

SUBJECT : THE JOURNAL OF THE 20 JUNE 2005 (10:11 AM TO 1:45PM) PUBLIC HEARING OF THE COMMITTEE ON TRADE AND COMMERCE ON P.S. RES. NO. 273. " INQUIRY INTO CONSUMER COMPLAINTS AGAINST UNDESIRABLE TRADE PRACTICES OF PRIVATE CORPORATIONS" AT THE RECTO ROOM, SENATE OF THE PHILIPPINES.

I. PRELIMINARY

SENATORS PRESENT : ROXAS, FLAVIER AND OSMEÑA III

RESOURCE PERSONS :

MARIO ONGKIKO	Counsel, Multitel scam victims
FE BARIN	Chairperson, Securities & Exchange Commission (SEC)
RAUL CONCEPCION	President, Consumer Oil Price Watch (COPC)
MARICEL LOPEZ	Counsel for CAP Plan Holders
REGINA FERRER	Representative, United Sales Agents and Fixed Value Plan Holders of Lifetime Plans (USAFVPH)
JOSELIA POBLADOR JESUS MARTINEZ	Commissioners, SEC
ROBERTO MANABAT	General Accountant, SEC
FELIX DESIDERIO JEANETTE TECSON	Directors, Pacific Plans Inc.
WILLIAM RUSSEL SOBREPENA QUINTIN DOROMAL	Directors, College Assurance Plan (CAP)
REYNALDO VERGARA	Representative, Insurance Commission
MABINI JUAN	Representative, Actuarial Society of the Philippines
LILIA BAUTISTA	Former Commissioner, SEC
ENRIQUE GARCIA	President, Pacific Plans Inc.

DISCUSSION:

Senator Roxas stated that during the last public hearing a broad range of financial transactions were discussed. Senator Roxas likewise made mention of

the request of the Office of Senator Angara that the recorded proceedings of the public hearings be transmitted to the Committee on Banks, Financial Institutions and Currencies.

Senator Roxas stressed that public hearings are not gossip sessions. Senator Roxas advised the resource persons that, should they have presentations to make, to kindly submit five copies so that the meeting would proceed smoothly. Atty. Ongkiko requested that the Rizal Commercial Banking Corporation Trust Division be summoned to the Committee since this department was an active player in the questionable transactions.

Senator Roxas lamented the fact that it is the Trade and Commerce Committee and not the Securities and Exchange Commission that undertakes financial forensics. SEC Chairperson Fe Barin explained that pre-need companies are required to submit financial statements for the SEC to evaluate and examine. Senator Roxas told the SEC Chair to focus on the substantive issues rather than the administrative processes.

Senator Roxas directed the SEC officials present for a listing of transactions, imbued with public interest, that SEC decided to investigate since 2003. Senator Roxas expressed disappointment over SEC's lack of institutional memory. Senator Roxas clarified that SEC is not being blamed, rather the Committee is merely trying to ferret out the truth.

Consumer Oil Price Watch President Raul Concepcion remarked that the filing of cases against erring pre-need companies should be the responsibility of SEC rather than the initiative of consumer advocate groups. He likewise expressed his frustrations at the snail-paced SEC inquiry on the matter . Atty. Barin explained that SEC has to gather massive and irrefutable evidence otherwise their officials would be at the receiving end of counter lawsuits.

Atty. Maricel Lopez disclosed that the land titles of the two billion peso worth of real estate situated in Laurel, Batangas and reflected in CAP's 4.7 billion

trust fund is spurious. Moreover Green Circles real estate properties located in Quezon Province are under the Comprehensive Agrarian Reform Program. Atty. Barin pointed out that Senator Enrile in previous meetings expressed familiarity with these abovesited properties.

Atty. Lopez boasted that her findings preempted SEC's planned lifting of the suspension of CAP's dealership license. Atty. Barin maintained that there was never any scheduled SEC Board meeting wherein the agenda was the lifting of the suspension of the dealership license of CAP. Atty. Barin emphasized that SEC has cancelled CAP's dealers license indefinitely. Atty. Barin declared that SEC is not in the habit of churning out press releases of its daily activities. Atty. Barin averred that SEC is not sleeping on its duties. SEC has the interest of the planholders at heart.

United Sales Agents and Fixed Value Plan Holders of Lifetime Plan Holders (USAFVPH) representative Regina Ferrer questioned SEC's decision revoking Lifetimes Certificate of Incorporation. Ms. Ferrer claimed that Lifetime has around 14,000 sales agents. Ms Ferrer appealed to SEC officials to fastrack the resolution of Lifetime Plan's Motion for Reconsideration (MR) since the penalty is not commensurate to the alleged offense of Lifetime. SEC revoked Lifetime's Certificate of Incorporation for alleged insufficiency of documents thereby depriving the 14,000 strong sales agents of their noble livelihood. This punishment is similar to imposing the death penalty to violators of the jay walking ordinance. Atty. Barin and Commissioner Martinez requested that they be excused from responding to questions on Lifetime's license since the MR proceedings are on going. Senator Roxas sought a listing of the membership of Alliance of Enlightened Plan Holders and the USAFVPH.

Senator Osmeña III outlined the core issues of the public hearing, to wit:
1.) rationale of Pacific Plans Inc. spin-off decision 2.) whether or not pre-need

companies are allowed to off load marketable assets while retaining worthless assets 3.) whether or not the PPI's spin-off is fair to the plan holders.

Senator Osmeña III inquired into the wisdom of NAPOCOR bonds remaining with PPI while certain assets were forwarded to Lifetime Plans. Pacific Plans Inc. (PPI) President Enrique Garcia assured the Committee that assets offloaded to Lifetime Plans would earn a Rate of Return at par with the Return on Investment earned by the assets left behind in PPI's trust funds. PPI President Garcia expressed optimism that Pacific Plans would honor its commitment to its plan holders.

Senator Osmeña III asked the SEC Chairperson if planholders of pre-need companies have access to the books of accounts for them to determine the quality of assets in the trust funds of the pre-need companies. Atty. Barin explained that plan holders could easily browse over the financial statements of the pre-need companies however the circumstances surrounding the figures submitted are not divulged to the public.

On the queries of Senator Osmeña III, SEC's General Accountant Roberto Manabat disclosed that CAP already had a two billion peso deficiency in its Actuarial Reserve Liability (ARL) way back in FY 2001. Thereafter Mr. Manabat directed CAP officials to contribute more assets in several months time more assets to the trust fund. Senator Osmeña III asked Mr. Manabat what advice did the latter provide to the CAP Executives to address the 15 Billion trust fund deficiency. Mr. Manabat told the Committee that he instructed the CAP officials to 1.) formulate a road map towards meeting its obligations 2.) infuse additional equity 3.) strengthen its real estate business. Senator Osmeña III voiced his skepticism to the viability of the road map.

Senator Osmeña III wondered how CAP could squander 5.4 billion pesos in less than a year. Mr. Manabat clarified that the 5.4 billion peso loss was NOT a cash loss but a result of the under reporting of plans.

Actuarial Society of the Philippines representative Mabini Juan testified that the pre-need companies are required to submit a plan to cover their ARL deficiencies. Senator Osmeña III remarked that his primordial concern is HOW the deficiency is actually covered and not the promulgation of a plan.

During her stint, former SEC Chairperson Lilia Bautista stated that SEC required pre-need companies to address their deficiency within the next five years. Atty. Bautista recalled that Indonesian, German and Japanese Nationals expressed interest in investing in CAP.

Atty. Barin enumerated the two issues which somehow contributed to the delay in resolving the CAP controversy, to wit 1.) whether or not ARL should be recognized as a liability 2.) formula to adopt in determining the ARL.

CAP officials argued that the ARL is not yet due and therefore the figure need not be reflected. Senator Osmeña III reminded the resource persons that the ARL is the accumulation of funds for safe keeping in order to meet future liabilities.

Association of Pre Need Companies President Miguel Vasquez clarified that their opposition to the ARL is limited to the timing rather than the validity of the concept.

Senator Osmeña III toyed with the idea of creating a Super Oversight Entity that would regulate the pre need companies. He hoped that the proposed agency would be more proactive rather than reactive and lethargic in its approach to the numerous problems of the planholders. Senator Osmeña III requested the Insurance Commission (IC) representative Rey Vergara to submit a position paper on 1.) the designation of the IC to be the regulator of pre-need companies 2.) Similarities/differences between the Insurance and the Pre-Need Industry 3.) comparative analysis of endowment, insurance and pre-need plans.

PPI President petitioned SEC for sufficient leeway to allow PPI to invest its funds in international ventures such as the purchase of dollar denominated

assets since these type of investments have relatively high yields. Senator Osmeña III expressed support to PPI's proposal.

Senator Osmeña III reminded SEC officials to submit the following documents;

- 1.) Matrix of the various educational plans of pre-need companies to determine the percentage of fixed plans.
- 2.) Minutes of the SEC *En Banc* meeting approving the reorganization of PPI.
- 3.) October, 1999 letter retaining SEC's jurisdiction over pre-need companies.

Senator Roxas ordered the legislative committee secretary to follow up the list of documents being required from the SEC. Senator Osmeña III requested Atty. Ongkiko for legal research on 1.) what constitutes fraudulent conveyance 2.) whether or not SEC's decision to permit Pacific Plans Inc. to spin-off some of its assets would establish a dangerous precedent.

Senator Osmeña III claimed that during the Macapagal Administration the investment climate of the nation became gloomy. Senator Roxas emphasized that the meeting is a public hearing of the Committee on Trade and Commerce and NOT the Committee on Political Affairs.

Respectfully submitted:

ARTURO I. MOJICA, JR.