

## MOTION FOR DISMISSAL

This Motion seeks the immediate dismissal of **Roxane Meyers**, the incumbent Deputy Chief Election Officer (CEO) of the Secretariat of the Elections Commission on the basis of and for the following reasons:

**WHEREAS**, pursuant to Article 161A (1) of the Constitution of the Cooperative Republic of Guyana, hereinafter referred to as "*the Constitution*", the Elections Commission is responsible for the efficient functioning of the Secretariat of the Commission, which shall comprise the officers and employees of the Commission, and is vested with the power to remove and to exercise disciplinary control over such staff.

**AND WHEREAS** Sections 18 and 19 of the Elections Laws (Amendment) Act, No 15 of 2000, hereinafter referred to as "*ELAA*" provide that notwithstanding any written law the CEO shall be subject to the control and direction of the Commission.

**AND WHEREAS**, pursuant to Article 162 (1) (b) of the Constitution of the Cooperative Republic of Guyana, the Elections Commission is vested with the power to issue such instruction and take such action as appear to it necessary to ensure in partiality fairness and compliance with the provisions of the Constitution or any Act of Parliament on the part of persons exercising powers or performing duties connected with or relating to the conduct of elections.

**AND WHEREAS**, pursuant to Section 8 of the Representation of the People's Act, Chapter 1:03, the Deputy Chief Election Officer, hereinafter referred to as "*the DCEO*", took an oath to "*faithfully perform the duties of the said office according to law, without partiality, fear, favour or affection*".

**AND WHEREAS**, the Representation of the People's Act, Chapter 1:03, hereinafter referred to as "*ROPA*" specifies and contains the various statutory duties, functions and responsibilities of the DCEO.

**AND WHEREAS**, the DCEO as the second in command functional head of the Secretariat and second most senior Election Officer is responsible to provide instructions, directions and guidance to all election officers of the Secretariat of the Commission in respect of the performance of their respective statutory duties, functions and responsibilities, including all Returning Officers. ✱

**AND WHEREAS** both in the presence of and absence of the Chief Election Officer (CEO), the DCEO has carried out functions in relation to the conduct of the National and Regional Elections 2020.

**AND WHEREAS** on or about the 2<sup>nd</sup> March, 2020, during the National and Regional Elections 2020, the CEO, by virtue of his office, received from the Presiding Officer for each polling station in Election District Number 4 a Statement of Poll pursuant to Section 84 of ROPA.

**AND WHEREAS** the Honourable Chief Justice Roxane George SC on the 11<sup>th</sup> March, 2020, in the case of **Reaaz Holladar v. Returning Officer, Clairmont Mingo; the Chief Election Officer; and Guyana Elections Commission (2020-HC-DEM-CIV-FDA-360)** vacated and set aside the declaration made by the Returning Officer for District 4 as being unlawful and in breach of Section 84 of ROPA and the Chief Justice further ordered that the Returning Officer/Deputy Returning Officer to comply with the requirements of the said Section and further granted an injunction restraining GECOM from declaring the results of the election until the Section has been complied with.

**AND WHEREAS** Paragraph 12 of Order 60 of 2020 issued by GECOM and gazetted on the 4<sup>th</sup> May, 2020, as emended by Order No. 69 of 2020, gazetted on the 29<sup>th</sup> May, 2020, required the CEO to tabulate "*the matrices for the recount of the ten Electoral Districts*" and to submit them in a report together with a summary of the observation reports for each District.

**AND WHEREAS** Section 96 (1) of ROPA provides that the CEO shall, after calculating the total number of valid votes of electors which have been cast for each list of candidates, on the basis of votes counted and the information furnished by returning officers under Section 84 (11), ascertain the result of the election in accordance with Sections 97 and 98.

**AND WHEREAS** Section 96 (2) of ROPA provides that the CEO shall prepare a report manually and in electronic form in terms of Section 99 for the benefit of the

Commission, which shall be the basis for the Commission to declare and publish the election results under Section 99.

**The Grounds and Basis for this Motion for Dismissal are as follows:**

1. In breach of her functions, duties, responsibilities and obligations, the DECO aided and abetted the CEO as he failed and/or refused and/or neglected to ensure due adherence and compliance of the statutory process, to wit, Section 84 of ROPA by the Returning Officer for Election District Number 4, **Clairmont Mingo**, an election officer under his control and supervision, during the process of adding up the votes recorded in the Statements of Poll for the said District.
2. In breach of her functions, duties, responsibilities and obligations, the DECO aided and abetted the CEO as he failed and/or refused and/or neglected to ensure that the process of ascertaining the total number of votes cast in favour of each list of candidates for Election District Number 4 by adding up the votes recorded in the Statements of Poll was done "*with dispatch*" and without "*inordinate or undue delay*".
3. In breach of his functions, duties, responsibilities and obligations, the DECO aided and abetted the CEO as he failed and/or refused and/or neglected to provide proper and lawful directions, instructions and guidance to the officers and employees of the Secretariat in the performance of their statutory duties during the process of the adding up of the votes recorded in the Statements of Poll for Election

District Number 4 which led to protests, confusion and chaos at the Office of the Returning Officer District Four, Ashmin's Building.

4. Even after complaints to the DCEO and public protests from members of the contesting opposition political parties that there were major and serious discrepancies in the votes recorded in the Statements of Polls in the possession of those parties and the votes being declared by the Returning Officer for District 4 purportedly extracted from the Statements of Poll in the possession of the Returning Officer, the DECO aided and abetted the CEO as he deliberately failed and/or refused and/or neglected to ensure that the correct tabulation and adding up of the votes by reference to the Statements of Polls in his possession. *not mine.*
5. Despite the injunctions granted in the **Reaaz Holladar Case** cited above, and the existence of the interim injunction restraining GECOM from declaring the results of the election until Section 84 of ROPA has been complied with and the pending decision of the Honourable Chief Justice, the DECO aided and abetted the CEO on or about the 7<sup>th</sup> March, 2020, in breach of the injunction, as he prepared a final report pursuant to Section 99 of ROPA containing all of the unverified votes as declared by the Returning Officer for District 4, and in which he declared the APNU/AFC as winners.
6. In spite of and in breach of the Orders, guidance and directions of the **Honourable Chief Justice Roxane George SC** given on the 11<sup>th</sup> March, 2020, in the **Reaaz Holladar Case**, in which the Chief Election Officer was a party, the DECO aided and abetted the CEO as he again failed and/or refused and/or neglected to ensure due adherence and compliance of the statutory process by the Returning Officer

for Election District Number 4, **Clairmont Mingo**. This was a second act in defiance of an Order of the Court. As a result, both contempt proceedings and a second challenge were filed against this second declaration.

7. Throughout the process of adding up the votes for each list from the Statements of Poll, the DECO aided and abetted the CEO as he either condoned or encouraged the numerous breaches and violations of Section 84 of ROPA committed by the Returning Officer for District 4, Clairmont Mingo, and other election officers and staff of the Secretariat or he abdicated and abandoned his functions and duties to take the necessary steps to remedy such breaches and violations.
8. On the 13<sup>th</sup> June, 2020, in breach of and contrary to duties pursuant to Paragraph 12 of Order 60 of 2020, the DECO aided and abetted the CEO as he submitted a report in which he disregarded the votes cast for each of the list of candidates as established by the recount process and instead he produced revised totals of votes cast after he had deducted scores of thousands of votes in favour of the PPP/C list of candidates on grounds of alleged "irregularities and anomalies", a phrase coined by the APNU/AFC during the recount process and he concluded that he concluded that the results for District 4 cannot be regarded as credible. In short, he failed and/or refused to produce the report as he was lawfully required to do as the CEO and instead he was purporting to act as a Judge of the High Court hearing an Elections Petition.
9. By letter dated 16<sup>th</sup> June, 2020, the Madam Chairperson issued a directive to the CEO to prepare and submit his report pursuant to Article 177 (2) (b) of the

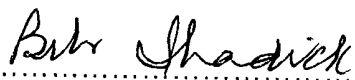
Constitution and Section 96 of ROPA by the 18<sup>th</sup> June, 2020, at 13:00 hours using the results of the recount, for consideration of the Commission. The DECO aided and abetted the CEO as he deliberately failed, refused and neglected to do as directed without any proper reason or excuse.

10. On the 22<sup>nd</sup> June, 2020, the Court of Appeal made its Orders in the case of Eslyn David v. Chief Elections Officer, Civil Appeal No. 41 of 2020, including an Order that there be a stay of its judgment for a period of three (3) days and in breach and violation of the said Order for stay of execution. In spite of the stay of execution, the DECO aided and abetted the CEO on the 23<sup>rd</sup> June, 2020, as he submitted a second recount report to the Elections Commission. This act was the third instance where the DECO aided and abetted the CEO openly acted in defiance of Orders made by the Court.
11. The DCEO specifically and on her own volition, facilitated a meeting in a GECOM facility on the 5<sup>th</sup> March, 2020, by a candidate of a contesting party, to wit, Karen Cummings in the GECOM Command Centre at Ashmin's Building. \*
12. The DCEO specifically and on her own volition instructed officers of the Guyana Police Force to remove a Commissioner and party representatives the GECOM Command Centre at Ashmin's Building, to wit Commissioner Sase Gunraj and others. \*
13. By the aforesaid conduct, actions and omissions of the DCEO, she has caused a loss of public confidence and public trust in the electoral process and she has failed, neglected and abdicated his functions, duties and responsibility to ensure both compliance with the provisions of the Constitution and the electoral legislative

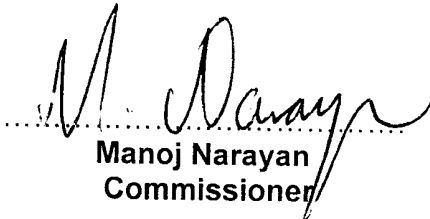
framework and the essential criteria of impartiality, transparency, fairness and credibility to the operations of the Elections Commission and its Secretariat.

14. The DCEO is currently facing criminal charges being prosecuted by the Guyana Police Force in respect of his numerous infractions of the law and regardless of the outcome of those charges, the Commission must take all necessary steps and action, pursuant to Article 162 (1) (b) of the Constitution to restore and ensure impartiality, credibility, transparency, public confidence and public trust in its institution and its constitutional and statutory mandate.
15. In light of the foregoing, this Motion for the immediate dismissal of the DCEO,

**Roxane Meyers.**



**Bibi Safora Shadick  
Commissioner**



**Manoj Narayan  
Commissioner**

**Dated this 1<sup>st</sup> day of June, 2021.**