Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City

In the matter of:
BACOOR DOCTORS MEDICAL CENTER, INC.

SEC CDO Case No. 05-15-019

ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT,
Movant.

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CEASE AND DESIST ORDER

This resolves the *Motion for Issuance of Cease and Desist Order*[1] filed by the Enforcement and Investor Protection Department (*for brevity* "**EIPD**") praying to enjoin BACOOR DOCTORS MEDICAL CENTER, INC. (*for brevity* "**BACOOR DOCTORS**"), to cease and desist from offering for sale securities in the form of Common shares of stock until the requisite registration statement is duly filed with and approved by the Commission and the corresponding permit to offer/sell securities is issued.

BACOOR DOCTORS is a domestic stock corporation registered with the Commission on 14 December 2010 under Company Registration No. CS201019842[2]. Its principal office address is at Molino Boulevard, Bayanan, Bacoor, Cavite. Its primary purpose is:

> Primary purpose:
>
> To establish, own, operate, manage and maintain a hospital or hospitals, medical and clinical laboratories, and such other enterprises, which may have similar or analogous undertakings, or dedicated to services in connection therewith, subject to the condition that purely professional medical and surgical services shall be performed by duly qualified physicians or surgeons who may or may not be connected with the corporation and whose services shall be freely and individually contracted by the patients thereof[3].

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[1] Dated 19 May 2015.
[2] Annex "A" of the Motion, Certificate of Incorporation of Bacoor Doctors Medical Center, Inc.
[3] Annex "B" of the Motion, Articles of Incorporation of Bacoor Doctors Medical Center, Inc.

The authorized capital stock of BACOOR DOCTORS is Eighty Million Pesos (Php 80,000,000.00) divided into:

A. 625 Founder's shares with a par value of Php 1,000.00 per share;
B. 79,375 Common shares with a par value of Php 1,000.00 per share.
Total = 80,000 shares[4]

The incorporators of BACOOR DOCTORS are the following: 1) Jose A. Bacud Jr.; 2) Buenaventura Camagong; 3) Cyril Catabay; 4) Cesar T. Culas; 5) Ricardo B. Delos Trinos Jr.; 6) Cynthia V. Gatdula; 7) Jose N. Gatdula Jr.; 8) Estephany Marie G. Guerra; 9) Filemon Raymon Guerra III; 10) Ronaldo L. Iremedio; 11) Enrico P. Jayma; 12) Edna R. Molon; 13) Nicolas S. Molon; 14) Jenner Quebada; 15) Allen Anthony D. Sese.[5]

As stated in BACOOR DOCTORS' 2014 General Information Sheet (GIS)[6], its Board of Director and Officers are the following:

Name	***Officer***	***Nationality***
Nicolas S. Molon	Chairman	Filipino
Jose A. Bacud Jr.	President	Filipino
Estephany Marie G. Guerra	Treasurer	Filipino
Cesar T. Culas	Board of Director	Filipino
Cyril Catabay	Board of Director	Filipino
Ricardo B. Delos Trinos Jr.	Board of Director	Filipino
Allen Anthony D. Sese	Board of Director	Filipino
Jose A. Bacud Jr.	Board of Director	Filipino
Elsa Peregrino	Board of Director	Filipino
Cynthia V. Gatdula	Corporate Secretary	Filipino

This case stemmed from an email-inquiry[7] dated 16 February 2015 from Mr. Rodel Tolentino. Mr. Tolentino alleged that he has invested in BACOOR DOCTORS but he was not able to get any return of his investment. He inquired if hospitals are allowed to solicit investments/sell stocks and as to how can he recover his investment with the said hospital[8].

[4] Ibid.
[5] Ibid.
[6] Annex "C" of the Motion, 2014 GIS of Bacoor Doctors Medical Center, Inc.
[7] Annex "D" of the Motion, email-inquiry of Rodel Tolentino.
[8] The text of the email reads: "Years ago we're invited by doctors to invest in building hospital, to be specific Bacoor Doctors Medical Center. They explained that other hospitals like Paranaque Doctors, Las Pinas Doctors were built on the same scheme with doctors leading the investment inviting public investors in return of preferred benefits in terms of hospitalization discounts and service incentives. Consequently, we learn that same scheme apply to concurrent public invites for Paranaque Medical Center and Unihealth Paranaque Hospital.
We bought a few shares in Bacoor Doctors Medical Center, no stock certificate we're given to us. Now we want to return on our investments, they mentioned that they will be selling our shares to new investors.
Our query is – do these hospitals are allowed to solicit investment and sell stock shares? How can we possible recover our investment sooner.
Thanks and have a nice day.
Best regards,
Rodel Tolentino"

This prompted EIPD to initiate an investigation against BACOOR DOCTORS. In an online search, EIPD found an advertisement[9] posted on 07 August 2011 on <u>*http://pinoy.md*</u> marketing an investment opportunity in BACOOR DOCTORS, to wit:

> "A Hospital Soon to Rise in Molino Bacoor Cavite BACOOR DOCTORS & MEDICAL CENTER
> Started by jerry, Aug 07 2011 07:29 AM
>
> **For those who are interested in buying hospital stocks, especially medical & also non-medical, fresh from residency /fellowship, or with ongoing training but already planning in having hospital stocks for future use, and for the established doctors who want to practice in Molino Bacoor, Cavite. BACOOR DOCTORS AND MEDICAL CENTER, INC. (100 BED TERTIARY HOSPITAL)** – groundbreaking last January 19, 2011 & started construction on June 7, 2011 Molino Boulevard near the site of the future BACOOR CITY HALL, **a lucrative place for future investments**...
> Strategically situated along Molino Boulevard with interconnecting access roads to Daang Hari, Molino Road, Aguinaldo Highway & Coastal Road...
> In close proximity to several housing projects of Crown Asia, Princeton Filinvest, ADDAS Homes & other established subdivisions in the area.
>
> **One block of share/stocks – P300,000.00**
> Privilege to practice is inclusive,
> **With special offering of P10,000.00 per month for 35 months (P350,000.00) or somewhat barely 3 years to pay & this is somewhat applicable or a special offer for doctors undergoing residency training...**
> FOR INQUIRIES, PLEASE CALL OR TEXT AT +63917XXXXXXX/ +63922XXXXXXX/ (+632) XXXXXXX
>
> The following are the benefits (stockholders and dependents – parents/spouse/children)
> 1. Free board and lodging up to 45 days in a private room per year (non-cumulative)
> 2. 25% to 50% discount (professional fee, procedures like x-ray, laboratory, rehabilitation, etc.)
> 3. No OR/DR fees (stockholder and spouse, 50% discount for stockholder's parents and children)
> 4. Discount on pharmacy, CSR & OR materials, dental services (free consultation)
> 5. For medical stockholders (after payment of the privilege to practice) – hold clinic within the hospital for a maximum of 6 hours/week – no rental fee, only maintenance, water & electric bills; inclusion in the decking/rotation of house cases"

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[9] Annex "E" of the Motion, print-out of the online advertisement.

On 21 April 2015, an EIPD investigating team went to BACOOR DOCTORS to conduct an ocular inspection and surveillance operation of the activities of the said hospital. The investigating team reported that:

> "Before proceeding with the field surveillance, x x x conducted an online search using the name Bacoor Doctors Medical Center ("Bacoor Doctors") and found an advertisement of offer of shares of said hospital. Said advertisement was posted on 07 August 2011. x x x sent an SMS to one of the numbers indicated in the advertisement, inquiring whether she can still avail of the shares. The following day, said number called on (the) mobile number, with a certain Dr. Jerry Castro on the other line. According to Dr. Castro, he is a doctor practicing Internal Medicine and is affiliated with different hospitals in the Philippines, including Asian Hospital in Alabang, Medical Center in Muntinlupa, and another hospital in Las Pinas. **Dr. Castro stated that one block of shares costs 350, 000Php for cash and 400,000Php for installment basis. Said shares are for medical and non-medical stockholders, but prefers for medical practitioners so the latter could also opt to hold clinics in Bacoor Doctors.** Dr. Castro said that he will not be at Bacoor Doctors within the day as he will be at his clinic in Asian Hospital, but he will just instruct a hospital staff by the name of "Bec" to accommodate the inquiries in person.
>
> The team proceeded to the said Hospital, located in the above-stated address. The hospital building has a sign "Bacoor Doctors Medical Center" on it. It is apparently new. The undersigned asked for Ms. Bec. The team was invited by Ms. Bec inside their office, and said that Dr. Castro already instructed her about us. She said that she is part of the administration staff. **The team asked for any leaflets or brochures, and Ms. Bec readily printed a copy bearing the title "Stockholders General Policy" which contained the requirements to be a stockholder, the benefits of medical and non-medical stockholders, definition of dependent, and benefits of dependents for common stockholder.** The team asked Ms. Bec to sign or put her name and contact details thereon, to which she complied. She wrote her name to be Rebakah, along with her contact number. One of the team members noticed her name to be Rebekah Latupan. She told the team that Bacoor Doctors commenced operations just recently, or on 11 March 2014. **She discussed that a person may purchase a block or blocks of stocks, amounting to 350000Php for cash, and 400000Php in installments for each block. Benefits for the stockholder and his/her dependents include, discounts on hospital services, free private room accommodations for 45 days, among others. For medical practitioners, they can also hold clinics in the hospital. She clarified that one may only be entitled to the benefits when s/he is already fully-paid.** When asked if refund is possible, she answered, "magpag-uusapan"."[10]

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[10] Annex "F" of the Motion, Investigation Report.

The investigating team was able to obtain a *Stockholders General Policy*[11] from BACOOR DOCTORS indicating the requirements and benefits of being a stockholder in the said hospital.

EIPD then requested from the Commission's Corporate Governance and Finance Department (CGFD) a certification if BACOOR DOCTORS is a registered issuer of securities. CGFD certified that based on the Commission's records, BACOOR DOCTORS is NOT a registered issuer of securities (mutual funds, exchange trade funds and membership certificates), nor does it have a pending application for a secondary license to offer or sell securities to the public[12].

Hence, this Motion.

Section 3 of the Securities Regulation Code (SRC) defines securities as:

> "Section 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, instruments, whether written or electronic in character**. It includes:
>
> (a) **Shares of stocks**, bonds, debentures, notes evidences of indebtedness, asset-backed securities;
>
> x x x"

Based on the foregoing definition, the shares of stocks offered or sold by BACOOR DOCTORS are securities within the purview of the SRC.

Section 8.1 of the SRC 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. Relative 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 prescribes.

Thus, as securities, the shares of stock of BACOOR DOCTORS should be registered before being offered or sold to the general public, in compliance with Sections 8.1 and 12.1 of the SRC.

In the instant case, CGFD issued a *Certification*[13] dated 21 April 2015 which states that BACOOR DOCTORS is not a registered issuer of securities and therefore, it is not licensed to issue or offer securities to the general public.

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[11] Annex "H" of the Motion.
[12] Annex "I" of the Motion, Certification dated 21 April 2015 from the CGFD.
[13] Ibid.

Rule 3, paragraph 1, sub-paragraph N of the SRC provides that:

> "**Public offering means a random or indiscriminate offering of securities in general to anyone who will buy, 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:
>
> i. Publication in a newspaper, magazine or printed reading material which is distributed within the Philippines or any part thereof;
> ii. Presentation in any public or commercial place;
> iii. **Advertisement or announcement** in any radio or television, or **any online or e-mail system**; or
> iv. **Distribution and/or making available flyers, brochures or any offering material** in a public or commercial space, or mailing the same to prospective purchasers."

As the records disclose, BACOOR DOCTORS, through its agent Dr. Jerry F. Castro, posted an advertisement in *http://pinoy.md* promoting and marketing the shares of stocks of BACOOR DOCTORS to the general public[14]. Also, the EIPD investigating team was able to acquire information and printed materials advertising the same in BACOOR DOCTORS' main office. As such, it falls within the above-description of public offering.

Thus, BACOOR DOCTORS and its agents are offering or selling securities in the form of shares of its stocks without a secondary license from the Commission.

Moreover, BACOOR DOCTORS advertises that one block of shares/stocks is being sold at Three Hundred Thousand Pesos (Php 300,000.00). However, a close scrutiny of BACOOR DOCTORS' Articles of Incorporation (AOI) reveals that the common share of stock is with a par value of One Thousand Pesos (Php 1,000.00) each[15] and one block of common shares consists only of twenty five (25) shares[16]. Thus, one (1) share of stock is being sold by BACOOR DOCTORS at Twelve Thousand Pesos (Php 12,000.00), which is contrary to its AOI.

Also, it is worth mentioning that some of BACOOR DOCTORS' officers and incorporators are also the same officers and incorporators of hospitals that were issued

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[14] Annex "F", EIPD Field Investigation Report and Annex "E", print-out of the advertisement.

[15] BACOOR DOCTORS' AOI – SEVENTH: That the authorized capital stock of said corporation is EIGHTY MILLION (P 80,000,000.00) PESOS, Philippine Currency, and said capital stock is divided into: 625 Founder's Shares, issued at One Thousand (P 1,000.00) Pesos, per share, and **79,375 Common Shares of Stock, with a par value of One Thousand (P 1,000.00) Pesos per share.**

[16] Ibid. – EIGHTH: That the aforesaid shares of stock shall be subject to the following rights, preferences, restrictions and qualifications which shall be printed on the corresponding stock certificates thereof, to wit: 1. A Founder, to be qualified as such, must be a subscriber of record of at least one (1) block of Founder's share consisting of Twenty five (25) shares per block. **A common stockholder to be qualified as such must be a subscriber of record to at least one (1) block of Common shares, consisting of Twenty five (25) shares per block.**

Cease and Desist Orders by the Commission *En Banc* for offering or selling securities, to wit:

Hospital	Jose A. Bacud Jr.	Nicolas Molon	Status
Bacoor Doctors Medical Center, Inc. (*SEC CDO Case No. 05-15-019*)	Incorporator and President	Incorporator and Chairman	Present case
Diliman Doctors Hospital Inc. (*SEC CDO Case No. 10-12-008*)	Incorporator and President	Incorporator and Chairman	CDO issued (permanent)
Pacific Global Medical Center, Inc. (*SEC CDO Case No. 09-12-007*)	Incorporator and Chairman	No participation	CDO issued (permanent)

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 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**.

BACOOR DOCTORS is involved in offering and selling of its shares without the necessary license from the Commission which would operate as a fraud on investors or likely to cause grave or irreparable injury or prejudice to the investing public. Thus, in the absence of a secondary license, BACOOR DOCTORS should be restrained from offering or selling its shares to the public. The strict regulation of securities is founded on the premise that the capital market depend on the investing public's level of confidence in the system[17].

WHEREFORE, premises considered and pursuant to the authority vested in the Commission, Respondent **BACOOR DOCTORS MEDICAL CENTER, INC.** is engaged in the unauthorized offer for sale of securities, the respondent corporation, its officers, directors, agents, representatives, conduits, assigns, and any and all persons claiming and acting for and in behalf and under their authority are hereby ordered to **IMMEDIATELY CEASE AND DESIST[18], UNDER PAIN OF CONTEMPT**, from offering for sale or selling securities in the form of its shares of stocks until the requisite registration statement is duly filed with and approved by the Commission and until they have complied with all the requirements of law and its implementing rules and regulations.

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[17] Power Homes Unlimited Corporation vs. Securities and Exchange Commission and Manero, G.R. No. 164182, February 26, 2008.

[18] Section 64.1, SRC, The Commission, after proper investigation or verification, *motu propio*, or upon verified 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 fraud on investors or is otherwise likely to cause grave or irreparable injury or prejudice to the investing public.

The Enforcement and Investor Protection Department is hereby **DIRECTED** to: 1) serve this *Order* to BACOOR DOCTORS MEDICAL CENTER, INC., its President, General Manager, Corporate Secretary, Treasurer or In-House Counsel; and 2) post copies of the *Order* at the entrance of the main office and/or branches, if any, of BACOOR DOCTORS MEDICAL CENTER, INC. Let a copy of this *Order* be also posted in the Commission's website and published in a national newspaper of general circulation. EIPD is **FURTHER DIRECTED** to submit a compliance report to the Commission *En Banc* within five (5) days from receipt of this *Cease and Desist Order*.

In accordance with the provisions of Sec. 64.3[19] of Republic Act 8799, the Securities Regulation Code and Sec. 10-3 of the 2006 Rules of Procedure of the Commission, the party subject of this *Cease and Desist Order* may file a request for the lifting thereof within five (5) days from receipt hereof.

FAIL NOT UNDER PENALTY OF LAW.

SO ORDERED.

Mandaluyong City, Philippines; 09 June 2015.

* **TERESITA J. HERBOSA**
Chairperson

ANTONIETA F. IBE
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

EPHYRO LUIS B. AMATONG
Commissioner

* **BLAS JAMES G. VITERBO**
Commissioner

cc: CRMD
MSRD
CGFD
ERTD

*absent on official business during the deliberation of this matter.

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[19] SRC, Section 64.3. Any person against whom a cease and desist order was issued may, within five (5) days from receipt of the order, file a formal request for a lifting thereof. Said request shall be set for hearing by the Commission not later than fifteen (15) days from its filing and the resolution thereof shall be made not later than ten (10) days from the termination of the hearing. If the Commission fails to resolve the request within the time herein prescribed, the cease and desist order shall automatically be lifted.