



# CIRCULAR FOR BROKERS NO. 4158-2004

## The Philippine Stock Exchange, Inc.

<input checked="" type="checkbox"/>	Disclosures	<input type="checkbox"/>	Stockholders' Meeting	Others: _____
<input type="checkbox"/>	Dividend Notice	<input type="checkbox"/>	SEC / Gov't Issuance	_____
<input type="checkbox"/>	Stock Rights Notice	<input type="checkbox"/>	Transfer Agent's Notice	_____

*Posted on September 22, 2004*

Date : **September 22, 2004**  
Company : **UNIWIDE HOLDINGS, INC.**

This is in reference to the news article entitled "Uniwide wins stay order against Tarlac until it completes financial rehabilitation" published in the September 21, 2004 issue of Today. The article reported that "UNIWIDE Sales Realty and Resources Corp. has won the approval of the Securities and Exchange Commission (SEC) for a stay order enjoining the municipal government of Tarlac City from collecting taxes from the company or selling any of its levied properties while it remains under financial rehabilitation. In a copy of the decision released Monday, the SEC said the stay order was necessary to ensure Uniwide's rehabilitation plan is conducted in a 'fair' and 'equitable' manner. 'The justification for suspending actions for claims against the corporation is to enable the rehabilitation receiver to effectively exercise his powers free from any judicial or extra-judicial interference that might unduly hinder or prevent the rescue of the debtor company,' the commission said. x x x"

Uniwide Holdings, Inc. ("UW"), in its letter to the Exchange dated September 21, 2004, stated that:

"x x x

We would like to inform the Exchange that Uniwide Sales Realty and Resources Corporation (USRRC), a subsidiary of Uniwide Holdings, Inc. (UW) has secured from the Securities and Exchange Commission (SEC) an order staying the execution and/ or enforcement of any claim, judgement or writ, warrants of levy issued by the Treasurer of Tarlac City against USRRC on properties situated at Barangay San Nicolas, Tarlac City and all other properties and assets of the Uniwide Group while it remains under financial rehabilitation. The stay order was necessary to enable the rehabilitation receiver to effectively exercise his powers free from any judicial or extra judicial interference that might unduly hinder or prevent the 'rescue' of the Uniwide Group and to ensure a fair and equitable implementation of the Uniwide's approved Rehabilitation Plan.

Attached is the stay order for your reference. x x x"

For your information.

*(Original Signed)*  
**MA. PAMELA D. QUIZON-LABAYEN**  
*Head, Disclosure Department*

**Noted by:**

*(Original Signed)*  
**JURISITA M. QUINTOS**  
*Senior Vice President – Operations Group*

Finance / Admin / Membership	Compliance & Surveillance Grp.	Listing & Disclosures Grp.	COO / Automated Trading Grp.	Business Dev't & Info. Group	CEO / Legal
Tel. No.688-7560/7440/7460	Tel. No. 688-7559	Tel. No. 688-7501/7510	Tel. No. 688-7405/819-4400	Tel. No. 688-7590	Tel. No. 688-7400/819-4408



REPUBLIC OF THE PHILIPPINES  
 SECURITIES & EXCHANGE COMMISSION  
 SEC Building, EDSA, Greenhills,  
 City of Mandaluyong, Metro Manila

Office of the General Counsel

IN THE MATTER OF: PETITION FOR  
 DECLARATION OF SUSPENSION OF  
 PAYMENT, FORMATION AND  
 APPOINTMENT OF A  
 REHABILITATION RECEIVER/  
 COMMITTEE AND APPROVAL OF  
 REHABILITATION PLAN

SEC CASE No. 06-99-6340

UNIWIDE SALES, INC. UNIWIDE  
 HOLDINGS, INC., NAIC  
 RESOURCES AND DEVELOPMENT  
 CORPORATION, UNIWIDE SALES  
 REALTY AND RESOURCES CORP.,  
 FIRST PARAGON CORPORATION  
 and UNIWIDE SALES WAREHOUSE  
 CLUB, INC.

*Petitioners.*

x-----x

TO: **Atty. Martin Vergel C. Dela Rosa**  
**SANTIAGO & SANTIAGO**  
*Counsel for the Petitioners*  
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**Atty. Mar Lea B. Dayao** *- deliv. record*  
**ALAMPAY GATCHALIAN MAWIS & ALAMPAY**  
*Collaborating Counsel for Petitioners*  
 5/F Dominion Building, 833 Arnaiz Street, Makati City

**Atty. Julio C. Elamparo** *- Form 9/9/04*  
*Rehabilitation Receiver*  
 Uniwide Sales Group of Companies  
 Law Firm of Elamparo and Elamparo  
 Unit 4A Greenrich Mansion  
 6 Lourdes Street cor. 28 Pearl Drive,  
 Ortigas Center, Pasig City

Hon. Victor M. Pingol  
City Treasurer  
Tarlac City  
San Nicolas, Tarlac City

**GREETINGS:**

Please take notice that on 6 September 2004, an **ORDER** was issued by the Hearing Panel in the above-entitled case, the original of which is now on file with this Office.

Transmitted to you herewith is an original copy of said Order.

Mandaluyong City, Philippines. 8 September 2004.

Very truly yours,



MARIE ROSE B. LIM<sup>1</sup>

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<sup>1</sup> Detailed lawyer to the Office of the General Counsel pursuant to SEC OFFICE ORDER No. 95-A, series of 2003, July 1, 2003.



REPUBLIC OF THE PHILIPPINES  
**SECURITIES & EXCHANGE COMMISSION**  
SEC Building, EDSA, Greenhills,  
Mandaluyong City, Metro Manila

IN THE MATTER OF: PETITION FOR  
DECLARATION OF SUSPENSION OF  
PAYMENT, FORMATION AND  
APPOINTMENT OF A  
REHABILITATION RECEIVER/  
COMMITTEE AND APPROVAL OF  
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UNIWIDE SALES, INC. UNIWIDE  
HOLDINGS, INC., NAIC  
RESOURCES AND DEVELOPMENT  
CORPORATION, UNIWIDE SALES  
REALTY AND RESOURCES CORP.,  
FIRST PARAGON CORPORATION  
and UNIWIDE SALES WAREHOUSE  
CLUB, INC.

Petitioners.

x-----x

## STAY ORDER

This pertains to the *Urgent Ex-Parte Motion to Enjoin the Enforcement or Execution of the Warrant of Levy Issued by the Treasurer of Tarlac City on the Real Properties of Uniwide Sales Realty & Resources Corp.* ("Urgent Ex-Pare Motion") filed by Petitioner Uniwide, with conformity of the Rehabilitation Receiver, Atty. Julio C. Elamparo, on 2 September 2004.

The Petitioner and the duly appointed Receiver alleged the following:

On 5 August 2004, the Treasurer of Tarlac City issued two (2) Warrants of Levy, one on the machinery and the other on the building of Petitioner USRRC, both situated at Barangay San Nicolas, Tarlac City, to collect the real property taxes due thereon.

On 11 August 2004, Petitioners USRRC received a Notice of Levy, together with the aforesaid Warrants of Levy.

Hence, unless enjoined by this Commission, Petitioners alleged that the Treasurer of Tarlac City would enforce and execute the warrants of levy, within thirty (30) days from receipt of the notice of levy or until 10 September 2004 pursuant law.<sup>1</sup>

Moreover, Petitioners state that enforcement or execution of the warrants of levy should be enjoined by this Commission in view of the following considerations:

- a. The Securities and Exchange Commission (SEC) has original and exclusive jurisdiction over proceedings for suspension of payments.<sup>2</sup> To effectively exercise its original and exclusive jurisdiction, the SEC has the power to enjoin the Treasurer of Tarlac City from enforcing or executing the above-mentioned warrants of levy;
- b. All existing assets and properties of petitioners are effectively under the custody and control of the Rehabilitation Receiver duly appointed by the SEC.<sup>3</sup> The assets and properties of Petitioner are thus in effect under *custodia legis* and therefore exempt from levy, attachment and execution;
- c. The execution or enforcement of the warrants of levy will unduly interfere with the powers and functions of the Rehabilitation Receiver and hinder the rehabilitation of the Petitioners;
- d. A warrant of levy is an administrative remedy for the collection of real property tax. It constitutes a lien on the real property subject to tax. Needless to say, the warrants of levy issued by the Treasurer of Tarlac City is a claim against the properties of Petitioner USRRC. Considering, however, that Petitioners are under receivership, not to mention that a Rehabilitation Plan has been approved by this Commission, the Treasurer of Tarlac City must proceed by filing its claim with the Rehabilitation Receiver, instead of enforcing/ executing the warrants of levy through sale or auction of the subject properties."<sup>4</sup>

<sup>1</sup> Section 260, Chapter 6 of the Local Government Code

<sup>2</sup> Section 5(d), P.D. No. 902-A

<sup>3</sup> Section 6(d), P.D. No. 902-A

<sup>4</sup> pages 2-4, Urgent Ex-Parte Motion to Enjoin the Enforcement or Execution of the Warrant of Levy Issued by the Treasurer of Tarlac City on the Real Properties of Uniwide Sales Realty & Resources Corporation dated 2 September 2004

Furthermore, Petitioners assert that the "Treasurer of Tarlac City must not be allowed to proceed with the sale or auction of the levied properties, but should be directed by this Honorable Commission to file its claims with the Rehabilitation Receiver for all the unpaid or delinquent real property taxes on the real properties of USRRC because when a corporation is placed under receivership, no claimant (including the government for the unpaid real property taxes) of the corporation, may pursue a remedy for collection, or enforce any lien, separate from and independent of the rehabilitation/ receivership proceedings."<sup>5</sup>

Thus, this Urgent Ex-Parte Motion.

This Commission, through the Hearing Panel, considers the issuance of a STAY ORDER justified for the following reasons:

*First*, it bears emphasis that jurisdiction over the rehabilitation proceedings of UNIWIDE SALES, INC. UNIWIDE HOLDINGS, INC., NAIC RESOURCES AND DEVELOPMENT CORPORATION, UNIWIDE SALES REALTY AND RESOURCES CORP., FIRST PARAGON CORPORATION and UNIWIDE SALES WAREHOUSE CLUB, INC., the petition of suspension of payments of which was filed on 25 June 1999, is lodged with the Securities and Exchange Commission pursuant to Presidential Decree No. 902-A, as amended.<sup>6</sup>

*Second*, it must be noted that a "claim" is said to be "a right to payment, whether or not it is reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, legal or equitable, and secured or unsecured."<sup>7</sup>

*Third*, Section 6(c) of Presidential Decree 902-A, as amended, provides that:

"...upon the appointment of a management committee, rehabilitation receiver, board or body pursuant to this Decree, all actions for claims against corporations, partnerships, or associations under management or receivership pending before any court, tribunal, board or body shall be suspended accordingly."

<sup>5</sup> page 4, Ibid.

<sup>6</sup> Needless to state, Article 5.2 of the Securities Regulation Code, which took effect on 8 August 2000, transferred from the SEC to the Regular Courts jurisdiction over petitions of corporation, partnerships and associations for suspension of payments and rehabilitation.

<sup>7</sup> Black's Law Legal Dictionary, p.224, 5<sup>th</sup> ed., as cited in the case of *Finasia Investments and Finance Corp. vs. Court of Appeals*, 837 SCRA 446.

Accordingly, this is supplemented by Rule IV (Rehabilitation) Section 4-4 of the Rules of Procedure on Corporate Recovery, which states:

*"Effect of filing of the Petition.* Immediately upon the filing of a petition, the Commission shall issue an Order (a)...xxx...; (b) suspending all actions and proceedings for claims against the debtor; (c)...xxx..."

Parenthetically, in the case of *Finasia Investments and Finance Corp. vs. Court of Appeals*,<sup>8</sup> the Supreme Court defined the word "claim," contemplated in Section 6(c) of PD 902-A, as referring to debts or demands of a pecuniary nature and assertion of a right to have money paid as well.

Verily, the claim of the City of Tarlac against Petitioners is a money claim for unpaid taxes, that the law requires to be suspended pending the rehabilitation proceedings.<sup>9</sup> In the case of *Philippine Airlines vs. Spouses Sadic and Aisha Kurangking, et. al.*<sup>10</sup> citing *B.F. Homes, Inc. vs. Court of Appeals*,<sup>11</sup> the Supreme Court has ratiocinated:

"... (T)he reason for suspending actions for claims against the corporation should not be difficult to discover. It is not really to enable the management committee or the rehabilitation receiver to substitute the defendant in any pending action against it before any court, tribunal, board or body. Obviously, the real justification is to enable the management committee or rehabilitation receiver to effectively exercise its/his powers free from any judicial or extra judicial interference that might unduly hinder or prevent the 'rescue' of the debtor company. To allow such other action to continue would only add to the burden of the management committee or rehabilitation receiver, whose time, effort and resources would be wasted in defending claims against the corporation instead of being directed toward its restructuring and rehabilitation."

<sup>8</sup> 837 SCRA 446

<sup>9</sup> *Barotac Sugar Mills, Inc. vs. Court of Appeals*, 275 SCRA 497; *Rubberworld (Phils.) Inc. vs. NLRC*, 30 SCRA 721

<sup>10</sup> GR No. 146698, 24 September 2002

<sup>11</sup> 190 SCRA 262

Therefore, such suspension is intended to give enough breathing space for the management committee or rehabilitation receiver to make the business viable again, without have to divert attention and resources to litigations in various fora.<sup>12</sup>

Lastly, the Supreme Court in the case of *Rizal Commercial Banking Corporation vs. Intermediate Appellate Court, et. al.*<sup>13</sup> laid down the following rules for the guidance of the Bench and Bar:

"1. All claims against corporations, partnerships, or associations that are pending before any court, tribunal, or board, without distinction as to whether or not a creditor is secured, or unsecured, shall be suspended effective upon the appointment of a management committee, rehabilitation receiver, board, or body in accordance with the provisions of Presidential Decree No. 902-A.

2. Secured creditors retain their preference over unsecured creditors, but enforcement of such preference is equally suspended upon the appointment of a management committee, rehabilitation receiver, board, or body. In the event that the assets of the corporation, partnership, or association are finally liquidated, however, secured and preferred credits under the applicable provisions of the Civil Code will definitely have preference over unsecured ones."

Simply put, once a management committee, rehabilitation receiver, board or body is appointed pursuant to PD 902-A, all actions for claims against a distressed corporation pending before any court, tribunal, board or body shall be suspended accordingly.<sup>14</sup>

Therefore, following a thorough appraisal of the circumstances surrounding the instant Urgent Ex-Parte Motion, the issuance of a STAY ORDER is considered to be well-founded and should therefore be granted to ensure a fair and equitable implementation of the approved Rehabilitation Plan.

<sup>12</sup> Rubberworld (Phils.), Inc. or Julie Yap Ong vs. NLRC, et. al., GR No. 126773, April 14, 1999

<sup>13</sup> GR No. 74851, December 9, 1999.

<sup>14</sup> Ibid.



**WHEREFORE, Petitioners' Urgent Ex-Parte Motion to Enjoin the Enforcement or Execution of the Warrant of Levy Issued by the Treasurer of Tarlac City on the Real Properties of Uniwide Sales Realty & Resources Corp. is hereby GRANTED.**

Accordingly, this **STAY ORDER** is hereby issued staying the execution and/ or enforcement of any claim, judgment or writ, **WARRANTS OF LEVY** issued by the Treasurer of Tarlac City against Petitioner USRRC on properties situated at Barangay San Nicolas, Tarlac City and all other properties and assets and the suspension of any and **all claims** of said city government against the Petitioners pending before any court, tribunal, board or body until further ordered otherwise by this Commission.

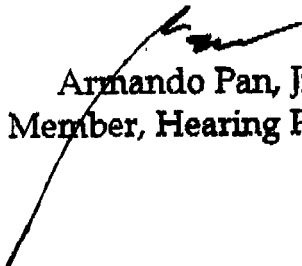
This Commission authorizes the appointed Receiver, Atty. Julio C. Elamparo, to serve a copy of this Order to the City Treasurer of Tarlac City.

SO ORDERED.


Mandaluyong City, 6 September 2004.



Vernetta Umali-Paco  
Chairperson, Hearing Panel



Armando Pan, Jr.  
Member, Hearing Panel



Marie Rose B. Lim  
Member, Hearing Panel