



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

OFFICE OF THE GENERAL COUNSEL

7 March 2011

SEC-OGC Opinion No. 11-10
Titles of corporate officers; Board
meetings through the internet;
Requirement of member signature in
membership book

MR. ROGELIO B. BANTILES

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Sir:

This refers to your letter dated 1 December 2010¹ regarding issues pertaining to the Worldwide Filipino Alliance 2010, Inc., ("*Worldwide*") a non-stock, non-profit corporation. Your question is whether the following actions are acceptable:

1. The trustees wish to modify the generic and traditional titles of the officers of the corporation, that is, instead of President, Vice President, Secretary and Treasurer, the officers will have the following titles: Chairman of the Global Board of Trustees, President and Vice Chairman of the Board of Trustees, Executive Vice President, Vice President for Grants, Funding, and External Relations, Senior Global Vice President for Legal Affairs & Organizational Members, Second Vice President for Internal Affairs & Civil Societies, Third Vice President for Youth Affairs, Education and Information, Secretary General, Treasurer and Publicist.

2. Meetings of the Board of Trustees, the Executive Committee, or the General Membership would be done through the internet.

3. There would be a recruitment of members from all over the world, and instead of passing around the Membership Book for signature of the members,

¹ The letter with an unpaid request for opinion addressed to The Chair through Atty. Javey Paul Francisco was filed with the SEC-Davao Extension Office on 1 December 2010. This was transmitted by mail on 6 December 2010, and received by the Office of the General Counsel on 9 December 2010. On 14 December 2010, this Office sent a letter addressed to Mr. Rogelio B. Bantiles with the advice that the opinion fee of five thousand pesos (P5000.00) must first be paid before the request for opinion may be acted upon. The opinion fee was paid on 12 January 2011 at the Davao Extension Office, and the official receipt (O.R. No. 5614830) transmitted by the Davao Extension Office was received by this Office on 17 January 2011.

prospective members would instead write a letter of application to the Committee on Membership, attach a brief resume, a statement of the reason(s) for wanting to become members, and payment of membership fee. These documents would be kept with the officers of the Corporation for eventual submission to the Commission if required.

We opine as follows:

As to the first issue, in the Corporation Code², there is no required designation of titles of corporate officers, only that there must be a president, a treasurer and a secretary.³ A perusal of the by-laws of Worldwide Filipino Alliance 2010, Inc. reveals that the officers of the association shall be a President, a Vice-President, a Secretary and a Treasurer. As it is planned by the corporation to add officers and adopt titles for officers different from those written in the by-laws, the change of these titles and the addition of officers must appear in the by-laws after the amendment to this effect has been duly approved by a majority vote of the members and by a majority vote of the trustees, according to the manner of amendment as provided in the by-laws.⁴ If it is convenient or necessary to the corporation to adopt the desired titles of the officers, or to add more officers, this may be reflected in the corporation's by-laws.⁵

² Batas Pambansa Blg. 68 (1980).

³ **Sec. 25. Corporate officers, quorum.** - Immediately after their election, the directors of a corporation must formally organize by the election of a president, who shall be a director, a treasurer who may or may not be a director, a secretary who shall be a resident and citizen of the Philippines, and such other officers as may be provided for in the by-laws. Any two (2) or more positions may be held concurrently by the same person, except that no one shall act as president and secretary or as president and treasurer at the same time.

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⁴ **Sec. 48. Amendments to by-laws.** - The board of directors or trustees, by a majority vote thereof, and ... at least a majority of the members of a non-stock corporation, at a regular or special meeting duly called for the purpose, may amend or repeal any by-laws or adopt new by-laws. The ... two-thirds (2/3) of the members in a non-stock corporation may delegate to the board of directors or trustees the power to amend or repeal any by-laws or adopt new by-laws: Provided, That any power delegated to the board of directors or trustees to amend or repeal any by-laws or adopt new by-laws shall be considered as revoked whenever ... a majority of the members in non-stock corporations, shall so vote at a regular or special meeting.

Whenever any amendment or new by-laws are adopted, such amendment or new by-laws shall be attached to the original by-laws in the office of the corporation, and a copy thereof, duly certified under oath by the corporate secretary and a majority of the directors or trustees, shall be filed with the Securities and Exchange Commission the same to be attached to the original articles of incorporation and original by-laws.

The amended or new by-laws shall only be effective upon the issuance by the Securities and Exchange Commission of a certification that the same are not inconsistent with this Code.

⁵ **Sec. 47. Contents of by-laws.** - Subject to the provisions of the Constitution, this Code, other special laws, and the articles of incorporation, a private corporation may provide in its by-laws for:

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Regarding the second issue, only the Board of Trustees and the Executive Committee are allowed to conduct meetings through the internet. The guidelines for this are outlined in the SEC Memorandum Circular No. 15, Series of 2001⁶. The General Membership meeting however, must be conducted within the limits provided by the Corporation Code, particularly Section 51, *viz*:

"Sec. 51. Place and time of meetings of stockholders or members. - Stockholders' or members' meetings, whether regular or special, **shall be held in the city or municipality where the principal office of the corporation is located, and if practicable in the principal office of the corporation:** Provided, That Metro Manila shall, for purposes of this section, be considered a city or municipality.

Notice of meetings shall be in writing, and the time and place thereof stated therein.

All proceedings had and any business transacted at any meeting of the stockholders or members, if within the powers or authority of the corporation, shall be valid even if the meeting be improperly held or called, provided all the stockholders or members of the corporation are present or duly represented at the meeting." **(Emphasis provided.)**

By default, the place of the members' meetings must be in the city or municipality where the corporation's principal office is located. However, the law allows that members' meetings of a non-stock corporation be held elsewhere, provided that this is clearly stated in the by-laws, and as long as the place of the meeting is within the Philippines, as provided in Section 93 of the Corporation Code, *viz*:

"Sec. 93. Place of meetings. - The by-laws may provide that the members of a non-stock corporation may hold their regular or special meetings at any place even outside the place where the principal office of the corporation is located: Provided, That proper notice is sent to all members indicating the date, time and place of the meeting: and Provided, further, That the place of meeting shall be within the Philippines."

5. The qualifications, duties and compensation of directors or trustees, officers and employees;

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7. The manner of election or appointment and the term of office of all officers other than directors or trustees;

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10. Such other matters as may be necessary for the proper or convenient transaction of its corporate business and affairs.

⁶ Available on <http://www.sec.gov.ph/circulars/cy2001/mc/SEC-Memo-15.htm>.

Pertinent to the third issue is Section 36 of the Corporation Code, that provides for the powers of a non-stock corporation to admit members. According to the by-laws of Worldwide, the board shall determine the qualifications of an applicant for membership. However, the by-laws do not provide the manner of acquiring membership in the corporation. If the corporation desires to accept applications for membership by requiring applicants to write a letter to the Committee on Membership, with an attached resumé, a statement of reasons for wanting to become a member in the corporation, and the payment of a membership fee, this process must also be indicated in the by-laws, because membership in non-stock corporations cannot be acquired except in the particular mode provided in the by-laws.

By applying Section 87 of the Corporation Code, which states, among others, that **"the provisions governing stock corporation, when pertinent, shall be applicable to non-stock corporations, except as may be covered by specific provisions of this Title,"** Section 74 of the Corporation Code may be deemed applicable. It provides:

"Sec. 74. Books to be kept; stock transfer agent. - Every corporation shall keep and carefully preserve at its principal office a record of all business transactions xxx

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Stock corporations must also keep a book to be known as the "stock and transfer book", in which must be kept a record of all stocks in the names of the stockholders alphabetically arranged; the installments paid and unpaid on all stock for which subscription has been made, and the date of payment of any installment; a statement of every alienation, sale or transfer of stock made, the date thereof, and by and to whom made; and such other entries as the by-laws may prescribe. 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.

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While a stock-and-transfer book is required of stock corporations, non-stock corporations are required by the Commission to maintain their respective membership books, in order to have a reliable record of their membership at any given time.

After membership in the corporation is duly acquired in the manner provided in the by-laws, the entry of the name of each member in the membership book may be done, and it is not necessary that the entry be made by the members themselves, unless the by-laws so provide. It is usually the corporate secretary who makes the entry.

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

Request for Opinion dated 1 December 2010

Mr. Rogelio B. Bantiles, Worldwide Filipino Alliance 2010, Inc.

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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.

Ver 07 Dec 11
VERNETTE G. UMALI-PACO
General Counsel
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