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

24 May 2007
SEC-OGC Opinion No. 07-10
Creation of subsidiary corporation

MOVIE WORKERS WELFARE FOUNDATION, INC.
66 Rosario Drive, Cubao
Quezon City

Attention: Mr. Emilio R. Dollete
Assistant to the Executive Director

Gentlemen:

This refers to your letter dated 08 August 2006 addressed to Director Benito A. Cataran of the Company Registration and Monitoring Department wherein you listed several queries regarding the creation of a subsidiary corporation by mere resolution of the members of the Movie Workers Welfare Foundation, Inc. ("Mowelfund").

Section 2 of the Corporation Code provides that "a corporation is an artificial being created by operation of law." This means that a corporation, be it a subsidiary or a principal corporation, cannot come into existence by mere agreement of the parties. The consent of the State is required before a corporation can be created. The State gives its consent to persons wishing to organize a corporation (called incorporators) after they comply with all the registration requirements prescribed by the Corporation Code, the law which governs the formation and organization of the private corporations in the Philippines. It is only after the issuance by this Commission of a Certificate of Registration that a corporation acquires juridical personality -- a personality separate and distinct from its incorporators, stockholders, directors or officers. In your case, the subsidiary corporation will have a personality separate and distinct from Mowelfund. Thus, the By-Laws of Mowelfund need not limit or restrict the creation, management of properties or purpose of the subsidiary corporation. Your query therefore is answered in the negative.

25

Without registration with this Commission, what is created is a mere association which cannot perform corporate acts like enter into contracts or acquire properties under its name.[1]

For your reference, attached herewith is a copy of the *Citizen's Manual for the Registration of Corporation and Partnerships.*

Your other queries are rendered academic by the above answer.

It shall be understood that the opinion rendered is based solely on the facts disclosed in the query and relevant solely to the particular facts raised therein and shall not be used in the nature of a standing rule binding upon the Commission in other cases whether of similar or dissimilar circumstances.[2]

Very truly yours,

VERNETTE G. UMALI-PACO
General Counsel

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[1] SEC Opinion dated 28 May 1991 addressed to Ms. Erminda C. Cruz, Ed.D.
[2] SEC Memorandum Circular No. 15 (2003).

TABLE 3 REQUIRED DOCUMENTS FOR FOREIGN CORPORATIONS (In Addition to those in Table 2)	SUBSIDIARY	BRANCH OFC	REP OFC	RHQ / RHOQ
Proof of Inward Remittance by Non-Resident Aliens or Partners	✓	✓	✓	✓
Form F-100	✓			
Form F-103		✓		
Form F-104			✓	
Application for Regional Headquarters (RHQ) /Regional Operating Headquarters (ROHQ)				✓
Authenticated Board Resolution authorizing establishment of office in the Phil.; designating Resident Agent; and stipulating that in absence of Resident Agent or upon cessation of business in the Phil., any summons may be served to SEC as if same is made upon corporation at its home office.		✓	✓	
Authenticated Financial Statement of Applicant certified by independent CPA in home country		✓	✓	
Authenticated copies of Articles of Incorporation and By-laws of applicant		✓	✓	
Resident Agent's Acceptance of Appointment (if not signatory in application form)		✓	✓	
Affidavit that mother company is solvent and of sound financial condition			✓	
Authenticated Certification that it is engaged in international trade with affiliates, subsidiaries, or branch offices in the Asia-Pacific region and other areas				✓
Authenticated Certification from principal office of foreign entity that it was authorized by its Board of Directors or governing body to establish RHQ or RHOQ in the Phil.				✓

TABLE 4 : ACTIVITIES WITH ENDORSEMENTS*

a.	Air Transport	Civil Aeronautics Board
b.	Banks, Pawnshops or other Financial Intermediaries with Quasi-Banking Functions	Bangko Sentral ng Pilipinas
c.	Charitable Institutions	Department of Social Welfare and Development
d.	Educational Institutions: (for stock or non-stock) Elementary to High school College, Tertiary Course Technical Vocational Course	 Department of Education (DEpED) Commission on Higher Education Technical Education Skills and Development Authority (TESDA)
f.	Electric Power Plants	Department of Energy
g.	Hospitals/Health Maintenance Organizations	Department of Health
h.	Insurance	Insurance Commission
i.	Professional Associations	Professional Regulation Board
j.	Radio, TV, telephone	National Telecommunication Commission
k.	Recruitment for Overseas Employment	Philippine Overseas Employment Administration
l.	Security Agency	Philippine National Police
m.	Water Transport/Shipbuilding/Ship Repair	Maritime Industry Authority
n.	Manufacture, repair, storage &/or distribution of products &/or ingredients of firearms, gun powder, & all those indicated in EO 389 S. 2004 Foreign Investments Negative List	Philippine National Police (PNP)
o.	Manufacture, repair, storage &/or distribution of products i.e guns/ammunition for warfare, military ordinance, & all those indicated in EO 389 S. 2004 Foreign Investments Negative List	Department of National Defense (DND)

orsements should be included in the registration papers to be filed

MINIMUM PAID-UP CAPITAL REQUIREMENT

Based on Industry:

Break Bulk Agent	P 250,000.00
Cargo Consolidator	P 400,000.00
Financing Company Metro Manila and other 1st class cities Other classes of cities Municipalities	 P 10,000,000.00 P 5,000,000.00 P 2,500,000.00
Freight Forwarders Domestic International	 P 250,000.00 P 2,000,000.00
Foundations (Non-stock corporations)	P 1,000,000.00 (Working Capital)
Health Maintenance Organization	P 10,000,000.00
Insurance Insurance Broker General Agent Reinsurance Broker	 P 250,000.00 P 250,000.00 P 500,000.00
Investment Adviser/Manager	P 10,000,000.00
Investment Company	P 50,000,000.00
Investment House	P 300,000,000.00
Mining	P 2,500,000.00
Non-Vessel Operating Common Carrier	P 4,000,000.00
Pawnshop	P 100,000.00
Pre-Need Plan Issuer	P 100,000,000.00
Pre-Need Plan Agent	P 5,000,000.00
Recruitment for Local Employment Corporation Partnership	 P 500,000.00 P 200,000.00
Recruitment for Overseas Employment	P 2,000,000.00
Retail Trade with Foreign Equity	US$ 2,500,000.00
School (for stock corporation) Elementary Education Elementary & Secondary Education Elementary, Secondary, Tertiary Post/Graduate Education	 P 1,000,000.00 P 2,500,000.00 P 5,000,000.00
Security Agency	P 500,000.00
Securities Broker/Dealer (New/SRO-Member)	P 100,000,000.00
Securities Broker/Dealer (Existing/SRO-Member)	P 10,000,000.00
Securities Broker/Dealer in Proprietary Shares (Non-SRO-Member)	P 5,000,000.00
Special Purpose Vehicle	P 31,250,000.00
Transfer Agent	P 1,000,000.00

Based on Foreign Equity:

Corporation with more than 40% foreign equity - Domestic Market Enterprise - Export Market Enterprise	 US$ 200,000.00 P 5,000.00
Foreign Branch Office - Domestic market enterprise - Export market enterprise	 US$ 200,000.00 P 5,000.00
Partnership with foreign partner - Domestic Market enterprise - Export Market enterprise	 US$ 200,000.00 P 3,000.00
Foreign Representative Office	US$ 30,000.00
Regional Area Headquarters (RHQ)	US$ 50,000.00
Regional Operating Headquarters (ROHQ)	US$ 200,000.00

REPUBLIC OF THE PHILIPPINES

SECURITIES AND EXCHANGE COMMISSION

A CITIZEN'S MANUAL FOR THE

REGISTRATION OF CORPORATIONS & PARTNERSHIPS

(PAMPHLET* NO. 2)

04 X 2006

SEC Building, EDSA, Greenhills
Mandaluyong City
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http://www.sec.gov.ph

* Pursuant to R.A. 6713 and Memorandum Circular 35 s. 2003 issued by the President on 17 March 2003, the SEC disseminates different pamphlets that give information about its mandate and functions, registration and reportorial requirements, fees and charges, and other relevant topics for the guidance of investors and the general public.

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