

**2013 RULES
OF THE
SENATE ELECTORAL TRIBUNAL**

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2013 RULES OF THE SENATE ELECTORAL TRIBUNAL

The Senate Electoral Tribunal hereby adopts and promulgates the following rules governing its proceedings as the sole judge of all contests relating to the election, returns and qualifications of Members of the Senate, pursuant to Section 17, Article VI of the Constitution.

TITLE AND CONSTRUCTION

RULE 1. *Title.*— These Rules shall be known and cited as the “2013 Rules of the Senate Electoral Tribunal.”

RULE 2. *Construction.*— These Rules shall be liberally construed in order to achieve a just, expeditious and inexpensive determination and disposition of every contest brought before the Tribunal.

THE TRIBUNAL

RULE 3. *Organization.*— Upon the designation of the Justices of the Supreme Court and the election of the Members of the Senate who are to compose the Senate Electoral Tribunal pursuant to Sections 17 and 19, Article VI of the 1987 Constitution, the Tribunal shall meet for its organization and for the adoption and promulgation of resolutions it may deem proper. However, pending the election of the Members of the Senate who shall sit in the Tribunal, the three (3) Justices

already designated shall have the authority to act on administrative and interlocutory matters, subject to confirmation by the Tribunal upon its organization.

RULE 4. *Meetings; Quorum.*— The Tribunal shall meet on such days and hours as it may designate or at the call of the Chairperson or of a majority of its Members. The presence of a majority of the Members with at least one (1) Justice shall be necessary to constitute a quorum. In the absence of the Chairperson, the next senior Justice shall preside, and in the absence of both, the Justice present shall preside.

RULE 5. *Executive Committee; Actions on Matters in Between Meetings.*— In the absence of a quorum, at least three (3) Members, one of whom is a Justice, may constitute themselves as an Executive Committee to act on the agenda for the meeting concerned; *Provided, however,* that its action thereon shall be subject to confirmation by the Tribunal at any subsequent meeting where a quorum is present.

In between the meetings of the Tribunal, any three (3) of its Members, provided at least one of them is a Justice, may sit as the Executive Committee to act on the following matters requiring immediate action by the Tribunal:

- a. Any pleading, motion or any other matter
 1. where delay in its resolution may result in irreparable or substantial damage or injury to the rights of a party or would cause delay in the proceedings or action concerned;
 2. which is urgent in character but does not affect the rights of the adverse party, such as for extension of time to comply with an order/resolution of the Tribunal or to file a pleading if such extension has not been prohibited earlier and is within the discretion of the Tribunal;
 3. where the Tribunal would require a comment, reply, rejoinder or any similar pleading from any of the parties or their counsel; and

- b. Administrative matters which do not involve new applications or allocations of the appropriations of the Tribunal.

Provided, however, that any such action/resolution thereon shall be included in the agenda of the immediately succeeding meeting of the Tribunal for the latter's confirmation.

RULE 6. Divisions.— The Tribunal may constitute itself into three (3) Divisions for the purpose of allocating and distributing its workload. Each Division shall be composed of one (1) Justice and two (2) Senators as members.

Each Division shall act on such matters as may be assigned to it by the Tribunal *En Banc*, including the appreciation of contested ballots and election documents pertaining to the particular contested municipality, city or province assigned to it by raffle. The Division shall submit to the Tribunal *En Banc* its findings and recommendations within the specified period.

RULE 7. Place of Meetings.— The Tribunal, its Divisions and Committees shall meet in the Tribunal's Session Hall, or in such other place as it may designate.

RULE 8. Express and Implied Powers.— The Tribunal shall have and exercise all such powers as are expressly vested in it by the Constitution or by law, and such other powers as may be necessary or incidental to the accomplishment of its purpose and functions.

RULE 9. Inherent Powers.— The Tribunal has inherent powers, among others, to:

- a. Preserve and enforce order in its immediate presence;
- b. Preserve and enforce order in proceedings before it or before any of its Divisions, Committees or officials acting under its authority;

- c. Compel obedience to its judgments, orders and processes;
- d. Compel the attendance of witnesses and the production of evidence in any case or proceeding before it;
- e. Administer, or cause to be administered, oaths in any case or proceeding before it, and in all other cases where it may be necessary in the exercise of its powers;
- f. Control its processes and amend its decisions, resolutions and orders to make them conformable to law and justice;
- g. Authorize a copy of a lost or destroyed pleading or other paper to be filed and used in lieu of the original, and restore and supply deficiencies in its records and proceedings;
- h. Promulgate its own rules of procedure and amend or revise the same and adopt any suitable process or procedure not specifically provided by law or these Rules; and
- i. Exercise exclusive control, direction and supervision of all matters pertaining to its functions and operations.

RULE 10. *The Chairperson, Powers and Duties.*— The Chairperson shall be the Chief Executive Officer of the Tribunal, and shall have the following powers and duties:

- a. Issue calls for sessions and meetings of the Tribunal, preside thereat, preserve order and decorum during the same and pass upon all questions of order, subject to such appeal as any Member may take to the Tribunal;
- b. Enforce the decisions, resolutions and orders of the Tribunal;
- c. Appoint, remove or otherwise discipline any employee of the Tribunal in accordance with the Civil Service Law; *Provided*, that the staff of every Member of the Tribunal shall serve at the pleasure of and in no case beyond the tenure of such Member;

- d. Exercise administrative supervision over the Tribunal, including the Office of the Secretary of the Tribunal and the administrative staff; and
- e. Perform such other acts and functions as may be necessary or appropriate to ensure the independence and efficiency of the Tribunal.

RULE 11. *Administrative Staff.*— The Tribunal shall have a Secretary and a Deputy Secretary. Unless the Tribunal provides otherwise, the administrative staff of the Tribunal shall function in eight (8) service groups, namely:

- a. Canvass Board Service;
- b. Legal Service;
- c. Information and Communication Systems and Judicial Records Management Service;
- d. Human Resources Management Service;
- e. Procurement and Property Management Service;
- f. Finance and Budget Service;
- g. Accounting Service; and
- h. Cash Management Service.

RULE 12. *Duties of the Secretary of the Tribunal; Duties of the Deputy Secretary of the Tribunal.*— The Secretary of the Tribunal shall hold office at the place designated by the Tribunal, and shall, under the supervision of the Chairperson, perform the following duties:

- a. Attend sessions or meetings of the Tribunal and, whenever necessary, of its Divisions or Committees, and keep the minutes thereof;
- b. Receive all pleadings and other documents properly presented, indicating on each such document the date and time of its filing and furnishing each Member a copy thereof;

- c. Keep a judicial docket wherein shall be entered in chronological order the contests brought before the Tribunal and the proceedings had therein;
- d. Prepare the calendar of cases;
- e. Certify under the seal of the Tribunal all decisions, resolutions, orders and notices of the Tribunal;
- f. Implement the decisions, resolutions, orders and processes issued by the Tribunal;
- g. Keep a judgment book containing a copy of each decision and final resolution or order rendered by the Tribunal in the order of their dates, and a Book of Entries of Judgment containing in chronological order entries of the dispositive portions of all decisions and final resolutions or orders of the Tribunal;
- h. Keep an account of the funds set aside for the expenses of the Tribunal as well as the funds received and disbursed relative to the cases;
- i. Oversee the performance of the line and support, adjudicatory and administrative functions of the various Service Groups of the Administrative Staff, particularly the keeping and securing of all ballot boxes, election documents, papers, files of exhibits, the office seal and other property of the Tribunal; and
- j. Maintain such other records and perform such other duties as prescribed by law for clerks of superior courts or as the Tribunal or the Chairperson may direct.

The Deputy Secretary shall assist the Secretary of the Tribunal, act as Secretary in the latter's absence, and perform such duties and functions as may be assigned by the Chairperson or by the Secretary.

RULE 13. *The Seal.*— The seal of the Tribunal shall be circular in shape and shall contain in the upper part the words "Senate Electoral Tribunal", in the center the coat of arms of

the Republic of the Philippines, and at the base the word "Republic of the Philippines."

The seal shall be affixed to all decisions, resolutions and orders of the Tribunal.

ELECTION CONTESTS

RULE 14. *Jurisdiction.*— The Tribunal is the sole judge of all contests relating to the election, returns, and qualifications of the Members of the Senate.

RULE 15. *How Initiated.*— An election contest is initiated by the filing of a verified election protest or a verified petition for *quo warranto* against a Member of the Senate. An election protest shall not include a petition for *quo warranto*, nor shall a petition for *quo warranto* include an election protest.

RULE 16. *Election Protest.*— A verified petition contesting the election of any Member of the Senate shall be filed by any candidate who has duly filed a certificate of candidacy and been voted for the office of Senator within thirty (30) days after the proclamation of the protestee. No joint election protest shall be admitted, but the Tribunal, for good and sufficient reasons, may consolidate individual protests and hear and decide them jointly.

Thus, where there are two or more protests involving the same protestee and common principal causes of action, the subsequent protests shall be consolidated with the first to avoid unnecessary costs or delay.

In case of objection to the consolidation, the Tribunal shall resolve the same. An order resolving a motion or objection to consolidation shall not be appealable.

RULE 17. *Election Protest Based on Manifest Error.*— An election protest may be based on manifest error in the tabulation or tallying of the results during the canvassing. There is manifest error where:

- a. The election return or certificate of canvass, or copies thereof, were tabulated more than once;
- b. There was a mistake in the copying, recording, or transmission of the figures from the election returns to the statement of votes by precinct or from the municipality/city/district certificate of canvass to the statement of votes by municipality, or from the provincial/city/district certificate of canvass to the statement of votes by province/city;
- c. Returns from a non-existent precinct were included in the canvass; or
- d. There was a mistake in the tallying of votes.

RULE 18. *Quo Warranto*.— A verified petition for *quo warranto* contesting the election of a Member of the Senate on the ground of ineligibility or disloyalty to the Republic of the Philippines shall be filed by any registered voter within ten (10) days after the proclamation of the respondent; *Provided, however*, that the petition for *quo warranto* on the ground of ineligibility based on citizenship may be filed at any time during the respondent's tenure.

The provisions of the preceding paragraph to the contrary notwithstanding, a petition for *quo warranto* challenging the position of a Member of the Senate, who, at the time of election or assumption of office, possesses all the qualifications, shall be filed by any registered voter at any time during the respondent's tenure, as soon as any of the required qualifications is lost.

RULE 19. *Election Protest or a Petition for Quo Warranto; Verification and Certification*.— An election protest or a petition for *quo warranto* shall be verified by an affidavit stating that the affiant has read the petition and that its allegations are true and correct of the affiant's own knowledge, or based on verifiable information or authentic records.

The protestant or petitioner shall sign personally the certificate of non-forum shopping, which must be annexed to the election protest or petition for *quo warranto*.

An unverified or insufficiently verified petition or one that lacks a certificate of non-forum shopping shall be dismissed outright and shall not suspend the running of the period for the filing of an election protest or petition for *quo warranto*.

RULE 20. *Periods Non-Extendible.*— The periods prescribed in Rules 16 and 18 are non-extendible.

RULE 21. *How Filed.*— Election protest and petition for *quo warranto* shall be filed with the Office of the Secretary of the Tribunal in fifteen (15) legible copies during regular office hours. If filed personally, the Secretary of the Tribunal shall indicate on the protest or petition the date and hour of receipt. If filed by registered mail, the date of mailing as shown by the post office stamp on the covering envelope or the registry receipt shall be considered as the date of filing in the Tribunal. The envelope shall be attached to the record of the case.

RULE 22. *Contents of the Protest or Petition.*—

- a. An election protest shall state the following:
 1. the position involved;
 2. the date of proclamation;
 3. the number of votes credited to the parties per the proclamation;
 4. the ranking of the parties per *COMELEC Senatorial Canvass Report by Rank*;
 5. the total number of contested precincts per municipality or city;
 6. the precinct numbers and location of the contested precincts; and

7. the specific acts or omissions constituting the electoral fraud, anomaly or irregularity in the contested precincts.
- b. A petition for *quo warranto* shall state:
 1. the position involved;
 2. the date of proclamation;
 3. the facts giving the petitioner standing to file the petition;
 4. the legal qualifications for the position and the disqualifications prescribed by law; and
 5. the ground(s) for respondent's ineligibility or the specific acts of disloyalty to the Republic of the Philippines.

RULE 23. Summary Dismissal.— An election protest or petition for *quo warranto* shall be summarily dismissed by the Tribunal if:

- a. The protest or petition is insufficient in form or substance;
- b. The protest or petition is filed beyond the period prescribed in Rule 16 or Rule 18, as the case may be;
- c. The filing fee is not paid simultaneously with the filing of the protest or petition;
- d. In case of protests where a cash deposit is required, if such deposit, or the first Two Hundred Thousand (P200,000.00) Pesos thereof, is not paid within ten (10) days after the filing of the protest; or
- e. The protest or petition or copies thereof, or the annexes, filed with the Tribunal are not clearly legible.

For this purpose, the Secretary of the Tribunal shall, upon receipt of the protest or petition, prepare a report and calendar the same for appropriate action by the Tribunal.

This rule shall apply to counter and cross protests.

ANSWERS, COUNTER PROTESTS AND CROSS PROTESTS

RULE 24. *Summons.*— If the Tribunal does not summarily dismiss the protest or petition for *quo warranto*, the Secretary of the Tribunal shall, within twenty-four (24) hours from the receipt of the action of the Tribunal, issue the corresponding summons to the protestee(s) or respondent.

The summons, to which a copy of the protest or petition shall be attached, shall require the protestee(s) to file an answer within a non-extendible period of fifteen (15) days or the respondent to file an answer within a non-extendible period of ten (10) days from receipt thereof.

The summons shall be served by handing a copy to the protestee or respondent in person or, in case of refusal of the protestee or respondent to receive and sign it, by tendering the same.

If, for justifiable causes, the protestee or respondent cannot be served in person as provided above, service may be effected by leaving copies of the summons at:

- a. The residence of protestee or respondent with some person of suitable age and discretion residing therein, or
- b. The office or regular place of business of protestee or respondent with some competent person in charge thereof.

RULE 25. *Issuance of Precautionary Order.*— Where the allegations in a protest so warrant, the Tribunal shall, simultaneous with the issuance of summons, order the city/municipal treasurer and election officer, and the responsible personnel and custodian to take immediate steps or measures to safeguard the integrity of all the ballot boxes and their contents, lists of voters with voting records, books of voters, and other documents or paraphernalia used in the election, as

well as data storage devices containing electronic data evidencing the conduct and the results of elections in the contested precincts.

RULE 26. Answer; Counter-Protest; Cross Protest.— The protestee or respondent must specify in the answer each material allegation of fact the truth of which is not admitted and, whenever practicable, shall set forth the substance of the matters relied upon in support of the denial. The protestee or respondent shall specify so much of the averments that are true and material and shall deny the remainder.

An answer to a petition for *quo warranto* shall set up all available grounds for the dismissal of the petition as well as special and affirmative defenses and counterclaims. An answer to an election protest shall include all available grounds for dismissal, special and affirmative defenses and counterclaims, as well as counter or cross protests against the protestant and other protestees, if any. No counter or cross protest shall be filed except as part of an answer.

The counter or cross protest shall also state:

- a. The total number of counter or cross protested precincts which shall not be more than four (4) times the number of the protested precincts;
- b. The total number of contested precincts per city or municipality;
- c. The precinct numbers and location of the contested precincts; and
- d. The specific acts or omissions constituting the electoral fraud, anomaly or irregularity in the contested precincts.

The answer shall be verified and filed personally with the Office of the Secretary of the Tribunal during regular office hours in fifteen (15) clearly legible copies, with proof of service on the petitioner or protestant, and other protestees, if any.

RULE 27. *Answer to Counter or Cross Protest.*— Answers to counter or cross protests must be verified and filed personally with the Office of the Secretary of the Tribunal during regular office hours in fifteen (15) clearly legible copies within a non-extendible period of fifteen (15) days from receipt of the counter or cross protest, as the case may be, accompanied by proof of service of one (1) copy each on the protestee and the cross protestant, if any.

RULE 28. *Prohibited Motions.*— The following motions shall be prohibited:

- a. Motion to Dismiss;
- b. Motion for a Bill of Particulars;
- c. Demurrer to Evidence;
- d. Motion for postponement; or
- e. Motion to declare protestee or respondent in default.

Grounds for a motion to dismiss shall be alleged as affirmative defenses in the appropriate responsive pleading allowed under Rules 26 and 27, and the Tribunal may in its discretion hold a preliminary hearing on any of the grounds so pleaded.

RULE 29. *Extensions of Time.*— No motion for extension of any of the periods fixed in Rules 24 and 27 will be entertained.

RULE 30. *Failure to Answer; Effect.*— If no answer is filed to the protest, counter or cross protest or petition for *quo warranto* within the period fixed in these Rules, a general denial shall be deemed to have been entered.

Where a general denial has been entered in an election protest that does not involve revision or correction or in a petition for *quo warranto*, the Tribunal shall require the protestant or petitioner to submit evidence *ex parte*. In election protests involving revision or correction, the Tribunal shall order such

revision or correction. During the revision or correction, only the revisors or correctors of the protestant may participate. The protestee or a duly authorized representative has the right to be present and observe the proceedings but cannot make claims and objections to ballots and election returns.

RULE 31. Amendments.— After the expiration of the period for the filing of an election protest, counter protest, cross protest or petition for *quo warranto*, substantial amendments that broaden the scope of the action or introduce an additional cause of action may be allowed only upon leave of the Tribunal. Leave may be refused if the motion appears to be intended for delay. Any amendment in matters of form, such as a defect in the designation of the parties and other clearly clerical or typographical errors, may be corrected at any stage of the proceedings, *motu proprio* or on motion.

When the Tribunal admits an amended protest, counter protest, cross protest or petition for *quo warranto*, it shall order the other party/parties to answer the same within ten (10) days from service of a copy of the amended pleading and the resolution admitting the same.

RULE 32. Other Pleadings and Motions; How Filed and Served.— All other pleadings, motions and papers shall be filed with the Office of the Secretary of the Tribunal personally or by registered mail, in fifteen (15) clearly legible copies and must be accompanied by proof of service upon the adverse party or parties.

If filed by registered mail, the date of the mailing as shown by the post office stamp on the covering envelope or the registry receipt shall be considered as the date of filing in the Tribunal. The envelope shall be attached to the record of the case.

No action shall be taken on pleadings that fail to comply with these requirements.

All other pleadings, motions and papers filed with the Tribunal in connection with election protests and/or cases

pending before other tribunals, courts or agencies shall likewise be accompanied by proof of service upon the adverse party or parties in the said election protests and cases. No action shall be taken on pleadings, motions and other papers that fail to comply with this requirement.

Whenever practicable, the service and filing of pleadings, motions and other papers under this Rule shall be done personally. A resort to other modes must be accompanied by a written explanation why personal service was not practicable. A violation of this rule may be cause to consider the paper as not filed.

RULE 33. *Proof of Service.*— Proof of personal service shall consist of a written admission of the party served or the affidavit of the party serving, containing a full statement of the date, place and manner of the service. If service is made by registered mail, proof shall be made by affidavit of the sender and the registry receipt issued by the mailing office. The registry return card shall be filed with the Tribunal immediately upon receipt by the sender or, in lieu thereof, the unclaimed letter together with a certified copy of the notice from the post office given to the addressee, as the case may be.

RULE 34. *No Hearing or Oral Argument on Motions.*— No hearing or oral argument on motions shall be allowed unless the Tribunal determines otherwise.

The adverse party may file comments or objections within three (3) days from receipt of the motion. If no comment or objection is filed, the motion shall be deemed submitted for resolution.

FILING FEES, CHARGES, DEPOSITS

RULE 35. *Filing Fees.*— No protest, counter or cross protest or petition for *quo warranto* shall be deemed filed without the simultaneous payment of a filing fee of Fifty Thousand (P50,000.00) Pesos.

Where an answer sets up more than one cross protest, the filing fee shall be Fifty Thousand (P50,000.00) Pesos for each cross protest.

If a claim for damages or attorney's fees is set forth in a protest, counter or cross protest, or petition for *quo warranto*, an additional filing fee of five percent (5%) of the total amount claimed shall be paid.

RULE 36. Cash Deposit.— In addition to the fees prescribed in the preceding Rule, each protestant, counter or cross-protestant, or petitioner in *quo warranto* proceedings, shall make a cash deposit to the Tribunal in amounts as follows:

- a. In a petition for *quo warranto*, Ten Thousand (P10,000.00) Pesos to be paid within ten (10) days from the filing of the petition;
- b. If the protest, counter or cross protest does not require the collection and revision of ballots and election documents, Twenty Thousand (P20,000.00) Pesos to be paid within ten (10) days from the filing of the protest, counter or cross protest;
- c. If the protest, counter or cross protest requires the collection and revision of ballots and election documents, the cash deposit shall be computed at the rate of One Thousand (P1,000.00) Pesos for each ballot box. An initial cash deposit of Two Hundred Thousand (P200,000.00) Pesos shall be paid in full within ten (10) days from the filing of the protest, counter or cross protest. The balance, if any, shall be paid in installments as the Tribunal may specify.

The cash deposits shall be applied to the payment of all expenses not programmed into or provided for in the Tribunal's budget which may be necessary or incidental to the resolution and adjudication of the protest, counter or cross protest, or petition for *quo warranto*, including, but not limited to, transportation and storage of the ballot boxes, and election

documents and paraphernalia as well as the compensation of the Head Revisors/Head Correctors. Whenever the Tribunal determines that the circumstances so dictate, it may require additional cash deposits. Any unused cash deposits shall be returned to the party or parties making the deposit after complete termination of the contest.

RULE 37. *Effect of Failure to Make Cash Deposit.*— If a party fails to make the cash deposits or additional deposits herein provided within the prescribed time limit, the Tribunal shall dismiss the protest, counter or cross protest or petition for which said deposits are required, or take such action as it may deem equitable under the circumstances.

RULE 38. *Legal Fees.*— Legal fees, in the amounts set forth below, shall be charged for the following:

- a. For copies of any record, decision, resolution or Entry of Judgment, for each page, Ten (P10.00) Pesos. The certification is charged separately in the amount of One Hundred (P100.00) Pesos per document;
- b. For certified transcripts of stenographic notes, for each page of not less than two hundred and fifty (250) words, Twelve (P12.00) Pesos; *provided, however*, that one-third (1/3) of the total charges shall go to the Tribunal and the remaining two-thirds (2/3) to the stenographer concerned;
- c. For every search for any document above a year's standing and reading the same, One Hundred (P100.00) Pesos;
- d. For every certificate not on process, Fifty (P50.00) Pesos.

PRELIMINARY CONFERENCE

RULE 39. *Preliminary Conference; Purpose.*— After the filing of the last responsive pleading and the issues have been joined, the Tribunal shall call the parties to a preliminary conference to consider:

- a. The simplification of issues;
- b. The possibility of obtaining stipulation or admission of facts and of documents to avoid unnecessary proof;
- c. The limitation of the number of witnesses and the nature of their testimonies; and
- d. Such other matters as may aid in the prompt disposition of the petition, protest, counter protest or cross protest.

In an election protest, the following shall also be considered:

- e. The list of pilot precincts consisting of not more than twenty-five percent (25%) of the total number of contested precincts, which the party deems as best exemplifying or demonstrating the electoral fraud or anomaly pleaded;
- f. The nature of the testimonies of the witnesses as to whether they relate to evidence *aliunde* the ballots, or otherwise;
- g. The withdrawal of some contested, counter-protested or cross-protested precincts (especially those where, among others, the ballots are unavailable due to the existence of protests concerning other positions involving the said ballots or are missing and cannot be located or destroyed due to natural disasters or calamities); and
- h. The matter of reception of evidence to be done simultaneously with the revision of ballots if the evidence is intended to prove such causes of action or defenses or issues which are unrelated to the ballots or election documents.

Matters not taken up during the preliminary conference shall be excluded from the evidentiary hearings.

RULE 40. Notice of Preliminary Conference.— Service of the notice of the preliminary conference to counsel is service to the party. If without counsel, the notice shall be served to the party.

RULE 41. *Appearances of Parties; Effect of Failure to Appear.*— It shall be the duty of the parties and their respective counsel to appear before the Tribunal in person at the preliminary conference.

The failure of either the petitioner, protestant, counter-protestant, cross-protestant, or their respective counsel to appear at the preliminary conference shall be cause for dismissal, *motu proprio*, of the petition, protest, counter protest, or cross protest.

If either the respondent, protestee, cross-protestee, or their respective counsel, as the case may be, fails to appear at the preliminary conference, the petitioner or protestant may be allowed to present evidence *ex parte* and the Tribunal shall render judgment based on the evidence presented.

RULE 42. *Preliminary Conference Brief.*— Not later than five (5) working days before the preliminary conference, the parties shall file with the Tribunal in fifteen (15) legible copies and serve on the adverse party or parties, both through personal service, a preliminary conference brief, which shall contain:

- a. A summary of admitted facts and documents as well as proposed stipulation of facts and documents;
- b. The issues to be tried or resolved;
- c. The number and names of witnesses, the nature and substance of their respective testimonies;
- d. A manifestation of their intention to avail themselves of discovery procedures; and
- e. The documents or exhibits to be presented, stating their purpose.

In an election protest, the preliminary conference brief shall also contain the following:

- f. The list of pilot precincts consisting of not more than twenty-five percent (25%) of the total number of

contested precincts, which the party deems as best exemplifying or demonstrating the electoral fraud or anomaly pleaded;

- g. A manifestation of whether the testimonies of the witnesses pertain to matters or issues *aliunde* the ballots and election documents *e.g.* terrorism, vote-buying, fraud or violence; and
- h. The proposals on the prompt disposition of the case, including the possible withdrawal of the protest, counter or cross protest, or some contested precincts, as well as the schedules of collection of ballot boxes, revision of ballots, and correction of manifest errors.

RULE 43. *Failure to File Brief.*— Failure to file brief or filing a brief which does not comply with the required contents shall have the same effect as failure to appear at the preliminary conference.

RULE 44. *Preliminary Conference Order.*— Within ten (10) days from the termination of the preliminary conference, the Tribunal shall issue an order reciting the matters taken up during the preliminary conference and the action thereon. The contents of the order shall control the subsequent course of the proceedings.

Within five (5) days from receipt of the order, the parties may move for its correction.

PRODUCTION OF ELECTION DOCUMENTS, REVISION OF BALLOTS AND CORRECTION OF MANIFEST ERRORS

RULE 45. *When Ballot Boxes and Election Documents Brought before the Tribunal.*— Where the allegations in a protest, counter or cross protest so warrant, or whenever in its judgment the interest of justice so demands, the Tribunal shall order to be brought before it the ballot boxes containing the ballots, the corresponding keys, automated precinct count machine and

consolidation machines, the electronic data storage devices, lists of voters with voting records, books of voters, certified copies of the statements of votes by the board of canvassers concerned, and other documents used in the election. Once received, these shall be kept and held secure, in the care and custody of the Canvass Board Service, in such storage areas as may be authorized by the Tribunal.

Where any of the ballot boxes, ballots, election returns, election documents or paraphernalia are also involved in election contests before other *fora*, the Tribunal shall coordinate with and make the appropriate request with the concerned forum for preferential temporary custody thereof or for the synchronization of revision activities.

RULE 46. *Revision/Correction Teams; Revision Supervisor.*— The Tribunal shall create such number of revision/correction teams as may be necessary. Each team shall be composed of a Head Revisor/Corrector designated by the Tribunal and one (1) representative for each of the parties designated by them, respectively. The Tribunal shall designate one of its officials to supervise the revision/correction.

The failure of any party to participate in the revision/correction proceedings for any reason, shall not, however, be deemed a waiver of the special and affirmative defenses alleged in said party's Answer.

RULE 47. *Accreditation of Party Revisors/Correctors; Counsel and Party Supervisors.*— At least five (5) working days before the start of the revision/correction, the parties shall submit to the Secretary of the Tribunal the names, addresses and ID pictures of their revisors/correctors (equal in number to the revision/correction teams to be formed), alternate party revisors/correctors, counsel and supervisors for accreditation by the Tribunal. Only duly accredited party revisors/correctors, alternate party revisors/correctors, party counsel and supervisors shall be allowed to participate in or observe the revision/correction proceedings, as the case may be.

RULE 48. *Withdrawal of Accreditation and Removal of Revisors/Correctors, Counsel and Supervisors of Parties.*—The Tribunal may, *motu proprio* or upon motion of any of the parties, withdraw the accreditation of a party revisor/corrector, alternate party revisor/corrector, party counsel or supervisor.

For disorderly conduct, unruly behavior or for such acts as would tend to delay, disrupt and/or disturb the proceedings, the Tribunal Revision/Correction Supervisor shall remove or oust a party revisor/corrector, alternate party revisor/corrector, party counsel or supervisor from the revision/correction proceedings, and may prohibit such person from participating in subsequent proceedings. The prohibition may be revoked by the Tribunal upon motion of the party concerned.

RULE 49. *Revisor/Corrector; Compensation.*— The Tribunal shall fix the compensation of the revisor/corrector and their alternates.

RULE 50. *Commencement of Revision/Correction.*— The Tribunal shall, *motu proprio* or upon motion of any of the parties, set the date for the start of the revision of ballots/correction of manifest errors in election documents. Once started, the revision/correction shall continue without interruption until its completion.

The revision/correction proceedings shall not be delayed or postponed by reason of the absence, removal or ouster of any party revisor/corrector, provided that the Head Revisor/Corrector and one (1) member of the revision/correction team are present. Failure of the party concerned to immediately replace the absent/ousted party revisor/corrector shall be considered a waiver of the right to be represented in the said revision/correction team for the rest of the day.

RULE 51. *Order of Revision/Correction.*— Unless the Tribunal directs otherwise, the order of revision of ballots/correction of manifest errors shall be as follows:

1. The pilot precincts designated by the protestant;

2. The remaining protested precincts, if warranted;
3. The pilot precincts designated by the counter-protestant; and
4. The remaining counter-protested precincts, if warranted.

The order of revision/correction in cross-protest, if any, shall be determined by the presence or absence of common protested areas.

RULE 52. *Rules on Revision and Correction of Manifest Errors.*— The revision of ballots and correction of manifest errors shall be governed by the rules and procedures promulgated by the Tribunal.

TECHNICAL EXAMINATION

RULE 53. *Motion for Technical Examination; Contents.*— Any of the parties represented in the revision of the ballots or correction of election documents from a contested municipality, city or province, who seeks the technical examination of said ballots and election documents, must file the proper motion within three (3) working days after the revision or correction of all or substantially all of the ballots and election documents from the said contested municipality, city or province, specifying:

- a. The nature of the technical examination requested (fingerprint examination, examination of the genuineness of the ballots or election documents, etc.);
- b. The documents to be subjected to technical examination which shall be strictly limited to objected ballots and questioned election documents;
- c. The objections made in the course of the revision or correction proceedings which the movant intends to substantiate with the results of the technical examination; and

- d. The ballots or election documents covered by such objections.

RULE 54. *Scope and Time Limit.*— The motion for technical examination may be granted by the Tribunal in its discretion and under such conditions as it may impose. If the motion is granted, the Tribunal shall schedule the technical examination, prescribe the scope and duration thereof and notify the parties at least five (5) days in advance of the start of such examination.

The technical examination shall be completed within the period fixed by the Tribunal. A party may attend the technical examination, either personally or through a representative, but the examination shall proceed even in the absence of the party or the representative provided there was due notice to the party.

The technical examination shall be conducted at the expense of the movant in the offices of the Tribunal or such other place as the Tribunal may designate, under the supervision of the Secretary of the Tribunal or a duly authorized representative.

Technical examinations requested by more than one party shall be conducted simultaneously as far as practicable.

RULE 55. *Experts; Who Shall Provide.*— The Tribunal shall appoint independent experts to conduct the technical examination. The parties may avail themselves of the assistance of their own experts who may observe but not interfere with the examination conducted by the Tribunal's experts.

RULE 56. *Continuous Technical Examination.*— Once started, the technical examination shall continue every working day and must be completed within the period fixed by the Tribunal.

RULE 57. *Matching; When Allowed.*— Matching of ballots with detachable coupons may be allowed by the Tribunal only after a showing that the voters whose ballots are to be matched

have waived the secrecy of their ballots, or are not registered voters of the precinct where they voted.

RULE 58. *Photographing or Photocopying.*— Photographing or photocopying of ballots or any election documents may be ordered by the Tribunal as may be necessary or upon motion of any party. When so ordered, it shall be done within the Tribunal premises or such other place as the Tribunal may designate, under the supervision of the Secretary of the Tribunal or a duly authorized representative. The movant shall bear all expenses relative to said photographing/photocopying.

SUBPOENAS

RULE 59. *Who May Issue; Form and Contents.*— Subpoenas *ad testificandum* or *duces tecum* may be issued by the Tribunal *motu proprio*, or upon application of any of the parties.

A subpoena shall state the name of the Tribunal and the title of the action; shall be directed to the person whose attendance is required, and signed by the Secretary or the Deputy Secretary of the Tribunal. The subpoena *duces tecum* shall also contain a reasonable description of the books, documents or things demanded which must appear *prima facie* relevant.

RULE 60. *Authority of Hearing Commissioners to Issue Subpoenas; Parties to File Proper Motion.*— Hearing Commissioners may be authorized by the Tribunal to issue subpoenas in cases assigned to them for reception of evidence.

The party seeking the issuance of a subpoena *ad testificandum* or subpoena *duces tecum* shall file the proper motion before the Hearing Commissioner at least five (5) working days before the hearing in which the witness or document sought will be presented. Failure of the party to file the proper motion within the above period shall be considered a waiver of the right to compel the attendance of the witness or the production of documents concerned.

RECEPTION OF EVIDENCE

RULE 61. *Hearings; By Whom and Where Conducted.*— The Tribunal may delegate the reception of evidence to a Hearing Commissioner who must be a member of the Philippine Bar and preferably an employee of the Tribunal.

Reception of evidence shall be done in the offices of the Tribunal unless the Tribunal directs otherwise.

RULE 62. *Continuous Hearings; When Conducted.*— The reception of evidence shall be held daily during regular working days.

The reception of testimonial evidence on matters or issues *aliunde* shall be done before or simultaneously with the revision of the ballots.

The reception of the evidence on all other matters or issues incident to or interwoven with the ballots and related election documents shall be made upon the completion of the revision of all or substantially all, of the ballots or election documents.

RULE 63. *Order of Presentation of Evidence.*— The order of presentation of evidence shall be as follows:

1. The petitioner or the protestant shall present evidence in support of the petition or protest;
2. The respondent or the protestee or if there are two or more protestees, in the order of the date and time of filing of their respective answers, shall then present their respective evidence; and
3. The petitioner or the protestant, subject to the approval of the Tribunal, may then present rebuttal evidence; in which case, respondent or protestee may present sur-rebuttal evidence.

RULE 64. *Time Limit for Presentation of Evidence.*— Each party is given a maximum period of thirty (30) working days to complete the presentation of evidence.

- a. This period shall include the following:
 1. The days consumed in the presentation of evidence for the pilot precincts;
 2. The days consumed in the presentation of evidence for the non-pilot precincts; and
 3. The days consumed in the reception of evidence before or simultaneously with the revision of ballots.
- b. The following shall not be charged against the period allotted to either party:
 1. The period when presentation of the party's evidence is suspended by order of the Tribunal by reason of the pendency of an issue in the nature of a prejudicial question; and
 2. The time taken up in the cross-examination of witnesses by the other party.

The hearing for any particular day may be postponed or canceled upon motion. The delay caused by such postponement shall be charged to the period allotted to the movant.

A party may present rebuttal or sur-rebuttal evidence during the remainder of the thirty-day (30) period.

RULE 65. *Judicial Affidavit as Direct Testimony.*— Affidavits of the witnesses, which shall be in question and answer form, shall constitute their direct testimonies subject to cross examination.

The affidavit of an affiant who fails to testify shall not be considered competent evidence for the party presenting the affidavit, but the adverse party may use the same as authorized under the Rules of Evidence.

RULE 66. *Submission of Affidavits and List of Documentary Evidence.*— At least five (5) working days before a scheduled hearing, the parties shall submit to the Tribunal the affidavits of their witnesses and lists of their documentary evidence to be presented at said hearing, with copies furnished the adverse parties, both by personal service.

Failure of a party to submit the affidavits within the said period shall be deemed as a waiver of the right to present said testimonial evidence.

RULE 67. *Examination of Witness.*— A witness shall be fully examined on cross, re-direct and re-cross in one hearing day only unless for justifiable reasons the Hearing Commissioner allows an extension thereof.

During the hearings, the Hearing Commissioner may ask clarificatory questions from the witnesses and counsel.

RULE 68. *Hearings; Effect of Failure to Appear.*— If a party fails to appear, reception of evidence may proceed *ex parte* provided the parties have been duly notified of the hearing. In such a case, the absent party shall be deemed to have waived the right to cross-examine the witness whose testimony on direct or re-direct examination has been concluded.

If a party scheduled to present evidence fails to appear at the date, time and place appointed, the Hearing Commissioner may adjourn the proceedings to the next hearing day. The delay shall be charged to the party's period to present evidence.

RULE 69. *Objections and Incidental Motions.*— All objections shall be noted by the Hearing Commissioner and referred to the Tribunal for disposition.

Incidental motions shall be reduced in writing and filed before the Tribunal within three (3) working days from date of hearing.

The objections or motions shall not suspend the hearing. The evidence taken shall be subject to the Tribunal's ruling on the objections and motions.

RULE 70. *Rulings in Hearings before the Tribunal.*— During hearings before the Tribunal, the Justice presiding shall decide all questions raised in connection with the examination of witnesses and the admission of evidence, and such rulings shall be deemed as made by the Tribunal. However, any member may request that a question be decided in consultation, in which case the Justice presiding shall act only after the matter has been voted upon.

RULE 71. *Formal Offer of Evidence.*— The parties shall make a formal offer of evidence within ten (10) days after completion of the presentation of their respective evidence. The purpose for which the evidence is offered must be specified.

The Tribunal shall consider no evidence which has not been formally presented and offered. However, revision reports being official records of the Tribunal proceedings need not be formally presented and offered.

Documents previously marked during revision/correction as exhibits will be considered included in the offer of evidence and need not be marked again during the reception of evidence.

RULE 72. *Procedure after Hearing.*— Within ten (10) working days after each formal offer of evidence or such period as may be fixed by the Tribunal, the Hearing Commissioner shall submit to the Tribunal the evidence presented, together with the transcript of stenographic notes of the proceedings.

RULE 73. *Degree of Proof Required.*— The degree of proof required is preponderance of evidence.

MEMORANDA

RULE 74. *When Submitted; Contents.*— Within twenty (20) days from receipt of the Tribunal's ruling on the last offer of

evidence, the parties shall simultaneously submit their respective memoranda setting forth briefly:

- a. The facts of the case;
- b. A complete statement of all the arguments submitted in support of their respective views of the case;
- c. Law and jurisprudence in support of the position and advocacies of the party submitting the memorandum;
- d. Objections to the ballots or votes adjudicated to or claimed by the other party in the revision of ballots;
- e. Refutation of the objections of the other party to the ballots or votes adjudicated to or claimed in the revision of ballots;
- f. Objections to the tallying of election returns and certificates of canvass raised by the other party in the correction of manifest error; and
- g. Refutation of the objections raised by the other party to the tallying of election returns and certificates of canvass in the correction of manifest error.

All evidence, as well as objections to evidence presented by the other party, shall be either referred to or contained in the memorandum or in an appendix thereto.

RULE 75. *Supplemental or Rebuttal Memorandum.*— No supplemental, reply or rebuttal memorandum shall be allowed unless required by the Tribunal.

PILOT PRECINCTS; INITIAL DETERMINATION

RULE 76. *Pilot Precincts; Initial Determination.*— The revision of the ballots or the correction of manifest errors and reception of evidence shall begin with pilot precincts. If after the appreciation of ballots or election documents and/or reception of evidence in the pilot precincts, the Tribunal

determines that the officially proclaimed results of the contested election will not be affected, the Tribunal shall dismiss the protest, counter or cross protest without further proceedings.

VOTING

RULE 77. *Votes Required.*— Unless otherwise provided in these Rules, in resolving all matters submitted to the Tribunal, all the Members present, including the Chairperson, shall vote. The concurrence of five (5) members shall be necessary for the rendition of a decision and the adoption of formal resolutions.

DECISIONS

RULE 78. *Procedure in Deciding Contests.*— In rendering its decisions, the Tribunal shall follow the procedure prescribed for the Supreme Court in Sections 13 and 14, Article VIII of the 1987 Constitution.

RULE 79. *Promulgation of Decisions.*— After the decision and separate, concurring or dissenting opinions, if any, are signed, they shall be delivered for filing to the Secretary of the Tribunal, who shall cause certified true copies thereof to be served on the parties or their counsel.

RULE 80. *Finality of Decision; Motion for Reconsideration or Reopening.*— A decision of the Tribunal shall become final ten (10) days after receipt of a copy thereof by the parties or their counsel, if no motion for reconsideration is filed.

A party may file a motion for reconsideration of a decision under the evidence already of record within ten (10) days from service of a copy of the decision. Copies of the motion shall be served on the adverse parties, who may file a comment or opposition thereto within five (5) days from receipt thereof.

If a motion for reconsideration is denied, the decision shall become final and executory upon service to the parties of the resolution denying the motion for reconsideration. If the motion for reconsideration is granted, the party or parties

adversely affected may move to reconsider within ten (10) days from receipt of the resolution granting the motion for reconsideration; otherwise, the decision as reconsidered shall become final and executory after the lapse of said period.

No party may file more than one (1) motion for reconsideration.

No motion for reopening of a case shall be entertained.

RULE 81. *Entry of Judgment.*— The judgment shall be entered by the Secretary of the Tribunal in the book of entries of judgments immediately upon its finality. The record of entry shall contain the dispositive portion of the judgment and shall be signed by the Secretary of the Tribunal, with a certification that such judgment has become final and executory.

RULE 82. *Procedure after Finality of Judgment.*— As soon as a decision is entered, notice thereof shall be sent to the Senate of the Philippines, the President of the Philippines, and the Commission on Audit.

The originals of all decisions of the Tribunal shall be kept in bound form in the archives of the Tribunal. Decisions shall be published in the Official Gazette.

DAMAGES AND COSTS

RULE 83. *Costs When Allowed.*— Costs may be allowed to the prevailing party as a matter of course, but the Tribunal shall have the power, for special reasons, to apportion the costs as may be equitable.

RULE 84. *Costs When Action Dismissed.*— If a petition for *quo warranto*, protest, or counter-protest is dismissed, the Tribunal may still render judgment for costs.

RULE 85. *Costs When Action Frivolous.*— When a petition for *quo warranto*, protest, or counter protest is found to be

frivolous, double or treble costs may be imposed by the Tribunal on the petitioner, protestant, or counter-protestant, as the case may be.

RULE 86. *Damages and Attorney's Fees.*— In all election contests, the Tribunal may adjudicate damages and attorney's fees as it may deem just and as established by the evidence, if the aggrieved party has included these claims in the pleadings.

SUPPLEMENTARY RULES

RULE 87. *Applicability.*— The following shall be applicable by analogy or suppletorily, so far as they are not inconsistent with these Rules or with the decisions, resolutions and orders of the Tribunal:

- a. The Rules of Court and Administrative Circulars issued by the Supreme Court;
- b. The Rules on Electronic Evidence;
- c. The Judicial Affidavit Rule; and
- d. Rules of Procedure of the Electoral Tribunals.

AMENDMENT

RULE 88. *Amendment.*— These Rules may be amended by the Tribunal at any time. Any amendment adopted by the Tribunal shall become effective fifteen (15) days from publication in the Official Gazette or in any newspaper of general circulation.

EFFECTIVITY

RULE 89. *Effectivity.*— These Rules shall take effect fifteen (15) days from publication in the Official Gazette or in a newspaper of general circulation.

APPROVED, 07 February 2013.



ANTONIO T. CARPIO
Senior Associate Justice
Chairman



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Member



ARTURO D. BRION
Associate Justice
Member



LOREN B. LEGARDA
Senator
Member



MANUEL "LITO" M. LAPID
Senator
Member



GREGORIO B. HONASAN II
Senator
Member



MANUEL B. VILLAR, JR.
Senator
Member



COMPANERA PIA S. CAYETANO
Senator
Member



FRANCIS N. TANGILINAN
Senator
Member