



Republic of the Philippines
Department of Finance
Securities and Exchange Commission

ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT

**IN THE MATTER OF GROUND ZERO POULTRY
AGRICULTURAL CORPORATION
SEC No: 2021110034249-03**

SEC EIPD Case No. 2023-6911

For Revocation of Certificate of Incorporation for violation of the Corporation code of the Philippines in relation to Presidential Decree No. 902-A for serious misrepresentation as to what the corporation can do to the great prejudice of or damage to the general public

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ORDER OF REVOCATION

GROUND ZERO POULTRY AGRICULTURAL CORPORATION is a Corporation registered with the Commission on 29 November 2021 under Company Reg. No. 2022070060502-58. Its principal office address is located at No. 6 Medical SSS North Fairview Homes North Fairview, Quezon City, Second District, National Capital Region (NCR), 1121. Its primary purpose as stated in its Articles of Incorporation is:

“To develop, manage, own, lease and operate agricultural lands, farms, pasture, lands, ranches, foreshore lands with or without concessions and/or to engage in the planting and cultivation of other farm products and in general undertake or carry out on all kinds of studies, experiments, cultivation, storage and wholesale and retail trading in all kinds of agricultural products and its by-products in the Philippines or elsewhere.,

“To engage in, conduct and carry on the business of buying, selling, distributing, marketing on retails basis insofar as may be permitted by law, all kinds of goods, wares and merchandise of every kind and description, and enter into all kinds of contracts for export, import, purchase, acquisition sale on retail basis and other disposition for its own account as principal or in representative capacity as main distributor, manufacturer’s representative, merchandise broker, indenter, commission, merchant, factors or agents, upon consignment of all kinds of goods, services, merchandise or products whether natural or artificial, without engaging in investment, solicitation nor investment taking activity from public investors.;

Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts.”

The Department received numerous emails inquiring and/or reporting about **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** and its alleged investment-taking activities where it promised guaranteed return of investments.

Investigation conducted by the Department revealed that **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** offers investments to the public for a minimal amount of **as low as Twenty Thousand Pesos (Php20,000.00) with 36% up to 80% guaranteed Return On Investment (ROI) for the lock-in period of 6 months or 12 months.**

The advertisement features a dark background with gold decorative flourishes in the corners. At the top left is a circular logo with a chicken and the text 'GROUND ZERO POULTRY AGRICULTURAL CORPORATION'. To the right of the logo, the text reads 'GROUND ZERO POULTRY AGRICULTURAL CORPORATION IS LOOKING FOR VENTURE CAPITALIST'. Below this, it says 'Become one of our business partners by lending a capital for our poultry farm pursuits.' The advertisement lists two options: 'Option 1' with a 6-month lock-in and 36% return (6% monthly), and 'Option 2' with a 12-month lock-in and 80% return (6.67% monthly). Both options require a minimum capital of 20,000 php. A central text block states 'GUARANTEED MONEYBACK with a total of 36%/80% semi-annually or annually.' Below this is an image of a plate of food. A yellow box contains the text: 'The Venture Capitalist does not need to be operative because the borrower will be in charge on their behalf. Thus, creating an opportunity for the former to generate a passive income in a span of 6 months or 12 months.' At the bottom, it says 'A Notarized, Legally Binding Contract will be issued for the security of both lenders and borrower.' and 'Help us grow our business and we will help you grow your hard-earned savings.'

Since what is being offered for sale by **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** are securities, the Securities Regulation Code (SRC) requires that said offer and sale of securities must be duly registered with the Commission and that the concerned corporation and/or its agents have appropriate registration and/or license to sell such securities to the public.

However, **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** is not authorized to solicit, accept or take investments/placements from the public nor to issue investment contracts and other forms of securities defined under Section 3 of the Securities and Regulation Code (SRC) as it has not applied for or has been issued a Secondary License to offer and/or sell securities to the public.

Thus, on 27 December 2022, an SEC Advisory was issued and posted on the Commission's website informing the public that:

Records of the Commission show that **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** is registered with the Commission on November 29, 2021. However, such registration merely grants juridical personality to the corporation but does not authorize them to issue, sell or offer for sale securities to the public nor undertake business activities requiring a secondary license.

Further, per records of the Commission, **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** is not authorized to solicit investments from the public as this entity did not secure prior registration and/or license to solicit investment from the Commission as prescribed under Sections 8 and 12 of the Securities Regulation Code.

Upon thorough investigation, **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** is connected with **HUSTLIN BULLIES** and **GROUND ZERO POULTRY**. The Commission has already posted an **ADVISORY** against the said entities dated September 14, 2021 and February 8, 2022, respectively.

The scheme employed by **GROUND ZERO POULTRY AGRICULTURAL CORPORATION**, has the characteristics of a "**Ponzi Scheme**" where monies from new investors are used in paying "fake profits" to prior investors and is designed mainly to favor its top recruiters and prior risk takers and is detrimental to subsequent members in case of scarcity of new investors.

The offering and selling of securities in the form of investment contracts using the "**Ponzi Scheme**" which is fraudulent and unsustainable, is **NOT** a registrable security. The Commission will not issue a License to Sell Securities to the Public to persons or entities that are engaged in this business or scheme.

In view thereof, the public is hereby advised to **STOP INVESTING** in the investment scheme being offered by **GROUND ZERO POULTRY AGRICULTURAL CORPORATION**, and its representatives.

Despite the issuance of the above-mentioned SEC Advisory against **GROUND ZERO POULTRY AGRICULTURAL CORPORATION**, the said entity continued its investment-taking activities.

Thus, a *Show Cause Order* was issued against **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** via registered mail on 19 January 2022, personal service to its principal address indicated in its Articles of Incorporation and to the incorporators of the said entity (**KRISTOPHER GEORGE EGAMINO NARVADEZ, NORBERTO JR. PERALTA PALMA, JOHN JERICHO JACOB MERLE GATCHALIAN, JONATHAN IGNACIO ARLANTICO, MARK ANTHONY ASUNCION DAMIAS, BIANCA MAE D. BUMANLAG and KRISTINA PADUA GATDULA**) and sent to the official emails of the corporation – sunwucorporation@gmail.com and hustlinbullies@gmail.com, *directing the company to show cause why its Certificate of Incorporation should not be revoked for serious misrepresentation as to what the corporation can do or is doing to the great prejudice of or damage to the general public and for committing fraud in the procurement of its Certificate of Incorporation and to show cause why no administrative sanction and/or criminal charges should be filed against*

GROUND ZERO POULTRY AGRICULTURAL CORPORATION for violation of the Securities Regulation Code.

To date, despite such receipt and presumptive notice of the Show Cause Order as detailed above, the company failed to respond, which shall be construed as a waiver of its right to be heard as to matters stated in the aforementioned Show Cause Order.

Hence, the factual backdrop having been laid, we now resolve the instant case on the basis of available evidence.

Section 3.1 of the Securities Regulation Code (SRC) defines securities as:

“3.1 “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:

- (a) Shares of stocks, bonds, debentures, notes, evidences of indebtedness, asset-backed securities;
- (b) ***Investment contracts***, certificates of interest or participation in a profit-sharing agreement, certificates of deposit for a future subscription;
- (c) Fractional undivided interests in oil, gas or other mineral rights;
- (d) Derivatives like option and warrants;
- (e) Certificates of assignments, certificates of participation, trust certificates, voting trust certificates or similar instruments;
- (f) Proprietary or non-proprietary membership certificates in corporations; and
- (g) Other instruments as may in the future be determined by the Commission. “

An *investment contract* on the other hand, is defined under *SRC Rule 26.3.5 of the 2015 Implementing Rules and Regulations of the Securities Regulation Code (2015 SRC IRR)*, 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.

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.”

Further, the elements of an investment contract were enumerated in the case of *Power Homes Unlimited Corporation vs. SEC* which traces its roots from the US case of *SEC vs. Howey Co.* and was later modified in the case of *SEC vs. Glenn W. Turner Enterprises, Inc.* as follows:

- A contract, transaction or scheme
- An investment of money
- A common enterprise
- Expectation of profits
- Profits arises primarily from the entrepreneurial and managerial efforts of others.

Section 8, in relation to Section 12 of the SRC 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. Prior to such sale, information on the securities, in such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser.

“SEC. 12. Procedure for Registration of Securities. - 12.1. 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 shall prescribe. The registration statement shall include any prospectus required or permitted to be delivered under Subsections 8.2, 8.3 and 8.4.”

Securities, such as investment contracts, as defined by the SRC in relation to *SRC Rule 26.3.5 of the 2015 SRC IRR*, must be registered before the same can be ***sold or offered*** or distributed to the public. Hence, as a form of security, investment contracts must be registered under Section 8 of the SRC before they can be sold or offered to the public.

Rule 3.1.17 of the 2015 SRC IRR defined ***Public Offering*** as “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:

“3.1.17.1 Publication in any newspaper, magazine or printed reading material which is distributed within the Philippines or any part thereof;

3.1.17.2 Presentation in any public or commercial place;

3.1.17.3 ***Advertisement or announcement*** on radio, television, telephone, ***electronic communications, information communication technology or any other forms of communication***; or

3.1.17.4 Distribution and/or making available flyers, brochures or any offering material in a public or commercial place, or to prospective purchasers through the postal system, ***information communication technology and other means of information distribution.***” (Emphasis supplied)

On the other hand, a “*Broker*” is defined under Section 3.3. of the SRC, as a person engaged in the business of buying and selling securities for the account of others while “*Salesman*” is defined under 3.13 of the SRC as a natural person, employed as such or as an agent, by a dealer, issuer or broker to buy and sell securities.

Consequently, Section 28 of the SRC provides that:

“SEC. 28. Registration of Brokers, Dealers, Salesman and Associated Persons. – 28.1. No person shall engage in the business of buying or selling securities in the Philippines as a broker or dealer, or act as a salesman, or an associated person of any broker or dealer unless registered as such with the Commission.

Thus, any person, without proper license from the Commission who acts as brokers, dealers or agents of a company selling or convincing people to invest in the investment scheme including solicitations or recruitment through the internet may likewise be prosecuted and held

criminally liable under Section 28 of the SRC and penalized with a maximum fine of Five Million pesos (P5,000,000.00) or penalty of Twenty-One (21) years imprisonment or both pursuant to Section 73 of the SRC.

In this particular case, the Department carefully examined the characteristics of the investments offered by against **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** to determine if they satisfy the elements of an investment contract. In our evaluation, indeed, the elements of investment contracts are manifested in the investments being offered by **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** as follows:

- First, there was an **investment of money** by the public in the investment scheme of **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** who were enticed to invest in their scheme;
- Second, there was a **common enterprise** in the sense that the investors monies were pooled in respondent **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** alleged profit-making venture;
- Third, there was clearly an **expectation of profits** on the part of its investors who were promised that their money would earn 36% up to 80% depending on their chosen lock-in period plan; and
- Lastly, the expectation of profits is **derived primarily from the efforts of others. Here the investors had no hand in the management of GROUND ZERO POULTRY AGRICULTURAL CORPORATION and earned profits by merely investing in said entity.**

It is important to emphasize that as a juridical person, **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** is only allowed to exercise powers inherent to its existence as provided in the Revised Corporation Code of the Philippines and those conferred in its Articles of Incorporation. (AOI). In other words, what a corporation can do is necessarily circumscribed by its primary purpose clause in its AOI.

Nonetheless, the purpose stated in the Articles of Incorporation need not set out with particularity the multitude of activities in which the corporation may engage. The effect of broad purposes or objects is to confer wide discretionary authority upon the directors, officers, or management of the corporation as to the kinds of business in which it may engage. However, ***dealings which are entirely irrelevant*** to the purposes are unauthorized and called ***ultra vires***. The purpose clause of the articles of incorporation indicates the extent as well as the limitations of the powers which a corporation may exercise. In fact, **GROUND ZERO POULTRY AGRICULTURAL CORPORATION's** purpose in its Articles of Incorporation expressly ***prohibited it to operate an investment-taking scheme*** as follows:

“...without engaging in investment, solicitation nor investment taking activity from public investors.;

Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts.”

Section 44 of the Revised Corporation Code of the Philippines, provides:

“SEC. 44. *Ultra Vires Acts of Corporations.* — No corporation shall possess or exercise corporate powers other than those conferred by this Code or by its articles of incorporation and except as necessary or incidental to the exercise of the powers conferred.”

In an opinion¹, the Commission pronounced that:

“It is the corporation’s primary purpose clause which confers, as well as limits, the powers which a corporation may exercise and the character of a corporation is usually determined by the objects of its formation and the nature of its business as stated in the articles. The primary purpose of the corporation, as stated in its articles of incorporation, is the first business to be undertaken by the corporation. Hence, the primary purpose determines its classification.”

Likewise, the Certificate of Incorporation issued to **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** explicitly states that:

CERTIFICATE OF INCORPORATION

KNOW ALL PERSONS BY THESE PRESENTS:

This is to certify that the Articles of Incorporation and By Laws of:

GROUND ZERO POULTRY AGRICULTURAL CORPORATION

were duly approved by the Commission on this date upon the issuance of this Certificate of Incorporation in accordance with the Revised Corporation Code of the Philippines (Republic Act No. 11232), which took effect on February 23, 2019 and copies of said Articles of Incorporation and By Laws are hereto attached.

This Certificate grants juridical personality to this corporation but **DOES NOT AUTHORIZE** it:

- A. To issue, sell or offer for sale to the public, securities such as but not limited to, shares of stock, investment contracts, debt instruments and virtual currencies without prior Registration Statement approved by this Commission;
- B. To undertake business activities such as, but not limited to acting as: broker or dealer in securities, government securities eligible dealer (GSED), investment adviser of an investment company, close-end or open-end investment company, investment house, transfer agent, commodity/financial futures exchange/broker/merchant, financing/lending company, and time shares/club shares/membership certificate issuers or selling agents thereof; nor to operate a fiat money to virtual currency exchange nor engage in investment solicitation and investment taking **requiring a Secondary License** from this Commission.
- C. To act as a permit to undertake activities for which other government agencies require a license or permit.

The act of **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** through its affiliates in allowing certain persons acting as their agents or representatives to make public presentations of their investment scheme, inviting the public to invest in the companies through social media renders them liable for the unauthorized public offering of securities and the misrepresentation committed in connection with such public offering.

¹ SEC-OGC Opinion No. 11-33 dated 29 July 2011 addressed to Mr. Jesus B. Lapuz.

Likewise, the investment scheme of respondent **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** promising a guaranteed return of 36% up to 80% after 6 months or 12 months has the characteristics of a Ponzi scheme. A **Ponzi scheme** is an investment program that offers impossibly high returns and pays these returns to early investors out of the capital contributed by later investors. Named after Charles Ponzi who promoted the scheme in the 1920s, the original scheme involved the issuance of bonds² which offered 50% interest in 45 days or a 100% profit if held for 90 days. Basically, Ponzi used the money he received from later investors to pay extravagant rates of return to early investors, thereby inducing more investors to place their money with him in the false hope of realizing this same extravagant rate of return themselves. Such scheme is prohibited under Section 26 of the SRC:

“SEC. 26. **Fraudulent Transactions.** – It shall be unlawful for any person, directly or indirectly, in connection with the purchase or sale any securities to:

26.1. Employ any device, scheme, or artifice to defraud;

26.2. Obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading; or

26.3. Engage in any act, transaction, practice or course of business which operates or would operate as a fraud or deceit upon any person.”

In the case of *People of the Philippines vs. Palmy Tibayan and Rico Z. Puerto* (G.R. Nos. 209655-60, 14 January 2015), the Supreme Court held that:

“To be sure, a Ponzi 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. It is difficult to sustain the scheme over a long period of time because the operator needs an ever larger pool of later investors to continue paying the promised profits to early investors. The idea behind this type of swindle is that the “con-man” collects his money from his second or third round of investors and then absconds before anyone else shows up to collect. Necessarily, Ponzi schemes only last weeks, or months at the most.” (Underscoring added for emphasis)

The offering and selling of securities in the form of investment contracts using the “**Ponzi Scheme**” which is fraudulent and unsustainable, is **NOT** a registrable security. The Commission will not issue a License to Sell Securities to the Public to persons or entities that are engaged in this business or scheme.

The investment scheme of **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** also operates to defraud investors as it deceives the investing public by making it appear that it has the authority to deal in securities. This also amounts to serious misrepresentation as to what they can do or are doing to the damage and prejudice of the investing public.

² Actually, postal reply coupons

Under Section 6 of Presidential Decree 902-A, the Commission has the power to suspend, or revoke, after proper notice and hearing, the franchise or certificate of registration of corporations, partnerships and associations, on the ground of serious misrepresentation as to what the corporation can do or is doing to the great prejudice of or damage to the general public. Likewise, Section 5.1 (m) of the SRC and Section 179 (j) of the Revised Corporation Code of the Philippines (RCCP) empower the Commission to revoke the franchise or Certificate of Incorporation/registration of corporations registered with it.

The 2016 Rules of Procedure of the SEC provides that the EIPD shall exercise authority over persons and entities, whether under the primary authority of other Operating Departments, involved in the following:

- xxx "1. Investigations and administrative actions involving the following:
 - xxx c) Selling, offering or transacting unregistered securities by entities without secondary license;
 - d) *Ultra Vires* acts committed in violation of the Revised Corporation Code;
2. Petitions for revocation³ of corporate registration in all cases, except those which fall under the original authority of CRMD;
3. Administrative actions for fraudulent transactions involving securities;
4. Administrative actions for all other violations under PD 902-A, except those cases which fall under the original authority of other Operating Departments;
5. All other matters involving investor protection filed by the public, referred by self-regulatory organizations, or referred by other Operating Departments after initial evaluation or findings that there is a possible violation of laws, rules or regulations that the Commission implements but do not fall under their respective original authority."

Further, in SEC Admin Case No. 11-10-124 entitled *In re: PHILBIO Renewable Energy Resources Corp.*, promulgated on 27 April 2016, the Commission provided what constitutes serious misrepresentation, to wit:

*"From the foregoing, it is indubitable that PHILBIO misrepresented itself to the public that it can solicit investments despite the fact that it is **not one of the purposes of the corporation**. Worse, it **does not have a license to offer/sell securities**. PHILBIO operates an investment-taking scheme which is therefore considered an **ultra vires act**. These constitute serious misrepresentation as to what the corporation can do or doing to the great prejudice to the general public."*

In the case of *SEC vs. CJH DEVELOPMENT CORPORATION (G.R. No. 210316, 28 November 2016)* the Supreme Court held that:

"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

³ Revocation refers to involuntary dissolution of corporate registration pursuant to Section 138 of the Revised Corporation Code.

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.”

Considering that nowhere is it stated in the primary purpose **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** that it is authorized to engage in the selling or offering for sale of securities to the public, compounded by the fact that it does not have the required Secondary License from the Commission to offer or sell securities to the public, its activity of selling or offering to the public securities or investment contracts is considered an *ultra vires act* and therefore constitutes serious misrepresentation as to what the corporation can do to the great prejudice or damage to the general public which is a ground for the revocation of a corporation’s primary franchise or certificate of registration/ incorporation under PD 902-A.

WHEREFORE, for violation of Section 44 of the Revised Corporation Code of the Philippines (R.A. No. 11232) in relation to Sections 8.1, 26 and 28.1 of the Securities Regulation Code and Section 6 (i)(2) of P.D. 902-A, the Certificate of Incorporation/registration of **GROUND ZERO POULTRY AGRICULTURAL CORPORATION** as a corporation, is hereby **REVOKED**.

Accordingly, let this Order be attached by the Corporate Filing and Records Division of the Company Registration and Monitoring Department (CRMD) to the records of the corporation on file with the Commission. Further, the Information and Communications Technology Department (ICTD) of this Commission is likewise requested to enter the “*revoked*” status of Subject Corporation in the online database of the Commission.

SO ORDERED

Makati City, 02 May 2023.



OLIVER O. LEONARDO
Director