EIPD

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

IN THE MATTER OF:

FORTUNE WAVE SOLUTION HUB OPC, FORTUNE WAVE TRADING, FORTUNE WAVE TRADING PH,

SEC CDO Case No. 06-25-122

ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT (EIPD),

Movant.

x- x

03 July 2025

TO:

FORTUNE WAVE SOLUTION HUB OPC
654 Del Pilar Street, Balibago
Angeles City, Pampanga
Region III 2009

FORTUNE WAVE TRADING PH
FORTUNE WAVE TRADING

ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT
Securities and Exchange Commission
9th Floor, SEC Headquarters,
7907 Makati Ave., Salcedo Village,
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COMPANY REGISTRATION AND MONITORING DEPARTMENT
Securities and Exchange Commission
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CORPORATE GOVERNANCE AND FINANCE DEPARTMENT
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BANGKO SENTRAL NG PILIPINAS
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DEPARTMENT OF TRADE AND INDUSTRY
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Quezon City

DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY
Legal Department
C.P. Garcia Avenue, Diliman,
Quezon City

HON. CARMELO G. LAZATIN, JR.
CITY MAYOR
Angeles City Hall, Angeles City
Pampanga

G R E E T I N G S :

Please take notice that on 03 July 2025, a **CEASE AND DESIST ORDER** was issued in the above-entitled case, the original of which is now on file with this office.

Makati City, Philippines.

By Authority of the Commission:

ARMANDO A. PAN, JR.
Commission Secretary

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

IN THE MATTER OF:

FORTUNE WAVE SOLUTION HUB OPC, FORTUNE WAVE TRADING, FORTUNE WAVE TRADING PH,

SEC CDO CASE NO. 06-25-122
Promulgated: 03 July 2025

ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT,
Movant.

x---x

CEASE AND DESIST ORDER

This resolves the *Motion for Issuance of A Cease and Desist Order* (the "Motion") filed by the Enforcement and Investor Protection Department (EIPD) on 4 June 2025, praying that a Cease and Desist Order (CDO) be issued directing **FORTUNE WAVE SOLUTION HUB OPC, FORTUNE WAVE TRADING, FORTUNE WAVE TRADING PH** (collectively referred to as "Fortune Wave"), **Guiller King Ortile**, **Jasmine Nicole Bautista**, and **Rafaella Marie Castillo**, and all persons conduit entities, and subsidiaries claiming and acting for and on their behalf (collectively referred to as the "Agents"), to immediately cease and desist from offering or selling unregistered securities in the form of investment contracts for want of the requisite authority from the Commission.

THE RELEVANT FACTS

On 29 April 2025, while the EIPD was scanning websites and social media platforms to address the rampant online scams, **Fortune Wave Trading PH** was identified and observed to be offering and selling unregistered securities in the form of investment contracts on Facebook. Upon further investigation, the EIPD found the same investment schemes being offered by Fortune Wave Trading PH, posted and shared on the Facebook page of Guiller King Ortile (Mr. Ortile). The EIPD later discovered that Mr. Ortile is the sole stockholder/director/president of **Fortune Wave Solution Hub OPC (Fortune Wave OPC)**, a one-person corporation duly organized and existing under Philippine laws.[1] Fortune Wave Trading PH and Mr. Ortile shared and tagged posts offering the same investment schemes under the name **Fortune Wave Trading** and using #FortuneWave.

Based on these initial information and observations, the EIPD forthwith proceeded to conduct a *motu proprio* a formal investigation on the operations, transactions, and business scheme of Fortune Wave, where it found that they offer and sell securities in the form investment contracts through the various "Daily Plans" that are being actively advertised, to wit: (a) the New Daily Plan which requires a minimum and maximum capital of PhP1,000.00 and PhP5,000.00, respectively, promises a guaranteed daily yield of 3% for 60 days;[2] (b) the New Plan A which requires a minimum and maximum capital of PhP5,000.00 and PhP25,000.00, respectively, promises a guaranteed total yield of 200% in 35 days;[3] and (c) the New Plan B which requires a minimum and maximum capital of PhP30,000.00 and PhP500,000.00, respectively, promises a guaranteed total yield of 330% in 43 days.[4] These Daily Plans promise the investing public a 100% money-back guarantee, no hidden charges, and fast payout.[5]

To further entice the investing public into parting with their hard-earned money Mr. Ortile, the single stockholder/director/president of Fortune Wave OPC, represents to the public in the official website of Fortune Wave, as well as in his Facebook account, that he, through Fortune Wave Trading Ph, trades and is an expert on cryptocurrency where he allegedly profited millions of pesos.[6] The same Facebook account of Mr. Ortile, and that of Fortune Wave Trading Ph proudly show that they are prompt in complying with their payout (and even advance payout) commitments.[7]

Under the unauthorized investment scheme of Fortune Wave, persons who want to invest are required to deposit their investments in the GoTyme Bank Account[8] of Mr. Ortile.[9]

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[1] Certificate of Incorporation bearing Company Registration No. 2025030194550-03. The Principal place of business is at 654 Del Pilar Street, Balibago, Angeles City, Pampanga, Region III (Central Luzon), 2009).
[2] Motion. Par. 9 (see Annex "G")
[3] *Ibid.* (see Annex "G-1")
[4] *Ibid.* (see Annex "G-2)
[5] *Ibid.* (see Annexes "D", "G", "G-1" and "G-2")
[6] *Ibid.* (see Annexes "F-1" to "F-4)
[7] *Ibid.* (see Annex "D-1")
[8] Account No. 0184-4962-4226.
[9] *Ibid.* par. 10 and Annex "H".

To support its allegation that Fortune Wave and its Agents are engaged in the unauthorized offer and sale of unregistered securities in the form of investment contracts, the EIPD attached to the Motion the Certifications issued by the Company Registration and Monitoring Department (CRMD), the Markets and Securities Regulation Department (MSRD), and the Corporate Governance and Finance Department (CGFD) which all confirmed that Fortune Wave has no secondary license to operate as broker/dealer of securities; and is not a registered issuer of any securities pursuant to Sections 8 and 12 of the SRC, or of mutual funds, including exchange traded funds, proprietary/non-proprietary shares or membership certificates and timeshares.[10]

ISSUE

Whether or not the allegations and the evidence presented by the EIPD in the *Motion* warrant the issuance of a CDO.

RULING

The *Motion* is impressed with merit.

Section 3 of the Securities Regulation Code (SRC) defines "securities" as follows:

> SEC. 3. Definition of Terms. –
>
> 3.1. "**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. It **includes**:
>
> xxx
>
> (b) **Investment contracts**, certificates of interest or participation in a profit-sharing agreement, certificates of deposit for a future subscription;[11] (Emphasis supplied)

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[10] *Id.* Annex "B"

[11] Rule 26.3.5 of the SRC-IRR specifically defines an investment contract as follows:

> **"An investment contract means a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits primarily from the efforts of others. It is <u>presumed to exist</u> whenever a person seeks to use the money or property of others on the promise of profits.**

In determining if the product or investment scheme being offered/sold to the public is a security in the form of an investment contract, jurisprudence prescribes the use of the Howey Test, to wit:

> **In this jurisdiction, the Court employs the Howey test**, named after the landmark case of Securities and Exchange Commission v. W.J. Howey Co., **to determine whether or not the security being offered takes the form of an investment contract**. The case served as the foundation for the domestic definition of the said security.
>
> **Under the Howey test, the following must concur for an investment contract to exist: (1) a contract, transaction, or scheme; (2) an investment of money; (3) investment is made in a common enterprise; (4) expectation of profits; and (5) profits arising primarily from the efforts of others.** Indubitably, all of the elements are present in the extant case.[12] (Emphasis supplied)

Relative thereto, the *US case of SEC vs. Joiner Leasing Corp.,*[13] which is persuasive in this jurisdiction, emphasized that it is not the nature of the assets behind a particular instrument which defines whether the same should be considered a security. What is controlling is the attribution given in commerce based on the terms thereof, to wit:

> In applying acts of this general purpose, the courts have not been guided by the nature of the assets back of a particular document or offering. **The test, rather, is what character the instrument is given in commerce by the terms of the offer, the plan of distribution, and the economic inducements held out to the prospect. In the enforcement of an act such as this, it is not inappropriate that promoters' offerings be judged as being what they were represented to be**. (Underscoring supplied)

This Commission agrees with the EIPD that all the elements of the Howey Test are present in the unregistered product, and/or unauthorized investment scheme offered and peddled by Fortune Wave to the public.

> **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." (Emphasis supplied)

[12] *Virata vs. Ng Wee*. G.R. Nos. 220926, 221058, 221109, 221135 & 221218, July 5, 2017 [Per J. Velasco, Third Division].

[13] 320 U.S. 344 (1943) [https://supreme.justia.com/cases/federal/us/320/344/]

First, Fortune Wave requires investors to invest money in amounts prescribed under any of the Daily Plans of their choice, which should be deposited in the GoTyme bank account of Mr. Ortile;

Second, the unauthorized investment scheme of Fortune Wave involves the pooling of all the investments put in investors which are obviously utilized to satisfy and pay the guaranteed returns of its existing investors. This unauthorized investment scheme is the common enterprise that is being sustained by the investments received from the public;

Third, the Daily Plans which Fortune Wave offer/sell clearly promises guaranteed huge and unrealistic returns; and necessarily engenders in the prospective investors an expectation of profits ranging from 180% to as high as 330% of the amount invested within a period of thirty (35) to sixty (60) days; and

Fourth, the payouts/profits which the investors are receiving, or expect to earn are generated primarily through the efforts of Fortune Wave and its Agents who actively offer/sell unregistered securities, and carry out extensive marketing activities in furtherance thereof, through the social media platform.

Section 8.1 of the SRC is explicit in saying that *"securities shall not be sold or offered*[14] *for sale or distribution within the Philippines, without a registration statement duly filed with and approved by the Commission"*, while Section 28 of the SRC provides that *"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."* The registration and

[14] Rule 3.1.17 of the 2015 SRC IRR provides:
3.1.17. **Public offering is 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:

x x x

3.1.17.3 Advertisement or announcement in radio, television, telephone, **electronic communications, information communication technology or any other forms of communication**; (Emphasis supplied) regulation of securities, as well as the persons dealing with it, are imperative as transactions covering the same are imbued with public interest.[15]

The offer/sale of unregistered securities, as well as the acts of persons in dealing with the same sans the requisite license constitute a violation of Sections 8 and 28 of the SRC that warrant the imposition of the appropriate administrative and criminal actions. Meanwhile, to ensure that the investing public is protected from, and not prejudiced by such unauthorized activities, Section 64 of the SRC provides for, and has granted the Commission the power to issue a CDO, thus:

> Section 64. *Cease and Desist Order.* — 64.1. ***The Commission,*** after proper investigation or verification, ***motu proprio*** 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.** (Emphasis supplied)

The Supreme Court emphasized in *Primanila Plans Inc. vs. Securities and Exchange Commission*[16] that it is the duty of the Commission to promptly issue a CDO to immediately stop a continuing violation from being perpetrated for the protection of the investing public, to wit:

> The law is clear on the point that a cease and desist order may be issued by the SEC *motu proprio*, it being unnecessary that it results from a verified complaint from an aggrieved party. **A prior hearing is also not required whenever the Commission finds it appropriate to issue a cease and desist order that aims to curtail fraud or grave or irreparable injury to investors. There is good reason for this provision, as any delay in the restraint of acts that yield such results can only generate further injury to the public that the SEC is obliged to protect.**

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[15] "The importance of the stock market and the transactions therein to the country's economy and commercial development cannot simply be brushed aside. The Court in *Abacus Securities Corp. v. Ampil* stated:

Stock market transactions affect the general public and the national economy. The rise and fall of stock market indices reflect to a considerable degree the state of the economy. Trends in stock prices tend to herald changes in business conditions. Consequently, securities transactions are impressed with public interest, and are thus subject to public regulation." (*PSE et. al. vs. Secretary of Finance et. al.*, G.R. No. 213860, July 5, 2022 [J. Hernando, En Banc]).

[16] G.R. No. 193791, August 6, 2014 [per J. Reyes, First Division].

In the instant case, the finding of the EIPD that Fortune Wave and its Agents are offering and selling unregistered securities in the form of investment contracts without the requisite license from the Commission was substantiated by the documents obtained during its investigation, which were submitted in evidence and made part of the record. Considering that Fortune Wave and its Agents have no license to offer or sell securities, and have not secured the registration of these securities with the Commission, as shown also by the Certifications issued by the CGFD, MSRD and CRMD, they are therefore in clear violation of Sections 8 and 28 of the SRC.

On account thereof, this Commission finds that the issuance of the CDO against Fortune Wave and its Agents is warranted to protect the investing public from investing in unregistered securities which have not complied with the minimum regulatory requirements prescribed by law, rules and regulations. This, to the mind of this Commission, exposes the investing public to the risk of sustaining loss, damage, irreparable injury or prejudice, which We are mandated to prevent at the onset. More importantly, the offer or sale of unregistered securities in whatever form has been considered as fraudulent which equally justifies the prompt issuance of a CDO, to wit:

> **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.[17] (Emphasis supplied)

WHEREFORE, premises considered, **FORTUNE WAVE SOLUTION HUB OPC, FORTUNE WAVE TRADING, FORTUNE WAVE TRADING PH**, its owner, agents, representatives, salesmen, uplines, promoters, influencers, enablers, conduit entities, subsidiaries and any and all persons claiming and acting for and on their behalf, are hereby ordered to **IMMEDIATELY CEASE AND DESIST** from engaging in the unauthorized solicitation, offer and/or sale of securities in the form of investment contracts and/or any other similar or related acts, until the

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[17] *Securities and Exchange Commission vs. CJH Development Corp.*, G.R. No. 210316, November 28, 2016, [per J. Peralta, Third Division].

requisite registration statement is duly filed with and approved by the Commission.

FORTUNE WAVE SOLUTION HUB OPC, **FORTUNE WAVE TRADING**, **FORTUNE WAVE TRADING PH**, its owner, agents, representatives, salesmen, uplines, promoters, influencers, enablers, conduit entities, subsidiaries and any and all persons claiming and acting for and on their behalf are likewise directed to immediately **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 their behalf.

Finally, the Commission hereby **PROHIBITS FORTUNE WAVE SOLUTION HUB OPC**, **FORTUNE WAVE TRADING**, **FORTUNE WAVE TRADING PH**, its owner, agents, representatives, salesmen, uplines, promoters, influencers, enablers, conduit entities, subsidiaries and any and all persons claiming and acting for and on their behalf from transacting any business involving funds in its depository banks, and from transferring, disposing, or conveying in any manner, any and all assets, properties, real or personal, including bank deposits, if any, of which the named persons herein may have interest, claim or participation, whether directly or indirectly, under their custody, to ensure the preservation of the assets of the investors.

The **EIPD** of the Commission is hereby **DIRECTED** to cause the service of this *Cease and Desist Order* at the principal place of business of **FORTUNE WAVE SOLUTION HUB OPC** and the posting of the same in the Commission's website.

The **EIPD** 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 ***Cease and Desist Order***.

Let a copy of this Order be furnished to the Company Registration and Monitoring Department, Markets and Securities Regulation Department, Corporate Governance and Finance Department and the Information and Communications Technology Department of this Commission, the Bangko Sentral ng Pilipinas, and the relevant local government unit(s) for their information and appropriate action.

In accordance with the provisions of Section 64.3 of the SRC and Part II, Rule IV, Section 4-3 of the 2016 Rules of Procedure of the SEC, the Respondent may file a verified ***Motion to Lift the CDO*** to the Commission En Banc thru the Office of the General Counsel, within five (5) days from receipt of this Order.

FAIL NOT UNDER PENALTY OF LAW.
SO ORDERED.

Makati City, Philippines.

FRANCISCO ED. LIM
Chairperson

JAVEY PAUL D. FRANCISCO
Commissioner

KARLO S. BELLO
Commissioner

MCJILL BRYANT T. FERNANDEZ
Commissioner

ROGELIO V. QUEVEDO
Commissioner