Republic of the Philippines
Department of Trade and Industry
Securities and Exchange Commission
SEC Bldg. EDSA, Greenhills, Mandaluyong City

IN THE MATTER OF:

SEC CASE NO. 05-09-008

ALL ASIA PLANS CORPORATION, UNITED FARMERS SUGAR CORPORATION, LEGACY EMERGENT ASSET MANAGEMENT, INC., EDIFICE REALTY & DEVELOPMENT CORPORATION, C2MPV REALTY CORPORATION, CALAYUCAY REALTY CORPORATION and R.L. ROA REALTY AND DEVELOPMENT, INC.,

COMPLIANCE AND ENFORCEMENT DEPARTMENT,

Petitioner.

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ORDER

Before the Commission *En Banc* are the following: (a) *Motion for Issuance of Permanent Cease and Desist Order* dated 15 July 2009 ("Motion for Permanent CDO", for brevity) filed by the then Compliance and Enforcement Department, now Enforcement and Prosecution Department, of this Commission ("petitioner"); and (b) *Urgent Manifestation/Motion* dated 30 September 2009 filed by Atty. Ma. Carolina P. Orias ("Orias Motion").

The brief background of the case is as follows:

On 26 February 2009, the Commission, in *SEC Case No. 02-09-006,* issued a Cease and Desist Order or CDO ("26 February 2009 CDO") against LEGACY CONSOLIDATED PLANS, INC., LEGACY CARD, INC., GALAXY REALTY & HOLDINGS, INC., SHINING ARMOR PROPERTY, INC., ONE REALTY CORPORATION, ONE CARD COMPANY, INC., any of their representatives or any person(s) for and in their behalf, and such other persons directing or controlling the activities of such corporations, officers, representatives, salesmen and agents, enjoining them from (a) transacting any and all business involving the funds in its depository banks, and (b) transferring, disposing, or conveying in any other manner any and all assets, properties, real or personal, including bank deposits and tax credit certificates, if any, of which the named persons therein may have any interest, claim or participation whatsoever, whether directly or indirectly, under their custody, excluding trust funds or assets thereof, immediately upon receipt of the Order, until further order from the Commission. Moreover, subject corporations and any and all of its affiliates, officers, sales agent(s)/salesmen or representatives were also restrained from selling, or offering any and all securities/investment contracts to the public in the absence of the requisite license under the Securities Regulation Code ("SRC")[1] and the Commission's existing rules and regulations.

The 26 February 2009 CDO was anchored on the finding that LEGACY CONSOLIDATED PLANS, INC., through its unlicensed sales agents/salesmen, sold investment contracts to the public without the requisite secondary license. The *modus operandi* is that the sales agents/salesmen represent the investment products to be safe and secure, offering rates of interest as high as one hundred percent (100%) paid through postdated checks payable on equal monthly and/or quarterly basis, which were actually issued to the investors upon receipt of their investments. Curiously, the complaint-affidavits revealed that while the official receipts given to the investors bear the name LEGACY CONSOLIDATED PLANS, INC., the postdated checks issued to the investors to assure the payment of the maturity value or proceeds of their investments are issued by its affiliate and subsidiary corporations such as LEGACY CARD, INC., GALAXY REALTY & HOLDINGS, INC., SHINING ARMOR PROPERTY, INC., ONE REALTY CORPORATION and ONE CARD COMPANY, INC. Soon thereafter, most of the postdated checks were dishonored because the accounts against which they were drawn were suddenly closed.

On 27 February 2009, copies of the 26 February 2009 CDO were served on the incorporators, officers, directors, representative salesmen and agents of therein enumerated respondent corporations, and their affiliate corporations, namely, LEGACY CONSOLIDATED ASSETS HOLDINGS, INC., FUSION CAPITAL CORPORATION, LEGACY MOTORS, INC., SCHOLARSHIP PLANS PHILS, INC., CONVENTIONAL REALTY CORPORATION, LEGACY T.D. FUND, INC., LEGACY G.S. FUND, INC., and LEGACY H.Y. FUND, INC. at their respective addresses appearing in their articles of incorporation. On 28 February 2009, the CDO was published in the Philippine Daily Inquirer.

By virtue of its Order dated 2 April 2009, the Commission made the 26 February 2009 CDO permanent.

Thereafter, an examination of the other complaint-affidavits received by the petitioner and the documents annexed thereto consisting of contracts, official receipts, and other pertinent documents issued to investors revealed that other affiliates and subsidiaries of LEGACY CONSOLIDATED PLANS, INC., namely: herein respondents **ALL ASIA PLANS CORPORATION, UNITED FARMERS SUGAR CORPORATION,** and **LEGACY EMERGENT ASSET MANAGEMENT, INC.** have

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[1] Republic Act No. 8799 (2000).

likewise received investment and monies from complainant-investors relative to the offer and sale of the various investment opportunities offered by LEGACY CONSOLIDATED PLANS, INC. through its sales agents/salesmen, such as, but not limited to: (1) Double Your Money Program (3-year-plan or 5-year-plan or Legacy Card Rebate Agreement; (2) Mutual Fund; (3) Pre-need Buy-Back with Deed of Assignment; and (4) Maxicore.[2]

As in the previously illustrated case, while the official receipts given to the investors bear the name **ALL ASIA PLANS CORPORATION, UNITED FARMERS SUGAR CORPORATION,** and **LEGACY EMERGENT ASSET MANAGEMENT, INC.,** the postdated checks issued to the investors to assure the payment of the proceeds of their investments are issued by LEGACY CARD, INC. and GALAXY REALTY & HOLDINGS, INC., both expressly named subjects of the 26 February 2009 CDO.

Aside from **ALL ASIA PLANS CORPORATION, UNITED FARMERS SUGAR CORPORATION,** and **LEGACY EMERGENT ASSET MANAGEMENT, INC.,** petitioner impleaded herein the other four (4) respondent corporations, all realty companies, namely: **(1) EDIFICE REALTY & DEVELOPMENT CORPORATION; (2) C2MPV REALTY CORPORATION; (3) CALAYUCAY REALTY CORPORATION;** and **(4) R.L. ROA REALTY AND DEVELOPMENT, INC.,** because, based on the powerpoint presentation[3] made by Celso G. De Los Angeles, Jr. before the House of Representatives, they have relations with the companies covered by the 26 February 2009 CDO.

Further, from the documents herein filed by petitioner, it appears that: (a) **EDIFICE REALTY & DEVELOPMENT CORPORATION** is almost 100% owned by RESOURCE PROVIDERS & MANPOWER SERVICES, INC.[4], a Legacy affiliate as admitted by De Los Angeles in said powerpoint presentation; (b) **C2MPV REALTY CORPORATION** is almost 100% owned by LEGACY CARD, INC.[5]; (c) **CALAYUCAY REALTY CORPORATION** is almost 98% owned by GALAXY REALTY & HOLDINGS, INC.[6]; and (d) **R.L. ROA REALTY AND DEVELOPMENT, INC.** is the parent company of FUSION CAPITAL CORPORATION, which is in turn the parent company of LEGACY CONSOLIDATED PLANS, INC.[7]

Hence, on 28 May 2009, the Commission issued a CDO ("28 May 2009 CDO") enjoining respondents **ALL ASIA PLANS CORPORATION, UNITED FARMERS SUGAR CORPORATION, LEGACY EMERGENT ASSET MANAGEMENT, INC., EDIFICE REALTY & DEVELOPMENT CORPORATION, C2MPV REALTY**

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[2] Annexes "O", and "P" to "W" of the *Motion for Issuance of Cease and Desist Order* dated 30 April 2009.
[3] Annex "Y" of the *Motion for Issuance of Cease and Desist Order* dated 30 April 2009.
[4] 2008 General Information Sheet of Edifice Realty & Development Corporation.
[5] 2008 General Information Sheet of C2MPV Realty & Development Corporation.
[6] 2005 General Information Sheet of Calayucay Realty Corporation.
[7] Annex "Y" of the *Motion for Issuance of Cease and Desist Order* dated 30 April 2009.

CORPORATION, CALAYUCAY REALTY CORPORATION and **R.L. ROA REALTY AND DEVELOPMENT, INC.,** or any of their representatives, or any person(s) for and in their behalf, and such other persons directing or controlling the activities of such corporations, officers, representatives, salesmen and agents, are all enjoined (a) from transacting any and all business involving the funds in its depository banks, and (b) from transferring, disposing, or conveying in any other manner any and all assets, properties, real or personal, including bank deposits and tax credit certificates, if any, of which the named persons therein may have any interest, claim or participation whatsoever, whether directly or indirectly, under their custody, excluding trust funds or assets thereof, immediately upon receipt of the Order, until further order from the Commission. Moreover, subject corporations and any of their officers, sales agent(s)/salesmen or representatives are hereby ordered to cease and desist from selling or offering any and all securities/investment contracts to the public in the absence of the requisite license under the SRC and the Commission's existing rules and regulations.

Copies of the 28 May 2009 CDO were sent to respondents **ALL ASIA PLANS CORPORATION, UNITED FARMERS SUGAR CORPORATION, LEGACY EMERGENT ASSET MANAGEMENT, INC., EDIFICE REALTY & DEVELOPMENT CORPORATION, C2MPV REALTY CORPORATION, CALAYUCAY REALTY CORPORATION** and **R.L. ROA REALTY AND DEVELOPMENT, INC.** and to their incorporators, officers, directors, representatives, salesmen and agents at their respective addresses appearing in their Articles of Incorporation and/or General Information Sheets ("GIS"). A copy of the same was likewise published in the Manila Bulletin on 30 May 2009.

The respondents and all the persons against whom the 28 May 2009 CDO were issued were given a non-extendible period of five (5) working days from receipt thereof within which to file a formal request or motion for the lifting of the CDO.

During the hearing on the Motion for Permanent CDO held on 1 October 2009, the Orias Motion was filed. Petitioner asked for fifteen (15) days within which to comment or answer the Orias Motion while Atty. Orias, through counsel, prayed for a similar period from receipt of such answer/comment within which to file her reply. Both prayers were granted.

We shall resolve first the Orias Motion.

The Orias Motion seeks that Atty. Orias be excluded from the list of persons covered by the 28 May 2009 CDO. As such, it partakes of the nature of a motion to lift the CDO. The records clearly disclose, however, that Atty. Orias had already filed on 16 June 2009 a motion to lift the 28 May 2009 CDO, which was eventually denied by the Commission through its Order dated 4 September 2009. That the Orias

Motion may be said to be Atty. Orias's motion for reconsideration from such denial of her motion to lift is unavailing. Under Section 3-6 of the 2006 Rules of Procedure of the Commission ("the 2006 Rules"), a motion for reconsideration is a prohibited pleading. On the merits, petitioner was able to show that Atty. Orias was not only a director of Calayucay Realty Corporation based on the company's 2005 GIS but was also the Corporate Secretary of Edifice Realty & Development Corporation for the years 2006, 2007 and 2008, as evidenced by her signatures as such appearing in the GIS's of the corporation corresponding to the said years. For these reasons, the Orias Motion is hereby denied.

As for the Motion for Permanent CDO, we resolve to grant the same.

Section 8, paragraph 8.1, of the SRC clearly states that "*securities shall not be sold or offered for sale in the Philippines unless said securities are duly registered by the issuer in accordance with the procedure laid out in the SRC and without a registration statement duly approved by the SEC.*"

The definition of "*securities*" under Section 3.1 of the SRC expressly includes an investment contract.[8] Rule 3(1)(G) of the Amended Implementing Rules and Regulations of the SRC defines an investment contract as follows:

> "G. 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.
>
> An investment contract is presumed to exist whenever a person seeks to use the money or property of others on the promise of profits.
>
> 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 commission."

As found by the Commission in *SEC Case No. 02-09-006* wherein the 26 February 2009 CDO was issued, the investment scheme of therein respondents LEGACY CONSOLIDATED PLANS, INC., LEGACY CARD, INC., GALAXY REALTY & HOLDINGS, INC., SHINING ARMOR PROPERTY, INC., ONE REALTY CORPORATION, and ONE CARD COMPANY, INC. falls squarely within the ambit of an investment contract. The scheme consists in the placement or investment of a certain amount of money by the complainants-investors *in a common enterprise belonging to LEGACY CONSOLIDATED PLANS, INC., in consideration of the promise of earning of profits primarily out of the entrepreneurial and managerial efforts of the company.*

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[8] *"'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: xxx investment contracts, certificates of interest or participation in a profit sharing agreement, certificates of deposit for a future subscription."*

Complainants-investors are not expected to do anything except to receive the profits of the amounts they invested through the checks issued by therein respondent(s). However, the records of the Commission reveal that LEGACY CONSOLIDATED PLANS, INC. has no license to sell securities aside from pre-need plans, and is therefore unauthorized by the Commission to sell or offer for sale such investment contracts to the public.

In the case at bar, the evidence presented shows that **ALL ASIA PLANS CORPORATION, UNITED FARMERS SUGAR CORPORATION,** and **LEGACY EMERGENT ASSET MANAGEMENT, INC.** engaged or involved themselves in the unlawful investment scheme that was the impetus for the 26 February 2009 CDO. This, despite the fact that they are not registered issuers of such securities under Sections 8 and 12 of the SRC.[9]

The interests of the investing public further call for the inclusion of **EDIFICE REALTY & DEVELOPMENT CORPORATION, C2MPV REALTY CORPORATION** and **CALAYUCAY REALTY CORPORATION** as they are almost 100% owned, and hence controlled, by corporations covered by the 26 February 2009 CDO. **R.L. ROA REALTY AND DEVELOPMENT, INC.**, on the other hand, is considered as already covered by the 26 February 2009 CDO because it is a "*person directing or controlling the activities*" of FUSION CAPITAL CORPORATION, and ultimately, of LEGACY CONSOLIDATED PLANS, INC.

Based on the records, only respondents Victorino De Los Angeles, Atty. Victoria Isabel G. Noel, Atty. Raycell D. Baldovino, Atty. Ma. Carolina P. Orias, Ma. Concepcion P. De Los Angeles and Martin Nicolo P. De Los Angeles filed their respective motions to lift the 28 May 2009 CDO as against them. Respondents **ALL ASIA PLANS CORPORATION, UNITED FARMERS SUGAR CORPORATION, LEGACY EMERGENT ASSET MANAGEMENT, INC., EDIFICE REALTY & DEVELOPMENT CORPORATION, C2MPV REALTY CORPORATION, CALAYUCAY REALTY CORPORATION** and **R.L. ROA REALTY AND DEVELOPMENT, INC.** have not filed any formal request or motion for the lifting of the said CDO pursuant to Section 10-3 of the 2006 Rules. The failure to file the necessary motion to lift is deemed a waiver on any party to avail himself/itself of such remedy.

Considering the gravity of the offenses committed, the multitude of affected investors, and in order to prevent further violations and protect the investing public from similar machinations and grave irreparable damage in the future, it is imperative that the 28 May 2009 CDO be made permanent.

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[9] Certification of Corporation Finance Department dated 23 March 2009 (Annex "X" of the *Motion for Issuance of Cease and Desist Order* dated 30 April 2009).

WHEREFORE, premises considered, and pursuant to the authority vested in the Commission, the Cease and Desist Order dated 28 May 2009 is hereby made **PERMANENT.**

SO ORDERED.

City of Mandaluyong, 21 January 2010.

FE B. BARIN
Chairperson

MA. JUANITA E. CUETO
Commissioner

RAUL J. PALABRICA
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

ELADIO M. JALA
Commissioner