Republic of the Philippines
Department of Finance
Securities and Exchange Commission
Pasay City, Philippines

In the matter of
Arnulfo S. Pilando, Christine B. Wangdali and Antonio Alvarez
Petitioners,

versus

Nerissa Orodio, Benjamin De Sesto, Marrietta Jambaro, Efraim Orodio, Samuel Garcia
and any and all of the other Board of Directors and/or Officers of the
Rural Bank of Rizal (K.A.), Inc.,
Respondents.

SEC Case No. 12-10-333

DECISION

This resolves the Petition to Cite or Punish for Indirect Contempt[1] filed by Arnulfo S. Pilando, Christine B. Wangdali and Antonio Alvarez (Petitioners) against Nerissa Orodio, Benjamin De Sesto, Marrietta Jambaro, Efraim Orodio, Samuel Garcia and any and all of the other Board of Directors and/or Officers of the Rural Bank of Rizal (K.A.), Inc. (Respondents). This originated from SEC Case No. 3-10-304 where the Petitioners prayed that a meeting be called by the Commission.[2]

On 3 June 2010, the Commission in its Order granted the petition and ordered the corporation to conduct its Annual Stockholders meeting on the first Saturday of July 2010, or 3 July 2010.[3]

On 3 July 2010, Petitioners sent their representatives to attend the annual stockholder's meeting although they have not received any notices of holding of such meeting. Upon arriving at the principal office of the Respondent Corporation, the same is locked without any person at the site.[4]

Thus, this they filed this instant Petition.

This petition has merit.

The Commission has the power to compel corporations to hold a stockholders meeting, in accordance with the Corporation Code, and P.D. 902-A. In *Bernas v. Cinco*,[5] the Supreme Court reiterated the Commissions power to compel corporations to call meetings:

> Where there is an officer authorized to call a meeting and that officer refuses, fails, or neglects to call a meeting, the SEC can assume jurisdiction and issue an order to the petitioning stockholder to call a meeting pursuant to its regulatory and administrative powers to implement the Corporation Code. This is clearly provided for by Section 50 of the Corporation Code which we quote:
>
> > Sec. 50. Regular and special meetings of stockholders or members. - x x x
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> > x x x x

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1 Dated 2 Dec. 2010.
2 Pilando Pet. at 3.
3 *Id.*
4 *Id.* at 4.
5 G.R. Nos. 163356-57, 10 July 2015.

> Whenever, for any cause, there is no person authorized to call a meeting, the Securities and Exchange Commission, upon petition of a stockholder or member, and on a showing of good cause therefore, may issue an order to the petitioning stockholder or member directing him to call a meeting of the corporation by giving proper notice required by this Code or by the by-laws. The petitioning stockholder or member shall preside thereat until at least majority of the stockholders or members present have chosen one of their member[s] as presiding officer.

As early as Ponce v. Encarnacion, etc. and Gapol, the Court of First Instance (now the SEC) is empowered to call a meeting upon petition of the stockholder or member and upon showing of good cause, thus:

> On the showing of good cause therefore, the court may authorize a stockholder to call a meeting and to preside thereat until the majority stockholders representing a majority of the stock present and permitted to be voted shall have chosen one among them to preside it. And this showing of good cause therefor exists when the court is apprised of the fact that the by-laws of the corporation require the calling of a general meeting of the stockholders to elect the board of directors but the call for such meeting has not been done.39
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> The same jurisprudential rule resonates in Philippine National Construction Corporation v. Pabion,40 where the Court validated the order of the SEC to compel the corporation to conduct a stockholders' meeting in the exercise of its regulatory and administrative powers to implement the Corporation Code:
>
> SEC's assumption of jurisdiction over this case is proper, as the controversy involves the election of PNCC's directors. Petitioner does not really contradict the nature of the question presented and agrees that there is an intra-corporate question involved.
>
> x x x x
>
> Prescinding from the above premises, it necessarily follows that SEC can compel PNCC to hold a stockholders' meeting for the purpose of electing members of the latter's board of directors.
>
> x x x x
>
> As respondents point out, the SEC's action is also justified by its regulatory and administrative powers to implement the Corporation Code, specifically to compel the PNCC to hold a stockholders' meeting for election purposes.[6]

Contrary to the argument raised by the Respondents in in their Answer,[7] the Securities Regulation Code grants the Commission the power to punish for contempt, both direct and indirect, in accordance with the provisions of and penalties prescribed by the Rules of Court.[8]

Respondents committed disobedience of the lawful order of the Commission, when it did not hold the annual stockholder's meeting as ordered by the Commission. Respondents did not provide any explanation as to why the meeting was not held. Respondents' also did not appear at the preliminary conference as ordered by the Commission.

The Rules of Court provide that a person guilty of disobedience of or resistance to a lawful order, or judgment is punishable for indirect contempt.[9] The penalty for indirect contempt committed against the Commission, which as a tribunal, is of a rank equivalent to the Regional Trial Court, is a fine not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both.[10]

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6 *Id.*
7 Orodio Ans. ¶ 2 (a).
8 SECURITIES REGULATION CODE § 5 (j).
9 Rules of Court, rule 71 § 3 (b).
10 Rules of Court, rule 71 § 7.

WHEREFORE, premises considered, Respondents Nerissa Orodio, Marrietta Jambaro, Efraim Orodio, Samuel Garcia and all the other Board of Directors or Officers of the Rural Bank of Rizal (K.A.), Inc. on 3 July 2010, are hereby **GUILTY** of INDIRECT CONTEMPT, and is hereby **ORDERED** to pay the fine of thirty thousand pesos (Php30,000.00) each.

SO ORDERED.

Pasay City, Philippines, 10 October 2017.

TERESITA J. HERBOSA
Chairperson

ANTONIETA F. IBE
Commissioner

EPHYRO LUIS B. AMATONG
Commissioner

BLAS JAMES G. VITERBO
Commissioner

EMILIO B. AQUINO
Commissioner