

[PRESIDENTIAL DECREE NO. 902-A, March 11, 1976]

REORGANIZATION OF THE SECURITIES AND EXCHANGE COMMISSION WITH ADDITIONAL POWERS AND PLACING THE SAID AGENCY UNDER THE ADMINISTRATIVE SUPERVISION OF THE OFFICE OF THE PRESIDENT.

WHEREAS, in line with the government's policy of encouraging investments, both domestic and foreign, and more active public participation in the affairs of private corporations and enterprises through which desirable activities may be pursued for the promotion of economic development; and, to promote a wider and more meaningful equitable distribution of wealth, there is a need for an agency of the government to be invested with ample powers to protect such investment and the public;

WHEREAS, to achieve these national objectives, it is necessary to reorganize and restructure the Securities and Exchange Commission to make it a more potent, responsive and effective arm of the government to help in the implementation of these programs and to play a more active role in nation-building;

WHEREAS, it is necessary and desirable to professionalize such agency by investing it with adequate powers so that it could avail itself of the services of highly technical and qualified men in the government service;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree that:

SECTION 1. The administrative supervision of the Securities and Exchange Commission is hereby transferred from the Department of Trade and shall hereafter be under the direct general supervision of the President.

SEC. 2. That the Commission shall be a collegial body composed of a Chairman and two (2) Associate Commissioners who shall be appointed by the President and the tenure of the office of each member shall be seven (7) years: Provided, however, That the Chairman and the Members of the Commission first appointed by the President shall serve for a period of seven (7) years, five (5) years and three (3) years, as fixed in their respective appointments: Provided, further, That upon the expiration of his term, a Member shall serve as such until his successor shall have been appointed and qualified: and Provided, Finally, That no vacancy shall be filled except for the unexpired portion of the term. The Chairman shall receive an annual salary of Fifty Thousand (P50,000.00) Pesos and a monthly allowance of Two Thousand (P2,000.00) Pesos and each Member shall receive an annual salary of Forty-Two Thousand Five Hundred (P42,500.00) Pesos and a monthly corn-mutable allowance of One Thousand Five Hundred (P1,500.00) Pesos.

The Commission shall meet as often as may be necessary on such day or days as the Chairman may fix. The notice of the meeting shall be given to all members of the Commission and the presence of at least two (2) shall constitute a quorum. In the absence of the Chairman, the more senior associate commissioner shall act as presiding officer of the meeting.

The Chairman shall have the general executive control, direction and supervision of the work and operation of the Commission and of its members, bodies, boards, personnel and all of its administrative business.

There shall be a Secretary of the Commission, under the control and direction of the Chairman, who shall be in charge of all the administrative business of the Commission and shall perform such other duties and functions as may be assigned to him. He shall be the recorder and official reporter of the proceedings of the Commission and shall have authority to administer oath in all matters coming under the jurisdiction of the Commission. He shall be the custodian of all records, profiles, reports, minutes and other documents and papers filed with the Commission or entrusted to his care and shall be responsible therefor to the Commission.

There shall be an Executive Director of the Commission who shall be responsible for the effective implementation of the policies, rules and standards promulgated by the Commission, to coordinate and supervise the activities of the different operating units; to report to the Chairman the operations of such units; and to perform such functions as may be assigned to him by the Chairman and/or by the Commission. The position of the Executive Director is hereby declared primarily confidential in nature.

SEC. 3. The Commission shall have absolute jurisdiction, supervision and control over all corporations, partnerships or associations, who are grantees of primary franchise and/or a license or permit issued by the government to operate in the Philippines; and in the exercise of its authority, it shall have the power to enlist the aid and support of any and all enforcement agencies of the government, civil or military.

SEC. 4. The Commission shall reorganize and restructure the present staff and personnel of the agency. The proposed staffing pattern of the Commission with the corresponding salary scale, attached as Annex "A" is hereby approved: Provided, That except as to the technical staff and such other positions as the Commission, with the approval of the President, may declare to be highly technical, policy-determining or primarily confidential, all positions in the Commission are subject to the Civil Service Law and Rules.

SEC. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving.

- a. Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission.
- b. Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;

- c. Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations.

SEC. 6. In order to effectively exercise such jurisdiction, the Commission shall possess the following powers:

- a. To issue preliminary or permanent injunctions, whether prohibitory or mandatory, in all cases in which it has jurisdiction, and in which cases the pertinent provisions of the Rules of Court shall apply;
- b. To punish for contempt of the Commission, both direct and indirect, in accordance with the pertinent provisions of, and penalties prescribed by, the Rules of Court;
- c. To compel the officers of any corporation or association registered by it to call meetings of stockholders or members thereof under its supervision;
- d. To pass upon the validity of the issuance and use of proxies and voting trust agreements for absent stockholders or members;
- e. To issue subpoena *duces tecum* and summon witnesses to appear in any proceedings of the Commission and in appropriate cases order search and seizure or cause the search and seizure of all documents, papers, files and records as well as books of accounts of any entity or person under investigation as may be necessary for the proper disposition of the cases before it;
- f. To impose fines and/or penalties for violation of this Decree or any other laws being implemented by the Commission, the pertinent rules and regulations, its orders, decisions and/or rulings;
- g. To authorize the establishment and operation of stock exchanges, commodity exchanges and such other similar organizations and to supervise and regulate the same; including the authority to determine their number, size and location, in the light of national or regional requirements for such activities with the view to promote, conserve or rationalize investment;
- h. To pass upon, refuse or deny, after consultation with the Board of Investments, Department of Industry, National Economic and Development Authority or any other appropriate government agency, the application for registration of any corporation, partnership or association or any form of organization falling within its jurisdiction, if their establishment, organization or operation will not be consistent with the declared national economic policies.
- i. To suspend, or revoke, after, proper notice and hearing, the franchise or certificate of registration of corporation, partnerships or associations, upon any of the grounds provided by law, including the following:
 - 1. Fraud in procuring its certificate of registration;
 - 2. Serious misrepresentation as to what the corporation can do or is doing to the great prejudice of or damage to the general public;
 - 3. Refusal to comply or defiance of any lawful order of the Commission restraining commission of acts which would amount to a grave violation of its franchise;
 - 4. Continuous inoperation for a period of at least five (5) years;
 - 5. Failure to file by-laws within the required period;
 - 6. Failure to file required reports in appropriate forms as determined by the Commission within the prescribed period.
- j. To exercise such other powers as implied, necessary or incidental to the carrying out the express powers granted to the Commission or to achieve the