Republic of the Philippines
Securities and Exchange Commission
SEC Bldg. EDSA, Greenhills, Mandaluyong City

IN RE: PETITION FOR VOLUNTARY DISSOLUTION OF AEROSPACE TRADERS CORPORATION,

SEC Case No. 07-98-6025

Mariano G. Tituan, et al.

For: Voluntary Dissolution

Petitioners,

x----------x

ORDER

This resolves the Motion to Dismiss dated 21 June 2010 filed by creditor Metropolitan Bank & Trust Co. (MBTC).

The following facts are settled: Petitioners failed to appear during the scheduled hearing last 17 June 2010. They did not file any prior motion for postponement of the hearing. It was only during the scheduled hearing date itself that petitioners' counsel sent its liaison officer to inform this Office that no counsel will appear in petitioners' behalf. Petitioners explained that their counsel was suddenly unavailable due to its commitments in another case for another client.

The true test for the exercise of the power to dismiss a case on the ground of failure to prosecute is whether, under the prevailing circumstances, the plaintiff is culpable for want of due diligence in failing to proceed with reasonable promptitude.[1]

We cannot accept their explanation as a valid excuse. Petitioners' counsel should afford equal attention to all the cases they handle. We find it irregular that all members of the law firm suddenly became unavailable on the hearing date. Further, regardless of counsel's availability, the petitioners themselves should have appeared.

More importantly, as of the present time, petitioners have yet to comply with the Commission's 28 October 2002 Order directing petitioners to initiate the submission of a Joint Manifestation regarding the adoption of the pre-trial proceedings before the Regional Trial Court. We note that ever since the said 28

[1] *Suarez v. Judge Villarama, Jr.*, G.R. No. 124512, 27 June 2006, 493 SCRA 74, 84.

October 2002 Order was issued there was no further feedback or action on the part of the petitioners. It was only when the Commission, *motu proprio*, set this case for hearing starting this year that proceedings in this case continued.

Indeed, even if it is true that petitioners drafted a Joint Motion and submitted the same to the creditors for approval as early as 07 February 2003, this fact sill does not excuse petitioners from being at fault for the delay in this case. Petitioners should have updated the Commission on the status of the Joint Motion. The Commission could have then issued an appropriate Order if it appeared that the creditors were unwilling to agree on the Joint Motion. Sadly, petitioners did not do anything. Their inaction and lack of initiative cause the proceedings to remain dormant for a period of more than seven years.

Undoubtedly, there is manifest negligence and lack of interest on the part of petitioners. Further, petitioners' actions undermined the dignity of the proceedings and of the Commission.

WHEREFORE, all premises considered, the Motion to Dismiss is hereby **GRANTED**. The Petition for Voluntary Dissolution of **AEROSPACE TRADERS CORPORATION** is hereby **DISMISSED** with finality.

SO ORDERED.

Mandaluyong City, 22 July 2010.

FE B. BARIN
Chairperson

MA. JUANITA E. CUETO
Commissioner

RAUL J. PALABRICA
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

ELADIO M. JALA
Commissioner