Republic of the Philippines
Department of Finance
Securities and Exchange Commission
COMMISSION EN BANC

IN THE MATTER OF:
JOCALS688 BEAUTY AND WELLNESS PRODUCTS TRADING, INC.
SEC Company Registration No. CS201965099

SEC CDO CASE NO. 05-20-066

ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT,
Movant.

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RESOLUTION

This resolves the *Urgent Motion to Allow the Resumption of Sale of Products*[1] *(Motion to Resume)* embodied in the Manifestation filed on 27 July 2020 by JOCALS688 BEAUTY AND WELLNESS PRODUCTS TRADING, INC. (JOCALS688) praying that the Commission issues an order allowing it to resume the selling of products without recruitment pending the resolution of its *Motion to Lift the Cease and Desist Order*[2] filed on 09 June 2020.

The records show that the instant case came about as a result of the investigation conducted by the Enforcement and Investor Protection Department (EIPD) where it was found that JOCALS688 has been selling/offering for sale securities to the public in the form of investment contracts without the requisite license from the Commission.

The Commission, acting on the recommendation of the EIPD, issued and posted an Advisory on 14 April 2020 informing the public that JOCALS688 is not authorized to solicit investment from the public, not having secured prior registration and/or license to sell securities or solicit investments as prescribed under Section 8 of the Securities Regulation Code (SRC).

Thereafter, the Commission issued a Cease and Desist Order (CDO) dated 28 May 2020[3] directing JOCALS688 to immediately cease and desist from carrying out its investment scheme relating to the sale and/or offer of

[1] Dated 21 July 2020
[2] Dated 05 June 2020
[3] published in the Commission's website on 14 April 2020

securities in the form of investment contracts, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, **JOCALS688 BEAUTY AND WELLNESS PRODUCTS TRADING, INC.**, its managers, leaders, officers, agents, representatives, conduits, assigns, AND ANY AND ALL PERSONS CLAIMING AND ACTING FOR AND IN THEIR BEHALF are hereby ordered to **IMMEDIATELY CEASE AND DESIST**[4]**, UNDER PAIN OF CONTEMPT**, from engaging in activities of selling and/or offering for sale securities in the form of investment contracts or any others of the same nature, as discussed in this *Cease and Desist Order*, until the requisite registration statement is duly filed with and approved by the Commission.
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> **JOCALS688 BEAUTY AND WELLNESS PRODUCTS TRADING, INC.,** its managers, leaders, officers, agents, representatives, conduits, assigns, AND ANY AND ALL PERSONS CLAIMING AND ACTING FOR AND IN THEIR BEHALF are likewise directed to **CEASE** from promoting the corporation's investment scheme through internet websites and any social media platforms.
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> Furthermore, the Commission hereby **PROHIBITS JOCALS688 BEAUTY AND WELLNESS PRODUCTS TRADING, INC.**, its partners, operators, directors, officers, salesmen agents, representatives, promoters, and all persons, conduit entities and subsidiaries claiming and acting for and on its behalf from transacting any business involving the funds in its depository banks, and from transferring, disposing, or conveying in any manner, all assets, properties, real or personal, including but not limited to bank deposits, of which JOCALS688 and/or the named persons herein may have any interest, claim or participation whatsoever, directly or indirectly, under its/their custody, to forestall grave and irreparable damage and/or prejudice to all concerned and to ensure the preservation of the assets for the benefit of the investors.
>
> Finally, **JOCALS688 BEAUTY AND WELLNESS PRODUCTS TRADING, INC.**, its directors, officers, operators, salesmen, agents, managers, leaders, representatives and any and all persons claiming and acting for and in their behalf, are directed to **CEASE** their internet presence relating to the transactions and investment scheme covered by this ***Cease and Desist Order***. The Commission will institute the appropriate administrative and criminal action against any persons or entities found to act as solicitors, information providers, salesmen, agents, brokers, dealers or the like for and in behalf of the subject partnership."

On 09 June 2020, JOCALS688 filed a *Motion to Lift the Cease and Desist Order* praying that the Commission sets aside the CDO on the ground that Jocals888 is not engaged in the sale of securities.

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[4] 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 fraud on investors or is otherwise likely to cause grave or irreparable injury or prejudice to the investing public.

On 22 June 2020, EIPD filed its *Comment/Opposition* to JOCALS688' *Motion to Lift the Cease and Desist Order*. Thereafter, both parties submitted their respective pleadings setting forth their arguments.

On 27 July 2020, JOCALS688 filed a Manifestation with the instant *Motion to Resume* alleging among others:

1. That there was a clerical/typographical error in Echo Chen's TIN in the documents submitted to the SEC made without her knowledge and without malicious intent;

2. That it obtained the FDA approval for its products before the CDO was issued;

3. That there is a demolition job being carried out against it by disgruntled persons motivated by their own ulterior motives which explains why the anonymous tip was inaccurate;

4. That its income generating business model heavily relies on the continued sale of products which it buys from the manufacturer at very a low price and sells at a higher retail price. Specifically, it buys coffee at a manufacturing price of P100/box and sells it at P600/box which yields a profit of P500. It then rolls the money to purchase additional coffee worth P500 and sell on retail at P3,000 which yields a profit of P2,500 and so on. From this gross profit, JOCALS688 is able to provide the 27% incentive/commission to its members conditioned on the resale of its products.

On the basis of the foregoing, JOCALS688 prayed that it be allowed to resume operation relating exclusively to the sale of its products without engaging in the activity of recruitment of new members pending the resolution of its *Motion to Lift the Cease and Desist Order*.

After a careful consideration of the allegations and arguments in the Motion to Resume, specifically the undertaking of JOCALS888 that the sale of products will not involve taking in or recruitment of new members or investors, the Commission finds merit in the Motion to Resume and hereby grants the same.

The records show that JOCALS888 was able to explain the matter relating to the alleged invalid TINs of two (2) of its incorporators. Moreover, Jocals888 was also able to show and submit proof, in addition to its existing licenses, that the products that they are marketing and selling are duly registered with the FDA. These documents suffice for purposes of marketing and selling their registered products sans the recruitment component.

It bears emphasis that the basis for the issuance of the CDO was a finding that the “Buy and Earn Program” of JOCALS888 which promised a guaranteed return to investors, coupled with bonuses given for every successful recruitment, constituted an act of selling and/or offering of securities in the form of investment contracts which was carried out without the requisite license. In the context of the express undertaking made by JOCALS888 in its Motion to Resume that it will not engage in the recruitment of new members, the sale of its products alone sans the recruitment component will thus be removed from the ambit of Section 8 of the SRC which requires a secondary license from the Commission. With JOCALS888 limiting its business activities to the sale of its registered products, the elements required in the Howey Test will be absent and the transaction will cease to become an investment contract.

On the basis thereof, the grant of the Motion to Resume is hereby to the condition that JOCALS688 submits a Manifestation and Compliance with an Affidavit of Undertaking to: (1) limit its operation to the sale of its registered products, and (2) desist from implementing the “Buy and Earn Program” which constitutes offering, soliciting and selling of securities in the nature of investment contracts until a Registration Statement has been filed and approved by the Commission.

Finally, the grant of the Motion to Resume is without prejudice to the Resolution which the Commission will issue on the *Motion to Lift the Cease and Desist Order*.

WHEREFORE, in view of the foregoing, the *Motion to Resume* filed by JOCALS688 BEAUTY AND WELLNESS PRODUCTS TRADING, INC. is hereby **GRANTED** pending the resolution of the *Motion to Lift the Cease and Desist Order* issued against it, and subject to its strict compliance with the conditions set forth herein.

The Enforcement and Investor Protection Department is hereby DIRECTED to: (a) serve this *Resolution* to the President, General Manager, Corporate Secretary, Treasurer or In-House Counsel of JOCALS688 BEAUTY AND WELLNESS PRODUCTS TRADING, INC. and (b) post copies of the *Resolution* at the entrance of the main offices and/or branches, if any, of JOCALS688 BEAUTY AND WELLNESS PRODUCTS TRADING, INC.

Let a copy of this *Resolution* be also posted in the Commission's website; and published in a national newspaper of general circulation and furnished to all operating departments and offices of the Commission for their information and appropriate action.

EIPD, in coordination with other concerned departments, is FURTHER DIRECTED to submit a formal compliance report, by way of a pleading, to the Commission *En Banc* WITHIN TEN (10) DAYS from receipt of this *Resolution.*

SO ORDERED.

Pasay City, Philippines; 11 August 2020.

EMILIO B. AQUINO
Chairperson

EPHYRO LUIS B. AMATONG
Commissioner

JAVEY PAUL D. FRANCISCO
Commissioner

KELVIN LESTER K. LEE
Commissioner

KARLO S. BELLO
Commissioner