

*Certified translation from the Czech language*

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ATTORNEY-AT-LAW

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**Společnost pro rozvoj filipínského duchovního léčitelství, z. s.**

**Ponětovická 96**

**664 51 Kobylnice**

Ref. No. 419

Brno, 27 August 2019

**Re:**

**Legal opinion regarding the legal nature of the Philippine spiritual healing**

Dear Madam/Sir,

with reference to your request of 24 August 2019 regarding the above said matter I hereby provide my opinion:

## I.

The phenomenon referred to as “the Philippine spiritual healing” or in similar ways both in the Czech Republic and abroad represents one of the **traditional methods for influencing mental or physical health through a healing procedure** and is considered exotic in the Czech Republic but rather widespread globally. The method has its origins in the Philippines where it was introduced and from where it is spread elsewhere. The Philippine spiritual healing is based on traditional, ancient, **cultural or religious truths regarding the world** which still exist in various forms all around the world.

From the perspective of health care laws (and Czech laws in general), it is considered a **healing service** which is founded on **spiritual rules**, not on “the rules of science” *under Act No. 372/2011 Sb., on health care services*, as amended (S. 4 (5)). Traditional spiritual healing is generally

understood as a **non-scientific procedure** for influencing health, not necessarily based on “the rules of science”. Radiology, biomedical engineering, and the like can be used as an example to the contrary.

As regards the question of facts, in the Czech Republic and at the present time, the Philippine spiritual healing **cannot** be referred to as one of (divergent) “recognised medical procedures” under the said Act, whether by a major part of the community of physicians or by a major part of other health professionals in the respective field. At the present place and time, we might rather consider **whether the natural healing procedure is recognised** by a major part of the relevant community of healers or to what extent it is established in the healing practice.

The Philippine spiritual healing **does not constitute** a health service as meant by the said Act since, at least in view of conventional science, it **lacks scientific foundations** (“the rules of science”) which, in this case, are inessential. What is more, **there are no public medical schools** in this field. Accordingly, **there is no profession** (whether that of a physician or other health professional) with qualifications under the health care laws from a system of public medical education. That said, **it is not considered** a health service branch pursuant to the Czech health care laws.

Therefore, it comprises procedures having the nature of **natural healing, both factually and legally**. Philosophically speaking, these are **vitalistic**, not positivistic or, to put it simply, materialistic procedures.

Within the bounds of natural healing, the Philippine spiritual healing represents a **subject-matter branch of spiritual healing** which, in terms of method, is associated with what is called healing magnetism which requires **special personal skills** possessed by individuals, i.e. certain natural healers, who are classified as **spiritual healers** in this particular case.

In regard of the **subject-matter aspect** referred to above, including the special personal skills, a spiritual healer practising the Philippine spiritual healing **is different** for example from an herbalist or healers practising other branches of healing provided that such branches are specialised as to the expertise and skills. In the case of the Philippine spiritual hearing, the specialisation is individual and is based on **specific skills** (talents). Besides, it is normally related to the Christian religion and an authorisation to perform the Philippine spiritual healing granted by a Philippine religious association in accordance with its internal regulations.

However, nothing of that excludes quantitative or qualitative medical or any other research of the Philippine spiritual healing, using for example the method of scientific observation.

As far as public regulations are concerned, **spiritual healers** are specifically regulated by the *Statistical Classification of Occupations (CZ-ISCO)*, Official Communication No. 206/2010 Sb. Pursuant to the Notes to the Statistical Classification of Occupations “spiritual healers” are

included in the group of “religious associate professionals” (code 3413), that is, **outside** health care. But these are only statistics which **have no bearing** on the legal prerequisites for the performance of the profession.

## II.

The Philippine spiritual healing is **not** one of the professions (whether employment or service) governed by the public laws of the Czech Republic (or the EU).

As such, it is automatically considered an **unregulated business** or **unregulated employment**.

In terms of taxes or accounting, it is governed by generally applicable regulations. The same applies to consumer protection and/or personal data protection.

From the viewpoint of trade law, it is regarded as a **free** (i.e., not requiring specific qualifications) **notifiable trade** under Schedule 4 to *Act No. 455/1991 Sb., on trade (Trade Licensing Act)*, as amended. Based on that, the purpose of business is defined as Production, trade and services other than those listed in Schedules 1 to 3 of the Trade Licensing Act. Specifically, as a branch of activity, it falls under **item 80 on the List of Free Notifiable Trades - Production, Trade and Services Unclassified Elsewhere**, or another branch of activity based on the contents.

The Trade Licensing Act provides for an exception to **exclude the applicability of the trade law to natural healing** but only “to the extent” of a special law [S. 3 (2) (a)].

However, **no special law has been adopted so far** and, therefore, “the extent” of the exclusion cannot be determined. As a consequence, *a contrario*, **the work of natural healer is considered a trade**, specifically an unqualified trade if general requirements are met (see above). This will apply until the special law is adopted and insofar as it defines “the extent of activity” of a natural healer not to be considered a trade. – Incidentally, please note that in part natural healing may in future remain unexcluded from the applicability of trade laws as it previously happened and still applies in the case of psychologists, nutritionists, massage therapists, or doulas whose work is still partly considered a trade while another part, conceived differently, was reclassified as health services and included in medical professions.

The Ministry of Health is currently preparing a *Healing Services Government Bill*. However, it has not been passed to date. The current legal situation will have to be revised for the special act to be adopted finally.

From the viewpoint of employment law, the Philippine spiritual healing is considered **unregulated employment**. The same applies if viewed from the perspective of public control of employment.

*The National System of Occupations* as a public regulation used for the purposes of labour market **does not contain** professions of this type and specialisation (including the profession of natural healer in general). The same applies to the *National Qualifications Framework* for the purposes of

recognition of further education based on a professional examination. *The European Classification of Skills, Competences, Qualifications and Occupations* does not specifically refer to the profession of spiritual healer, either. However, entry in any of the said systems or frameworks having a specific purpose is not a prerequisite for performing a profession (employment or service) unless provided so by law, which is not the case.

### III.

From the viewpoint of the law of obligations, the present case normally represents a contractual health care obligation under S. 2636 *et seq.* of the Civil Code, entered into to improve or preserve health or, as the case may be, well-being.

This contractual obligation has the nature of a mandate contract whereunder the health care provider is held liable for the professional correctness of their work in an effort to achieve a certain result (health improvement or preservation). The health care provider is not held liable for achieving the result, such as curing a sick person. This is an expression of a principle of the law of contracts regarding health care, whether in the provision of health services pursuant to the laws governing health services or in the provision of other types of health care outside the scope of the health care system. Nevertheless, freedom of contract does not prevent the health care provider from assuming liability for the achievement of the desired result as in the case of a contract for work. In the Philippine spiritual healing, similarly to a major part of health services, this is rather exceptional because of the activity nature and type.

As stated in the Explanatory Memoranda to the Civil Law Government Bill drawn up in 2009 and 2011 (based on resolutions of the government), influencing health by healing procedures is governed by the Civil Code, i.e., not by the special provisions of the Health Services Act or other health care legal provisions focusing on other subjects.

A person providing health care in the manner of the Philippine spiritual healing acts with due professional care (S. 5 (2) of the Civil Code), i.e., knowledgeably and diligently, and also in accordance with written and unwritten rules of the respective branch of healing (S. 2643 (1) of the Civil Code). In regard of the nature of this branch of healing, i.e. its spiritual aspect, the Philippine spiritual healing rules are (*lege artis*) based on the assumption of the spiritual being of a sick person on which these rules rely, and on the assumption of using a certain force for healing.

The assumption of a man's spiritual being or of the effects of a force usable for healing is based on a certain image of the world which may also be associated with a certain world view. However, this does not necessarily mean a religion in a societal sense, or a certain denomination.

#### IV.

Within the meaning of the Civil Code, the Philippine spiritual healing represents an **obligation to provide contractual performance in the legal sense, boldly conceived, of dependence on a fact which is uncertain** in the light of conventional science, that is, primarily on the effects of a life force usable for healing which is known under various names all around the world. Thus, the offer of health care is accepted **with a hope of a future health benefit which is uncertain** in terms of science. **This kind of hope** is usually connected with a **belief in a future health benefit** (not necessarily a religious belief) or with a **conviction** of such benefit gained for example through experience of one's own or experience passed between generations or individuals by trustworthy people or through maintaining traditions, etc. Hope is a regular part of life, used also by conventional western biomedicine or psychology.

As far as the Philippine spiritual healing is concerned, the **hope** of a future health benefit is based on a **simple belief** in the effects of the procedure (**simple belief in truth**), or on a **conviction**, which is stronger, sincere and firm (**more certain belief and knowledge**), regarding the effects (truth), or even on a fact which is **based on knowledge obtained through experience with the method being used in practice in the long-term**, a fact which might even represent a **truth of conventional science**, based for example on the method of scientific observation and qualitative medical research.

Based on a **bold legal construction**, the contractual performance is understood to be **dependent** on a fact whose **existence and effect is uncertain** in the rational legal sense (a question of human spirit and effect of a certain force, etc.). Thus, it is dependent on a fact subsisting (in conventional terms) in a **metaphysical element** whose existence and effects are, nevertheless, objectively possible **in the legal sense with a sufficient level of probability**, even if considering it with reasonable prudence. Therefore, the said element **cannot** be a misleading one and does not have the legal effects normally associated with being misleading. All that holds true even if taking into account the learnings from direct and indirect empirical experience (including personal) or philosophical or theological evidence, or at least reasonable indications - if laying aside the revelation ("source information"). As a legal term, "uncertainty" (boldness) with regard to the performance of a contractual obligation is **not** the same as the performance being "impossible". Here, the rational thinking concerning the **degree of probability** in the legal sense needs to be reasonably adapted to the **metaphysical**, not only biophysical or biochemical, aspect of a sick person, or the practice used, etc.

The same applies to all the other directions of spiritual healing which work with the assumption of effects of the so-called healing magnetism or spiritual force understood in any other

way, including where we might be concerned with energy which is not known at all or is little known, or with unknown or little known effects of a force (energy) which is otherwise well-known.

## V.

The suggested factual and legal meaning, or concept, of natural healing, shows that the Philippine spiritual healing has **philosophical foundations** if based on **metaphysical** assumptions. **It does not necessarily have to** have the social form of a religion because metaphysical natural processes **cannot** (or do not necessarily have to) be narrowed down to a religious interpretation thereof, to a religious dogma, etc.

On the contrary, **nobody is prohibited** from manifesting freely their religion or faith whether alone or jointly with others, in private or in public, through a religious act or otherwise, including through a religious act in the spirit of Christianity, having the form of the Philippine spiritual healing.

## VI.

If **the operations of your Association** are in accordance with the purpose and contents of the Articles of Association of Společnost pro rozvoj filipínského duchovního léčitelství, z.s., executed in the form of a Notarial Deed by *JUDr. Roman Hochman*, Notary in Prague, on 9 July 2019, entered and accessible in the Collection of Deeds of the Registry of Associations maintained by the Regional Court in Brno, Section L, Entry No. 26174, **the operations are legally possible** (not prohibited).

Pursuant to the Articles of Association, the objective of Společnost pro rozvoj filipínského duchovního léčitelství, z.s. with regard to the Philippine spiritual healing is **the common good of knowledge** which is being pursued through making relevant information and education accessible. In addition, your Association carries out **subsidiary economic operations**, doing so as a **so-called service organisation** ensuring Philippine spiritual healers' work.

It is legally possible (**not prohibited**) for your Association to perform such subsidiary economic operations also as an autonomous **entrepreneur** on its own account and responsibility with regard to persons from the general public who are interested in the specific effects (services) of the traditional Philippine natural healing and give their consent.

Should you need further information, please see my monograph *Právo přírodního léčitelství (The Law of Natural Healing)*, Prague, Leges, 2018.

Yours sincerely,

**Prof. JUDr. Ivo Telec, CSc.**  
**Attorney-at-Law**

## Tlumočnická doložka:

Tlumočnický úkon jsem provedla jako tlumočnice jmenovaná rozhodnutím předsedy Krajského soudu v Praze ze dne 18. 12. 2007, č.j. Spr. 4087/2007, pro jazyk anglický, zapsaná v seznamu znalců a tlumočnicků vedeném Krajským soudem v Praze.

Stvrzuji, že překlad souhlasí s textem připojené listiny.

V překladu jsem provedla tyto opravy: ---

Tlumočnický úkon je zapsán v tlumočnickém deníku pod pořadovým číslem *2684/76c/2019*

V Jirnech dne 25. 9. 2019



*Rucká Š.*

Mgr. Šárka Rucká

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## Translator's Certificate

I, the undersigned, hereby certify that I made the translation in my capacity as an official translator for the English language sworn in upon Decision of the Presiding Judge of the Regional Court of Prague No. Spr. 4087/2007 dated 18 December 2007 and entered in the Register of Court-Appointed Experts and Translators maintained by the Regional Court of Prague.

I hereby certify that the foregoing is a true, accurate and complete translation of the attached document. I made the following corrections in the translation: ---

The translation is entered in my translator's logbook under no. *2684/76c/2019*

Place: Jirny, Czech Republic

Date: 25 September 2019



*Rucká Š.*

Mgr. Šárka Rucká



