Republic of the Philippines
Department of Finance
SECURITIES AND EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills
Mandaluyong City Metro Manila
Philippines

January 5, 2006

SEC Opinion No. 06-01
Dissolution and Lifting Order of Revocation; Expiration of term

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Cor. Sen. Gil J. Puyat and Makati Aves.
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Sir:

This refers to your letter dated September 26, 2005 requesting opinion on the queries posed therein relative to Ramcar Farms Corporation.

As stated, the SEC revoked, as of November 3, 2003, the Certificate of Registration of Ramcar Farms Corp. (SEC Certificate of Registration No. ASO94-008199) due to its non-operation and non-submission of reportorial requirements. Your queries are:

1. Does the SEC Order of Revocation have the effect of automatically dissolving the Corporation?

2. If there is no automatic dissolution, what is the status now of the Corporation?

   (a) Can it file a petition for the lifting of the Order of Revocation?

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(b) Is it enjoined to go into voluntary dissolution?

(c) Is the SEC to initiate involuntary dissolution proceedings?

3. If after November 3, 2003 (when the Corporation's certificate was already revoked by the SEC), the Corporation entered into a contract with another party, what would be the status of that contract?

(a) If the other party would like to sue the Corporation on that contract, can it sue only the Corporation, or can the other party implead both the Corporation and its stockholders in their individual/personal capacities?

(b) On the other hand, can the Corporation sue the other party on such contract?

4. (a) Without applying first for reinstatement of its corporate franchise, can the Corporation now call for a meeting for the election of its new set of directors for the purpose of approving a resolution to petition the SEC for the lifting of the Order of Revocation of its corporate franchise?

(b) Or, can the last-elected (2003) directors be still considered on a hold-over capacity at this time as to authorize them either (i) to pass a resolution to dissolve the corporation, or (ii) to re-organize and continue the business for which it was established or organized?

(c) Or, can the Corporation, without electing a new set of directors, call a stockholders' meeting to pass either resolutions under 4 (b) above?

5. On another point concerning a different client whose corporate life will expire on June 12, 2006, your query is: what will happen in 2006 when this client's corporate life expires by its own limitation—will there be a need to pass any board and/or stockholders' resolutions to formally dissolve this corporation and go into liquidation process?

Anent your first query, the corporation is dissolved by virtue of the SEC Order of Revocation dated November 3, 2003.

Relative to your second query, the corporation is thus in the winding up stage.

Ramcar Farms Corporation has three (3) years within which to file a petition to lift the order of revocation with the SEC (SEC Res. No. 260, s. 2004).

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However, the filing of the petition should not be beyond three years from the date of revocation. This three-year period is based on the three-year winding up period for dissolved corporations under Section 122 of the Corporation Code.

Together with the Petition to lift Order of Revocation, the corporation has to file a Board Resolution signed by the majority of the board of directors, as well as the latest financial statements, latest General Information Sheet, 1st page photocopy of Membership/Stock and Transfer Book, and a copy of Certificate of Registration or latest Certificate of Amendment if there is a change in corporate name.

In view of the foregoing, Ramcar Farms Corporation can call for a special meeting of its board of directors for the purpose of approving a resolution to petition the SEC for the lifting of the Order of Revocation of its corporate franchise. This is in line with the provision of Section 122 of the Corporation Code, which provides that:

> *"Section 122. Corporate liquidation. – Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner, shall nevertheless be continued as a body corporate for three (3) years after the time when it would have been dissolved, for the purpose of prosecuting and defending suits by or against it and enabling it to settle and close its affairs, to dispose of and convey its property and to distribute its assets, but not for the purpose of continuing the business for which it was established. x x x"*

The corporation continues as a body corporate for three (3) years for purposes of winding up or liquidation and the hold-over officers of an expired corporation are empowered to wind up the affairs of the corporation within the 3-year liquidation period. Hence, the board of directors can pass a board resolution signed by majority of them to file the Petition to lift Order of Revocation.

As to your third query, please be advised that it has been the policy of the Commission, as explained in SEC Memorandum Circular No. 15, Series 2003 on Requests for Legal Opinion, not to render opinions on litigious issues which may eventually be litigated in the future such as matters which involve the substantive and contractual rights of private parties who would, in all probability, contest the same in court if the opinion turns out to be adverse to their interest. Likewise, the Commission shall refrain from rendering opinion on requests that will entail the gathering of legal materials or writing abstract essay

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for the requesting party since the Commission should not function or resemble as legal counsel of private firms.

For this reason, the Commission cannot render an opinion on your third question with respect to the status of contracts entered into by the Corporation after its certificate of registration has been revoked and the appurtenant issues thereto.

As for your last inquiry, for purposes of information only, the following are imparted:

> *"Section 11. Corporate term. – A corporation shall exist for a period not exceeding fifty (50) years from the date of incorporation unless sooner dissolved or unless said period is extended. That corporate term as originally stated in the articles of incorporation may be extended for periods not exceeding fifty (50) years in any single instance by an amendment of the articles of incorporation, in accordance with this Code: Provided, That no extension can be made earlier than five (5) years prior to the original or subsequent expiry date(s) unless there are justifiable reasons for an earlier extension as may be determined by the Securities and Exchange Commission."*

Upon the expiration of the period fixed in the articles of incorporation, in the absence of compliance with the legal requisites for the extension of the period, the corporation ceases to exist and is dissolved *ipso facto*. (PNB vs. CFI of Rizal, 209 SCRA 294 [1992]) Thus, there is no need to pass any board and/or stockholders' resolutions to formally dissolve the corporation and go into liquidation process. This is already accomplished by operation of law.

Very truly yours,

VERNETTE G. UMALI-PACO
General Counsel