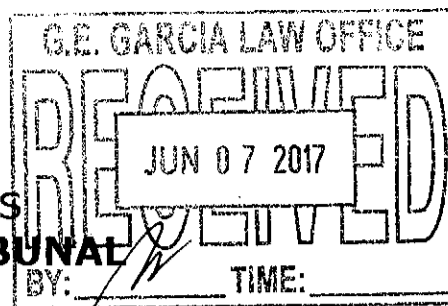


REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL ELECTORAL TRIBUNAL
Manila



**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/COMPLIANCE

The **COMMISSION ON ELECTIONS**, through the **OFFICE OF THE SOLICITOR GENERAL**, and in compliance with this Honorable Tribunal's Resolution dated 18 April 2017 and Resolution dated 25 April 2017, respectfully states:

A. Resolution dated 18 April 2017

1. On 18 April 2017, this Honorable Tribunal issued a *Resolution* directing the COMELEC to clarify certain matters relating to the suspension of the stripping activities on the Consolidation and Canvassing System (CCS). These matters are as follows:

- a. Why do the certificates in the USB tokens expire?
- b. How much is being spent by the COMELEC on the rent of the warehouse in Sta. Rosa, Laguna which is still being used for purposes of the closure activities?
- c. Aside from the change in the date, will the other data contained in the CCS laptops be affected?
- d. Considering that the CCS laptops will not be turned over to Smartmatic but will be used by the COMELEC, what is the timetable for such intended use?

2. Upon coordination with the COMELEC, the COMELEC Information and Technology Department ("ITD") issued a *Memorandum* dated 15 May 2017¹ which addresses matters (a), (c) and (d) of the Resolution dated 18 April 2017. The relevant portions of the Memorandum are reproduced herein for the reference of this Honorable Tribunal:

- (a) Why do the certificates in the USB tokens expire?

"Fixed short-term validity of the Digital Certificates is one of the security features of our Automated Election System. Limiting the validity period of a digital certificate is [a] recognized industry best practice. It bears to mention that all Digital Certificates used for the 2010 and 2013 National and Local Elections had an expiry period."

- (b) Aside from the change in the date, will the other data contained in the CCS laptops be affected?

"No, changing the system date of a CCS Laptop will not affect any Election Data contained therein."

- (c) Considering that the CCS laptops will not be turned over to Smartmatic but will be used by the COMELEC, what is the timetable for such intended use?

"The CCS Laptops were supposed to be repurposed as Voter Registration Machines and thereafter be distributed to the Commission's field offices in time for the resumption of their continuing voter registration. These repurposed CCS Laptops would have been a great boon to the efforts of the Commission towards inclusiveness, especially for the conduct of satellite voter registration.

Unfortunately, the cut-off for voter registration in connection with the 2017 Barangay and SK

¹ A copy of the Memorandum dated 15 May 2017 is attached hereto as Annex "A" and made an integral part hereof.

Elections passed with the CCS Laptops languishing in storage. Hopefully, the CCS Laptops can be prepared for the resumption of the continuing voter registration sometime December 2017 in relation to the 2019 National and Local Elections.”

3. These matters were raised by Protestee in view of the failure to back-up the contents of the CCS Laptops due to the expiration of the digital certificates in the USB tokens which are used to access these laptops. To date, the COMELEC cannot back up significant reports and data contained in the CCS Laptops since the digital certificates of the CCS expired in December 2016.

4. On matter (b) regarding the cost of rent for the lease of the warehouse in Sta. Rosa, Laguna, the *Contract for the Provision of Warehousing Facility and Equipment through Lease, and Allied Services*² (“Contract of Lease”) entered into between the COMELEC and lessor JAM Liner, Inc. provides for a total monthly rent of **PhP 2,737,200.00** for the lease of the covered area and open area while the rent for the lease of equipment amounts to **PhP 2,149,600**. Aside from these costs under the Contract of Lease, the COMELEC likewise incurs **PhP 461,164.00** every month for personnel compensation,³ and a combined estimate of **PhP 261,280.00** for consumption of electricity, drinking water and gasoline expenses.

5. The total costs at the warehouse, therefore, amount to **PhP 5,609,244.00** per month.

B. Resolution dated 25 April 2017

6. On 25 April 2017, the Honorable Tribunal issued a *Resolution* directing the COMELEC:

- (a) to comply with the Honorable Tribunal’s *Resolution* dated 8 November 2016 on the itemized cost it may

² A copy of the Contract of Lease is attached hereto as Annex “B” and made an integral part hereof.

³ Twenty-five (25) Administrative Job Order Casuals are paid a monthly rate of PhP 9,981.00 each; Nineteen (19) Security Job Order Casuals are paid a monthly rate of PhP 9,981.00 each; Two (2) Forklift Operators are paid a monthly rate of PhP 11,000.00.

be required to pay under the Automated Election System (AES) Contracts, and

- (b) to inform the Honorable Tribunal whether Smartmatic-TIM, Inc. (Smartmatic) has made any communication to the COMELEC in enforcing Article 6.9 of the AES Contracts.

7. As to matter (a), the COMELEC had earlier filed a *Compliance* dated 1 December 2016 informing this Honorable Tribunal that the COMELEC may be required to pay a total of **PHP 2,078,304,225.76** on account of the instant election protest.⁴

8. As to matter (b), the COMELEC wrote a *Letter* dated 28 November 2016⁵ addressed to Smartmatic turning over 97,366 leased units of OMR machines and the EMS in order to prevent the application of the option to purchase clause under Section 6.9 the AES Contracts, which option to purchase was scheduled to take effect on 1 December 2016.

9. On 2 December 2016, the COMELEC received Smartmatic's *Letter* dated 1 December 2016⁶ advising the COMELEC of the commencement of the stripping activities on the OMR machines and EMS in view of the turn-over of these leased equipment.

10. On even date, the COMELEC responded⁷ to Smartmatic's letter and cautioned it against conducting stripping activities on the OMR machines and the EMS considering the then standing *Resolution* dated 8 November 2016 issued by this Honorable Tribunal requiring notice to it prior to the conduct of any stripping activity on the leased equipment.

⁴ A copy of said Compliance stamp-received by this Honorable Tribunal is attached hereto as Annex "C" and made an integral part hereof.

⁵ A copy of the COMELEC Letter dated 28 November 2016 is attached hereto as Annex "D" and made an integral part hereof.

⁶ A copy of the Smartmatic Letter dated 1 December 2016 is attached hereto as Annex "E" and made an integral part hereof.

⁷ A copy of the COMELEC Letter dated 2 December 2016 is attached hereto as Annex "F" and made an integral part hereof.

11. In response, Smartmatic, through counsel, wrote a Letter dated 5 December 2016 noting that Section 6.9 of the AES Contracts "requires that the actual physical possession of the 97,366 OMR machines must be turned over by the COMELEC" before 1 December 2016.⁸ Smartmatic said that the COMELEC's turn-over of the leased equipment via Letter dated 28 November 2016 was a mere "turnover on paper," and was "not the equivalent of the return or turnover of the actual physical possession of the 97,366 OMR Machines which should have been made by the COMELEC on or before 1 December 2016."⁹ Smartmatic emphasized that there was "no return or turnover whatsoever of the actual physical possession of the 97,366 OMR machines from the COMELEC."¹⁰ Smartmatic, through said Letter, in effect enforces Section 6.9 of the AES Contracts against the COMELEC.

PRAYER

WHEREFORE, it is respectfully prayed that the Honorable Tribunal **NOTE** the manifestations made herein by the COMELEC, and **CONSIDER** the foregoing submissions as compliance with this Honorable Tribunal's *Resolution* dated 18 April 2017 and *Resolution* dated 25 April 2017.

The COMELEC likewise prays for such further or other reliefs as may be deemed just or equitable.

Makati City for the City of Manila, 25 May 2017.

JOSE C. CALIDA
Solicitor General
Roll No. 24852

IBP Lifetime No. 015360, 08/18/16
MCLE Exemption No. VI-000016, 09/28/16

⁸ A copy of the Smartmatic Letter dated 5 December 2016 is attached hereto as Annex "G" and made an integral part hereof, p. 1.

⁹ *Ibid.*, p. 2.

¹⁰ *Ibid.*


HENRY S. ANGELES
Assistant Solicitor General

Roll No. 45837
IBP Lifetime No. 016075, 4/21/17
MCLE Compliance No. V-0026001, 10/14/16


GERMAINE L. CHUA
State Solicitor

Roll No. 59797
IBP Lifetime No. 014616, 04/1/16
MCLE Compliance No. V-0011787, 11/10/15


JOSE ANGELO A. DAVID
Associate Solicitor

Roll No. 64181
IBP No. 1033274, 04/17/17
MCLE Compliance No. V-0016027, 03/15/16

OFFICE OF THE SOLICITOR GENERAL

134 Amorsolo St., Legaspi Village
1229 Makati City
Tel. No.: 9881674 (Trunkline)
Fax No.: 8176037

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
23 Cagayan Valley Street
Philamlife Village, Las Piñas City

MANIFESTATION/COMPLIANCE
MARCOS v. ROBREDO
PET Case No. 005
x-----x

SARDILLO SARDILLO SALOM LAW OFFICE
Collaborating Counsel for Protestee
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

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


JOSE ANGELO A. DAVID
Associate Solicitor

REPUBLIC OF THE PHILIPPINES

AFFIDAVIT OF SERVICE

(Revised as of April 1992)

XYLAN UJE S. SYCATCO
GSIS # CM 00000473028

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

MAY 31 2017

That on 05/31/2017, I caused to be served a copy of the following pleading/paper:

NATURE OF THE PLEADING

Manifestation/Compliance

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 on _____ as shown on p _____.

() By delivering a copy to the Court/Tribunal Office on _____ as shown on p _____.

By Registered Mail To:

SARDILLO SARDILLO SALOM LAW OFFICE
Unit 802, Taipan Place, F. Ortigas Avenue,
Center, Pasig City, , Philippines

HON. ANDRES D. BAUTISTA, HON.
COMMISSION ON ELECTIONS
Intramuros, 1002 Manila, , Philippines

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

Manila, , Philippines

ATTY. ROMULO B. MACALINTAL
23 Cagayan Valley Street, Philamlife Village, Las
Pinas City, , Philippines

PRESIDENTIAL ELECTORAL TRIBUNAL / SUPREME COURT
Manila

() By depositing copy on MAY 31 2017 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

XYLAN UJE S. SYCAYCO
CSIS # 014 00000473028

MAY (Affiant) 2017

SUBSCRIBED AND SWORN to before me this **XYLAN UJE S. SYCAYCO** of _____ at Makati City, Philippines. Affiant exhibiting to me his **CSIS # 014 00000473028** issued at Pasay City.



16-020355-0111

MAY 31 2017

GERMAINE L. CHUA
STATE SOLICITOR

Solicitor, Officer Administering the Oath
Office of the Solicitor General

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 Supreme Court.


JOSE ANGELO A. DAVID
31 May 2017

SUBSCRIBED and SWORN TO before me on this 31st day of May 2017, affiant exhibiting his OSG Employee ID No. 2016-01003.


GERMAINE L. CHUA
State Solicitor