

CABOT

MANTANONA LLP

BankPacific Building, 2nd Floor
825 South Marine Drive Corps Drive
Tamuning, Guam 96913
Telephone: (671) 646-2001
Facsimile: (671) 646-0777

Attorneys for the Guam Election Commission

FILED
DISTRICT COURT OF GUAM

OCT 30 2006

MARY L.M. MORAN
CLERK OF COURT

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM

LINA'LA SIN CASINO and JOSEPH
DUENAS,

Petitioners,

v.

GUAM ELECTION COMMISSION,

Respondent.

CIVIL CASE NO. 06-00035

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
GEC'S MOTION FOR ISSUANCE
OF WRIT OF CERTIORARI TO
SUPERIOR COURT OF GUAM FOR
RECORD REMOVED ACTION
(28 U.S.C. § 1447(b))**

Respondent Guam Election Commission ("GEC") hereby moves this Court, pursuant to 28 U.S.C. § 1447(b), for issuance of a writ of certiorari to the Superior Court of Guam, commanding the Superior Court to this Court transmit a true, full and correct copy of all records and proceedings taken and had in such court in the above-entitled action, on the following grounds:

1. On October 26, 2006, Petitioners filed a Verified Petition for Writ of Mandamus, Temporary Restraining Order, Preliminary and Permanent Injunction; Alternative Writ of Mandamus ("Petition"), in the Superior Court of Guam, Civil Action No. SP 0165-06.

2. On October 30, 2006, GEC removed the Action from the Superior Court of Guam by filing a Notice of Removal and duly notifying Petitioners of the foregoing on October 30, 2006, all pursuant to 18 U.S.C. § 1446, and

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3. GEC respectfully requests, as authorized by 28 U.S.C. § 1446, that this Court issue a writ of certiorari ordering the Superior Court of Guam to produce and deliver to this Court all of the records and proceedings in this case. See, *29A Fed. Proc., L. Ed. § 69:107 (West 1998)* ("A party seeking removal may be required to file with the clerk of the Federal District Court to which an action has been removed copies of all records and proceedings had in the state court. Alternatively, such material may be secured through the issuance of a writ of certiorari from the District Court to the state court."); *Schwarzer, Tashima, and Wagstaffe, California Practice Guide: Federal Civil Procedure Before Trial, Removal Jurisdiction*. ¶ 2:987 ("Under 28 U.S.C. § 1447(b), the federal court can issue a writ of certiorari ordering the state court to produce all of the records in the case.")

Accordingly, the motion should be granted and this Court should issue its writ of certiorari, pursuant to 28 U.S.C. § 1447(b), to the Superior Court of Guam directing the Superior Court of Guam to bring all records and proceedings in the Action to this Court.

Respectfully submitted this 30th day of October, 2006.

CABOT MANTANONA LLP
Attorneys for Respondent.

By:


CESAR C. CABOT

CCC:me
MEMORANDUMOFPOINTSANDAUTHORITIES