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

OFFICE OF THE GENERAL COUNSEL

10 March 2010

SEC-OGC Opinion No. 10-10

Liquidation

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ATTENTION: Atty. Wilfredo M. Chato

Gentlemen:

This refers to your letter dated 17 February 2010 requesting confirmation of your opinion that the surviving directors of Lopez Enterprises, Inc., a corporation whose charter expired on October 1986, continue to be trustees in liquidation.

You now allege that, contrary to your earlier representations in your 22 December 2009 letter, Lopez Enterprises, Inc.'s directors and stockholders are all still alive.

In the case of *Clemente, et al. vs. Court of Appeals, et al.*,[1] the Supreme Court held:

[1] G.R. No. 82407, March 27, 1995.

"If the three-year extended life has expired without a trustee or receiver having been expressly designated by the corporation within that period, the board of directors (or trustees) itself, following the rationale of the Supreme Court's decision in *Gelano vs. Court of Appeals* (103 SCRA 90) may be permitted to so continue as "trustees" by legal implication to complete the corporate liquidation. Still in the absence of a board of directors or trustees, those having any pecuniary interest in the assets, including not only the shareholders but likewise the creditors of the corporation, acting for and in its behalf, might make proper representations with the Securities and Exchange Commission, which has primary and sufficiently broad jurisdiction in matters of this nature, for working out a final settlement of the corporate concerns."[2]

Accordingly, we opine that Lopez Enterprises, Inc.'s directors are permitted to continue as trustees in liquidation by legal implication to complete the corporate liquidation. However, this is subject to the right of a creditor or any interested party to petition for the appointment of a different liquidator should the directors fail to exercise their duties as liquidators within a reasonable period.

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

[2] Underscoring ours.