



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,
Protestee.

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RESOLUTION NO. 16 - 131

The Tribunal resolves to **CONFIRM** the following Resolutions issued by the Executive Committee from 12 December 2017 to 18 April 2018:

1. **Resolution No. 16-86** dated 12 December 2017, which **GRANTED** the Commission on Elections (COMELEC) additional period of fifteen (15) days or until 27 December 2017 within which to explain why the Ballot IDs for Clustered Precincts Nos. 4 and 6 of San Jorge, Western Samar differ from the COMELEC-assigned ballot IDs as required in Resolution No. 16-83 dated 22 November 2017.
2. **Resolution No. 16-87** dated 08 January 2018, which:
 - a. **NOTED** the *Manifestation* and *Urgent Motion* of Protestant Tolentino, both dated 12 December 2017, informing 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 Secure Digital (SD) cards to be decrypted;
 - b. **NOTED** 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 Tolentino but **DENIED** 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. **NOTED** the *Withdrawal of Appearance* of the law firm Esguerra & Blanco as collaborating counsel for Protestant Tolentino; and
 - d. **GRANTED** 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.
3. **Resolution No. 16-88** dated 15 January 2018, which:
- a. **REQUIRED** Mr. Sancen D. Caroro, City Treasurer of Dipolog City, Zamboanga del Norte to **EXPLAIN** why the contents of the ballot box for Clustered Precinct No. 2 were damaged preventing its revision, and to **SHOW CAUSE** why he should not be held in contempt of the Tribunal for failing to preserve and maintain the integrity of ballots and other election documents while the same are under his custody, both within ten (10) days from receipt of the Resolution;
 - b. **REQUIRED** Ms. Francisca M. Jumao-as, Municipal Treasurer of Tuburan, Cebu to **EXPLAIN** why the ballot box for Clustered Precinct No. 2 contained wet ballots and elections documents and to **SHOW CAUSE** why she should not be held in contempt of the Tribunal for her failure to preserve and maintain the integrity of the ballots and other election documents while under her custody, both within ten (10) days from receipt of the Resolution;
 - c. **REQUIRED** Ms. Grace A. Jomillo, Municipal Treasurer of Dumangas, Iloilo to **EXPLAIN** why the contents of the ballot box for Clustered Precinct No. 8 which was turned-over to the SET collection team contained ballots and election documents belonging to another Clustered Precinct and to **SHOW CAUSE** why she should not be held in contempt of the Tribunal for failing to turn over the ballot box containing the correct ballots and election documents, both within ten (10) days from receipt of the Resolution; and further required Ms. Jomillo to bring to the SET offices within a period of fifteen (15) days from receipt of the Resolution the ballot box containing the correct ballots and election documents for Clustered Precinct No. 8, the expenses of which shall be on her personal account;
 - d. **REQUIRED** Ms. Alona U. Friades, Municipal Treasurer of Tongkil, Sulu to **EXPLAIN** why the ballot box for Clustered Precinct No. 15 which was turned-over to the SET collection team contained ballots and election documents belonging to another Clustered Precinct and to **SHOW CAUSE** why she should not be held in contempt of the Tribunal for this irregularity, both within ten (10) days from receipt of the Resolution; and further required her to bring the correct ballot box

for Precinct No. 15 to the COMELEC Office in Zamboanga City upon receipt of notice of the arrival of the SET Collection Team in the said area, the expenses of which shall be on her personal account;

- e. **REQUIRED** Ms. Mary Ann P. Bautista, City Treasurer of San Fernando City, Pampanga to **EXPLAIN** why the contents of the ballot box for Clustered Precinct No. 10 were damaged preventing its revision and to **SHOW CAUSE** why she should not be held in contempt of the Tribunal for failing to maintain the ballots and other election documents in good condition while under her custody, both within ten (10) days from receipt of the Resolution; and
 - f. **NOTED** the explanation of Ms. Regina C. Valerio, Acting Municipal Treasurer of Arayat, Pampanga, relative to the breakage on the upper black lid covers of the ballot boxes, with **WARNING** that the occurrence of similar lapses in the future will be dealt with more severely by the Tribunal.
4. **Resolution No. 16-89** dated 17 January 2018, which:
- a. **REQUIRED** the Election Records and Statistics Department of the Commission on Elections (COMELEC-ERSD) to decrypt the SD Cards and print the digital images of the ballots, election returns and audit logs of the Five Hundred Ninety Seven (597) Clustered Precincts included in the list attached as Annex "A" and to notify the Tribunal and the parties of the decryption schedule to enable them to send their representatives to witness the same;
 - b. **REQUIRED** the COMELEC to modify the Order of Payment of Protestant Tolentino to reflect the correct number of SD Cards to be decrypted and authenticated; and
 - c. **REQUIRED** Protestant Tolentino to settle directly with the COMELEC all costs attendant to the decryption of the SD Cards and printing of the images of the ballots, election returns and audit logs.
5. **Resolution No. 16-90** dated 17 January 2018, which:
- a. **REQUIRED** Protestant Tolentino to **PROVIDE** one (1) additional photocopying machine and ensure that the same must be in good working condition every day until completion of the photocopying activity; and **SUBMIT** the names and "1 x 1" ID pictures of his representatives who will man/operate the photocopying machine, both within two (2) days from receipt of the Resolution;

- b. **DECLARED** that Protestant Tolentino is deemed to have waived his right to photocopy the ballots claimed and/or objected to by his party revisors as well as the other election documents contained in the ballot boxes which were opened for photocopying from 29 December 2017 up to 05 January 2018 for his failure to replace the empty toner cartridge; and
 - c. **ORDERED** that the actual photocopying activity shall start not later than 8:30 in the morning, with warning that the absence of a representative to operate the party's copier shall be deemed a waiver of the right to photocopy the ballots claimed and/or objected to by party concerned as well as the other election documents contained in the ballot boxes which were opened for photocopying during the said period of absence.
6. **Resolution No. 16-91** dated 22 January 2018 which **DENIED** for lack of merit the *Urgent Motion* of Protestant Tolentino, dated 18 January 2018, praying that the conduct of the system date change of the Consolidation and Canvassing System (CCS) laptop scheduled on 25 January 2018 be made subject to pre and post technical and forensic examination by his representatives to ensure that there have been no modifications to the CCS laptop and that the system date change will not result to other intended or unintended modifications that will modify the way the CCS laptop operates.
7. **Resolution No. 16-92** dated 06 February 2018 which **GRANTED** the *Urgent Motion* filed by Protestant Tolentino dated 05 February 2018, praying for the postponement of the commencement of the presentation of evidence scheduled on 12 February 2018 to the following week or 19 February 2018 and for the resetting of the other scheduled hearing dates in accordance with such postponement, *provided, however*, that the delay caused by such postponement shall be charged to the period allotted for the presentation of Movant's evidence in accordance with Rule 64 of the 2013 Rules of the Senate Electoral Tribunal.
8. **Resolution No. 16-93** dated 12 February 2018, which:
 - a. **REQUIRED** the Comelec to furnish the Tribunal with certified true copies of Certificates of Canvass (COC) and Statistical Reports from the CCS laptop of Basco, Batanes within five (5) days from receipt of the Resolution; and

- b. **DIRECTED** the Acting Secretary of the Tribunal to set the schedule for the printing of all reports from the CCS laptop of Basco, Batanes upon receipt of all certified true copies of COCs and Statistical Reports from the COMELEC and notify the COMELEC and the parties of the said schedule.
9. **Resolution No. 16-94** dated 12 February 2018, which:
 - a. **ALLOWED** Protestant Tolentino to photocopy those ballots and election documents which he failed to photocopy from 29 December 2017 to 05 January 2018 and from 19 January 2018 to 30 January 2018;
 - b. **DIRECTED** both parties to conclude their photocopying activities not later than 23 March 2018, with warning that no further extension shall be allowed;
 - c. **REQUIRED** Protestant Tolentino to **DEPLOY** additional photocopying machines to fast track the activity in order to meet the time limit set and to **SUBMIT** the names and "1 x 1" ID pictures of his representatives who will operate the photocopying machines, both within two (2) days from receipt of the Resolution; and
 - d. **DIRECTED** the Financial Management Service of the Tribunal to charge against the cash deposit of Protestant Tolentino the costs of all the security seals used during the reopening of all ballot boxes which were already photocopied by Protestee de Lima.
10. **Resolution No. 16-95** dated 12 February 2018, which resolved to **NOTE** the COMELEC *Manifestation* dated 07 February 2018 informing the Tribunal of the pull-out by the COMELEC Information Technology Department of certain equipment, peripherals and materials for the end-to-end laboratory testing of the Vote Counting Machines (VCMs) at the COMELEC Warehouse in Sta. Rosa City, Laguna in connection with the finalization of the Enhancement of the Automated Election System (AES) on 12 February 2018. With the assurance that said equipment, peripherals and materials are not covered by the contested clustered precincts of Protestant Tolentino, the Tribunal interposed **NO OBJECTION** to the said activity.
11. **Resolution No. 16-96** dated 19 February 2018, which resolved to
 - a. **DENY** Protestee de Lima's *Comment/Opposition* dated 18 January 2018 praying that the SD cards pertaining to those clustered precincts wherein the Statement of Votes by Precincts (SOVPs), the Election Returns (ERs) and the physical count of Official Ballots all tally and match should be excluded from the decryption and authentication;

- b. **NOTE** Protestee de Lima's *Manifestation* dated 31 January 2018 reiterating her prayer for the Tribunal to limit the number of clustered precincts for decryption and authentication;
- c. **NOTE** Protestant Tolentino's *Comment* dated 29 January 2018 (acknowledging that the incorrect number of clustered precincts appearing in the list he submitted was merely an inadvertence); *Manifestation* dated 02 February 2018 (explaining why he was unable to make timely arrangements for the payment of the costs of decryption); and *Manifestation* dated 06 February 2018 (furnishing the Tribunal a copy of the COMELEC Official Receipt evidencing payment of the cost of decryption);
- d. **REQUEST** the COMELEC-ERSD to give priority to the decryption of the SD Cards for the following clustered precincts:
- San Jose de Buan, Western Samar - Clustered Precinct No. 1 (1A, 1B, 1C)
 - Calbayog City, Western Samar - Clustered Precinct No. 2 (3B, 4A, 4B, 4C)
 - Santa Margarita, Western Samar - Clustered Precinct No. 1 (1A, 1B, 2A, 2B)
 - Sindangan, Zamboanga del Norte - Clustered Precinct No. 9 (22B, 23A, 23B, 23C); and
 - Dipolog City, Zamboanga del Norte - Clustered Precinct No. 3 (6B, 7A, 8A, 8B, 9A, 9B)
- e. **REQUEST** the COMELEC-ERSD to decrypt the SD cards for Clustered Precinct No.1 (15A, 15B, 16A,16P1) of Al-Barka, Basilan and Clustered Precinct No.1 (1A, 1B, 2A, 3A, 4A) of Bocaue, Bulacan and likewise give priority thereto; and **DIRECT** Protestant Tolentino to remit directly to the COMELEC the additional cost of decryption; and
- f. **ALLOW** the COMELEC-ERSD to use the back-up SD cards for decryption and authentication, as well as printing of the picture images of the ballots, in cases where the SD cards are missing, lacking or misplaced, and similar circumstances, whenever necessary.

12. **Resolution No. 16-97** dated 20 February 2018, which resolved to:

- a. **SET** the continuation of the revision proceedings on 05 March 2018 at 8:00 o'clock in the morning at the Tribunal Session Hall;

- b. **REQUIRE** the parties to submit the list of their duly accredited party revisors which should be equal in number to the revision teams formed, as well as their alternate party revisors, party supervisor and party counsel, or submit for accreditation the names, addresses and "1 x 1" ID pictures of their respective representatives, as the case may be, not later than 26 February 2018;
- c. **REQUIRE** Protestee de Lima to deposit the amount of FOUR THOUSAND PESOS (Php4,000.00) not later than 26 February 2018 as her share in the revision cost;
- d. **NOTE** the delivery to the Tribunal of nine (9) ballot boxes belonging to the pilot precincts of Protestant Tolentino in Pagbilao, Quezon on 06 December 2017 by Municipal Treasurer Aristeo G. Catalla in compliance with Resolution No. 16-83 dated 22 November 2017;
- e. **NOTE** the delivery to the Tribunal of one (1) ballot box belonging to the pilot precincts of Protestant Tolentino in Calbayog City, Western Samar on 11 December 2017 by Assistant City Treasurer Ma. Evelyn O. Junio in compliance with Resolution No. 16-83 dated 22 November 2017;
- f. **NOTE** the delivery to the Tribunal of one (1) ballot box belonging to the pilot precincts of Protestant Tolentino in San Jorge, Western Samar on 12 December 2017 by Acting Municipal Treasurer Ofelia C. Adesas, in compliance with Resolution No. 16-83 dated 22 November 2017; and
- g. **NOTE** the delivery to the Tribunal of one (1) ballot box belonging to the pilot precincts of Protestant Tolentino in Dumangas, Iloilo on 30 January 2018 by Municipal Treasurer Grace A. Jomillo, Election Officer III Fralyn G. Marfori and the Provincial Election Supervisor, Atty. Elizabeth D. Doronilla, in compliance with Resolution No. 16-88 dated 15 January 2018.

13. **Resolution No. 16-98** dated 20 February 2018, which resolved to:

- a. **DENY** Protestant Tolentino's *Urgent Motion* (To Request for the Suspension of Presentation of Evidence for Seven Calendar Days after Completion of Decryption and Authentication of Ballots) for lack of merit;
- b. **DENY** Protestant Tolentino's *Urgent Motion* (To Cause the Electronic Comparison of Decrypted and Authenticated Ballots with Actual Ballots) for lack of merit; and

- c. **DIRECT** the Information and Communication Systems and Judicial Records Management Service (ICSJRMS) of the Tribunal to release immediately to the Protestant copies of the Digital Video Discs (DVDs) of the decrypted ballots pertaining to the twelve (12) clustered precincts which form part of Protestant's evidence as stated in the Amended Preliminary Conference Order dated 09 May 2017 upon decryption of the said precincts.
14. **Resolution No. 16-99** dated 20 February 2018 which **REQUIRED** Protestee de Lima to comment within five (5) days from receipt of the Resolution on the *Urgent Motion (To Admit Additional Evidence)* filed by Protestant Tolentino dated 19 February 2018, praying that he be allowed to present additional evidence as identified in his Motion and that corresponding amendments be made to the Amended Preliminary Conference Order dated 09 May 2017 to reflect such additional evidence.
 15. **Resolution No. 16-100** dated 28 February 2018 which, in connection with Resolution No. 16-97 dated 20 February 2018, resolved to:
 - a. **NOTE** the *Compliance with Reservation* of Protestant Tolentino dated 26 February 2018;
 - b. **NOTE** the *Compliance* of Protestee de Lima dated 26 February 2018;
 - c. **GRANT** Protestee's *Motion to Photocopy* the ballots and the Minutes of Voting and Counting (MOVs), Election Returns (ERs), Initialization Reports, Audit Log Reports, and Voter's Receipts from each of the precincts to be revised, subject to the conditions set forth in Resolution No. 16-70 dated 18 October 2017;
 - d. **NOTE** the names of Protestee de Lima's representatives who shall man the photocopying of the aforementioned election documents; and
 - e. **REQUIRE** Protestant Tolentino to inform the Tribunal within two (2) days from receipt of the Resolution if he also intends to photocopy the objected and claimed ballots and the election documents from each of the precincts to be revised, and if so, to submit the names of his representatives who shall operate the photocopying machines.
 16. **Resolution No. 16-101** dated 05 March 2018 which **DENIED** Protestant Tolentino's *Motion for Partial Reconsideration* [of Resolution 16-97 dated 20 February 2018] for lack of merit.

17. **Resolution No. 16-102** dated 08 March 2018 which **DENIED** for being premature the *Urgent Motion* of Protestee de Lima dated 03 January 2018 praying for a declaration that Protestant Tolentino failed to obtain any reasonable recovery during the revision of his twenty-five percent (25%) designated pilot precincts; for the issuance of an Order disallowing the revision of the remaining protested precincts; and for the dismissal of the instant protest.
18. **Resolution No. 16-103** dated 08 March 2018, which resolved to:
- a. **INFORM** the Electoral Contests Adjudication Department (ECAD) , Second Division, of the COMELEC that it may conduct its revision and/or appreciation proceedings in relation to EPC Case No. 2016-37 (*Abdusakur M. Tan vs. Mujiv S. Hataman*) in the premises of the Tribunal located at the Electoral Tribunals Building, COA Compound, Batasan Road, corner Commonwealth Avenue, Quezon City;
 - b. **INFORM** the Honorable Presiding Judge of Branch 81, Regional Trial Court, Malolos City, Bulacan, that he may conduct the revision/recount proceedings in relation to EPC Case No. 04-M-2016 (*Kuya Jim Valerio vs. Eleanor V. Tugna a.k.a. Joni JJV Villanueva*) in the premises of the Tribunal; and
 - c. **REQUEST** the COMELEC-ECAD (Second Division) and the Honorable Presiding Judge of RTC Branch 81, Malolos City, Bulacan, to communicate their preferred schedules to the Acting Secretary of the Tribunal.
19. **Resolution No. 16-104** dated 08 March 2018, which resolved to:
- a. **PARTIALLY GRANT** Protestant Tolentino's *Urgent Motion* (To Admit Additional Evidence) dated 19 February 2018;
 - b. **SET** the resumption of the reception of evidence for the Protestant on 22 March 2018 at 9:00 o'clock in the morning and shall proceed daily until completion, with **WARNING** that no further postponement shall be allowed;
 - c. **REQUIRE** Protestant Tolentino to file within two (2) days from receipt of the Resolution all Requests for the Issuance of Subpoena, subject to the following requisites: a) witnesses must be identified by name, with their respective positions or designations, the offices they represent, as well as the specific addresses where the subpoenas may be properly served; b) all documents should be clearly described and the custodians properly identified; and c) the date when the witnesses and/or documents are to be presented;

- d. **REQUIRE** the COMELEC-ERSD to furnish Protestant Tolentino anew with uncorrupted copies of the DVD of the decrypted SD Cards containing to the following precincts:

Precinct No.	City/Municipality	Province
0015A	Al-Barka	Basilan
0001A	Picong (Sultan Gumander)	Lanao del Sur
0044A	Sultan Naga Dimaporo (Karomatan)	Lanao del Norte
0080A	Pikit	North Cotabato
0001A	Cordoba	Cebu
0001A	San Jose de Buan	Western Samar
0004A	Calbayog City	Western Samar
0001A	Santa Margarita	Western Samar
0001A	Bocause	Bulacan
0029P1	Iloilo City	Iloilo
0022B	Sindangan	Zamboanga del Norte
0008B	Dipolog	Zamboanga del Norte

- e. **NOTE** Protestant's *Urgent Motion* dated 12 February 2018, praying that the hearing date to present the affidavit of Mr. Felix P. Muga II be reset from 19 February 2018 to 27 February 2018 for being moot and **DISALLOW** the presentation of Mr. Muga in subsequent hearings as Protestant is deemed to have waived his right to present Mr. Muga's testimony for failure to comply with Rule 66 of the 2013 SET Rules;
- f. **NOTE** Protestant's *Motion for the Issuance of Subpoena Duces Tecum and Ad Testificandum* dated 12 February 2018;
- g. **NOTE** without action for being moot Protestant's *Urgent Motion* dated 14 February 2018, praying for the further postponement of the presentation of evidence to Monday 26 February 2018 and for the resetting of scheduled hearing dates in accordance with such postponement;
- h. **NOTE** the COMELEC's *Motion for Postponement to Comply with the Subpoena Duces Tecum and Ad Testificandum* dated 13 February 2018 and the subsequent presentation of the testimony of Mr. Rouie J. Peñalba on 27 February 2018;

- i. **NOTE** without action for being moot Protestant's *Urgent Motion to Reset Hearings* dated 19 February 2018;
 - j. **NOTE** Protestant's *Motion for the Issuance of Subpoena Ad Testificandum* dated 19 February 2018;
 - k. **NOTE** without action for being moot Protestant's *Motion for the Issuance of Subpoena Ad Testificandum* dated 21 February 2018; *Motions for the Issuance of Subpoena Duces Tecum and Ad Testificandum* dated 22 February 2018 and 23 February 2018;
 - l. **NOTE** the additional personnel authorized by the Protestant to operate the photocopying machine relative to the photocopying of ballots, with a reminder that 23 March 2018 has been set as the deadline for the photocopying activity; and
 - m. **NOTE** the *Entry of Appearance* Maria Cecilia I. Olivas as collaborating counsel for the Protestant filed on 02 March 2018.
20. **Resolution No. 16-105** dated 21 March 2018, which **DIRECTED** the ICSJRMS of the Tribunal to release immediately to Protestant Tolentino copies of all the DVDs of the decrypted ballots, audit logs and election returns which are in its custody.
21. **Resolution No. 16-106** dated 18 April 2018, which **DECLARED** that the revision proceedings involving the pilot precincts of Protestant Tolentino is deemed terminated.
22. **Resolution No. 16-107** dated 18 April 2018, which resolved to **INFORM** Protestee de Lima that her *Urgent Motion* dated 16 October 2017 praying for the dismissal of the protest shall be included in the agenda during the next meeting of the Tribunal, in view of the failure to muster a quorum during the 08 March 2018 Tribunal meeting.
23. **Resolution No. 16-108** dated 18 April 2018, which:
- a. **NOTED** Protestant Tolentino's *Urgent Motion* (For additional Time to Photocopy) dated 20 March 2018, as well as the photocopying activity that was undertaken on April 2 to 6, 2018 by the Canvass Board Service of the Tribunal; and

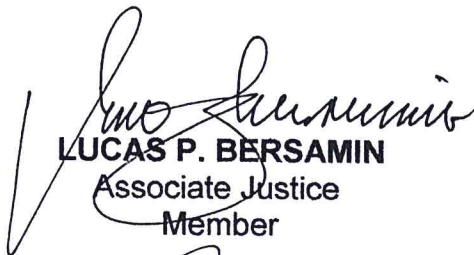
- b. **NOTED** the *Urgent Motion* dated 03 April 2018 filed by Protestant Tolentino, praying for the transmittal of the "meta data" submitted by Ms. Ma. Corazon M. Akol of the National Movement for Free Elections (NAMFREL) to Mr. Yu of the Parish Pastoral Council for Responsible Voting (PPCRV); the submission of the *meta data* by Ms. Corazon M. Akol; and the transmittal of the said data to the PPCRV by the Hearing Commissioner.

SO ORDERED.

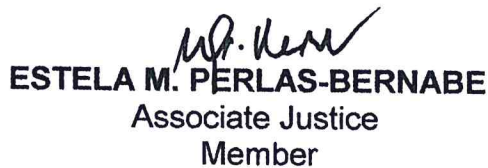
27 September 2018.




ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice
Member



ESTELA M. PERLAS-BERNABE
Associate Justice
Member



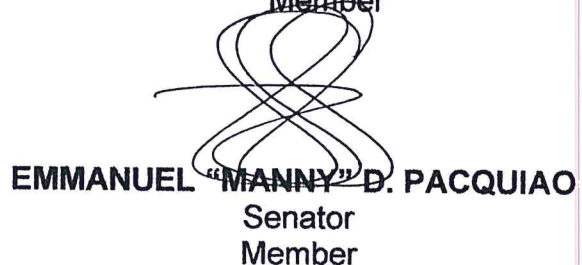
RICHARD J. GORDON
Senator
Member



MARIA LOURDES "NANCY" S. BINAY
Senator
Member



JOEL VILLANUEVA
Senator
Member



EMMANUEL "MANNY" D. PACQUIAO
Senator
Member



FRANKLIN M. DRILON
Senator
Member



ANTONIO "SONNY" F. TRILLANES IV
Senator
Member