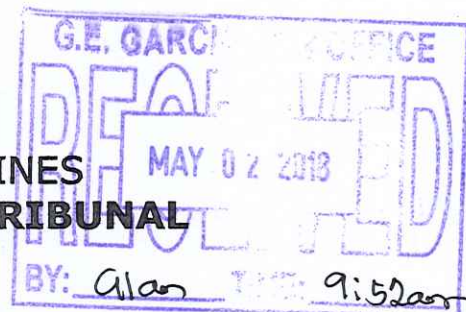


REPUBLIC OF THE PHILIPPINES  
**PRESIDENTIAL ELECTORAL TRIBUNAL**  
Manila



**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

**URGENT MOTION FOR RECONSIDERATION  
(OF THE RESOLUTION DATED 10 APRIL 2018) WITH  
REITERATIVE PRAYER TO IMMEDIATELY DIRECT THE  
HEAD REVISORS TO USE THE TWENTY FIVE (25%)  
THRESHOLD PERCENTAGE IN THE REVISION,  
RECOUNT AND RE-APPRECIATION OF BALLOTS**

PROTESTEE **MARIA LEONOR G. ROBREDO**, by the undersigned counsel, urgently moves for reconsideration of the Resolution dated 10 April 2018<sup>1</sup> of the Honorable Tribunal and respectfully states:

1. With due respect, as early as 06 September 2016, the Honorable Tribunal was informed by the Commission on Elections (COMELEC), by way of a Letter to then Clerk of the Tribunal, Atty. Felipa B. Anama, of the twenty five (25%) threshold used in the 09 May 2016 National and Local Elections:

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<sup>1</sup> In its Resolution, the Honorable Tribunal denied the Urgent Ex-Parte Motion to Direct the Head Revisors to Apply the Correct Threshold Percentage as Set by the Commission on Elections in the Revision, Recount and Re-Appreciation of the Ballots, in Order to Expedite the Proceedings dated 05 April 2018. Protestee Robredo received copy of the Resolution dated 10 April 2018 on 13 April 2018.

"We address your request for "a copy of the *Smartmatic Guidelines*" for vote appreciation which was used in the Random Manual Audit. Said "Guideline"

is actually an illustration of the different types of marks or shadings that would be read either as votes or non-votes by the optical scan counting system adopted for the 2016 elections.

The system adopted is designed to scan every oval on the ballot and count as vote those that contain appropriate marks based on pre-determined shading threshold. Although the voters are told through the voter information efforts of the Commission to shade the ballots *fully*, the shading threshold was set **at about 25%** of the oval space. This is to help ensure that votes are not wasted due to inadequate shading or that no accidental or unintended small marks are counted as votes. **In other words, when a mark covers at least 25% of the oval, said mark is supposed to be considered a vote by the system.** On the other hand, when the mark or shading covers less than 25% of the oval or when there is no mark at all, no vote is supposed to be counted. In the random manual audit therefore, only the appropriately registered marks or shadings (those that were supposed to be read as votes by the system) are considered to have correctly expressed the voters' intent.

Considering however that visual (manual) appreciation of votes can only approximate the precision by which the machine is supposed to read the ballot marks or shading, the technology provider provided the Random Manual Audit committee of the Commission



with the aforesaid visual illustration referred to above, which we are now forwarding to the Tribunal for its use in the pending election protest before it.

We shall gladly make ourselves available to provide any assistance that you may need from the Commission."  
[Emphasis supplied.]

2. On even date, COMELEC, *En Banc* adopted the Memorandum of Commissioner Luie Tito F. Guia by way of Minute Resolution No. 16-0600 entitled In the Matter of the Request of the Presidential Electoral Tribunal for a Copy of the COMELEC Guidelines used in the Manual Counting of Ballots Specifically on the Tupe of "Shadings" read by the Vote Counting Machine (VCM), for the Tribunal's Reference in Relation to PET Case No. 005 (Marcos vs. Robredo).<sup>2</sup>

3. Thus, in response to the query made last 12 August 2016, COMELEC issued a Resolution informing the Honorable Tribunal of the application of the twenty five percent (25%) threshold percentage used during the 09 May 2016 National and Local Elections.

4. With due respect, the Letter dated 06 September 2016 of COMELEC the use of the twenty five percent (25%) threshold percentage gives the Honorable Tribunal the legal basis to "impose a twenty five percent (25%) threshold percentage in determining whether a vote is valid"<sup>3</sup>.

5. The revision, recount and re-appreciation of the ballots in this case commenced only on 02 April 2018.

6. Prior thereto, the Honorable Tribunal adopted on 16 January 2018 the Presidential Electoral Tribunal Revisor's Guide for the Revision of Ballots Under the Automated Election System (Revisor's Guide").

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<sup>2</sup> A certified true copy of Minute Resolution No. 16-0600 is hereto attached as **Annex "1"** and made an integral part hereof.

<sup>3</sup> Page 3, paragraph 2, Resolution dated 10 April 2018.



7. Hence, even before the Revisor's Guide was adopted and the revision, recount and re-appreciation of ballots commenced, the Honorable Tribunal was aware of

the twenty five percent (25%) threshold percentage used by COMELEC during the 09 May 2016 National and Local Elections.

8. Further, as the Honorable Tribunal is aware of, the fifty percent (50%) threshold percentage was used by COMELEC for the 10 May 2010 National Elections.

9. It is for this reason that when Resolution No. 8804<sup>4</sup> was promulgated, COMELEC imposed the fifty percent (50%) threshold percentage:

"I) In looking at the shades or marks used to register votes, the recount committee shall bear in mind that the will of the voters reflected as votes in the ballots shall as much as possible be given effect, setting aside any technicalities. Furthermore, the votes thereon are presumed to have been made by the voter and shall be considered as such unless reasons exist that will justify their rejection. However, marks or shades which are less than 50% of the oval shall not be considered as valid votes. Any issue as to whether a certain mark or shade is within the threshold shall be determined by feeding the ballot on the PCOS machine, and not by human determination."<sup>5</sup>

10. However, even before Resolution No. 8804 can be implemented for the revision, recount and re-appreciation of ballots in election protest cases pending before COMELEC, an amendment was made.

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<sup>4</sup> In Re: COMELEC Rules of Procedure on Disputes in an Automate Election System in Connection with the May 10, 2010 Elections.

<sup>5</sup> Rule 15, Section 6 (I), COMELEC Resolution No. 8804.

11. This time, in Resolution No. 9164<sup>6</sup>, COMELEC deleted the imposition of the fifty percent (50%) threshold percentage.

12. To date, the Resolution No. 8804, as amended by Resolution No. 9164 has not been superseded.

13. Finally, as aforestated, the twenty five percent (25%) threshold percentage was used by COMELEC during the 09 May 2016 National and Local Elections.

14. The use of the twenty five percent (25%) threshold percentage was relayed by COMELEC to the Honorable Tribunal as early as September 2016.

15. This is clearly contrary to the Resolution dated 10 April 2018 wherein the Honorable Tribunal stated that it is not aware of the implementation by COMELEC of the twenty five percent (25%) threshold percentage.

16. Thus, on this ground alone, the Resolution dated 10 April 2016 should be reversed and set aside.

17. On the other hand, the Honorable Tribunal further reasoned that the *protestee's claim of a systematic reduction of her votes is without any basis and shows a misunderstanding of the revision process.*

18. Further, the Honorable Tribunal ruled that *during the revision, there is yet no final reduction or even addition of votes* as the same would still be ruled upon.

19. However, this situation, the application of the fifty percent (50%) threshold percentage, gives the Head Revisors the authority to "reject" valid votes of protestee Maria Leonor G. Robredo (hereafter "Robredo" for brevity).

---

<sup>6</sup> In the Matter of Reinstating and Reimplementing COMELEC Resolution No. 8804 with amendments.



20. With due respect to the Honorable Tribunal, the numbers will confirm the position of protestee Robredo that the application of the fifty percent (50%) threshold percentage has resulted to a systematic decrease in her votes.

21. To illustrate, based on the Election Returns, in the Municipality of Balatan, Barangay Laganac, Clustered Precinct No. 16<sup>7</sup>, the parties received the following votes:

Robredo	358
Marcos	17

22. However, due to the application of the fifty percent (50%) threshold percentage, the physical count of the ballots yielded the following results:

Robredo	346
Marcos	17

23. Or, in simple terms, the votes for protestee Robredo was decreased by twelve (12) votes while the votes for protestant Ferdinand R. Marcos, Jr. (hereafter "Marcos" for brevity) was maintained.

24. The twelve (12) valid votes counted by the Vote Counting Machine (VCM), applying the twenty five percent (25%) threshold percentage, were considered as stray during the physical count.

25. This means, protestee Robredo has to claim these alleged stray votes that were already validly counted in her favor.

<sup>7</sup> With Established Precinct Nos. 0035A, 0035B, 0036A, 0036B.

26. These votes were already counted as valid by the VCM for having complied with the twenty five percent (25%) threshold percentage.

27. However, with the application of the fifty percent (50%) threshold percentage, the votes of protestee Robredo decreased.

28. While, protestee Robredo may claim these ballots as valid votes in her favor, discretion is now given during the appreciation of ballots on whether these valid votes should be given back to her.

29. Effectively, with the fifty percent (50%) threshold percentage, voters are being disenfranchised.

30. Valid votes are not counted during the physical count, while counted validly by the VCM, as they failed to meet the fifty percent (50%) threshold percentage used by the Honorable Tribunal.

31. Finally, as pointed out by the Honorable Tribunal, among the objectives of the revision is to *verify the physical count of the ballots*.

32. The application of the fifty percent (50%) threshold percentage does not achieve this objective.

33. At the risk of belaboring the point, the physical count is now running inconsistent with the results based on the Election Returns, Statement of Votes by Precinct, Ballot Images and the Voter's Verifiable Audit Paper Trail (VVPAT).

34. This misleads the Honorable Tribunal into believing that the VCM failed to accurately read and count the ballots.



35. Thus, leading into a mistaken notion that protestant Marcos successfully proved substantial recovery in this Election Protest.

36. The issue on substantial recovery is material in determining whether this Election Protest should continue after the revision, recount and re-appreciation of ballots from the pilot provinces.

37. The wrong impression brought on by the application of the fifty percent (50%) threshold percentage gives the wrong impression and greatly prejudices not only protestee Robredo but legitimate voters who are now being disenfranchised.

38. This must not be allowed to continue to the prejudice of protestee Robredo.

39. For reasons as stated, protestee Robredo asks that, in the interest of justice and fairplay, the Resolution dated 10 April 2018 be reconsidered and set aside.

40. On a final note. The Resolution dated 10 April 2018 was even taken advantage of by Atty. Joan Padilla, counsel for protestant Marcos, when she demanded that the Head Revisors of the Honorable Tribunal reject valid votes of protestee Robredo.

41. It bears reiterating that the application of the twenty five percent (25%) threshold percentage will expedite the proceedings.

42. More importantly, while it is true that the votes of protestee Robredo, as counted by the VCM, are being systematically decreased, the same is true for the votes of protestant Marcos as well.

43. Hence, both parties will benefit in the application of the twenty five percent (25%) threshold percentage



during the revision, recount and re-appreciation of the ballots.

44. 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. SETTING ASIDE the Resolution dated 10 April 2018; and

2. IMMEDIATELY DIRECTING the Head Revisors to use the twenty five percent (25%) threshold percentage used by the Commission on Elections for the 09 May 2016 National and Local Elections in lieu of the fifty percent (50%) used in the 10 May 2010 National and Local Elections.

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

Pasig City for Manila. 18 April 2018.

  
**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. 11437242J/10 January 2018/Las Pinas City

IBP Lifetime No. 0724

MCLE Compliance No. V-0018139/13 April 2016

[rbmacalintal@gmail.com](mailto: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. 3474221/03 January 2018/Pasig City

IBP Lifetime No. 07133

MCLE Compliance No. V-0010907/30 September 2015

[beng.sardillo@s3law.com](mailto:beng.sardillo@s3law.com)

**REQUEST**

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

Please submit the foregoing "*Urgent Motion for Reconsideration (of the Resolution dated 10 April 2018)*" 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 "*Urgent Motion for Reconsideration (of the Resolution dated 10 April 2018)*" 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**

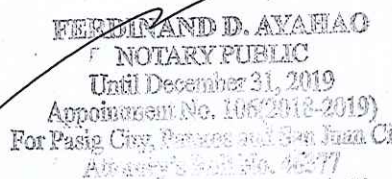
I, **LAILA T. ENDIC**, hereby declare that the Urgent Motion for Reconsideration (Of the Resolution dated 10 April 2018) With Reiterative Prayer to Immediately Direct the Head Revisors to Use the Twenty Five (25%) Threshold Percentage in the Revision, Recount and Re-appreciation of Ballots submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and are true copies of the Urgent Motion for Reconsideration (Of the Resolution dated 10 April 2018) With Reiterative Prayer to Immediately Direct the Head Revisors to Use the Twenty Five (25%) Threshold Percentage in the Revision, Recount and Re-appreciation of Ballots filed with the Presidential Electoral Tribunal

Pasig City. 18<sup>th</sup> of April 2018.

  
**LAILA T. ENDIC**  
Secretary  
Sardillo Sardillo Salom Law Office

**SUBSCRIBED AND SWORN TO BEFORE ME**, a notary public in and for Pasig City, this 18<sup>th</sup> day of April 2018 by affiant **LAILA T. ENDIC** who is personally known to me, and appeared with her SSS ID with NO. 3438031871 issued by SSS Office, known to me as the same person who personally signed the foregoing attestation before me and acknowledged that she executed the same.

Doc. No. 248 ;  
Page No. 50 ;  
Book No. 19 ;  
Series of 2018.

  
**FERDINAND D. AYAHAO**  
NOTARY PUBLIC  
Until December 31, 2019  
Appointment No. 106(2018-2019)  
For Pasig City, Marikina and San Juan City  
Affiant's Roll No. 42277  
IBP License No. 62439  
MCLE No. V-0012314-04-13-16  
PTR No. 3123497, 01-04-18; Pasig City  
at Goldloop Tower A, Jose Ma. Escrivá Drive  
Ortigas Center, Pasig City



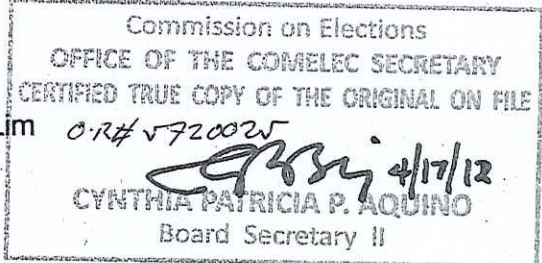


ANNEX " 1 "

**EXCERPT FROM THE MINUTES OF THE REGULAR EN BANC  
MEETING OF THE COMMISSION ON ELECTIONS  
HELD ON SEPTEMBER 6, 2016**

**Present:**

Chairman J. Andres D. Bautista  
Commissioner Christian Robert S. Lim  
Commissioner Al A. Parreño  
Commissioner Luie Tito F. Guia  
Commissioner Arthur D. Lim  
Commissioner Ma. Rowena Amelia V. Guanzon  
Commissioner Sheriff M. Abas



xxx

xxx

xxx

*16-0600 M.* IN THE MATTER OF THE REQUEST OF THE  
PRESIDENTIAL ELECTORAL TRIBUNAL FOR A COPY OF THE  
COMELEC GUIDELINES USED IN THE MANUAL COUNTING OF  
BALLOTS SPECIFICALLY ON THE TYPE OF "SHADINGS" READ BY  
THE VOTE COUNTING MACHINE (VCM), FOR THE TRIBUNAL'S  
REFERENCE IN RELATION TO PET CASE NO. 005 (MARCOS VS.  
ROBREDO)

This pertains to the Memorandum dated August 12, 2016 of  
Executive Director Jose M. Tolentino, Jr. relative to the request of the  
Presidential Electoral Tribunal for a copy of the COMELEC Guidelines  
used in the Manual Counting of ballots specifically on the type of  
"shadings" read by the Vote Counting Machine (VCM), for the Tribunal's  
reference in relation to PET Case No. 005 (Marcos Jr. vs. Robredo).

The Memorandum of Executive Director Tolentino reads:

*"This refers to the 12 August 2016 Letter of Atty. Felipa B. Anama, Clerk  
of the Presidential Electoral Tribunal (PET), requesting for a copy of the  
COMELEC Guidelines used in the manual counting of ballots specifically  
on the type of 'shadings' read by the vote counting machine (VCM), for  
the Tribunal's reference in relation to PET Case No. 005 (Marcos, Jr.  
versus Robredo).*

*The Project Management Office for the 2016 Automated Election  
System has not provided guidelines on manual counting since its focus  
was on the automated counting of ballots by the VCM. Neither has the  
[Electoral Contests] Adjudication Department finalized its guidelines as  
of the moment.*

*The most recent manual counting of the 'shadings' in the official ballots  
for the May 2016 elections was officially conducted by the Random  
Manual Audit Teams (RMAT) of the Random Manual Audit Committee  
(RMAC). The undersigned notes, however, that the RMAC guidelines  
were intended exclusively for use by the RMAT in the random manual  
audit activities.*

*In view of the foregoing, and considering that election protests for other  
positions have already been filed, the undersigned respectfully  
recommends that the RMAC be authorized to release the Guidelines*

*[Signature]*



used by the RMAAT in the random manual audit of the official ballots for the May 2016 elections, not only to the PET, but also to the other tribunals and courts that may subsequently request the same.


Respectfully submitted."

Relatedly, the Random Manual Audit Committee submitted to the en banc its Memorandum dated September 6, 2016 addressing the subject request of the PET Tribunal, with the RMA Guide on Appreciation of Markings.

The Commission **RESOLVED**, as it hereby **RESOLVES**, to **adopt and confirm** the attached Memorandum of Commissioner Luie Tito F. Guia, Oversight Commissioner for the Random Manual Audit 2016, addressed to Atty. Felipa B. Anama, Clerk of the Tribunal, Presidential Electoral Tribunal, together with the Random Manual Audit guidelines on the appreciation of markings for the May 9, 2016 National and Local Elections, as the position of the Commission specifically on the type of marks or shadings that would be read either as votes or non-votes by the optical scan counting system for the May 9, 2016 NLE.

Let the Office of Commissioner Luie Tito F. Guia and the Office of the Executive Director implement this Resolution.

SO ORDERED.

  
**J. ANDRES D. BAUTISTA**  
Chairman

  
**CHRISTIAN ROBERT S. LIM**  
Commissioner

  
**LUIE TITO F. GUIA**  
Commissioner

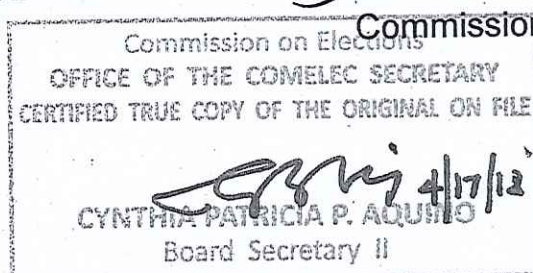
  
**MA. ROWENA AMELIA V. GUANZON**  
Commissioner

  
**AL A. PARREÑO**  
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  
Random Manual Audit Committee







## Commission on Elections

Office of Comm. Luie Tito F. Guia

8<sup>th</sup> Flr. Palacio del Gobernador  
Gen. Luna St. cor Andres Soriano Jr., Ave.  
Intramuros, Manila 1002, Philippines

Phone: 527-0834 or  
527-2994  
Fax No: 527-2985  
E-mail Add: comm\_guia@comelec.gov.ph

6 September 2016

RECEIVED BY:

tinis

9/16/16

9:38 AM

**ATTY. FELIPA B. ANAMA**

*Clerk of the Tribunal*

Presidential Electoral Tribunal

Manila

Dear Atty. Anama:

We address your request for "a copy of the *Smartmatic Guidelines*" for vote appreciation which was used in the Random Manual Audit. Said "Guideline" is actually an illustration of the different types of marks or shadings that would be read either as votes or non-votes by the optical scan counting system adopted for the 2016 elections.<sup>1</sup>

The system adopted is designed to scan every oval on the ballot and count as vote those that contain appropriate marks based on pre-determined shading threshold. Although the voters are told through the voter information efforts of the Commission to shade the ballots fully, the shading threshold was set at about 25% of the oval space. This is to help ensure that votes are not wasted due to inadequate shading or that no accidental or unintended small marks are counted as votes. In other words, when a mark covers at least 25% of the oval, said mark is supposed to be considered a vote by the system. On the other hand, when the mark or shading covers less than 25% of the oval or when there is no mark at all, no vote is supposed to be counted. In the random manual audit therefore, only the appropriately registered marks or shadings (those that were supposed to be read as votes by the system) are considered to have correctly expressed voters' intent.

Considering however that visual (manual) appreciation of votes can only approximate the precision by which the machine is supposed to read the ballot marks or shading, the technology provider provided the Random Manual Audit committee of the Commission with the aforesaid visual illustration referred to above, which we are now forwarding to the Tribunal for its use in the pending

<sup>1</sup> Which was the same technology used in the 2010 and 2013 National and Local Election

Commission on Elections  
OFFICE OF THE COMMISSION SECRETARY  
Certified True Copy of the PHOTOCOPY on File  
CYNTHIA PATRICIA P. AQUINO 9/17/16  
Board Secretary II

election protest before it. We shall gladly make ourselves available to provide any assistance that you may need from the Commission.


Very truly yours,

  
**LUIE TITO F. GUIA**  
*Commissioner*

Oversight Commissioner for the Random Manual Audit 2016

CC.

The Chair and All Commissioners.

Commission on Elections  
OFFICE OF THE COMMISSION SECRETARY  
Certified True Copy of the PHOTOCOPY on File  
 7/17/12  
CYNTHIA PATRICIA P. AQUINO  
Board Secretary II



	Shading Marks NOT COUNTED by VCM					Shading Marks COUNTED by VCM				
Shaded oval										
Checkmark										
"X" mark										
Vertical line										
Horizontal line										
Circle around the voting target										
Half-moons										

Mark Type	Shading Marks NOT COUNTED by VCM					Shading Marks COUNTED by VCM				
Shaded oval										
Checkmark										
"X" mark										
Vertical line										
Horizontal line										
Circle around the voting target										
Half-moons										

Commission on Elections  
OFFICE OF THE COMMISSION SECRETARY  
Certified True Copy of the PHOTOCOPY on File  
CYNTHIA PATRICIA P. AQUINO  
Board Secretary II  
4/17/12  
O.R.# 5720025