**In the matter of:**
**FASTLEGACY MARKETING INTERNATIONAL INC. and HYUN LEE SCOFIELD a.k.a. JOHNNY SCOFIELD**

**SEC CDO Case No. 03-17-040**

**ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT,**
*Movant.*

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# RESOLUTION

This resolves the *Motion to Lift Cease and Desist Order*[1] (**Motion to Lift**) filed, on 07 June 2017, by FASTLEGACY MARKETING INTERNATIONAL, INC. (**FASTLEGACY**) and HYUN LEE SCOFIELD praying that the *Cease and Desist Order* dated 24 May 2017 (**Assailed CDO**) be lifted, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered and pursuant to the authority vested in the Commission, **FASTLEGACY MARKETING INTERNATIONAL, INC. and HYUN LEE SCOFIELD** ***a.k.a.*** **JOHNNY SCOFIELD,** their partners, officers, directors, agents, representatives, conduits, assigns, and any and all persons claiming and acting for and in their behalf and under their authority are hereby ordered to **IMMEDIATELY CEASE AND DESIST, UNDER PAIN OF CONTEMPT**, from engaging in activities of selling and/or offering for sale securities in the form of investment contracts or any others of the same nature until the requisite registration statement is duly filed with and approved by the Commission and the corresponding to offer/sell is issued.
>
> Furthermore, the subject corporation, together with its representatives and/or agents, is **DIRECTED TO CEASE its internet presence relating to above-stated investment activities**. 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 behalf of the subject corporations."

On 07 June 2017, the Enforcement and Investor Protection Department (**EIPD**) filed its *Compliance*[2] to the Commission's directive to serve a copy of the Assailed CDO to FASTLEGACY and its incorporators. EIPD states that on **01 June 2017**, Anthony Glenn Paggao, SEC Special Sheriff, and Erikson Morales, EIPD Investigator, served a copy of the Assailed CDO to FASTLEGACY and its

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[1] Dated 06 June 2017.
[2] Dated 06 June 2017.

incorporators.[3] They also posted a copy of the same in the bulletin board of the main entrance of the Excelsior Building, FASTLEGACY's business office.[4]

On 07 June 2017, Hyun Lee Scofield[5] personally filed with the Commission the instant *Motion to Lift.* In the said motion, FASTLEGACY, through Mr. Scofield, admitted that it received the Assailed CDO on 01 June 2017, to wit:

> "1. On **1 June 2017**, the Company [FASTLEGACY] **received a copy of the Cease and Desist Order (CDO) dated 24 May 2017** from the Honorable Commission."

Thereafter, the Commission, in an *Order* dated 08 June 2017, directed EIPD to file its comment to FASTLEGACY's *Motion to Lift.* On 16 June 2017, EIPD filed its *Comment (to the Motion to Lift Cease and Desist Order)*[6] alleging, among others that FASTLEGACY's *Motion to Lift* was filed beyond the prescribed period as provided in Section 4-3, (b) and (c), Rule IV, Part II of the 2016 SEC Rules of Procedure (**2016 SEC Rules**). Thus, EIPD prays that FASTLEGACY's *Motion to Lift* should be denied outright.

We are now faced with a procedural issue on whether or not FASTLEGACY was able to file its *Motion to Lift* within the prescribed period under the 2016 SEC Rules.

The 2016 SEC Rules clearly provides that:

> SEC. 4-3. Procedure to Lift the CDO – A **CDO may be lifted** under any of the following circumstances:
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> a. For a CDO issued ex-parte under Sec. 53.3 of the SRC.the same is automatically lifted after ten (10) days from receipt of the CDO by the person subject thereof;
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> b. For a CDO issued ex-parte under Sec. 64 of the SRC and other special laws, the same may be lifted upon filing by **the person subject thereof of a <u>verified motion</u> to lift the CDO <u>within five (5) days from receipt of said Order</u>**. Said motion to lift shall be set for hearing by the Commission En Banc 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 period herein prescribed, the CDO shall automatically be lifted;
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> c. In paragraph (b) of this Section, if the Commission En Banc denies the Motion to Lift. or if the **person subject of the CDO <u>fails to file the appropriate pleading within the period prescribed</u>** in these Rules, the **CDO shall be deemed permanent**, and can only be lifted

[3] Paragraphs 2-3 of EIPD's Compliance.

[4] Paragraph 4 of EIPD's Compliance.

[5] Authorized representative of FASTLEGACY as per Secretary Certificate dated 07 June 2017 signed by Ricardo Torres Jr., FASTLEGACY's Corporate Secretary.

[6] Dated 14 June 2017.

> by the Commission En Banc in its own discretion and upon a finding that the grounds for the issuance of the same no longer exist or the objective of the CDO of protecting the public from harm or fraud has already been accomplished.

The above-cited rules clearly express that the corporation or person subject of a CDO may file a motion to lift within five (5) days from receipt of the said order. It is also stated that if the corporation or person subject of the CDO fails to file the appropriate pleading within the prescribed period, the CDO shall be deemed permanent.

In the instant case, FASTLEGACY received the Assailed CDO on 01 June 2017, as evidence by EIPD's *Compliance*[7] and FASTLEGACY's admission[8] in its *Motion to Lift*. Hence, FASTLEGACY has five (5) days from 01 June 2017 or until 06 June 2017 within which to file a motion to lift. However, it filed its *Motion to Lift* only on 07 June 2017 or one (1) day after the deadline to file. Therefore, FASTLEGACY failed to file its *Motion to Lift* within the five-day prescribed period.

In *Republic vs. Hernandez*[9], the Supreme Court has emphasized that:

> "It cannot be overemphasized that **procedural rules have their own wholesome rationale in the orderly administration of justice**. Justice has to be administered according to the Rules in order to obviate arbitrariness, caprice, or whimsicality."

Likewise, in *Limpot vs. CA*[10], the Supreme Court has enunciated that:

> "We conclude as we began, by stressing that **procedural rules are not to be belittled or dismissed simply because their nonobservance may have resulted in prejudice to a party's substantive rights**, as in this case. Like all rules, they are required to be followed except only when for the most persuasive of reasons they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. Such reasons are not present here. We do not find that compelling justification for the exception sought and so must sustain the respondent court. While it is true that a litigation is not a game of technicalities, this does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. **Justice eschews anarchy**."

Even if we look into the merits of the instant motion, we do not find any basis granting the same. In the case of *GSIS vs. Prudential Guarantee and Assurance, Inc., et al.*[11], the Supreme ruled that:

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[7] Note 3, Supra.

[8] Paragraph 1 of FASTLEGACY's Motion to Lift.

[9] G.R. No. 117209, 09 February 1996.

[10] G.R. No. L-44642, 20 February 1989.

[11] G.R. No. 165585, November 20, 2013.

> **"It is hornbook doctrine that mere allegations do not constitute proof.** As held in *Real v. Belo*, "**it is basic in the rule of evidence that bare allegations, unsubstantiated by evidence, are not equivalent to proof**. In short, **mere allegations are not evidence**."

In this case, FASTLEGACY simply presented, in its two-page Motion to Lift, a general denial that it is not selling securities. It claims that it does not need to apply for a permit with the Commission because it merely sells "transaction of services, online hosting of exclusive education marketing tutorials and e-commerce platform to sell products online".[12] It did not provide any form of evidence to support its general denial. Worse, it did not even refute the specific findings contained in the issued CDO. Thus, FASTLEGACY's allegations could not be given any weight.

**WHEREFORE,** premises considered, the instant *Motion to Lift* is hereby **DENIED** for having been filed beyond the prescribed period provided in SEC. 4-3, Rule IV, Part II of the 2016 SEC Rules of Procedure. The CEASE AND DESIST ORDER dated 24 May 2017 issued against **FASTLEGACY MARKETING INTERNATIONAL, INC. and HYUN LEE SCOFIELD *a.k.a.* JOHNNY SCOFIELD**, its officers, directors, agents, representatives, conduits, assigns, and any and all persons claiming and acting for and in behalf and under its authority, is hereby **MADE PERMANENT**.

**SO ORDERED.**

Pasay City, Philippines; 05 September 2017.

**TERESITA J. HERBOSA**
***Chairperson***

**ANTONIETA F. IBE** *
***Commissioner***

**EPHYRO LUIS B. AMATONG** *
***Commissioner***

**BLAS JAMES G. VITERBO**
***Commissioner***

**EMILIO B. AQUINO**
***Commissioner***

*On Official Business

[12] Paragraph 3 of the Motion to Lift.