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

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SEC Opinion No. 06-17
Conflict of interest

ATTY. JAVEY PAUL D. FRANCISCO
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Matina, Davao City

Dear Atty. Francisco:

This refers to your request for opinion on certain issues relating to conflict of interest.

You mentioned that your in-laws are forming a family corporation to engage in the coconut products trading business. In representation of your wife's interest therein, you are being considered as one of the members of the board of directors. You thus inquire if, under the Commission's rules, you can legally participate in said venture, and if in the affirmative, to what extent may you be allowed to do so.

Under **Republic Act (RA) No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees ("the Code" for brevity),** private employment of a public officer becomes limited when conflict of interest arises.

'Conflict of Interest' arises when a public official or employee is **a member of a board,** an officer, or a substantial stockholder **of a private corporation** or owner or has a substantial interest in a business, **and the interest of such corporation or business, or his rights or duties therein, may be opposed to or affected by the faithful performance of official duty.**[1]

[1] Section 3(i), RA 6713

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Specifically, **Section 7 of the Code** expressly prohibits a public officer from being employed in a private enterprise regulated, supervised or licensed by his office unless expressly allowed by law. Said provision reads:

> "**SEC. 7. *Prohibited Acts and Transactions.***-- In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:
>
> xxx xxx xxx;
>
> (b) Outside employment and other activities related thereto.--- Public officials and employees during their incumbency shall not:
>
> (1) Own, control, **manage** or accept employment as officer, employee, consultant, counsel, broker, agent, trustee, or nominee in any private enterprise regulated, supervised or licensed by their office, unless expressly allowed by law.
>
> xxx xxx xxx."

The above-mentioned provision is reinforced by the Commission's Rules on the matter. **SRC Rule 6.2** provides, and we quote:

> **"SRC Rule 6.2- Rules of Conduct for Commissioners, Officers and Employees.**
>
> 1. The Commissioners, including the Chairperson, officers and employees of the Commission (hereinafter referred to as officers or officer), in the exercise of their duties, owe their undivided loyalty to the Commission. They shall observe the highest standards of honesty, integrity and good faith in the performance of their duties.
>
> A. Officers shall not pursue private activities in any manner which may conflict with their duties. They shall subordinate those activities which, although not in conflict with their duties, will require time and effort to the prejudice of their duties at the Commission.
>
> B. Every officer who has discretionary authority shall be free from any conflicting interest or influence of such

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nature and importance which would make it difficult for him to his best efforts and loyalty to the Commission.

xxx xxx xxx.

6. Set forth below is a description of some types of activities which **may give rise to a conflict of interest** in violation of this Rule:

A. All officerships, directorships, trusteeships or partnership interests in any organization or association, **whether registered with the Commission or not,** except in charitable or civic organizations;

xxx xxx xxx."

From the foregoing, it is clear that your directorship in the family corporation would give rise to a conflict of interest, especially since you are currently holding a discretionary authority as the Officer-in-Charge of the SEC Davao Extension Office. Undoubtedly, such corporation would, in one way or another, be regulated, supervised or licensed by the Commission. SRC Rule 6.2, as a matter of fact, leaves little room for avoiding said conflict, as it proscribes directorship or trusteeship in any organization or association, whether registered with the Commission or not, except in charitable or civic organizations, of which the contemplated corporation is not one.

That you would only represent your wife's interest in the family corporation is of no moment. The interest of officers shall include the interest of his or her spouse, children under the age of eighteen (18) and trusts for the benefit of himself, his or her spouse or children.[2]

In view of the foregoing, we answer your query in the negative.

Please be guided accordingly.

VERNETTE G. UMALI-PACO
General Counsel

cc: (1) Comm. Jesus Enrique G. Martinez
(2) Human Resource and Administrative Services Dept.

[2] Section 6.2 (2), SRC Rule 6.2