



ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT

In the matter of

CYFLE OPC

Company Registration No.
2022090068997-94

CYFLE OPC

SEC EIPD Case No. 2024-8019

For Revocation of Certificate of Incorporation for violation of the Corporation code of the Philippines in relation to Presidential Decree No. 902-A for serious misrepresentation as to what the corporation can do to the great prejudice of or damage to the general public

x - - - - - x

CYFLE OPC

Phase 2 Blk 2 Lot 4 Sannera Subdivision San Antonio 2, San Pablo City, Laguna, Region IV-A (CALABARZON), 4000

JESTONI DARWIN AMADO EDEM

Single Stockholder/President/Treasurer
Phase 2 Blk 2 Lot 4 Sannera Subdivision San Antonio 2, San Pablo City, Laguna, Region IV-A (CALABARZON), 4000
jes@cyflehr.com

MAE ANTONETTE RAMOS EDEM

Nominee
Phase 2 Blk 2 Lot 4 Sannera Subdivision San Antonio 2, San Pablo City, Laguna, Region IV-A (CALABARZON), 4000

DON JEROME FREDELUCES HALAL

Alternate Nominee
No. 1 Topaz street SSS Village Concepcion Dos, City of Marikina, Second District, National Capital Region (NCR) 1811

ORDER OF REVOCATION

CYFLE OPC is a Stock Corporation registered with the Commission on 20 September 2022 with SEC No.: 2022090068997-94. Its principal office address is located at PHASE 2 BLK 2 LOT 4



SANNERA SUBDIVISION, SAN ANTONIO 2, SAN PABLO CITY, LAGUNA, REGION IV-A (CALABARZON), 4000. Its primary purpose as stated in its Articles of Incorporation (AOI) is:

“To engage in and provide management consultancy services to the general public, including the supervision, direction, management and control of the operations, business and affairs of the corporations, firms, or persons, engaged in any legitimate business in the Philippines except the management of funds, securities, portfolios or similar assets of the managed entity.:

Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts”.

The Enforcement and Investor Protection Department (EIPD) received, reports and inquiries from the public on **CYFLE OPC** regarding its unauthorized solicitation activities which prompted the Department to investigate the matter for possible violation of the provisions of the Securities Regulation Code (SRC), Revised Corporation Code of the Philippines, the Financial Products and Services Consumer Protection Act (FCPA) and other rules and regulations being enforced by the Commission.

Investigation conducted by the Department revealed that **CYFLE OPC** is offering investments to the public. **The minimum investment is Php 50,000.00 for a one (1) year term with up to 30% return of investment.**

On 17 July 2024, an **ADVISORY** against **CYFLE OPC** was posted on the Commission’s website informing the public that **CYFLE OPC** does not have the authority to solicit investments from the public.

Based on the Commission’s database, an application for registration was filed and as appearing on the Registration Application Form Summary-SEC-ESPARC, **JESTONI DARWIN AMADO EDEM** is the applicant of **CYFLE OPC**.

CYFLE OPC exclusively registered its business under the name **CYFLE OPC** with the Commission primarily to authenticate the legitimacy of its operations to the public.

Upon evaluation by this Department, careful examination of the activities of **CYFLE OPC** alongside the stated purpose in its Articles of Incorporation (AOI) of **CYFLE OPC**, it is apparent that the current scheme employed by the company does not align or closely correspond with the intended meaning delineated in its AOI.

Thus, on 26 September 2024, a **Show Cause Order** was issued against **CYFLE OPC** via private courier to the company representative at its principal address indicated in its Articles of Incorporation and to the incorporators and contact person/representative of the said entity **JESTONI DARWIN AMADO EDEM, MAE ANTONETTE RAMOS EDEM** and **DON JEROME FREDELUCES HALAL** *directing the company to show cause within ten (10) days from receipt, why its Certificate of Incorporation should not be revoked for serious misrepresentation as to what the corporation can do or is doing to the great prejudice of or damage to the general public.*

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 matters stated in the aforementioned Show Cause Order.

Hence, the factual backdrop having been laid, we now resolve the instant case on the basis of available evidence.

Section 3.1 of the Securities Regulation Code (SRC) defines securities as:

“3.1 “Securities” are 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:

xxx.

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

xxx. “

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* which traces its roots from the US case of *SEC vs. Howey Co.* and was later modified in the case of *SEC vs. Glenn W. Turner Enterprises, Inc.* as follows:

- An investment of money
- A common enterprise
- Expectation of profits
- Profits arises primarily from the entrepreneurial and managerial efforts of others.

“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 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 investment contracts, as defined by the SRC in relation to *SRC Rule 26.3.5 of the 2015 SRC IRR*, must be registered before the same can be ***sold or offered for sale or distribution*** to the public. Hence, as a form of security, investment contracts must be registered under Section 8 of the SRC.

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 while “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 license from the Commission who acts as brokers, dealers 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 **CYFLE OPC** to determine if they satisfy the elements of an investment contract. In our evaluation, indeed, the elements of an investment contract are manifested in the investments being offered by **CYFLE OPC** as follows:

- First, there was an **investment of money** by the public in the investment scheme of **CYFLE OPC** who were enticed to invest in their scheme;
- Second, there is a **common enterprise** in the sense that the investors monies were pooled in respondent **CYFLE OPC** alleged profit-making venture;
- Third, there was clearly an **expectation of profits** on the part of its investors who were **promised to earn a 30% return of investment for a minimum of Php 50,000.00 investment (under a one (1) year term);** and
- Lastly, the expectation of profits is **derived primarily from the efforts of others. Here the investors had no hand in the management of CYFLE OPC and earned profits by merely investing in said entity.**

It is important to emphasize that as a juridical person, **CYFLE OPC** is only allowed to exercise powers inherent to its 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 or partnership can do is necessarily circumscribed by its primary purpose clause in its AOI or AOP.

The purpose clause in the Articles of Incorporation of **CYFLE OPC** clearly and explicitly state, among others, that:

“To engage in and provide management consultancy services to the general public, including the supervision, direction, management and control of the operations, business and affairs of the corporations, firms, or persons, engaged in any legitimate business in the Philippines except the management of funds, securities, portfolios or similar assets of the managed entity.:

Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts”.

Nonetheless, the purpose stated in the Articles of Incorporation need not set out with particularity the multitude of activities in which the partnership may engage. The effect of broad purposes or objects is to confer wide discretionary authority upon the partners or management of the partnership 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 or partnership may exercise. In fact, the purpose stated in **CYFLE OPC**’s Articles of Incorporation *prohibited them to operate an investment-taking scheme*.

Section 44 of the Revised Corporation Code of the Philippines, 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.”

In an opinion¹, 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.”

The act of **CYFLE OPC** through its affiliates in allowing certain persons acting as their agents or representatives to make public presentations of their investment scheme, inviting the public to invest in the companies through social media renders them liable for the unauthorized public offering of securities and the misrepresentation committed in connection with such public offering.

Likewise, the investment scheme of respondent **CYFLE OPC** promising a 30% return of investment has the characteristics of a Ponzi scheme. 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 bonds² 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. 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; 

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

² Actually, postal reply coupons

26.2. Obtain money or property by means of any untrue statement of a material fact or 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.”

In the case of *People of the Philippines vs. Palmy Tibayan and Rico Z. Puerto* (G.R. Nos. 20965560, 14 January 2015), the Supreme Court held that:

“To be sure, a Ponzi scheme is a type of investment fraud that involves the payment of purported returns to existing investors from funds contributed by new investors. Its organizers often solicit new investors by promising to invest funds in opportunities claimed to generate high returns with little or no risk. In many Ponzi schemes, the perpetrators focus on attracting new money to make promised payments to earlier-stage investors to create the false appearance that investors are profiting from a legitimate business. It is not an investment strategy but a gullibility scheme, which works only as long as there is an ever-increasing number of new investors joining the scheme. It is difficult to sustain the scheme over a long period of time because the operator needs an everlarger pool of later investors to continue paying the promised profits to early investors. The idea behind this type of swindle is that the “con-man” collects his money from his second or third round of investors and then absconds before anyone else shows up to collect. Necessarily, Ponzi schemes only last weeks, or months at the most.” (Underscoring added for emphasis)

The offering and selling of securities in the form of investment contracts using the “**Ponzi Scheme**” which is fraudulent and unsustainable, is **NOT** a registrable security. The Commission will not issue a License to Sell Securities to the Public to persons or entities that are engaged in this business or scheme.

The investment scheme of **CYFLE OPC** also operates to defraud investors as it deceives the investing public by making it appear that they have the authority to deal in securities. This also amounts to serious misrepresentation as to what they can do or are doing to the damage and prejudice of the investing public.

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 misrepresentation as to what the corporation can do or is doing 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 (RCCP) 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 SEC, the EIPD shall exercise authority over persons and entities, whether under the primary authority of other Operating Departments, involved in the following:

xxx “1. Investigations and administrative actions involving the following:

xxx

d) *Ultra Vires* acts committed in violation of the Revised Corporation Code; 

2. Petitions for revocation³ 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;
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, in SEC Admin Case No. 11-10-124 entitled *In re: PHILBIO Renewable Energy Resources Corp.*, promulgated on 27 April 2016, the Commission provided what constitutes 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."*

In the case of *SEC vs. CJH DEVELOPMENT CORPORATION* (G.R. No. 210316, 28 November 2016) the Supreme Court held that:

"The act of selling unregistered securities would necessarily operate as a fraud on investors as it deceives the investing public by making it appear that respondents have authority to deal on such securities. **Section 8.1 of the SRC** clearly states that 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 SEC and that prior to such sale, information on the securities, in such form and with such substance as the SEC may prescribe, shall be made available to each prospective buyer."

Considering that nowhere is it stated in the primary purpose **CYFLE OPC** involves investment contracts in the form of "*COMPENSATION PLANS*". The declared primary purpose was done with fraudulent intent due to the large disparity of their declarations in the Articles of Incorporation and the actual activities of their business is considered an *ultra vires act* and therefore constitutes serious misrepresentation as to what the corporation can do or is doing to the great prejudice or damage to the general public which is a ground for the revocation of a corporation's primary franchise or certificate of registration/ incorporation under PD 902-A.

Further, Section 54 of the Securities Regulation Code provides:

SEC 54. Administrative Sanctions. – 54.1. If, after due notice and hearing, the Commission finds that: (1) There is a violation of this Code, its rules, or its orders; xxx it shall, in its discretion, impose any

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

or all of the following sanctions as may be appropriate in the light of the facts and circumstances:

xxx.

(ii) A fine of no less than Ten thousand pesos (P10,000.00) nor more than One million pesos (P1,000,000.00) plus not more than Two thousand pesos (P2,000.00) for each day of continuing violation;

xxx.”

Further, **Section 11 of Republic Act No. 11765 or the Financial Products and Services Consumer Protection Act (FCPA)** also prohibits investment fraud which is defined under the law as any form of deceptive solicitation of investments from the public which includes Ponzi schemes and such other schemes involving the promise or offer of profits or returns sourced from the investments or contributions made by the investors themselves and the offering or selling of investment schemes to the public without a license.

Applying the foregoing, a fine of **One Million Pesos (P1,000,000.00)** is imposed on **CYFLE OPC**, for offering securities to the public without prior registration and license from the Commission.

CYFLE OPC and its sole stockholder-director-president and nominee and alternate nominee are directed to pay a fine of **One Million Pesos (P1,000,000.00)** pursuant to Section 54.1 (ii) of the SRC within a period of Fifteen (15) days from receipt of this Order.

WHEREFORE, premises considered:

1. For violation of Section 44 of the Revised Corporation Code of the Philippines (R.A. No. 11232) in relation Section 6 (i)(2) of P.D. 902-A, the registration of **CYFLE OPC** is hereby **REVOKED**; and
2. The following single director-stockholder-president, nominee, alternate nominee, treasurer and applicant/company representative of **CYFLE OPC**, for conceptualizing, offering and propagating its “*Compensation plans*” to the public, an unregistered security in the form of an investment contract, are found to be administratively liable for investment fraud, a fraudulent act, and are hereby **DISQUALIFIED from being a director of a corporation for a period of five years from date of this Order** pursuant to Section 26 of the Revised Corporation Code of the Philippines:

- a) **Jestoni Darwin Amado Edem;**
- b) **Mae Antonette Ramos Edem;** and
- c) **Don Jerome Fredeluces Halal**

Accordingly, let this Order be 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, 16 May 2025.

FILBERT CATALINO F. FLORES III, MNSA, CESO IV
Director

Copy furnished:

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