



Republic of the Philippines  
Department of Finance  
Securities and Exchange Commission

**ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT**

**In the Matter of:**

**SEC-EIPD Case No. 2023-7358**

For: Revocation of Certificate of  
Incorporation/Registration

**DIGICARS AUTO TRADING OPC**

Company Registration No. 2021100030784-06

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**ORDER OF REVOCATION**

**DIGICARS AUTO TRADING OPC (“DIGICARS”, for brevity)** is a One Person Corporation (OPC) registered with the Securities and Exchange Commission (“**SEC, Commission**”) on 29 October 2021 under Company Registration No. 2021100030784-06. Its principal office is located at 1511 One Castilla Place Castilla Street Condominium Valencia, Quezon City, Second District. Its primary purpose as stated in its Articles of Incorporation (“AOI”) is as follows:

*“Selling all types of motor vehicles and motorcycles;*

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

The instant case stemmed sometime in 2021, when the Commission received complaints, reports and inquiries that DIGICARS, operated by Mr. Reynaldo M. Calda, is allegedly engaged in financing activities which require authority from the Commission. Based on the information, DIGICARS has a scheme where prospective clients are enticed to purchase a motor vehicle and avail of the former’s services by promising a lower monthly installment or amortization than what is being offered by the motor vehicle dealer.

Based on this information, the Financing and Lending Companies Division of the Corporate Governance and Finance Department (FLCD-CGFD) on 14 February 2023, issued a Show Cause Letter for violation of R.A. 8556<sup>1</sup> directing the company to cease and desist from operating as a financing company. Likewise, the company was also directed to show cause why it should not be held liable for the aforementioned violation and were called to be present at the conference which was set by the FLCD-CGFD.

In its letter-reply<sup>2</sup> to FLCD-CGFD, DIGICARS posited the following:

1. The releasing and paying on behalf of the client, is not the same as the phrase “*extending credit facilities to consumers*” contemplated in Section 3 of R.A. No. 8556;

<sup>1</sup> The Act shall be known as the “Financing Act of 1998”, as amended.

<sup>2</sup> The date was not specified in its letter as it appears \_\_\_\_ February 2023.

2. That in order to provide the wanted services of a single client, DIGICARS will engage an actual financing company that will do such.
3. The only services that DIGICARS does is act as a conduit of payment of its client (who is also the financing company's client) to the loan agreement and provide its expertise in making a scheme most beneficial to the client in terms of rate and length in the time of payment.

On the other hand, the Enforcement and Investor Protection Department (EIPD) also issued on 22 March 2023 a Show Cause Order against DIGICARS, Reynaldo M. Calda<sup>3</sup>, Leizl C. Herrera<sup>4</sup>, and Joshua Victor H. Prado<sup>5</sup> 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 why no administrative sanctions and/or criminal charges should be filed against and imposed upon DIGICARS for violation of Republic Act No. 8556 or the Financing Company Act of 1998 and its rules and regulations.

Consequently, in compliance with the Show Cause Order, its sole director, **REYNALDO M. CALDA**, nominee **LIEZL C. HERRERA**, and alternate nominee **JOSHUA VICTOR H. PRADO** filed their Verified Answer<sup>6</sup> to the Show Cause Order dated 22 March 2023 and provided a similar explanation as proffered in its letter-reply to FLCD as follows:

1. *It is the legal position of Digicars that releasing and paying on behalf of the client it engages is not the same as the phrase "extending credit facilities to consumers" contemplated in Section 3 of RA 8556. In fact, in order to provide the wanted services of a single client, Digicars would need an actual financing company that will do such. And most of these financing companies have a policy of not sharing a single credit with another financing company, to the mind of Digicars through its sole director, Digicars is not a financing company.*

*The only services that Digicars do is being a conduit of payment of its client (who is also the financing company's client) to the loan agreement and provide expertise in making a scheme most beneficial to the client in terms of rate and length in the time of payment."*

2. *Without prejudice to its legal position, the Corporation however manifested in the same response to the Show Cause that it acknowledges the "presumption of regularity principle" and found that in the interest of the business, it will not be wise to legally challenge the findings of the Commission considering the time and resources of the corporation adding the fact of the cease and desist order by the Commission. **It has decided to prepare to be registered as a financing company and obtain a secondary license.***
3. *Considering the similar findings of the Commission's Financing and Lending Division and the Enforcement and Investor Protection Department, the Corporation maintains its legal position and also its*

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<sup>3</sup> Based on the Articles of Incorporation, he is the single stockholder/director/president of DIGICARS.

<sup>4</sup> Based on the Articles of Incorporation, she is the appointed nominee of DIGICARS. Also, she is the Vice President/COO and Corporate Secretary as stated in the submitted **SEC Form for Appointment of Officers, One Person Corporation**.

<sup>5</sup> Based on the Articles of Incorporation, he is the appointed alternate nominee of DIGICARS.

<sup>6</sup> The verified answer was filed undated. However, the notarial portion shows that the same was subscribed and sworn on 03 April 2023.

*concession without admission of wrongdoing to the similar findings by registering a financing arm of its business operations. At present, while in state of abeyance in entering new client contracts, Digicars Auto Financing Corp<sup>7</sup> is on draft status before the Commission with reference number SEC-230301-QMG5BNJDPVCBDN. It is humbly submitted that Digicars endeavoring to register a financing arm is a manifestation of good faith before the Commission and the consumer public.*

x x x

4. *With utmost respect, we surmise that the Commission has mistaken our company with one of our competitors who bears a similar (but different) business style, marketing, and corporate branding. x x x*

In the conduct of investigation, the Department was able to establish that:

- a) While the loan contract with the bank/in-house financing remains under the name of the client, however, the client pays the amortization of the motor vehicle through DIGICARS;
- b) DIGICARS commits to pay only a portion of the down payment received from the client to the dealer. The remaining portion shall represent service fees paid by the client to DIGICARS;
- c) DIGICARS offers a lower monthly amortization than what is offered by the bank/in-house financing. On the other hand, DIGICARS assumes the sole responsibility in paying monthly amortization (which is higher than the amount paid by the client to DIGICARS) to the bank; and
- d) Based on the company's representation, the service fee collected by DIGICARS (which were deducted right away by the subject entity from the down payment paid by the client) are used to finance the operation of DIGICARS' other businesses. According to them, part of the income generated from said business are used to cover the difference between the actual amortization to the bank and the amortization (lower) paid by the client to DIGICARS.

The EIPD requested the Commission's Company Registration and Monitoring Department (CRMD) to confirm whether DIGICARS is an SEC-registered entity and whether it has been issued a secondary license. In reply to EIPD's request, the CRMD certified<sup>8</sup> that records of **DIGICARS AUTO TRADING OPC** with SEC Registration Number 2021100030784-06 on file with the Commission show that the corporation was registered on 29 October 2021, however, it has not been issued a secondary license as a Lending/Financing Company, Broker and/or Dealer of Securities, Dealer in Government Securities, Investment Adviser of an Investment Company, Investment House and Transfer Agent and it has not filed nor has any pending application for a secondary license with the Department.

After a careful evaluation of the records, we now resolve the instant proceedings on the basis of the documents submitted and the available information and evidence gathered.

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<sup>7</sup> Attached as Annex "B" in Digicar's Verified Answer.

<sup>8</sup> Issued on 15 June 2023.

## ISSUE

The sole issue to be resolved is whether or not DIGICARS is engaged in the business of financing activities that require authority from the Commission, and therefore, would warrant the revocation of its Certificate of Incorporation/Registration and the imposition of administrative sanction and/or criminal charges in violation of R.A. No. 8556.

## DISCUSSION

### DIGICARS AUTO TRADING OPC IS ENGAGED IN THE BUSINESS OF FINANCING ACTIVITIES

Section 3 of Republic Act No. 8556 (RA 8556) or the Financing Company Act of 1998 defines Financing Companies and Credit, to wit:

"(a) '**Financing companies**' hereinafter called companies, are corporations, except banks, investments houses, savings and loan associations, insurance companies, cooperatives, and other financial institutions organized or operating under other special laws, which are primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable property;

x x x

(c) '**Credit**' shall mean any loan, mortgage, financial lease, deed of trust, advance or discount, any conditional sales contract, contract to sell, or sale or contract of sale of property or service, either for present or future delivery, under which, part of all or the price is payable subsequent to the making of such sale or contract; any contract, any option, demand, lien or pledge, or to the other claims against, or for the delivery of, property or money, any purchase, or other acquisition of or any credit upon the security of, any obligation or claim arising out of the foregoing, and any transaction or series of transactions having similar purpose or effect;

In this particular case, while the loan agreement remains in the name of the client in favor of the bank, however, it appears that the original obligation is extinguished by novation as DIGICARS substituted itself as the new creditor. This can be manifested through the spontaneous actions of the parties where the client pays the down payment and the amortization to DIGICARS and the subsequent action of the latter in receiving the payments and the assumption of obligations of the client. Further, by disbursing and paying on behalf of the client, DIGICARS mainly engaged in the primary purpose of financing company which is "***extending credit facilities to consumers***". The term credit includes a "contract of sale of property or service, either for present or future delivery, under which, part of all or the price is payable subsequent to the making of such sale or contract." As such, DIGICARS is engaged in financing activities.

It must be noted that in DIGICARS' Articles of Incorporation, the company was organized principally for the purpose of "*Selling all types of motor vehicles and motorcycles*". On the other hand, the company's sole director and President represents that DIGICARS's is a merchandise broker<sup>9</sup>. In contrast, none of the aforementioned appears to be true as DIGICARS is apparently engaged in the operations of a financing company.

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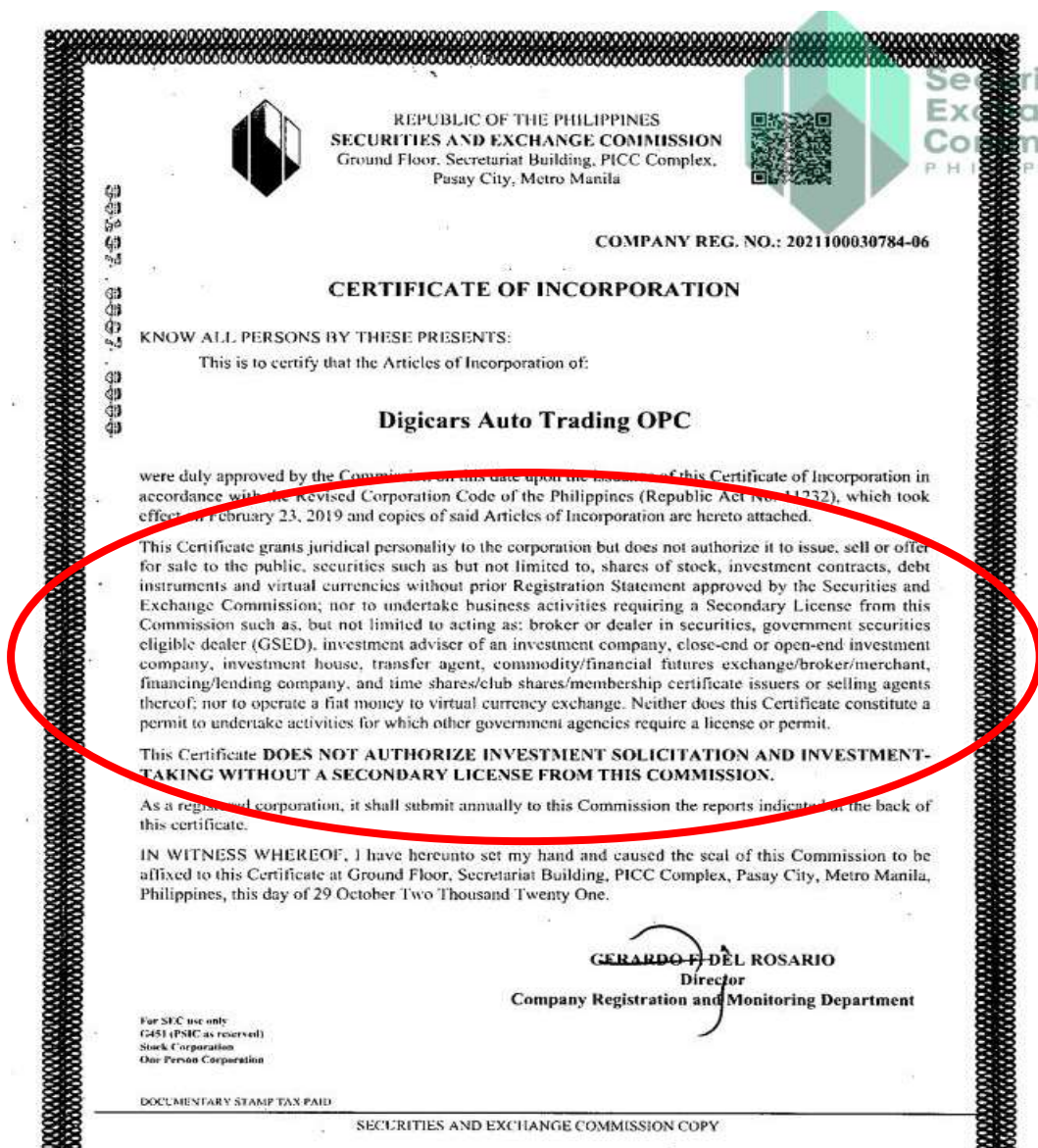
<sup>9</sup> Agent acting for merchandise buyers and sellers who is paid a commission or fee for negotiating sales of specific lots of goods. A merchandise broker puts the merchandise buyer and seller together for the purposes of a sale without taking possession of the actual merchandise.

It is also to be noted that DIGICARS contradicts itself in that, while it claims that it is not engaged in the business of financing, however, it manifested its interest to register as a financing company and obtain a secondary license from the Commission. This statement is considered a clear and unequivocal admission of DIGICARS that they are actually engaged as a Financing Company which is in violation of R.A No. 8556.

DIGICARS, as a juridical person, is only allowed to exercise powers inherent to its corporate existence as provided in the Revised Corporation Code of the Philippines (RCCP) and those conferred in its Articles of Incorporation. Otherwise stated, what a corporation can do is necessarily confined by its primary purpose clause as stated 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 entirely irrelevant*** to the purpose are unauthorized and called ***ultra vires***. The purpose clause of the AOI indicates the extent as well as the limitations of the powers which a corporation may exercise.

In fact, the Certificate of Incorporation of DIGICARS explicitly states:



In the instant case, nowhere is it stated in the AOI and Certificate of Incorporation of DIGICARS that it is authorized to engage in the business of financing activities, thus considered as an *ultra vires* act and therefore constitute serious misrepresentation.

Section 44 of the RCCP 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 opinion<sup>10</sup>, 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.*

On the other hand, Section 5 of the Rules and Regulations to Implement the Provisions of Republic Act No. 8556 (The Financing Act of 1998) requires registration of the Articles of Incorporation for the issuance of a Certificate of Authority (CA) to operate as a financing company. While Section 12 of the same rule provides for the prohibition to engage in the business of financing company unless authorized under R.A. 8556. Findings of violation of the aforementioned act and rules shall be subject to administrative sanctions as provided under Section 14 of the said rules which include, among others, other sanctions within the power of the Commission.

Considering the activities being conducted by DIGICARS, the Commission, pursuant to Section 6 of Presidential Decree 902-A has the power to suspend, or revoke, after proper notice and hearing, the franchise or certificate of registration or corporations, partnership and associates, on the ground of serious misrepresentations 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:

x x x

“1. Investigations and administrative actions involving the following:

xxx

- d) *Ultra vires acts* committed in violation of the Revised Corporation Code;
- 2. Petitions for revocation<sup>11</sup> of corporate registration in all cases, except those which fall under the original authority of CRMD;

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<sup>10</sup> SEC-OGC Opinion No. 11-33 dated 29 July 2011 addressed to Mr. Jesus B. Lapuz.

<sup>11</sup> Revocation refers to involuntary dissolution of corporate registration pursuant to Section 138 of the Revised Corporation Code.

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, SEC Admin Case No. 11-10-124 entitled ***In re: PHILBIO Renewable Energy Resources Corp.***, promulgated on 27 April 2016 provides what constitute 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 this connection, nowhere is it stated in the primary purpose of **DIGICARS** that it is authorized to engage in the business of a financing company as it does not have the required Secondary License or Certificate of Authority to Operate as a Financing Company from the Commission, its activities pertaining to a financing company are considered *ultra vires acts* 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 6(i)(2) and 3 of Presidential Decree (PD) 902-A and in relation to Republic Act No. 8556 or the Financing Company Act of 1998, the corporate registration or Certificate of Incorporation/Registration of **DIGICARS AUTO TRADING OPC** is hereby **REVOKED**.

This is without prejudice to any criminal action that the Commission may initiate against persons responsible for the violation of the Revised Corporation Code of the Philippines, Financing Company Act of 1998 and its Implementing Rules and Regulations.

Accordingly, let this Order be posted on the SEC website and 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 the Commission is likewise requested to enter the "**REVOKED**" status of the subject corporation in the electronic/online database of the Commission.

**SO ORDERED.**

21 June 2023, Makati City, Philippines.

  
**ATTY. OLIVER O. LEONARDO**  
Director