Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City
Office of the General Counsel

SEC-OGC Opinion No. 13-01
21 March 2013
Re: Corporate Term of Educational Corporations registered under Corporation Law

FERNANDEZ & ASSOCIATES
Suite 601 Allied Bank Bldg.,
Quintin Paredez St., Binondo, Manila

Attn.: Atty. Merito R. Fernandez

Dear Sir;

This refers to your letter of 12 March 2013 inquiring about the corporate existence of Pasay City Academy of Seventh-Day Adventists, Inc. (hereinafter, "PCA").

Pursuant to our records, PCA was registered with this Commission on 06 March 1958 under the provisions of the Corporation Law, Act No. 1459, on Educational Corporations. Under the Corporation Law, PCA's corporate term is perpetual as the said law did not require a maximum corporate term for educational corporations. After the passage of the Corporation Code, Batas Pambansa Blg. 68, which took effect on 01 May 1980, a maximum period of fifty (50) years was provided for corporate existence.

The issue at hand is whether or not PCA's corporate term has expired.

Pertinent to the discussion is Section 148 of the Corporation Code which provides:

> "SECTION 148. Applicability to existing corporation. – All corporations lawfully existing and doing business in the Philippines on the date of the effectivity of this Code and heretofore authorized, licensed or registered by the Securities and Exchange Commission, shall be deemed to have been authorized, licensed or registered under the terms and conditions of its license, and shall be governed by the provisions hereof: Provided, That where any such corporation is affected by the new requirements of this Code, said corporation shall unless otherwise herein provided be given a period not more than two (2) years from the effectivity of this Code within which to comply with the same."

The Commission has previously ruled that in case of "failure on the part of affected corporations to amend their articles of incorporation to comply with the applicable provisions of the Code on or before May 1, 1982, the expiry date of the two (2) year period, the Commission will consider the provisions therein as written into the articles of incorporation

as of May 1, 1980, the date of effectivity of the Corporation Code."[1] Hence, based on the said pronouncement, the 50-year period should be counted from 01 May 1980.

Likewise, it is worth mentioning that it is an established principle that retroactive laws are not favored if the same would take away or impair vested rights acquired prior to the enactment of the law. Indeed the Legislature would not have intended to deprive educational institutions of their right to exist granted them under the old Corporation Law.[2]

Thus, to avoid unjust results and in order to be consistent with the abovementioned previous ruling of the Commission on the application of Section 148 of the Corporation Code, it would be appropriate to reckon the 50-year period from the date of effectivity of the Corporation Code. This interpretation will not prejudice public interest, rather, it would enable educational corporations registered under the Corporation Law to continue serving the needs of the locality where the schools are located. For the Commission to rule otherwise would lead to manifest injustice which is not within the intent and purpose of the Legislature in enacting the Corporation Code.[3]

In this connection, PCA, although originally registered with the Commission in 1958 with a perpetual corporate term, can now be deemed to exist only for a period of fifty (50) years reckoned from 01 May 1980, the date of the effectivity of the Corporation Code. Clearly, the corporate existence of PCA will expire on 01 May 2030 unless sooner dissolved or extended within the prescribed period under the Corporation Code.

It shall be understood, however, that the foregoing opinion is rendered based solely on the facts and circumstances disclosed and relevant solely to the particular issue raised therein and shall not be used in the nature of a standing rule binding upon the Commission in other cases or upon the courts whether of similar or dissimilar circumstances.[4] If, upon further inquiry and investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered void.

Please be guided accordingly.

Very truly yours,

CAMILO L. CORREA
General Counsel

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[1] SEC Opinion dated 26 April 1982 addressed to Atty. Edwin Reyes and SEC Opinion dated 29 June 1982 addressed to Mr. Gilbert B. Rosales as reiterated in SEC Opinion dated 25 September 1990 addressed to Atty. Sabino Padilla, Jr. and SEC Opinion No. 04-03 dated 04 February 2003 addressed to Atty. Francisco Collado.
[2] SEC Opinion dated 25 September 1990 addressed to Atty. Sabino Padilla, Jr.
[3] *Ibid.*
[4] Paragraph 7, SEC Memorandum Circular No. 15, Series of 2003.

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