

LAST-MINUTE TIPS

ni Atty. G



COMMERCIAL LAW

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CORPORATIONS

Power of Corporations

A corporation is an artificial being created by operation of law, having the right of succession and the **powers**, attributes, and properties **expressly authorized by law or incidental to its existence.**

Corporate powers

- Express - granted by law and AOI;
- Implied - necessary to exercise express powers;
- Incidental - exist by virtue of corporate existence

Corporate powers are exercised by the Board of Directors.

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CORPORATIONS

Power of Corporations

Ultra vires doctrine

1. Corporate acts outside the corporation's express, implied, or incidental powers;
2. Acts of agents acting without or in excess of authority;
3. Acts that are illegal per se.

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CORPORATIONS

Power of Corporations

Ultra vires doctrine

1. Corporate acts outside the corporation's express, implied, or incidental powers;

- Not necessarily illegal;
- Unenforceable, unless ratified.

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CORPORATIONS

Power of Corporations

Ultra vires doctrine

2. Acts of agents acting without or in excess of authority;

- Doctrine of apparent authority;
- Unenforceable, unless ratified.
- May be ratified, express or implied. Retention of benefits arising from a contract is implied ratification (La Filipina v. Harbour Centre [2023])
- Board of directors' grant of additional compensation to themselves, without stockholder approval, is ultra vires (LBP v. COA [2021])

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CORPORATIONS

Power of Corporations

Ultra vires doctrine

3. Acts that are illegal per se

- Void ab initio;
- Cannot be ratified.



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CORPORATIONS

Derivative Suit

MEANI

- Minority shareholders bring the action;
- Exhaustion of all remedies to vindicate the corporate right;
- Appraisal right is not available;
- Not a nuisance or harassment suit;
- In the name and on behalf of the corporation

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INSURANCE

Insurable Interest

Insurable interest

A person has an insurable interest in something:

- If the thing is protected or preserved, he/she will gain money or benefit; or
- If the thing is damaged or destroyed, or negatively affected by a risk, he/she will lose money

Applicable rules depend:

- Life and health;
- Property.

A person can only insure someone or something he/she has insurable interest in.

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INSURANCE

Insurable Interest

Insurable interest in life and health

A person has an insurable interest in the life of:

- His or her own
- Legitimate spouse
- Legitimate or illegitimate children
- Any person upon whom he depends for support;
- Any person upon whom he has a pecuniary interest;
- His/her debtor;
- Any person upon whose life any estate or interest vested in him depends

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INSURANCE

Insurable Interest

Insurable interest in life and health

- The beneficiary must have insurable interest over the life of insured
 - Exceptions: (i) persons guilty of adultery or concubinage; (ii) person guilty of the same criminal offense, in consideration thereof; (iii) public officials, his wife, descendants, or ascendants, by reason of his office
- Insurable interest must exist at the time the insurance takes effect, but not necessarily thereafter.

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INSURANCE

Insurable Interest

Insurable interest in property

- Every interest in property, whether real or personal, or any relation thereto, or liability in respect thereof, of such nature that a contemplated peril might directly damnify the insured, is an insurable interest;
- Not dependent on ownership;
- The beneficiary must have insurable interest over the property both at the insurance takes effect and when the loss occurs, but need not exist in the meantime

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BANKING

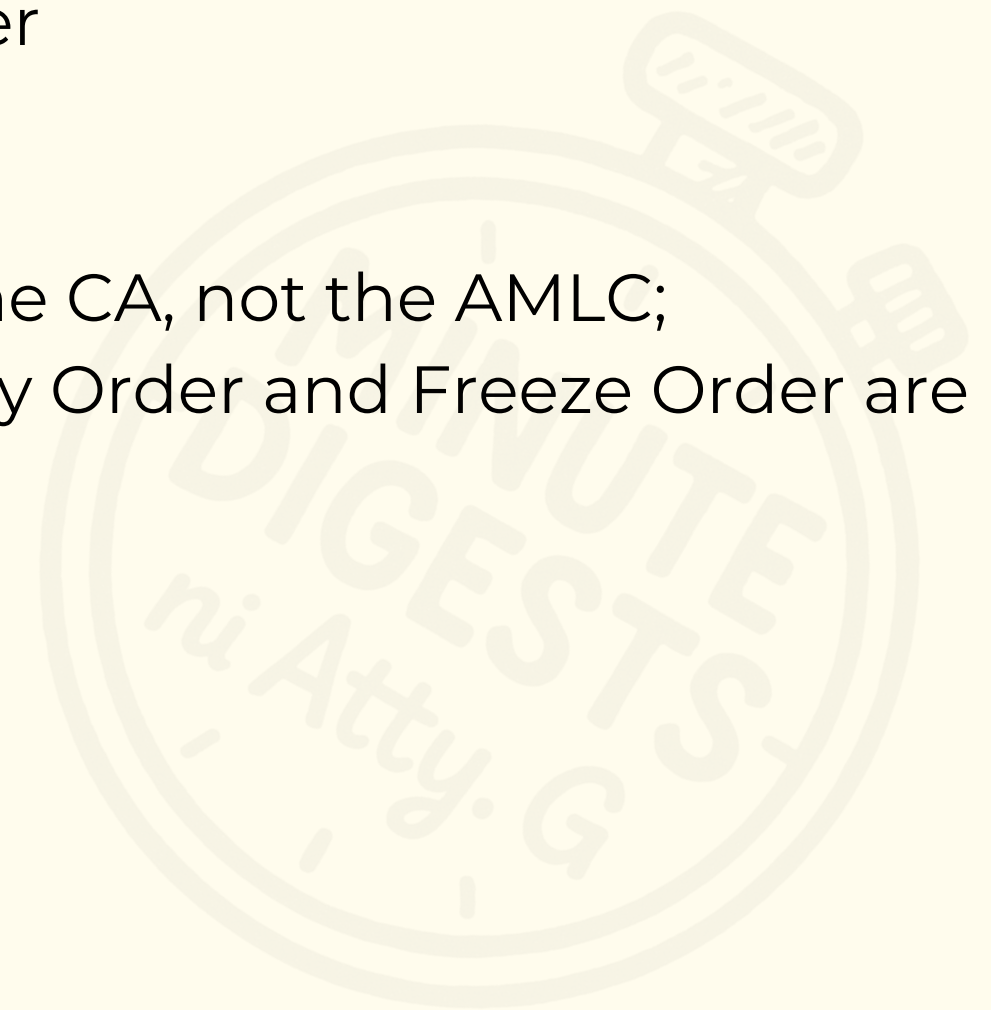
ANTI-MONEY LAUNDERING ACT
Authority to Inquire and Freezing

Remedies of AMLC

- Bank Inquiry Order
- Freeze Order

General

- Issued by the CA, not the AMLC;
- Bank Inquiry Order and Freeze Order are distinct.



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BANKING

ANTI-MONEY LAUNDERING ACT
Authority to Inquire and Freezing

BANK INQUIRY ORDER

- Authorizes AMLC to examine bank accounts;
- General rule: the AMLC cannot examine bank accounts without a bank inquiry order.
- Exceptions: if the predicate offenses are murder, murder, arson (destructive), terrorism or conspiracy to commit terrorism, hijacking, kidnapping for ransom, drug cases (violation of CDDA), and similar offenses

[MATH KIDS]

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BANKING

ANTI-MONEY LAUNDERING ACT
Authority to Inquire and Freezing

FREEZE ORDER

- Extraordinary relief to prevent the dissipation, removal, or disposal of suspected dirty money in the bank accounts;
- General rule: CA issues freeze order.
- Exception: AMLC may issue freeze order in terrorism cases, provided: (i) there is probable cause that the funds to be frozen relate to terrorism or terrorism financing activities, and the account owner is a designated terrorist organization, either by international instruments, the ATC, or the CA after a preliminary order of proscription.
- 20 days, up to 6 months, but not more.
- After 6 months without a civil or criminal case filed against the account holder, the freeze order is deemed *ipso facto* lifted.

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INTELLECTUAL PROPERTY

Copyrights

- ❑ Copyright is the right of the author or creator to exclusively exercise a bundle of economic and moral rights in relation to his or her intellectual creations (literary, artistic, scientific, scholarly).
 - Economic rights - reproduction, first public distribution, rental, public performance, etc.
 - Moral rights - attribution or false attribution, integrity, alterations, withhold publication.
- ❑ Original intellectual creations are protected from the **moment of creation**.

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INTELLECTUAL PROPERTY

Copyrights; Fair Use Doctrine

FAIR USE DOCTRINE

- Privilege to use a copyrighted material, in a reasonable manner, without the consent of the copyright owner.

Factors to consider

- Purpose and character of use – if for criticism and comment, news reporting, teaching, scholarship/research, and similar purposes, and non-commercial use are likely fair;
- Nature of work – factual v. creative;
- Amount and substantiality of the portion used in relation to the copyrighted work as a whole;
- Effect of use on the potential market for or on the value of the copyrighted work.

Good!
Luck!