



22 May 2013

**Ms. Janet A. Encarnacion**  
Head, Disclosure Department  
3/F PSE Plaza  
Ayala Triangle Plaza  
Ayala Ave., Makati City

Dear *Ms. Encarnacion*:

We write in reply to your letter directive dated 22 May 2013 seeking clarification on the news article published in the *Inquirer.net* last 21 May 2013 entitled "Finance slams TRO on oil smuggling case" which in part read:

The Department of Finance on Tuesday slammed the Court of Appeals' issuance of a temporary restraining order (TRO) on a smuggling case against the president and chief executive of Phoenix Petroleum Philippines Inc.

....

The 60-day TRO, which the CA's special 10th division issued last May 9, blocked the enforcement of a Department of Justice resolution that ordered the filing of smuggling charges against Phoenix's Dennis Uy and the others who allegedly helped in the anomaly.

....

We confirm the issuance of a Temporary Restraining Order (TRO) by the Court of Appeals, Special 10th Division on 09 May 2013 enjoining the Department of Justice (DOJ) from enforcing the questioned Resolution which included the order or directive for the Office of the Prosecutor General to file the appropriate information with the courts. The issuance of the TRO was at the instance of Jorlan Cabanes through a petition for certiorari before the said Court of Appeals filed under Rule 65 of the Rules on Civil Procedure.

A petition for certiorari is a remedy available to all aggrieved parties based on the grounds that the questioned Resolution, issued by the DOJ in this case, was issued in grave abuse of discretion amounting to lack or in excess of jurisdiction.

Consistent with our position, Mr. Cabanes, in his Petition for Certiorari, pointed out and averred that the DOJ promulgated the Resolution even before he was able to file his Rejoinder to the Bureau of Custom's Reply which brought up or presented new



allegations and new documents that were not introduced nor even part of the original complaint, thus, in violation of his constitutional right to due process.

We likewise react to the statement of the Department of Finance (DOF) in the same article stating that *"our courts and court processes should not be used by a few to block our progress in enforcing customs laws, and creating a level playing field for all "*

Court remedies and processes are justifiable and legal remedies afforded to every citizen who are aggrieved with wrongful prosecution, erroneous appreciation if not wrongly interpretation of the facts of the case or the law applicable. This is part of the principles of a democratic society such as ours that every person is presumed innocent until proven guilty. Thus, while we believe in the function of every government agency such as the Department of Justice, it should not be used to harass or stifle the constitutional right of every citizen to due process such as those of Mr. Uy's and Mr. Cabanes'.

We hope we have sufficiently clarified that matter from our end.

Thank you and warm regards.

Very truly yours,

A handwritten signature in blue ink that reads "Socorro Ermac Cabreros".

**Atty. Socorro Ermac Cabreros**  
Corporate Secretary