Pardon is an executive action that mitigate or sets aside punishment for a crime. It is an act of grace from Governing power which mitigates the punishment the law demands for the offense and restores the rights and privileges forfeited on account of the offence. Vernecno inc V Fidelity S Cas. Co. of New York, 253 La. 721,219 So. 2d 508, 511. Furthermore, a pardon releases the offender from the entire punishment prescribed for an offense and restores the rights and privileges forfeited on account of the offense. See State ex rel. Herman V Powell, 139 Mont 583, 367 P.2d 553, 556. For a pardon to be effective it must be accepted. See Burdick v U.S. 79, 35 S.Ct. 267, 268,59 L.Ed. 476. Pardon applies to the individual, and releases him from the punishment fixed by law for his specific offense. See Knote V U.S. 149, 153, 24 L.Ed. 442, 443. See Burdick v U.S (Supra).

Under Nigerian Law, pardon had been provided for in the Constitution of the Federal Republic of Nigeria 1999(as amended), which is cited the “prerogative of mercy”. Section 175 of the constitution states thus:

(1) The President may -
(a) grant any person concerned with or convicted of any offence created by an Act of the National Assembly a pardon, either free or subject to lawful conditions;
(b) grant to any person a respite, either for an indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence; or
(c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence; or
(d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the State on account of such an offence.

(2) The powers of the President under subsection (1) of this section shall be exercised by him after consultation with the Council of State.

(3) The President, acting in accordance with the advice of the Council of State, may exercise his powers under subsection (1) of this section in relation to persons concerned with offences against the army, naval or air-force law or convicted or sentenced by a court martial.

From the Editor!
Welcome to another interesting edition of “The Legal Luminary”. As always this edition promises to be a good read. In this issue of Legal Luminary we will be looking at a very topical issue “Legal Implications of State Pardon Under Nigerian Law”.

The first quarter of the year is almost gone and has been a very eventful one. As we prepare for the next quarter we wish everyone a very Happy Easter.

Q. What are the differences between Insured Institutions and Special Insured Institutions under the Nigerian Deposit Insurance Scheme?
A. Insured Institutions are Deposit Money Banks (DMBs). The Special Insured Institutions consist of Micro Finance Banks (MFBs) and Primary Mortgage Banks (PMBs). Some of the differences are:

- For Insured Institutions NDIC guarantees payment of deposits up to N500,000 while for Special Insured Institutions the maximum guaranteed sum is N200,000
- Special Insured Institutions like MFBs are designed to cater for the small unsophisticated customer and render financial assistance to them while DMBs cater to a variety of customers on a large basis. PMBs majorly

LEGAL IMPLICATIONS OF STATE PARDON UNDER NIGERIAN LAW

Pardon in Nigeria is the exercise of power which mitigates the punishment the law demands for the offence and restores the rights and privileges forfeited on account of the offence. Under the Nigerian Law a ‘pardon’ and ‘full pardon’ have no distinction. A pardon is an act of grace by the appropriate authority which mitigates or obliterates the punishment the law demands for the offence and restores the rights and privileges forfeited on account of the offence. See Verneco Inc. v. Fidelity & Cas C. of New York 253 LA 721, 219 SO 2D 508, 511. The effect of a pardon is to make the offender, a new man (novus homo), to acquit him of all corporal penalties and forfeitures annexed to the offence pardoned.

Easter and Good Friday are widely regarded as the most important Christian religious holiday. Good Friday marks the death of Jesus Christ it is the fundamental part of Christianity along with the resurrection of Jesus Christ marked on Easter Sunday. Happy Easter to all our Christian colleagues as they observe this year’s Easter celebrations.

In a bid to enhance the gaining expertise, and skill for career growth of staff of the Corporation, the Human Resources Department of the Corporation has successfully completed sensitization workshop on employee mentoring and counselling. Kudos to the HRD for such a worthy initiative.

The article on Guarantee’s, Bonds and Indemnities was very informative and educative. Especially as it relates to my job schedule. We encourage more articles that will enhance our job performance.

Sam G. Waklek

March 2013

The Capital base requirements differ. For Insured Institutions there are three categories; Regional, National and International (Insured Institutions) the capital base for each one is N10b, N25b and N50b respectively. For Special Insured Institutions there are also three categories For Micro-Finance Bank capital base is N20million for Unit MFBs, N100m for State MFBs and N2b for National MFBs. For PMBs its N1b.

The Premium payable by Insured Institutions and Special Institutions to NDIC differs. By virtue of Section 17 of the NDIC Act Insured Institutions are obliged to pay a premium which shall not exceed fifteen-sixteenth of one percent per annum of its total deposit liabilities, while for Special Insured Institutions it should not exceed eight-sixteenth of one percent per annum of its total deposits.
The Corporation’s involvement in issues of State Pardon was in respect of the conviction of Moses Odaro by the failed Banks Tribunal for Banking Malpractices. Moses Odaro was convicted for fraud committed while he was the MD of Great Merchant Bank. Following his conviction, the property he surrendered in mitigation of his crime was forfeited in accordance with the provisions of the Failed banks (Recovery of Debts) and Financial Malpractices in Banks Act, 1994. However he was granted pardon by President Obasanjo. The effect of the pardon was that his previously forfeited assets were released to him. Thus the implication of receiving a State Pardon is to make the offender a new man (novus homo), its acquits him of all corporal penalties and status connected to the offence pardoned.

Some Examples of Pardons Granted by Nigerian Presidents in recent times include:

- State Pardon granted by President Goodluck Jonathan to the Former Governor of Bayelsa State Diepriye Alamaseigha and others in March 2013
- State Pardon granted by President Obasanjo to former Speaker of the House of Representatives, Alhaji Salisu Buhari and others
- State pardon and immediate release from prison granted by Gen. Abdusalami Abubakar to Gen. Obasanjo the “Coup Plot” set which included Major Akinloye Akinyemi, O. Oloruntoba, R.S.B. Bello-Fadile, R.N. Emokpae, Mrs Chris Anyanwu and others.
- State Pardon granted by President Shehu Shagari to Gen. Yakubu Gowon and Col. Odumegwu Ojukwu.