



REPUBLIC OF THE PHILIPPINES
SENATE ELECTORAL TRIBUNAL

COA-NCR Bldg., Batasan Road, Quezon City

FRANCIS N. TOLENTINO,
Protestant,

- versus -

SET CASE No. 001-16

LEILA M. DE LIMA,
Protestee.

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RESOLUTION NO. 16-17

Pending before the Tribunal are:

- a) *Withdrawal of Appearance* as counsel for Protestant filed by the Ho & Uy Law Firm on 16 November 2016;
- b) *Manifestation* filed by the Agabin Verzola & Layaoen Law Offices, counsel for Protestant, on 21 November 2016 and *Annex "A"* thereof; and
- c) *Motion* filed by the Agabin Verzola & Layaoen Law Offices, counsel for Protestant, on 21 November 2016.

Withdrawal of Appearance

The Executive Committee of the Tribunal **GRANTS** the withdrawal of appearance of the Ho & Uy Law Firm as counsel for Protestant and **NOTES** the appearance of the Agabin Verzola & Layaoen Law Offices as lead counsel for Protestant. Henceforth, all pleadings, notices, orders, resolutions and other papers and processes relative to the instant case shall be served on Protestant's new lead counsel at the AGABIN VERZOLA & LAYAOEN LAW OFFICES, 26th

Floor, Pacific Star Building, Gil Puyat Avenue cor. Makati Avenue, Makati City 1200.

Manifestation and its Annex "A"

In his *Manifestation* dated 21 November 2016, counsel for Protestant stated that he filed Protestant's *Manifestation* in compliance with Resolution No. 16-15 dated 09 November 2016 by registered mail on 18 November 2016, it being the due date and a Friday, which is a non-working day for the SET Secretariat under its Four-Day Workweek Schedule. However, considering that it might take a number of days for the mailed *Manifestation* to reach the Tribunal, he annexed the same to his 21 November 2016 *Manifestation* as Annex "A".

In the annexed *Manifestation*, Protestant thru counsel informed the Tribunal that he intends to have the Commission on Elections (COMELEC) retain custody and possession of forty five (45) Vote Counting Machines (VCMs) only, specifically the VCMs in the following contested polling precincts, namely:

<i>Precinct No.</i>	<i>City/Municipality</i>	<i>Province</i>
0013A	South Ubian	Tawi-Tawi
0018A	Maimbung	Sulu
0015A	Al-Barke	Basilan
0043B	Sultan Kudarat (Nuling)	Maguindanao
0012A	Marawi	Lanao del Sur
0001A	Picong (Sultan Gumander)	Lanao del Sur
0044A	Sultan Naga Dimaporo (Karomatan)	Lanao del Norte
0080A	Pikit	North Cotabato
0077A	Buenvista	Agusan del Norte
0002A	Cortes	Bohol
0001A	Cordoba	Cebu
0001A	Cebu City	Cebu
0001A	Daanbantayan	Cebu
0001A	Alcantara	Cebu
0001A	Alcoy	Cebu
0006A	Ormoc City	Leyte
0001A	San Jose de Buan	Samar (Western Samar)
0004A	Calbayog City	Samar (Western Samar)
0001A	San Margarita	Samar (Western Samar)
0098A	Maria Aurora	Aurora
0003A	Atok	Benguet

0022A	Aguinaldo	Ifugao
0088A	Angadanan	Isabela
0018A	Balbalan	Kalinga
0013A	San Emilio	Ilocos Sur
0015A	Borongan City	Eastern Samar
0008A	Baliuag	Bulacan
0302A	Marilao	Bulacan
0026B	Balagtas	Bulacan
0001A	Angat	Bulacan
0001A	Bocaue	Bulacan
0001B	Candaba	Pampanga
0020B	Bacolor	Pampanga
0006B	Lubao	Pampanga
0001A	Angeles City	Pampanga
0012A	Atimonan	Quezon
0001A	Agdangan	Quezon
0001A	Cabanatuan City	Nueva Ecija
0013A	Jaen	Nueva Ecija
00045	Aliaga	Nueva Ecija
0005C	Anilao	Iloilo
0029P1	Iloilo City	Iloilo
0013B	Dapitan City	Zamboanga del Norte
0022B	Sindangan	Zamboanga del Norte
0008B	Dipolog	Zamboanga del Norte

As regards the CCS Laptops, Protestant intends that the COMELEC retain in its custody six (6) CCS Laptops.

Motion

In his *Motion* dated 18 November 2016, filed on 21 November 2016, Protestant thru counsel stated that on 26 October and 02 November 2016, the COMELEC conducted the stripping activities of 1,356 units of VCMs. During the said stripping activities, ninety-three (93) VCMs and their Secure Digital (SD) Cards were allegedly found to contain election data, notwithstanding the fact that they were supposedly not used during the national and local elections held on 09 May 2016. These VCMs and SD Cards are:

	VCM Serial No.	SD Card Serial No.
1	HPM180PAO 1084619	AY9UH
2	HPM180PAO 1005514	HPL5JARN
3	HPM180PAO 1008428	7ZV3L
4	HPM180PAO 1009654	HPL21BVK
5	HPM180PAO 1012891	HPL1FTJ7
6	HPM180PAO 1017236	HPL169WYM
7	HPM180PAO 1018821	HPL1MGV1

8	HPM180PAO 1019381	HPL1G3H0
9	HPM180PAO 1021500	HPL84AFF
10	HPM180PAO 1023455	6D5QD
11	HPM180PAO 1023462	ISSAS
12	HPM180PAO 1023510	HPL2EG66
13	HPM180PAO 1026057	HPL51JIA
14	HPM180PAO 1026619	7K078
15	HPM180PAO 1029072	HPLIGHBH
16	HPM180PAO 1029991	HPL1QNFO
17	HPM180PAO 1034453	HPL1PW9P
18	HPM180PAO 1034513	HPL85CJN
19	HPM180PAO 1034671	IDXSO
20	HPM180PAO 1035277	JIG50
21	HPM180PAO 1035538	HPL1G7PK
22	HPM180PAO 1037491	HPL1QT6X
23	HPM180PAO 1037817	HPL1AYBK
24	HPM180PAO 1038957	HPL232B2
25	HPM180PAO 1039645	HPL1X9X1
26	HPM180PAO 1050282	HPL1ZVR5
27	HPM180PAO 1050820	5KS51
28	HPM180PAO 1050840	57GOR
29	HPM180PAO 1050866	HPL1V8BW
30	HPM180PAO 1051155	HPL25TB6
31	HPM180PAO 1051276	HPL7TD3Q
32	HPM180PAO 1051283	HPL26BB1
33	HPM180PAO 1051368	HPLGP395
34	HPM180PAO 1053230	IA2K7
35	HPM180PAO 1054068	HPL7ZU4N
36	HPM180PAO 1054647	1LK87
37	HPM180PAO 1054822	HPL17HJT
38	HPM180PAO 1054877	GA4PD
39	HPM180PAO 1055030	FU171
40	HPM180PAO 1055062	AZA1A
41	HPM180PAO 1055421	HPLIAD90
42	HPM180PAO 1055435	HPLIVG7D
43	HPM180PAO 1055636	HPL6TECA
44	HPM180PAO 1056009	HPL6C02Y
45	HPM180PAO 1056047	HPL6C02Y (sic)
46	HPM180PAO 1056872	HPL7XX07
47	HPM180PAO 1057358	6L42N
48	HPM180PAO 1057497	HDL1N4CB
49	HPM180PAO 1059697	HPL8D3PZ
50	HPM180PAO 1059955	HPL1SD3I
51	HPM180PAO 1060275	5EDB1
52	HPM180PAO 1060465	HPL1103G
53	HPM180PAO 1061654	HPL125WO
54	HPM180PAO 1061820	HPL241JA
55	HPM180PAO 1062315	IZ6XU
56	HPM180PAO 1062605	7W9WO
57	HPM180PAO 1062923	HPL6GKFS
58	HPM180PAO 1063455	HPL8EPS0
59	HPM180PAO 1063526	HPL14PYK

60	HPM180PAO 1063585	HPL1TQ6W
61	HPM180PAO 1064321	HPLTIUI
62	HPM180PAO 1064478	HPL6D4JC
63	HPM180PAO 1064527	6CPQK
64	HPM180PAO 1065030	HPL20149
65	HPM180PAO 1065053	HPL6B12G
66	HPM180PAO 1055472	HPLAVYMC
67	HPM180PAO 1070965	BONTS
68	HPM180PAO 1071757	IPP8X
69	HPM180PAO 1073949	HPLLAYL18
70	HPM180PAO 1074201	6MPZA
71	HPM180PAO 1074687	81741
72	HPM180PAO 1075265	HPL1N07B
73	HPM180PAO 1076006	HPL1CWOO
74	HPM180PAO 1076075	HPLJ4WXH
75	HPM180PAO 1076994	HPL2DVN7
76	HPM180PAO 1077274	HPL7YSTO
77	HPM180PAO 1077510	HPL15HG6
78	HPM180PAO 1078295	HPL17QSH
79	HPM180PAO 1079224	1PK86
80	HPM180PAO 1079654	8A10Q
81	HPM180PAO 1081243	6T9UU
82	HPM180PAO 1081437	HPL6KLKX
83	HPM180PAO 1081476	HPLZBYR2
84	HPM180PAO 1082848	7KWM8
85	HPM180PAO 1083407	HPL1DWJ1
86	HPM180PAO 1083794	HDL6HM60
87	HPM180PAO 1083842	HPL19YAF
88	HPM180PAO 1090526	8BBEO
89	HPM180PAO 1094187	7VXII
90	HPM180PAO 1097298	HPL8NFXW
91	HPM180PAO 1065403	HPL23720
92	HPM180PAO 1080509	HPL14X04
93	HPM180PAO 1065395	HPL5VKTJ

Protestant further informs the Tribunal that thirteen (13) VCMs were no longer subjected to stripping activities supposedly because the threshold of 1,356 VCMs was already reached. These 13 VCMs are as follows:

	VCM Serial Numbers
1	HPM180PAO 1055164
2	HPM180PAO 1065394
3	HPM180PAO 1079327
4	HPM180PAO 1055610
5	HPM180PAO 1053683
6	HPM180PAO 1094253
7	HPM180PAO 1054527
8	HPM180PAO 1050539
9	HPM180PAO 1061849

10	HPM180PAO 1048277
11	HPM180PAO 1036501
12	HPM180PAO 1006950
13	HPM180PAO 1050758

Protestant prays that the Tribunal direct the COMELEC to safeguard, preserve and hold the above-enumerated one hundred six (106) VCMs, as well as the SD Cards and other materials contained therein, subject to further orders and instruction of the Tribunal.

Acting on Protestant's *Manifestation* (Annex "A") and *Motion*, both dated 18 November 2016, the Executive Committee of the Tribunal resolves, without prejudice to the Tribunal's ruling on Protestant's failure to seasonably submit his Preliminary Conference Brief, to **DIRECT** the COMELEC to retain custody and possession of, and to safeguard and preserve six (6) CCS Laptops, the forty-five (45) VCMs enumerated in Protestant's *Manifestation* and the one hundred six (106) VCMs and their SD Cards enumerated in Protestant's *Motion*, **SUBJECT** to the payment by Protestant of additional cash deposit in the total amount of Three Million Three Hundred Fifteen Thousand Seven Hundred Eighty Five & 36/100 Pesos (P3,315,785.36) not later than 29 November 2016 to answer for the cost of the said machines and equipment.

ACCORDINGLY, the Executive Committee of the Tribunal resolves to:

- a) **GRANT** the withdrawal of appearance of the Ho & Uy Law Firm as counsel for Protestant Tolentino and **NOTE** the appearance of the AGABIN VERZOLA & LAYAOEN LAW OFFICES as lead counsel for Protestant Tolentino. Henceforth, all pleadings, notices, orders, resolutions and other papers and processes shall be served on the new lead counsel at its address at 26th Floor, Pacific Star Building, Gil Puyat Avenue corner Makati Avenue, Makati City 1200;
- b) **Without prejudice to the Tribunal's ruling on Protestant Tolentino's failure to seasonably submit his Preliminary Conference Brief**, **DIRECT** the Commission on Elections to retain custody and possession of, and to safeguard and preserve six (6) Consolidated Canvassing System (CCS) Laptops, the forty-five (45) Vote Counting Machines

(VCMs) enumerated in Protestant's *Manifestation* and the one hundred six (106) Vote Counting Machines (VCMs) and their Secure Digital (SD) Cards enumerated in Protestant's *Motion*, **SUBJECT** to the payment by Protestant of additional cash deposit to cover the costs of the said machines and equipment; and

- c) **REQUIRE** Protestant Tolentino to deposit with the Tribunal not later than 29 November 2016 the amount of Three Million Three Hundred Fifteen Thousand Seven Hundred Eighty Five & 36/100 Pesos (P3,315,785.36), representing the cost of the aforesaid machines and equipment, computed as follows:

6 CCS Laptops at P29,909.16 each	=	P 179,454.96
45 VCMs at P20,770.40 each	=	934,668.00
106 VCMs at P20,770.40 each	=	<u>2,201,662.40</u>
TOTAL	=	P3,315,785.36 =====

The Precautionary Order issued by the Tribunal is further modified accordingly.

SO ORDERED.


22 November 2016.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Member



ARTURO D. BRION
Associate Justice
Member