



Office of the Governor of Guam

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Office of the People's Speaker
vicente (ben) c. pangelinan

JUL 09 2004

TIME: 5:45 () AM () PM
RECEIVED BY: [Signature]

09 JUL 2004

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

The Honorable Vicente C. Pangelinan
Speaker
I Mina' Bente Siete Na Liheslaturan Guåhan
155 Hessler Place
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

Transmitted herewith is Bill No. 306 (COR), "AN ACT TO REFORM THE PRIMARY ELECTIONS OF GUAM BY AMENDING §§ 16108 AND 16301 OF TITLE 3, GUAM CODE ANNOTATED," which I have signed into law on June 25, 2004 as Public Law 27-101.

The Administration supports I Mina' Bente Siete Na Liheslaturan Guåhan's effort to correct any possible defect in Guam's current Primary Election laws. Bill No. 306 attempts to ensure that the Primary Election laws of Guam provide the protections afforded under the United States Constitution applicable through the Organic Act of Guam.

The Constitution, incorporated in the Organic Act, grants the legislature the power to legislate the "time, place and manner of holding elections." This power must not abridge the right to vote and the freedom of political association. Although the Bill may not adequately address these issues, it is a step towards the government's effort to reconcile our election laws with our people's fundamental rights. As we all know, these issues are presently before the court for judicial resolution.

The Administration encourages our people to express themselves through the election process. Membership into a political party is a fundamental right of free association. Political parties impose standards on their members through their by-laws. However, it is the Guam Legislature who determines the selection and qualification of its own members pursuant to the Organic Act. As mentioned earlier, I commend I Mina' Bente Siete Na Liheslaturan Guåhan's effort to balance the freedom of association and the right to vote.

Sinseru yan Magåhet,

[Signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'lahen Guåhan
Governor of Guam

Attachment

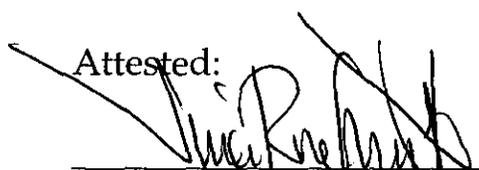
cc: The Honorable Tina Rose Muña-Barnes
Senator and Legislative Secretary

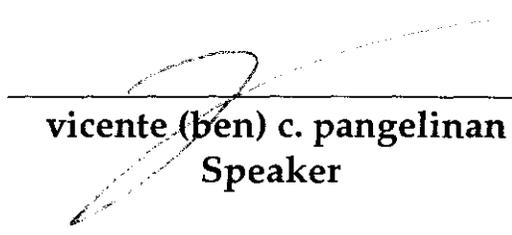
I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

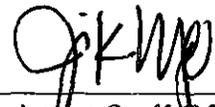
This is to certify that Bill No. 306 (COR), "AN ACT TO REFORM THE PRIMARY ELECTIONS OF GUAM BY AMENDING §§ 16108 AND 16301 OF TITLE 3, GUAM CODE ANNOTATED," was on the 18th day of June, 2004, duly and regularly passed.

Attested:


Tina Rose Muña Barnes
Senator and Legislative Secretary


vicente (ben) c. pangelinan
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 18th day of June, 2004,
at 4:30 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: June 25, 2004

Public Law No. 27-101

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

Bill No. 306 (COR)

As amended by the Committee on
Appropriations & Budgeting,
General Governmental Operations,
Reorganization and Reform, and further
amended on the Floor.

Introduced by:

v. c. pangelinan
F. B. Aguon, Jr.
J. M.S. Brown
F. R. Cunliffe
C. Fernandez
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
L. A. Leon Guerrero
J. A. Lujan
T. R. Muña Barnes
J. M. Quinata
R. J. Respicio
Toni Sanford
Ray Tenorio

**AN ACT TO REFORM THE PRIMARY ELECTIONS OF
GUAM BY AMENDING §§ 16108 AND 16301 OF TITLE 3,
GUAM CODE ANNOTATED.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that cases since the year 2000, and most recently this year, call into question
4 Guam's Primary Election Laws pertaining to the protections afforded under
5 the First Amendment, Freedom of Association Clause of the United States

1 Constitution, as incorporated to Guam through the 1950 Organic Act of
2 Guam.

3 This legislation is intended to correct any possible deficiencies in
4 Guam's Primary Election Laws and avoid wasted government resources in
5 the event that a challenge is brought as to its constitutionality.

6 **Section 2.** Section 16108(a)(i) of Article 1 of Chapter 16 of Title 3, Guam
7 Code Annotated, is hereby *amended* to read as follows:

8 **"Section 16108. Primary Elections cancelled when unnecessary.**

9 (a) When the Commission determines that all political parties that have
10 qualified for placement on the primary ballot have: (i) the same or fewer
11 number of candidates running for nomination to the Legislature than
12 the number of senatorial seats allowed in law, it shall cancel such
13 Primary Election for the Legislature because of the lack of any contest;
14 or"

15 **Section 3.** Section 16301 of Article 3 of Chapter 16 of Title 3, Guam
16 Code Annotated, is hereby *amended* to read as follows:

17 **"Section 16301. Form of Primary Election Ballot.** Ballots used in
18 the Primary Election shall be in the form prescribed by the Guam
19 Election Commission and shall conform to the following *minimum*
20 requirements:

21 (a) All candidates for all offices to be contested in the
22 forthcoming General Election shall appear on a Primary Ballot to be
23 voted upon by voters in each voting district. A voting district is each
24 district within Guam as defined in 1 GCA § 403, unless otherwise
25 provided in this Title. The Guam Election Commission shall determine

1 a method that limits voters to cast votes in only one party for all offices
2 in that Primary Election;

3 (b) Across the top of the ballot shall be printed the words
4 "OFFICIAL PRIMARY ELECTION BALLOT" and the date of the
5 Primary Election;

6 (c) Thereafter shall appear an explanation to the voter instructing
7 him how to vote;

8 (d) There shall appear specific instructions in boldface type on
9 each ballot that a voter may cast votes for candidates appearing on that
10 ballot for one (1) party only; that if votes are cast for candidates of more
11 than one (1) party for any office or nomination of offices appearing on
12 the ballot, the entire ballot shall be void. The instructions on the ballot
13 shall clearly indicate that voters are allowed to cast votes in only one (1)
14 party for all offices in that Primary Election. Any ballot wherein votes
15 are cast for more than one (1) party for all offices in that Primary
16 Election shall be void;

17 (e) The order in which a party shall appear on the ballot shall be
18 determined publicly by the Guam Election Commission; each concerned
19 party shall be given reasonable notice of the time and place of the
20 drawing and shall be invited to attend;

21 The ballot for each office for which party nominations are sought
22 shall contain instructions to the voters as to the maximum number of
23 candidates that may be selected for that office; that party's candidates
24 for nomination for each office shall be listed on the ballot in random
25 order in a manner similar to that established for General Election Ballot

1 listing and placement;

2 (f) The Guam Election Commission shall make accommodation
3 for the voter to write in the name of a person or persons not otherwise
4 appearing on the ballot, under each office being contested under each
5 party heading;

6 (g) Should the Guam Election Commission adopt a ballot form
7 using any mechanical, electro-mechanical, or electronic device to record
8 the vote, or aid in recording the vote, the information required by this
9 Section shall appear on the device in the place provided therefore, or
10 otherwise prominently within the voting booth so as to be easily read by
11 the voter.”

12 **Section 4.** Notwithstanding the Administrative Adjudication Law, the
13 Executive Director of the Guam Election Commission shall promulgate the
14 necessary Rules to (i) determine a method of allowing voters to cast votes in
15 only one (1) party for all offices in that Primary Election; and (ii) determine a
16 method in which the order of a party shall appear on the ballot. The Rules
17 shall become effective upon submission to *I Liheslatura*. However, subsequent
18 changes to such Rules shall be pursuant to the Administrative Adjudication
19 Law.

20 **Section 5. Severability.** *If* any provision of this Law or its application
21 to any person or circumstances is found to be invalid or contrary to law, such
22 invalidity shall *not* affect other provisions or applications of this Law which
23 can be given effect without the invalid provisions or applications, and to this
24 end the provisions of this Law are severable.



FRANK B. AGUON, JR.

Vice Speaker

June 9, 2004

The Honorable ben c. pangelinan
Speaker, *I Mina' Bente Siete Na Liheslaturan Guåhan*
155 Hesler Street
Hagåtña, Guam 96910

Via: Honorable Senator Lou Leon Guerrero, Committee on Rules & Health

Dear Speaker pangelinan:

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform, to which was referred, Bill No. 306(COR), as amended "An Act to Reform the Primary Elections of Guam", has had the same under consideration, and now wishes to report back the same with the recommendation TO DO PASS.

The voting record is as follows:

TO PASS

6

NOT TO PASS

TO ABSTAIN DUE TO POTENTIAL CONFLICT

TO PLACE IN INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached. Thank you for your attention to this matter. **Dangkolo' Na Si Yu'os Ma'ase.**

Respectfully,

FRANK BLAS AGUON, JR.
Vice Speaker/Senator
I Mina' Bente Siete Na Liheslaturan Guåhan

Respetu Para Todu (*Respect for All*)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827





FRANK B. AGUON, JR.

Vice Speaker

**Committee on Appropriations and Budgeting, General Governmental Operations,
Reorganization and Reform**

VOTING SHEET

Bill No. 306(COR), as amended – “An Act to Reform the Primary Elections of Guam.”

Committee Members	To Pass	Not to Pass	To Abstain due to potential Conflict	To place in Inactive File
 FRANK B. AGUON, JR. Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ANTOINETTE D. SANFORD Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 LOU LEON GUERRERO Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TINA R. MUÑA-BARNES Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JOHN M. QUINATA Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 RORY J. RESPICIO Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 CARMEN FERNANDEZ Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 MARK FORBES Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LAWRENCE F. KASPERBAUER Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Respetu Para Todu (Respect for All)





FRANK B. AGUON, JR.

Vice Speaker

June 9, 2004

MEMORANDUM

TO: Members, Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform

FROM: Vice Speaker Frank B. Aguon, Jr. Chairman, Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform

SUBJECT: Committee Report – Bill No. 306(COR), as amended

Transmitted herewith for your information and action is the report on Bill No. 306(COR) "An Act to Reform the Primary Elections of Guam", from the Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform.

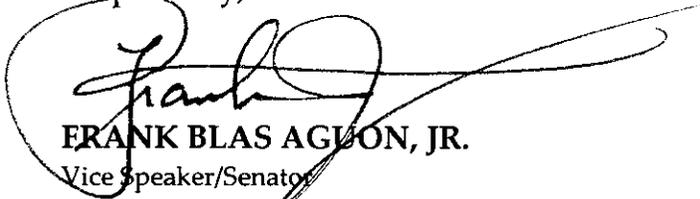
This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 306(COR), as amended
4. Public Hearing Sign-in Sheet
5. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me. **Dangkolo' Na Si Yu'os Ma'ase.**

Respectfully,



FRANK BLAS AGUON, JR.

Vice Speaker/Senator

I Mina' Bente Siete Na Liheslaturan Guahan

Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guahan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827





FRANK B. AGUON, JR.

Vice Speaker

I MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN

Committee on Appropriations and Budgeting,
General Governmental Operations,
Reorganization and Reform

**VICE SPEAKER FRANK B. AGUON, JR.
CHAIRMAN**

Committee Report
On
Bill No. 306 (COR), as amended

"AN ACT TO REFORM THE PRIMARY ELECTIONS OF GUAM."



Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
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I. OVERVIEW

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform to which was referred Bill No. 306(COR) held a public hearing at 9:30 a.m. on Friday, June 4, 2003 in the Public Hearing Room, *I Liheslaturan Guåhan*. A paid ad was publicized on page 20, Pacific Daily News on Friday, May 28, 2003. Pacific Daily News also featured a story on Thursday, June 3, 2003.

Senators present at the public hearing were:

Vice-Speaker Frank Blas Aguon, Jr., Chairman
Senator Tina Muna-Barnes
Senator John Quinata
Senator Rory Respicio
Speaker vicente pangelinan
Senator Joanne Brown
Senator Robert Klitzkie
Senator Jesse Lujan

II. SUMMARY OF TESTIMONY

Douglas Moylan, Attorney General of Guam, delivered oral testimony endorsing the legislation that is attempting to correct the ongoing debate with the election laws. Mr. Moylan pointed out that Section 3(a) of the bill does not allow sufficient time for the Guam Election Commission to complete a model that will comply with the mandate and meet the absentee voting deadline for off-island voters.

Gerald A. Taitano, Executive Director, Guam Election Commission, stated that the GEC does not take a position on Bill 306 but will continue to follow what is dictated by the Legislature in an administrative capacity. Mr. Taitano stressed his concern with Section 16301(a). He felt that there would be a time constraint to design or formulate the ballot to comply with the mandate and meet other deadlines already in place.

Mark "Paps" Martinez, private citizen, submitted oral and written (see attached) in opposition to Bill No. 306(COR). Mr. Martinez added that Bill No. 306(COR) does not solve the legal problems concerning our present Primary Election and that there is no legal problem with Guam's present Blanket Primary Election.

Ron McNinch, Associate Professor, University of Guam, delivered oral testimony in favor of Bill No. 306(COR). Dr. McNinch pointed out that there is a nationwide concern

for Primary Elections and Bill No. 306(COR) is a piece of legislation that will solve the problems incrementally. He further added that Section 2 of the bill is a sound method for addressing the issues surrounding the Primary Election.

Michael F. Phillips, Chairman, Democratic Party of Guam, submitted written testimony (see attached) on behalf of the Democratic Party of Guam in support of Bill No. 306(COR).

III. FINDINGS AND RECOMMENDATION

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform finds that Bill No. 306(COR), as amended, will bring Guam's Primary Election Laws in conformity with the Organic Act of Guam and the United States Constitution. Bill No. 306(COR), as amended, will also continue to protect the First Amendment rights of association of Guam's political parties.

Accordingly, the Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform, to which Bill 306(COR) was referred does hereby submit its findings and recommendations to *I Mina Bente Siete Na Liheslaturan Guåhan* TO DO PASS Bill No. 306(COR), as amended: "An Act to Reform the Primary Elections of Guam."

- Attachments:
1. Bill No. 306(COR), as amended
 2. Written Testimony
 - a. Mark "Paps" Martinez
 - b. Michael F. Phillips
 3. Public Hearing Sign-in Sheet
 4. Paid Advertisement/Notice



The Law Offices of

PHILLIPS & BORDALLO

A Professional Corporation

410 West O'Brien Drive, Suite 102 Hagåtña, Guam 96910-5044

Tel: (671) 477-ABCD (2223) • Fax: (671) 477-2FAX (2329)

"I Erensia, Lina'la', Espiritu-ta"

SUPERIOR COURT

OF GUAM

CLERK OF COURT

BY: _____

Attorneys for Defendant

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IN THE SUPERIOR COURT OF GUAM HAGÁTÑA, GUAM

ATTORNEY GENERAL OF GUAM,

Plaintiff,

vs.

GUAM ELECTION COMMISSION,
the REPUBLICAN PARTY OF GUAM,
and the DEMOCRATIC PARTY OF
GUAM,

Defendants.

CIVIL CASE NO. 1456-03

**DEMOCRATIC PARTY OF GUAM'S
RESPONSE TO ATTORNEY
GENERAL'S MOTION FOR
SUMMARY JUDGMENT**

The DEMOCRATIC PARTY OF GUAM, the Defendant in the above-captioned case, more properly described as a Real Party In Interest, through their attorneys of record, Phillips & Bordallo, P.C., by Michael F. Phillips, responds as follows to the Attorney General's Motion for Summary Judgment.

Background

The DEMOCRATIC PARTY OF GUAM answered the Attorney General's (Hereinafter "AG") Complaint to nullify Guam's Primary Election laws on April 1, 2004. In its Answer, the Democratic Party, with supporting documentation, alleged in part:

The DEMOCRATIC PARTY OF GUAM welcomes membership from both registered and non-registered residents of Guam, and, likewise, seeks to represent all registered and non-registered Guam residents. Membership in the DEMOCRATIC PARTY OF GUAM may

ATTACHMENT 26-P.3

1 include registered and non-registered voters.

2 The DEMOCRATIC PARTY OF GUAM expressed concerns the Attorney General was
3 attempting to convince the Court to impose upon the People of Guam political declaration
4 standards higher than required by the individual political parties. The DEMOCRATIC PARTY
5 OF GUAM does not require membership or membership disclosure prior to registered voters
6 participating in a Democratic Primary Election. The DEMOCRATIC PARTY OF GUAM By-
7 Laws do not authorize voters to switch their party voting between elected offices during the
8 Primary Election but the By-Laws do not require voters to select a party primary until they are
9 in the privacy of the voting booth. See, Resolution No. 2004-04, Democratic Party of Guam
10 Central Executive Committee (March 4, 2004), attached to Answer.

11 The DEMOCRATIC PARTY OF GUAM raised additional concerns including
12 3 G.C.A. § 16108, which arguably violates the Organic Act of Guam and the Constitution of
13 the United States by mandating political parties with less than twenty-one (21) but more than
14 fifteen (15) candidates running for nomination to I Liheslaturan Guåhan list all such
15 candidates in the General Election in the event of a cancelled Primary Election. This statute
16 interferes with the selection process of party nominees and provides an unfair advantage to
17 political parties that cannot field more than fifteen (15) candidates for I Liheslaturan Guåhan
18 by diluting the number of votes that can go towards the nominees of the political party.

19 The DEMOCRATIC PARTY OF GUAM, in its Answer, denied the Attorney General's
20 unsubstantiated allegation that "neither Defendants nor candidates will be able to prepare for
21 the Year 2004 Primary Election" without direction from the Superior Court of Guam and Guam
22 Legislature. The DEMOCRATIC PARTY OF GUAM is now aware of at least two (2) pending
23 legislative proposals [Bill Nos. 190 and 306(COR)] to, *inter alia*, restore Guam's traditional
24 "straight ticket" Primary Election, and in the case of Bill 306, also remedy the Government's
25 failure to provide for a Primary Election in the event a political party has more than fifteen (15)
26 candidates for Senator but less than twenty-one (21). See Bill No. 190 attached to the

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1 DEMOCRATIC PARTY OF GUAM's Answer and Bill No. 306, attached hereto for the Court's
2 convenience. Accompanying Bill No. 306 is correspondence from the Honorable vicente c.
3 pangelinan, Speaker of Mina' Bente Siete Na Liheslaturan Guáhan, informing Bill No. 306 will
4 receive a public hearing on June 4, 2004.

5 The DEMOCRATIC PARTY OF GUAM prayed for relief to include removing the
6 Party as a named defendant and instead correctly refer to the Party as a "Real Party in
7 Interest." Finally, the DEMOCRATIC PARTY OF GUAM requested the Court "ensure Guam's
8 Primary Elections are conducted in a manner consistent with the Organic Act of Guam and
9 the Constitution of the United States." The DEMOCRATIC PARTY OF GUAM objected to all
10 allegations the upcoming Primary Election should be cancelled.

11 The Guam Election Commission initially filed a "Statement of No Position" with the
12 Court, and recently filed a brief opposing the AG's Motion for Summary Judgment. Ironically,
13 the Guam Election Commission now argues the AG does not have standing to raise
14 objections to Guam laws clearly violating the Organic Act of Guam.

15 ARGUMENT

16 The doctrine of separation of powers applies to the Government of Guam. People v.
17 Perez, 1999 Guam 2; In Re Request Of Governor Carl T.C. Gutierrez, Relative To The
18 Organicity And Constitutionality Of Public Law 26-35, 2002 Guam 1. At the moment, the
19 Organic Act is the Constitution of Guam. The Government of Guam "shall consist of three
20 branches, executive, legislative and judicial." Organic Act, § 1421a. "The Legislature shall
21 be the judge of the selection and qualification of its own members." Organic Act, § 1423b.

22 The Congress gave the Guam Legislature broad legislative power by §1423a of the
23 Organic Act, which provides "The legislative power of Guam shall extend to all rightful
24 subjects of legislation not inconsistent with the provisions of this chapter and the laws of
25 the United States applicable to Guam." As recently as 1998, Congress passed P.L.
26 105-291, even further broadening the scope of local government to parallel those of other

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1 territorial legislatures. House Report 105-742 to Accompany H.R. 2370, Guam Organic
2 Act Amendments of 1998, 105 Cong., 2nd Sess. 1998.

3 The Attorney General misreads the alleged requirements within the DEMOCRATIC
4 PARTY OF GUAM regarding participation in Primary Elections. The Attorney General
5 stated:

6 Like the political parties in California and in Washington
7 State, the political parties in Guam each have a rule permitting
8 only party members –i.e., persons who, upon registering to
9 vote, have declared their affiliation to the party – to vote for that
10 party's candidates in a primary election. ...Finally, like the
11 California and Washington blanket primary elections, the
12 primary election system in Guam forces Guam's political
13 parties to associate with, i.e., to have their nominees and
14 hence their positions determined by, voters who refuse to
15 affiliate with their party or worse, are affiliated with a rival
16 political party.

17 AG's Brief at p. 9.

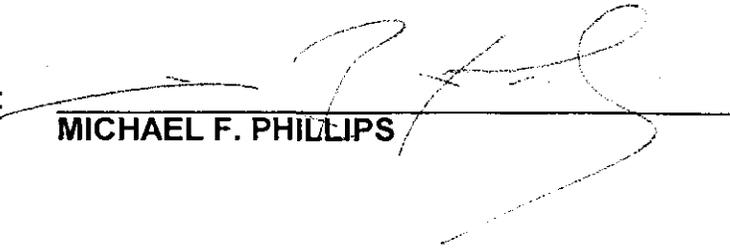
18 The DEMOCRATIC PARTY OF GUAM'S Answer and accompanying Central
19 Executive Resolution prove the DEMOCRATIC PARTY OF GUAM is not "forced" to
20 associate with non-members, but in fact invites non-members to participate in the
21 selection of party nominees for public office. While this is not relevant to the Organicity of
22 Guam's Primary Election laws, it is relevant to any remedy the Court attempts to fashion
23 should it strike down the challenged laws.

24 There can be no question that the current Primary Election laws, as written, violate
25 the Organic Act of Guam. The AG has cited ample authority for this proposition. The AG
26 crosses an unnecessary line though when he attempting to convince this Court to issue an
27 injunction against the political parties and Guam Election Commission, thereby preventing
28 the upcoming Primary Election. While it is not clear what the AG seeks to obtain through
an injunction against Guam's two (2) political parties, it is clear that he is improperly
reaching to cancel a Primary Election that should still take place in the absence of the
inorganic legislation.

1 The Court does not have the authority or jurisdiction to construct the proper set of
2 Primary Election laws. It appears certain the Legislature will resolve this matter in a short
3 period of time. In any event, as expressed earlier, Guam's Primary Elections used to be
4 consistent with the relevant Organic Act provisions until the statutes were amended to
5 provide for a "split ballot" Primary Election. The Court should strike the current inorganic
6 statutes, and, in light of the Separation of Powers doctrine, leave it to the Legislature's
7 discretion whether to proceed under our old system of a "single ballot" Primary Election or
8 provide an alternative method of public elections.

9 Respectfully submitted this 1st day of June, 2004.

11 **PHILLIPS & BORDALLO, P.C.**
12 Attorneys for Defendant

13 By: 

14 **MICHAEL F. PHILLIPS**

12-13
MTC
Bj...
✓

**DEMOCRATIC PARTY OF GUAM
CENTRAL EXECUTIVE COMMITTEE**

Resolution No. 2004-04

**RELATIVE TO CIVIL CASE NO 1456-03 IN THE SUPERIOR COURT OF GUAM
ATTORNEY GENERAL OF GUAM VS. GUAM ELECTION COMMISSION, THE
REPUBLICAN PARTY OF GUAM, AND THE DEMOCRATIC PARTY OF GUAM;
COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

WHEREAS, the First Amended Complaint for Declaratory Judgment and Injunctive Relief was filed on February 19, 2004 in Civil Case No. 1456-03 in the Superior Court of Guam by the Attorney General of Guam as plaintiff and Democratic Party of Guam as defendant seeking relief from the Court for the following:

1. That the Court issue a judgment declaring that 3 G.C.A. §§ 16301 and 16402 violate the First Amendment, Freedom of Association Clause, of the U.S. Constitution, as incorporated to Guam by 48 U.S.C. § 1421b(a), or that the Elections Law fails to provide sufficient safeguards against the violation of the First Amendment, Freedom of Association Clause, of the U.S. Constitution, as incorporated to Guam by 48 U.S.C. § 1421b(a);
2. That the Court issue an order enjoining Defendants from: applying and implementing 3 G.C.A. §§ 16301 and 16402 and thereby conducting the September 4, 2004 Primary Election; and
3. For such further relief as the Court deems just and proper; and

WHEREAS, at the February 24, 2004 Regular Meeting of the Central Executive Committee of the Democratic Party of Guam, the Acting Chairperson of the Democratic Party of Guam appointed an Ad-Hoc Committee to be co-chaired by Senator Lou Leon Guerrero and Mayor Jose "Pedo" Terlaje, the Democratic Senatorial and Mayoral Representatives to the Central Executive Committee, for the purpose of making policy recommendations for the Party to adopt and to procure legal representation relative to Civil Case No. 1456-03; and

WHEREAS, Section 1 and Section 2 of Rule X of the By-laws of the Democratic Party of Guam specifically provide that Democratic Party Candidates be selected in accordance with the Government Code of Guam, as codified into the Guam Code Annotated, which at the time, prohibited "Split-Ticket" voting; and

WHEREAS, The By-Laws of the Democratic Party of Guam do not mandate registered voters to make any public declaration of party preference or require proof of party membership to participate in the Democratic Primary; and

WHEREAS, the Ad-Hoc Committee convened on February 27, 2004 and has recommended the following:

12-13
2-10-04
The Law Offices of
PHILLIPS & BORDALLO
410 West O'Brien Drive
Hagatna, Guam 96910

ATTACHMENT 26-P 8



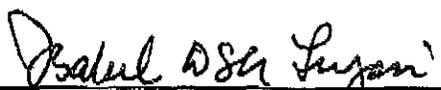
1. That the Central Executive Committee ratifies the selection of Attorney and Former Democratic Party Chairman Michael Phillips to represent the Democratic Party of Guam in Civil Case No. 1456-03 including expressed authorization to enter into any stipulations in behalf of the Democratic Party of Guam; and
2. That the Central Executive Committee support the continued administration of the Primary Election by the Guam Election Commission;
3. That the Central Executive Committee reaffirms its opposition to any mandate for registered voters to make any public declaration of party preference or any requirement for proof of party membership in order to participate in the Democratic Party Primary Election.
4. That the Central Executive Committee endorses "Straight-Ticket" voting as previously mandated by the Guam Primary Election Laws that were in effect on July 5, 1972, the date on which the By-Laws of the Democratic Party of Guam were first adopted.

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL EXECUTIVE COMMITTEE OF THE DEMOCRATIC PARTY OF GUAM THAT:

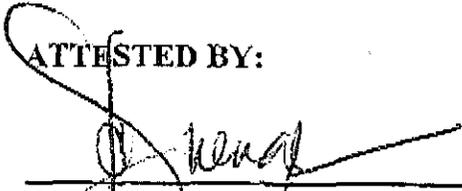
1. The Central Executive Committee does hereby ratify the selection of Attorney and Former Democratic Party Chairman Michael Phillips to represent the Democratic Party of Guam in Civil Case No. 1456-03 and does hereby authorize Attorney Phillips to enter into any stipulations relative to Civil Case No. 1456-03 as necessary in behalf of the Democratic Party of Guam; and
2. The Central Executive Committee does hereby support the continued administration of the Primary Election by the Guam Election Commission.
3. The Central Executive Committee does hereby reaffirm its opposition to any mandate for registered voters to make any public declaration of party preference or any requirement for proof of party membership in order to participate in the Democratic Party Primary Election.
4. The Central Executive Committee does hereby endorse "Straight-Ticket" voting as previously mandated by the Guam Primary Election Laws that were in effect on July 5, 1972, the date on which the By-Laws of the Democratic Party of Guam were first adopted.

DULY AND REGULARLY ADOPTED BY THE CENTRAL EXECUTIVE COMMITTEE OF THE DEMOCRATIC PARTY OF GUAM THIS 4TH DAY OF MARCH 2004.

CERTIFIED:


 ISABEL (BECKY) D.S.A. LUJAN
 ACTING CHAIRPERSON
 DEMOCRATIC PARTY OF GUAM

ATTESTED BY:


 CHRIS M. DUENAS
 SECRETARY
 DEMOCRATIC PARTY OF GUAM

ATTACHMENT 26 - P. 9



Committee on Appropriations and Budgeting, General Governmental Operations,
Reorganization and Reform

Vice Speaker Frank B. Aguon, Jr., Chairman

Public Hearing: Friday, June 4, 2004 • 9:30 a.m.

I Liheslaturan Guahan, Hagatna

Witness sign in sheet

Bill No. 306 (COR) - An act to reform the primary elections of Guam.

NAME (Please print)	AGENCY/ ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR	CONTACT NUMBER
MARK PAPS MARTINEZ	SELF	X	X		X	477-7623
Doug Moya	AG's Office	X		X		476-0296
Gerald A. Taitano	Guam Elect Comm	X		No position		477-9791
RON McNinch	UDG	✓		✓		735-2550