Securities and Exchange Commission PHILIPPINES

FINANCING AND LENDING COMPANIES DIVISION

IN THE MATTER OF:

ATHENA CREDIT INC.
SEC Reg. No. A200010397,
Respondent.
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FinLend Order No. 2023- 36

For: VIOLATION OF REPUBLIC ACT NO. 8556 OR FINANCING COMPANY ACT OF 1998 AND ITS IMPLEMENTING RULES AND REGULATIONS; AND REPUBLIC ACT NO. 11232 OR THE REVISED CORPORATION CODE OF THE PHILIPPINES.

ORDER

WHEREAS, a Show Cause Letter[1] (SCL) dated 8 February 2023 was issued by the Financing and Lending Companies Division (FinLend) against Athena Credit Inc.[2] (Company) for violation of Republic Act No. 8556, otherwise known as the Financing Company Act of 1998 (FCA) and its Implementing Rules and Regulations (FCA IRR), specifically for engaging in financing activities without the requisite Certificate of Authority from 2005 up to the present;

WHEREAS, FinLend, through the said SCL, directed the Company to cease and desist from operating as a financing company upon receipt of the SCL until the issuance of the final resolution on the matter and to show cause within ten (10) days why it should not be held liable for the stated violations;

WHEREAS, a copy of the same SCL was likewise emailed to jen.atai@athenacreditph.com[3] on 13 February 2023;

WHEREAS, Section 12 of the FCA expressly prohibits a person, association, partnership, or corporation from engaging in the business of a financing company unless so authorized under Republic Act No. 8556;

WHEREAS, Section 14[4] of both the FCA and the FCA IRR provides for the administrative sanctions;

WHEREAS, the Company requested a Monitoring Clearance for its application for a Branch Certificate of Authority on 5 October 2023;

WHEREAS, a representative from the Company called on 9 October 2023 to clarify that the request for monitoring was not for an application for a CA to operate a branch but instead for a Certificate of Authority to operate as either a financing or lending company;

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[1] The Show Cause Letter was sent via electronic mail at athenacreditinc@gmail.com, the registered email address based on its 2023 General Information Sheet (GIS) submission covering the period of 2 February 2023.
[2] Registered on 10 July 2000 as a lending company with registered address at Acrocity I Bldg., 1116 Reposo Extension, near corner J.P. Rizal Street, Makati City, Metro Manila Philippines, and email addresses at athenacreditinc@gmail.com; contact@athenacreditph.com; and jen.atai@athenacreditph.com.
[3] Registered alternate email address based on the Company's GIS cited above.
[4] Sec. 14. Penalty. — A fine of not less than Ten thousand pesos (P10,000.00) and not more than One hundred thousand pesos (P100,000.00) or imprisonment for not more than six (6) months or both, at the discretion of the court, shall be imposed upon:

(1) Persons, associations, partnerships or corporations, including the managing officer thereof, that shall:

(a) Engage in the business of a financing company without authority from the Securities and Exchange Commission;
xxx

SECTION 14. Administrative Sanctions

If the Commission finds that there is a violation of R.A. 8556, of these Rules and Regulation, xxx or continuously fails to comply with SEC requirements, the Commission shall, in its discretion, impose any or all of the following sanctions:
xxx

WHEREAS, the Company has not only failed to answer the SCL sent to it but also failed to cease its financing operations, an inference that can be made from its request for monitoring clearance from FinLend;

WHEREAS, the primary purpose in the Company's amended Articles of Incorporation approved by the Commission on 14 June 2005, which expressly reads "to extend credit facilities to consumers and to industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable property", appears to have been lifted verbatim from the definition of financing companies under Section 3[5] of the FCA;

WHEREAS, the Company's submission of a Special Form of Financial Statements for Financing Companies[6] (FCFS) to the Commission on 21 July 2017 also implies the Company's awareness of its need to comply with the laws governing financing companies;

WHEREAS, being an ordinary corporation, the Company's failure to follow the directives in the SCL is also violative of Section 158 of the Revised Corporation Code, to wit:

> "SEC. 158. Administrative Sanctions. – If, after due notice and hearing, the Commission finds that any provision of this Code, rules or regulations, or any of the Commission's orders has been violated, the Commission may impose any or all of the following sanctions, taking into consideration the extent of participation, nature, effects, frequency and seriousness of the violation:
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> (a) Imposition of a fine ranging from Five thousand pesos (P5,000.00) to Two million pesos (P2,000,000.00), and not more than One thousand pesos (P1,000.00) for each day of continuing violation but in no case to exceed Two million pesos (P2,000,000.00);
> (b) Issuance of a permanent cease and desist order;
> (c) Suspension or revocation of the certificate of incorporation; and
> (d) Dissolution of the corporation and forfeiture of its assets under the conditions in Title XIV of this Code."

WHEREAS, the nature and gravity of the infractions committed by the Company and its continuous non-compliance shows its blatant disregard for the Commission.

WHEREFORE, in view of the foregoing,

1. Pursuant to the Financing Company Act in relation to the Revised Corporation Code as above discussed, Athena Credit Inc. is hereby **ORDERED TO PAY ONE HUNDRED THOUSAND PESOS (P100,000.00) FOR EACH YEAR OF ENGAGING IN THE BUSINESS OF FINANCING SINCE 2005 OR ONE MILLION EIGHT HUNDRED THOUSAND PESOS (P1,800,000.00)** within fifteen (15) days from the receipt of this Order.

2. Athena Credit Inc. is hereby **ORDERED TO STOP OPERATING AS A FINANCING COMPANY** until the requisite Certificate of Authority to Operate as a Financing Company is secured.

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[5] Sec. 3. Definition of Terms. — As used in this Act, the term:

(a) 'Financing companies' hereinafter called companies, are corporations, except banks, investments houses, savings and loan associations, insurance companies, cooperatives, and other financial institutions organized or operating under other special laws, which are primarily organized **for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable property**; xxx

[6] Period covered is 18 July 2017.

3. Let it be warned that a subsequent violation by Athena Credit Inc. of the Financing Company Act and its Implementing Rules and Regulations, specifically engaging in the business of a financing company shall be meted out with harsher penalties.

Let a copy of this Order be furnished to the Company, the Information & Communications Technology Department for encoding in the CIS-URDB, and all other Departments concerned.

SO ORDERED.

17 October 2023. Makati City, Philippines.

Kenneth Joy A. Quimio

ATTY. KENNETH JOY A. QUIMIO
Assistant Director