ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT

In the Matter of:

WE AL TH ON W E B COMPANY
COMPANY REG. NO. 202170001932-11

For Revocation of Certificate of Registration of Partnership

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ORDER OF REVOCATION

WE AL TH ON W E B COMPANY ("**WOW COMPANY**" for brevity) was registered with the Commission as a Partnership on 08 July 2021 under Company Registration No. 202170001932-11 with the following as its partners:

Name	Citizenship	Residential Address
Ramon Vincent Talbo Gonzalez, III	Filipino	Emily Homes Subd. Paradise Road Libertad Butuan City, Agusan Del Norte, Region XIII, Philippines, 8600
Marilyn Talbo Gonzalez	Filipino	Emily Homes Subd. Paradise Road Libertad Butuan City, Agusan Del Norte, Region XIII, Philippines, 8600

The Business Purpose of **WOW COMPANY** as stated in its Articles of Partnership is:

> "To engage in direct selling of goods and merchandises to consumers.; To engage in business of retail trading.; Such as but not limited to Apparels, Eloads, Epins, Ecoins, Beverages, Health and Wellness, Cosmetics and Digital Products."

The Department received various emails inquiring or reporting about **WOW COMPANY** and its alleged investment-taking activities promising a guaranteed return on investment.

Investigation conducted by the Department revealed that **WE AL TH ON W E B COMPANY** has been promising to the public a 3-6% daily return from its "***WOW TRADE COMPLAN***". Under its investment scheme, **WE AL TH ON W E B COMPANY** entices the public to invest in its investment package where one may invest a minimum amount of Php150.00 to as high as Php135,000.00 and promises a return of as much as 3-6% daily depending on the chosen plan.

The foregoing investment scheme of **WE AL TH ON W E B COMPANY** has the characteristics of an "investment contract," a form of securities which must first be registered with the Commission pursuant to Section 8 of the Securities Regulation Code (SRC) before they may be offered and sold or distributed to the public

However, based on the records of the Commission, **WE AL TH ON W E B COMPANY** has not registered any securities pursuant to Sections 8 and 12 of the SRC that would allow it to offer and/or sell securities to the public. Neither is **WE AL TH ON W E B COMPANY** licensed as a capital market professional such as, among others, as a securities broker.

Thus, on 05 October 2021, an SEC Advisory was issued and posted on the Commission's website informing the public, that:

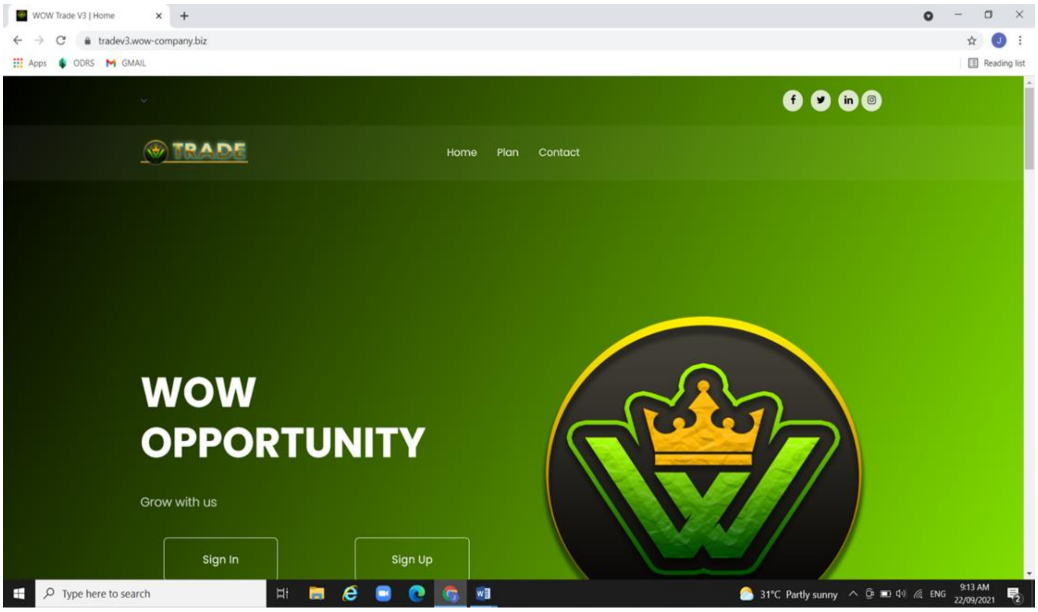
> *xxx "The scheme of **WOW TRADE** involves the offering and sale of securities in the form of Investment Contracts to the public because the investors need not exert any effort other than to invest or place monies in **WOW TRADE** in order to generate income.*
>
> *Since this scheme involves the sale of securities to the public, the Securities Regulation Code (SRC) requires that these securities are duly registered with the Commission and that the concerned corporation and/or its agents have appropriate registration and/or license to sell such securities to the public pursuant to Section 8 of the SRC.*
>
> *Per record of the Commission, **WE AL TH ON W E B COMPANY** is registered in the Commission's database as a partnership with **SEC Registration No. 2021070019320-11** issued **on 09 July 2021.** However, said company is <u>**not authorized to solicit investments from the public**</u> as the above-mentioned entities did not secure prior registration and/or license to solicit investments from the Commission as prescribed under Section 8 of the Securities and Exchange Commission." Xxx*

Despite the issuance of the above-mentioned SEC Advisory against **WE AL TH ON W E B COMPANY,** the said entity did not pay attention thereto, and in fact, continued its investment-taking activities

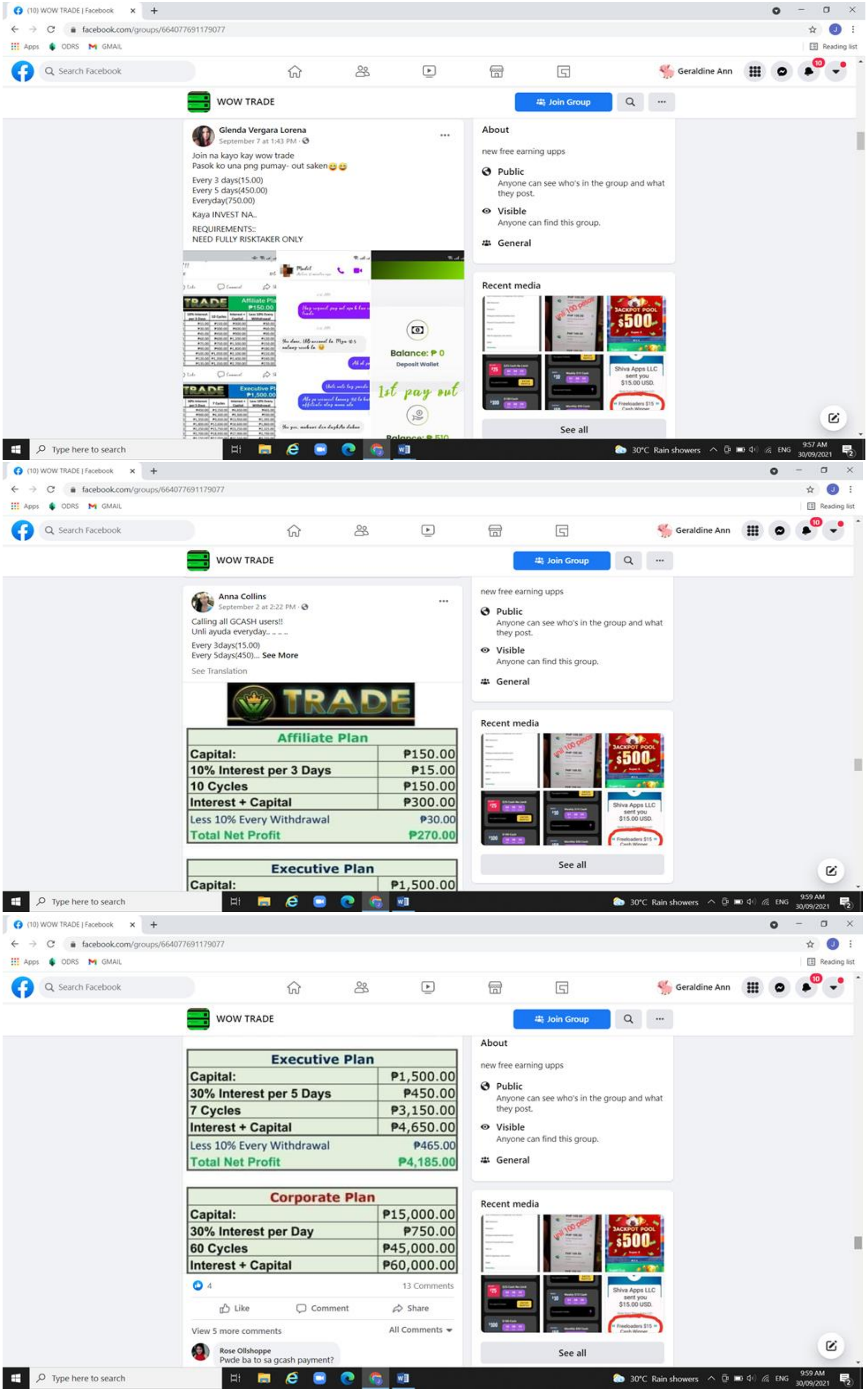
On 11 April 2022, a ***Show Cause Order*** was issued against **WE AL TH ON W E B COMPANY** that was sent to the email address of Mr. Ramon Vincent Gonzales III, ***directing the company to show cause why its Certificate of Registration should not be revoked for serious misrepresentation as to what the partnership can do or is doing to the great prejudice of or damage to the general public and to show cause why no administrative sanction and/or criminal charges should be filed against WE AL TH ON W E B COMPANY*** **for violation of the Securities Regulation Code.**

A *response to the Show Cause Order* was received by the Commission from Mr. Ramon Vincent Gonzales on 17 April 2022. While he admitted that he launched the "**WOW TRADE COMPLAN**" to give way for their members to earn an additional income while waiting for WOW KAPE to be manufactured, he argues that it was just for a short time from the beginning of the month of August (2021) until around the second week of the said month, after which they stopped and then decided to continue with their primary purpose which is: "To engage in direct selling of goods and merchandises to consumers.; To engage in business of retail trading.; Such as but not limited to Apparels, Eloads, Epins, Ecoins, Beverages, Health and Wellness, Cosmetics and Digital Products."

However, based on the investigation conducted by the Commission, the claim of Mr. Gonzales that he stopped offering the said Complan within the 2nd week of August 2021 is not true at all. A screenshot of their website with a date stamp of September 22, 2021 reveals that the said site is still offering the said plan contrary to the claim of Mr. Gonzales, as shown below:



Further, in the WOW TRADE Facebook page, offerings were still posted even beyond the 2nd week of August. In fact, the FB postings with a date stamp of September 30, 2021 shows that their agents and members are still offering the "**WOW TRADE COMPLAN,**" again, contrary to the claim of Mr. Gonzales, as shown below:



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

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

"3.1 "Securities" are 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) ***<u>Investment contracts</u>***, 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* which traces its roots from the US case of *SEC vs. Howey Co.* and was later modified in the case of *SEC vs. Glenn W. Turner Enterprises, Inc*. 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 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 investment contracts, as defined by the SRC in relation to *SRC Rule 26.3.5 of the 2015 SRC IRR*, must be registered before the same can be ***sold or offered*** for distribution to the public. Hence, as a form of security, investment contracts must be registered under Section 8 of the SRC before they can be sold or offered to the public.

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 while

"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 license from the Commission who acts as brokers, dealers or agents 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 **WE AL TH ON W E B COMPANY** and Mr. Gonzales thru its agents 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 Mr. Gonzales as follows:

- First, there was an **investment of money** from the public in the investment scheme of the company. **WE AL TH ON W E B COMPANY** actually received money from the public who were enticed to invest in their "**WOW TRADE COMPLAN**";

- Second, there was a **common enterprise** in the sense that the investors monies were pooled in respondent **WE AL TH ON W E B COMPANY's** alleged profit-making venture;

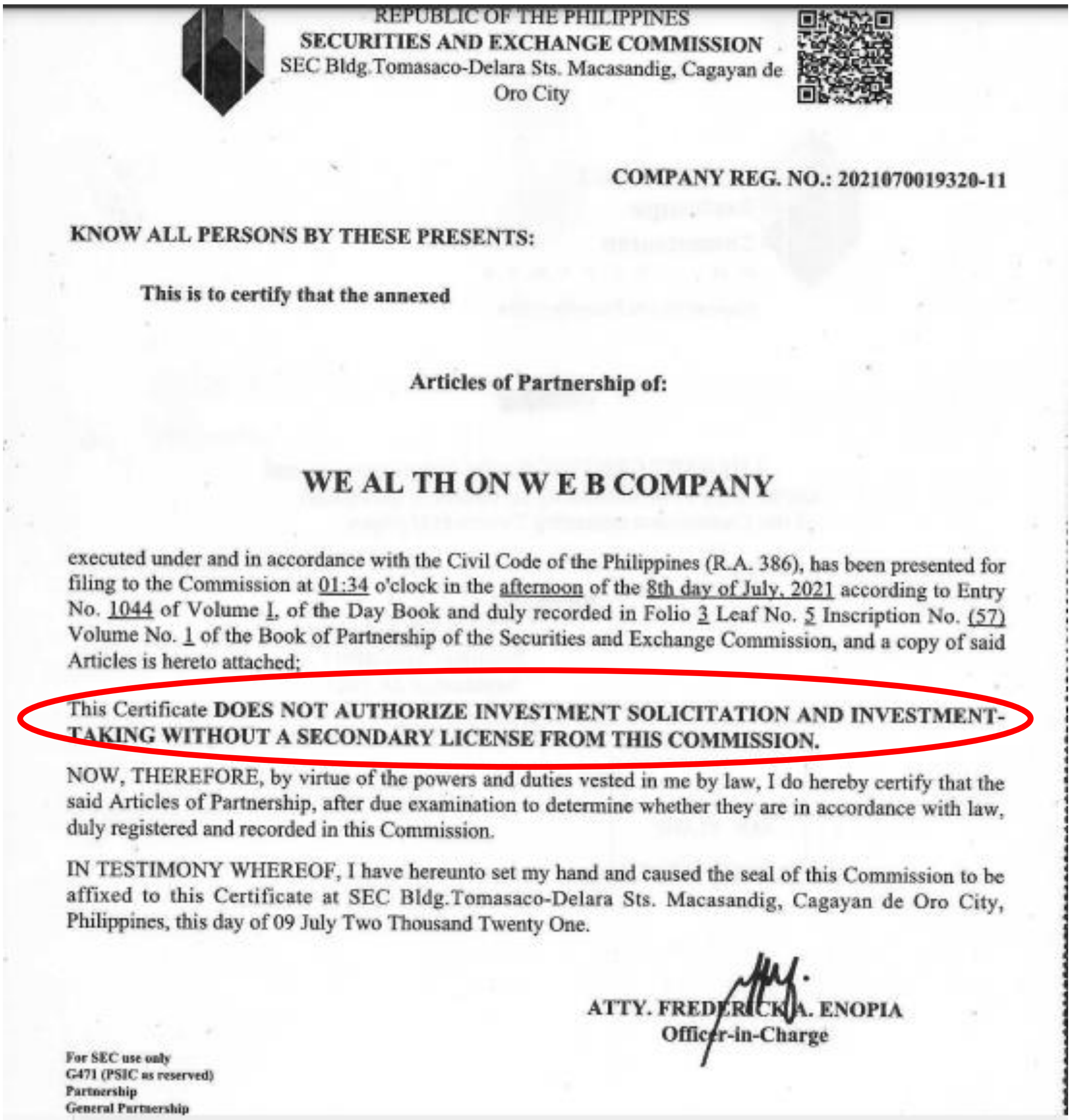
- Third, there was clearly an **expectation of profits** on the part of its investors who were promised that their money would earn 3-6% daily depending on their chosen plan; and

- Lastly, the expectation of profits is **derived primarily from the efforts of others. Here, the investors had no hand in the management of WE AL TH ON W E B COMPANY and earned profits by merely investing in said entity.**

It is important to emphasize that **WE AL TH ON W E B COMPANY** as a juridical person, is only allowed to exercise powers inherent to its existence and those conferred in its Articles of Partnership. In other words, what a partnership can do is necessarily circumscribed by its purpose clause in its AOP.

Nonetheless, the purpose stated in the Articles of Partnership need not set out with particularity the multitude of activities in which the partnership may engage. The effect of broad purposes or objects is to confer wide discretionary authority upon the partners or management of the partnership as to the kinds of business in which it may engage. However, ***dealings which are entirely irrelevant*** to the purposes are unauthorized. The purpose clause of the articles of partnership indicates the extent as well as the limitations of the powers which a partnership may exercise.

Likewise, the Certificate of Registration issued to **WE AL TH ON W E B COMPANY** explicitly ***prohibited it to operate an investment-taking scheme***:



REPUBLIC OF THE PHILIPPINES
SECURITIES AND EXCHANGE COMMISSION
SEC Bldg.Tomasaco-Delara Sts. Macasandig, Cagayan de Oro City

COMPANY REG. NO.: 2021070019320-11

KNOW ALL PERSONS BY THESE PRESENTS:

This is to certify that the annexed

Articles of Partnership of:

WE AL TH ON W E B COMPANY

executed under and in accordance with the Civil Code of the Philippines (R.A. 386), has been presented for filing to the Commission at 01:34 o'clock in the afternoon of the 8th day of July, 2021 according to Entry No. 1044 of Volume I, of the Day Book and duly recorded in Folio 3 Leaf No. 5 Inscription No. (57) Volume No. 1 of the Book of Partnership of the Securities and Exchange Commission, and a copy of said Articles is hereto attached;

This Certificate **DOES NOT AUTHORIZE INVESTMENT SOLICITATION AND INVESTMENT-TAKING WITHOUT A SECONDARY LICENSE FROM THIS COMMISSION.**

NOW, THEREFORE, by virtue of the powers and duties vested in me by law, I do hereby certify that the said Articles of Partnership, after due examination to determine whether they are in accordance with law, duly registered and recorded in this Commission.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of this Commission to be affixed to this Certificate at SEC Bldg.Tomasaco-Delara Sts. Macasandig, Cagayan de Oro City, Philippines, this day of 09 July Two Thousand Twenty One.

ATTY. FREDERICK A. ENOPIA
Officer-in-Charge

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Partnership
General Partnership

The act of **WE AL TH ON W E B COMPANY** and Mr. Gonzales through his affiliates in allowing certain persons acting as their agents or representatives to make public presentations of their investment scheme, inviting the public to invest in the companies through social media renders them liable for the unauthorized public offering of securities and the misrepresentation committed in connection with such public offering.

Likewise, the investment scheme of **WE AL TH ON W E B COMPANY** promising a return of 3-6% per day has the characteristics of a Ponzi scheme. A **Ponzi scheme** is an investment program that offers impossibly high returns and pays these returns to early investors out of the capital contributed by later investors. Named after Charles Ponzi who promoted the scheme in the 1920s, the original scheme involved the issuance of bonds[1] which offered 50% interest in 45 days or a 100% profit if held for 90 days. Basically, Ponzi used the money he received from later investors to pay extravagant rates of return to early investors, thereby inducing more investors to place their money with him in the false hope of realizing this same extravagant rate of return themselves.

In the case of *People of the Philippines vs. Palmy Tibayan and Rico Z. Puerto (G.R. Nos. 209655-60, 14 January 2015)*, the Supreme Court held that:

> "To be sure, a Ponzi scheme is a type of investment fraud that involves the payment of purported returns to existing investors from funds contributed by new investors. ***Its organizers often solicit new investors by promising to invest funds in opportunities claimed to generate high returns with little or no risk.*** In many Ponzi schemes, the ***perpetrators focus on attracting new money to make promised payments to earlier-stage investors to create the false appearance that investors are profiting from a legitimate business***. It is not an investment strategy but a gullibility scheme, which works only as long as there is an ever increasing number of new investors joining the scheme. It is difficult to sustain the scheme over a long period of time because the operator needs an ever larger pool of later investors to continue paying the promised profits to early investors. The idea behind this type of swindle is that the "con-man" collects his money from his second or third round of investors and then absconds before anyone else shows up to collect. Necessarily, Ponzi schemes only last weeks, or months at the most." (Underscoring added for emphasis)

The investment scheme of Mr. Gonzales through **WE AL TH ON W E B COMPANY** also operates to defraud investors as it deceives the investing public by making it appear that they have the authority to deal in securities. This also amounts to serious misrepresentation as to what they can do or are doing to the damage and prejudice of the investing public.

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 of corporations, partnerships and associations, on the ground of serious misrepresentation as to what the corporation --- or in this case, partnership -- can do or is doing to the great prejudice of or damage to the general public. Likewise, Section 5.1 (m) of the SRC empower the Commission to revoke the franchise or Certificate of Incorporation/registration of corporations and partnerships registered with it.

Further, in SEC Admin Case No. 11-10-124 entitled *In re: PHILBIO Renewable Energy Resources Corp.*, promulgated on 27 April 2016, the Commission provided what constitutes serious misrepresentation, to wit:

[1] Actually, postal reply coupons

"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 purpose of **WE AL TH ON W E B COMPANY** that it is authorized to engage in the selling or offering for sale of securities to the public, compounded by the fact that it does not have the required Secondary License from the Commission to offer or sell securities to the public, its activity of selling or offering to the public securities in the form of investment contracts constitutes serious misrepresentation as to what the partnership can do to the great prejudice of or damage to the general public which is a ground for the revocation of a partnership's registration with the Securities and Exchange Commission.

Further, Section 54 of the Securities Regulation Code provides:

> SEC 54. Administrative Sanctions. – 54.1. If, after due notice and hearing, the Commission finds that: (1) There is a violation of this Code, its rules, or its orders; xxx it shall, in its discretion, impose any or all of the following sanctions as may be appropriate in the light of the facts and circumstances:
>
> xxx.
>
> (ii) A fine of no less than Ten thousand pesos (P10,000.00) nor more than One million pesos (P1,000,000.00) plus not more than Two thousand pesos (P2,000.00) for each day of continuing violation;
>
> xxx."

Applying the foregoing, a fine of **One Million Pesos (P1, 000,000.00)** is imposed on **WE AL TH ON W E B COMPANY**, for offering securities to the public without prior registration and license from the Commission.

WHEREFORE, for violation of Sections 8.1 and 28.1 of the Securities Regulation Code in relation to Section 6 (i)(2) of P.D. 902-A and Section 5.1 (m) of the SRC, the registration of **WE AL TH ON W E B COMPANY** as a partnership is hereby **REVOKED**.

WE AL TH ON W E B COMPANY and its partners are directed to pay a fine of **One Million Pesos (P1, 000,000.00)** pursuant to Section 54.1 (ii) of the SRC within a period of Fifteen (15) days from receipt of this Order.

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 partnership on file with the Commission. Further, the Information and Communications Technology Department (ICTD) of this Commission is likewise requested to enter the "*revoked*" status of the subject partnership in the online database of the Commission.

SO ORDERED

Pasay City, 29 April 2022.

OLIVER O. LEONARDO
Director