Republic of the Philippines
Department of Finance
Securities and Exchange Commission
Building, EDSA, Greenhills, Mandaluyong City

In the Matter of:

VISIONER2020 INT'L TRADER, INC.

SEC CDO Case No. 11-12-010
(EPD Case No. 2012-3014)

ENFORCEMENT AND PROSECUTION DEPARTMENT
Petitioner

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ORDER

Pending consideration of the Commission is the Prayer for Issuance of a Cease and Desist Order (CDO) dated 27 November 2012 filed by the Enforcement and Prosecution Department (EPD) of this Commission against VISIONER2020 INT'L TRADER, INC. (VISIONER2020), its directors and officers, representatives, agents and any and all persons, conduit entities and subsidiaries acting for or on its behalf to prevent fraud, injury or prejudice to the investing public pursuant to the provisions of Section 64 of the SRC.

VISIONER2020 is a corporation duly registered with the Commission on 02 October 2012 under SEC Registration No.CS201230870. Its principal office address as it appears in its Articles of Incorporation (AI), is Chiong Building, Benigno Aquino Street, Gatas District, Pagadian City. The purposes for which the corporation is formed as stated in the AI are:

> "1. To engage in, conduct, and carry on the business of buying, selling, distributing, marketing at wholesale/retail, insofar as may be permitted by law,

all kinds of mineral ores such as but not limited to non-metallic ore, limestone, aggregates, marbles; to act as representative, commission merchant, factor or agent relative thereto.

2. To engage, operate, hold or manage real estate business; to acquire by purchase, lease, donation or otherwise, use, improve, develop, subdivide, sell, mortgage, exchange, develop and hold for investment or otherwise real estate of all kinds."[1]

VISIONER2020's Certificate of Incorporation (CI) states that juridical personality is granted to the corporation,

> "but does not authorize it to undertake business activities requiring a Secondary License from this Commission such as, but not limited to acting as: broker or dealer in securities, 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 company, pre-need plans and time shares/club shares/membership certificates issuers or selling agents thereof. Neither does this Certificate constitutes as permit to undertake activities for which other government agencies require a license or permit."[2]

The names and addresses of the incorporators of VISIONER2020 are as follows:[3]

NAME	NATIONALITY	ADDRESS
1. Felmer S. Andagan	Filipino	Blk 4, Lot 29, Alta Tierra Phase 2, Tiguma, Pagadian City
2. Glenda G. Andagan	Filipino	Block 4, Lot 29,Alta Tierra Phase 2, Tiguma, Pagadian City
3. Efren E., Gepanao Sr.	Filipino	Purok Caimito, Tuburan District, Pagadian City
4. Evangeline L. Gepanao	Filipino	Purok Caimito, Tuburan District, Pagadian City
5. Efren E., Gepanao, Jr.	Filipino	Purok Caimito, Tuburan District, Pagadian City

EPD alleges that it initiated an investigation of the activities of VISIONER2020, as it was alerted by media reports[4] that on 19 November 2012, the National Bureau of Investigation (NBI) conducted an entrapment operation and raided the office of VISIONER2020 in Tiguma, Pagadian City after the NBI received complaints from the

[1] Articles of Incorporation, Records p. 83.
[2] Certificate of Incorporatio, Records p. 84.
[3] Source: from the Articles of Incorporation, Records p. 82.
[4] Motion for Issuance of a Cease and Desist Order dated 27 November 2012 (Motion for CDO), Annex "C" and Annex "C1", Records pp. 63-66.

public alleging that VISIONER2020 is engaged in a "double your money" scam akin to that of *Aman Futures Group, Philippines, Inc.* (*Aman Futures*)[5] in Pagadian City.

According to media reports, NBI District Director Norman Decampong (Decampong) said that NBI has been receiving complaints against VISIONER2020.However, it was only on 19 November 2012 that they were able to locate the company's area office, after being tipped off by an informant who allegedly lost FOUR HUNDRED THOUSAND PESOS (Php 400,000.00). This led to the entrapment operations and raid of the company.

VISIONER2020 is believed to be run by British principals, with the help of a local leader, Glenda Andagan (Andagan). A cashier in the company's office admitted that up to two hundred (200) investors a day lined up to give their money to VISIONER2020. The firm offered up to fifty-two per cent (52%) return on investments monthly but lowered it to thirty percent (30 %) after the news broke on *Aman Futures* scamming twelve billion pesos (Php 12 B) from investors. According to NBI's initial investigation, the company got an estimated amount of sixty million pesos (Php 60M) from investors, although they have information that the scam could amount to a billion pesos (Php1B).[6] VISIONER2020 even attempted to harness the power of the world wide web to entice more investors via its website visioner2020.com, which was under construction at the time of the raid.

Decampong said that VISIONER2020 has no mayor's permit and operated similarly to *Aman Futures*. He added that in fact, some of those who were at the office during the raid were *Aman Futures'* victims hoping to recover their investments. He reported that his agents arrested suspected pyramiding scheme[7] operator Andagan and TEN (10) of her staff members during the 11:00 a.m. raid at the office of VISIONER2020 on 19 November 2012.They also seized ten handguns, various equipment and documents.[8]

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[5] Subject of SEC CDO Case No. 10-12-009 dated 08 October 2012.

[6] *Another pyramid scam found in Pagadian* with reports from Ron Gagalac and Ina Reformina, ABS-CBNnews.com Posted at 11/19/2012 6:44 PM | Updated as of 11/20/2012 8:21 AM http://www.abs-bnnews.com/nation/11/19/12/another-pyramid-scam-found-pagadian, Annex "C" Records, pp. 64-66.

[7] "Pyramid schemes now come in so many forms that they may be difficult to recognize immediately. However, they all share one overriding characteristic. They promise consumers or investors large profits based primarily on recruiting others to join their program, not based on profits from any real investment or real sale of goods to the public." Prepared statement of Debra A. Valentine, General Counsel For The U.S. Federal Trade Commission "PYRAMID SCHEMES" presented at the International Monetary Fund's Seminar On Current Legal Issues Affecting Central Banks Washington, D.C. May 13, 1998 http://www.ftc.gov/speeches/other/dvimf16.shtm (accessed 04 May 2012.)

[8] *Another pyramid scam operator, 10 workers arrested by NBI in Pagadian City by Richel Umel, Inquirer Mindanao,* 11:03 p.m., 19th November 2012, Annex "C1"Records, p.63.

Pursuant to the said reports, EPD proceeded with the investigation on 20 November 2012, by verifying with the Corporation and Finance Department (CFD) of the Commission if VISIONER2020 is a listed issuer of securities. On the same date, CFD issued a **Certification[9] stating that VISIONER2020 is not a registered issuer of securities pursuant to Sections 8 and 12 of the Securities and Regulations Code (SRC) and is therefore not licensed to offer or issue securities to the public.**

Thereafter, EPD requested the Economic Research and Information Department (ERID) to post an advisory to the public that VISIONER2020 has no secondary license to issue securities. All the directors of the operating departments and the Extension Offices of the Commission were informed about this matter.[10] The Notice to the Public posted in the website on 20 November 2012 specifically states in part that VISIONER2020 "does not have a secondary license to sell securities. The public is reminded to be over-cautious or exercise prudence in investing their money in what appears to be a high- yielding risk investment which may turn out to be fraudulent scheme."[11].

On 24 November 2012, the said advisory on the subject was published in the *Manila Bulletin*, a newspaper of general circulation, per request made by EPD with the Human Resources and Administrative Department (HRAD) of the Commission.[12]

In a letter dated 20 November 2012, of Atty. Renato V. Egypto, Director of SEC-Cagayan de Oro Extension Office, requested the NBI in Pagadian City through Decampong, to provide the Commission copies of some of the documents[13] seized by the Bureau in its entrapment operations against VISIONER2020. The documents provided by the NBI of Pagadian City to the Commission consist of the following:[14]

> "**a)** Twenty (20) original copies of what appears to be "Investment Contracts" bearing as heading "VISIONER2020 Int'l Trader, Inc." with its address - "Chiong Bldg., B. Aquino St., Gatas Dist., Pagadian City, Zamboanga del Sur" and its electronic mail - "visioner2020.com". The following are the details indicated in the contracts:

NAME	DATE	INVEST-MENT CAP.	ACCOUNTED DATE	MATURITY DATE	INT. RATE	AMT. W/DRAWN	BALANCE FORWARDED
1. Gella, Erlando	10/25/2012	210,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	63,000.00	210,000.00

[9] Annex "D", Records, p. 62.
[10] *Id.*, par. 9, Records p. 93; Annex "E", Records, p. 61.
[11] Annex "F", Records, p. 60.
[12] *Id.*, par. 10, Records p. 92.
[13] Annex "J", Records, pp. 1-55.
[14] Motion for CDO par. 15 pp.89-91.

Jr. G.							
2. Magrenia, Rogelio A.	10/25/2012	40,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	12,000.00	40,000.00
3. Malalis, Noel D.	10/25/2012	105,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	31,500.00	105,000.00
4. Gabule, Gally	10/25/2012	100,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	30,000.00	100,000.00
5. Cayasan, Luzvimin da C.	10/25/2012	30,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	9,000.00	30,000.00
6. Baterna, Trinidad C.	10/25/2012	20,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	6,000.00	20,000.00
7. Orquillas, Lucila Lee G.	10/25/2012	100,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	30,000.00	100,000.00
8. Sisican, Cresente A.	10/25/2012	200,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	60,000.00	200,000.00
9. Cormanes, Imelda	10/25/2012	71,700.00	Oct. 26, 2012	Nov. 26, 2012	30%	21,510.00	71,700.00
10. Rabaca, Cheryl O.	10/25/2012	40,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	12,000.00	40,000.00
11. Mr./Ms. Percival A. Mong	10/19/2012	153,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	45,900.00	153,000.00
12. Mr./Ms. Ameliano G. Himang	10/19/2012	20,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	6,000.00	20,000.00
13. Mr./Ms. Cheryl Espadilla	10/19/2012	36,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	10,800.00	36,000.00
14. Mr./Ms. Mira-Ato, Muammar	10/19/2012	20,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	6,000.00	20,000.00
15. Mr./Ms. Mark Anthony A. Pacis	10/19/2012	100,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	30,000.00	100,000.00
16. Mr./Ms. Asuncuin G. Eijansanto s	10/19/2012	100,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	30,000.00	100,000.00
17. Mr./Ms. Lucille B. Codino	10/19/2012	20,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	6,000.00	20,000.00

18. Mr./Ms. Hector E. Hospital	10/19/2012	100,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	30,000.00	100,000.00
19. Mr./Ms. Edeline Tagayuna	10/20/2012	100,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	30,000.00	100,000.00
20. Mr./Ms/ Daniel T. Glimada	10/22/2012	20,000.00	Oct. 26, 2012	Nov. 26, 2012	30%	6,000.00	20,000.00
TOTAL		**1,585,700.00**					

The above contracts were duly signed by the above investors and by either Geoffrey L. Gepanao or Glenda G. Andagan as witnesses;

b) Twenty (20) original copies of "Disclosure of Investment" attached to the above Investment Contracts, also bearing the name of VISIONER2020, its address and electronic mail. Under Paragraphs II and III of the "Disclosure of Investment" document, it is stated therein that:

"<u>DIRECT PARTICIPATION PLAN / PROGRAM</u>
Product Name

I. SOURCES OF FUNDS … x x x
II. DISCLOSURE

DIRECT PARTICIPATION PLAN / PROGRAM (DPPs)

I understanding the following:_________________(Client initials)

1. **VISIONER2020 DPP is a program which provide (sic) for flow-through tax consequences regardless of the legal structure of the entity or vehicle for distribution including mineral (gold and diamond), energy products, oil, gas, real estate, agricultural programs, condominium <u>securities and Subchapter corporate offerings.</u>**

2. I am in a financial position appropriate to realize, in a significant extent, the benefits of the program being offered, including the tax benefits if they are a significant aspect of the program.

3. VISIONER2020 DPP is intended to be **long-term investment vehicle** with holding period of I year from date signed.

4. VISIONER2020 **have (sic) a very limited or no secondary market**. I may not be able to sell my DPP program ownership interests shares readily in the open market, or may receive significantly less than my original investment, should I need to sell or liquidate my DPP ownership interests immediately.

5. I meet the net worth and/or a liquid net worth requirements of the DPP program being purchased. **I have a sufficient net worth to sustain the risks inherent in the DPP program** including the lack of liquidity and the possible loss of my total investment.

6. There can be no assurance that the interest income or dividends generated
from the DPP program or will remain stable.

III. PROSPECTUS RECEIPT ACKNOWLEDGEMENT and CONTROL DISCLOSURES

I acknowledge that I have read the **current prospectus for the security product** being purchased. My registered representative has explained the risks, sales charges, fees, expenses and/or surrender charges associated with the security product being purchased. Based on my own determination, financial situation and investment objectives, I believe that the **security product** is suitable for me. (emphasis supplied)
x x x"

The above documents were duly signed by the above investors and by either Geoffrey L. Gepanao or Glenda G. Andagan as representatives of VISIONER2020;

c) Seven (7) original copies of "Commission Print-outs" bearing as heading "VISIONER2020 Int'l Trader, Inc." with its address and electronic mail similar to the above-mentioned documents. The Commission Print-outs have the following details:

NAME	DATE	INVEST-MENT	DURATION/ CYCLE	INT. RATE	INTEREST INCOME	AMT. W/DRAWN	TAX DED. 2.94%	END BALANCE
1. Lawas, Cresenciano N.	11/9/2012	130,000.00	10/18/2012 to 11/9/2012	50%	65,000.00	65,000.00	1,911.00	130,000.00
2. Go, Milagros	11/9/2012	50,000.00	10/18/2012 to 11/9/2012	30%	15,000.00	15,000.00	441.00	50,000.00
3. Gepanao, Editha E.	11/9/2012	100,000.00	10/18/2012 to 11/9/2012	30%	30,000.00	30,000.00	882.00	100,000.00
4. Baronday, Vilma D.	11/9/2012	20,000.00	10/18/2012 to 11/9/2012	50%	10,000.00	10,000.00	294.00	20,000.00
5. Remotigue, Randy Rey A.	11/6/2012	20,000.00	10/12/2012 to 11/2/2012	50%	10,000.00	10,000.00	294.00	20,000.00
6. Atabilo, 7.Milagros V.	11/6/2012	30,000.00	10/12/2012 to 11/2/2012	50%	15,000.00	15,000.00	441.00	30,000.00

8.Dadtum, Monaisa C.	11/6/2012	50,000.00	10/12/2012 to 11/2/2012	50%	25,000.00	25,000.00	735.00	50,000.00
TOTAL		**400,000.00**						

The above documents were duly signed by the above investors and by Geoffrey L. Gepanao who noted and released the same;

d) Seven (7) original copies of what appears to be an "Acknowledgement Receipt" attached to the above Commission Print-outs bearing the heading "PCS Marketing" or "Prime Creative System Marketing" with the same address as VISIONER2020. Except for the amount of tax deducted, the receipts bear the same details as that of the Commission Print-outs. The receipts were also signed by the investors and by Geoffrey L. Gepanao who prepared the same;"

Based on the foregoing documents, EPD concludes that VISIONER2020 is engaged in offering and selling unregistered securities, in the form of investment contracts, to the public.[15]

As defined by law, "securities" are "shares, participation or interests 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".[16] It includes an investment contract,[17] which is defined as 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."[18]

The concept of an investment contract in the Philippines is of American origin. It traces its roots from *SEC v. W.J. Howey Co.*[19] where the US Supreme Court stated that an investment contract is a transaction, contract, or scheme whereby a person (1) makes an investment of money, (2) in a common enterprise, (3) with the expectation of profits, (4) to be derived solely from the efforts of others.[20] Note, however, that the Howey Test "embodies a flexible rather than a static principle, one that is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits."[21] In other words, it was the intent of Congress to cover a wide range of investment transactions, in whatever form they are made and by

[15] *Id.*, par. 18, Records, p. 88.
[16] Section 3.1., R.A. 8799, otherwise known as the Securities Regulation Code (SRC) 2000.
[17] Section 3.1.(b), id.
[18] SRC Rule 3(1)(G), Amended Implementing Rules and Regulations (IRR) of the SRC, 2003.
[19] *S.E.C. v. W.J. Howey Co.*, 328 U.S. 293, 66 S. Ct. 1100, 90 L. Ed. 1244, 163 A.L.R. 1043 (1946).
[20] *Id.*
[21] *Id.*

whatever name they are called, in order to protect the investors through mandatory disclosure.[22]

The concept of an investment contract has since been transported to the Philippines, thus, for example, in *Power Homes Unlimited Corporation v. Securities and Exchange Commission*[23] the Philippine Supreme Court stated that an investment contract in our jurisdiction, to be a security subject to regulation by the SEC, must be proved to be (a) an investment of money, (b) in a common enterprise, (c) with expectation of profits, (d) primarily from efforts of others. Under this definition, whenever an investor relinquishes control over his or her funds and submits their control to another for the purpose of deriving profits from them, he or she is in fact investing in a security.[24]

Guided by the foregoing benchmark, it appears that VISIONER 2020 is engaged in offering and selling securities in the form of investment contracts.

In this case, the documents reveal that VISIONER 2020 "receives or accepts investments or money placements from a growing number of investors." The investor entrusts the money in favor of VISIONER 2020, trusting in its investment expertise, and the latter agrees to deliver to the investor the amount of interest, or the investment profit which ranges from thirty percent (30%) to fifty percent (50 %) of the capital investment, on maturity date. Thus, it appears that what lures investors in parting with their money is the promise and corresponding expectation of high returns or profits.

Lastly, the profits derived by the investors are derived primarily from the efforts of VISIONER 2020. The participation of investors is limited in investing money with the said company.

The preceding analysis of the documents seized by the NBI, some of which have been submitted to the Commission, shows that VISIONER2020 has violated the following provisions of the SRC, which were designed to protect the investing public from fraud or injury:

a) **Section 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.

b) **Section 28.** ***Registration of Brokers, Dealers, Salesmen and Associated Persons.*** – 28.1. No person shall engage in the business of buying or selling

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[22] *Id.*
[23] G.R. No. 164182, 26 February 2008.
[24] *Investment Co. Institute v. Camp*, 274 F. Supp. 624 (D. D.C. 1967).

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.

To reiterate, the sale of securities by VISIONER2020 was not registered with the Commission as required by Section 8 of the SRC, as certified by the CFD. The corporation cannot feign ignorance of the requirement inasmuch as the Certificate of Incorporation specifically states the requirement of a Secondary License from the Commission for acting as broker or dealer in securities. Neither are the transactions entered into by VISIONER2020 with its clients exempt from registration under Section 10.1 of the SRC.

By selling securities, the company has engaged in the activities of a broker or dealer, but without obtaining a license from the Commission as prescribed by Section 28 of the SRC.

Lastly, the business scheme of VISIONER2020 is entirely different from the primary purpose of the company as stated in its AI. The primary purpose for which VISIONER2020 was incorporated is merely to engage in the conduct and carry on the business of buying and selling, distributing, marketing at wholesale/retail basis in so far as may be permitted by law all kinds of goods such as non-metallic ore, limestone, aggregates, marbles, and to act as representative, commission merchant, factor or agent relative thereto. Nowhere in the primary purpose of VISIONER2020 is it stated that the company will engage in the business of soliciting and accepting investments and money placements from the public.[25] The purposes for which the corporation is formed as stated in its AI does not include the business of selling securities and engaging in the business of being a broker or dealer of securities.

Thus, in addition to the violations of the provision of the SRC, the activities of VISIONER2020 are *ultra vires*, or outside of VISIONER2020's power to do, in violation of Section 45 of the Corporation Code, to the detriment of the investing public.

Consequently, allowing VISIONER2020 to continue its business operations will operate as a fraud on investors or is otherwise likely to cause grave or irreparable injury or prejudice to the investing public.

PREMISES CONSIDERED, VISIONER2020 INT'L TRADER, INC., its officers, directors, agents, representatives, conduits, assigns, and any and all persons claiming and acting for and in behalf and under their authority are hereby ordered to

[25] Motion for CDO, paragraph 21, Records, p. 87.

IMMEDIATELY CEASE AND DESIST,[26] UNDER PAIN OF CONTEMPT, from further offering, soliciting, or otherwise offering or selling unregistered securities to the public, such as, but not limited to, investment contracts, pooling of funds, investment trusts, or similar forms, and, in connection therewith, soliciting, accepting or receiving from others, money for the purpose of trading in any futures contract.

Moreover, to forestall grave damage and prejudice to all concerned and to ensure the preservation of the assets for the benefit of the investors, respondents or any of their representatives, or any person/s acting for and in their behalf, and such other persons directing or controlling the activities of such corporation, officers, representatives, salesmen and agents, are all **ENJOINED from a) transacting any and all business involving the funds in its depository banks, and b) from transferring, disposing or conveying in any other manner any and all assets, properties, real or personal, and including bank deposits, if any, of which the named persons herein may have any interest, claim or participation whatsoever, whether directly or indirectly, under their custody, immediately upon receipt of this Order, until further orders from this Commission.**

All persons against whom this CDO is issued may, within a non-extendible period of five (5) business days from receipt of this Order, file a formal request or motion for the lifting thereof with the Commission. If no such Motion is filed within the prescribed period, this CDO shall be deemed permanent.

The Enforcement and Prosecution Department is hereby **DIRECTED** to: (a) serve this Order on the President, General Manager, Corporate Secretary, Treasurer or In-House Counsel of VISIONER2020 INT'L TRADER INC. (b) post copies of the Order at the entrance of the main office and/or branches, if any, of VISIONER2020 INT'L TRADER INC. Let a copy of this Order be also posted in the Commission's website and published in a national newspaper of general circulation.

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[26] Section 64.1., SRC. The Commission, after proper investigation or verification, *motu propio*, or upon verified complaint by any aggrieved party, may issue a cease and desist order without the necessity of a prior hearing if in its judgment the act or practice, unless restrained, will operate as a fraud on investors or is otherwise likely to cause grave or irreparable injury or prejudice to the investing public.
xxx

Let a copy of this Order be furnished the Company Registration and Monitoring Department, the Corporation Finance Department and the Economic Research and Information Department for their information and appropriate action.

FAIL NOT UNDER PENALTY OF LAW.

SO ORDERED.

Mandaluyong City; 06 December 2012.

TERESITA J. HERBOSA
Chairperson

MA. JUANITA E.CUETO
Commissioner

MANUEL HUBERTO B. GAITE*
Commissioner

ELADIO M. JALA
Commissioner

ANTONIETA F. IBE
Commissioner

*On official leave.