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

OFFICE OF THE GENERAL COUNSEL

15 January 2010

SEC-OGC Opinion No. 10-05

Business Processing and Collection Center as a Financing Company

Picazo Buyco Tan Fider & Santos
17th 18th & 19th Floors, Liberty Center
Salcedo Village, Makati City

ATTENTION: Attys. Gemma M. Santos and Grace G. de la Cruz

Gentlemen:

This refers to your 22 September 2009 letter requesting confirmation of your opinion that the business processing and collection center you described is not a financing company.

Your client Radiowealth Finance Company, Inc. ("RFC," for brevity) and its sixty-seven branches are holders of separate Certificates of Authority to Operate nationwide. RFC intends to expand its marketing activities and strengthen its collection efforts. Thus, it will establish a separate stock corporation that will operate as a business center. You maintain that the proposed business center need not obtain a Certificate of Authority to Operate, since it is not a financing company.

The Financing Company Act of 1998[1] ("R.A. 8556," for brevity) defines a financing company as:

> "(a) 'Financing companies' hereinafter called companies, are corporations, except banks, investments houses, savings and loan associations, insurance

[1] *REPUBLIC ACT NO. 8556 - AN ACT AMENDING REPUBLIC ACT NO. 5980, AS AMENDED, OTHERWISE KNOWN AS THE FINANCING COMPANY ACT; Approved: February 26, 1998.*

companies, cooperatives, and other financial institutions organized or operating under other special laws, which are primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable property;"[2]

Your proposed Business Processing and Collection Center ("Business Center," for brevity) will engage in the following activities:

1) Marketing and promoting Radiowealth Finance Company, Inc.'s ("RFC," for brevity) loan program and financial products through the distribution of marketing materials or other means;
2) Providing a prospective borrower the completed application form and other documentary requirements;
3) Receiving from the prospective borrower the completed application form and other documentary requirements;
4) Transmitting to the nearest RFC branch office the loan application form and other requirements submitted by the prospective borrower;
5) Informing the prospective borrower that its loan application has been submitted to the RFC branch office;
6) Upon receipt of information from the RFC branch office that the loan application has been approved or denied, informing the prospective borrower of the same, and , in case the loan application is approved, further informing the borrower of any additional requirements for the processing of the loan, and advising the same borrower to go to the RFC branch office to sign other documents, e.g., promissory note, mortgage or other security documents, and to receive the loan proceeds;
7) Collecting loan payments from borrowers whose loan applications originated from the business center and remitting all collections to RFC; and
8) Preparing regular reports on loan collection activities for submission to RFC/RFC Branch Office.

This Office opines that as long as the Business Center described would operate solely as a marketing and collecting agency, and will not be releasing loans or extending credit to the borrowers, then it will not be considered as a financing company under R.A. 8556 and thus, it need not secure a Certificate of Authority to Operate as a Financing Company.

[2] REPUBLIC ACT NO. 8556, Section 3; RULES AND REGULATION TO IMPLEMENT THE PROVISIONS OF R.A. 8556, Section 1 (a).

However we emphasize that the Truth in Lending Act[3] provides that the borrower must be informed of the total amount to be financed, interest, and charges of his loan prior to the signing of the loan documents. Thus, the loan documents must be distributed to potential borrowers within the premises of the finance company's offices and not in the Business Center.[4]

This *Opinion* is rendered based solely on the facts and circumstances disclosed and relevant solely to the particular issues raised therein and shall not be used in the nature of a standing rule binding upon the Commission in other cases whether of similar or dissimilar circumstances. If, upon investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered null and void.

Please be guided accordingly.

VERNETTE G. UMALI-PACO
General Counsel

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[3] REPUBLIC ACT No. 3765; approved on June 22, 1963.
[4] REPUBLIC ACT No. 3765, Section 4 provides:

> "Any creditor shall furnish to each person to whom credit is extended, prior to the consummation of the transaction, a clear statement in writing setting forth, to the extent applicable and in accordance with rules and regulations prescribed by the Board, the following information:
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> (1) the cash price or delivered price of the property or service to be acquired;
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> (2) the amounts, if any, to be credited as down payment and/or trade-in;
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> (3) the difference between the amounts set forth under clauses (1) and (2);
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> (4) the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;
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> (5) the total amount to be financed;
>
> (6) the finance charge expressed in terms of pesos and centavos; and
>
> (7) the percentage that the finance bears to the total amount to be financed expressed as a simple annual rate on the outstanding unpaid balance of the obligation."