



REPUBLIC OF THE PHILIPPINES
COMMISSION ON ELECTIONS
Intramuros, Manila
Office of the Executive Director



November 8, 2016

ATTY. GEORGE ERWIN M. GARCIA
ATTY. JOAN M. PADILLA

Counsel for Senator Ferdinand Marcos, Jr.
G.E. Garcia Law Office
Ground Floor, Laiko Building
372 Cabildo Street, Intramuros
Manila

Dear Atty. Garcia/Atty. Padilla

Please find attached a copy of **MINUTE RESOLUTION No. 16-0642** dated September 27, 2016 entitled, ***"In the Matter of the Request of Smartmatic-TIM (SMTT) for the Immediate Release of 1,356 Units of Vote Counting Machines (VCMs) which were Delivered to the Commission for Contingency Purposes During the May 9, 2016 National, Local, and ARMM Elections and which were Not Actually Deployed by COMELEC for Any Contingency During Said Elections,"*** through which the Commission approved the release of the one thousand three hundred fifty-six (1,356) excess units of VCMs, subject to the following conditions as provided in the said resolution.

Respectfully yours,

For the Executive Director


HELEN G. AGUILA-FLORES
Deputy Executive Director for Administration

Attached as stated



EXCERPT FROM THE MINUTES OF THE REGULAR EN BANC
MEETING OF THE COMMISSION ON ELECTIONS
HELD ON SEPTEMBER 27, 2016

Present:

Chairman J. Andres D. Bautista
Commissioner Christian Robert S. Lim
Commissioner Al A. Pareño
Commissioner Lito F. Guia
Commissioner Arthur D. Lim
Commissioner Ma. Rowena Amelia V. Guanzon
Commissioner Sheriff M. Abbas

XXX

XXX

XXX

16-0642 IN THE MATTER OF THE REQUEST OF SMARTMATIC-TIM (SMTT) FOR
THE IMMEDIATE RELEASE OF 1,356 UNITS OF VOTE COUNTING MACHINES
(VCMs) WHICH WERE DELIVERED TO THE COMMISSION FOR CONTINGENCY
PURPOSES DURING THE MAY 9, 2016 NATIONAL, LOCAL AND ARMM
ELECTIONS AND WHICH WERE NOT ACTUALLY DEPLOYED BY COMELEC
FOR ANY CONTINGENCY DURING SAID ELECTIONS

This pertains to the Memorandum dated September 22, 2016 of
Commissioner Christian Robert S. Lim relative to the request of Smartmatic-TIM
(SMTT) for the immediate release of 1,356 units of Vote Counting Machines
(VCMs) which were delivered to the Commission for contingency purposes
during the May 9, 2016 National, Local and ARMM Elections and which were not
actually deployed by Comelec for any contingency during said elections.

The Memorandum of Commissioner Lim reads:

*"This pertains to the Letter dated 22 September 2016 by Mr. Elio
Moreno, SMTT PMO Project Director, anent the above-stated subject
matter, a copy of which is attached herewith. SMTT delivered to the
Commission Sta. Rosa Warehouse a total of ninety-eight thousand eight
hundred seventy-three (98,873) VCMs, or one thousand three hundred
fifty-six (1,356) units in excess of its contractual obligations. These excess
units were free of charge and were prepared in anticipation for a shortage
of contingency units. These units were not deployed due to the adequate
preparations for the 09 May 2016 National, Local and ARMM Elections.
SMTT now needs the return of these excess units in order to meet its
commitments with other countries. It is the belief of the undersigned that
unnecessary retention of these excess units may be considered unjust
enrichment on the part of the Commission.*

*On the other hand, kindly note that the Presidential Electoral
Tribunal issued a Precautionary Protection Order dated 12 July 2016 in
relation to the case entitled 'Ferdinand 'Bongbong' R. Marcos vs. Maria
Leonor 'Leni Daang Matuwid' G. Robredo,' docketed as PET Case No.
005. A copy of the said Precautionary Protection Order is likewise
attached. It pertinently reads:*

*'NOW, THEREFORE, pursuant to Rule 36 of the 2010
Rules of the Presidential Electoral Tribunal, You, the
Commission on Elections, your agents, representatives or*

f

P-110

persons acting in your place or stead, including the city/municipal treasurers election officers, and responsible personnel and custodians, are hereby **DIRECTED** to **PRESERVE** and **SAFEGUARD** the integrity of all the ballots boxes and their contents, including the ballots, voter's receipts and election returns list of voters, particularly [the] Election [D]ay Computerized Voter's List (EDCVL), and voters registration records (VRRs), and the books of voters; the audits logs, transmission logs, and all logs 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 Canvassing 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.

In view of the foregoing, the undersigned respectfully suggests that the Commission either:

- 1) **REQUEST** permission from the Presidential Electoral Tribunal to release the aforementioned one thousand three hundred fifty-six (1,356) excess units to SMTT and advise SMTT of this action; **OR**
- 2) **APPROVE** the immediate release of the said excess units to SMTT considering that these units were **NOT** used in the 09 May 2016 National, Local and ARMM Elections, provided that Notices are given to the Presidential Electoral Tribunal and the parties to the case entitled 'Ferdinand 'Bongbong' R. Marcos vs. Maria Leonor 'Leni Daang Matuwid' G. Robredo,' docketed as PET Case No. 005.

XXX

XXX


XXX

After due deliberation, the Commission **RESOLVED**, as it hereby **RESOLVES**, to **approve** the release of the one thousand three hundred fifty-six (1,356) excess units of VCMs to SMTT considering that these units were not used in the 09 May 2016 National, Local and ARMM Elections, Provided: a) that SMTT shall identify the VCMs to be released; and b) that Notices of the herein request of SMTT shall be given to the Presidential Electoral Tribunal and the parties to PET Case No. 005, entitled: "Ferdinand 'Bongbong' R. Marcos vs. Maria Leonor 'Leni Daang Matuwid' G. Robredo", and that if no objection/s are received within one (1) month from receipt of Notice, the same shall be released to SMTT.

[Signature]

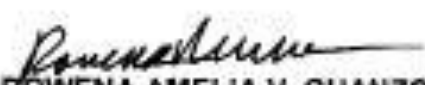
Let the Executive Director implement this Resolution.

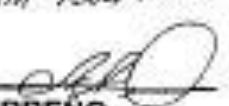
SO ORDERED.


J. ANDRES D. BAUTISTA
Chairman


CHRISTIAN ROBERT S. LIM
Commissioner


LUIS TITO F. GUIA
Commissioner


MA. ROWENA AMELIA V. GUANZON
Commissioner

with reservation

AL A. PARRENO
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
PMO – 2018 NLG
Law Department
Information Technology Department