ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT

In the Matter of:

For: Revocation of Certificate of Incorporation/Registration

IWATCH.PH CORPORATION
SEC Registration No. CS201842541
x---x

ORDER OF REVOCATION

This refers to **IWATCH.PH CORPORATION (IWATCH.PH),** a stock corporation registered with the Commission on 10 December 2018 under Company Registration No. CS201842541. Its principal office address is at 161 Kamias Road, Sikatuna Village, Diliman, Quezon City.

Its original primary purpose is:

> *"To own, develop, market, operate, and provide an online application or ecommerce marketplace that will allow sellers to list their products such as but not limited to food supplements, fashion items and accessories, necessary, incidental, and/or related to the business without acting as internet service provider, or telecommunications value-added service (VAS) provider."*

Subsequently, on 22 April 2021, the subject company's Amended Articles of Incorporation was approved amending its primary purpose, to wit:

> *"To engage in, conduct, and carry on the business of manufacturing, producing, buying, selling, distributing, marketing, importing, and exporting of goods, commodities, wares, and merchandise of every kind and description at wholesale or retail, including but not limited to food and beverages, skin care products, food supplements, provided, that the corporation shall not solicit, accept, or take investments/placements from the public neither shall it issue investments contracts (as amended on 5 January 2021).''*

The instant case stemmed from numerous emails received by the Department inquiring on the registration of the subject entity and reporting its investment-taking activities.

Initial investigation from its website (www.iwatchphcorp.com) revealed that **IWATCH.PH** is an "online business that gives Filipinos a lifetime reason to earn in 20 different ways and with multiple features, giving them no excuses to have nothing coming in to have a greater life even further." The company also posted pictures of its registration from different government agencies and claimed that its operation is legitimate.

Based on the additional information gathered, a prospective investor should pay an amount of Php2,188.00 to become a member and can enjoy different ways to earn as an iWatcher. Below are the marketing schemes of **IWATCH.PH**.

- **Avail Package** – a prospective investor should pay an amount of Php2,188.00 to become a member. The package includes 6 Executive soaps, 50 itokens and 50 icredits.

  - 2 icredits every day – a member/iwatcher will receive 2 icredits every day aside from the initial 50 icredits.

  - 625 Itokens – a member/iwatcher will receive 25 itokens per day for 25 days = Php. 6,250

- **Direct Referral Bonus** – a member/iwatcher will receive Php200.00 pesos from the company, and Php500.00 will be deducted from his Ads Wallet that will be transferred to his available balance.

- **Leadership Bonus** – a member/iwatcher will receive 5 itokens for every recruit and that is convertible to Php8.00 per token. = Php 40

- **Salesmatch Bonus** – a member/iwatcher will receive Php200.00 for every pair of a member's binary structure and a corresponding voucher.

- **Maintenance Bonus** – a member/iwatcher will pay Php1,500.00 to get another 100 itokens once a member already utilized and converted all the remaining balance in his/her Ads Wallet to Available Balance.

- **Repeat Direct Referral Bonus** – a member/iwatcher will receive Php300.00 for every Maintenance Bonus paid by a member's direct referral.

- **Unilevel Bonus** – a member/iwatcher will receive Php30.00 for every Maintenance Bonus paid by a member's indirect referral but under his/her own structure.

Consequently, on 23 April 2021, the Commission issued an SEC Advisory against **IWATCH.PH CORPORATION,** portions of which are hereby quoted, thus:

> The public is hereby advised to exercise due care and caution in investing their money in this type of scheme being offered by **iWATCH.PH** and/or its agents. In the instant case, the scheme of **iWATCH.PH h**as the characteristics of a Pyramid scheme. The Pyramiding scheme involves securities because for payment of a sum of money, often nominal, the investor participates in a recruitment scheme that promises a stream of profits. The scheme that requires recruitment in a two-pronged structure takes the form of a pyramid, one that grows wider at the bottom, and thrives with the supply of new recruits to the scheme. Here, the recruitment fees collected from new recruits are used to pay the recruiting commissions to earlier recruits.
>
> As the scheme of **iWATCH.PH** involves the sale of securities to the public, the SRC requires that the issuing entity must be a registered corporation with the SEC, the said securities offered are duly registered and that the appropriate license and/or permit to offer and sell securities to the public are issued to the corporation and/or its agents, pursuant to the provisions of Sections 8 and 28 of the SRC.
>
> Records of the Commission show that while **iWATCH.PH CORPORATION** is registered with the Commission as a corporation, it is **not authorized to solicit investments from the public** as it did not secure prior registration and/or license to solicit investments from the Commission as prescribed under Section 8 and 28

of the SRC.

On 12 May 2021 an Investor Alert in Filipino was posted at the SEC website warning the public against the activities of iWatch:

Securities and Exchange Commission Philippines
May 12 ·

HUWAG MAGING BIKTIMA!

Binibigyan ng babala ang publiko na huwag mag-invest sa iWATCH.PH CORPORATION (iWATCH.PH) na siyang pinamumunuan nina Mr. JEROME OPERIO, Mr. REINER CADIZ at Mr. JOSEPH REGALARIO. Ang iWATCH.PH CORPORATION ay HINDI REHISTRADO SA SEC at WALANG LISENSYA upang mangalap ng mga investment mula sa publiko na isang malinaw na paglabag sa Securities Regulation Code ng Pilipinas (SRC).

Batay sa nakalap na impormasyon ng Komisyon, ang iWATCH.PH ay isang online na negosyo na kung saan kailangan lamang mamuhunan ng halagang Php2,188.00 para maging isang miyembro nito. Naka-post rin sa kanilang website na sila ay nagbibigay sa mga Pilipino ng magandang opportunidad upang kumita sa iba't-ibang pamamaraan, ito ay ang mga sumusunod: (1) Sign-up Bonus; (2) Daily iCredit Distribution; (3) Daily iToken Distribution; (4) Direct Referral Bonus; (5) Leadership Bonus; (6) Sales Match Bonus; (7) Maintenance Bonus; (😎 Repeat Direct Referral Bonus; at (9) Unilevel Bonus, bukod sa iba pa.
Ayon sa aming pagsusuri, ang mga ganitong uri ng pamamaraan na inaalok ng iWATCH.PH at ng mga ahente nito ay may mga katangian ng isang Pyramid scheme.

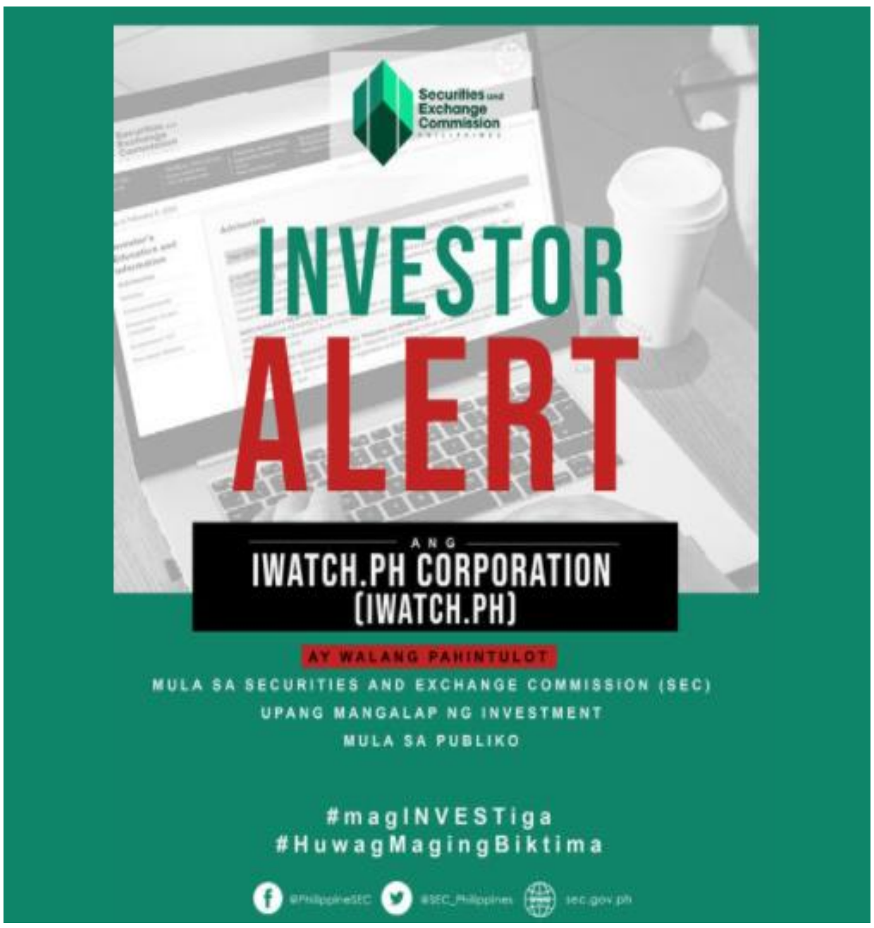
Bukod rito, ang pangangalap ng iWATCH.PH ng puhunan mula sa publiko ay maituturing na isang "investment contract" na nangangailangan ng kaakibat na rehistro mula sa SEC kaya muling pinapaalalahanan ang publiko na maging mapanuri bago mag laan ng pamumuhunan sa nasabing kompanya o sa mga tulad nitong hindi awtorisado ng Komisyon at sa iba pang mga "illegal investment schemes" ngayon.

Kung kayo ay may nalalaman o karagdagang impormasyon hinggil sa nabanggit na gawain at sa mga taong nagpapatakbo sa operasyon nito, maaaring makipag-ugnayan sa Enforcement and Investor Protection Department sa pamamagitan ng email address na epd@sec.gov.ph.

Ang advisory ng Komisyon tungkol sa iWATCH.PH CORPORATION ay mababasa sa sumusunod na link sa SEC website:https://www.sec.gov.ph/.../iwatch-ph-corporation-iwatch-ph/

#BagoMaginvestMagINVESTiga
#HuwagMagingBiktima

See Translation



Earlier, on 27 April 2021, a letter was received from the counsel of **IWATCH.PH** requesting for the lifting of the Advisory. As discussed in the letter, **IWATCH.PH's** business model involves direct selling of products and services to the public. Its main business is focused on product distribution, online sales and marketing, and advertising and generates income from the sale of its products and services, as well as from the various service agreements with third parties.

On 28 April 2021, a reply-letter was sent to **IWATCH.PH** informing it that the Enforcement and Investor Protection Department (EIPD) is not inclined to favorably recommend the approval of its request to lift the Advisory. However, EIPD required the company to submit its audited financial statements and Income Tax Return for the previous years, copies of all contracts or agreements entered into by the company with third parties, detailed explanation of its 10 Ways of Earning, and Food and Drug Administration certificate of approval its products.

On 15 June 2021, a conference was held upon the request of **IWATCH.PH's** counsel for a possibility of the company offering a settlement. During the meeting, **IWATCH.PH** 's representative discussed the marketing scheme and the business model of the company. Likewise, the company insisted that the primary purpose of the company was direct selling of its products.

On 14 July 2021, a ***Show Cause Order*** was issued against **IWATCH.PH** and its stockholders-directors-incorporators, namely; Reiner Cadiz, Mark Joseph Regalario, Jerome Joseph Operio, Norman Galanza and Rex Panganiban Regalario, directing the company to***:***

(1) **SHOW CAUSE** why no administrative sanctions and/or criminal charges should be imposed/filed against **IWATCH.PH CORPORATION** and/or its incorporators, directors and officers for violation of the Securities Regulation Code, and other pertinent laws, rules and regulations of the Commission;

(2) **SHOW CAUSE** why the Certificate of Incorporation of **IWATCH.PH CORPORATION** should not be revoked pursuant to Section 6(i)(2) of Presidential Decree No. 902-A for serious misrepresentation as to what the corporation can do or is doing to the great prejudice of or damage to the general public and for engaging in *ultra vires* acts in violation of the Revised Corporation Code of the Philippines; and

(3) **SHOW CAUSE** why the Certificate of Incorporation of **IWATCH.PH CORPORATION** should not be revoked pursuant to Section 6(i)(1) of PD 902-A for fraud in the procurement of its Certificate of Incorporation.

On 02 August 2021, a reply-letter to the Show Cause Order was received by the Department. In the said letter, **IWATCH.PH** denied that it is engaged in a pyramiding scheme of investment contracts for the following reasons:

- The potential customer buys a product or a package of products and services from Respondent-Company for a price of Php2,988.00.

  By availing of the package, potential customers are also not precluded from not becoming a distributor. He can just purchase a particular product to his liking.

- The earnings that the customer will have would have to depend on his own efforts and not the efforts of others. In order for the distributor to be able to earn, he has to perform the following:

  a. Sell the packages to other potential customers or distributors without any requirement of inventory or minimum purchase requirement. Since product sales are expected, the new distributor need not be called upon to make a substantial purchase or inventory requirement.

     The sales commissions is based on the actual purchases of packages, or products or services. For example, the distributor can earn a sales commission of Php200.00 for the products it sells.

  b. Act as viewer or subscriber in order to activate the itokens and icredits. The customer or distributor should be able to use the icredits to subscribe and share digital contents in any social networking sites co-hosted in the iWatch platform in order to convert them into monetary value. In other words, icredits could only be convertible to cash when the customer or distributor performs his functions in subscribing and sharing digital contents. Hence, the converted icredits are considered as service fees for the services rendered by the customer or distributor who becomes an independent service contractor of IWatch.Ph for subscription and sharing of social media contents.

  c. Act as a referrer for various partnerships for franchising and real estate selling. When a distributor refers a potential franchisee of the franchisor-partners of Respondent-Company and developer-partners, he earns a commission.

  d. Act as an e-loading agent in order to earn commissions from e-loads.

Thus, it is IWatch.Ph's position that the customer or distributor earnings are not dependent on the number of recruits, rather, it is based on the perseverance and hard work in performing the above-mentioned avenues of earning.

On 10 August 2021, a Settlement Offer was submitted to the EIPD in the amount of Five Million Pesos (Php5,000,000.00) by Iwatch.Ph, *viz*:

> *This offer of settlement is made pursuant to Section 55 of the Securities Regulation Code ("SRC") and Section 55.1 of the Implementing Rules and Regulations of the SRC ("SRC Rules") and the relevant provisions thereunder are adopted in toto in this offer of settlement.*
>
> *In this regard, we propose for the payment of Five Million Pesos (Php5,000,000.00) as our offer of settlement, which represents one hundred percent (100%) of the total imposable fine for violation of Sections 8 and 28 of the SRC, and Sections 6(i)(l) and 6(i)(2) of Presidential Decree No. 902-A.*
>
> *Further, we hereby undertake to refrain from continuing any business*

> *scheme that this Honorable Office requires us to desist from doing and to correct any business undertakings that this Honorable Office suggests in accordance with relevant applicable laws, including the SRC.*
>
> *Finally, we hereby undertake to commence the necessary proceedings to correct the typographical error in the Tax Identification Number of Mr. Rex P. Regalario indicated in the Articles of Incorporation.*
>
> *Subject to the acceptance of this offer of settlement, we hereby waive the following matters in accordance with Section 55.1.3.4 of the SRC Rules:*
>
> *a. all hearings pursuant to the statutory provisions under which the investigation or proceeding is to be or has been instituted;*
> *b. the filing of proposed findings of fact and conclusions of law;*
> *c. proceedings before, and an initial decision by, the appropriate office or department of the Commission so delegated;*
> *d. all post-hearing procedures;*
> *e. right to appeal the Order of the Commission.*
>
> *We further hereby waive the following matters in accordance with Section 55.1.3.5 of the SRC Rules:*
>
> *a. such provisions of law as may be construed to prevent any member of the Commission's staff from participating in the preparation of, or advising the Commission as to, any order, opinion, finding of fact, or conclusion of law to be entered pursuant to the settlement offer; and*
> *b. any right to claim bias or prejudgment by the Commission based on the consideration of discussions concerning settlement or all or any part of the proceeding*

On 23 August 2021, a reply was sent to **IWATCH.PH** informing it that in computing the imposable penalty, EIPD was tasked to apply *SEC Memorandum Circular No. 6 Series of 2005 (Consolidated Scale of Fines)*, which states that the penalty for the first offense of Sections 8 and 12 of the SRC shall be an amount equivalent to 1% of the amount of the transactions or Php10,000.00 per transaction, whichever is higher.

Further, **IWATCH.PH** was notified that based on the schedule of fines, EIPD was not inclined to favorably recommend the approval of the offer of settlement due to lack of data upon which to base the computation of imposable penalty.

Finally, EIPD requested to provide the names of all the investors and the total amount of money that they invested in the business, the inventory of the products, copies of all contracts or agreements entered into by the company and investors, as well as the action plan for the return of the money to the investors plus interest.

On 26 October 2021, a revised settlement offer was received by the EIPD in reply to the denial on the first settlement offer, quoted herein as follows:

> *As indicated in our Letter dated 13 September 2021, we have explained that we have sold 39,004 packages less 659 packages which were given for free by way of promotions by the company. These packages have an equivalent amount of Php82,685,024.00, broken down as follows:*

Vatable Sales	*Php75,727,363.71*
VAT at 12%	*Php7,491,320.13*
Total	*Php82,685,024.00*

> *We understand that, under SEC Memorandum Circular No. 6, Series of 2005, the possible penalty to be imposed is either 1% of the total transaction value or Php10,000.00 per transaction, whichever is higher. Based on the above, the possible penalty is either Php826,850.24 or Php383,450,000.00. In this case, the latter amount will be the basis for the settlement offer.*
>
> *However, we respectfully seek consideration of this Honorable Office that the possible amount of penalty may not be considered as the imposable penalty for the following reasons:*
>
> *a. The penalty of Php10,000.00 per transaction would be way more than the amount paid by the customers of the company.*
> *b. Using this as a benchmark penalty will be already confiscatory as this would reasonably render the company incapable of even paying the penalty. The imposable penalty is greater than the company's assets and cash on hand.*
>
> *Given the foregoing, and in order to put an end to this controversy, we humbly increase our offer of settlement of **Ten Million Pesos (Php10,000,000.00)** pursuant to Section 55 of the Securities Regulation Code ("**SRC**") and Section 55.1 of the Implementing Rules and Regulations of the SRC ("**SRC Rules**") and the relevant provisions thereunder are adopted in toto in this offer of settlement. This amount is way more than 100% of the 1% imposable penalty based on the total transaction value.*

On 02 November 2021, a second denial of settlement offer was sent to **IWATCH.PH** with the information that a scrutiny of the arguments contained in the revised settlement offer would show that the company has failed to raise any substantial argument that would warrant the lifting of the Advisory and to accept the offer.

EIPD reiterated its previous position that **IWATCH.PH** is engaged in selling or offering for sale of securities to the public and that the activity of **IWATCH.PH** in connection with the selling or offering for sale of investments is considered an *ultra vires* act and therefore constitutes serious misrepresentation.

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

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 Commission."

Based on the evidence gathered, respondent **IWATCH.PH** is engaged in offering, solicitation and sale of securities to the public without the required registration statement duly filed with and approved by the SEC.

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

(a) Shares of stocks, bonds, debentures, notes, evidences of indebtedness, asset backed securities;

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

(c) Fractional undivided interests in oil, gas or other mineral rights;

(d) Derivatives like option and warrants;

(e) Certificates of assignments, certificates of participation, trust certificates, voting trust certificates or similar instruments;

(f) Proprietary or non-proprietary membership certificates in corporations; and

(g) Other instruments as may in the future be determined by the Commission.

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* (G.R. No. 164182 February 26, 2008) traced from the case of *SEC vs. Howey Co*. (66 S.Ct.1100 May 27, 1946) and was later modified in the case of *SEC vs. Glenn W. Turner Enterprises, Inc.* (474 F.2d476 February 1, 1973), as follows:

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

Section 8, in relation to Section 12 of the SRC provides that:

> "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 Page 11 of 14 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 an investment contract as defined by the SRC and in relation to SRC Rule 26.3.5 of the 2015 SRC IRR must be registered with the Commission pursuant to Sections 8 and 12 of the SRC before the same can be offered or sold for distribution.

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. "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 registration or license from the Commission who acts as a broker or agent 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 **IWATCH.PH** to determine if they satisfy the elements of an investment contract. In our evaluation, indeed, the elements of investment contracts are manifested in the investments being offered by **IWATCH.PH** which are as follows:

- By investing in the company through its package worth Php2,188.00, **the investor enters into a contract;**
- There is a **placement of money** from the public as they are enticed to invest in the company that represented to be engaged in a lucrative business;
- The money invested is placed in a **common enterprise;**

- The **investors expect to derive profits** as they are primarily attracted to join **IWATCH.PH** on the promise of income from its ways to earn; and
- The investors expect to earn profits derived primarily from the efforts of others or from **IWATCH.PH's** new member/investors

An evaluation of **IWATCH.PH's** marketing scheme reveals that a huge portion of the earning of its members is based on recruitment. A member or an agent will receive Two Hundred Pesos (Php200.00) for every recruit and an additional Five Hundred Pesos (Php500.00) will be deducted from the agent's Ads Wallet that will transferred to his "available balance" for encashment. However, if the Ads wallet is insufficient, no amount of money will be transferred to available balance.

Upon joining the company, the agent/member will receive 6 Executive soaps, 50 itokens and 50 icredits. The itoken is used for watching videos and it is equal to Ten Pesos (Php10.00) per itoken. This will go to Ads wallet if consummated. The maximum amount that will go to Ads Wallet is Five Hundred Pesos (Php500.00). This amount will be transferred to available balance when a member/agent is able to recruit another person.

For a member to get additional profit from watching videos, he will avail of the maintenance bonus in which he will pay One Thousand Five Hundred Pesos (Php1,500.00) to get 100 Tokens (1 token = 100 Pesos). To maximize the additional token purchased by an agent/member, he is required to recruit.

In other words, stripped to its core, the marketing/compensation plan of **IWATCH.PH** showed that the thrust of the company's offering is not the sale of its products for use or consumption but the offering and selling of an "income opportunity" or "ways to earn" through its package worth Php2,188.00 consisting of six (6) Executive soaps, 50 itokens and 50 icredits to the public to lure the latter to participate in **IWATCH.PH's** income-generating recruitment activities.

IWATCH.PH's employment of Executive soaps as its products is nothing but a smokescreen to ostensibly make it appear that it is involved in selling consumer products when the fact of the matter is that it is offering the opportunity to earn profits by investing in its investor-recruitment business in the guise of selling product packages.

In addition, the so-called itokens to be used by those who joined **IWATCH.PH's** scheme to engage in trivial, mind-numbing task of watching *ad nauseam,* videos which are nothing more than repetitive ads, would not amount to anything or translate to earnings if a member will not recruit. The person recruited will, in turn, repeat the process of recruitment, otherwise he will be stuck with 6 Executive soaps, 50 itokens and 50 icredits.

Moreover, the price of the Executive soaps at Php 280.00 each is quite inflated that on their own, said products cannot have a market were they to be sold on retail in an already highly-saturated and competitive cosmetics and personal care industry. The soaps are priced way above the suggested retail price of leading and infinitely better soaps of different manufacturers that are easily available in the market.

Upon review of the Audited Financial Statements (AFS) of **IWATCH.PH** for the years 2019 and 2020, the AFS did not reflect any apparent inventory of the products **IWATCH.PH** is supposed to sell. Also, the revenue as disclosed in both AFS only pertains to online services and no apparent transaction arises from sale of goods. In other words, contrary to the representation of the company that the focus of its operations is direct selling of products per its primary purpose, glaringly, no revenue from sale of goods was recognized. The current ratio of IWATCH.PH for both years is less than the ratio of 1. Wealth is generated by promising extraordinary returns to new recruits which clearly shows the increase in revenues and salaries and wages. All of these findings contradict the company's primary purpose and belies its claim that it is primarily engaged in direct selling of goods.

Hence, from the foregoing discussions, **IWATCH.PH's** scheme bears the hallmarks of an unlawful selling of unregistered securities-cum-pyramiding scheme based on the following factors:

- **No genuine product or service** – contrary to what **IWATCH.PH** would have us believe, an investor-member cannot join **IWATCH.PH** if he does not purchase its package worth Php2,188.00 consisting of six (6) Executive soaps, 50 itokens and 50 icredits. Thus, an investor just cannot buy its soaps on retail.

- **No demonstrated revenue from retail sales** - the AFS submitted by iWatch do not reflect direct selling or that it generates revenue from selling its products or services outside of its packages or program.

- **Highlights easy money or passive income –** it offers compensation from little, if not dubious work or tasks as video watching and recruiting others into the scheme.

- **Buy-in required –** for an investor to be a member of or participate in IWATCH.PH's program, he has to purchase IWATCH.PH's package worth Php2,188.00 consisting of six (6) Executive soaps, 50 itokens and 50 icredits

- **Emphasizes recruiting –** an investor-member cannot earn just by purchasing **IWATCH.PH**'s packages but profits are earned from recruiting others to participate in the plan through **IWATCH.PH**'s incentive system, that is, Direct Referral Bonus, Leadership Bonus, Salesmatch Bonus, Unilevel Bonus, Maintenance Bonus and Repeat Direct Referral Bonus. Thus, commissions are paid out of money from new recruits rather than revenue from product sales or external purchasers by end-users based on market demand or need for the product.

Accordingly, it is important to emphasize that **IWATCH.PH**, as a juridical person, is only allowed to exercise powers inherent to its corporate 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 can do is necessarily circumscribed by its primary purpose clause in its AOI.

In **IWATCH.PH**'s Articles of Incorporation as approved by the Commission, it is clearly provided that the business of the subject company is:

> *"To engage in, conduct, and carryon the business of manufacturing, producing, buying, selling, distributing, marketing, importing, and exporting of goods, commodities, wares, and merchandise of every kind and description at wholesale or retail, including but not limited to food and beverages, skin care products, food supplements,* ***provided, that the corporation shall not solicit, accept, or take***

> ***investments/placements from the public neither shall it issue investments contracts*** *(as amended on 5 January 2021).*"[Emphasis supplied]

Nonetheless, the purpose stated in the Articles of Incorporation need not set out with particularity the multitude of activities in which the corporation may engage. The effect of broad purposes or objects is to confer wide discretionary authority upon the directors and management of the corporation 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 may exercise. In fact, the purpose in **IWATCH.PH**'s Articles of Incorporation expressly prohibits it to operate an investment-taking scheme.

In an opinion[1], 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."*

Likewise, the Certificate of Registration issued to **IWATCH.PH** explicitly states that:

> This Certificate grants juridical personality to the corporation **but does not authorize it to issue, sell or offer for sale to the public, securities** such as but not limited to, shares of stock, **investment contracts,** debt instruments and virtual currencies without prior Registration Statement approved by the Securities and Exchange Commission **nor 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 lending company, and time share, cash share/membership certificate issuers or selling agents thereof nor to operate a fiat money to virtual currency exchange. **Neither does this Certificate constitute a permit to undertake activities for which other government agencies require a license or permit.** (emphasis supplied)

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 or corporations, partnerships and associations, on the ground of serious misrepresentation as to what the corporation can do or is doing to the 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 RCCP empower the Commission to revoke the franchise or Certificate of Incorporation/registration of corporations registered with it.

Pursuant to the *2016 Rules of Procedure of the Securities and Exchange Commission*, 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 c) Selling, offering or transacting unregistered securities by entities without secondary license;

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

> d) ultra vires acts committed in violation of the Corporation Code;
>
> 2. Petitions for revocation[2] 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; and
>
> 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."

In SEC Admin Case No. 11-10-124 entitled ***In re: PHILBIO Renewable Energy Resources Corp.,*** promulgated on 27 April 2016, the Commission expounded on 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."

Considering that nowhere is it stated in the primary purpose of **IWATCH.PH** that it is authorized to engage in investment-solicitation activities through the offering or selling for public sale securities in the form of investment contracts, the activities of **IWATCH.PH** of offering or selling unregistered securities to the public and without the corresponding registration or license as a securities broker is considered an ***ultra vires*** act under Section 44 of the Revised Corporation Code of the Philippines (RCCP), or an act beyond the corporate powers conferred to it by the State and therefore constitute serious misrepresentation as to what the corporation can do 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.

Finally, a verification with the Bureau of Internal Revenue (BIR) on the authenticity of the Taxpayer Identification Numbers (TINs) of the incorporators of **IWATCH.PH CORPORATION**, as indicated in its Articles of Incorporation reveals that one (1) of the incorporators presented an invalid TIN. A portion of the BIR reply is cited below:

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

PER REQUEST		PER BIR DATABASE
Names	**TIN**	**Remarks**
REINER CADIZ	347-695-621-000	Valid TIN
MARK JOSEPH REGALARIO	339-216-351-000	Valid TIN
JEROME JOSEPH OPERIO	722-898-375-000	Valid TIN
NORMAN GALANZA	296-227-323-000	Valid TIN
REX PANGANIBAN REGALARIO	262-107-965-000	Invalid TIN; correct TIN is 262-107-365-000

Noteworthy to mention is that the employment of invalid and false TINs in order to acquire registration with the Commission is tantamount to fraud in the procurement of the Certificate of Incorporation which is a valid ground for the revocation of the said Certificate pursuant to Section 6(i)(1) of PD 902-A.

WHEREFORE, for violation of Section 44 of the Revised Corporation Code of the Philippines (R.A. No. 11232)] in relation to Sections 8.1 and 28.1 of the Securities Regulation Code and Section 6 (i) (1) and (2) of P.D. 902-A, Section 5.1 (m) of the SRC and Section 179 (j) of the RCCP, the corporate registration or Certificate of Incorporation/Registration of **IWATCH.PH CORPORATION,** is hereby **REVOKED**.

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 the Commission is likewise requested to enter the "revoked" status of the subject corporation in the online database of the Commission.

SO ORDERED

Pasay City, 13 December 2021

OLIVER O. LEONARDO
Officer-in-Charge