



Republic of the Philippines
Securities and Exchange Commission
SEC Bldg. EDSA, Greenhills, Mandaluyong City

OFFICE OF THE GENERAL COUNSEL

08 June 2011

SEC-OGC Opinion No. 11-29
Rights of stockholder; Inspection of
corporate records

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ATTN: ATTY. MA. LYNNA P. ADVIENTO

Madam:

This refers to your letter dated 16 March 2011 inquiring about the rights of a stockholder who was a trustee of certain shares of stock.

Your question was, "would an assignee or trustee, whose trust has been revoked by the trustor and duly entered in the books of the corporation, still have the right to inspect corporate books and ask for financial statements?"

Your letter was unclear whether the trustee in your query is himself also an owner of shares of stock in the corporation aside from being a trustee, or whether his connection to the corporation is solely because of his being a trustee.

If it is the former, then the trustee whose trust has been revoked, but remains a stockholder in the corporation, still has the right, as a stockholder, to inspect the corporate books within the parameters laid out by the Corporation Code¹, specifically Sections 74 and 75, that provides:

"Sec. 74. *Books to be kept; stock transfer agent.* – xxx The records of all business transactions of the corporation and the minutes of any meetings shall be open to inspection by any director, trustee, stockholder or member of the corporation at reasonable hours on business days and he may demand, writing, for a copy of excerpts from said records or minutes, at his expense. xxx

xxx The stock and transfer book shall be kept in the principal office of the corporation or in the office of its stock transfer agent and shall be open for inspection by any director or stockholder of the corporation at reasonable hours on business days. xxx"

¹ Batas Pambansa Blg.68 (1980).

"Sec. 75. *Right to financial statements.* - Within ten (10) days from receipt of a written request of any stockholder or member, the corporation shall furnish to him its most recent financial statement, which shall include a balance sheet as of the end of the last taxable year and a profit or loss statement for said taxable year, showing in reasonable detail its assets and liabilities and the result of its operations. xxx"

If the trustee's only link to the corporation is the trusteeship agreement between him and the owner of the stock over which the trust agreement is executed, then upon the revocation by the trustor, or upon expiry of the trust agreement, and its recording in the corporate books, the connection between the trustee and the corporation is severed, and the trustee's rights as regards the corporation ceases to exist.

You referred to an opinion rendered by the Commission which, in part, states that: "However, such revocation, to bind the corporation and third parties, must be recorded in the stock and transfer book of the corporation. Thence, the name of the transferor must be entered in the stock and transfer book as the owner of the shares."²

Section 63 of the Corporation Code prescribes the manner by which shares of stock may be transferred:

"Sec. 63. *Certificate of stock and transfer of shares.* — xxx No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation so as to show the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred."

The Supreme Court has stated in the case of *Vicente C. Ponce vs. Alsons Cement Corporation, et al.*³:

"From the corporation's point of view, the transfer is not effective until it is recorded. Unless and until such recording is made the demand for the issuance of stock certificates to the alleged transferee has no legal basis. As between the corporation on the one hand, and its shareholders and third persons on the other, the corporation looks only to its books for the purpose of determining who its shareholders are. In other words, the stock and transfer book is the basis for ascertaining the persons entitled to the rights and subject to the liabilities of a stockholder. Where a transferee is not yet recognized as a stockholder, the corporation is under no specific legal duty to issue stock certificates in the transferee's name."

Once the revocation is recorded, the trustee would lose all the rights pertaining to the shares of stock.

You stated in your letter that the trust has been revoked by the trustor and this has been duly entered in the books of the corporation.

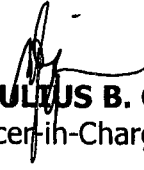
² Letter addressed to Mr. Leonardo R. Reonal, 4 February 2002.

³ G.R. No. 139802. December 10, 2002.

We opine that the trustee in question no longer has the right to inspect corporate books and ask for financial statements, provided that said trustee does not hold any other stocks in the corporation.

This opinion is based solely on the facts disclosed in the query and relevant solely to the particular issues raised therein. It shall likewise be understood that the foregoing shall not be used in the nature of a standing rule binding upon the Commission in other cases or upon the courts. If, upon investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered void.

Please be guided accordingly.


VESPER JULIUS B. GARCIA
Officer-in-Charge