

Republic of the Philippines
COMMISSION ON ELECTIONS
 Intramuros, Manila

**IN RE: COMELEC RULES OF
 PROCEDURE ON DISPUTES
 IN AN AUTOMATED ELECTION
 SYSTEM IN CONNECTION WITH
 THE MAY 10, 2010 ELECTIONS**

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RESOLUTION NO. 8804

PART I
INTRODUCTORY PROVISIONS

Rule I

Preliminary Provisions

REPUBLIC OF THE PHILIPPINES
 COMMISSION ON ELECTIONS
 INTRAMUROS, MANILA
 EDUCATION AND INFORMATION DEPARTMENT

RECEIVED

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Section 1. Title of the Rules – These rules shall be known and called as the Comelec Rules of Procedure on Disputes in an Automated Election System.

Section 2. Applicability. - These Rules shall apply to election disputes under the Automated Election System (AES) using the Precinct Count Optical Scan (PCOS) and shall cover pre-proclamation controversies and election protests.

Section 3. Objective. - The objective of these Rules is to afford accessible and effective remedy to address complaints on the conduct of elections relative to the use of PCOS AES in order to make the election process credible and the results thereof acceptable to the people.

Section 3. Application of the Rules of Court and other related rules. - The Commission on Elections (COMELEC) Rules of Procedure, the Rules of Court, and the Rules on Electronic Evidence shall apply by analogy, or in a suppletory character, and whenever necessary, practicable, and convenient.

Section 4. Suspension of the Rules. - In the interest of justice and in order to obtain speedy disposition of all matters pending before it, these Rules or any portion thereof, may be suspended by the COMELEC.

Rule 2

Definition of Terms

Section 1. Meaning of Words - Whenever used in these Rules, the following words or terms shall mean:

- a) **Commission** shall refer either to the Commission *en banc* or to any of its two Divisions, unless otherwise indicated.
- b) **Automated Election System or AES** refers to an election system using appropriate technology, in voting, counting, consolidating, canvassing, transmission of election results, and other electoral processes.
- c) **Precinct Count Optical Scan, or PCOS**, means 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;
- d) **Official ballot** refers to the paper ballot with the pre-printed names of all candidates and with ovals corresponding to each of the names printed. The ovals are the spaces where voters express their choice through marking or shading using a marking pen.
- e) **Picture Image of the Ballot** refers to the image of the ballot captured by the PCOS machine at the time the voter feeds his/her ballots, which image is later stored in a memory or removable data storage device attached to the PCOS machines.
- f) **Election Returns** refers to the document showing the date of the election, the province, city, municipality and the precinct in which it is held, and the votes in figures for each candidate in a precinct or clustered precincts.
- g) **Electronic Election Returns** refers to the copy of the election return in electronic form generated by the PCOS machine that is electronically transmitted to the Municipal or City Board of Canvassers for the official canvass, to the COMELEC Back-Up Server, and to the Server for the dominant majority and dominant minority parties, the citizens' arm authorized by the COMELEC to conduct a parallel count, and the Kapisanan ng mga Brodkasters sa Pilipinas or KBP;
- h) **Printed Election Returns** refers to the copy of the election returns printed by the PCOS machine on a paper, and authenticated by the manual signatures and thumbmarks of the members of the Board of Election Inspectors (BEI).



- i) **Electronic Transmission** refers to the act of conveying data in electronic form from one location to the other.
- j) **Canvass Proceedings** refers to the proceedings that involve the consolidation of precinct election results at the municipal, city or district level; district election results at the municipal or city level; municipal or city election results at the provincial level; and provincial election results at the national level, be it the COMELEC or Congress. It also include the formal proclamation of the election winners at the various canvass levels.
- k) **Consolidation Machine** refers to the machine used at the canvass proceedings to consolidate precinct results, municipal and city results, provincial results, as the case may be, for purposes of getting the total votes of all candidates at a particular canvass level.
- l) **Statement of Votes by Precinct, Municipality, City, District, Province, or Overseas Absentee Voting (OAV) Station** refers to a document in electronic and in printed form generated by the canvassing or consolidating machines or computers during the canvass proceedings. This document records the votes obtained by candidates in each precinct, municipality, city, district, province, or OAV Station, as the case may be.
- m) **City/municipal/district/provincial certificate of canvass** refers to a document in electronic and in printed form containing the total votes in figures obtained by each candidate in a city/municipality/district/ province, as the case may be, the electronic form of which is the official canvass result in the aforementioned jurisdictions and is the one electronically transmitted to a higher canvass level.
- n) **Certificate of Canvass and Proclamation** refers to the official document in printed form that contains the name of all candidates who obtain the highest number of votes in a particular constituency and certifies to said candidates' proclamation as winners
- o) **Data Storage Device** refers to the device where electronic documents are stored and from which said data may be obtained when necessary to verify the accuracy and correctness of election data. It includes the back-up storage device in which authentic electronic copies of said data are also stored.
- p) **Audit Log** refers to the document that contains the list of all activities performed by the PCOS machines from the time that it was powered-on, until the time when closed.
- q) **Electronic document** refers to information or the representation of information, data, figures, symbols or other modes of written expression, described or however represented, by which a fact may be proved and affirmed, which is received, recorded, transmitted, stored processed, retrieved or produced electronically. It includes digitally

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signed documents and any print-out or output, readable by sight or other means, which accurately reflects the electronic document.

For purposes of these Rules, electronic documents refer to either the picture image of the ballots and electronic copies of the election returns, of statements of votes, of certificates of canvass, and of the other electronic data relative to the processing done by the PCOS machines and the various consolidation machines.

PART II PRE-PROCLAMATION CONTROVERSIES

Rule 3

Coverage of Pre-Proclamation Controversies

Section 1. *Pre-Proclamation Controversy.* A pre-proclamation controversy refers to the proceedings of the board of canvassers which may be raised by any candidate or by any registered political party or coalition of political parties, or by any accredited and participating party list group, before the board or directly with the Commission. It covers only two issues:

- a. Illegal composition of the Board of Canvassers (BOC);
- b. Illegal proceedings of the BOC.

The basis of the canvass shall be electronically transmitted results.

Section 2. *Jurisdiction of the Commission in Pre-Proclamation Controversies.* – COMELEC has exclusive jurisdiction in pre-proclamation controversies arising from national, regional or local elections.

A pre-proclamation controversy may be raised by any candidate or by any registered political party, organization, or coalition of political parties before the BOC, or directly with the Commission.

Issues affecting the composition or proceedings of the Boards may be initiated by filing a verified petition before the Board or directly with the Commission.

If the petition is filed directly with the Board, its decision may be appealed to the Commission within three (3) days from issuance thereof. However, if commenced directly with the Commission, the verified petition shall be filed immediately when the board begins to act illegally, or at the time of the



appointment of the member of the board whose capacity to sit as such is objected to.

Section. 3. *Rights of Political Parties and Candidates Before the Board of Canvassers in Pre-Proclamation Cases.* -

- a) All registered political parties, organizations, or coalitions of political parties, and accredited citizens' arms, and candidates, have the right to be present and to be represented by counsel during the canvass of election returns, or certificates of canvass.
- b) Only one counsel may argue for each registered political party, organization, or coalition of political parties, accredited citizens' arm or candidate.
- c) No dilatory action shall be allowed by the BOC. It may impose time limits for oral arguments.
- d) All registered political parties, organizations, or coalitions of political parties, and candidates, are entitled to obtain a copy of the Statement of Votes per precinct and a copy of the certificate of canvass duly authenticated by the BOC.

Rule 4

Illegal Composition or Proceedings of the Board of Canvassers

Section 1. *Illegal Composition of the Board of Canvassers.* – There is illegal composition of the BOC when, among other similar circumstances, any of the members do not possess legal qualifications and appointments. The information technology capable person required to assist the BOC by Republic Act No. 9369 shall be included as among those whose lack of qualifications may be questioned.

Section 2 - *Illegal Proceedings of the Board of Canvassers.*— There is illegal proceedings of the BOC when the canvassing is a sham or mere ceremony, the results of which are pre-determined and manipulated as when any of the following circumstances are present:

- a) precipitate canvassing;
- b) terrorism;
- c) lack of sufficient notice to the members of the BOC's;
- d) Improper venue

Section 3. Where and How Commenced. - Questions affecting the composition or proceedings of the BOC may be initiated in the BOC or directly with the Commission, with a verified petition, clearly stating the specific ground/s for the illegality of the composition and/or proceedings of the board.

Section 4. When to File Petition. - The petition questioning the illegality, or the composition and/or proceedings of the BOC shall be filed immediately when the BOC begins to act as such, or at the time of the appointment of the member whose capacity to sit as such is objected to, if it comes after the canvassing of the Board, or immediately when the proceedings become illegal.

Section 5. Procedures for Petition on the Ground of Illegal Composition and Proceedings of the Board of Canvassers.

a) In case the petition is filed before the BOC:

- a.1) Upon receipt of the verified petition, the BOC shall immediately announce the fact of the filing of said petition and the ground/s raised therein.
- a.2) The BOC shall immediately deliberate on the petition, and within a period of twenty-four (24) hours, make a prompt resolution thereon, which resolution shall be reduced into writing.
- a.3) Should the BOC decide in favor of the petition, it shall immediately inform the Commission of its resolution. Thereafter, the Commission shall make the appropriate action thereon.
- a.4) In no case shall the receipt by the BOC of the electronically transmitted precinct, municipal, city, or provincial results, be suspended by the filing of said petition.
- a.5) The petitioner may appeal an adverse resolution by the BOC to the COMELEC, by notifying the BOC of his or her intent to appeal, through a verbal, and a written and verified Notice of Appeal. The notice on the BOC shall not suspend the formal proclamation of the official results of the election, until the final resolution of the appeal.
- a.6) Within forty-eight (48) hours from such notice to the BOC, the petitioner shall submit before the Board a Memorandum on Appeal stating the reasons why the resolution being questioned is erroneous and should be reversed.
- a.7) Upon receipt by the BOC of the petitioner's memorandum on appeal, the Board shall forward the entire records of the petition at the expense of the petitioner.
- a.8) Upon receipt of the records herein referred to, the petition shall be docketed by the Clerk of Commission and submitted to the COMELEC en banc for consideration and decision.

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a.9) Within five (5) days therefrom the COMELEC en banc shall render its decision on the appeal.

b) If filed directly with the Commission, the petition shall be heard by the COMELEC *en banc* under the following procedures. Upon receipt of the petition by the COMELEC, the Clerk of the Commission shall docket the same and forthwith send summons to the BOC concerned with an order directing it to submit, through the fastest verifiable means available, its answer within forty-eight (48) hours.

The COMELEC en banc shall resolve the petition within five (5) days from the filing of the answer, or upon the expiration of the period to file the same.

Section 6. *Illegal Proceedings Discovered after Proclamation.* - If the illegality of the proceedings of the BOC is discovered after the official proclamation of the supposed results, a verified petition to annul the proclamation may be filed before the COMELEC within ten (10) days after the day of proclamation. Upon receipt of the verified petition, the Clerk of the Commission shall have the same docketed and forthwith issue summons to the parties to be affected by the petition, with a directive for the latter to file their answer within five (5) days from receipt. Thereafter the case shall be deemed submitted for resolution, which shall not be later than seven (7) days from receipt of the answer.

Rule 5

Canvass on Manually Prepared Election Returns

Section 1. *Canvass of Manually Prepared Election Returns.* - If by reason of the implementation of a continuity plan, election returns and/or certificate of canvass are manually prepared and transported to the BOC for canvass, said continuity plan together with the General Instructions for the Board of Canvassers shall primarily apply, supplemented whenever applicable, by the regular COMELEC Rules of Procedure and these rules.

PART III ELECTION PROTEST

Rule 6 Election Protest

Section 1. *Jurisdiction of the Commission on Elections.* - The Commission on Elections, through any of its two Divisions, shall have exclusive

original jurisdiction over all election protests involving elective regional (the autonomous regions), provincial, and city officials.

Section 2. *Election protest.* - A petition contesting the elections or returns of an elective regional, provincial, or city official shall be filed with the Commission by any candidate who was voted for in the same office and who received the second or third highest number of votes or, in a multi-slot position, was among the next four candidates following the last ranked winner duly proclaimed, as reflected in the official results of the election contained in the Statement of Votes. The party filing the protest shall be designated as the protestant; the adverse party shall be known as the protestee.

Section 3. *How Initiated.* - An election protest or petition for quo warranto shall be filed directly with the Commission in ten (10) legible copies plus such number of copies corresponding to the number of protestees, within a non-extendible period of ten days following the date of proclamation.

Each contest shall refer exclusively to one office but contests for offices of the Sangguniang Pampook, Sangguniang Panlalawigan or Sangguniang Panglungsod may be consolidated in one case.

Section 4. *Modes of service and filing.* - Service and filing of pleadings, including the initiatory petition and other papers, shall be done personally. Except with respect to papers emanating from the Commission, a resort to other modes of service must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule shall be a cause to consider the pleading or paper as not filed.

Section 5. *Petition must be verified and accompanied by a certificate of non-forum shopping.* - An election protest shall be verified by an affidavit stating that the affiant has read the petition and that the allegations therein are true and correct of affiant's own knowledge or based on authentic records. A verification based on "*information and belief*" or upon the "*knowledge, information and belief*" is not a sufficient verification.

The protestant shall personally sign the certificate of non-forum shopping which must be annexed to the election protest. An unverified petition or one with insufficient verification or unaccompanied by a certificate of non-forum shopping shall be dismissed outright and shall not suspend the running of the reglementary period to file an election protest.

Section 6. *Pendency of pre-proclamation controversy.* - The pendency of a pre-proclamation controversy involving the validity of the proclamation as defined by law shall suspend the running of the period to file an election protest.

Section 7. *Contents of the protest or petition.* - An election protest or petition for quo warranto shall specifically state the following facts;

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- a) The position involved
- b) That the protestant was a candidate who has duly filed a certificate of candidacy and has been voted for the same office.
- c) The date of proclamation; and
- d) The number of votes credited to the parties per proclamation.

An election protest shall also state:

- e) The total number of precincts of the region, province or city concerned;
- f) The protested precincts and votes of the parties in the protested precincts per the Statement of Votes By Precinct or, if the votes of the parties are not specified, an explanation why the votes are not specified;
- g) A detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies or irregularities in the protested precincts.

Section 8. Docketing and Raffle of Protest. - The Director of the Election Contest and Adjudication Department (ECAD) shall immediately docket the Protest and raffle the case to either the First or Second Division of the Commission.

Section 9. Summary dismissal of election contest. - The Commission shall summarily dismiss, *motu proprio*, an election protest and counter-protest on the following grounds:

- a) The Commission has no jurisdiction over the subject matter;
- b) The protest is insufficient in form and content as required in Section 7 hereof;
- c) The petition is filed beyond the period prescribed in these rules;
- d) The filing fee is not paid within the period for filing the election protest or petition for quo warranto; and
- e) In case of protest where a cash deposit is required, the cash deposit is not paid within fifteen (15) days from the filing of the protest.

Rule 7 Summons

Section 1. Summons. - Within three (3) days from the filing of the protests, the Clerk of the Commission or the Division concerned shall issue the corresponding summons to the protestee or respondent, together with a copy of the protest, requiring the filing of an answer within a non-extendible period of five days from notice.

Section 2. Service of summons. - The summons shall be served immediately upon its issuance by handing a copy to the protestee or respondent in person or, in case of refusal of the protestee or respondent to receive and sign for it, by tendering the same. If, for justifiable causes, the protestee or respondent cannot be served in person as provided above, service may be effected by leaving copies of the summons at:

- a) The residence of protestee or respondent, as stated in the certificate of candidacy he filed, with some person of suitable age and discretion residing therein, or
- b) The office or regular place of business of protestee or respondent with some competent person in charge thereof.

Section 3. By whom served. - The summons shall be served by a bailiff of the Commission or Division or upon request of the Commission or Division, by the Sheriff of any Court in the place where the parties to be served reside or for special reasons, by a person especially authorized by the Commission or Division.

Section 4. Return. - When the service has been completed by personal service, the server shall give notice thereof, by registered mail, to the protestant or his counsel and shall return the summons to the Clerk of the Commission who issued it, accompanied with the proof of service.

Section 5. Proof of Service. - Proof of service of summons shall be made in the manner provided for in the Revised Rules of Court of the Philippines.

Rule 8 Answer and Counter-Protest

Section 1. Verified answer; counter-protest. - Within five days from receipt of the summons and a copy of the protest the protestee shall file an answer in ten (10) legible copies, with proof of service of a copy upon the protestant. The answer shall be verified and may set forth admissions and

denials, special and affirmative defenses and a compulsory counterclaim. The protestee may incorporate a counter-protest in the answer.

The counter-protest shall specify the counter-protested precincts and any votes of the parties therein per the Statement of Votes, or if not so specified, an explanation why the votes are not specified, and a detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies or irregularities in the counter-protested precincts.

Section 2. Answer to counterclaim or counter-protest. - The protestant shall answer the counterclaim or counter-protest within a non-extendible period of five days from notice.

Section 3. Allegations in the answer. -

- (a) *Specific denial.* ---A protestee must specify each material allegation of fact the truth of which is not admitted and, whenever practicable, shall set forth the substance of the matters relied upon in support of the denial. The protestee shall specify so much of the averments that are true and material and shall deny the remainder.
- (b) *Allegations not specifically denied deemed admitted.* ---Material averment in the protest other than the amount of unliquidated damages and issues as to the recount or appreciation of ballots, shall be deemed admitted when not specifically denied.

Section 4. Effect of failure to plead. -

- a) *Defenses and objections not pleaded.* ---Defenses and objections not pleaded are deemed waived. However, when it appears from the pleadings or the evidence on record that the Commission has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment, or the statute of limitations, the Commission shall dismiss the claim.
- b) *Compulsory counterclaim or cross-claim not set-up barred.* ---A compulsory counterclaim, or a cross-claim not set up shall be barred.
- c) *Effect of failure to answer.* ---In an election protest that does not involve ballot recount, if the protestee fails to file an answer within the time allowed, the Commission shall, upon motion of the protestant with notice to the protestee, and upon proof of such failure, require the protestant to submit evidence *ex parte*.
- d) However, in the case of election protests involving ballot recount or examination, or verification or re-tabulation of the election returns, the Commission shall order such recount of ballots or re-

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tabulation of election returns. The Commission shall proceed to render judgment based on the results of the recount or re-tabulation of election returns. During the recount or re-tabulation of election returns, only the protestant, or his representative, may participate. The protestee or his duly authorized representative has the right to be present and observe the proceedings without the right to register his comment on the ballots and election returns.

Section 5. *How to compute time.* - In computing any period of time prescribed or allowed by these Rules, or by order of the Commission, or by any applicable statute, the day of the act or the event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday on the place where the Commission sits, the time shall not run until the next working day.

Section 6. *Amendments; limitations.* - After the expiration of the period for the filing of the election protest or counter-protest, substantial amendments that broaden the scope of the action, or introduce an additional cause or causes of action may be allowed only upon leave of the Commission. Such leave may be refused if it appears that the motion was made with intent to delay. Any amendment in matters of form, such as a defect in the designation of the parties and other clearly clerical or typographical errors, may be summarily corrected by the Commission at any stage of the proceedings, at its initiative or on motion, provided no prejudice is caused thereby to the adverse party.

Rule 9

Motions

Section 1. *Motions must be in writing.* - Except those made in open session during the course of the proceedings, all motions shall be in writing.

A motion shall state the order sought to be obtained and the grounds upon which it is based.

Section 2. *Proof of service necessary.* - No written motion shall be acted upon by the Commission without proof of service on the adverse party.

Section 3. *No hearings on motions.* - Motions shall not be set for hearing unless the Commission directs otherwise. Oral argument in support thereof shall be allowed only upon the discretion of the Commission. The adverse party may file opposition five days from receipt of the motion, upon the expiration of which such motion is deemed submitted for resolution. The Commission shall resolve the motion within five days.

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Rule 10

Prohibited Pleadings

Section 1. *Prohibited pleadings and motions.* - The following pleadings, motions or petitions shall not be allowed:

- a) Motion to dismiss except on the ground of lack of jurisdiction over the subject matter;
- b) Motion for a bill of particulars;
- c) Demurrer to evidence;
- d) Motion for new trial, or for reconsideration of a judgment, or for reopening of trial;
- e) Petition for relief from judgment;
- f) Motion for extension of time to file pleadings, affidavits or other papers;
- g) Memoranda, except when required by the Commission in an Order;
- h) Motion to declare the protestee or respondent in default;
- i) Dilatory motion for postponement;
- j) Motion to inhibit the Commissioner/s except on clearly valid grounds;
- k) Reply or rejoinder; and
- l) Third-party complaint.

Section 2. *Grounds to dismiss must be set up in the answer.* - All grounds to dismiss an election protest must be set-up or pleaded as affirmative or special defenses. Defenses not raised are deemed waived. The Commission may, in its discretion, hold a preliminary hearing on the grounds so pleaded.

Rule 11

Filing fees and cash deposits

Section 1. *Filing fees.* - No protest, counter-protest shall be accepted for filing without the payment of a filing fee in the amount of Ten Thousand Pesos (P10,000.00) for each interest.

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If claims for damages and attorney's fees are set forth in a protest or counter-protest, additional filing fees shall be paid in accordance with the schedule provided for in Rule 141 of the Rules of Court, as amended.

Section 2. Cash Deposit. - (a) In addition to the fees prescribed in the preceding section, the protestant on an election protest requiring recount of ballots or re-tabulation of election returns, or which may require the bringing to the Commission of copies of other election documents, printed or electronic, as well as the machines or devices to which electronic election documents are stored or may be processed, shall make a cash deposit with the Commission in the following amounts:

1. One Thousand Five Hundred Pesos (P1,500.00) for each precinct involved in the protest or counter-protest; provided that, in no case shall the deposit be less than Twenty-Five Thousand Pesos (P25,000.00) to be paid upon the filing of the election protest (counter-protest);
2. If the amount to be deposited does not exceed One Hundred Thousand Pesos (P100,000.00), the same shall be paid in full within ten days after the filing of the protest; and
3. If the deposit exceeds One Hundred Thousand Pesos (P100,000.00), a cash deposit in the amount of One Hundred Thousand Pesos (P100,000.00) shall be made within ten days after the filing of the protest.

The balance shall be paid in such instalments as may be required by the Commission with at least five days advance notice to the party required to make the deposit.

The cash deposit shall be applied by the Commission to the payment of compensation of Recount Committees as provided under Section 3, Rule 17 of these Rules and of all expenses incidental to the recount but not limited to supplies and miscellaneous expenses of the recount committee. When the Commission determines that the circumstances so demand, as when the deposit has been depleted, it may require additional cash deposits. Any unused cash deposit shall be returned to the party making the same after complete termination of the protest or counter-protest.

The same amount of cash deposit shall be required from the protestee (counter-protestant), should continuation of recount be ordered. Once required, the protestee (counter-protestant) shall pay the cash deposit within a non-extendible period of three days from receipt of the corresponding order.

(b) Failure to make the cash deposits required within the prescribed time limit shall result in the automatic dismissal of the protest, or counter-protest.

(c) The Division Clerk of the Commission or Overall Chairman of the Recount Committee shall liquidate any cash advance granted to him/her for the purchase of supplies within a non-extendible period of thirty (30) days from date of termination of the recount.



Rule 12

Production and Custody of Ballot Boxes, Election Documents, Data Storage Devices, and Machines Used in the Elections

Section 1. Issuance of precautionary protection order. - Where the allegations in a protest so warrant, and simultaneously with the issuance of summons, the Commission shall order the municipal treasurer and election officer, and the responsible personnel and custodian to take immediate steps or measures to safeguard the integrity of all the ballot boxes, lists of voters with voting records, books of voters and other documents or paraphernalia used in the election, as well as data storage devices containing electronic data evidencing the conduct and the results of elections in the contested precincts.

Section 2. When ballot boxes and election documents are brought before the Commission. - Within forty-eight hours from receipt of the answer with counter-protest, if any, and whenever the allegations in a protest or counter-protest so warrant and when it finds the same necessary, the Commission shall order the ballot boxes with their keys, lists of voters with voting records, books of voters, the electronic data storage devices, and other documents, paraphernalia, or equipments relative to the precincts involved in the protest or counter-protest, to be brought before it.

The Commission shall notify the parties of the date and time for the retrieval from their respective custodians of the ballot boxes, other election documents, data storage devices, equipments. The parties may send representatives to witness the activity. The absence, however, of a representative of a party shall not be reason to postpone or delay the bringing of the ballot boxes, election documents, and data storage devices, into the custody of the Commission.

The Commission, in its discretion, may seek the assistance of the Philippine National Police or the Armed Forces of the Philippines in ensuring the safe delivery of the ballot boxes and election paraphernalia into the custody of the Commission.

Where any of the ballot boxes, ballots, election returns, election documents or paraphernalia mentioned in the first paragraph above are also involved in election contests before other *fora*, such as the Presidential Electoral Tribunal, the Senate Electoral Tribunal, the House of Representatives Electoral Tribunal, which, under COMELEC Resolution No.2812 dated 17 October 1995, have preferential right over the custody and recount of ballots involved in simultaneous protests, the Commission shall make the appropriate coordination and request with the tribunal involved as to temporary prior custody of ballot boxes and recount of ballots and other documents and storage devices, or the synchronization of such recount of ballots. The expenses necessary and incidental to the bringing of the ballot boxes, election documents, and devices shall be shouldered and promptly paid by the

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protestant and the counter-protestant, if any, in proportion to the precincts involved. The expenses necessary and incidental to the return of the ballot boxes, election documents, and storage devices to their original custodians or the proper tribunal after the termination of the case shall be shared proportionately by the protestant and protestee based on the number of precincts respectively contested by them.

Rule 13

Preliminary Conference

Section 1. Preliminary conference; mandatory. - Within three days after the filing of the last responsive pleading allowed by these rules, or the expiration of the same period without any responsive pleading having been filed, the Commission shall conduct a mandatory preliminary conference among the parties to consider:

- a) The simplification of issues;
- b) The necessity or desirability of amendments to the pleadings;
- c) The possibility of obtaining stipulations or admission of facts and of documents to avoid unnecessary proof;
- d) The limitation of the number of witnesses;
- e) The nature of the testimonies of the witnesses and whether they relate to evidence *aliunde*, the ballots or otherwise;
- f) The withdrawal of certain protested or counter-protested precincts (especially those where the ballot boxes or ballots are unavailable or are missing and cannot be located or destroyed due to natural disasters or calamities);
- g) The number of recount committees to be constituted;
- h) The procedure to be followed in case the election protest or counter-protest seeks, wholly or partially, the examination, verification or re-tabulation of election returns; and
- i) Such other matters as may aid in the prompt disposition of the case.

Section 2. Notice through counsel. - The notice of preliminary conference shall be served on the counsel or on the party who has no counsel. Notice to counsel is notice to the party, as counsel is charged with the duty to notify the party represented.

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Section 3. *Appearances of parties.* - It shall be the duty of the parties and counsel to appear before the Commission in person at the preliminary conference.

Section 4. *Preliminary conference brief.* - The parties shall file with the Commission and serve on the adverse party, in such manner as shall ensure their receipt at least one day before the date of the preliminary conference, their respective briefs which shall contain the following:

- a) A summary of admitted facts and proposed stipulation of facts;
- b) The issues to be tried or resolved;
- c) The pre-marked documents or exhibits to be presented , stating their purpose;
- d) A manifestation of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners;
- e) The number and names of the witnesses, their addresses, and the substance of their respective testimonies. The testimonies of the witnesses shall be by affidavits in question and answer form as their direct testimonies, subject to oral cross examination;
- f) A manifestation of withdrawal of certain protested or counter-protested precincts, if such is the case;
- g) The proposed number of recount committees and names of their representative, and their alternates; and
- h) In case the election protest or counter-protest seeks the examination, verification or re-tabulation of election returns, the procedure to be followed.

Section 5. *Failure to file brief.* - Failure to file the brief or to comply with its required contents shall have the same effect as failure to appear at the preliminary conference.

Section 6. *Effect of failure to appear.* - The failure of the protestant or counsel to appear at the preliminary conference shall be cause for dismissal, *motu proprio*, of the protest or counter-protest. The failure of the protestee or counsel to appear at the preliminary conference gives the Commission the discretion to allow the protestant to present evidence *ex parte* and render judgment based on the evidence presented:

Section 7. *Preliminary conference order.* - Within three days following the date of the preliminary conference, the Commission shall issue an order summarizing the matters taken up and stipulations or agreements reached during the conference. The Commission shall specify in the

preliminary conference order when the recount of ballots will commence, which shall be within five days from the termination of the preliminary conference.

Rule 14

Subpoena

Section 1. Subpoena Ad Testificandum or Subpoena Duces Tecum.

- Subpoena *ad testificandum* or subpoena *duces tecum* may be issued by the Division *motu proprio*, or upon request of the parties in any case.

Section 2. Form and Contents. - A subpoena shall be signed by the Clerk of the Commission concerned. It shall state the name of the Division issuing it and the title of the action; it shall be directed to the person whose attendance is required, and in the case of a subpoena *duces tecum*, it shall also contain a reasonable description of the books, documents or things demanded which may appear *prima facie* relevant.

Rule 15

Recount of Ballots

Section 1. Start of recount. - The recount of ballots shall commence on the date specified in the preliminary conference order, unless rescheduled by Order of the Division.

Section 2. Recount committee; under the supervision of the Commission. - There shall be constituted such number of recount committees as may be necessary. The list of the recount committees shall be submitted by the Division Clerk of the Commission, through the Director IV, Electoral Contests Adjudication Department, to the Presiding Commissioner of either the First or Second Division. Each recount committee shall be composed of a Recount Coordinator/Chairman who shall be a lawyer of the Commission, recorder, clerk, typist and ballot box custodian and one representative each from the protestant and the protestee. The Commission shall designate the Recount Coordinators/Chairman from among its personnel. The parties shall also designate their respective alternative representatives.

The recount committee shall conduct the recount in the Commission's premises or at such other places as may be designated by the Commission, but in every case under its strict supervision. The members of the Recount Committee shall discharge their duties with the highest degree of integrity, conducting the proceedings with the same dignity and discipline as if undertaken by the Commission itself. They shall exercise extraordinary

diligence and take precautionary measures to prevent the loss, disappearance or impairment of the integrity of the ballots and the other election documents, whether electronic or printed, and other election paraphernalia.

Section 3. Compensation of the members of the Recount Committee. - The Commission shall fix the compensation of the members of the Committee including the fees for supplies and materials at One Thousand Five Hundred Pesos (1,500) per clustered precinct and shall be distributed as follows:

a. Chairman	P520.00.
b. Recorder	P240.00
c. Ballot Box Custodian	P240.00
d. Typist	P240.00
e. Supplies/materials	P184.00

The amount of P6.00 shall also be allocated for storage of the election paraphernalia and P50.00 for the honoraria of the warehouse handlers. The Representatives of the parties shall be directly compensated by their respective principals or by parties themselves.

Section 4. Continuous Recount. - Once commenced, the recount shall continue from day to day as far as practicable until terminated.

- a) *Period for Recount.* ---recount shall be conducted from 8:30 o'clock in the morning to 12:00 noon and from 1:30 to 4:30 o'clock in the afternoon from Monday to Friday, except on non-working holidays. The members of the Recount Committee may take a fifteen-minute break in each session.
- b) *Recount to continue even if a party representative is absent or late.* --- The recount of ballots shall not be delayed or postponed by reason of the absence or tardiness of a party representative as long as the Recount Coordinator and one party representative are present. The Commission may at any time designate another Recount Coordinator if the regular Recount Coordinator fails for any reason to report.
- c) *If the representative of the protestee is absent or late.* ---If the representative of the protestee is absent or late for thirty minutes and no alternate appears as a substitute, the recount shall, nevertheless, commence; the protestee shall be deemed to have waived the right to appear and to object to the ballots in the precinct or precincts scheduled for recount on that particular day.
- d) *If the representative of protestant or counter-protestant, or of both parties fail to appear.* ---If the representative of the protestant, or of both parties and alternates fail to appear for no justifiable reason within one hour after fixed hours from the start of the recount, the

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ballot boxes scheduled for that day, and the corresponding keys in the possession of the chairperson, shall be returned to the ballot box custodian of the Commission and shall no longer be recounted; it is understood that the parties waive their right to recount the same, and the Recount Coordinator concerned shall state such facts in the corresponding Recount report.

Section 5. *Prohibited access.* - During the recount of ballots, no person other than the Commission, the clerk of the Commission, the Recount Coordinators and the members of the recount committees, the parties and their duly authorized representatives, shall have access to the recount area.

Section 6. *Conduct of the Recount.* - The recount of the votes on the ballots shall be done manually and visually and according to the procedures hereunder:

- a) At the preliminary conference the date and the place of the recount and the number of the recount committees shall be set.
- b) At the appointed place and day, the recount committee/s shall convene.
- c) At the same place and day, the ballot boxes containing the ballots from the protested precincts, the data storage device used in said precincts, as well as the machine or any device that can be used to authenticate or assure the genuineness of the ballots shall be brought to the venue of the recount.
- d) The different recount committees will be provided with an adequate workspace, with tables and chairs that would enable them to perform the recount in an efficient and transparent manner.
- e) The recount committee, upon the request in writing of parties, will then randomly pick the precinct from which they would do the recount.
- f) Before opening the ballot box, the recount committee shall note its condition as well as that of the locks or locking mechanism and record the condition in the recount report. From its observation, the recount committee must also make a determination as to whether the integrity of the ballot box has been preserved.
- g) The ballot box shall then be opened and the ballots shall be taken out. The "valid" ballots shall first be counted, without regard to the votes obtained by the parties. This will be followed by the counting of the torn, unused and stray ballots, as classified at the polling place.
- h) The votes appearing in election returns copy for the ballot box shall then be recorded in the minutes.
- i) Prior to the actual conduct of the recount of the votes the recount committee must authenticate each and every ballot to make sure that

they were the same ballots that were cast and fed to the PCOS machine during the elections. The authentication shall be through the use of the PCOS machine actually used during the elections in the subject precinct, or by another device certified by the Commission as one that can perform the desired authentication requirement through the use of bar code and ultra-violet ray code detection mechanism.

- j) Only when the recount committee, through the recount coordinator, determines that the integrity of the ballots has been preserved, will the recount proceed.
- k) Upon such determination, the recount committee shall then look at the ballot and count the votes as registered in each and every one of them for the contested position.
- l) In looking at the shades or marks used to register votes, the recount committee shall bear in mind that the will of the voters reflected as votes in the ballots shall as much as possible be given effect, setting aside any technicalities. Furthermore, the votes thereon are presumed to have been made by the voter and shall be considered as such unless reasons exist that will justify their rejection. However, marks or shades which are less than 50% of the oval shall not be considered as valid votes. Any issue as to whether a certain mark or shade is within the threshold shall be determined by feeding the ballot on the PCOS machine, and not by human determination.
- m) The rules on appreciation of ballots under Section 211 of the Omnibus Election Code shall apply suppletorily when appropriate.
- n) There shall be a tally sheet, of at least 5 copies, plus additional copies depending on the number of additional parties, that will be used for the tallying of the votes as they are counted, through the use of the tara or sticks.
- o) After all the ballots from one ballot box have been counted, the recount committee shall secure the contested ballots and complete the recount report for said precinct. Thereafter, it shall proceed to recount the votes on the ballots from the next precinct.
- p) In case of multiple recount committees, the recount shall be done simultaneously.
- q) In the event that the recount committee determines that the integrity of the ballots and the ballot box were not preserved, as when there is proof of tampering or substitution, it shall proceed to instruct the printing of the picture image of the ballots of the subject precinct stored in the data storage device for the same precinct. The commission shall provide a non-partisan technical person who shall conduct the necessary authentication process to ensure that the data or image stored is genuine and not a substitute. It is only upon such

determination that the printed picture image can be used for the recount.

Section 7. Preparation and submission of recount report. - The committee shall prepare and submit to the Commission a recount report per precinct stating the following:

- a) The precinct number;
- b) The date, place and time of recount;
- c) The condition and serial numbers of the following:
 - c.1) Ballot boxes;
 - c.2) Locks;
 - c.3) Data storage device
- d) The votes of the parties per physical count of the paper ballots;
- e) The votes of the parties per ballot-box copy of the election returns;
- f) The number of ballots questioned by the parties indicating there-in the exhibit numbers;
- g) The number of torn, unused and stray ballots;
- h) The entries in the Minutes of Voting and Counting, particularly:
 - h.1) The number of registered voters;
 - h.2) The number of voters who actually voted;
 - h.3) The number of official ballots together with their serial numbers used in the election;
 - h.4) The number of ballots actually used indicating the serial numbers of the ballots; and
 - h.5) The unused ballots together with their serial numbers.

The recount forms shall be made available prior to the recount. The per-precinct recount report shall be signed and certified to by the recount coordinator and the representatives of the parties, and shall form part of the records of the case. The tally sheet used for the recount shall be attached to the report.

In addition to the per-precinct recount report, the recount committee shall also prepare and submit to the court, within seven (7) days from the termination of the recount, a committee report summarizing the data, votes, questions on the ballots, significant observations made in the recount of ballots from each of the protested precincts and, later from the counter-protested



precincts, and comments and objections in case of disagreement between committee members. Each party furnished with a copy of the committee report may submit their comments thereon within a non-extendible period of seven days from notice.

Section 8. *Inquiry as to security markings and vital information relative to ballots and election documents.* - When a recount of ballots is ordered, and for the guidance of the members of the Recount Committees, the Commission shall give advice and instructions to the committee on the security markings on the ballots and election documents. The commission shall likewise designate a technical person who shall assist the Recount Committee in authenticating electronic documents if needed, as well as in transforming the same to a form that can make them observable to the Committee.

Rule 17

Photocopying of Ballots

Section 1. *Photocopying simultaneous with recount.* - On motion of a party, the Commission may allow the photocopying or reproduction of paper ballots and election documents, upon such terms and conditions as it may impose. The photocopying or reproduction, if allowed, must start at the commencement of recount and, as far as practicable, must be completed simultaneously with the termination of recount.

Section 2. *Where conducted; parties to provide own photocopying units.* - Photocopying shall be done within the premises of the COMELEC, or at or near the area where the recount is conducted, and shall be under the supervision of the Clerk of the Commission. The party concerned shall provide an efficient photocopying unit and shall bear all expenses relative thereto.

Rule 18

Presentation of Evidence

Section 1. *Presentation and reception of evidence; order of hearing.* - The reception of evidence on all matters or issues raised in the protest and counter-protests shall be presented and offered in a hearing upon completion of (a) the recount of ballots, or re-tabulation of election documents, or (b) the technical examination, if warranted.

Reception of evidence shall be made in accordance with the following order of hearing:

- a) The protestant shall present evidence in support of the protest;
- b) The protestee shall then adduce evidence in support of the defense, counterclaim or counter-protest, if any;
- c) The parties may then respectively offer rebutting evidence only, unless the Commission for good reasons, in the furtherance of justice, permits them to offer evidence upon their original case; and
- d) No sur-rebuttal evidence shall be allowed.

In offering testimonial evidence, the party shall require the proposed witness to execute an affidavit which shall be considered as the direct testimony, subject to the right of the adverse party to object to its inadmissible portions and to orally cross-examine the witness. The affidavit shall be based on personal knowledge, shall set forth facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify on the matters stated therein. The affidavit shall be in question and answer form. The affidavit shall be submitted to the Commission and served on the adverse party at least three days before the hearing. Failure to submit the affidavit of a witness within the specified time shall constitute a waiver of the party's right to present testimonial evidence.

The one-day-cross-examination-of-witness rule, that is, a witness has to be fully cross-examined in one day only shall be strictly adhered to. The Commission, at its discretion, may extend the cross-examination for justifiable reasons.

The recount reports, as well as the objected and claimed ballots referred to therein, shall automatically form part of records of the Commission and may be adopted by the parties as their evidence.

Section 2. Offer of evidence. - The Commission shall consider no evidence that has not been formally offered. Formal offer of documentary evidence shall be done in writing after the last day of hearing allowed for each party. The opposing party shall be required to immediately interpose his written objections thereto within five (5) from receipt of formal offer. The Commission shall rule on the offer of evidence not later than five (5) days from receipt of the Comment to the formal offer.

Section 3. Reception of evidence continuous. - Reception of evidence, once commenced, shall continue from day to day as far as practicable until terminated.

Section 4. Adjournments and postponements. - No motion for postponement shall be allowed, except for clearly meritorious reasons, in no case to exceed three times. The filing of dilatory pleadings or motions shall constitute direct contempt of Commission and shall be punished accordingly.



Section 5. Burden of proof. - Burden of proof is the duty of a party to present evidence of the facts in issue, necessary to establish one's claim or defense.

Section 6. Disputable presumptions. - The following presumptions are considered as facts, unless contradicted and overcome by other evidence:


a) On the election procedure:

- a.1) The election of candidates was held on the date and time set and in the polling place determined by the Commission on Elections;
- a.2) The Boards of Election Inspectors were duly constituted and organized;
- a.3) Political parties and candidates were duly represented by poll watchers;
- a.4) Poll watchers were able to perform their function; and
- a.5) The Minutes of Voting and Counting contains all the incidents that transpired before the Board of Election Inspectors.

b) On election paraphernalia:

- b.1) Ballots and election returns that bear the security markings and features prescribed by the Commission on Elections are genuine;
- b.2) The data and information supplied by the members of the Boards of Election Inspectors in the accountable forms are true and correct; and
- b.3) The allocation, packing and distribution of election documents or paraphernalia were properly and timely done.

c) On appreciation of ballots:

- c.1) A ballot with appropriate security markings is valid;
 - c.2) The ballot reflects the intent of the voter;
 - c.3) The ballot is properly accomplished;
 - c.4) A voter personally prepared one ballot, except in the case of assistants; and
 - c.5) The exercise of one's right to vote was voluntary and free.
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Section 7. Submission of memoranda. - The Commission may allow the parties to submit their respective memoranda within a non-extendible period of ten days from receipt of the written ruling of the Commission. No supplemental, reply or rebuttal memorandum shall be allowed.

Rule 19

Decisions

Section 1. Rendition of Decision. - The Commission shall decide the election contest within thirty days from the date it is submitted for decision.

An election protest is deemed submitted for decision after completion of the reception of the evidence or, if the parties were allowed to submit memoranda, upon submission of such memoranda or the expiration of the period for the filing, whichever is earlier. In an election protest, the winner shall be the candidate who obtained the plurality of the valid votes cast.

Section 2. Procedure in making Decisions. - The conclusions of the Commission in any case submitted to it for decision shall be reached in consultation before the case is assigned by raffle to a Member for the writing of the opinion. A certification to this effect signed by the Chairman or Presiding Commissioner shall be incorporated in the decision. Any member who took no part, or dissented, or abstained from a decision or resolution must state the reason therefor.

Every decision shall express therein clearly and distinctly the facts and the law on which it is based. In its decision the Commission shall be guided by the principle that every ballot is presumed to be valid unless there is clear and good reason to justify its rejection and that the object of the election is to obtain the true expression of the voters.

Section 3. Several judgments. - In a protest against several protestees, the Commission may, when a several judgment is proper, render judgment against one or more of them, leaving the protest to proceed against the others.

Section 4. When extended Opinion Reserved. - When in a given resolution or decision the writing of an extended opinion is reserved, the extended opinion shall be released within fifteen (15) days after the promulgation of the resolution.

Section 5. Period to File Motion for Reconsideration When Extended Opinion is Reserved. - If an extended opinion is reserved in a decision, the period to file a petition for certiorari with the Supreme Court or to file a motion for reconsideration shall begin to run only from the date the aggrieved party received a copy of the extended opinion.

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Section 6. Promulgation. - The promulgation of a decision of the Commission shall be made on a date previously fixed, of which notice shall be served in advance upon the parties or their counsels personally, or by registered mail, or by telegram, or any verifiable speedy means.

Section 7. Procedure if Opinion is Equally Divided. - When the Commission en banc is equally divided in opinion, or the necessary majority cannot be had, the case shall be reheard, and if on rehearing no decision is reached, the protest or the counter -protest shall be deemed dismissed if originally commenced in the Commission; in appealed cases, judgment or order appealed from shall stand affirmed; and in all incidental matters, the petition or motion shall be denied

Section 8. Duty to certify to the President. - In election protests, if the decision shall be that none of the parties has been legally elected, the Commission shall certify such decision to the President of the Philippines.

Section 9. Duty to Notify Other Agencies of the Government. - As soon as a decision in an election protest becomes final and executory, notices thereof shall be sent to the President, the Secretary of Local Government, the Chairman of the Commission on Audit, and the Secretary of the Sangguniang Pampook in the case of regional officials, the Secretary of the Sangguniang Panlalawigan in the case of provincial officials, and the Secretary of the Sangguniang Panglungsod in the case of city officials.

Section 10. Finality of Decisions or Resolutions. - Unless a motion for reconsideration is seasonably filed, a decision or resolution of a Division shall become final and executory after the lapse of five (5) days following its promulgation.

Rule 20

Motions for Reconsideration

Section 1. Grounds of Motion for Reconsideration. - A motion for reconsideration may be filed on the grounds that the evidence is insufficient to justify the decision, order or ruling; or that the said decision, is contrary to law.

Section 2. Period for Filing Motions for Reconsideration. - A motion to reconsider a decision shall be filed within five (5) days from the promulgation thereof. Such motion, if not *pro forma*, suspends the execution or implementation, of the decision, resolution, order or ruling.

Section 3. Form and Contents of Motion for Reconsideration. - The motion shall be verified and shall point out specifically the findings or conclusions of the decision, resolution, order or ruling which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or the provisions of law alleged to be contrary to such findings or conclusions.



Section 4. *Effect of Motion for Reconsideration on Period to File Petition for Certiorari to the Supreme Court.* - A motion to reconsider a decision, resolution, when not pro-forma, suspends the running of the period to elevate the matter to the Supreme Court.

Section 5. *How motion for Reconsideration Disposed of.* - Upon the filing of a motion to reconsider a decision, resolution, order or ruling of a Division, the ECAD Clerk concerned shall, within twenty-four (24) hours from the filing thereof, notify the Presiding Commissioner. The latter shall within two (2) days thereafter certify the case to the Commission en banc.

Section 6. *Duty of ECAD Director to Calendar Motion for Resolution.* - The ECAD Director concerned shall calendar the motion for reconsideration for the resolution of the Commission en banc within ten days from the certification thereof.

Section 7. *Period to Decide by the Commission En Banc.* - The motion for reconsideration shall be decided within fifteen (15) days from the date the case or matter is deemed submitted for decision, unless otherwise provided by law.

Section 8. *Finality of Decision.* - The decision of the Commission shall become final and executory five days after its promulgation and receipt of notice by the parties.

PART IV MISCELLANEOUS MATTERS

Rule 21

Electronic Evidence

Section 1. *Original of an electronic document or data.* - An electronic document or data shall be regarded as the equivalent of an original document under the Best Evidence Rule if it is a printout or output readable by site or other means, shown to reflect the data accurately.

Section 2. *Copies as equivalent of the originals.* - When a document is in two or more copies executed at or about the same time with identical contents, or is a counterpart produced by the same impression as the original, or from the same matrix, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduces the original, such copies or duplicates shall be regarded as the equivalent of the original.



Notwithstanding the foregoing, copies or duplicates shall not be admissible to the same extent as the original if:

- a) A genuine question is raised as to the authenticity of the original; or
- b) In the circumstances it would be unjust or inequitable to admit a copy in lieu of the original.

Section 3. Affidavit of evidence. - All matters relating to the admissibility and evidentiary weight of an electronic document may be established by an affidavit stating facts of direct personal knowledge of the affiant or based on authentic records. The affidavit must affirmatively show the competence of the affiant to testify on the matters contained therein. The affiant shall be made to affirm the contents of the affidavit in open session and may be cross-examined as a matter of right by the adverse party.

Section 4. Transmittal of Decisions and Orders. - The Clerk of the Commission shall transmit the Commission decision and orders through the fastest means available and through the official fax line to the BOC, and other concerned parties, which shall verify the same and comply with the decision or order.

Rule 22

Authentication of Electronic Documents and Data

Section 1. Burden of proving authenticity. - The person seeking to introduce an electronic document in an election protest has the burden of proving its authenticity.

Section 2. Manner of authentication. - Before any electronic document or data offered as authentic is received in evidence, its authenticity must be proved by any of the following means:

- a) By evidence that it had been digitally signed by the person purported to have signed the same;
- b) By evidence that other appropriate security procedures or devices for authentication of electronic documents were applied to the document; or
- c) By other evidence showing its integrity and reliability to the satisfaction of the judge.

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Rule 23

Costs, Damages and Attorney's Fees

Section 1. Costs; when allowed. - Costs shall be allowed to the prevailing party as a matter of course. The Commission shall have the power, for special reasons, to apportion the costs, as may be equitable. The Commission may render judgment for costs if a protest, or a counter protest is found to be frivolous, double or treble costs may be imposed on the protestant or the counter-protestant.

Section 2. Damages and attorney's fees. - In all election contests, the Commission may adjudicate damages and attorney's fees, as it may deem just and as established by the evidence, if the aggrieved party has included such claims in the pleadings.

Rule 24

Effectivity

Section 1. Effectivity. - These Rules shall be published in two (2) daily newspapers of general circulation and shall take effect on the seventh day following its publication.

Approved this 22nd day of March, 2010, Manila, Philippines.

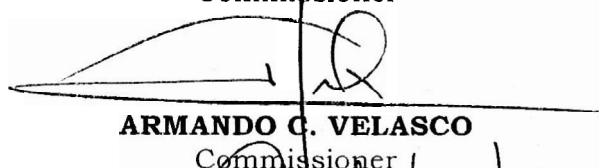

JOSE A.R. MELO
Chairman

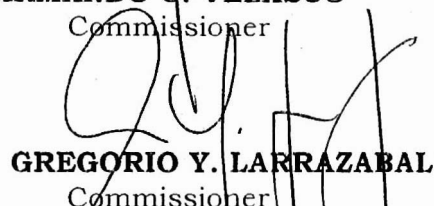

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Commissioner

On Official Business
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NICODEMO T. FERRER
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