Republic of the Philippines
SECURITIES AND EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills
Mandaluyong City

January 31, 2006

SEC Opinion No. 06-06
Sale of shares of stock of a revoked corporation

ATTY. MARILYN O. NGO
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Madame:

This refers to your letter dated January 04, 2006 requesting opinion on the following queries: (1) whether a company whose license has been revoked by the Commission can still validly and legally sell, assign or transfer its shares of stock to a third party who is not a creditor and, (2) if a third party actually acquires those shares, will the shares be recognized by the Commission as forming part of the asset of the buying company.

Under SEC Memorandum Circular No. 15, series of 2003, as a matter of policy, the Commission refrains from rendering opinion on questions which are too general in scope or hypothetical, abstract, speculative and anticipatory in character and those pertaining to undisclosed entities. In addition, as guideline, ***"the requesting party must present the complete factual circumstances from which the Commission may draw premises and conclusions, and the resolution of the legal issues presented hinges on factual matters which are readily discernible from the query."***

(19)

Your letter failed to specify pertinent details—among others, the grounds for the revocation of the corporation's registration -- from which the Commission can formulate a suitable conclusion.

In view of the above, the following is imparted for purposes of information only:

Section 122 of the Corporation Code provides:

> *"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"* (underscoring ours)

Upon revocation, and consequently dissolution, the corporation continues as a body corporate for three (3) years for purposes of **winding up or liquidation only,** but not for the purpose of continuing the business for which it was established. Accordingly, it can no longer issue shares of stock and sell the same as that would be tantamount to continuing its business as a going concern.

More importantly, the transferable character of corporate stock is destroyed by dissolution, and an attempted transfer or assignment of shares of stock after the corporation has been dissolved passes no legal title and does not make the purchaser or assignee a stockholder, though it may pass rights which a court of equity will recognize. It may be treated as an equitable assignment of the net interest of the assignor in the corporate property, transferring the right of the seller to any balance of assets which may be found to be due him after payment.[1]

If the revocation was issued due to non-compliance by the corporation of the reportorial requirements of the Commission, the revoked corporation

[1] 16A Fletcher Cyc Corp § 8131

(18)

has three (3) years within which to file a petition to lift the order of revocation with the Commission. 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.[2] Generally, the effect of the reinstatement of the corporation is that it relates back to the date of dissolution [or revocation] as if the dissolution [or revocation] had never occurred.[3]

For your information and guidance.

Very truly yours,

VERNETTE G. UMALI-PACO
General Counsel

[2] 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.
[3] supra note 1 § 8112.3

(17)