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SUPREME COURT
OF GUAM

Attorneys for Respondents

**IN THE SUPREME COURT OF GUAM
HAGÁTÑA, GUAM**

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Blair Sterling Johnson & Martinez
A Professional Corporation

GLORIA LUJAN RUDOLPH,)
)
Petitioner,)
)
vs.)
)
JEHAN'AD G. MARTINEZ, AS)
PRESIDENT OF THE GUAM BAR)
ASSOCIATION, and GUAM BAR)
ASSOCIATION BOARD OF)
GOVERNORS,)
)
Respondents.)
_____)

**SPECIAL PROCEEDINGS
CASE NO. WRM17-001**

**ANSWER TO VERIFIED
PETITION FOR WRIT OF
MANDAMUS AND PROHIBITION**

COMES NOW Jehan'Ad G. Martinez, as President of the Guam Bar Association ("GBA") and the GBA Board of Governors, and herein responds to the numbered paragraphs of the Petitioner's Verified Petition for Writ of Mandamus and Prohibition as follows:

1. Admitted.
2. Admitted.
3. Respondents admit that Jehan'Ad G. Martinez was President in 2016 and 2017, the times relevant to the election contested by Petitioner, and that as President, is

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charged with governance and administration as articulated in the GBA's Rules and Bylaws.

4. Respondents admit that the Board of Governors is charged with governance and administration as articulated in the GBA Rules and Bylaws.

5. Admitted.

6. Respondents admit that they are charged with governance and administration as articulated in the GBA Rules and Bylaws.

7. Respondents admit that Petitioner demanded a new election due to perceived irregularities in the 2016 election, but deny Petitioner's characterization that the election was somehow improper.

8. Respondents deny that the GBA's Bylaws provide for a reelection, but do admit that they denied Petitioner's request for a new election.

9. Respondents submit that Petitioner has failed to exhaust her remedies articulated in the GBA's Bylaws. Under GBA Bylaw Article IX, Section 6, a candidate dissatisfied with the results of the count of his election may request a recount, the results of which "shall be final and not subject to further challenge." On this basis, Respondents deny.

10. Respondents admit that on December 7, 2016, the GBA was apprised of nonconformity with GBA's Bylaws and therefore reset the election, resending ballots to all GBA members in good standing who had not otherwise submitted a verifiable ballot. Those members who had already submitted ballots that wished to receive new ballots were also provided that opportunity. That led to the letter articulating the reset of the election process as represented by Exhibit 4 of the Petition.

11. Respondents admit that the GBA's Election Committee Chairperson provided the committee report regarding the election to the GBA Governors on January 18, 2017 but reject Petitioner's characterization that it was contrary to the GBA Bylaws. Exhibit 5 to the Petition is an accurate representation of the committee report received from the Election Committee and published to the GBA general membership via its website and LISTSERV service.

12. Respondents admit that GBA offered the Petitioner the opportunity to request a recount of the election ballots, to no avail, but deny the remaining allegations.

13. Respondents deny Petitioner's characterization of the February 23, 2017 letter attached to her Petition as Exhibit 6. The letter did not state that the Petitioner would not contest the results of the election, but rather that the "unsuccessful candidate in the bid for member at large position will not contest the election results." On this basis, Respondents deny the allegations.

14. Admitted.

15. Admitted.

16. Admitted.

17. Respondents admit that Petitioner, like all GBA members, has a substantial interest in proper application of the GBA Rules and Bylaws. However, Respondents are uncertain as to how to address Petitioner's purported confusion. Page 3 of Exhibit 7 of the Petition includes an agenda for the previously scheduled March 29, 2017 Annual Meeting which clearly articulates that no resolutions would be presented at that meeting. To the extent that a response is required as to the allegation of Petitioner's purported confusion, Respondents deny.

18. Respondents deny that there is lack of adherence to the GBA's Bylaws, or that there is any intentional failure to comply. To the extent that a response is required, Respondents deny.

19. Respondents reject Petitioner's claim that confidentiality was breached, and therefore deny the allegations.

20. Respondents are charged with administration and governance of the GBA consistent with its Rules and Bylaws which are subject to interpretation by the Board of Governors. Respondents reject the insinuation that their interpretation was arbitrary or capricious. As a consequence, to the extent a response is required, Respondents deny.

21. Respondents deny that any confidentiality in connection with the voting has been breached, and therefore deny.

22. Respondents deny that they have not complied with the GBA Bylaws, or that their interpretation and application of the GBA Bylaws are improper or arbitrary.

FIRST AFFIRMATIVE DEFENSE

Petitioner has failed to exhaust her administrative remedies under the GBA Bylaws.

SECOND AFFIRMATIVE DEFENSE

Petitioner failed to join indispensable parties, namely all of the members of the GBA Board of Governors.

THIRD AFFIRMATIVE DEFENSE

There has been insufficient service of process, in that Petitioner failed to properly serve her petition.

FOURTH AFFIRMATIVE DEFENSE

Petitioner's claims are barred by laches.

PRAYER FOR RELIEF

WHEREFORE, Respondents pray that:

1. The writ be denied and the election be confirmed as having been properly conducted;
2. Respondents recover costs of this action; and
3. For such other relief as may be just and proper.

RESPECTFULLY SUBMITTED this 3rd day of April, 2017.

THOMPSON THOMPSON & ALCANTARA, P.C.
Attorneys for Respondents

By: 
for **R. TODD THOMPSON**

VERIFICATION

I, JEHAN'AD G. MARTINEZ, declare that I am the president of the Guam Bar Association and a member of its Board of Governors. I have read the foregoing Answer to Verified Petition for Writ of Mandamus and Prohibition and know its contents and the same is true of my own knowledge, except as to those matters set forth on information and belief, and as to those matters, I believe them to be true.

I declare that the forgoing is true and correct. Executed at Hagåtña, Guam on April 3, 2017.


JEHAN'AD G. MARTINEZ