



Republic of the Philippines
SECURITIES & EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills, Mandaluyong City

In the Matter of:

LEYTE COLLEGES, INC.

SEC Adm. Case No. 11-07-199
(CED CASE No. 07-2860)

For: Revocation of Certificate
of Registration

**COMPLIANCE AND ENFORCEMENT
DEPARTMENT,**

Petitioner

X- - - - -X

ORDER

Pending consideration by the Commission is the Motion to Appoint Receiver dated January 22, 2009, filed by Mr. Octavio Astilla, the stockholder who questioned the registration of Leyte Colleges, Inc ("LCI" for brevity) and alleged creditor of LCI. Movant alleged that he has not been paid of his retirement and other money claims.

On February 17, 2009, the Commission issued an order directing the Compliance and Enforcement Department (CED), the Board of Directors and any of the responsible officers of LCI with SEC Certificate of Registration No. 200605015 to file their respective Comment/Opposition to movant's petition.

On March 9, 2009, LCI, filed a Petition for Reconsideration with Consolidated Comment/Opposition to Motion to Appoint Receiver alleging that:

* it committed an honest mistake in not answering the petition and engaging the services of counsel to represent its cause, thus, the institution was denied due process of law ;

* the treasurer-in-trust and the incorporator allegedly did not act in bad faith when it registered the corporation in question.

*LCI should be allowed to rectify its mistakes by allowing it to comply with the requirements of registration in the interest of justice and equity.

On March 9, 2009, Atty. Themistocles A. Saño, Jr. entered his appearance as Counsel for respondents in the above-entitled case.

On March 18, 2009, petitioner, CED filed its Manifestation stating that:

"1. The appointment of a receiver being one of the recognized methods by which a dissolved corporation may wind up its affairs as provided under the Corporation Code of the Philippines, Petitioner respectfully manifests that it will no longer file a Comment/Opposition to the Motion to Appoint Receiver of Mr. Octavio A Astilla and submits the disposition of the said motion to the sound discretion of this Commission.

2. Nevertheless, it should be noted that the appointment of a receiver is addressed to the sound discretion of the court or the SEC x x x and such other discretion should be exercised with great caution and only when the necessity therefor is clear, in view of the drastic nature and the burdensome character of receivership, involving as it does the appointment of a stranger who would take care over the corporate business. (*Chase vs. Court of First Instance of Manila, 18 SCRA 602, Oct. 10, 1966; China Banking Corporation vs. Michelin & Cie, 58 Phil. 261; see Limsico vs. Bautista, 122 SCRA 337, May 19, 1983*)."

In fine, two pending incidents must be resolved by the Commission: the motion to appoint a receiver for the liquidation of LCI, and the petition for reconsideration of the Decision of this Commission dated 25 November 2008 revoking its certificate of registration filed by respondent herein.

Acting on the first incident and after a careful consideration of the attendant circumstances in the instant case, the Commission **DECLINES** to appoint a receiver for the liquidation of the defunct LCI on the strength of the Supreme Court decision in the case of *Counselo Metals* which set the rule in this wise:

"However, the SEC's jurisdiction does not extend to the liquidation of a corporation. **While the SEC has jurisdiction to order the dissolution of a corporation jurisdiction over the liquidation of the corporation now pertains to the appropriate regional trial courts.** This is the reason why the SEC, in its 29 November 2000 Omnibus Order, directed that 'the proceedings on and implementation of the order of liquidation be commenced at the Regional Trial Court to which this case shall be transferred.' This is the correct procedure because the liquidation of a corporation requires the settlement of claims for and against the corporation, which clearly falls under the jurisdiction of the regular courts. The trial court is in the best position to convene all the creditors of the corporation, ascertain their claims, and determine their preferences."(emphasis supplied)

On the second incident, SEC cannot give due course to the subject Petition for Reconsideration of LCI considering that the same is a prohibited pleading under Sec. 3-6 of the 2006 Rules of Procedure of the Securities and Exchange Commission which reads:

SEC. 3-6. Prohibited Pleadings. - The following pleadings or any submission that is filed or made under a similar guise or title shall not be allowed:

xxx

xxx

xxx

(c) Motion for New Trial, *Reconsideration* of Judgment or Order or Reopening of Trial.

xxx

xxx

xxx

WHEREFORE, premises considered, the motion to appoint a receiver filed by movant Octavio Astilla and the petition for reconsideration of LCI are hereby **DENIED**.

SO ORDERED

28 May 2009


FE B. BARIN
Chairperson


MA. JUANITA E. CUETO
Commissioner


RAUL J. PALABRICA
Commissioner


THADDEUS E. VENTURANZA
Commissioner


MANUEL B. GAITE
Commissioner