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

IN THE MATTER OF:

IGNITE VIRTUS INTERNATIONAL

SEC CDO Case No. 02-22-079

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 (a) directing Ignite Virtus International, its CEO and President/Owner, Andrei Dionisio, a.k.a. Karl Andrei Sandiego Dionisio, and its officers, partners, representatives, salesmen, solicitors, agents, uplines, enablers, influencers, conduits, assigns, and any and all persons (collectively referred to as "Agents") claiming and/or acting for and in its behalf, to immediately cease and desist from further engaging in activities of selling and/or offering for sale unregistered securities and to remove or take down their online posts and offerings until the requisite registration statements are duly filed with and approved by the Securities and Exchange Commission (Commission) and the permits to offer/sell securities are issued; and (b) prohibiting Ignite Virtus International, its CEO and President/Owner, Andrei Dionisio, a.k.a. Karl Andrei Sandiego Dionisio, its Agents, and any and all persons claiming and/or acting for and in their behalf, from selling, encumbering, conveying, or disposing any of its properties and/or assets without the prior written authority from the 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]

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[1] Filed on 7 February 2022.
[2] Section 2-2(c)(1-c), Rule II, Part I of the 2016 SEC Rules.

Ignite Virtus International (Ignite) is an entity that is not registered with the Commission, either as a corporation or partnership. Ignite has no secondary license to engage in business or transact as a dealer/issuer of securities.[3]

RELEVANT FACTS

Acting on the recommendation of one of EIPD's Securities Investigator who conducted *motu proprio* an initial investigation on the operations and transactions of Ignite[4] pursuant to the Department's proactive policy measure to curtail the proliferation of possible online investment scams, the EIPD initiated and made a formal investigation on the online investment solicitation activities of Ignite effected through its social media platform/accounts.[5]

Based on, and as a result of its investigation, the EIPD presented evidence showing and confirming that Ignite uses and maintains a Facebook account with a particular group[6] which is managed by a certain Mr. Andrei Dionisio (Mr. Dionisio). The said Facebook account is used to invite and/or solicit investments from the public. The EIPD further confirmed and presented evidence that Ignite is selling and offering its investment plans which promises a guaranteed return of investment at the rates ranging from fifty to two hundred percent (50% - 200%) in just ten to thirty (10 - 30) days.

To encourage the public to invest with Ignite, Mr. Dionisio posted a statement where he assured and guaranteed to prospective investors that all their investments are safe with them and that they will be compensated on a fixed income basis.[7] Moreover, the EIPD also presented evidence showing that a certain Jake Pitogo informed the members of Ignite that the entity is registered with the Department of Trade and Industry (DTI) as "Ignite Virtus Financial Consultancy Services" under the name of Karl Andrei Sandiego Dionisio, apparently for the purpose of convincing investors that the entity and its investment taking activities are legitimate.

For purposes of the foregoing, the EIPD submitted screenshots of the posts made by Mr. Dionisio in his Facebook page, which includes the investment plans being sold/offered by Ignite, the information on how to invest in the entity, and the registration document issued by the DTI. The

[3] Company Registration and Monitoring Department's Certification dated 18 January 2022.
[4] Annex "B" of the Motion.
[5] Affidavit of Kris Benedict Crisostomo.
[6] https://facebook.com/groups/ignitvirtus/
[7] Page 3 of the Motion.

EIPD likewise presented a video posted by Mr. Dionisio inviting the public to invest with him and make money.[8]

The EIPD also alleged that Ignite's investment scheme is a Ponzi scheme as it promises an exorbitant rate of return with no risk at all to the investors.

The *modus operandi* of Ignite as shown by the evidence presented by the EIPD consists of the following:

1) Ignite gains the attention of, and invites the investing public using its Facebook posts and invitational video[9] on making money through cryptocurrency;

2) To entice the public to invest with the entity, Ignite offers investment plans or packages with guaranteed return rates ranging from fifty to two hundred percent (50% - 200%) in just ten to thirty (10 - 30) days. Ignite likewise assures its investors that their investments are all safe with it;

   Ignite's investment plans are as follows:

   Bronze: Investment of ₱500 to ₱4,500 with a guaranteed 50% profit in 10 days

   Gold: Investment of ₱5,000 to ₱9,500 with a guaranteed 100% profit in 15 days

   Platinum: Investment of ₱10,000 and above with a guaranteed 200% profit in 20 days

3) To convince the public that its investment is legitimate, Ignite flaunts its DTI registration in its Facebook page, as well as that of its owners and members; and

4) Investors are then directed to register using the link given to them. After registration, investors are now able to pay-in/cash-in through their authorized fund sellers. Investors are able to withdraw their promised profits on a designated maturity date.

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[8] https://www.facebook.com/watch/?v=4546357822085531
[9] Supra Note 8.

In the course of its investigation, the EIPD was able to secure Certifications[10] from the Company Registration and Monitoring Department (CRMD), the Corporate Governance and Finance Department (CGFD) and the Markets and Securities Regulation Department (MSRD) of the Commission showing that Ignite has not applied for a primary franchise as a corporation or partnership, and has not been issued any secondary license to operate as a broker/dealer of securities and is not a registered issuer of any securities pursuant to Sections 8 and 12 of the SRC, or of mutual funds (including exchange traded funds, membership certificates, and time shares).

On 20 January 2022, the Commission issued an Advisory[11] informing and warning the public that Ignite is not authorized to solicit, accept or take investments/placements, 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. The public was also advised not to deal with Ignite and/or its representatives.

Notwithstanding the issuance of the Advisory, the EIPD found that Ignite continuously operates and conducts investment taking and solicitation activities on Facebook.

On the basis of the foregoing information and evidence, the EIPD submits that Ignite is engaged in an 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 Commission, in violation of the Securities Regulation Code (SRC) which warrants the issuance of a Cease and Desist Order (CDO) to protect the investing public.

ISSUE

Whether the issuance of a cease and desist order against Ignite 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 Ignite is offering and/or selling unregistered securities

[10] Annexes G-1 to G-3 of the *Motion*.
[11] Annex "D" of the Motion.

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.

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."[12] (Emphasis supplied)

Section 8.1 of the SRC categorically provides that securities cannot be sold or offered for sale within the Philippines if the same are not registered with the Commission in the form of an approved Registration Statement and a Permit to Offer/Sell issued in favor of the applicant, to wit:

*"**SEC. 8. Requirement of Registration of Securities.** – 8.1 **<u>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</u>**. Prior such sale, information on the securities, in*

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

such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser." (Emphasis and underscoring supplied)

Moreover, an "investment contract" has been defined as follows:

> **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's commission."[13] (Emphasis supplied)

In the case of *Power Homes Unlimited v. Securities and Exchange Commission,*[14] the Supreme Court ruled that investment contracts are securities that are required to be registered with the Commission for the protection of the investing public, to wit:

> "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."

The concept of an investment contract in the Philippines is of American origin. It traces its roots from the US Supreme Court case *Securities and Exchange Commission v. W.J. Howey Co.*[15] where the Court stated that an investment contract is a transaction, contract, or scheme whereby a person (1) makes an investment of money, (2) in a common enterprise, (3) with the expectation of profits, (4) to be derived solely from the efforts of others. 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

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[13] Rule 26.3.5 of the Implementing Rules and Regulations of the SRC.
[14] Note 24, *Supra.*
[15] 328 U.S. 293, 66 S. Ct. 1100, 90 L. Ed. 1244, 163 A.L.R. 1043 (1946).

a profit through the efforts of the promoter or of someone other than themselves.[16]

The concept of an investment contract was thereafter adopted and used in *Power Homes Unlimited Corporation v. Securities and Exchange Commission,*[17] where the Supreme Court ruled that an investment contract in our jurisdiction, to be a security subject to regulation by the Commission, must be proved to be *(1) an investment of money; (2) in a common enterprise; (3) with expectation of profits, (4) primarily from 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.[18]

Applying the foregoing to the instant case, this Commission finds that Ignite is unlawfully engaged in the sale and/or offer of securities in the form of investment contract, as it has not secured the requisite licenses from the Commission.

First, Ignite required its investors to invest a minimum amount of Five Hundred Pesos (₱500.00) without any investment ceiling from which the guaranteed return is pegged. The evidence disclose that actual investments were received by Ignite from investors who claimed to have received their payouts from their investments.[19]

Second, The EIPD was able to show that the investment scheme of Ignite involves the pooling of the resources consisting of the moneys of its investors which are actually utilized to satisfy and pay the guaranteed returns of its existing investors. Ignite's sale of its investment scheme is the common enterprise that sustains its operation.

Third, Ignite's investors expect to earn profits from the amounts invested which is guaranteed by the entity.

Fourth, Ignite's investors expect to earn their guaranteed returns from the efforts of its owner and promoters, specifically Mr. Dionisio who expressly assured investors that all they need to do is wait until the maturity date of their investments.

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[16] *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.

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

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

[19] https://www.youtube.com/watch?v=zKeBMy5cy2E; See Comment made by Zejailen the Ronin, "Ako po nag invest ako nyan pero may limit ako kasi di na ako gusto ulit ma scam"

Moreover, the evidence presented by the EIPD also shows that Ignite's investment scheme involves public offering of securities.

Public offering of securities is defined under Rule 3.1.17 of the 2015 IRR of the SRC as follows:

> "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:
>
> x x x
>
> 3.1.17.3 Advertisement or announcement in radio, television, telephone, **electronic communications, information communication technology or any other forms of communication;**"[20] (Emphasis supplied)

Here, the evidence submitted by the EIPD shows that Ignite is offering investment plans publicly through a social media platform, i.e., Facebook, to potential investors without prior registration.

Relative to a valid issuance of a CDO, Section 64 of the SRC provides, thus:

> "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.**" (Emphasis supplied)

Under the afore-quoted provision, there are two (2) essential requisites that must be complied with for a cease and desist order can be validly issued:

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

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[20] Rule 3.1.17 of the Implementing Rules and Regulations of the SRC.

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.[21]

Anent the first requisite, the records disclose that the EIPD conducted a proper investigation as evidenced by the various documents gathered and submitted in support of its Motion showing the unauthorized investment taking activities of Ignite. Specifically, the EIPD presented the following pieces of evidence in support of its Motion:

1) Certification from the CRMD, CGFD, and MSRD certifying that Ignite is not a registered entity with the Commission and that it has not been issued a license to offer and/or sell securities;

2) Investigator's affidavit which attested to the veracity of the information gathered involving the unauthorized investment-taking activities of Ignite; and

3) Screenshots of Ignite's Facebook page and relevant posts therein concerning the entity's solicitation activities.

The second requisite is likewise present considering that Ignite employed fraud when its owners and Agents made it appear to the public that it is a legitimate company authorized to sell, offer and deal with securities.

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,

[21] Securities and Exchange Commission vs. Performance Foreign Exchange Corporation, G.R. No. 154131, July 20, 2006.
[22] G.R. No. 210612, October 9, 2017.

> **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)

Furthermore, the investment practices of Ignite, if not restrained, will operate as a fraud on investors or to the investing public on the ground it utilizes a "Ponzi scheme" as correctly found by the EIPD. This scheme "is **a type of investment fraud that involves the payment of purported returns to existing investors from funds contributed by new investors**. Its organizers often solicit new investors by promising to invest funds in opportunities claimed to generate high returns with little or no risk. In many Ponzi schemes, **the perpetrators focus on attracting new money to make promised payments to earlier-stage investors to create the false appearance that investors are profiting from a legitimate business. It is not an investment strategy but a gullibility scheme**, which works only as long as there is an ever increasing number of new investors joining the scheme."[23]

Moreover, the act of Ignite in selling/offering unregistered securities operates as a fraud to the public which, if unrestrained, will likely cause grave or irreparable injury or prejudice to the investing public.[24] This finds support in the case of *Securities and Exchange Commission vs. CJH Development Corp.*[25] where the Supreme Court emphasized the need for a prompt issuance of a CDO after a finding of a violation of the SRC that will likely defraud or cause grave or irreparable injury to the investing public, thus:

> "**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.**

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[23] People of the Philippines vs. Tibayan and Puerto, G.R. No. 209655-60, January 14, 2015.
[24] Section 64 of the Securities Regulation Code.
[25] (G.R. No. 210316, November 28, 2016)

> **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, **Ignite Virtus International**, its CEO and President/Owner, Andrei Dionisio, a.k.a. Karl Andrei Sandiego Dionisio, and its officers, partners, representatives, salesmen, solicitors, agents, uplines, enablers, influencers, conduits, assigns, 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.

Ignite Virtus International, 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** Ignite Virtus International, its operators, directors, officers, representatives, salesmen, agents and any and all persons claiming and acting for and in their behalf from 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 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; 10 February 2022.

EMILIO B. AQUINO
Chairperson

EPHYRO LUIS B. AMATONG
Commissioner

JAVEY PAUL D. FRANCISCO
Commissioner

KELVIN LESTER K. LEE
Commissioner

KARLO S. BELLO
Commissioner

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