

Legal FiNeSse

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FNS CELEBRATES ITS 10TH YEAR

The year 2003 is a momentous year for Fortun Narvasa & Salazar as it celebrates its 10th year as a member of the legal community. It has also transferred to its new home at the 23rd Floor of the Multinational Bancorporation Centre Building, at 6805 Ayala Avenue, Makati City. On June 19, 2003, the Firm will celebrate 10 years of dedicated legal service with a mass and cocktail party. A brief program follows to highlight the Firm's history, and to showcase their employees' talents.

The blessing of the new office will commence the anniversary celebration. Fr. Roderick Salazar, Jr., the brother of the Firm's Managing Partner, Atty. Roderick R.C. Salazar III, will officiate the mass and the blessing, which starts at 5 p.m. The cocktail party follows thereafter at 6 p.m.

Anti-Trafficking in Persons Act Passed

Republic Act No. 9208, otherwise known as the Anti-Trafficking in Persons Act of 2003, has recently been enacted by Congress.

The law defines "Trafficking in Persons" as the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Under said law, the recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall also be considered as "trafficking in persons" even if it does not involve any of the means set forth in the aforementioned definition.

Trafficked persons, considered under the law as victims of trafficking and categorized as "Overseas Filipinos in Distress", shall not be penalized for crimes directly related to the acts of trafficking even if they acted in obedience to the order made by the trafficker. Instead, the trafficked persons shall be afforded numerous protective and rehabilitative measures by certain government agencies in the country and overseas as provided under the law. On the other hand, persons found guilty of committing any of the acts of trafficking shall suffer certain penalties and sanctions the maximum of which is life imprisonment and a fine of not less than Two Million Pesos (P2,000,000.00) but not more than Five Million Pesos (P5,000,000.00).

Congress, through the enactment of the Anti-Trafficking Law, aims to promote human dignity, protect the people from any threat of violence and exploitation, eliminate trafficking in persons, and mitigate pressures for involuntary migration and servitude of persons, especially women and children.

ASSORTED INTERESTS

In the recent case of *Bangko Sentral ng Pilipinas v. Santamaria*, G.R. No. 139885, Jan. 13, 2003, penned by Justice Quisumbing, the Supreme Court cited the case of *Eastern Shipping Lines, Inc. v. CA*, 234 SCRA 78 (1994), in laying down the following guidelines in the imposition of interest.

When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum.

No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code).

Nevertheless, when such certainty can not be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained).

The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest shall be 12 % per annum from such finality until its satisfaction. The reason behind the 12 % rate is because the judgment debt, during the interim period, is deemed to have become an equivalent to a forbearance of credit.

In *Bangko Sentral ng Pilipinas v. Santamaria*, the subject amount did not involve any obligation arising from loan or forbearance of money, thus the interest was properly computed as follows: Interest on the first billing of P450,604.96 should be computed at 6% per annum computed from the date of demand on Feb. 23, 1996. Nevertheless, an interest rate of 12%

per annum was properly imposed on the total amount from the finality of the decision until the payment thereof.

Interest on the second billing of P62,451.05 should be computed at 6% per annum computed from the date of demand on Sep. 10, 1996. An interest rate of 12% per annum was imposed on such amount from the finality of the decision until the payment thereof.

On the amount of P108,610.52 for services rendered from April 10, 1996 to July 31, 1996, an interest rate of 6% per annum was imposed, computed from the date of decision of CIAC on Feb. 20, 1998. An interest rate of 12% per annum was imposed on such amount from the finality of the decision until the payment thereof.

SEC Watch

RULES AND REGULATIONS COVERING FORM AND CONTENT OF FINANCIAL STATEMENTS

SRC Rule 68, as Amended (February 20, 2003)

The Securities and Exchange Commission (the Commission) amended Rule 68 of Republic Act No. 8799, otherwise known as the Securities Regulation Code (SRC). Rule 68 of the SRC, as amended, provides the requirements applicable to the form and content of *audited financial statements* required to be filed with the Commission by all corporations, except those whose paid-up capital is less than P50,000.00. Financial statements of branch offices of foreign corporations licensed to operate in the Philippines by the Commission shall likewise comply with the requirements of this Rule.

Under the new Rule, the management as well as the Board of Directors are responsible for the fairness of the representations made in a corporation's financial statement.

Under the amended Rule, financial statements

CONTINUED ON PAGE 3