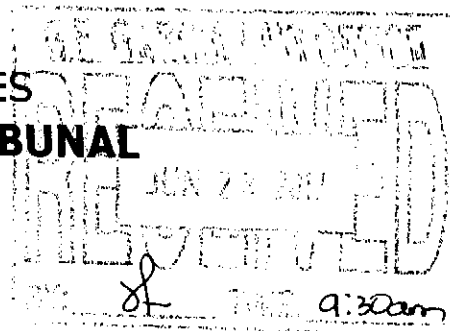


REPUBLIC OF THE PHILIPPINES  
**PRESIDENTIAL ELECTORAL TRIBUNAL**  
Manila



**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 OMNIBUS MOTION  
(1) FOR CLARIFICATION; AND (2) TO BE FURNISHED  
COPY OF THE ANNEXES ATTACHED TO THE  
MANIFESTATION/COMPLIANCE DATED 25 MAY 2017**

PROTESTEE **MARIA LEONOR G. ROBREDO**, by the undersigned counsel, to the Honorable Tribunal, respectfully states:

1. On 07 April 2017, protestee Maria Leonor G. Robredo (hereafter "Robredo" for brevity) filed a Manifestation seeking clarification on the following matters:

1.1. At the onset, protestee Robredo would like to be clarified as to why these things, i.e., the expiration of the certificates in the USB tokens are happening?

1.2. How much is being spent by the Commission on Elections on the rent of the warehouse in Sta. Rosa, Laguna which is still being used for purposes of the closure activities.

1.2.1. By way of background, during the demonstration, it was mentioned that the Commission on Elections is still incurring expenses for their continued use of the warehouse.

1.3. Aside from the change in the date as proposed by the Commission on Elections, will the other data as contained in the CCS laptops be affected.

1.4. Finally, it would appear that the CCS laptops will not be turned over to Smartmatic but will be used by the Commission on Elections. Thus, what is the timetable for the intended use by the Commission on Elections of these CCS laptops.

2. In the Resolution dated 18 April 2017, the Honorable Tribunal directed the Commission on Elections (COMELEC) to **CLARIFY** the above-enumerated matters within ten (10) days from notice.

3. Thereafter, COMELEC asked for additional time to comply with the Resolution dated 18 April 2017 of the Honorable Tribunal.

4. On 08 June 2017, protestee Robredo received the Manifestation/Compliance dated 15 May 2017 by COMELEC on the Resolution dated 18 April 2017.

5. In its Manifestation/Compliance, COMELEC informed the Honorable Tribunal that it is incurring expenses in the amount of **Five Million Six Hundred Nine Thousand Two Hundred Forty Four Pesos (Php5,609,244.00)** per month:

"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* ("Contract of Lease") entered

into between the COMELEC and lessor JAM Liner, Inc. provides for a total monthly rent of **PhP2,737,200.00** 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, 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."

6. Prior thereto, or in the Resolution dated 21 March 2017, the Honorable Tribunal directed the parties to pay their respective cash deposits.

7. In compliance therewith, the parties paid the first installment of their respective cash deposits.

8. If only to avoid confusion, protestee Robredo is constrained to seek a clarification from the Honorable Tribunal.

9. Considering that COMELEC has been incurring **Five Million Six Hundred Nine Thousand Two Hundred Forty Four Pesos (PhP5,609,244.00)** per month, protestee Robredo seeks clarification on whether these costs will be charged against the cash deposit of the parties.

10. Further, with respect to the costs of the Vote Counting Machine under the Automated Election Systems (AES) contracts, COMELEC informed the Honorable Tribunal that it *may be required to pay a total of* **PhP**

**2,078,304,255.76 on account of the instant election protest.**<sup>1</sup>

11. It would appear that as far as Smartmatic is concerned, there was no actual physical turnover of the OMR machines.<sup>2</sup>

12. Meanwhile, COMELEC failed to specify the actual status on who will be liable for the **PhP 2,078,304,255.76** under the AES Contracts with Smartmatic.

13. Prior thereto, or on several occasions, protestant Marcos has opposed the closure activities of COMELEC:

13.1. As early as 29 June 2016, protestant Ferdinand R. Marcos, Jr. (hereafter "Marcos" for brevity) asked for the following reliefs from the Honorable Tribunal:

"(7) To **CONDUCT a 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

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<sup>1</sup> Paragraph 7 of the Manifestation/Compliance states:

"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 2,078,304,255.76** on account of the instant election protest.

<sup>2</sup> Paragraph 11 of the Manifestation/Compliance states:

"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. 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 COMELEC on or before 1 December 2016." Smartmatic emphasized that there was "no return or turnover whatsoever of the actual physical possession of the 97,366 OMR machines from the COMELEC." Smartmatic, through said Letter, in effect enforces Section 6.9 of the AES Contracts against the COMELEC."

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 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 in **ALL** of the **thirty-nine thousand four hundred sixty five (39,221) clustered precincts** pursuant to **Rule 46 to 51** of the **PET Rules**;"

13.2. Thereafter, on 15 August 2016, due to his alleged perceived irregularities in the proposed stripping activities, protestant Marcos filed a Manifestation before the Honorable Tribunal.

13.2.1. In his Manifestation, protestant Marcos questioned and assailed the proposed closure/stripping activities of COMELEC.

13.3. Subsequently, in his Comment dated 04 September 2016, protestant Marcos maintained his vehement opposition to the conduct of closure and stripping activities of the Commission on Elections ("COMELEC"):

"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."

13.4. Recently, or in Preliminary Conference Brief, protestant Marcos once more reiterated his intention to seek the technical examination, forensic investigation, verification and analysis of the VCMs:

"VI.3. It is also respectfully submitted by protestant Marcos that there is a need to create at least *One Hundred* (**100**) recount/revision committees for purposes of conducting the **MANUAL RECOUNT** and **JUDICIAL REVISION** of the paper ballots and/or the ballot images as well as the **TECHNICAL EXAMINATION, FORENSIC INVESTIGATION, VERIFICATION** and **ANALYSIS** of the 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 election documents and/or paraphernalia used in the elections, as well as the automated election equipment and records such as the Vote Counting Machines (VCM), Consolidation and Canvass System (CCS) units, Secured Digital (SD) cards (main and back up), the other data storage devices containing electronic data and ballot images in **ALL** of the protested clustered precincts of the pilot provinces of **CAMARINES SUR, ILOILO and NEGROS ORIENTAL** relevant to the 09 May 2016 National and Local Elections." [Underscoring supplied.]

14. Thus, in reality, COMELEC cannot turnover the VCMs used during the 09 May 2016 National and Local Elections as protestant Marcos seeks its technical examination and forensic analysis.

15. Should COMELEC physically turnover and Smartmatic accept, then the intention of protestant Marcos to seek a technical examination and forensic analysis of the VCMs will be rendered for naught.

16. Equally noteworthy is that in the Letter dated 10 August 2016 by Commissioner Christian Robert S. Lim, Project Director, 2016-AES Project, the costs will be borne by protestant Marcos pursuant to the AES Contract:

"C. Pursuant to the AES Contract, "all goods still in the possession of COMELEC as of 01 December 2016 because of any election contest or audit requirement shall be considered sold to COMELEC pursuant to its option to purchase, and the COMELEC shall pay

the corresponding price [...] **without prejudice to COMELEC requiring the protestant to shoulder such costs.**" Moreover, the lease contract for the Commission's warehouse in Sta. Rosa, Laguna where the AES equipment are stored, will expire on November 2016; hence, the need to undertake the project closure activities as early as possible to avoid incurring additional costs on the part of the Commission, as well as the protestant." [Emphasis supplied.]

17. Thus, if only to avoid confusion, protestee Robredo seeks clarification on who will be liable for the **PhP 2,078,304,255.76**, representing the cost of the VCMs leased and used during the 09 May 2016 National and Local Elections.

18. On the part of protestee Robredo, she has manifested time and again before the Honorable Tribunal that she does not have any objections to the turnover of the VCMs to Smartmatic.

19. Further, on several occasions, protestee Robredo also manifested that she likewise had no objections to the closure activities proposed by COMELEC.

20. Thus, any delay in the closure activities *on account of the instant election protest* was not due to protestee Robredo.

21. Consequently, protestee Robredo should not be made liable for the **PhP 2,078,304,255.76** under the AES Contracts.

22. Neither should protestee Robredo be made liable for the additional costs being incurred by COMELEC in the amount of **Five Million Six Hundred Nine Thousand Two Hundred Forty Four Pesos (PhP5,609,244.00)** per month due to the delay in the closure activities.



23. Finally, while COMELEC cited having attached the documents referred to in its Manifestation/Compliance, the copy received by protestee Robredo does not have the said attachments.

24. 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 whether protestant Marcos will be held liable for the monthly expense incurred by the Commission on Elections in its Sta. Rosa, Laguna Warehouse;

2. DIRECTING the Commission on Elections to clarify whether protestant Marcos on account of this Election Protest will be held liable for the **PhP 2,078,304,255.76** under the AES Contracts;

3. DIRECTING the Commission on Elections to furnish protestee Maria Leonor G. Robredo with copies of the annexes attached to the Manifestation/Compliance dated 25 May 2017.

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

Pasig City for Manila. 20 June 2017.



**ATTY. ROMULO B. MACALINTAL**

*Lead Counsel for Protestee*

*Maria Leonor G. Robredo*

13 Cagayan Valley Street,

Philamlife Village, Las Pinas City

Telephone No. 0918-9107454

Roll No. 29040

PTR No. 11214198J/12 January 2017/Las Pinas City

IBP Lifetime No. 0724

MCLE Compliance No. V-0018139/13 April 2016

rbmacalintal@gmail.com

**SARDILLO SARDILLO SALOM LAW OFFICE**

*Collaborating Counsel for Protestee*

*Maria Leonor G. Robredo*

Unit 802, Taipan Place, F. Ortigas Avenue,

Ortigas Center, Pasig City

02.706.4272/02.706.4273

By



**MARIA BERNADETTE V. SARDILLO**

Roll No. 45897

PTR No. 2362138/03 January 2017/Pasig City

IBP Lifetime No. 07133

MCLE Compliance No. V-0010907/30 September 2015

beng.sardillo@s3law.com

### **REQUEST**

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

Please submit the foregoing "*Motion For Clarification*" 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 "*Motion For Clarification*" 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:

**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

## **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 )  
Pasig City )

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

I, **KWELL SUYINN M. ZARASATE**, hereby declare that the Manifestation With Ominibus Motion (1) For Clarification; And (2) To Be Furnished Copy of the Annexes Attached To the Manifestation/Compliance Dated 25 May 2017 submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and true copies of the filed Manifestation With Ominibus Motion (1) For Clarification; And (2) To Be Furnished Copy of the Annexes Attached To the Manifestation/Compliance Dated 25 May 2017 with the Presidential Electoral Tribunal.

Pasig City. 20 June 2017.

  
**KWELL SUYINN M. ZARASATE**  
*Secretary*  
*Sardillo Sardillo Salom Law Office*

**SUBSCRIBED AND SWORN TO** <sup>11/11</sup> **BEFORE ME**, a notary public in and for Pasig City, this 16<sup>th</sup> day of June 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. 325 ;  
Page No. 65 ;  
Book No. 15 ;  
Series of 2017.

**GAUDENCIO A. CARBOZA, JR.**  
NOTARY PUBLIC  
Cities of Pasig, San Juan and  
in the Municipality of Marikina, Metro Manila  
16th June 2017  
PTR No. A-2711, 1st Floor, 1st Pasig City  
139 West Avenue, 1st Floor, Pasig City  
16th June 2017  
MCLE Certificate No. 12345, 12.2016  
No. 11, 1st Floor, 1st Pasig City  
16th June 2017