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

28 February 2011

SEC Opinion No. 11-07
Requirement of Capital Subscription
for Non-Stock Corporations

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Sir:

This refers to your letter dated 20 January 2011 requesting our opinion whether or not a non-stock, non-profit corporation is required to have a capital subscription.

We call your attention to the following provisions of the Corporation Code[1]:

> "Sec. 3. *Classes of corporations.* – Corporations formed or organized under this Code may be stock or non-stock corporations. **Corporations which have capital stock divided into shares** and are authorized to distribute to the holders of such shares dividends or allotments of the surplus profits on the basis of the shares held **are stock corporations. <u>All other corporations are non-stock corporations.</u>**
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> Sec. 14. *Contents of the articles of incorporation.* – All corporations organized under this Code shall file with the Securities and Exchange Commission articles of incorporation in any of the official languages duly signed and acknowledged by all of the incorporators, containing substantially

[1] (1980).

the following matters, except as otherwise prescribed by this Code or by special law:

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8. **If it be a stock corporation**, the amount of its authorized capital stock in lawful money of the Philippines, the number of shares into which it is divided, and in case the shares are par value shares, the par value of each, the names, nationalities and residences of the original subscribers, **the <u>amount subscribed</u> and paid by each on his subscription**, and if some or all of the shares are without par value, such fact must be stated;

9. **If it be a non-stock corporation**, the amount of its capital, the names, nationalities and residences of the contributors and **the amount contributed by each**;

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Sec. 15. *Forms of Articles of Incorporation.* – Unless otherwise prescribed by special law, articles of incorporation of all domestic corporations shall comply substantially with the following form:

xxx xxx xxx

NINTH: That the above-named subscribers have paid at least twenty-five (25%) percent of the total subscription, as follows: xxx

(Modify Nos. 8 and 9 if shares are with no par value. **In case the corporation is <u>non-stock</u>**, Nos. 7, 8 and 9 of the above articles may be modified accordingly, and **it is sufficient if the articles state the amount of capital of money contributed or donated by specified persons, stating their names, nationalities and residences of the contributors or donors and the respective amount given by each**.) xxx

(Emphasis and underscoring ours)

In defining the classes of corporations, the law clearly states that capital stock divided into shares pertains only to stock corporations. It is the shares of stock issued by stock corporations that are subscribed and paid by its owners, the stockholders. Moreover, Title VII of the Corporation Code on Stock and Stockholders, which contains provisions on subscription contract and unpaid subscriptions, refers only to stock corporations. On the other hand, the law provides that capital of non-stock corporations shall be sourced from contributions made by its contributors and donors. In the case of NREA, it derives its funds from admission fees, annual dues and special assessments of members, gifts, donations or benefits.[2] It is thus clear from the foregoing that under the law, there cannot be an instance where a non-stock corporation has capital subscription since it does not have shares of stock which can be subscribed by its members.

The foregoing opinion rendered is based solely on the facts disclosed in the query and relevant solely to the particular issues raised therein and shall not be used in the nature of a standing rule binding upon the Commission.[3]

02/28/11

VERNETTE G. UMALI-PACO
General Counsel
2/28/2011

[2] Section 1, Article VIII, Amended By-Laws.
[3] SEC Memorandum Circular No. 15, series of 2003.