Dated 6th January B.E. 2564 (2021)

Between Representatives Applicant Mr. Sira Jenjaka, Member of the House Respondent of Representatives

Re: The President of the House of Representatives submitted an application to the Constitutional Court for a ruling under section 82 of the Constitution on whether or not Mr. Sira Jenjaka's membership of the House of Representatives terminated under section 101(6) in conjunction with section 98(10) of the Constitution.

A total of 50 Members of the House of Representatives entered their names in a petition to the applicant, claiming that the respondent had been convicted by a judgment of Pathumwan Municipal Court on 21st November B.E. 2538 (1995) for the commission of a criminal offence of fraud under section 341 of the Penal Code, sentenced to a 4-month term of imprisonment and ordered to return or compensate for the value of properties in the amount of 200,000 baht to the victim and confiscation of contract to buy and sell. The petitioners were of the opinion that the case was final. This was a case where the respondent was convicted by a final judgment for a property related offence committed dishonestly under the Penal Code. As a consequence, the respondent was a prohibited person under section 98(10) of the Constitution. The applicant submitted an application to the Constitutional Court for a ruling under section 82 paragraph one and requested for an order to restrain the respondent from performing duties until a ruling of the Constitutional Court under section 82 paragraph two. Thereafter on 29th December B.E. 2563 (2020), the applicant submitted a supplemental application to withdraw the names of 2 Members of the House of Representatives who entered their names in the petition, namely Mrs. Anurak Boonson and Mrs. Arporn Sarakhum, Members of the House of Representatives from Pheu Thai Party.

The preliminary issue considered by the Constitutional Court was whether or not this application was in accordance with the rules under section 82 paragraph one of the Constitutional Court which could be accepted by the Constitutional Court for consideration. Section 82 paragraph one of the Constitution provided that "Members of the House of Representatives or Senators constituting not less than one-tenth of the existing Members of each respective House have the right to enter their names in a petition to the President of the House of membership that the membership of any Member of that House terminated under section 101(3), (5), (6), (7), (8), (9), (10) or (12) or section 111(3), (4), (5) or (7), as the case may be, and the President of the House receiving the petition shall forward such petition to the Constitutional Court for a ruling on whether or not the membership of such Member terminated."

After deliberations, the Constitutional Court found as follows. When submitting an application under section 82 paragraph one of the Constitution, the number of Members of the House of Representatives required to enter their names in a petition to the President of the House of Representatives that the membership of the House of Representatives terminated was not less than one-tenth of the existing Members of the House of Representatives. Upon a finding of facts from the application, supplemental application and supporting documents that at the time of the applicant's submission of application, dated 28th December B.E. 2563 (2020), and supplemental application, dated 29th December B.E. 2563 (2020), there were 487 Members of the House of Representatives, and subsequently the applicant submitted a supplemental application, dated 29th December B.E. 2563 (2020) notifying the Constitutional Court that 2 Members of the House of Representatives withdrew their names in the petition to submit the application, dated 28^{th} December B.E. 2563 (2020). As a consequence, the number of remaining Members of the House of Representatives in the petition was 48, which was less than one-tenth of the total number of existing Members of the House of Representatives as provided under section 82 paragraph one of the Constitution. Therefore, this application was not in accordance with the rules and conditions under section 82 paragraph one of the Constitution which the Constitutional Court could accept for consideration.

By virtue of the aforesaid reasons, the Constitutional Court ordered the dismissal of this application. Upon the dismissal of this application, other requests also lapsed.