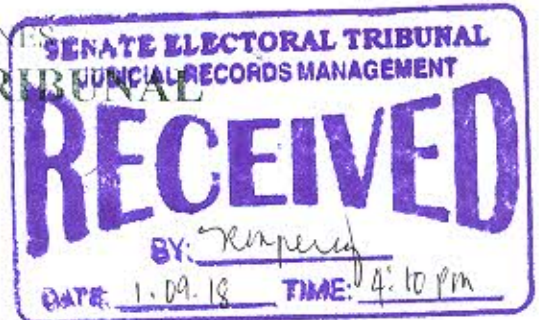




REPUBLIC OF THE PHILIPPINES
SENATE ELECTORAL TRIBUNAL



FRANCIS N. TOLENTINO,
Protestant,

- versus -

SET CASE NO. 001-16

LEILA M. DE LIMA,
Protestee.

X-----X

NOTICE OF RESOLUTION

SIR/MADAM:

Attached hereto is a copy of **Resolution No. 16-87** of the Executive Committee of the Senate Electoral Tribunal dated 08 January 2018 in the above-entitled case.

Please acknowledge receipt hereof.

Quezon City, 09 January 2018.

Very truly yours,

Walwa

ATTY. CRISANTA V. VALERA
Acting Secretary of the Tribunal

Copy furnished:

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ESGUERRA & BLANCO
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**ELECTION RECORDS AND
STATISTICS DEPARTMENT**
Intramuros, Manila
Commission on Elections

SET LEGAL SERVICE

SET CANVASS BOARD SERVICE

**SET INFORMATION AND
COMMUNICATION SYSTEMS AND
JUDICIAL RECORDS MANAGEMENT
SERVICE**



REPUBLIC OF THE PHILIPPINES
SENATE ELECTORAL TRIBUNAL
COA-NCR Bldg., Batasan Road, Quezon City

FRANCIS N. TOLENTINO,
Protestant,

SET Case No. 001-16

-versus-

LEILA M. DE LIMA,
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X-----X

RESOLUTION NO. 16 - 87

In compliance with Resolution No. 16-80 dated 22 November 2017, the Election Records and Statistics Department of the Commission on Elections (ERSD-COMELEC), in a letter dated 04 December 2017, informed the Tribunal that the decryption of the SD Cards and the printing of the ballot images, audit logs and election returns pertaining to all the Clustered Precincts included in Protestant Tolentino's pilot precincts was to commence on 11 December 2017 from 9:00 o'clock in the morning at the Project Management Office of the Commission and shall continue until completion.

Upon receipt of the COMELEC letter on 05 December 2017, the Tribunal sent a *Notice of Decryption*, informing the parties of the scheduled decryption activity. Said *Notice* likewise directed Protestant Tolentino to remit directly to the Commission on Elections not later than 07 December 2017 the amount of Php 425,575.00 to cover the cost of decryption as specified in the COMELEC Order of Payment.

In a *Manifestation* dated 12 December 2017, Protestant, thru his personal representative Ms. Maria Cecilia Olivas and by way of special appearance, informed the Tribunal that he filed on 07 December 2017, by registered mail, an *Urgent Motion* praying that the payment to the COMELEC of the decryption costs

and the conduct of the decryption proceedings be held in abeyance; and for the Tribunal to grant him time to evaluate and limit the SD cards to be decrypted. A copy of the *Urgent Motion* dated 06 December 2017 was attached to the *Manifestation as Annex "A"*.

In the aforesaid *Manifestation*, Tolentino explained that the copy of the *Urgent Motion* for the COMELEC and counsel for the protestee were served through personal service. Considering that the officers and personnel of the Tribunal were then on a seminar/workshop and the resumption of work schedule would be on 11 December 2017, the fifteen (15) copies of the 07 December 2017 *Urgent Motion* were filed via registered mail to the Tribunal. He further stated that the copies sent did not contain an explanation so as not to create variance between the *Motion* served upon the other parties. Hence, Protestant begs the indulgence of the Tribunal to the above justification on why the explanation was no longer provided and prays that said *Manifestation* be considered sufficient compliance with the last paragraph of Rule 32 of the 2013 SET Rules.

Protestant Tolentino explained in his *Urgent Motion* dated 06 December 2017 that he only received a copy of the Tribunal's *Notice* a day before the 07 December 2017 payment deadline. Protestant likewise requested for time to further evaluate the results of the revision in order to limit the number of SD cards to be decrypted and authenticated. Said request, according to Protestant, stemmed from a possible change in the composition of his legal team. He asked the Tribunal to grant him fifteen (15) days from 06 December, or until 21 December 2017, within which to submit the list of SD cards which he intends to be decrypted and authenticated. Protestant posited that a limitation of the number of SD cards to be decrypted would abbreviate the proceedings and cut the costs of the decryption and printing of the picture images of the ballots.

On 20 December 2017, Villamor Associates and Consultants entered its appearance as collaborating counsel for Protestant Francis N. Tolentino and filed on the same date an *Urgent Motion (For Extension of Time to Evaluate and Limit the Number of SD Cards of the Clustered Precincts to be Decrypted)*. Protestant's collaborating counsel explained that the firm was only recently engaged and had in fact only filed an appearance on the same date as the *Urgent*

Motion. Protestant thus prayed that he be given an additional period of twenty (20) days from 21 December 2017, or until 10 January 2018, within which to provide a list of SD cards which he intends to be decrypted and authenticated.

On 28 December 2017, the law firm Esguerra & Blanco filed a *Withdrawal of Appearance* as collaborating counsel for Protestant Tolentino with the latter's conformity.

Rule 77 of the SET "Rules and Procedures Governing the Revision of Ballots under the Automated Election System" recognizes the right of any of the parties to request the decryption and authentication of the Secure Digital (SD) card of a contested precinct, which the Tribunal may grant if the interest of justice so requires. Such right is coupled with the right to choose which among the contested precincts he would want the SD Cards decrypted and authenticated. While the Tribunal may not encroach upon such prerogative, the parties cannot prevent the Tribunal from ordering the decryption of all contested precincts in order to shed light on the circumstances surrounding the case.

The Tribunal agrees with Protestant that by limiting the number of SD cards to be decrypted and authenticated, the proceedings will indeed be abbreviated. The actual comparison of the picture images vis-à-vis the ballots found inside the ballot boxes will take considerable time. However, the request for time arising from a change in a party's collaborating counsel appears to be dilatory. Be that as it may, the Tribunal grants the Protestant additional time in view of the holidays.

ACCORDINGLY, the Executive Committee of the Tribunal Resolves to:

- a. **NOTE** the *Manifestation and Urgent Motion* of Protestant Tolentino, both dated 12 December 2017;
- b. **NOTE** the Entry of Appearance of Villamor Associates and Consultants with office address at L17 6750 Building, Ayala Avenue Tower, Ayala Avenue, 1226 Makati City, Metro Manila as collaborating counsel for Protestant Francis N. Tolentino but **DENY** the request that it be furnished

copies of all orders, resolutions, processes and pleadings intended for Protestant Tolentino considering that Protestant's lead counsel is being furnished copies thereof;

- c. **NOTE** the *Withdrawal of Appearance* of the law firm Esguerra & Blanco as collaborating counsel for Protestant Tolentino; and
- d. **GRANT** Protestant Tolentino a non-extendible period of twenty (20) days from 21 December 2017, or until 10 January 2018, within which to provide the list of the SD cards which he intends to be decrypted and authenticated.

SO ORDERED.

08 January 2018.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Member



LUCAS P. BERSAMIN
Associate Justice
Member