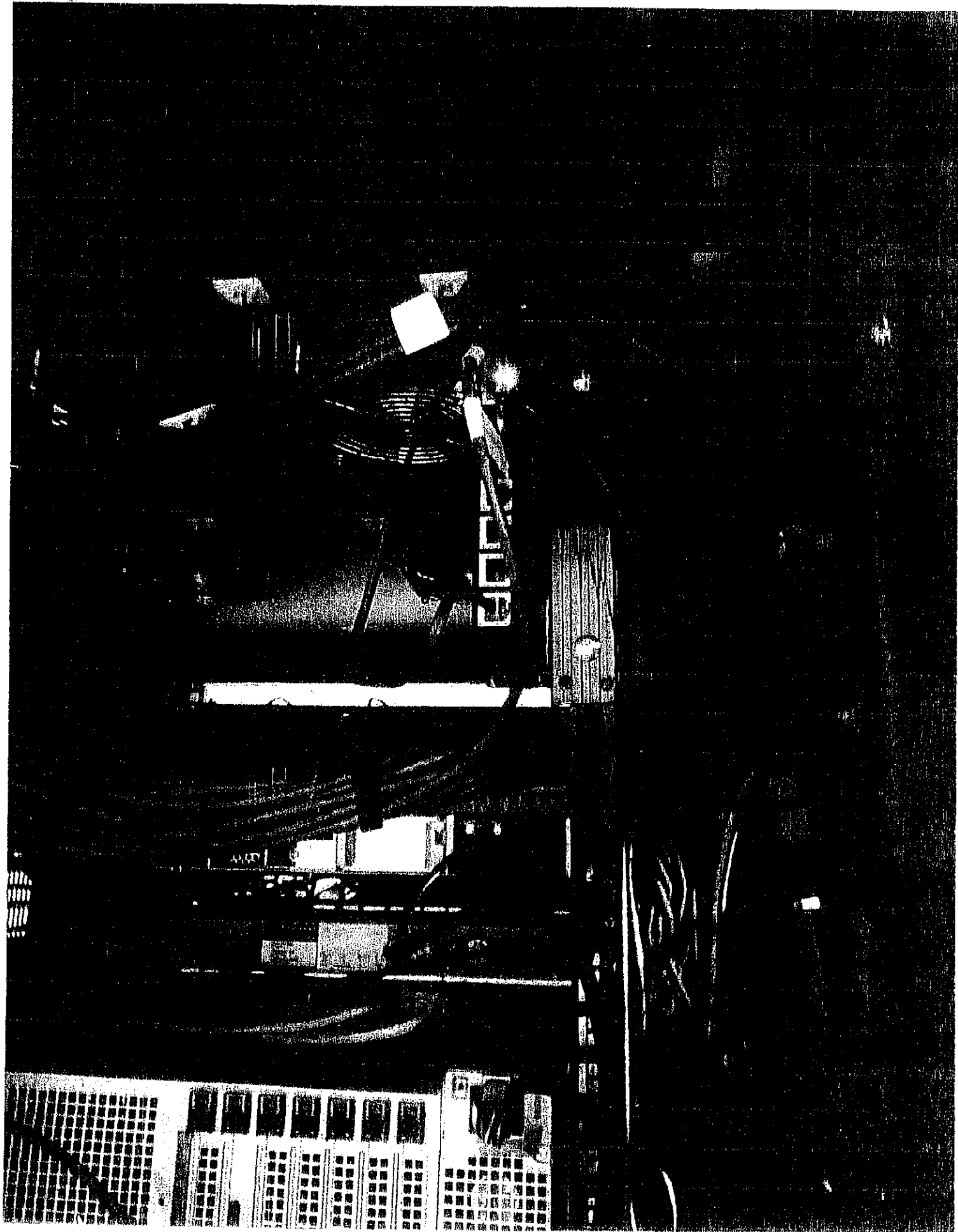




011-1111-1111







OBJECTION

ANNEX

Received:

Rene P. Cruz, Jr.
10:31 AM, 06 January

We, the representatives of ATTY. FRANCIS N. TOLENTINO have raised our objections for the inclusion of 93 VCM KIT that were part of the 127 VCM scheduled for shipping today, Jan 6, 2017 at the customs warehouse, as the same ^{were} ~~are~~ part of the Resolution # 16-17 issued by the Senate Electoral Tribunal.

Done this 6th day of January
in Sta. Rosa, Laguna.

ALEX B. MENDOZA

RUBILINDA C. PERENA

ELINOR BAES

PHILIPPINES
REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF TRANSPORTATION & COMMUNICATIONS
LAND TRANSPORTATION OFFICE
EAST AVE QUEZON CITY
PROFESSIONAL
LAST NAME FIRST NAME MIDDLE NAME
MENDOZA, ALEX BAYHON
ADDRESS (NO. STREET, CITY MUN. PROVINCE)
66 TOLENTINO EAST TAGAYTAY CITY CAVITE
BIRTH DATE: 1969-08-14 SEX: M HT (cm): 156 WT (kg): 65 NATIONALITY: FIL
RESTRICTIONS: CONDITIONS AGY: 018 EXPIRES: 2017-08-14
LICENSE NO.:
SIGNATURE OF LICENSEE: *[Signature]*
JUL 09, 2015 SEE

Republic of the Philippines
City of Tagaytay
AKI 1311 Keybago South, Tagaytay City
Tel. No. (046) 413-1220
ID NO.: 0085
RUBY
Revenue Collection Clerk I
City Treasurer's Office
From Unknown to Wellknown

ELMER P. BAES
SUPERVISOR
INDEPENDENT
ATTY. FRANCIS
SHER

VERIFIED DECLARATION

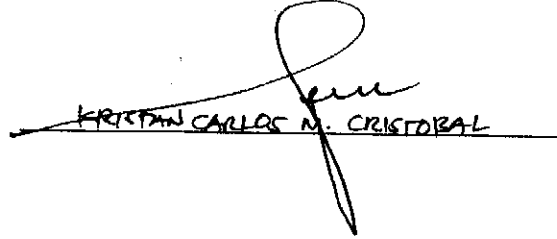
I, **JOSE ANGELO A. DAVID**, hereby declare that the documents hereto submitted electronically in accordance with the Efficient Use of Paper Rule are complete and true copies of the documents filed with the Presidential Electoral Tribunal.



JOSE ANGELO A. DAVID

20 January 2017

SUBSCRIBED and SWORN TO before me on this 20th day of January 2017, affiant exhibiting his OSG Employee ID No. 2016-01003.



KRISTAN CARLOS N. CRISTOBAL

REPUBLIC OF THE PHILIPPINES

ARTEMIO A. ESTOQUE, JR. SAO
OSIS UNIT # 006-0065-2137-0

AFFIDAVIT OF SERVICE
(Revised as of April 1992)

JAN 20 2017

I, _____, _____ OFFICE OF THE SOLICITOR GENERAL,
with Office address at 134 Amorsolo St., Legaspi Village Makati City, after being sworn to depose and say:

That on 01/20/2017, I caused to be served a copy of the following pleading/paper:

NATURE OF THE PLEADING

Manifestation and Motion

In case No. P.E.T. CASE NO. 005, entitled FERDINAND BONGBONG R. MARCOS, JR.,
VS. MARIA LEONOR LENI DAANG MATUWID G. ROBREDO

pursuant to Section 3,4,5 and 10, Rule 13 of the Rules of Court, as follows:

By Personal Service To:

- () By depositing a copy to the party or his/her attorney
on _____ as shown on p _____.
() By leaving a copy in his/her clerk or with a person
having charge thereof _____ as shown on p _____.
() By delivering a copy to the Court/Tribunal Office on
_____ shown on p _____.
JAN 20 2017

By Registered Mail To:

COMMISSION ON ELECTIONS HON. ANDRES
INTRAMUROS, 1002 Manila, , Philippines

ATTY. ROMULO B. MACALINTAL
Sardillo Sardillo Salom Law Office
Unit 802, Taipan Place
F. Ortigas Avenue
Ortigas Center Pasig City, , Philippines

ATTY. GEORGE ERWIN M. GARCIA and ATTY.
G.E. GARCIA LAW OFFICE Ground Floor Laiko
Building 372 Cabildo Street Intramuros, 1002,
Manila, , Philippines

- () By depositing copy on _____ in the Post
Office at _____ as evidenced by Registry
Receipt(s) No.(s) _____ hereto attached and
indicated after the name (s) of the addressee(s), and
with instruction to the postmaster to return the mail to
the sender after (10) days if undelivered.

Makati, Metro Manila, Philippines

21
ATEMIO A. ESTOQUE, JR. SAO
CSIS UNIT # 006-0065-2137-0

JAN 20 2017
(Affiant)

SUBSCRIBED AND SWORN to before me this _____ at Makati
City, Philippines. Affiant exhibiting to me his _____ issued at Pasay City.



16-020355-0065

ATEMIO A. ESTOQUE, JR. SAO
CSIS UNIT # 006-0065-2137-0
JAN 20 2017
KRISTIAN CARLOS M. CRISTOBAL

Solicitor, Officer Administering the Oath
Office of the Solicitor General