

Republic of the Philippines
PRESIDENTIAL ELECTORAL TRIBUNAL
Manila

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

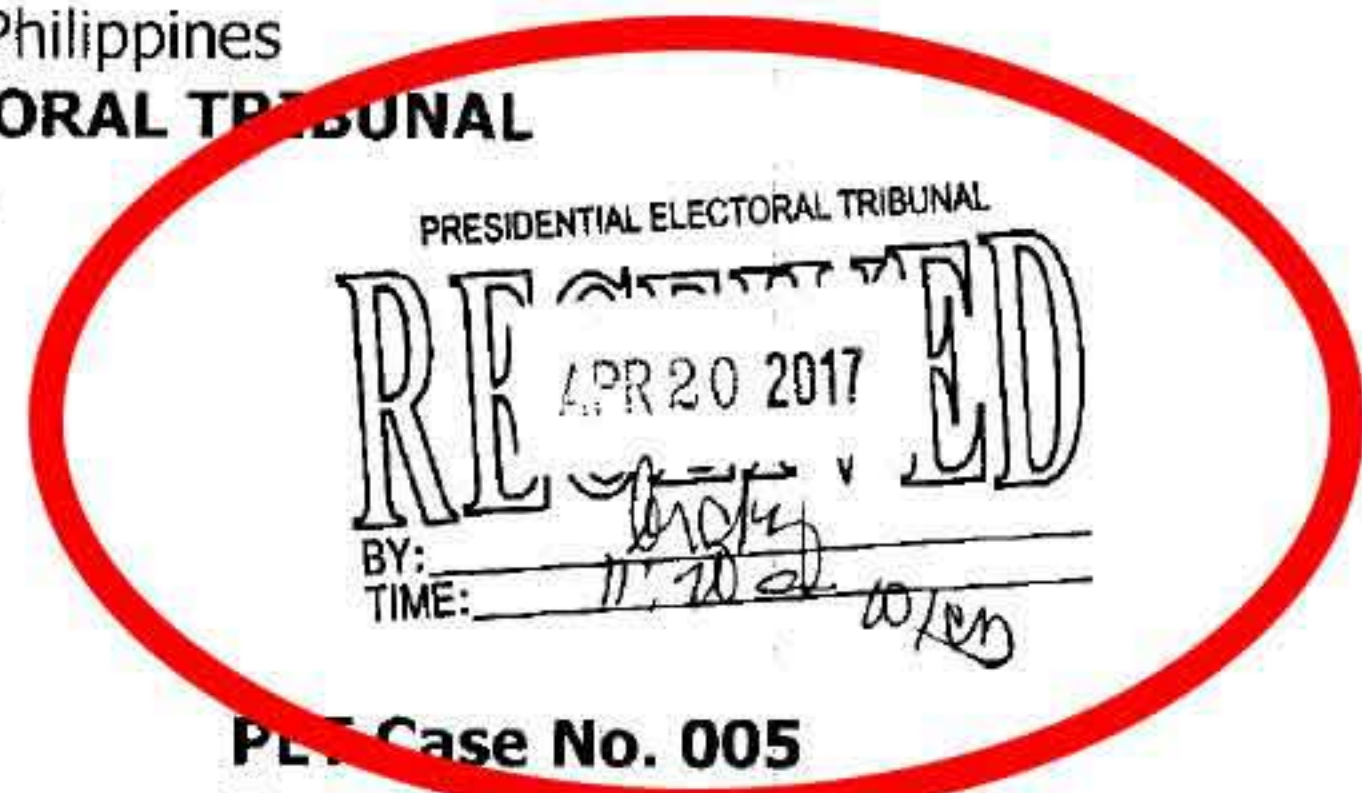
Protestant,

-versus-

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

Protestee.

x ----- x



PET Case No. 005

For: Election Protest
Vice-President

OMNIBUS MOTION

- i. TO DISMISS THE COUNTER-PROTEST and
- ii. TO REITERATE THE IMMEDIATE SETTING OF THE
PRELIMINARY CONFERENCE

Protestant **FERDINAND "BONGBONG" R. MARCOS, JR.**
("protestant Marcos"), through the undersigned counsels, unto this
Honorable Presidential Electoral Tribunal ("PET"), most respectfully
alleges the following:

1. On **21 March 2017**, a *Resolution* was issued by this
Honorable Tribunal directing protestant Marcos to pay *Sixty Six Million
Two Hundred Twenty Three Thousand Pesos (Php66,223,000.00)*
and the protestee/counter-protestant to pay *Fifteen Million Six
Hundred Thirty Nine Thousand Pesos (Php15,639,000.00)* as their
respective cash deposits for the protest and counter-protest in this
case.

2. The payment for the cash deposit is divided in two tranches:
the first installment to be paid on or before **14 April 2017** and the
final installment to be paid on or before **14 July 2017**.

3. However, since **14 April 2017** is a non-working holiday,
both parties are given until the next succeeding business day— **17
April 2017**— to comply with the directive of this Honorable Tribunal
relevant to the payment of the first tranche of the cash deposit.

4. In compliance thereto, on **17 April 2017**, protestant Marcos
deposited the amount of **Php36,023,000.00** in the form of a cashier's

check with Check No. 4920007045 before the Cash Collection and Disbursement Division of this Honorable Tribunal.

5. It would appear, however, that the protestee/counter-protestant **DID NOT PAY** the required initial installment of the cash deposit in the amount of *Eight Million Pesos (Php8,000,000.00)* by **17 April 2017**, she opted instead to file a *Manifestation with Urgent Ex-Parte Omnibus Motion (1) for Clarification; and (2) Reconsideration of the Resolution dated 21 March 2017.*

6. In view of the **FAILURE** on the part of the protestee/counter-protestant to pay the first tranche of the cash deposit for her counter-protest within the deadline set by this Honorable Tribunal, protestant Marcos is now constrained to move for the immediate **DISMISSAL** of the counter-protest in accordance with **Rule 34** of the **2010 Rules of the Presidential Electoral Tribunal ("PET Rules")**.

7. **Rule 34** of the **2010 PET Rules** provides for the effect of failure to pay the required cash deposit, thus:

Rule 34. Effect of failure to make cash deposit. - If a party fails to make the cash deposits or additional deposits herein required within the prescribed time limit, **the Tribunal may dismiss** the protest or **counter-protest**, or take such action as it may deem equitable under the circumstances. (R33)¹

8. Actually, this is not a novel issue. In the case of ***Perla Garcia, et al. v. House of Representatives Electoral Tribunal (HRET) and Rep. Harry Angping***,² the Honorable Supreme Court upheld the summary dismissal of an election case for failure to make the required cash deposit within the time prescribed by the electoral tribunal, which in this case refers to the HRET.

9. The dismissal of an election case for non-payment of the required cash deposit within the prescribed time limit was likewise affirmed by the Honorable Supreme Court in the case of ***Bienvenido William D. Lloren v. Commission on Elections (COMELEC) and Rogelio Pua, Jr.***³

10. Guided by the foregoing, the dismissal of the counter-protest in this case is therefore warranted given the failure on the part of protestee/counter-protestant Maria Leonor "Leni Daang Matuwid" G.

¹ Emphasis and underscoring supplied.

² G.R. No. 134792, 12 August 1999.

³ G.R. No. 196355, 18 September 2012.

Robredo ("Robredo") to pay the required cash deposit within the prescribed time limit of this Honorable Tribunal.

11. The filing of protestee/counter-protestant's *Manifestation with Urgent Ex-Parte Omnibus Motion* cannot excuse Robredo from the payment of the required cash deposit since the same is obviously **DILATORY**.

12. Robredo's intention to further delay the proceedings in this case is evident from the arguments raised in her latest submission. Protestant Marcos finds it quite ironic that Robredo would ask for the deferment of the payment of her cash deposit even though she had already expressed her conformity and willingness to pay the same in her *Manifestation with Urgent Ex-Parte Omnibus Motion*.

13. There being no issue as to the cash deposit required to be paid by the protestee/counter-protestant, there is clearly no basis for Robredo to ask this Honorable Tribunal to hold in abeyance the payment of the cash deposit for her counter-protest.

14. Moreover, it must be stressed that this Honorable Tribunal has exclusive control and supervision of all matters pertaining to this election protest and counter-protest, including the computation of the cash deposit. Hence, it is inappropriate for Robredo to question this Honorable Tribunal's wisdom and discretion with respect to the computation of the cash deposit required to be paid by the protestant.

15. Finally, protestant Marcos would like to reiterate his previous motion to **immediately schedule** the conduct of the Preliminary Conference in this case as mandated by **Rule 29** of the **2010 PET Rules**, thus:

Rule 29. Preliminary Conference. –

(a) *Purpose.* - **After the filing of the last pleading, the Tribunal shall order a preliminary conference** to consider:

- (1) the possibility of obtaining stipulations or admissions of facts and documents to avoid unnecessary proof;
- (2) the simplification of issues;
- (3) the limitation of number of witnesses;
- (4) the most expeditious manner for the retrieval of ballot boxes containing the ballots, election returns, certificates of canvass and other election documents involved in the election protest; and
- (5) such other matters as may aid in the prompt disposition of the election protest or petition for *quo warranto*.

(b) *Preliminary conference brief.* - The parties shall file with the Tribunal and serve on the adverse party a preliminary conference brief at least five days before the date of the preliminary conference, which shall contain:

- (1) stipulations or admissions of facts and documents;
- (2) the issues to be resolved;
- (3) the numbers and names of witnesses, and the nature and substance of their respective testimonies;
- (4) the list of not more than three provinces which the parties may designate pursuant to Rule 65; and
- (5) the proposal on the prompt disposition of the case.

(c) *Preliminary conference order.* - The tribunal shall issue an order reciting the matters taken up during the preliminary conference and the action thereon. (R28)⁴

PRAYER

ACCORDINGLY, it is most respectfully prayed of this Honorable Tribunal to

- i. **GRANT** protestant's Omnibus Motion;
- ii. **DISMISS** the counter-protest for failure to pay the required cash deposit within the prescribed time limit;
- iii. **SET** the conduct of the preliminary conference; and
- iv. duly **NOTE** the foregoing submission.

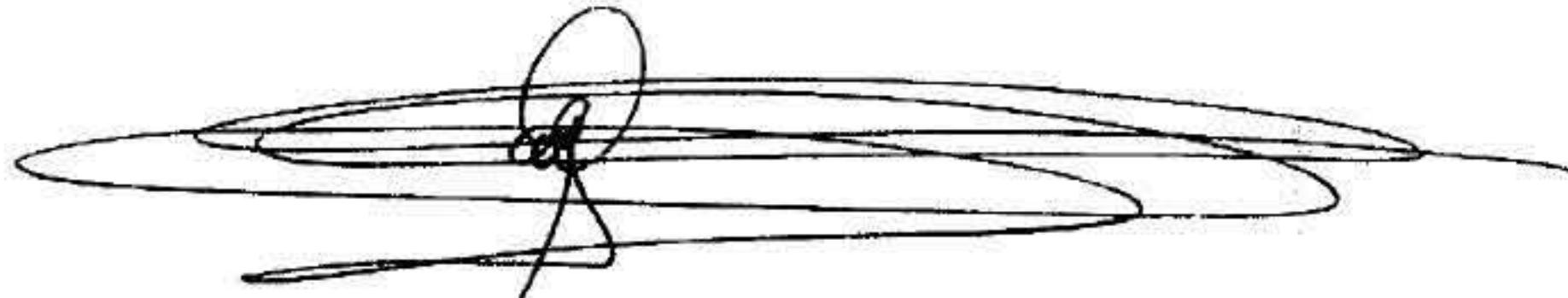
Other reliefs, just and equitable under the premises, are also prayed for.

City of Manila, Philippines, **19 April 2017.**

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⁴ Emphasis and underscoring supplied.

By:



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NOTICE OF SUBMISSION

THE CLERK OF THE TRIBUNAL

Presidential Electoral Tribunal
Padre Faura, Manila

ATTY. ROMULO B. MACALINTAL

Lead Counsel for Protestee Robredo
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TRC #: 1072719263022

THE SOLICITOR GENERAL

134 Amorsolo Street
Legaspi Village, 1229 Makati City

TRC #: 1072719264322

Greetings:

Please take notice that the foregoing *Omnibus Motion* shall be submitted for the consideration and approval of this Honorable Tribunal immediately upon receipt hereof.



GEORGE ERWIN M. GARCIA

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]

Copies of the foregoing *Omnibus Motion* were served to the above-mentioned parties by registered mail, personal service being impractical due to distance, time and manpower constraints.



GEORGE ERWIN M. GARCIA



AFFIDAVIT OF SERVICE

(Revised as of April 1, 1994)

I, **Jerry C. Guevarra**, a clerk of the G.E. GARCIA Law Office with office address at Ground Floor, LAIKO Bldg., Cabildo St., Intramuros, City of Manila, after being duly sworn, do hereby depose and say:

That on April 20, 2017, I served a copy of the following pleading/paper.

NATURE OF PLEADING/PAPER

"OMNIBUS MOTION

- i. TO DISMISS THE COUNTER-PROTEST and
- ii. TO REITERATE THE IMMEDIATE SETTING OF THE PRELIMINARY CONFERENCE"

In **PET Case No. 005** entitled "**FERDINAND "BONGBONG" R. MARCOS, JR., Protestant, -versus- MARIA LEONOR "LENI DAANG MATUWID" G. ROBREDO, Protestee.**", pursuant to Sections 3, 4, 5 and 10, Rule 13 of the Rules of Court, as follows:

By Registered Mail:

R. R. Nos.

ATTY. ROMULO B. MACALINTAL

c/o Sardillo Sardillo Salom Law Office
Unit 802, Taipan Place, F. Ortigas Avenue,
Ortigas Center, Pasig City

RD 92719263032

THE SOLICITOR GENERAL

134 Amorsolo Street
Legaspi Village, 1229 Makati City

RD 92719264337

By depositing a copy at the post office in Manila, as evidenced by Registry Receipt(s) No(s) and indicated after the name(s) of the addressee(s), and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered.

April 20, 2017, Manila, Philippines.

JERRY C. GUEVARRA
Affiant

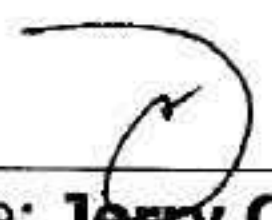
SUBSCRIBED AND SWORN to before me this APR 20 2017 at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

Doc. No. 645
Page No. 29
Book No. 13
Series of 2017.

ATTY. PEDRO D. GENATO
Notary Public until Dec. 31, 2017
Notarial Commission 2016-011 Mla.
IBP# 1000339 P. 10-24-15 until 2017
PTR# 1000339 P. 10-24-15 until 2017
Roll# 12088, PIN# 132-436-687
MCLE Compl. No. V-0005232 until 4-14-19

VERIFIED DECLARATION

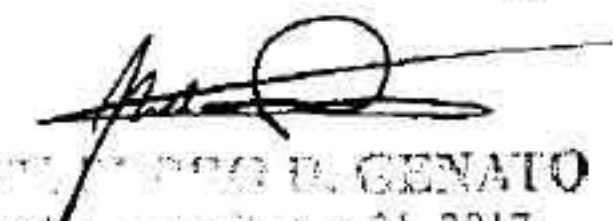
I, **JERRY C. GUEVARRA**, a clerk of the G.E. GARCIA Law Office with office address at Ground Floor, LAIKO Bldg., Cabildo St., Intramuros, City of Manila, hereby declare that the document/s (and annexes thereof) hereto submitted electronically in accordance with the Efficient use of Paper Rule is/are complete and true copy/ies of the document/s **"OMNIBUS MOTION** i. TO DISMISS THE COUNTER-PROTEST and ii. TO REITERATE THE IMMEDIATE SETTING OF THE PRELIMINARY CONFERENCE" in **PET Case No. 005** entitled **FERDINAND "BONGBONG" R. MARCOS, JR.,** *Protestant*, -versus- **MARIA LEONOR "LENI DAANG MATUWID" G. ROBREDO,** *Protestee*, filed with the Presidential Electoral Tribunal.

Signature: 
Printed Name: **Jerry C. Guevarra**
Position: Staff
Date: April 20, 2017

SUBSCRIBED AND SWORN to before me this APR 20 2017
at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

Person Administering Oath

Doc. No. 646 ;
Page No. 130 ;
Book No. 23 ;
Series on 2017.


ATTY. PEDRO D. GENATO
Notary Public, Commission No. 31, 2017
Notarial Commission 2016-011 Mla.
IBP# 100-224 Pasig 09-24-15 until 2017
PTR# 501-1051 - Manila 1-3-2017
Roll# 12080, TIN# 132-436-687
MCLE Compl. No. V-0005232 until 4-14-19