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

ANGPING & ASSOCIATES SECURITIES, INC.
Appellant,

- Versus -

SEC En Banc Case No. (Undocketed) (CMIC-IED-SD-2012-022; CMIC-IED-SD-2012-025-01)

CAPITAL MARKETS INTEGRITY CORPORATION.
Appellee.

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RESOLUTION

For consideration is the *Memorandum of Appeal* dated 28 October 2013 filed through registered mail with the Commission by Appellant Angping & Associates Securities Inc. (*for brevity* "**AASI**") praying to reverse and set aside the decision of Appellee Capital Markets Integrity Corporation[1] (for brevity "**CMIC**").

On 14 August 2013, the CMIC Board passed a resolution which resolved that:

Resolution No. 112, Series of 2013

"RESOLVED, That the Board of Directors of Capital Markets Integrity Corporation (the "Corporation") affirm, as it hereby affirms: (1) the finding of a violation by trading participant, Angping & Associates Securities Inc. ("AASI"), of SRC Rule 24.1 (b)-1, in relation to Sections 2 & 8, Article X-B of the MRD Rules for failing to report in writing to CMIC, within twenty-four (24) hours from receipt of its customer's transactions constituted unusual trading activities, trading-related irregularities or any other violation of securities law; (2) the imposition of the penalty of a written reprimand and a monetary penalty in the amount of P200,000.00 for such violation, in accordance with Article XI Section 3(a) and Section 4(a) of MRD Rules; (3) the finding of multiple violations by AASI of Article VII, Section 1(q) of CMIC Rules, in relation to Article IV, Section 19 of the Revised Trading Rules and Article XV of the Implementing Guidelines thereof; and (4) the imposition of the penalty of written reprimand for the first violation and the imposition of monetary penalty in the amount of P20,000.00, each, for the 2nd and the 3rd violation."[2]

[1] Self Regulatory Organization (SRO).
[2] Letter dated 13 September 2013 from CMIC to AASI.

AASI seeks to reverse and set aside the above-stated CMIC Resolution. Records disclose that AASI received the denial of their request for reconsideration on 14 October 2014. AASI filed an appeal through registered mail which was received by the Commission on 05 November 2013, however, it has not paid the required appeal/docket fees.

Section 1 of SEC Memorandum Circular No. 10[3], series of 2010, clearly provides that:

> Section 1. How Appeal is Taken – Appeals from decisions of SROs may be taken by serving upon the SRO and filing two (2) copies with the Commission *En Banc* **within fifteen (15) calendar days from notice of the Decision**, a verified Memorandum of Appeal and **paying the corresponding docket fee**.

In relation thereto, Section 6 of SEC MC No. 10, series of 2008 provides that the Rule XI of the 2006 Rules of Procedure of SEC (2006 Rules) shall have a suppletory effect thereon. Accordingly, the Commission *En Banc* is constrained to dismiss the instant appeal pursuant to Section 11-6 of the 2006 Rules, to wit:

> "SEC 11-6. Dismissal of Appeal for Non-Compliance. – The appeal may be dismissed by the Commission En Banc **for failure to comply with these Rules**, or **failure to perfect the appeal** within the prescribed period."

Relative thereto, the Supreme Court consistently ruled that:

> **"Payment of full docket fees within the prescribed period for taking an appeal is mandatory**. It is well-established that "[t]he right to appeal is a statutory privilege and must be exercised only in the manner and in accordance with the provisions of the law. Thus, **one who seeks to avail of the right to appeal must strictly comply with the requirements of the rules, and failure to do so leads to the loss of the right to appeal.** x x x **The Court has consistently ruled in a number of cases that the payment of the full amount of docket fees within the prescribed period is both mandatory and jurisdictional. It is a condition sine qua non for the appeal to be perfected and only then can a court acquire jurisdiction over the case.** The requirement of an appeal fee is not a mere technicality of law or procedure and should not be undermined except for the most persuasive of reasons. **Non-observance would be tantamount to no appeal being filed thereby rendering the challenged decision, resolution or order final and executory.**[4]

AASI failed to perfect its appeal when it failed to tender the required docket/appeal fees together with its Memorandum of Appeal within the prescribed period, as provided by the above-stated rules. Such is considered a fatal defect which would warrant the dismissal of the instant case.

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[3] Rules of Procedure on Appeals from Decisions of Self Regulatory Organizations (SROs).

[4] Samuel Julian vs. Development Bank of the Philippines, GR No. 174193, December 7, 2011.

WHEREFORE, premises considered, the instant appeal is hereby **DISMISS** for failure of Angping & Associates Securities Inc. perfect its appeal pursuant to Section 11-6 of the SEC 2006 Rules of Procedure in relation to SEC Memorandum Circular No. 10.

SO ORDERED.

Mandaluyong City, Philippines; 26 February 2015.

TERESITA J. HERBOSA
Chairperson

ANTONIETA F. IBE
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

EPHYRO LUIS B. AMATONG*
Commissioner

Blas James G. Viterbo

BLAS JAMES G. VITERBO
Commissioner

*On Official Business.