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

In the Matter of

MANUEL L. QUEZON EDUCATIONAL INSTITUTION

SEC En Banc Case No.: 10-09-179
For: Appeal

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DECISION

For consideration of the Commission *En Banc* is an appeal of Manuel L. Quezon Educational I nstitution ("MLQE I") seeking the nullification of the Letter dated 03 April 2009 of the Corporation Finance Department ("CFD"). The pertinent portions of the subject letter are quoted as follows:

> "xxx
>
> NON-FILING OF CERTIFICATION ON THE EXTENT OF ITS COMPLIANCE WITH ITS MANUAL ON CORPORATE GOVERNANCE FOR THE COMPLETED YEAR 2007
>
> xxx
>
> In view thereof, please submit proof within ten (10) days from receipt hereof that a copy of the required certification was filed with the Commission. Failure to submit said proof within the prescribed period shall constrain the Department to take the necessary action to enforce its earlier directive for the company to pay by way of cash, Manager or Cashier's Check within five (5) business days from receipt of this letter the penalty of P25,000.00 plus P500.00 per day of continuing violation xxx
>
> LATE FILING OF CERTIFICATE ON THE ATTENDANCE OF THE DIRECTORS TO THE BOARD MEETINGS FOR THE FISCAL YEAR ENDED 31 MARCH 2008
>
> xxx
>
> Thus, the Department reiterates its earlier directive for the company to pay by way of cash, Manager or Cashier's Check within five (5) business days from receipt of this letter the penalty for the late filing of the required certificate on the attendance of the directors to the board meetings for the fiscal year ended 31 March 2008 xxx"

The relevant facts are narrated below.

MLQEI was registered with the Commission on 29 September 1947, and was issued SEC Registration No. 0000003147. MLQEI is a public company[1] as defined under R.A. No. 8799, also known as the Securities Regulation Code ("SRC"), and its Amended Implementing Rules and Regulation. As such, MLQEI has the duty to submit reports or certifications within the prescribed period.

MLQEI, however, was remiss in complying with its obligation, namely: (1) non-filing of certification on the extent of its compliance with its Manual on Corporate Governance for the completed year 2007 ("1st Certification," for brevity) and (2) late filing of certification of the Corporate Secretary on the attendance of directors in board meetings for the fiscal year ended 31 March 2008 ("2nd Certification", for brevity).

For this reason, the CFD issued a letter dated 24 April 2008 assessing a penalty for failure of MLQEI to submit the 1st Certification. On 17 June 2008, CFD again issued a letter assessing a penalty for the late filing of MLQEI's 2nd Certification. A hearing was held on 24 February 2009, and the CFD subsequently issued the 03 April 2009 letter.[2]

Dissatisfied, MLQEI filed the instant appeal.

The only issue involved in this case is whether there are valid justifications that will warrant the nullification and setting aside of the CFD letter dated 03 April 2009.

We find no cogent reason to disturb the findings of CFD.

Non-filing of Certification on the Extent of Compliance with the Manual on Corporate Governance

In order to promote corporate governance reforms aimed to raise investor confidence, develop capital market and help achieve high sustained growth for the corporate sector and the economy, the Commission[3] approved the promulgation and implementation of the Code of Corporate Governance, which is applicable to corporations whose securities are registered or listed, corporations which are grantees of permits/licenses and secondary franchise from the Commission and public companies.[4]

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[1] A public company is defined under SRC Rule 3(1)(M) in this wise:

> "M. Public Company means any corporation with a class of equity securities listed on an Exchange or with assets in excess of Fifty Million Pesos (Php50,000,000.00) and having two hundred (200) or more holders at least two hundred (200) of which are holding at least one hundred (100) shares of a class of its equity securities."

[2] Memorandum on Appeal, Annex "F".
[3] Resolution No.135, series of 2002 dated April 04 2002.
[4] SEC Memorandum Circular No. 2, series of 2002.

Under the Manual on Corporate Governance of MLQEI,[5] its Compliance Officer is required to issue a certification on the extent of its compliance with its manual every January 30th of every year. This is a periodic report, and not a one-time compliance. Records show that on 19 March 2007, the compliance officer of MLQEI submitted a letter explaining its failure to submit the certification.[6] Said certification, however, is for the completed year 2006. To this date, the 1st Certification has not yet been filed.

Late Filing of Certification on the Attendance of the Directors in Board Meetings

For the 2nd certification, MLQEI claims that it should only be issued a warning considering that this is the first time this infraction was committed.

Records would belie such claim. In a CFD letter dated 04 March 2008, the CFD **reprimanded** MLQEI for its failure to submit the certification on the attendance of its directors to board meetings on 31 March 2007.[7] For the 2nd Certification, MLQEI submitted the same on 09 May 2008, or 39 days late. Thus, the second infraction warrants a stiffer penalty.

MLQEI also argues that SEC Memorandum Circular No. 6, series of 2005, imposes a penalty only in cases of failure to submit any certifications. Since MLQEI merely incurred a delay, which is not tantamount to failure to submit the certification, it must be absolved of any monetary penalty.

Such argument is bereft of merit. A reporting company is duty-bound to submit the required reports or certifications on time. Non-submission and late filing of reports are both penalized. Under the SEC Memorandum Circular No. 6, series of 2005, a basic penalty and a fine in the amount of FIVE HUNDRED PESOS (Php500.00) for every day of delay may be imposed by the Commission against erring corporations.

Finally, MLQEI has to adhere strictly with its duty to file the reports promptly. A public or reporting company has the obligation to render a full, fair and accurate disclosure to the public of every material fact or event that occurs which would reasonably affect investors' decision in relation to securities. In the case under consideration, the fact that MLQEI is an educational institution is not sufficient justification for the late filing of the two certifications or to condone the assessed penalty. To do otherwise will be tantamount to tolerating the neglect of duty of the concerned corporate officer.

WHEREFORE, the Letter dated 03 April 2009 issued by the Corporation Finance Department is hereby **AFFIRMED** and the instant appeal is **DENIED** for

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[5] The same was filed with the Commission on 30 September 2003.
[6] Memorandum of Appeal, Annex "H".
[7] CFD's Reply Memorandum, Annex "1".

lack of merit. Consequently, appellant is hereby directed to pay the penalty, the final amount of which shall be computed by the Corporation Finance Department based on SEC Memorandum Circular No. 6, series of 2005, within ten (10) days from receipt of this decision.

SO ORDERED.

City of Mandaluyong, 04 February 2010.

FE B. BARIN
Chairperson

MA. JUANITA E. CUETO
Commissioner

RAUL J. PALABRICA
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

ELADIO M. JALA
Commissioner

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