



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

**OFFICE OF THE GENERAL COUNSEL**

23 April 2010

SEC-OGC Opinion No. 10-17

For: Qualification of a Corporate  
Secretary; Revised Code of Corporate  
Governance

RP ENTERPRISES, INC.  
No. 5 Laurel Street  
Xavierville III Subdivision, Quezon City

Attention: Mr. F.B. Reyes

Gentlemen:

This refers to your letter dated 06 February 2010 wishing to be informed on the following:

1. Is the Code of Corporate Governance (now the Revised Code of Corporate Governance) a mandatory compliance for all corporations?
2. Is the position of Corporation Secretary exclusive for lawyers? Can the Commission ban an individual for holding a position of Corporate Secretary?

With regard to your first query, the Revised Code of Corporate Governance<sup>1</sup> applies to registered domestic corporations and branches or subsidiaries of foreign corporations operating in the Philippines that:

- (a) Sell equity and/or debt securities to the public that are required to be registered with the Commission; or
- (b) Have assets in excess of Fifty Million Pesos and at least two hundred (200) stockholders who own at least one hundred (100) shares of each of equity securities; or
- (c) Whose equities are listed on an Exchange; or

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<sup>1</sup> SEC Memorandum Circular No. 6, Series of 2009.

(d) Are grantees of secondary license from the Commission.

For your second query, the Corporation Code of the Philippines<sup>1</sup> provides:

"SECTION 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." (Emphasis supplied)

Under the Corporation Code, the minimum requirement is that the corporate secretary is a resident and citizen of the Philippines and need not be a lawyer. If the corporation, however, is covered by the Revised Code of Corporate Governance, it is stated that if the corporate secretary also acts as Compliance Officer, it is preferred that the corporate secretary be a lawyer.<sup>2</sup> As long as the corporate secretary meets the minimum requirement provided under the applicable law and rules, it is beyond the Commission to ban certain individuals from the position of a corporate secretary.

It shall be understood that the foregoing opinion is rendered based solely on the facts and circumstances disclosed and relevant solely to the particular issues 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. If, upon investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered void.

Very truly yours,



**VERNETTE G. UMALI-PACO**  
General Counsel

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<sup>1</sup> Batas Pambansa Bilang 68 (1980).

<sup>2</sup> Revised Code of Corporate Governance, Article 3(F)(m) reads:

"m) Appoint a Compliance Officer who shall have the rank of at least vice president. In the absence of such appointment, the Corporate Secretary, preferably a lawyer, shall act as Compliance Officer."