Republic of the Philippines
Department of Finance
Securities and Exchange Commission

OFFICE OF THE GENERAL COUNSEL

SEC-OGC Opinion No.16-24
RE: Corporate Term of Educational Institutions registered under The Corporation Law

13 October 2016

MA. LERMA M. REYES
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Dear Ms. Reyes:

This refers to your letter dated 15 September 2016, requesting for a legal opinion inquiring about the corporate term of Sta Cruz Academy, Inc. (SCA) with SEC Reg. No. 31504.

You stated in your letter that SCA was registered and incorporated on 03 February 1967. In addition, you disclosed that there was no provision or specification as to its term of existence in its original Articles of Incorporation. You now seek for the Commission's opinion on when the corporate term of SCA will expire.

Based on the foregoing facts, SCA is a non-stock, non-profit educational institution which was registered with the Commission under the provisions of the Corporation Law, Act No. 1459 (Corporation Law). Under the Corporation Law, no maximum corporate term of existence was prescribed for educational institutions, thus in cases where the Articles of Incorporation (AOI) do not specify a term, the corporate term of such institution is deemed perpetual.

Subsequently, the Corporation Code or Batas Pambansa Blg. 68 (Corporation Code) took effect on 01 May 1980. Under the Corporation Code, a maximum period of fifty (50) years was provided for corporate existence.[1]

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[1] **Section 11.** *Corporate term.* – A corporation shall exist for a period not exceeding fifty (50) years from the date of incorporation unless sooner dissolved or unless said period is extended. The corporate term as originally stated in the articles of incorporation may be extended for periods not exceeding fifty (50) years in any single instance by an amendment of the articles of incorporation, in accordance with this Code; Provided, That no extension can be made earlier than five (5) years prior to the original or subsequent expiry date(s) unless there are justifiable reasons for an earlier extension as may be determined by the Securities and Exchange Commission.

In connection with this, Section 148 provides the rule on the application of the Corporation Code to existing corporations, to wit:

> "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 and 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 of not more than two (2) years from the effectivity of this Code within which to comply with the same.**" (Emphasis and underscoring supplied).

In previous opinions, the Commission had already opined that in case an affected educational corporation fails to amend its AOI to comply with the applicable provisions of the Corporation Code on or before 01 May 1982, the expiry date of the two (2) year period mentioned in Section 148, the respective provisions will be considered written into the articles of incorporation as of the date of the effectivity of the Corporation Code or on 01 May 1980.[2]

Applying the said interpretation, since you have not disclosed any subsequent amendment made by the SCA of its AOI pursuant to Section 148, the maximum of 50-year term prescribed by the Corporation Code was deemed written on the AOI of SCA on 01 May 1980.

In conclusion, although originally registered with the Commission in 1967 with a perpetual corporate term, SCA is now deemed to exist only for a period of fifty (50) years reckoned from 01 May 1980. The corporate existence of SCA will, therefore, expire on 01 May 2030, unless sooner dissolved or extended within the prescribed period[3] 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. It 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 or investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered void.

Please be guided accordingly.

CAMILO S. CORREA
General Counsel

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[2] SEC-OGC Opinion No. 13-01 dated 21 March 2013 addressed to Fernandez & Associates, c/o Atty. Merito R. Fernandez; SEC Opinion No. 04-03, dated 14 February 2003, addressed to Atty. Francisco Collado; SEC Opinion dated 25 September 1990, addressed to Atty. Sabino Padilla, Jr.

[3] "**Section 11.** *Corporate term.* – xxx The **corporate term** as originally stated in the articles of incorporation **may be extended for periods not exceeding fifty (50) years in any single instance** by an amendment of the articles of incorporation, in accordance with this Code: *Provided,* That **no extension can be made earlier than five (5) years prior to the original or subsequent expiry date(s)** unless there are justifiable reasons for an earlier extension as may be determined by the Securities and Exchange Commission.".

[4] SEC Memorandum Circular 2003-15, No.7