

VERBAL NOTICE OF CARD LOSS SUFFICES

By Atty. Gregorio Batiller Jr.

Prompt notice by the cardholder to the credit card company of the loss or theft of his card should be enough to relieve the former of any liability occasioned by the unauthorized use of his lost or stolen card.

The July 25, 2006 decision of Manuel C. Acol vs. Philippine Commercial Credit Card Inc., GR No.135149 is certainly a welcome development to all credit card users. The Supreme Court declared as contrary to public policy a stipulation contained in the "Terms and Conditions Governing the Issuance and Use of the Credit Card" which provided that in case of loss of such credit card, the holder would continue to be liable for charges made thru the use of the card, albeit unauthorized, "until a reasonable time after receipt by the Card Issuer of written notice of the loss of the card and its actual inclusion in the Cancellation Bulletin." In the case at bar, the petitioner upon discovery of the loss of his credit card on a Sunday, promptly reported by phone the loss of his Bancard credit card to the Card Company. He subsequently served written notice of loss which was received two (2) days later. A day before the receipt of the written notice of loss, respondent Philippine Commercial Credit Card, Inc. issued a special cancellation bulletin informing accredited establishments of the loss of petitioner's card. Unfortunately, prior to receipt of the cancellation bulletin, purchases worth P76,067.28 had already been successfully transacted. The credit card company, while acknowledging that said sales were made by other than the respondent, nonetheless held him liable for same invoking the stipulation in the credit card application form:

"Holder's responsibility for all charges made through the use of the card shall continue until the expiration or its return to the Card Issuer or until a reasonable time after receipt by the Card Issuer of written notice of loss of the Card and its actual inclusion in the Cancellation Bulletin."

The RTC ruled to dismiss the collection suit filed by the credit card company. The Court of Appeals reversed the RTC, ruling to hold respondent liable for the unauthorized charges by virtue of the cited provision. The Supreme Court, sustaining the RTC's decision, struck down the provision citing the case of Ermitanio vs. Court of Appeals (365 Phil 671, 1999) whereat it declared as contrary to public policy the following stipulation: "In the event the card is lost or stolen, the cardholder agrees to immediately report its loss or theft in writing to BECC... purchases made/incurred arising from the use of the lost/stolen card shall be for the exclusive account of the cardholders and the cardholder

continues be liable for the purchases made through the use of the lost/stolen BPI Express Card until after such notice has been given to BECC and the latter has communicated such loss/theft to its member establishments. (emphasis ours)”

“Prompt notice by the cardholder to the credit card company of the loss or theft of his card should be enough to relieve the former of any liability occasioned by the unauthorized use of his lost or stolen card. The questioned stipulation in the case, which still requires the cardholder to wait until the credit card company has notified all its member-establishments, puts the cardholder at the mercy of the credit card company which may delay indefinitely the notification of its members to minimize if not to eliminate the possibility of incurring any loss from unauthorized purchases. Or, as in the case, the credit card company may for some reason fail to promptly notify its members through absolutely no fault of the cardholder. To require the cardholder to still pay for unauthorized purchases after he has given prompt notice of the loss or theft of his card to the credit card company would simply be unfair and unjust. The court cannot give its assent to such a stipulation which could clearly run against public policy. (emphasis ours)”

Notably, the Court may have overlooked the that the usages of petitioner’s creditor card occurred prior to receipt by the credit card company of petitioner’s written notice and that the card company had issued the cancellation bulletin even before receipt of said written notice of loss. It would appear then that mere verbal notice of would suffice to exculpate the credit card user from liability on unauthorized usages of a lost or stolen card.