ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT

In the matter of:

SEC-EIPD Case No. 2022-6908
For: Revocation of Certificate of Incorporation

ASENSO BUSINESS GROUP TRADING INC.
Company Registration No. 2022080063274-03
x---x

ASENSO BUSINESS GROUP TRADING INC.
1128 Emmanuel Residences Bldg. Rodriguez Ave., Corner del Pilar St., Bangkal, City of Makati
leomae24@yahoo.com

LORENZO S. MORENENCIA
Blk 99, Lot 17 E, Jacinto Rizal, City of Makati, Fourth District, National Capital Region (NCR), 1208
leomae24@yahoo.com

MIGUELA E. SOLIS
Blk 145, Lot 28, Sunshine Ville, Cabuco, Trece Martires City, Cavite, Region IV-A (CALABARSON), 4109

<u>REVOCATION ORDER</u>

ASENSO BUSINESS GROUP TRADING INC., was granted its Certificate of Registration by the Commission on 09 August 2022 under Company Registration No. 2022080063274-03 with the following as incorporators:

Name	Citizenship	Residential Address
Lorenzo S. Morenencia	Filipino	Blk 99, Lot 17 E, Jacinto Rizal, City of Makati, Fourth District, National Capital Region (NCR), 1208
Miguela E. Solis	Filipino	Blk 145, Lot 28, Sunshine Ville, Cabuco, Trece Martires City, Cavite, Region IV-A (CALABARSON), 4109

The primary and secondary purpose of **ASENSO BUSINESS GROUP TRADING INC.,** as stated in its Articles of Incorporation are:

Primary:

"Direct selling of all kinds of goods and merchandise".

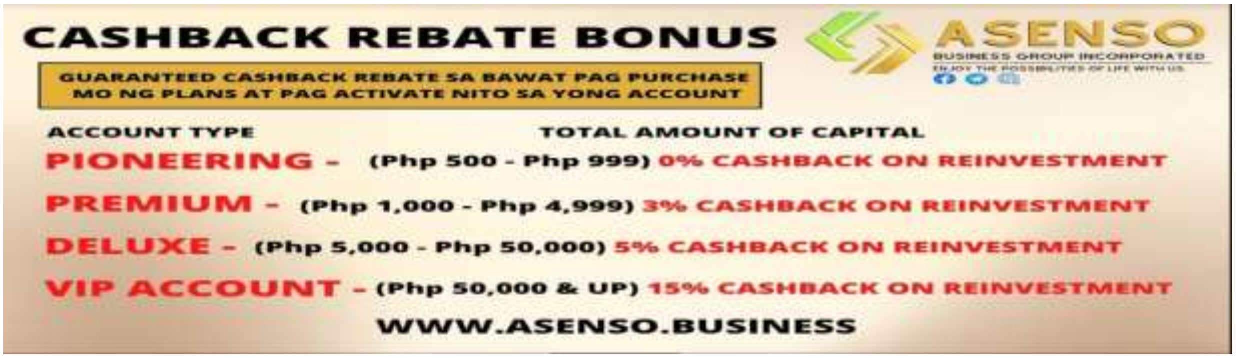
Secondary:

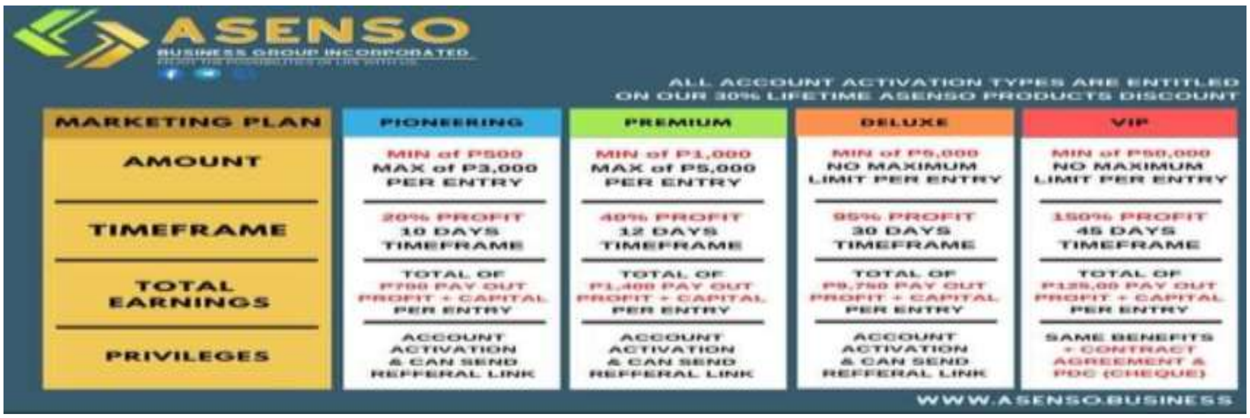
"*Buy and sell of all kinds of cars.*

Provided that the corporation ***shall not solicit, accept or take investment/placement*** *from the public neither shall it issue investment contracts".*

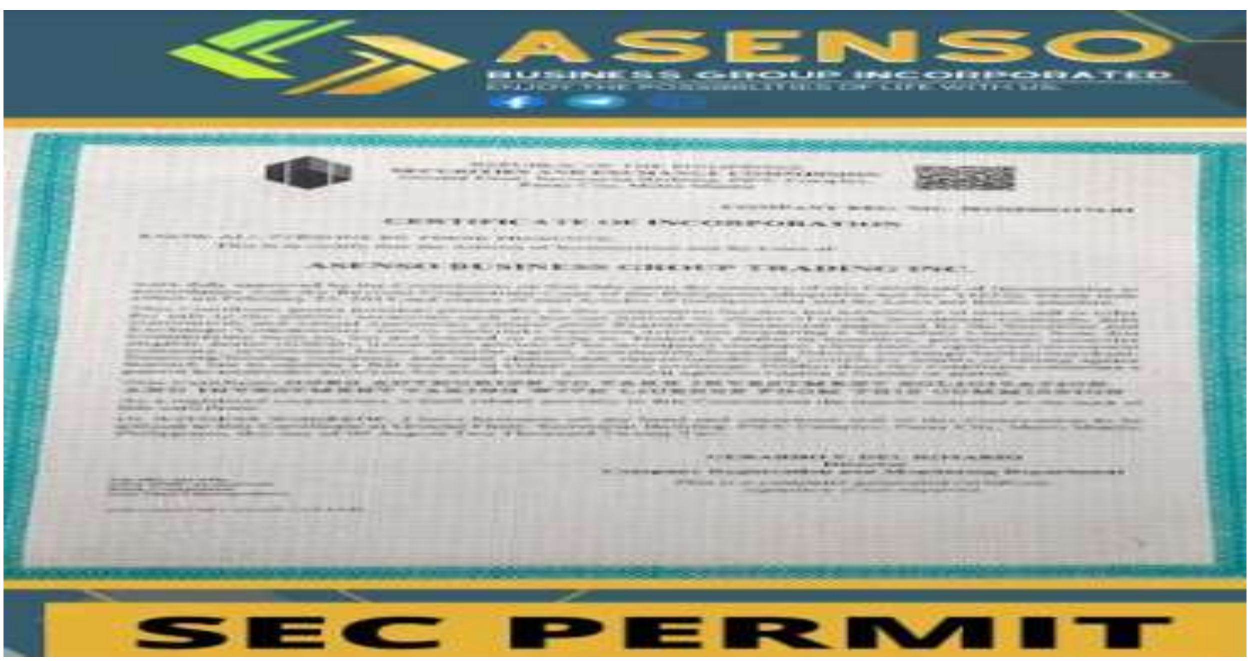
Sometime in October 2022, the Commission received information that individuals, or group of persons, representing **ASENSO BUSINESS GROUP TRADING INC.,** operated by its CEO *Lorenzo Morenencia,* are enticing the public to invest their money in the said entity with the promise of high monetary rewards or profits.

Based on the reports from the public, **ASENSO BUSINESS GROUP TRADING INC.,** is enticing the public to invest in the said entity for a promise of receiving a guaranteed cashback rebate by purchasing any of the following plans; a.) Pioneering Plan for a capital of Php 500 – Php 900, b.) Premium Plan for a capital of Php 1,000 – php 4,999, c.) Deluxe Plan for a capital of Php 5,000 – Php 50,000 and; d.) VIP Account Plan for a capital of Php 50,000 – and above. Below are screenshots of the said advertisement and the **ASENSO BUSINESS GROUP TRADING INC.'s** marketing plan which were presented to the Commission:



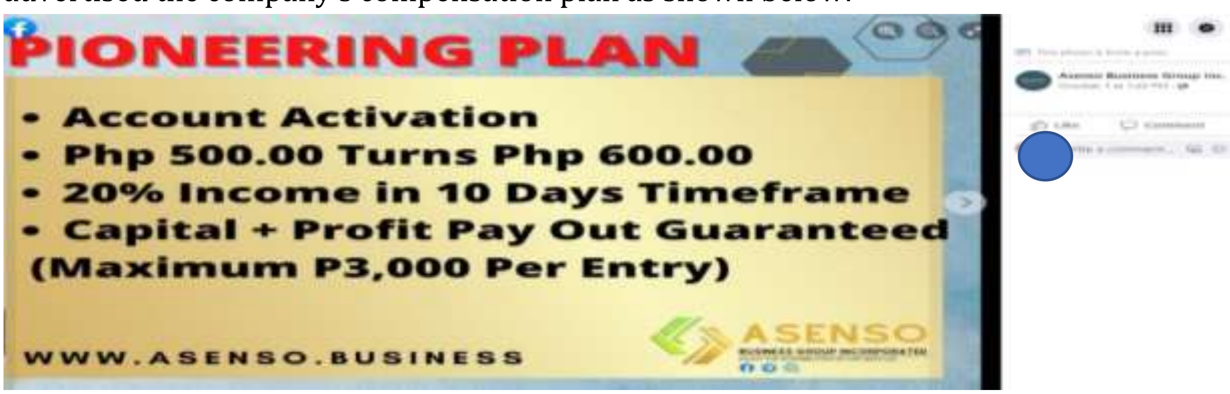


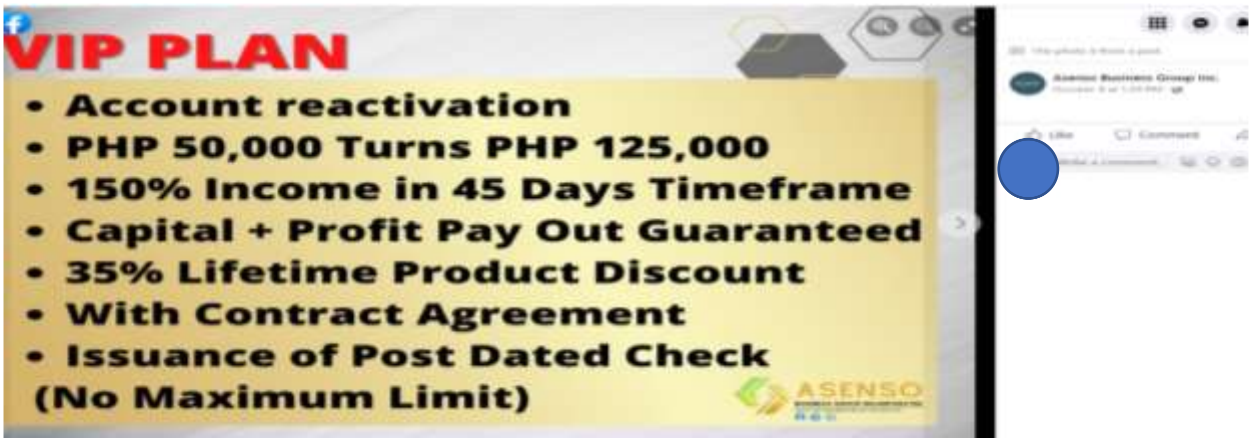
It was further reported that **ASENSO BUSINESS GROUP TRADING INC.,** is circulating a tampered SEC Certificate of Registration to make it appear that they are authorized to solicit investments and as a way of enticing the public to invest in the said entity, as shown below:



Information gathered from the Facebook (FB) Page of **ASENSO BUSINESS GROUP TRADING INC.,** shows that the said entity through its President / CEO, Lorenzo Morenencia, has been inviting the public to invest for a promise of earning a guaranteed 40% profit in 12 days, plus a daily bonus reward of up to 18%. Below is a screenshot of the said FB post:

In the same Facebook Page, **ASENSO BUSINESS GROUP TRADING INC.,** posted and advertised the company's compensation plan as shown below:





As mentioned earlier, **ASENSO BUSINESS GROUP TRADING INC.,** is registered with the Securities and Exchange Commission (SEC) under Company Registration No. 2022080063274-03. However, it is not authorized to solicit investments from the public as **ASENSO BUSINESS GROUP TRADING INC.** did not secure prior registration and/or license to solicit investment from the Commission as prescribed under Section 8 of the Securities Regulation Code.

On 26 October 2022, the EIPD conducted an ocular inspection and surveillance operation at the principal office of **ASENSO BUSINESS GROUP TRADING INC.,** as stated in its Articles of Incorporation (AOI), located at 1128 Emmanuel Residences Bldg., Rodriguez Ave., Corner Del Pilar Street., Bangkal, Makati City. Upon thorough investigation, the team discovered that **ASENSO BUSINESS GROUP TRADING INC.,** does not maintain an office in the said address, nor hold any business operations therein. Under Section 6 (i)[1] of PD-902-A, one of the grounds for revocation of the certificate of registration of a corporation is fraud in the procurement of its certificate of incorporation such as providing a false address.

Further based on the Certification issued by the Office of Barangay Bangkal Makati City dated 26 October 2022, Barangay Bangkal certified that according to the records of their office, **ASENSO BUSINESS GROUP TRADING INC.,** with declared business address at 112 28 Emmanuel Residences Bldg. Rodriguez Ave., Corner Gen. Del Pilar St., Barangay Bangkal, Makati City, is not listed on the Barangay Business Database.

Consequently, on 03 November 2022, the Commission issued an SEC Advisory informing the public of the following regarding **ASENSO BUSINESS GROUP TRADING INC.**:

> "xxx is not **AUTHORIZED** to solicit investments from the public as this entity did not secure prior registration and/or license to solicit investment from the Commission as prescribed under Section 8 of the Securities Regulation Code (SRC). The public is advised to exercise caution in dealing with any individual or group of persons soliciting investments for and on behalf of **ASENSO BUSINESS GROUP TRADING INC.** The public is further advised **NOT TO INVEST** or **STOP INVESTING** in the investment scheme being offered by **ASENSO BUSINESS GROUP TRADING INC.** or its **representatives** xxx"

On 21 December 2022, a ***Show Cause Order*** was issued against **ASENSO BUSINESS GROUP TRADING INC.,** addressed to the company's registered principal office address, and to its stockholders-directors-incorporators, namely; Lorenzo S. Morenencia and Miguela E. Solis, ***directing the company to show cause why its Certificate of Incorporation should not be revoked pursuant to Section 6(i)(2) of Presidential Decree No. 902-A for serious misrepresentation as to what the corporation can do or is doing to the great prejudice of or damage to the general public and for engaging in ultravires acts in violation of the Revised Corporation Code of the Philippines and to show cause why no administrative sanction and/or criminal charges should be filed against*** **ASENSO BUSINESS GROUP TRADING INC.** ***and/or its incorporators, directors and officers for violation of the Securities and Regulation Code and other pertinent laws, rules and regulations of the Commission.***

On 21 December 2022, the Show Cause Order was sent to the declared email address of the company as reflected in the records of the Commission, which apparently is also the email address of one of its incorporators-CEO, namely, Lorenzo S. Morenencia at leomae24@yahoo.com

To date, despite such receipt and presumptive notice of the Show Cause Order as detailed above, the company failed to respond, which shall be construed as a waiver of its right to be heard as to the matters stated in the aforementioned Show Cause Order. Hence, we now resolve the instant proceedings on the basis of available evidence.

DISCUSSION:

Clearly, in this case, the marketing and/or compensation plan of promising investors a guaranteed 40% profits in 12 days, plus a daily bonus reward of up to 18% being offered by **ASENSO BUSINESS GROUP TRADING INC.** to the public as posted in its Facebook Page, partakes of the nature of securities in the form of an "investment contract."

Section 3.1 of the Securities Regulation Code (SRC) defines securities as shares, participation or interest in a corporation or in a commercial enterprise or profit-making venture and evidenced by a certificate, contract, instrument, whether written or electronic in character. It includes:

(a) Shares of stocks, bonds, debentures, notes, evidences of indebtedness, asset backed securities;

(b)**Investment contracts**, certificates of interest or participation in a profit sharing agreement, certificates of deposit for a future subscription;

(c) Fractional undivided interests in oil, gas or other mineral rights;

(d) Derivatives like option and warrants;

(e) Certificates of assignments, certificates of participation, trust certificates, voting trust certificates or similar instruments;

(f) Proprietary or non-proprietary membership certificates in corporations; and

(g) Other instruments as may in the future be determined by the Commission.

An investment contract on the other hand, is defined under SRC Rule 26.3.5 of the 2015 Implementing Rules and Regulations of the Securities Regulation Code (2015 SRC IRR) as follows:

> "An **investment contract** means a contract, transaction or scheme (collectively "contract") whereby a person invests his money in a common enterprise and is led to expect profits primarily from the efforts of others.
>
> A common enterprise is deemed created when two (2) or more investors "pool" their resources, creating a common enterprise, even if the promoter receives nothing more than a broker's commission."

Further, the elements of an investment contract were enumerated in the case of *Power Homes Unlimited Corporation vs. SEC* (G.R. No. 164182 February 26, 2008) traced from the case of *SEC vs. Howey Co.* (66 S.Ct.1100 May 27, 1946) and was later modified in the case of *SEC vs. Glenn W. Turner Enterprises, Inc.* (474 F.2d476 February 1, 1973), as follows:

- A contract, transaction or scheme;
- An investment of money;
- A common enterprise;
- Expectation of profits; and
- Profits arises primarily from the entrepreneurial and managerial efforts of others.

Section 8, in relation to Section 12 of the SRC provides that:

> "SEC. 8. **Requirement of Registration of Securities. –** 8.1. **Securities shall not be sold or offered for sale or distribution within the Philippines, without a registration statement** duly filed with and approved by the Commission. Prior to such sale, information on the securities, in such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser.
>
> "SEC. 12. Procedure for Registration of Securities. – 12.1. All securities required to be registered under Subsection 8.1 shall be registered through the filing by the issuer in the main office of the Commission, of a sworn Page 11 of 14 registration statement with respect to such securities, in such form and containing such information and documents as the Commission shall prescribe. The registration statement shall include any prospectus required or permitted to be delivered under Subsections 8.2, 8.3 and 8.4."

Securities such as an investment contract as defined by the SRC, in relation to SRC Rule 26.3.5 of the 2015 SRC IRR, must be registered with the Commission pursuant to Sections 8 and 12 of the SRC, before the same can be **offered or sold** for distribution.

Meanwhile, Rule 3.1.17 of the 2015 SRC IRR defined **Public Offering** as, "any offering of securities to the public or to anyone, whether solicited or unsolicited. Any solicitation or presentation of securities for sale through any of the following modes shall be presumed to be a public offering:

> 3.1.17.1 Publication in any newspaper, magazine or printed reading material which is distributed within the Philippines or any part thereof;
>
> 3.1.17.2 Presentation in any public or commercial place;
>
> 3.1.17.3 **Advertisement or announcement** on radio, television, telephone, **electronic communications, information communication technology or any other forms of communication;** or
>
> 3.1.17.4 Distribution and/or making available flyers, brochures or any offering material in a public or commercial place, or to prospective purchasers through the postal system, **information communication technology and other means of information distribution**." (Emphasis supplied)

On the other hand, a "Broker" is defined under Section 3.3. of the SRC as a person engaged in the business of buying and selling securities for the account of others. "Salesman" is defined under 3.13 of the SRC as a natural person, employed as such or as an agent, by a dealer, issuer or broker to buy and sell securities.

Consequently, Section 28 of the SRC provides that:

> "SEC. 28. **Registration of Brokers, Dealers, Salesman and Associated Persons.** – 28.1. No person shall engage in the business of buying or selling securities in the Philippines as a broker or dealer, or act as a salesman, or an associated person of any broker or dealer unless registered as such with the Commission."

Thus, any person, without proper registration or license from the Commission, who acts as brokers or agents of a company selling or convincing people to invest in the investment scheme, including solicitations or recruitment through the internet, may likewise be prosecuted and held criminally liable under Section 28 of the SRC, and penalized with a maximum fine of Five Million pesos (P5,000,000.00) or penalty of Twenty One (21) years imprisonment or both, pursuant to Section 73 of the SRC.

In this particular case, the Department carefully examined the characteristics of the investments offered by **ASENSO BUSINESS GROUP TRADING INC.,** to determine if they satisfy the elements of an investment contract. In our evaluation, all the elements of an investment contract are manifested in the investments being offered by **ASENSO BUSINESS GROUP TRADING INC.,** which are as follows:

- By investing in the company, **the investor enters into a contract**;
- There is a **placement of money** from the public as they are enticed to invest in the company that represented to be engaged in a lucrative business;
- The money invested is placed in a **common enterprise**;
- The **investors expect to derive profits** as they are primarily attracted to join **ASENSO BUSINESS GROUP TRADING INC.,** for a promise of receiving a guaranteed 40% profit in 12 days, plus a daily bonus reward of up to 18%; and
- The investors expect to earn profits derived primarily form the efforts of others or from **ASENSO BUSINESS GROUP TRADING INC.'s** management of its operations.

It is important to emphasize that **ASENSO BUSINESS GROUP TRADING INC.,** as a juridical person, is only allowed to exercise powers inherent to its corporate existence as provided in the Revised Corporation Code of the Philippines, and those conferred in its Articles of Incorporation (AOI). In other words, what a corporation can do is necessarily circumscribed by its primary purpose clause in its AOI.

In **ASENSO BUSINESS GROUP TRADING INC.'s** Articles of Incorporation as approved by the Commission, it is clearly provided that the business of the subject company is:

> "Primary: *Direct selling of all kinds of goods and merchandise.*
>
> "Secondary: *Buy and sell of all kinds of cars.*
>
> *Provided that the corporation* ***shall not solicit, accept or take investment/placement*** *from the public neither shall it issue investment contracts". (Emphasis supplied).*

Nonetheless, the purpose stated in the Articles of Incorporation need not set out with particularity the multitude of activities in which the corporation may engage. The effect of broad purposes or objects is to confer wide discretionary authority upon the directors and management of the corporation as to the kinds of business in which it may engage. However, dealings which are entirely irrelevant to the purposes are unauthorized and called ***ultra vires.*** The purpose clause of the articles of incorporation indicates the extent as well as the limitations of the powers which a corporation may exercise. In fact, the purpose in **ASENSO BUSINESS GROUP TRADING INC.'s** Articles of Incorporation expressly prohibits it to operate an investment-taking scheme.

In an SEC opinion[1], the Commission pronounced that:

> "It is the corporation's primary purpose clause which confers, as well as limits, the powers which a corporation may exercise and the character of a corporation is usually determined by the objects of its formation and the nature of its business as stated in the articles. The primary purpose of the corporation, as stated in its articles of incorporation, is the first business to be undertaken by the corporation. Hence, the primary purpose determines its classification."

Likewise, the Certificate of Registration issued to **ASENSO BUSINESS GROUP TRADING INC.**, explicitly states that:

> "This Certificate grants juridical personality to the corporation **<u>but does not authorize it to issue, sell or offer for sale to the public, securities</u>** such as but not limited to, shares of stock, **<u>investment contracts,</u>** debt instruments and virtual currencies without prior Registration Statement approved by the Securities and Exchange Commission **<u>nor to undertake business activities requiring a Secondary License from this Commission such as, but not limited to acting as broker or dealer in securities,</u>** government securities eligible dealer (GSED), investment adviser of an investment company, close-end or open-end investment company, investment house, transfer agent, commodity financial futures exchange/broker merchant, financing lending company, and time share,

[1] SEC-OGC Opinion No. 11-33 dated 29 July 2011 addressed to Mr. Jesus B. Lapuz.

cash share/membership certificate issuers or selling agents thereof nor to operate a fiat money to virtual currency exchange. **Neither does this Certificate constitute a permit to undertake activities for which other government agencies require a license or permit."** (Emphasis and underscoring supplied)

To exacerbate matters, the scheme being offered by **ASENSO BUSINESS GROUP TRADING INC.**, is clearly in the nature of a *ponzi* scheme[2] where the profits or payouts shall be taken from incoming investors or additional pay-ins of existing members-investors, considering that it does not have any underlying legitimate business from where it could source its promised return on investments to its investors. Such scheme is prohibited under Section 26 of the SRC:

> "SEC. 26. **Fraudulent Transactions**. – It shall be unlawful for any person, directly or indirectly, in connection with the purchase or sale any securities to:
>
> 26.1. Employ any device, scheme, or artifice to defraud;
>
> 26.2. Obtain money or property by means of any untrue statement of a material fact of any omission to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading; or
>
> 26.3. Engage in any act, transaction, practice or course of business which operates or would operate as a fraud or deceit upon any person."

Under Section 6 of Presidential Decree 902-A, the Commission has the power to suspend, or revoke, after proper notice and hearing, the franchise or certificate of registration of corporations, partnerships and associations, on the ground of serious misrepresentations as to what the corporation can do or is doing to the to the great prejudice of or damage to the general public. Likewise, Section 5.1 (m) of the SRC and Section 179 (j) of the Revised Corporation Code of the Philippines empower the Commission to revoke the franchise or Certificate of Incorporation/Registration of corporations registered with it.

Under the 2016 Rules of Procedure of the Securities and Exchange Commission, the EIPD shall exercise authority over persons and entities, whether under the primary authority of other Operating Departments, involved in the following:

[2] A **Ponzi scheme** is an investment program that offers impossibly high returns and pays these returns to early investors out of the capital contributed by later investors. Named after Charles Ponzi who promoted the scheme in the 1920s, the original scheme involved the issuance of bonds which offered 50% interest in 45 days or a 100% profit if held for 90 days. Basically, Ponzi used the money he received from later investors to pay extravagant rates of return to early investors, thereby inducing more investors to place their money with him in the false hope of realizing this same extravagant rate of return themselves. (*People of the Philippines v. Priscilla Balasa, et. al., G.R. 106357, dated September 3, 1998*).

> xxx"1. Investigations and administrative actions involving the following:
> c) Selling, offering or transacting unregistered securities by entities without secondary license;
> d) ultra vires acts committed in violation of the Corporation Code;
>
> 2. Petitions for revocation[3] of corporate registration in all cases, except those which fall under the original authority of CRMD;
>
> 3. Administrative actions for fraudulent transactions involving securities;
>
> 4. Administrative actions for all other violations under PD 902-A, except those cases which fall under the original authority of other Operating Departments; and
>
> 5. All other matters involving investor protection filed by the public, referred by self-regulatory organizations, or referred by other Operating Departments after initial evaluation or findings that there is a possible violation of laws, rules or regulations that the Commission implements but do not fall under their respective original authority."

Further, SEC Admin Case No. 11-10-124 entitled *In re: PHILBIO Renewable Energy Resources Corp.,* promulgated on 27 April 2016 provides what constitute serious misrepresentation, to wit:

> "From the foregoing, it is indubitable that PHILBIO misrepresented itself to the public that it can solicit investments despite the fact that it is not one of the purposes of the corporation. Worse, it does not have a license to offer/sell securities. PHILBIO operates an investment-taking scheme which is therefore considered an ultra vires act. These constitute serious misrepresentation as to what the corporation can do or doing to the great prejudice to the general public."

Considering that nowhere is it stated in its primary purpose that **ASENSO BUSINESS GROUP TRADING INC.**, is authorized to engage in the selling or offering for sale of securities to the public, the activity of **ASENSO BUSINESS GROUP TRADING INC.**, of selling or offering for sale of investments is considered an *ultra vires act* and therefore constitutes serious misrepresentation.

Section 44 of the RCCP provides:

> **SEC. 44. Ultra Vires Acts of Corporations.** — No corporation shall possess or exercise corporate powers other than those conferred by this Code or by its articles of incorporation and except as necessary or incidental to the exercise of the powers conferred.

---

[3] Revocation refers to involuntary dissolution of corporate registration pursuant to Section 138 of the Revised Corporation Code.

Finally, as earlier mentioned, in an ocular and surveillance operation conducted by the EIPD at the principal office of **ASENSO BUSINESS GROUP TRADING INC.,** as stated in its Articles of Incorporation (AOI), it was discovered that **ASENSO BUSINESS GROUP TRADING INC.,** does not maintain an office in the said address, nor hold any business operations therein. Likewise, in a Certification dated 26 October 2022, Barangay Bangkal Makati City certified that based on their records **ASENSO BUSINESS GROUP TRADING INC.,** is not listed on the Barangay Business Database.

Noteworthy to mention is that the intentional declaration of a false address to acquire registration with the Commission is tantamount to fraud in the procurement of the Certificate of Incorporation which is a separate ground for the revocation of the said Certificate Incorporation pursuant to Section 6(i)(1) of PD 902-A.

WHEREFORE, for violation of Section 44 of the Revised Corporation Code of the Philippines (R.A. 11232) in relation to Sections 8.1, 28.1 and 26.1 of the Securities Regulation Code, P.D. 902-A and Section 179 (j) of the RCCP, the Certificate of Incorporation and the registration of **ASENSO BUSINESS GROUP TRADING INC.**, as a corporation, is hereby **REVOKED**.

Accordingly, let this Order be posted on the SEC website and attached by the Corporate Filing and Records Division of the Company Registration and Monitoring Department (CRMD) to the records of the corporation on file with the Commission. Further, the Information and Communications Technology Department (ICTD) of this Commission is likewise requested to enter the "***revoked***" status of subject corporation in the online database of the Commission.

SO ORDERED.

Makati City, 04 January 2023.

OLIVER O. LEONARDO
Director

Jpdp/abb