



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
SECURITIES & EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills
Mandaluyong City, Metro Manila

**IN THE MATTER OF
MMG INTERNATIONAL HOLDINGS
CO., LTD.**

CED CASE NO. 01-2646

X-----X

ORDER

For consideration of the Commission *En Banc* is MMG INTERNATIONAL HOLDINGS CO. LTD's (MMG for brevity) *MOTION TO LIFT CEASE AND DESIST ORDER (The MOTION)* that prays for the lifting of the *CEASE AND DESIST ORDER* dated April 1, 2002.

MMG, through counsel, opted for Summary Procedures as provided for in Article 1, Rule II, Part 3 of SEC Circular No. 4, series of 2001. Hence, Respondent's *MOTION* must be decided by this Commission within ten days from April 9, 2002 or up to April 19, 2002.

The very crux of the matter to be resolved in the *MOTION* are whether or not there were indiscriminate offers of unregistered securities in the form of *Memoranda of Agreement (MOAs)*¹ by Respondent MMG and whether the sale of the same is within the exemptions provided by law.

Respondent raises the argument that "it is but natural for MMG to solicit much needed funds from potential investors and that there is a need to advertise in a matter not contrary to law."² Advertising, while seemingly benign for other products and services is not the same with borrowing money especially when the same is in the nature of securities. The Securities Regulation Code categorically provides that:

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.xxx(emphasis ours)

¹ Found to be Commercial Papers by the Prosecution and Enforcement Department (The predecessor of the Compliance and Enforcement Department) in a Resolution dated July 17, 2000. See Annex C of CED's Amended Motion.

² See Page 8 of Respondent's Motion to Lift Cease and Desist Order.

The mere offer of unregistered securities is therefore a violation of law and subject to corresponding penalties. It must be noted that there were offers to sell the securities/commercial paper at least four times³ in the CED's *AMENDED MOTION* after the period of the last *CEASE AND DESIST ORDER* dated May 25, 2000. The screening process to qualified investors⁴ as argued by the Respondent is immaterial to this issue. The fact that one advertised is already a violation of Securities Regulation Code in itself.

Given the widespread nature of the advertisement/offer, this Commission is hard pressed to believe that the number of investors to the MOAs are well within the numbers prescribed under the exemption provided for in the New Rules on the Registration of Short Term Commercial Papers.

While MMG avers that the Compliance and Enforcement Department was only able to attach two MOAs to its *AMENDED MOTION*, the mere uncontroverted existence of these documents belies the categorical denial of MMG's Treasurer that the same is no longer used.⁵

Likewise uncontroverted was a statement made by a Marketing Sales Assistant of MMG that the company has thousands of investors and many more are still coming⁶.

All three factors, when taken in conjunction with one another and in the absence of evidence to the contrary, would lead a reasonable mind to justify a conclusion that there is discriminate sale and distribution of the subject MOAs.

Pursuant to Paragraph 6a of SRC Rule 10-1 which states that:

"Unless confirmation that such exemption is available is applied for under paragraph 5 of this Rule, any person claiming an exemption under Section 10 has the burden, if challenged of establishing that the exemption is available. The Commission may challenge such exemption at any time."

the Commission hereby challenges MMG to prove the exemption.

WHEREFORE, premises considered, MMG International Holding Co. Ltd's *MOTION TO LIFT CEASE AND DESIST ORDER* is hereby **DENIED**. The directive in the first paragraph of the dispositive portion in the Cease and Desist Order dated April 1, 2002 hereby stands.

³ Cf. Annex D, E, Q & R-I of CED's Amended Motion.

⁴ Qualified investors, not in the same sense as QUIBs or Qualified Buyers in Section 10(I) of the SRC.

⁵ See Annex J, *ibid*.

⁶ See the statement of Ms. Tina Lapid in paragraph 25, *ibid*.

MMG is given fifteen days from receipt hereof to prove that it had issued and distributed its Commercial Papers within the exemption granted by law.

SO ORDERED.

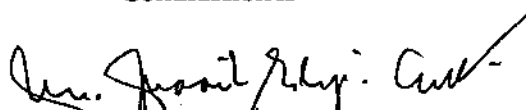
Mandaluyong City, Metro Manila.

April 18, 2002.


LILIA R. BAUTISTA
Chairman


ELOISA C. GLORIA
Commissioner


JOSELIA I. POBLADOR
Commissioner


MA. JUANITA E. CURTO
Commissioner


JESUS ENRIQUE G. MARTINEZ
Commissioner