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

IN THE MATTER OF:

SCET COLLEENS CORPORATION

SEC CDO Case No. 11-21-075

ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT (EIPD),
Movant.

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CEASE AND DESIST ORDER

This resolves the *Motion for Issuance of a Cease and Desist Order*[1] (the "*Motion*") filed by the Enforcement and Investor Protection Department (EIPD) praying that an order be issued (1) enjoining SCET Colleens Corporation (SCET Colleens), its officers, directors, representatives, salesmen, agents, influencers, enablers, conduit entities, subsidiaries, and any and all persons (collectively referred to as "Agents") claiming and/or acting for and in its behalf from further engaging in activities of selling and/or offering for sale unregistered securities; and (2) prohibiting SCET Colleens, its officers, directors, representatives, salesmen, agents, representatives, and any and all persons claiming and acting for and in their behalf, from selling, encumbering, conveying, or disposing any of its properties and/or other assets without the prior written authority from the Securities and Exchange Commission (Commission).

PARTIES

The EIPD is one of the Commission's operating departments tasked, among others, to investigate and institute administrative actions against persons and entities engaged in the sale and/or offer of unregistered securities without the requisite secondary license.[2]

SCET Colleens is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines having been issued a Certificate of Incorporation with Company Registration No. CS202061878. Its principal office is at Unit 2004, Grand Cenia Residences,

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[1] Filed on 29 November 2021
[2] Section 2-2(c)(1-c), Rule II, Part I of the 2016 SEC Rules.

Apitong Street Lahug, Cebu City. Its primary purpose per its Articles of Incorporation (AoI) is:

> *"To engage in retail and wholesale trading of beauty products with the use of multilevel marketing strategy, **without engaging in pyramiding scheme**.*
>
> *Provided that the corporation **shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts.**"*[3] (Emphasis supplied)

Its board of directors as shown in its AoI[4] are:

Name	**Nationality**	**Address**
KAY ANNE CUIZON LEYSON	FILIPINO	1074 Kalubihan Talamban, Cebu City (Capital), Cebu, Region VII
EDITH FRANCISSE VILLEGAS TABLANTE	FILIPINO	13A Paseo Mary Anne Maria Luisa Subd., Banilad, Cebu City (Capital), Cebu, Region VII
ARTEMIO TARONA PONCE, Jr.	FILIPINO	9 St. John Road Sacred Heart Village, Salvador Labangon, Cebu City (Capital), Cebu, Region VII
SHARA JANE CASAO CHAVES	FILIPINO	Blk 12A Lot 11, Camella Solamente, Sorosoro Ibaba, Batangas City (Capital), Batangas, Region IV-A
EARL STA. RITA SAGUINDEL	FILIPINO	13A Paseo Mary Anne Maria Luisa Subd., Banilad, Cebu City (Capital), Cebu, Region VII

RELEVANT FACTS

On August 2021, the EIPD began receiving numerous complaints, reports and inquiries[5] on the alleged investment-taking and/or solicitation activities of SCET Colleens which prompted it to commence investigation for possible violation(s) of the Securities Regulation Code (SRC), the Revised

[3] Annex "B" of the Motion.
[4] Supra.
[5] Annex "D" of the Motion.

Corporation Code (RCC), and relevant rules and regulations enforced by the Commission.

Based on its investigation, the EIPD was able to gather and verify information that SCET Colleens is selling and/or offering investment packages and promos which require/entice potential investors to invest an amount ranging from a minimum of Three Thousand Eight Hundred Pesos (Php3,800.00) to One Million Eighty Thousand Pesos (Php1,080,000.00) with a guaranteed passive return of five percent (5%) to eight percent (8%). The investment scheme which SCET Colleens proffers and/offers to the public consists of the SUB-RESELLER DISTRIBUTOR, RESELLER DISTRIBUTOR, CITY DISTRIBUTOR, PROVINCIAL DISTRIBUTOR, REGIONAL DISTRIBUTOR, STARTER, JUMSTART, DELUXE, PRO ELITE, AND DIAMOND compensation plans/packages. The EIPD was also able to confirm and submit evidence showing that SCET Colleens was using a fake certificate purportedly issued by the Corporate Governance and Finance Department (CGFD) authorizing SCET Colleens to solicit, accept/take investments, to convince the investing public that its investment scheme is legitimate, and to entice the later to invest with it.

In support of its allegation and conclusion that SCET Colleens is engaged in the unauthorized sale/offer of securities, which confirmed the complaints and reports that were filed with and/or received by it, the EIPD submitted screenshots of relevant online posts of SCET Colleens which were obtained and gathered from SCET Colleens' website, i.e. www.scetcolleenscorp.com, which was primarily used in carrying out the unauthorized investment-taking activities.

The EIPD also maintains that SCET Colleens' investment scheme is an indication of a Ponzi scheme where returns are likely to be paid from the investments of new investors.

Based on the allegations and evidence presented by the EIPD, the *modus operandi* of SCET Colleens is as follows:

1) SCET Colleens gains the attention of and invites the investing public to part with their hard-earned money through its website by promising a guaranteed return of 5-8% per month, a quarterly payout, and profit shares;

2) In order to entice and assure the public of legitimacy of its investment scheme, interested investors are then presented with various legal documents to support its unauthorized investment-taking activities, including a fake CGFD Certification showing that it is authorized to solicit funds from the public; and

3) Potential investors are then directed to deposit amounts based on the distributor packages of their choice.

Moreover, the EIPD also concluded, based on its investigation, that SCET Colleens employed fraud and deceit in inducing investors to part with their money by using a fake certification from the CGFD despite full knowledge that its AoI clearly states that it *"shall not solicit, accept, or take investments/placements from the public neither shall it issue investment contracts"*.

The EIPD was however able to secure a Certification from the CGFD[6] stating that it has not issued any certificate to SCET Colleens authorizing the latter to solicit investments from the public, and confirming that the certification being used and circulated by SCET Colleens is a falsified document. The EIPD also secured a certification from the Commission's Markets and Securities Regulation Department (MSRD)[7] stating that SCET Colleens has not been issued a Permit to Sell Securities has no pending application for registration to engage in such activities. On account thereof, the EIPD concluded that while SCET Colleens is a registered entity with the Commission, it is not authorized to solicit funds nor sell securities to the public, and the investment packages which it sells/offers to the public violates Sections 8, 12, 26, and 28 of the Securities Regulation Code (SRC).

On 2 September 2021, the Commission issued an Advisory[8] declaring that SCET Colleens is not authorized to solicit, accept or take investments/placements from the public nor to issue investment contracts and other forms of securities as defined under the law as it does not have a secondary license from the Commission. In the same Advisory, the Commission made it clear that the certification circulated by SCET Colleens is fake and that its Certificate of Incorporation does not constitute an authority or license to engage in activities that require a secondary license, such as the selling of securities to the public.

The EIPD also requested the Commission's Cebu EO assistance to conduct further investigation on SCET Colleens' unauthorized investment-taking activities, which scheduled a conference and attempted to serve a Notice of Conference to SCET Colleens and its the incorporators/directors at the principal address of the corporation. However, Mr. Felix Lopez of Cebu EO failed to serve the Notice as the office has been deserted since the year before, and SCET Colleens directors Tablante and Saguindel were found not to be residing in the residential address stated in the AoI as of the end of August 2021.[9]

On the basis of the foregoing information and evidence, the EIPD submits that SCET Colleens is engaged in unauthorized investment taking activities, specifically in the sale and/or offer of unregistered securities in the form of investment contracts without the requisite license from the

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[6] Annex "F" of the Motion.
[7] Annex "G" of the Motion.
[8] Annex "H" of the Motion.
[9] Annex "I" of the Motion.

Commission, in violation of the SRC which warrants the issuance of a CDO to protect the investing public. The EIPD also concluded that SCET Colleens' investment scheme constitutes serious misrepresentation as to what it can or cannot do as a corporation considering that its AoI does not authorize it to solicit or offer investments from the public.

Hence, the instant *Motion*.

ISSUE

Whether the issuance of a cease and desist order against SCET Colleens is warranted based on the findings and evidence presented by the EIPD.

RULING

The Commission finds the *Motion* meritorious and hereby grants the same.

The EIPD's *Motion* as supported by substantial evidence was able to establish that SCET Colleens was offering and/or selling unregistered securities in the form of investment contracts to the public without the requisite license from the Commission.

Section 3 of the 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**:
>
> x x x
>
> (b) **Investment contracts**, certificates of interest or participation in a profit sharing agreement, certificates of deposit for a future subscription;" (Emphasis supplied)

An "investment contract" is defined 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 presumed to exist whenever a person seeks to use the money or property of others on the promise of profits.
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> **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."[10] (Emphasis supplied)

[10] Rule 26.3.5 of the Implementing Rules and Regulations of the SRC.

In the case of *SEC vs. Howey Co.*,[11] the US Supreme Court defined an investment contract as a contract or scheme for the placing of capital or laying out of money in a way intended to secure income or profit from its employment. Investment contracts have been used and adopted in various situations where individuals were led to invest money in a common enterprise with the expectation that they would earn a profit through the efforts of the promoter or of someone other than themselves.[12]

In *Power Homes Unlimited Corporation v. Securities and Exchange Commission,*[13] the Supreme Court enumerated the elements of an investment contract to be considered as a security subject of regulation by the Commission, to wit:

1) There is an investment of money;

2) The investment is made in a common enterprise;

3) There is an expectation of profit; and

4) Profit is derived primarily from the efforts of others.

Under this definition, whenever an investor relinquishes control over his or her funds and submits their control to another for the purpose of deriving profits from them, he or she is in fact investing in a security.[14]

Applying the foregoing to the instant case, this Commission finds that SCET Colleens is unlawfully engaged in the sale and/or offer of securities in the form of investment contract.

First, SCET Colleens required its investors to invest the amount ranging from a minimum of Three Thousand Eight Hundred Pesos (Php3,800.00) to One Million Eighty Thousand Pesos (Php1,080,000.00) which guarantees passive returns of 5% to 8% with a guaranteed 68% capital return at the 12th month. Relative thereto, the evidence on record shows that there was an actual investment of money made by the public with SCET Colleens in amounts reaching as high as Php825,800.00 from a single individual[15] up to an accumulated amount of Php5,000,000.00 from various investors as alleged by complainant Mr. Keven John Harvey.[16] The investments made were verified by the EIPD from investors who are now demanding the guaranteed returns of their investments.

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[11] 328 U.S. 293 (1946).

[12] *Ibid.* Although the definition as stated in the Howey Case qualified that the earning of profit was expected to be solely through the efforts of another party, Rule 26.3 of the 2015 IRR of the SRC replaced the qualifier with *"primarily"*, acknowledging that an investment contract may still be present where the individual who placed the money exerted a small amount of effort in an attempt to earn the profits.

[13] G.R. No. 164182, 26 February 2008.

[14] Investment Co. Institute v. Camp, 274 F. Supp. 624 (D D.C. 1967).

[15] Page 15, Annex "D" of the Motion

[16] Page 20, Supra.

Second, there is a common enterprise. The EIPD's findings in the course of its investigation showed that investors place at least an amount of P3,800.00 to invest in SCET Colleens in order to receive a passive income of 5% to 8% and participate in other investment-earning schemes. SCET Colleens' investors pool their monies with the Respondent in order to maintain and sustain the company's investment scheme and earn profits from the same.

Third, the investor expects to earn profits from the amounts invested with SCET Colleens. Based on its advertisements, SCET Colleens guarantees lucrative passive returns of 5% to 8% per month and other bonuses with little or no risk.

SCET Colleens offer flexible membership as follows:

SC Distributorship (Active + Passive Income) 12 Months
SC Rebates (Bloom Kit) (Quarterly Rebates) 9 months
SC Investment (Purely Passive Income) 6 months

The Diamond Package offers 8% monthly compensation share of 8% and a capital return of 68% on the 12th month.

A referral bonus is also offered based on the starter, deluxe, pro, elite packages ranging from P3,800.00 to P389,000.00.

The different profits that may be earned from the various schemes offered by SCET Colleens, which the latter expressly guaranteed, are the primary motivation of the public to invest their hard-earned money with the SCET Colleens.

Relative thereto, it is apparent from the evidence on record that investors relied on SCET Colleens' promise of guaranteed returns which was supported by the spurious certification purportedly issued by the CGFD. This even prompted one investor to invest an aggregate amount of Five Million Pesos (Php5,000,000.00).[17]

Fourth, SCET Colleens' investors expected to earn profits from the efforts of others.

In the earning schemes presented by SCET Colleens, it can be clearly seen that the investor earns without significant effort or obligation, and what is merely required from investors is simple act of choosing their package of choice and investing the appropriate amount. Thus, the expectation of profits is derived primarily from the entrepreneurial and managerial efforts of SCET Colleens, its agents or representatives who, through the use of the company's website, and social media accounts and platforms, continue to entice the public to invest in SCET Colleens and earn guaranteed returns.

[17] Annex "D" of the Motion.

Furthermore, the act of SCET Colleens in publishing in its website various propaganda and advertisements to entice the general public to invest their money and earn guaranteed profits constitute public offering of securities as defined under Rule 3.1.17 of the 2015 IRR of the SRC, to wit:

> "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:
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> x x x
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> 3.1.17.3 Advertisement or announcement in radio, television, telephone, **electronic communications, information communication technology or any other forms of communication;**"[18] (Emphasis supplied)

Section 8.1 of the SRC categorically provides 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, thus:

> *"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 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."* (Emphasis and underscoring supplied)

In connection thereto, Section 12.1 of the SRC states that 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. In the case of *Power Homes Unlimited v. Securities and Exchange Commission,*[19] the Supreme Court ruled that:

> "As an investment contract that is security under R.A. No. 8799, it must be registered with public respondent SEC, otherwise the SEC cannot protect the investing public from fraudulent securities. The strict regulation of securities is founded on the premise that the capital markets depend on the investing public's level of confidence in the system."

In the instant case, evidence adduced by the EIPD showed that SCET Colleens is offering its investment schemes publicly through online advertisements using its through its website and relevant social media platforms to potential investors without prior registration.

Relative thereto, Section 64 of the SRC provides that:

> "Section 64. *Cease and Desist Order.* — 64.1. *The Commission,* after proper investigation or verification, *motu proprio* or upon verified

[18] Rule 3.1.17 of the Implementing Rules and Regulations of the SRC.
[19] Note 24, *Supra.*

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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)

There are two (2) essential requirements that must be met prior to the issuance of a cease and desist order:

1) There must be a conduct of a proper investigation or verification; and

2) There must be a finding that 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.[20]

Anent the first requisite, the records show that the EIPD in coordination with the Cebu EO conducted a proper investigation as evidenced by its report and the various documents gathered and submitted in support of its Motion showing the conduct of SCET Colleens' unauthorized investment schemes. The EIPD specifically presented the following evidence in support of its Motion: (1) Certifications from the Commission's MSRD and CGFD certifying that SCET Colleens is not licensed to offer/sell securities; (2) Complaints from the public who were defrauded by SCET Colleens and who are now demanding for the returns of their investment guaranteed by the company; (3) A copy of the falsified document bearing the CGFD's letterhead purportedly authorizing SCET Colleens to solicit funds from the public; (4) Investigator's affidavit which attested to the veracity of the information received from the public about the unauthorized investment-taking activities of SCET Colleens. Screenshots of the website, and relevant online posts in social media were included in the affidavit as faithful reproductions of such online posts and presentations.[21]

The foregoing shows that the EIPD complied with the legal requirement relating to the conduct of an investigation as a pre-requisite to the issuance of a CDO.

The second requisite is likewise present considering that SCET Colleens employed fraud when it used a spurious Certification from the CGFD.

Section 26 of the SRC provides, to wit:

"*Section 26. Fraudulent Transactions.* – **It shall be unlawful for any person**, directly or indirectly, **in connection with the** purchase or **sale of any securities to**:

[20] Securities and Exchange Commission vs. Performance Foreign Exchange Corporation, G.R. No. 154131, July 20, 2006.
[21] Annexes "E-1" to "E-2" of the Motion.

26.1. **Employ any device, scheme, or artifice to defraud;**

26.2. Obtain money or property by means of any untrue statement of a material fact of any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

26.3. **Engage in any act, transaction, practice or course of business which operates or would operate as a fraud or deceit upon any person.**" (Emphasis supplied)

In *People of the Philippines vs. Mateo, et al.*[22], the Supreme Court held that fraud is a generic term that covers any act calculated to deceive, thus:

"**Fraud**, in its general sense, **is deemed to comprise anything calculated to deceive**, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust, or confidence justly reposed, resulting in damage to another, or **by which an undue and unconscientious advantage is taken of another. It is a generic term embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to secure an advantage over another by false suggestions or by suppression of truth** and includes all surprise, trick, cunning, dissembling and any unfair way by which another is cheated. On the other hand, **deceit is the false representation of a matter of fact**, whether by words or conduct, **by false or misleading allegations**, or by concealment of that which should have been disclosed **which deceives or is intended to deceive another so that he shall act upon it to his legal injury.**" (Emphasis supplied)

In this case, SCET Colleens intentionally used, presented, and circulated a fake certification purportedly issued by the Commission's CGFD to make it appear to investors that it is authorized to solicit funds from the public and that such investment-taking activity is legitimate. SCET Colleens thus succeeded to con the public to invest in its business by means of fraud.

Moreover, a careful evaluation and analysis of the operations of SCET Colleens will readily show that its business model is not sustainable in view of its minimal capitalization vis-à-vis its promised returns. To emphasize, with an authorized capital stock of only PhP1,000,000.00[23], SCET Colleens effectively promises to investors a 100% return of investments which at present amounts to Php9,375,800.[24]

In the absence of a secondary license, SCET Colleens should be restrained from offering or selling securities in the form of investment contracts.

Finally, SCET Colleens' act of selling and/or offering unregistered securities warrants the prompt issuance of a cease and desist order as it

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[22] G.R. No. 210612, October 9, 2017.
[23] Annex "B" of the Motion.
[24] Total amount of capital investments made by the complainants, Annex "D" of the Motion. Limited to the complainants who made their plights known, thus the real amount may be higher.

operates as a fraud to the public which, if unrestrained, will likely cause grave or irreparable injury or prejudice to the investing public.[25] The Supreme Court categorically held in *Securities and Exchange Commission vs. CJH Development Corp.*[26] that:

> "**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.**
>
> **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." (Emphasis supplied)

WHEREFORE, premises considered, **SCET Colleens Corporation**, its directors namely, **KAY ANNE CUIZON LEYSON, EDITH FRANCISSE VILLEGAS TABLANTE, ARTEMIO TARONA PONCE, JR., SHARA JANE CASAO CHAVES, and EARL STA. RITA SAGUINDEL**, its operators, officers, including **Shara Jane Chavez Cruzat**, representatives, salesmen, agents, and any and all persons claiming, acting, and operating for and in their behalf, are hereby ordered to **IMMEDIATELY CEASE AND DESIST** from engaging in the unlawful/unauthorized solicitation, offer and/or sale of securities in the form of investment contracts or any others of the same nature, as discussed in this *Cease and Desist Order*, until the requisite registration statement is duly filed with and approved by the Commission.

SCET Colleens Corporation, its operators, directors, officers, representatives, salesmen, agents and any and all persons claiming and acting for and in their behalf are likewise directed to **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** SCET Colleens Corporation, its operators, directors, officers, representatives, salesmen, agents and any and all persons claiming and acting for and in their behalf from

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[25] Section 64 of the Securities Regulation Code.
[26] (G.R. No. 210316, November 28, 2016)

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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 (a) the posting of this Order in SCET Colleens Corporation's principal office and in the Commission's website, and (b) the publication of the same in a newspaper of general circulation as provided for under Section 4-2, Rule IV, Part I of the 2016 Rules of Procedure of the SEC.

The EIPD is **FURTHER DIRECTED** to submit a formal compliance report, by way of 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, Market and Securities Regulation Department, Corporate Governance and Finance Department and the Information and Communications Technology Department of this Commission, the Bangko Sentral ng Pilipinas, the Department of Trade and Industry, the National Privacy Commission and the Department of Information and Communications Technology 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.

Pasay City, Philippines; 07 December 2021.

EMILIO B. AQUINO
Chairperson

EPHYRO LUIS B. AMATONG
Commissioner

JAVEY PAUL D. FRANCISCO
Commissioner

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KELVIN LESTER K. LEE
Commissioner

KARLO S. BELLO
Commissioner