Republic of the Philippines
Department of Finance
Securities and Exchange Commission

In the Matter of:
PETITION FOR DECLARATION OF A STATE OF SUSPENSION OF PAYMENTS WITH PROPOSED REHABILITATION PLAN of RUBBERWORLD PHILIPPINES, INC.

SEC *En Banc* Case No. 06-16-406

ROBERTO DY, ARTURO NACPIL, PHILIP R. GO, and WILFREDO L. ORTIZ,
Petitioners.

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RESOLUTION

Before the Commission is a *Petition for Review on Certiorari* ("Petition") under Rule XII of the 2006 Rules of Procedure of the Commission ("2006 Rules"), filed on 20 June 2016 by the group of Roberto Dy, Arturo Nacpil, Philip Go, and Wilfredo Ortiz ("Petitioners"), which seeks the partial reversal of the Order dated 30 July 2014 ("Assailed Order") of the Special Hearing Panel I (SHP) in SEC Case No. 11-94-4920 entitled *In the Matter of the Petition for Declaration of a State of Suspension of Payments with Proposed Rehabilitation Plan.* In said *Petition*, Petitioners questioned the following findings of the SHP:

1. That the vice presidents of Rubberworld Philippines, Inc. were corporate officers;[1] and
2. That the vice presidents of Rubberworld Philippines, Inc. were corporate officers who are considered employees.[2]

Petitioners aver that none of them were considered as a party-in-interest in SEC Case No. 11-94-4920 and took notice of the Assailed Order "just recently."[3] Further, Petitioners admitted that on 20 April 2016, they learned that the Assailed Order is pending with the Commission En Banc.[4]

Before proceeding any further, it should be emphasized that petitions for review on certiorari under Rule XII of the 2006 Rules may be filed only on the following grounds:[5]

1. When the Hearing Officer/Panel of the Commission has acted without or in excess of its jurisdiction; or
2. When the Hearing Officer/Panel of the Commission has acted with grave abuse of discretion and there is no appeal, nor plain, speedy, and adequate remedy in the ordinary course of law.

It is already established that the office of certiorari is limited to the correction of defects of jurisdiction solely.[6] Stated otherwise, the remedy of certiorari is available only when a tribunal in the exercise of its functions, has acted without jurisdiction or in excess of jurisdiction or with grave abuse of discretion and there is no remedy by appeal.[7] Where a tribunal had jurisdiction over the subject matter and over the person, its decision of any question pertaining to the cause, however erroneous, cannot be corrected by certiorari.[8] Whenever the petitioner failed to show that there are no adequate remedies in the

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[1] Paragraph 6 of the *Petition*.
[2] Paragraph 7 of the *Petition*.
[3] Paragraph 3 of the *Petition*.
[4] Paragraph 4 of the *Petition*.
[5] Rule XII, Section 12-1 of the 2006 Rules.
[6] *Eva Cantelang, et al. vs. Rustico Medina, et al.*, G.R. Nos. L-50752-50830, 13 July 1979.
[7] Ibid., citing *Regala vs. Court of First Instance of Bataan*, G.R. No. L-781, 29 November 1946.
[8] Ibid., citing *Herrera vs. Barretto and Joaquin*, G.R. No. L-8692, 20 December 1913.

ordinary course of law available, and that the respondent tribunal acted in the premises without jurisdiction or in excess thereof, or with grave abuse of discretion that would render the challenged judgment null and void *ab initio*, such petition must be dismissed.[9]

In the case at bar, an appeal is available against the *Assailed Order*. In fact, the *Assailed Order* has been the subject of an appeal resolved by the Commission *En Banc* in a *Decision* dated 5 May 2016 in SEC *En Banc* Case Nos. 08-14-340 and 08-14-341. Moreover, nowhere in the *Petition* did the Petitioners establish that the SHP acted without or in excess of jurisdiction, or with grave abuse of discretion.

Considering this defect in the *Petition*, a dismissal thereof is proper.

Lastly, even assuming that the *Petition* is an appeal under Rule XI of the 2006 Rules, the same shall be dismissed for being filed out of time. Considering that Petitioners admitted that it had notice of the Assailed Order on 20 April 2016, the *Petition* is filed outside the fifteen-day period reckoned from notice of the order or decision by the appealing party. As further provided in the 2006 Rules, appeals are dismissible when it is not perfected within the prescribed period.[10] Moreover, even Petitioners acknowledge that they were never parties in the proceedings before the SHP, hence, they do not have the personality to file any appeal against the *Assailed Order*.

Considering the foregoing, a dismissal of the instant *Petition* is in order.

WHEREFORE, premises considered, the *Appeal* is hereby **DISMISSED** for utter lack of merit.

SO ORDERED.

Pasay City, Philippines; 8 July 2016.

TERESITA J. HERBOSA
Chairperson

MANUEL ROBERTO B. GAITE
Commissioner

ANTONIETA F. IBE*
Commissioner

EPHYRO LUIS B. AMATONG
Commissioner

BLAS JAMES G. VITERBO
Commissioner

***On Leave**

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[9] Ibid.
[10] Rule XI, Section 11-5 of the 2006 Rules.