



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 - 50

In Resolution No. 16-33 dated 06 February 2017, Protestant Tolentino was required to deposit the estimated cost of collection of the ballot boxes, election documents and paraphernalia from his pilot precincts in the total amount of Php7,145,775.47 in accordance with the following schedule:

1. Php3,572,887.74 on or before 06 February 2017;
2. Php1,786,443.87 on or before 06 March 2017; and
3. Php1,786,443.87 on or before 06 April 2017.

Protestant Tolentino paid the first and second installments on time.

In the meantime, Protestant Tolentino filed a *Manifestation* dated 16 February 2017, reducing the number of his pilot precincts. Thus, during the consultation with the Canvass Board Service (CBS) held on 28 February 2017, counsel for Protestant Tolentino was informed that CBS would adjust the estimated cost of collection in accordance with his *Manifestation* dated 16 February 2017.

Subsequently, on 02 March 2017, Protestant Tolentino was further required in Resolution No. 16-37 to deposit with the Tribunal the amount of

Php2,201,662.40, representing the cost of retention by the Commission on Elections of 106 Vote Counting Machines (VCMs) in his favor, with a warning that failure to comply may be deemed a cause for the dismissal of his electoral protest. Protestant Tolentino filed a *Motion for Reconsideration* of Resolution No. 16-37 dated 15 March 2017.

On 06 April 2017, Protestant Tolentino filed a *Manifestation and Motion*, praying that payment of the third installment of the estimated collection cost be held in abeyance, pending the final determination thereof as well as the resolution of his *Motion for Reconsideration* of Resolution No. 16-37 dated 02 March 2017, which may result in the dismissal of the instant protest.

Rule 37 of the 2013 Rules of the Tribunal provides:

"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." (underscoring supplied)

The Tribunal considers the reason given by Protestant Tolentino, i.e., the adjustment of the cost of collection of ballot boxes and election documents in accordance with his reduced list of pilot precincts, as a valid ground for requesting that payment of the third installment be held in abeyance. His other ground, i.e. Protestant Tolentino's *Motion for Reconsideration* dated 15 March 2017, which deals with other issues, is the subject of a separate Resolution.

The liberal view taken by the Tribunal of Protestant Tolentino's Motion is anchored on the following subsequent events:

On 26 April 2017, counsel for Protestant Tolentino was furnished by the CBS the revised estimated collection cost. He was given until 08 May 2017 either to manifest his conformity thereto or to discuss with CBS the financial and

operational details of the collection activity. He was further informed that the cost estimate may further be adjusted depending on the number of security escorts that the Philippine National Police (PNP) or the Armed Forces of the Philippines (AFP) may assign and the operational cost that may be incurred in relation thereto as may be determined by the respective Ground Commanders in the areas of operation.

On 08 May 2017, counsel for Protestant Tolentino approved the estimated cost of collection from Protestant Tolentino's pilot precincts in the provinces of Basilan, Bulacan, Cebu, Iloilo, Lanao del Norte, Lanao del Sur, Maguindanao, North Cotabato, Pampanga, Quezon, Sulu, Tawi-Tawi, Western Samar and Zamboanga del Norte, in the total amount of Three Million Eight Hundred Ninety Nine Thousand Eight Hundred Thirty Pesos (Php3,899,830.00).

The amount of Five Million Three Hundred Fifty Nine Thousand Three Hundred Thirty One and 61/100 Pesos (Php5,359,331.61) so far deposited by Protestant Tolentino is sufficient to cover the total cost of collection, which fact indeed justifies Protestant Tolentino's *Manifestation and Motion* dated 06 April 2017.

Be that as it may, the CBS has submitted to the Tribunal a Timetable for the collection activity pursuant to the directive contained in Resolution No. 16-45-A or the Amended Preliminary Conference Order. The Tribunal hereby approves the said Timetable, which is attached as Annex "A" and made an integral part of this Resolution, and directs the CBS to undertake the collection activity in accordance with the said Timetable, starting on 19 June 2017 in Quezon Province.

But even as the Tribunal directs the commencement of the collection activity, it is prudent and wise at this point to likewise direct Protestant Tolentino to deposit the cost of return of the ballot boxes, election documents and paraphernalia to their places of origin. This is to obviate the possibility of the Tribunal disbursing agency funds to cover the cost of return after the termination of the protest. It is well to emphasize that the cost of transporting the ballot boxes,

election documents and paraphernalia involved in an electoral protest from and to their places of origin is not programmed into or provided in the very lean budget of the Tribunal. Such expenses are shouldered by the party requesting the collection and revision of ballots and election documents.

Although the transport rates at the time of the return may considerably vary from the present rates, it has been the practice of the Tribunal to simplify matters by allotting as the estimated cost of return the same amount estimated as collection cost. Otherwise stated, the total estimated cost of collection and return of the ballot boxes, election documents and paraphernalia from and to the pilot precincts of Protestant Tolentino is:

ACTIVITY	COST
a. Cost of COLLECTION of ballot boxes, election documents and paraphernalia from the pilot precincts	P 3,899,830.00
b. Cost of RETURN of ballot boxes, election documents and paraphernalia to the places of origin.	P3,899,830.00
TOTAL	P7,799,660.00

Deducting from the total estimated collection and return costs the amount of Php 5,359,331.61 that Protestant Tolentino had already deposited, he still needs to deposit with the Tribunal the amount of Two Million Four Hundred Forty Thousand Three Hundred Twenty Eight and 39/100 (Php2,440,328.39). To ensure the continuity of the collection activity, which is hereby directed to be undertaken only to the extent that the amount of Protestant Tolentino's cash deposit is sufficient to cover both the estimated cost of collection and return, Protestant Tolentino is required to deposit the said amount of Php2,440,328.39 not later than 30 June 2017.

Following standard procedure, the CBS shall forthwith call the parties to a pre-departure conference for the purpose of discussing the itineraries of travel and the designation by the parties of their respective representatives who may accompany and observe the Collection Teams while undertaking the collection activity in the various places designated by Protestant Tolentino as his pilot areas.

IN VIEW OF THE FOREGOING, the Tribunal Resolves to:

1. **REQUIRE** Protestant Tolentino to deposit with the Tribunal not later than 30 June 2017, the amount of Php2,440,328.39, which represents the difference between the total estimated cost of the collection and return of the ballot boxes, election documents and paraphernalia from and to his pilot precincts, and the total amount which he had deposited in compliance with Resolution No. 16-33 dated 06 February 2017;
2. **APPROVE** the Timetable of the Collection Activity (Annex "A") submitted by the Canvass Board Service;
3. **DIRECT** the Canvass Board Service to commence the collection of ballot boxes, election documents and other paraphernalia from the designated pilot areas of Protestant Tolentino not later than 19 June 2017 and to immediately call the parties to a pre-departure conference upon receipt of this Resolution; and
4. **NOTE** the Manifestation and Motion of Protestant Francis N. Tolentino dated 06 April 2017.

SO ORDERED.

25 May 2017.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Member

LUCAS P. BERSAMIN
Associate Justice
Member


CYNTHIA A. VILLAR
Senator
Member

GRACE L. POE
Senator
Member


MA. LOURDES "NANCY" S. BINAY
Senator
Member


RICHARD J. GORDON
Senator
Member


FRANKLIN M. DRILON
Senator
Member


ANTONIO "SONNY" F. TRILLANES IV
Senator
Member

ANNEX "A"

SET CASE No. 001-16 Francis N. Tolentino vs. Leila M. de Lima

COLLECTION SCHEDULE

Date	Area	No. of Teams
June 19 - 23	Quezon Province	2 teams
June 26 - July 3	Cebu	1 team
June 26 - July 3	Iloilo	1 team
July 3 - 7	Maguindanao*	2 teams
July 3 - 10	Western Samar	1 team
July 10 - 12	Lanao Del Norte*	1 team
July 10 - 17	Zamboanga del Norte*	2 teams
July 17 - 18	North Cotabato*	1 team
July 17 - 20	Tawi- Tawi*	1 team
July 24 - 28	Basilan*	2 teams
July 25 - 26	Bulacan	1 team
July 25 - 27	Pampanga	1 team
July 31 - August 4	Lanao Del Sur*	4 teams
August 7 - 11	Sulu*	3 teams

*Schedule subject to the availability of security escorts and vehicles