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

OFFICE OF THE GENERAL COUNSEL

13 December 2007
SEC-OGC Opinion No. 08-01
Re: Dissolution and Piercing Doctrine

J. P. VILLANUEVA & ASSOCIATES
8th Floor, Sagittarius Building,
H.V. Dela Costa St., Salcedo Village,
Makati City

Attention: Atty. Jorge Roito N. Hirang, Jr.

Dear Atty. Hirang:

This refers to your letter of 6 August 2007, indorsed to this Office by the Company Registration and Monitoring Department ("CRMD", for brevity) through its Memorandum of 2 October 2007, requesting that we formally and officially declare Skyline International, Inc. ("SII") as having reverted from a corporation to a sole proprietorship.

In essence, you are following up the 27 October 1976 letter of Atty. Antonio Navarette, former counsel for Mrs. Rufina L. Lim, asking the Commission to update SII's files on the ground that the corporation had been allegedly dissolved by virtue of the 23 June 1976 Decision of the then Juvenile and Domestic Relations Court ("JDRC") in Civil Case No. QE-00330 entitled *Rufina Luy Lim vs. Pastor Y. Lim,* a case for legal support and alimony *pendente lite.*

In the above-referred case, the JDRC awarded monthly support and attorney's fees in favor of Mrs. Lim. At the same time, it found that all the properties turned over by Mr. Lim to SII are conjugal properties; hence, SII "is another name for Mr. and Mrs. Pastor Y. Lim in person".

Inasmuch as its properties were levied on execution to answer for Mr. Lim's obligations, SII filed before the JDRC its third-party claim, which, however, was quashed upon motion by Mrs. Lim. In its Decision dated 23 June 1976, the Court of Appeals ("CA") affirmed the quashal of the third-party claim on the basis of its finding that the JDRC correctly pierced the veil of SII's corporate fiction. The Supreme Court upheld the CA in its Resolution dated 4 August 1976, which became final on 11 September 1976.

The issue, as put by the CRMD, is this: what is the status of SII?

(3)

It is now settled that the existence of a corporation which is at least a de facto one cannot be drawn in question collaterally.[1] This is embodied in Section 20 of the Corporation Code which reads:

> "Sec. 20. *De facto corporations.* - The due incorporation of any corporation claiming in good faith to be a corporation under this Code, and its right to exercise corporate powers, shall not be inquired into collaterally in any private suit to which such corporation may be party. Such inquiry may be made by the Solicitor General in a *quo warranto* proceeding."

The general rule against the collateral attack upon corporate existence is based upon the ground, not of equitable estoppel, but of public policy:

> (a) Individual right is not invaded; it is the State's right and authority which are invaded and usurped. If the State, which alone grants the authority to incorporate, remains silent, an individual would not be allowed and permitted to raise the inquiry.
>
> (b) It would produce endless confusion and hardship and probably destroy the corporation if the legality of its existence could be questioned in every suit to which it is a party, for then no judgment could be rendered which would finally settle the question.
>
> (c) Likewise, the rule is in the interest of the public and is essential to the validity of business transactions with corporations.[2]

As adverted to above, the case decided by the JDRC and upheld by the appellate courts is one for legal support and alimony *pendente lite,* not the direct proceeding required by law for attacking corporate existence. As a matter of fact, the decision does not categorically state that SII is dissolved. It is our considered view that what the decision unequivocally did was to merely pierce the veil of corporate fiction of SII.

That said, it bears emphasizing that when the piercing doctrine is applied in a particular case, the effect is to treat the members or stockholders as the corporation itself, that is, liability will attach directly, not on the corporation, but on such individuals comprising and/or managing it.[3] The application of such doctrine is within the ambit of the principle of res judicata that binds only the parties to the case and only to the matters actually resolved therein. In piercing, the court does not deny legal personality

---

[1] Fletcher Cyclopedia Corporations, Permanent Edition, Volume 16-A, page 19.
[2] De Leon, The Corporation Code of the Philippines Annotated, 2002 Edition, pp. 197-198, citing 18 Am. Jur. 2d, p. 594, 606.
[3] *Umali vs. Court of Appeals,* 189 SCRA 529 (1990).

to a corporation for any and all purposes and the said corporation still possesses such separate juridical personality in any other case, or with respect to other issues.[4]

Further, please be informed that while SII's Certificate of Registration was revoked by the Commission on 2 July 2003 for non-compliance with reportorial requirements, such revocation had already been set aside on 19 September 2006.[5]

From the foregoing, insofar as the Commission is concerned, Skyline International, Inc. has an active status.

Please be guided accordingly.

VERNETTE G. UMALI-PACO
General Counsel

[4] Villanueva, Philippine Corporate Law, October 2002 Reprint, pp. 82-83, citing *Koppel (Phil.), Inc. vs. Yatco* (77 Phil. 496, and *Tantoco vs. Kaisahan ng mga Manggagawa sa La Campana and CIR* (106 Phil. 199).
[5] Memorandum of CRMD dated 2 October 2007.

(1)