Republic of the Philippines
Department of Finance
Securities and Exchange Commission
PICC Secretariat Building, PICC Complex, Pasay City

**RONING SANTOS,**
*Complainant-Appellee,*

**SEC En Banc Case No. 04-12-256**

**ELISAN CREDIT CORPORATION, with branches at Malolos City and Meycauayan City, ATTY. ELISEO SANTIAGO, PRESIDENT.**
*Respondent-Appellant.*

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# DECISION

This resolves the **Memorandum on Appeal**[1] filed on 13 April 2012 by Respondent-Appellant ELISAN CREDIT CORPORATION ("**ELISAN**"), praying that the En Banc REVERSE the *Letter-Order dated 14 December 2011*[2] and follow-up *Letter-Orders dated 14 February 2012*[3] *and 22 March 2012*[4], of the *then* Complaints and Investigation Division ("**CID**"), *now* the Enforcement and Investor Protection Division ("**EIPD**"), which imposed a Fine of Fifty Thousand Pesos (P50,000) for allegedly operating unauthorized Lending Company branches in the cities of Malolos and Meycauayan in Bulacan, in violation of **R.A. 9474** *a.k.a.* **The Lending Company Regulation Act of 2007**.

## ISSUE

The *sole issue* in this case is whether the two establishments visited by the CID in Bulacan (acting on a tip from a certain RONING SANTOS) may be considered branches of

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[1] Dated 12 April 2012.

[2] "In this regard, ELISAN CREDIT CORPORATION is ordered to settle the amount of Fifty Thousand (P50,000.00) Pesos in cash or manager's check **within three (3) days** from notice[;] otherwise, we shall be constrained to initiate additional administrative sanctions against your corporation." **[Annex A of ELISAN's Memorandum on Appeal]**

[3] "From the foregoing, you are hereby directed to pay the amount of P50,000.00 for operating [branch] offices in the cities of Malolos and Meycauayan without the required Certificates of Authority (CA) from this Commission pursuant to R.A. 9474[,] otherwise known as the Lending Company Regulation Act of 2007 **within ten (10) days** from notice." **[Annex B of ELISAN's Memorandum on Appeal]**

[4] "From the foregoing, you are hereby directed to pay **within three (3) days** from notice the amount of P50,000 for operating branches in the cities of Malolos and Meycauayan[,] Bulacan without the required Certificates of Authority (CA) from this Commission pursuant to R.A. 9474[,] otherwise known as the Lending Company Regulation Act of 2007. Please consider this your **last and final notice**[,] otherwise this Department will be constrained to impose additional administrative sanctions such as blacklisting and revocation of the company's primary franchise. Please be reminded that the said administrative penalties are without prejudice to the institution of criminal actions against the responsible officers and directors for violation of Section 12 of the said law." **[Annex C of ELISAN's Memorandum on Appeal]**

ELISAN, considering that they purport to be law offices of a certain ELISEO SANTIAGO (who was at the same time, President of ELISAN) specializing in collection cases.

**DISCUSSION**

ELISAN is a SEC-registered[5] Lending Company with business address in Quezon City and no authorized branches. Essentially, its business is to extend loans and to receive payments on those loans. If a borrower fails to pay, a Lending Company, such as ELISAN, may hire a firm to demand payment ("**Collection Proceedings**").

In 2002-2006, RONING SANTOS and his wife contracted multiple loans with ELISAN, secured by a real estate mortgage over their property in Pandi, Bulacan.[6]

According to RONING SANTOS' testimony, these loans were all contracted at either of ELISAN's 2 alleged "branches" in Bulacan (i.e., the **2 Law Offices** of ELISEO SANTIAGO).[7] However, the Promissory Notes[8] that RONING SANTOS himself attached show that the loans were contracted at the registered address of ELISAN at Quezon City. The Parol Evidence Rule is clear that a written contract is conclusive as to its terms.[9]

RONING SANTOS and his wife admittedly defaulted[10] on their loans, at which time ELISAN sought to acquire title to their mortgaged property in Bulacan. The parties entered into a Deed of Assignment over the mortgaged property on 9 July 2008.

The Deed of Assignment can be said to be part of the collection proceedings and thus distinct from the regular course of business of a Lending Company. An establishment engaged in mere collecting, such as a collection agency or law firm, cannot be considered a Lending Company, much more a branch of a lending company.

According to RONING SANTOS' testimony, the Deed of Assignment was executed in blank,[11] but he was *unable to prove* it. Instead, the record clearly shows a completed, signed, and notarized Deed of Assignment.[12] The Parol Evidence Rule[13] again applies.

To prove that they were made to sign a blank contract, RONING SANTOS presented a Police Blotter[14] dated 9 July 2008, narrating that RONING SANTOS and his wife appeared at the station, complaining they were made to sign a blank contract by ELISAN. There is no indication, however, that this statement was ever investigated by the Police. ELISAN was never questioned or given an opportunity to rebut the claim of RONING SANTOS. The statement is self-serving and was not any given weight.

We are thus left with one crucial piece of evidence, the CID *Investigation Report* dated 23 September 2011.[15] RONING SANTOS relies on this report to show that the 2

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[5] SEC Registration No. 0000084938 dated 12 March 1979 (Last accessed via SEC I-View on 21 June 2017).
[6] RONING SANTOS' Amended Complaint filed on 26 July 2011.
[7] Id.
[8] Id.
[9] Section 9, Rule 130, Rules of Court.
[10] Supra, note 3.
[11] Id.
[12] Supra, note 8.
[13] Supra, note 6.
[14] Blotter issued by the PNP Plaridel, Bulacan Station, dated 9 July 2008.
[15] Attached as **Annex J** of the instant Memorandum of Appeal.

Law Offices were actually branches. On the other hand, ELISAN relies on the same text to show that the CID does not have any proof that the ~~2~~ two Law Offices are branches.

## ANALYSIS OF THE CID INVESTIGATION REPORT

The text of the CID Investigation Report is reproduced here, *verbatim*.

### 1. MALOLOS, BULACAN

> Upon arrival at the branch office of Elisan Credit Corporation ("Elisan for brevity) in Malolos Bulacan, the team composed of the undersigned, was not allowed to enter the office by a man who identified himself as "Teng". Teng communicates to the team through a slightly ajar door. Upon being informed that we are interested to obtain a loan, he asked for the name of a particular person who referred us to the entity. Atty. Macapagal replied that it was Mr. Roning Santos. He asked for time to confirm the identity of Roning Santos by calling its Cubao Office, allegedly the main office of Elisan. He closed the door then after about five minutes informed us, again, through the slightly ajar door, that Mr. Roning Santos is a delinquent borrower hence, we are not qualified to obtain a loan because Mr. Santos is disqualified to be our co-maker. We insisted that we are in the jewelry business and we are in need of additional capital, so we asked him to provide us with the name of a person who could qualify as our co-maker. He refused and told us that it is the entity's requirement that the supposed borrower should have as co-maker who is an existing and non-delinquent borrower. He told us to try Elisan's Cubao to help us in our transaction. Before leaving the office, we asked him why he does not allow us to enter the office. He answered that he was merely following the instructions from his higher ups. When asked for some brochures or pamphlets of Elisan, he did not provide for any, except a piece of paper bearing the telephone number of its Cubao office which is 02-911-7679.[16]

The Report begins with a foregone conclusion that this is a "branch office," but there is no mention of any signage bearing the name ELISAN at the site. There are no pictures of the site on record. The interior was not even seen by the CID. *On the one hand*, "Teng" can communicate easily with ELISAN in Quezon City, and he has some knowledge about how loans are obtained—by referral of an existing borrower. *On the other hand*, if indeed this is ELISEO SANTIAGO's Law Office and he handles collection cases, then such knowledge would be commonplace. Furthermore, "Teng" never represented that this site is a branch of ELISAN; his brochures—and even the database of borrowers, through which RONING SANTOS was identified as delinquent—all refer back to ELISAN's registered office in Quezon City. Teng could be familiar with the process, but all transactions were apparently handled by the registered office.

### 2. MEYCAUAYAN, BULACAN

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[16] Id. at 1.

> At the next destination in Meycauayan, the team noticed that the office of Elisan was divided into two sections: one is a reception area where clients were made to wait for their turn to be served and the main office which is secured by iron grills. The team noticed 2 women at the main office and when asked if it was Elisan Credit Corporation, the lady, who identified herself as Gigi Escobia, answered in the positive. Gigi inquired about the purpose of our visit and we disclosed to her that we are representatives from the Securities and Exchange Commission and that we are there to inform the entity of its failure to secure the Certificate of Authority (CA) as required by the Lending Company Regulations Act. Gigi informed the team that the office was the law office of Atty. Eliseo Santiago and that he was using the office to settle all cases, including, but not limited to, delinquency in the payment of the loan, settlement of penalties, etc. She also informed the team that it was his boss, Atty. Eliseo Santiago who secures permit from different government entitites. She also informed the team that the main office of Elisan Credit Corporation is in Cubao, Quezon City. When asked if it has branch in Meycauayan, she answered in the negative. The team told her to tell her boss to secure the Certificate of Authority. Otherwise it should cease and desist from engaging in the business of lending. Turning to the other lady, the team asked if she is a borrower and she answered in the negative stating that she is also an employee.[17]

Again, the report begins with the foregone conclusion that this is "the office of Elisan," but there is no mention of any signage that bears the name ELISAN. Again, there are no pictures of the site on record. The interior had a processing area where payments are collected, but the lady employees represent that this is a Law Office handling collection cases. The collection stage is no longer the regular course of business of a Lending Company and, generally speaking, a collection agency is not a branch. <u>Noticeably, when asked "if this is Elisan" the first lady "answered in the positive."</u> The employee may just as likely have meant, this is the place where delinquent payments to Elisan are made, as that was indeed the business process of a collecting agency. When asked categorically if this was a branch, she made clear that it was a Law Office.

## CLAIMS ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE

Absent other evidence on what those 2 sites really are, it would be RONING SANTOS word versus ELISAN's, but that is not the case. Respondent ELISAN, as early as its Answer filed 20 October 2011 were able to show a **Barangay Clearance**[18] over the Malolos site and a **Business Permit** over the Meycauayan site, to support that these are the personal Law Offices of ELISEO SANTIAGO. There being no proof of inconsistent operations or even inconsistent signage, we cannot consider these "branches."

The minimum requirement of Substantial Evidence is not met in this case.

The *Rules of Evidence in the Rules of Court* provide that:

> In cases filed before administrative or quasi-judicial bodies, a fact may be deemed established if it is supported by substantial evidence, or **that amount of relevant evidence which a**

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[17] Id. at 1-2.
[18] Issued to "E.P. SANTIAGO LAW OFFICE" by Barangay Guinhawa, Malolos City, Bulacan (**Annex A** of Answer filed 20 October 2011).

> **reasonable mind might accept as adequate to justify a conclusion.**[19] (Emphasis supplied)

The *Rules of Evidence in the Administrative Code* provide that:

> The agency may admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs."[20]

A reasonably prudent man would not consider these 2 sites "branches. *First*, there were no signs bearing the name ELISAN, but there were government permits stating that they are law firms. *Second*, a prospective borrower has to go to Quezon City to obtain a loan, and all brochures/cards refer to Quezon City. *Third*, all contracts and receipts were executed in Quezon City, and there was no evidence presented other than bare statements to the contrary. *Fourth*, the only apparent operations are processing of delinquent loans, and collection is not in the regular course of business of a Lending Company. As stated, a collection agency (even in the guise of a law office) is not a branch of a lending company. Thus, there is no substantial evidence of lending activities.

**WHEREFORE**, premises considered, the appeal is hereby **GRANTED**. The Letter-Order of the CID (now EIPD) dated 14 December 2011 imposing a Fine of Fifty Thousand Pesos (P50,000) for operating 2 unauthorized branches, as well as the follow-up Letter-Orders dated 14 February 2012 and 22 March 2012, are **REVERSED**.

**SO ORDERED.**

Pasay City, Philippines; 22 September 2017.

**TERESITA J. HERBOSA***
***Chairperson***

**ANTONIETA F. IBE***
***Commissioner***

**EPHYRO LUIS B. AMATONG**
***Commissioner***

**BLAS JAMES G. VITERBO**
***Commissioner***

**EMILIO B. AQUINO**
***Commissioner***

***On Leave**

[19] Section 5 of Rule 133, Rules of Court.
[20] Section 12, Book VII, Administrative Code of 1987.