

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

Center for People Empowerment in
Governance,

Petitioner,

- versus -

G. R. No.

Commission on Elections,
Respondent.

For: MANDAMUS

X-----X

PETITION

Petitioner Center for People Empowerment in Governance ("CenPEG", for brevity), by counsel, respectfully files this petition under Rule 65 of the 1997 Rules of Civil Procedure (the "**Rules**", for brevity).

Prefatory Statement

"It is the policy of the State to ensure free, **orderly, honest**, peaceful, **credible** and informed **elections**, plebiscites, referenda, recall and other similar electoral exercises by improving on the election process and adopting systems, which shall involve the use of an **automated election system** that will ensure the **secrecy** and **sanctity** of the ballot and all **election, consolidation and transmission** in order that the process shall be **transparent and credible** and that the results shall be fast, **accurate** and **reflective of the genuine will of the people**". (Emphasis supplied; Section 1, Republic Act 9369)

Propriety And Nature Of Petition

1. The pertinent portion of Section 3 of Rule 65 of the **Rules** provides:

"Section 3. Petition for mandamus. — **When any tribunal, corporation, board, officer or person unlawfully neglects the performance** of an act which the law **specifically enjoins as a duty resulting from an office**, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is **no other plain, speedy and adequate remedy in the ordinary course of law**, the person aggrieved thereby may file a **verified petition** in the proper **court**, alleging the facts with certainty and praying that judgment be rendered **commanding the respondent, immediately** or at some other time to be specified by the court, **to do the act required to be done to protect the rights of the petitioner, and to pay the damages**

sustained by the petitioner by reason of the wrongful acts of the respondent.” (Emphasis supplied).

2. The pertinent portion of Section 4 of Rule 65 of the **Rules** provides:

“Section 4. When and where petition filed. —

“The petition shall be filed in the **Supreme Court** or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court.” (Emphasis supplied)

3. The pertinent portion of Section 12, RA 9369, reads:

“**Once** an **AES technology** is **selected** for implementation, the Commission shall **promptly** make the **source code** of that **technology available and open** to **any** interested political party or **groups** which may conduct their **own** review thereof.” (Emphasis supplied).

4. The instant petition involves the unlawful delay by, therefore tantamount to the refusal of, the respondent Commission on Elections (“COMELEC”, for brevity) to perform the ministerial duty of making the source code available to any interested group, such as CenPEG, in order that the latter may conduct its own review thereof.

5. There being no other plain, speedy and adequate remedy in the ordinary course of law to correct or overrule respondent’s unlawful refusal to perform its duty under the law, CenPEG has no other choice but to file this petition.

6. This petition is filed directly with this Honorable Supreme Court because:

6.1. the agency involved is no other than the COMELEC, the decisions of which are reviewable only by this Honorable Supreme Court; and,

6.2. the urgency of the matter involved which must be decided at the highest level at the soonest possible time since:

6.2.1. a source code review takes months to accomplish; and,

6.2.2. the May 10, 2010 Synchronized National and Local Elections are already fast approaching.

Timeliness Of Petition

7. The pertinent portion of Section 4 of Rule 65 of the **Rules** provides:

“The petition shall be filed **not later than sixty (60) days** from **notice** of the judgment, order or **resolution**. In case a motion

for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.” (Emphasis supplied)

8. On **26 August 2009**, respondent, through its Director IV, Law Department, Atty. Ferdinand T. Rafanan issued **Doc. No. 09-0771** (“**Doc 09-0771**”, for brevity).
9. This being the case, the instant petition is being filed within the prescribed period given therefor.

Parties

10. CenPEG is a non-government organization which is duly incorporated with the Securities and Exchange Commission (“SEC”, for brevity). CenPEG is involved in the review of government policies and is probably the first group which chose to exercise its right under Sec. 12 of Rep. Act No. 9369 to review the source code of the technology behind the Automated Election System for the May 10, 2010 Synchronized National and Local Elections. It holds office at Rm. 304, CSWCD Bldg., University of the Philippines, Diliman, Quezon City. However, it may be served with papers, notices, and processes of this Honorable Court through the undersigned counsel.
11. COMELEC is the constitutional commission tasked to enforce and administer all laws and regulations relative to the conduct of an election, according to Sec. 2, par. (1) of Article IX-C of the 1987 Constitution. It may be served with summons and notices, as well as papers and other processes of this Honorable Court through its Chairman, Hon. Jose Armando R. Melo, at the Commission on Elections, Postigo Street, Intramuros, Manila 1002.

Statement Of Facts

12. On Jan. 23, 2007, the Congress passed Rep. Act No. 9369 entitled “AN ACT AMENDING REPUBLIC ACT NO. 8436, ENTITLED ‘AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, TO ENCOURAGE TRANSPARENCY, CREDIBILITY, FAIRNESS AND ACCURACY OF ELECTIONS’, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 881, AS AMENDED, REPUBLIC ACT NO. 7166 AND OTHER RELATED ELECTION LAWS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES.”
13. Sec. 12 of Rep. Act No. 9369, amending Sec. 10 of Rep. Act No. 8436, specifically paragraph 5 thereof, provides that:

“Once an **AES technology** is **selected** for implementation, the Commission shall **promptly** make the **source code** of that **technology available and open** to **any** interested political

party or **groups** which may conduct their **own** review thereof." (Emphasis supplied).

14. On **26 May 2009**, CenPEG addressed a letter to COMELEC. A copy of the letter is hereto attached and made an integral part hereof as **Annex "A"**.

14.1. In said letter, CenPEG formally requested COMELEC to provide it with "a copy of the source code of the PCOS programs, the BOC CCS programs for the municipal, provincial, national, and congressional canvass, the Comelec server programs, and to include the source code of the in-house Comelec programs called the DCS utilities."

14.2. CenPEG added that "We are making this request as an interested party to do a source code review, as provided for by RA 9369."

15. On **24 June 2009**, COMELEC, through its Executive Director Atty. Jose M. Tolentino, Jr., addressed its response to CenPEG. A copy of the letter-response is hereto attached and made an integral part hereof as **Annex "B"**.

15.1. In said letter, COMELEC informed CenPEG that it has granted "the request for the source code of the PCOS and CCS but denying that for the DCS."

15.2. Attached to said letter-response was a copy of COMELEC *Minute Resolution No. 09-0366* dated June 16, 2009. A copy of the said resolution is hereto attached and made an integral part hereof as **Annex "C"**. The pertinent portion of which, bracketed and marked as **Annex "C-1"**, reads:

"2. to approve the recommendation of the Executive Director Jose M. Tolentino to **grant** the request of CenPEG for the **source code of the PCOS and CCS for the Municipal, Provincial Congressional and National Canvassing;**"
(Emphasis supplied)

16. With the receipt of the en banc resolution, CenPEG immediately went down to work, and in close coordination with the University of the Philippines College of Law-Office of the Dean, the chairpersons of the Ateneo Department of Information Systems and Computer Science, Department of Computer Science of the UP College of Engineering, Dean of the De La Salle College of Computer Studies and consulting with various IT experts in security systems and even with the Technical Evaluation Committee Director Dr. Dennis Villoriente, preparations on the organization for the source code review were undertaken.

16.1. Dr. Jaime D. L. Caro, Faculty and Chair, Department of Computer Science, UP College of Engineering; Prof Rommel P. Feria, faculty of the Department of Computer Science, UP College of Engineering, Dr. Regina Estuar, Chair of the Department of Information Systems and Computer Science of Ateneo de Manila University, Prof Sherwin Ona, Chair of the IT department of the De La Salle College of

Computer Studies and Angelito Averia, Jr., an IT expert and Systems Security Analyst, president of the Philippine Computer Emergency Response Team (PhCERT) who have all committed to help in the SOURCE CODE review group along with CenPEG's pool of independent IT experts led by Dr. Pablo Manalastas.

- 16.2. Another group composed of Bishop Deogracias Yniguez, chairman of the Commission on Ecumenical Affairs of the Catholic Bishops Conference of the Philippines (CBCP), Bishop Broderick Pabillo, chairman of the Episcopal Commission on Social Action of the CBCP and Head of the National Secretariat for Social Action or NASSA and Conrado M. Dayrit III, an ICT entrepreneur and a member of Financial Executives Institute of the Philippines (FINEX) have also committed to provide organizational, moral and logistical support for an independent and secured source code review to ensure the integrity of the systems to be used in the May 2010 elections, in compliance with the provisions in the law regarding source code review by "interested parties and groups" outside of the Comelec and Smartmatic.
17. On **10 July 2009**, COMELEC entered into a "Contract for the Provision of an Automated Election System for the May 10, 2010 Synchronized National and Local Elections" with Smartmatic TIM Corporation. A copy of the said contract is hereto attached and made an integral part hereof as **Annex "D"**. The pertinent portion of which, bracketed and marked as **Annex "D-1"**, reads:

"9.5 The PROVIDER **shall** deposit in escrow with the Bangko Sentral ng Pilipinas, a **copy of the master disk** together with the software listing, object code, **source code** and all other information and documentation and operations manuals.

The PROVIDER and COMELEC shall promptly make the source code of the Project available and open to any interested political party or groups which may conduct their own review thereof pursuant to Sec. 12 of RA 9369 in accordance with the provisions of Article 7.2 above." (emphasis supplied).

18. On **13 July 2009**, CenPEG wrote another letter to COMELEC. A copy of said letter is hereto attached and made an integral part hereof as **Annex "E"**.
 - 18.1. In said letter, CenPEG expressed its gratitude to COMELEC for the approval of its request for a copy of the source code.
 - 18.2. However, CenPEG made the following requests in connection with the intended source code review:
 - 18.2.1. That the source code of the PCOS Program (SAES-1800 election application) and the CCS canvassing program (REIS v2.0) be supplied in softcopy format;

- 18.2.2. That design documents (Rational-Rose diagrams or their equivalent, if any) be supplied in softcopy or printouts;
- 18.2.3. That application programming interface (API) documentation for third party libraries, if any had been used in writing the programs, be also provided in either softcopy, printouts, manual pages, or URL address; and,
- 18.2.4. That documentation on system administration settings for both the PCOS and CCS Linux machines be also released in detail.
19. On **17 July 2009**, CenPEG wrote another letter to COMELEC. A copy of this letter is hereto attached and made an integral part hereof as **Annex "F"**.
- 19.1. In said letter, CenPEG expressed its frustration that "up to now, there are no clear guidelines about how to go about the Source Code Review ("SCR", for brevity) even if the Comelec has approved requests for the review as prescribed by the law." (Insertion supplied)
- 19.2. According to CenPEG, the guidelines should have been done much earlier, that is "before hardware manufacturing and customization are set to motion".
- 19.3. In closing, CenPEG made an urgent request, bracketed and marked as **Annex F-1**", thus:
- "With the Comelec timetable already delayed by more than a month, and **source code requiring quality time to review**, may we ask your good office to provide us **immediately** the copy of the source code (per Comelec Minute Resolution No. 09-0366 dated June 16, 2009) as officially provided by the vendor Smartmatic-TIM for the AES in 2010. CenPEG and our AES Study Team from the UP College of Law will be ready to pick it up from your office to avoid further delay." (Emphasis supplied)
20. On **20 July 2009**, CenPEG addressed yet another letter to COMELEC. A copy of this letter is hereto attached and made an integral part hereof as **Annex "G"**.
- 20.1. In said letter, CenPEG manifested its readiness to "**pick up the copy of the source code from your office today or tomorrow to start immediately the review**".
- 20.2. Moreover, CenPEG again emphasized that "**source code review takes time**" and mentioned that COMELEC should "avoid a repeat of the 2007 (sic; must be 2008) ARMM elections when the source code was not reviewed for 'lack of time'."

21. Unfortunately, almost two months passed, yet CenPEG had not received the copy of the source code for the counting and canvassing software for review despite incessant follow ups—through letters, phone calls, text messages and actual visits to the COMELEC offices -- with the different offices at the Comelec including those of ITD Director Jeannie V. Flororita, Mr. Ferdie de Leon of the Systems Operations Division (MINNA), Executive Director Jose Tolentino, Jr., Commissioner Rene Sarmiento and even the COMELEC Chairman, Jose Melo himself, not to mention the Former Ambassador Tita de Villa, chair of PPCRV and NAMFREL who were furnished letters of CenPEG's follow ups on the COMELEC-granted release of the source code.
22. On **24 August 2009**, exasperated over the run-around given it by Respondent COMELEC as well as Respondent COMELEC's dilly-dallying on the issue of the release of the source code to interested parties, CenPEG sent yet another letter to COMELEC, through counsel, demanding that the subject source codes must be released on or before the end of business hours of Friday, August 28, 2009. A copy of this letter is hereto attached and made an integral part hereof as **Annex "H"**.
23. On **26 August 2009**, through a letter written by Atty. Ferdinand T. Rafanan, Director IV, Law Department, COMELEC delivered the *coup de grâce* to CenPEG's quest for a copy of the source code of the AES technology to be used in the May 10, 2010 Synchronized National and Local Elections. An **ORIGINAL** copy of the letter is hereto attached and made an integral part hereof as **Annex "I"**. The pertinent portion of said letter reads:

"Note however that the source code 'for implementation' referred to **does not currently exist** for the following reasons:

- 1) **The baseline source code of the provider has not been received.** This should not come as a surprise to you since you are well aware that no payment has been made to the provider as of this date, in deference to the Supreme Court Petition filed to withhold payment from (sic) the Concerned Citizens Movement,
- 2) The **customization** of the baseline source code is currently targeted for completion in November 2009.
- 3) Under **Sec. 11** of RA9369, the customized source code shall be reviewed by 'an established international certification entity', on which basis, among others, the Technical Evaluation Committee shall issue its certification. The current target for completion of the customized source code review by 'an established international certification entity' is end February 2010.
- 4) Only **thereafter** will the AES technology 'selected for implementation' be available and can be made 'open to any interested political party or groups' for review **under a controlled environment.**" (Emphasis supplied).

Ground

DESPITE THE FACT THAT IT HAD LONG SINCE SELECTED AN AUTOMATED ELECTION SYSTEM TECHNOLOGY FOR THE MAY 10, 2010 SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS, COMELEC REFUSES TO MAKE THE SOURCE CODE THEREOF AVAILABLE FOR REVIEW.

Discussion

24. Sec. 12 of Rep. Act No. 9369, amending Sec. 10 of Rep. Act No. 8436, specifically paragraph 5 thereof, provides that:

“Once an AES technology is selected for implementation, the Commission shall promptly make the source code of that technology available and open to any interested political party or groups which may conduct their own review thereof.” (Emphasis supplied).

25. An AES technology for implementation has already been selected.

- 25.1. Section 2(a) of RA 8436 defines the AES as follows:

“a system using appropriate technology which has been demonstrated in the voting, counting, consolidating, canvassing and transmission of election results, and other related electoral processes.”

- 25.2. According to items 3, 4 and 9 of COMELEC Resolution No. 8576 dated 26 January 2009, the AES Technology selected is defined thus:

“AES Technology Selected - the AES technology selected for the May 10, 2010 synchronized national and local election. Specifically, this is a paper-based election system using city-municipality-configured paper ballots, the Precinct Count Optical Scan (PCOS) technology for counting at the precincts, and optionally on the part of the bidder, the use of the consolidation/canvassing system (CCS) adopted by the Commission in the 2008 election of regional officials in the Autonomous Region in Muslim Mindanao”.

- 25.3. As established in the case of “H. Harry L. Roque, et al. vs. COMELEC, et al.” G.R. No. 188456:

“... in March 2009, the Comelec released the Request for Proposal (RFP), also known as the Terms of Reference (TOR) for the nationwide automation of the voting, counting, transmission, consolidation and

canvassing of votes for the May 2010 Synchronized National and Local Elections. What is referred to also in the RFP and other contract documents as the 2010 Elections Automation Project (Automation Project) consists of three elaborate components, as follows:

“Component 1: Paper-based AES. 1-A. Election Management System (EMS); 1-B Precinct-Count Optic Scan (PCOS) System and 1-C. Consolidation/Canvassing System (CCS);

“Component 2: Provision for Electronic Transmission of Election Results using Public Telecommunications Network; and

“Component 3: Overall Project Management”

25.3.1. Section 2 of RA 9369 defines “Paper-based Automated Election System as a type of automated Election system that uses paper ballots; records and counts votes; and tabulates, consolidates/canvasses and transmits electronically the results of the vote counts.

25.3.2. The Glossary of Terms of the RFP defines “PCOS” as referring to a technology wherein an optical ballot scanner, into which optical scan paper ballots marked by hand by the voter are inserted to be counted, is located in every precinct.

25.4. From among these submissions, COMELEC selected for implementation in the 2010 election, the AES technology product of the Smartmatic-TIM consortium, consisting of:

25.4.1. paper-based ballot design by Smartmatic;

25.4.2. the Smartmatic SAES-1800 PCOS computer;

25.4.3. electronic transmission by cellular modem;

25.4.4. CCS computers running the Smartmatic REIS version 2.0 canvassing program; and,

25.4.5. EMS computers for customizing the AES technology for use in the Philippines.

25.5. Indubitably, by accepting the bid of the Smartmatic-TIM Consortium, at the latest, COMELEC already selected the AES for implementation.

26. The Source Code for the AES Technology selected for implementation exists.

26.1. Section 2(12) of RA 9369 defines the Source Code thus:

“12. Source Code – human readable instructions that define what the computer equipment will do.”

26.2. From the Financial Proposal of the Smartmatic-TIM Consortium dated 04 May 2009, the source codes are for the following machine executables:

26.2.1. Component 1-A Item 1.1.1 EMS Application;

26.2.2. Component 1-B Item 1.1.2 PCOS Firmware Voting Application 1.29; and,

26.2.3. Component 1-C Item 1.1.3 CCS Application.

26.2.4. In particular, the source codes of the AES technology selected for implementation refer to the following three items:

26.2.4.1. the source code of the ballot scanning and vote counting computer program (source code of SAES-1800) that runs on the PCOS computers;

26.2.4.2. the source code of the vote consolidation and canvassing program (source code of REIS version 2.0) that runs on the CCS Board of Canvassers computers; and,

26.2.4.3. the source code of the Election Management System (EMS) that customizes the PCOS for use in the Philippines, and for use in specific municipalities and cities.

26.3. The foregoing source codes were used in order to run the computers during the COMELEC SBAC testing.

26.3.1. In order to perform the tasks it is designed to do, a computer needs the machine version of the source code – the machine executable program.

26.3.2. Another computer program is usually needed to convert the source code into machine executable. This program is called a compiler, since for each high-level instruction in the source code, the compiler needs to "compile" several simple machine language instructions to carry out the intent of that high-level instruction.

26.3.3. The SAES-1800, the REIS v2.0, and the EMS utilities have source codes, and from the source codes, the machine executable versions were compiled.

26.3.4. The compiled machine executables are the ones that were running on the machines that were tested on 27 -29 May 2009 at the COMELEC SBAC testing.

27. The customization of the source code does not, as it cannot, change the source code.
- 27.1. In paragraph 2 of page 3 of the contract between COMELEC and the Smartmatic-Tim Consortium dated 10 July 2009, "customization" is meant the modification, conversion, or adaptation of the software to suit the requirements of Philippine laws and the general instructions of COMELEC on the conduct of the elections.
- 27.2. In the case of the PCOS software, customization will define the parametric data that the PCOS software will need to be usable for the Philippines. The parametric data will be supplied to the PCOS computer using Election Markup Language (EML) files produced by the EMS computers and contained in the compact-flash (CF) cards that the PCOS can read and interpret.
- 27.3. In the Financial Proposal of Smartmatic-TIM Consortium to COMELEC dated 04 May 2009, "Component 1-B Item 1.1.2 PCOS Firmware Voting Application 1.29" dictates that the PCOS program be burned into firmware.
- 27.4. As far as the PCOS computer is concerned, any customizations done by COMELEC or Smartmatic for the PCOS computer only affects the data of the computer program and not the computer program itself. This is because the PCOS computer program is "burned" in PCOS firmware (ROM or flash) at the factory. Such firmware program can only be read and executed, but can not be written to, in order to allow "customizations.
- 27.5. Furthermore, any customization done by either COMELEC or Smartmatic-TIM cannot affect the PCOS program, since neither COMELEC nor Smartmatic-TIM has the right to amend, change, or develop software or firmware or EMS under the License Agreement between Dominion Voting Systems and Smartmatic International Corporation. Item 7 of the License Agreement between Smartmatic International Corporation and Dominion Voting Systems dated April 4, 2009 provides:
- "... Dominion will retain sole liability to amend, change or develop all software, or firmware or EMS".
- 27.6. Neither Smartmatic nor COMELEC intends to write or produce "customized source code", since in order to do so, Smartmatic or COMELEC has to hire programmers to study the baseline source code and to modify the existing code with new ones to accommodate the intended source code customizations.
- 27.6.1. Not only is this process time consuming, but also expensive, as any Filipino software company will attest to.
- 27.6.2. There are no cost listings of Smartmatic for any budgetary items for programmers; and,

- 27.6.3. There is no schedule for source code customizations in the COMELEC calendar.
- 27.7. Since customization cannot amend nor change the PCOS program, customization cannot amend or change the source code of the PCOS program.
- 28. It is necessary to review the source code.
 - 28.1. Since the source code is, simply, a set of instructions which the computer will follow, the public has the right to know if the instructions given to the computers will promote free, orderly, honest, peaceful, credible and informed elections and will ensure the secrecy and sanctity of the ballot and all election, consolidation and transmission in order that the process shall be transparent and credible and that the results shall be fast, accurate and reflective of the genuine will of the people.
 - 28.2. The purpose of the review is to ascertain that the software:
 - 28.2.1. may not be used to corrupt and thwart the genuine will of the people;
 - 28.2.2. faithfully implements the provisions of the Automated Election System Law (RA-9369) and the COMELEC Terms of Reference, that is, does not contain glaring and serious programming errors or bugs;
 - 28.2.3. uses safe programming practices like stack overflow checking, buffer overflow checking, proper memory allocation and deallocation, proper signal handling, etc.; and,
 - 28.2.4. will be executing under proper environment settings that are not prone to easy manipulation nor vulnerable to malicious external attacks
 - 28.3. The review will reveal if the software to be used is not prone to easy manipulation, vulnerable to malicious codes and bugs which may be used to corrupt the thwart the genuine will of the people.
- 29. Time is of the essence in the review of the source code.
 - 29.1. The reviewers will need sufficient time to first familiarize themselves with the program structure and architecture.
 - 29.2. The reviewers will then review each line of code. For the AES technology selected by COMELEC to be implemented, it is estimated that there will be One Hundred Thousand (100,000) lines of code to be reviewed and analyzed.

- 29.3. In order to sufficiently review a source code of such magnitude, it will take at least three (3) months for a team of programmers working full time.
- 29.4. Should there be any anomalies discovered, more time must be allotted to remedy the same.
- 29.5. Any remedy must also be reviewed.
- 29.6. There are only seven (7) months until the May 10, 2009 Synchronized National and Local Elections.

Conclusion

The delay and/or refusal by COMELEC to make the source code available have no basis and are devoid of merit. The consequence of such delay and/or refusal is none other than the erosion of the trust and confidence in the very process which the State declares to promote.

Prayer

WHEREFORE, premises considered, petitioner respectfully prays that this Honorable Court immediately direct:

1. COMELEC to immediately make the source codes available to petitioner and all other interested parties; and,
2. COMELEC, and any other person acting under its authority, to cease and desist from unnecessarily dictating upon, interfering with, much less preventing, petitioner and other interested parties in the conduct of the review, which would tend to make such review inutile.

Petitioner likewise prays for such other reliefs this Honorable Court may deem just and equitable under the premises.

San Juan, Metro Manila for the City of Manila. 01 October 2009.

AQUILINO LL. PIMENTEL III

Counsel for CenPEG

Unit 2106 Atlanta Centre, 31 Annapolis Street, San Juan, Metro Manila

Roll of Attorneys No. 37248

IBP Lifetime Roll No. 05048

PTR No. 2721436; 01/07/09; Marikina

MCLE Compliance No. II-0011559

JOAQUIN ADARLO & CAOILE LAW OFFICES

Collaborating Counsel for CenPEG

Unit 1702 Atlanta Centre, 31 Annapolis Street, San Juan, Metro Manila; 723-1241

FRANCISCO G. JOAQUIN, III
Attorney's Roll No. 38197
IBP Lifetime Roll No. 02679; Makati
MCLE Compliance No. II-0000411; 18 July 2008
PTR No. 0075239; 05 January 2009; City of San Juan, Metro Manila

VERIFICATION AND CERTIFICATION

I, **Bishop Gabriel A. Garol**, Filipino, of legal age, after having been duly sworn in accordance with law, do hereby depose and state, that:

1. I am the authorized member of the Board of Trustees of the Center for People Empowerment in Governance who, by virtue of the authority granted me by the said organization, caused the preparation of the foregoing Petition. A copy of the **Secretary's Certificate** evidencing such grant of authority is hereto attached and made an integral part hereof as **Annex "J"**;
2. I certify that the foregoing statements are true to the best of my personal knowledge and on the basis of the records in my possession;
3. To the best of my knowledge, no action or proceeding involving the same issues raised and parties in the instant case has been commenced or is pending in the Supreme Court, the Court of Appeals, or any division thereof, or any other tribunal or agency;
4. Should it come to my knowledge that such an action or proceeding has been previously filed or is presently pending before the Supreme Court, the Court of Appeals, or any division thereof, or any other tribunal or agency, I shall notify this Honorable Court of such fact within FIVE (5) days from receipt of such knowledge; and,
5. I am executing this to attest to the truth of the foregoing statements and in compliance with Paragraph 2 of SC Circular No 28-91.

EXECUTED ON _____ at _____.

GABRIEL A GAROL

CTC _____; _____; _____

REPUBLIC OF THE PHILIPPINES)
_____) S.S.

SUBSCRIBED AND SWORN to before me on the date and place last written.
Affiant exhibited to me his Community Tax Certificate.

Doc. No.: ____;
Page No.: ____;
Book No.: ____;

Series of 2009.

AFFIDAVIT OF SERVICE

I, **LLOYD TIZON**, as personnel of **JOAQUIN ADARLO & CAOILE LAW OFFICES**, with office address at **Unit 1702 Atlanta Center, 31 Annapolis Street, Greenhills, San Juan, Metro Manila**, after having been duly sworn in accordance with law, do hereby depose and say, that:

1. Due to the impracticability of personal service to adverse counsel, vis-à-vis the load of the office, I served a copy of the **Petition (for Mandamus)** in the case entitled "**Center for People Empowerment in Governance vs. Commission on Elections**", pursuant to the 1997 Rules of Civil Procedure, by registered mail to:

Commission on Elections
Postigo Street
Intramuros, Manila 1002

Receipt No.: _____
Post Office : _____
Date mailed: _____

as evidenced by the corresponding registry receipt attached hereto, with instructions to the postmaster to return the mail to sender after ten (10) days, if undelivered.

EXECUTED ON _____ at _____.

LLOYD TIZON

CTC _____; _____; _____

REPUBLIC OF THE PHILIPPINES)
_____) S.S.

SUBSCRIBED AND SWORN TO before me on the date and place last written. Affiant exhibited to me his Community Tax Certificate.

Doc. No.: ____;
Page No.: ____;
Book No.: ____;
Series of 2009.