Republic of the Philippines
Department of Finance
Securities and Exchange Commission
Pasay City, Philippines

In the matter of:
Royale Tagaytay Country Club, Inc.
Represented by its General Manager
Mr. Ruben B. Encinas

SEC En Banc Case No. 07-13-295

Appellant,

versus

Investor Protection and Surveillance Department,
Appellee.

DECISION

This resolves the appeal of Royale Tagaytay Country Club, Inc. (Royale Tagaytay) from the letter-order of the Investor Protection and Surveillance Department (IPSD), now Enforcement and Investor Protection Department, dated 11 June 2013.[1]

Royale Tagaytay filed its Manual in Corporate Governance (Manual) on 22 January 2013.[2] Subsequently, in a letter dated 17 April 2013, IPSD imposed a penalty of P114,000.00 for late filing of its Certificate of Compliance with the Manual of Corporate Governance (CECMGC), and reprimand for non-filing of its Certificate of Attendance of Directors in Meeting of the Board of Directors (CADBM).[3] Royale Tagaytay then filed a letter of reconsideration,[4] which was denied by ISPD.[5] A second Motion of Reconsideration[6] was also denied by IPSD on 11 June 2013.[7] Hence this appeal.

Section 15 and 16 of SEC Memorandum Circular No. 3, Series of 2007 (MC 3-07) requires that the CECMCG and CADBM be submitted annually every 30th of January.[8] In this case, as found by IPSD, Royale Tagaytay submitted its 2012 CECMGC only on 4 April 2013.[9] This fact was admitted by Royale Tagaytay in its appeal.[10]

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1 Appeal Memo. Anx. A.
2 *Id.* ¶ 2.
3 *Id.* ¶ 4.
4 *Id.* ¶ 5.
5 *Id.* ¶ 10.
6 *Id.* ¶ 12.
7 *Id.* ¶ 13.
8 "Section 15. The certificate of compliance with the Manual of Corporate Governance required of (a) Associated Persons of Broker Dealers, and (b) Compliance Officers of Transfer Agents, Investment Houses/Underwriters, Listed Issuers, Registered Issuers, Financing Companies, and Pre-Need Companies shall follow the format of SEC Form MCG-2002 and shall be submitted every 30th of January.
Section 16. The certificate of attendance of directors in meetings of the board of directors of Broker Dealers, Transfer Agents, Investment Houses/Underwriters, Listed Issuers, Registered Issuers, Financing Companies and Pre-Need Companies shall be signed by the corporate secretary, and countersigned by the chairperson of the board of directors, and shall be submitted every 30th day of January." SEC, Amendment on Reportorial Requirements. §§15–16, Memorandum Circular No. 3, series of 2007. (5 Sept 2007)
9 Appeal Memo. Anx. A.
10 Appeal Memo at 21; Anx B.

In its defense however, Royale Tagaytay argues that the IPSD, in its order on 17 April 2017, was simply asking for an explanation why it should not be liable for violation of the Revised Code of Corporate Governance.[11] Royale Tagaytay claims that this was answered when it filed its Letter of Reconsideration stating that upon receipt of the notice of Deficiency, it immediately filed its CECMCG and a copy of its Manual.[12]

This argument cannot stand. Nowhere in the 17 April 2017 letter of IPSD can it be implied that only an explanation is necessary. The letter in fact, already assessed the penalty on Royal Tagaytay, and was directed to pay the penalty and submit its 2012 CADBM.

As to its non-submission of CADBM, Royale Tagaytay argues that such can already be found on page 23 of its Manual. This submission, it alleges, constitutes substantial compliance with IPSD's order.[13] However, upon perusal, we find otherwise though the page in the manual, contains a chart containing the name, position, date of election, number of meetings held during incumbency, number of meetings attended, and percentage of meetings attended and signed by the Chairman and the President,[14] it is still cannot be considered as Royale Tagaytay's CADBM.

Section 16 of MC 3-07 requires the CADBM to be signed by the corporate secretary, countersigned by the chairperson of the board of directors and be submitted every 30th day of January.[15] Although the manual was signed by the chairperson, the manual was not signed by the corporate secretary. It also does not show the dates when such meetings were held. Lastly, even if the page is considered substantially compliant, still, the manual was submitted on 5 April 2013, which is beyond the period required for it to be submitted.

WHEREFORE, premises considered, the instant Appeal is hereby **denied**. The prayer for condonation of penalty is **referred** to the Corporate Governance and Finance Department for consideration.

SO ORDERED.

Pasay City, Philippines, 1 December 2017.

TERESITA J. HERBOSA
Chairperson

ANTONIETA F. IBE *
Commissioner

EPHYRO LUIS B. AMATONG **
Commissioner

BIAS JAMES G. YITERBO
Commissioner

EMILIO B. AQUINO
Commissioner

*On Official Business
**On Leave

11 *Id.* at 20–21.
12 *Id.* at 21.
13 *Id.*
14 Reply Memo. Anx. D.
15 *Supra* note 8.