



ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT

In the matter of:

SEC EIPD CASE NO. 2023-7605

**BEYOND SKIN CARE VENTURES INC. Under
the name of Dermacare Face Body and Laser
Center**

Company Registration No. CS201950505

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BEYOND SKIN CARE VENTURES INC.

2nd Floor, Mirel's Place-Pallocan
Silangan Batangas City (Capital)
Batangas, Philippines
unicbuzsco888@yahoo.com

CHANDA P. ATIENZA

Magnusville Subd., Tierra Verde, 3rd
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CATHERINE A. SALAZAR

Magnusville Subd., Block 3, St. Francis St., Pallocan Kanluran, Batangas City (Capital), Batangas, Region IV-A, Philippines, 4200

REVOCATION ORDER

BEYOND SKIN CARE VENTURES INC. Under the name of **Dermacare Face Body and Laser Center** was granted its Certificate of Registration by the Commission on 06 February 2019 under Company Registration No. CS201950505 with the following as incorporators:

Name	Citizenship	Residential Address
Chanda P. Atienza	Filipino	Magnusville Subd., Tierra Verde, 3 rd Blk., St. Francis St., Pallocan Kanluran, Batangas City (Capital), Batangas, Region IV-A, Philippines, 4200
Maila B. Castillo	Filipino	Tierra Verde Subd., Pallocan Kanluran, Batangas City (Capital), Batangas, Region IV-A, Philippines, 4200
Jefferson Perez	Filipino	Magnusville Subd., Tierra Verde 3 rd Blk., St. Francis St., Pallocan Kanluran, Batangas City (Capital), Batangas, Region IV-A, Philippines 4200
Venus Eunizel P. Gonda	Filipino	Magnusville Subd., Tierra Verde 3 rd Blk., St. Francis St., Pallocan Kanluran, Batangas City (Capital), Batangas, Region IV-A, Philippines, 4200
Catherine A. Salazar	Filipino	Magnusville Subd., Block 3, St. Francis St., Pallocan Kanluran, Batangas City (Capital), Batangas, Region IV-A, Philippines, 4200

The purpose or purposes of **BEYOND SKIN CARE VENTURES INC.**, as stated in its Articles of Incorporation are:

Primary purpose:

“To establish, operate, manage, own and maintain a skin care clinic and such other enterprises which may have similar or analogous undertakings or dedicated to services of fully qualified cosmetic doctor, aesthetic doctor and or trained dermatologist, facial therapists and registered nurses who may or may not be connected with the clinic, and to provide, supply and sell related skin care products as long as they are FDA approved.

Secondary purpose:

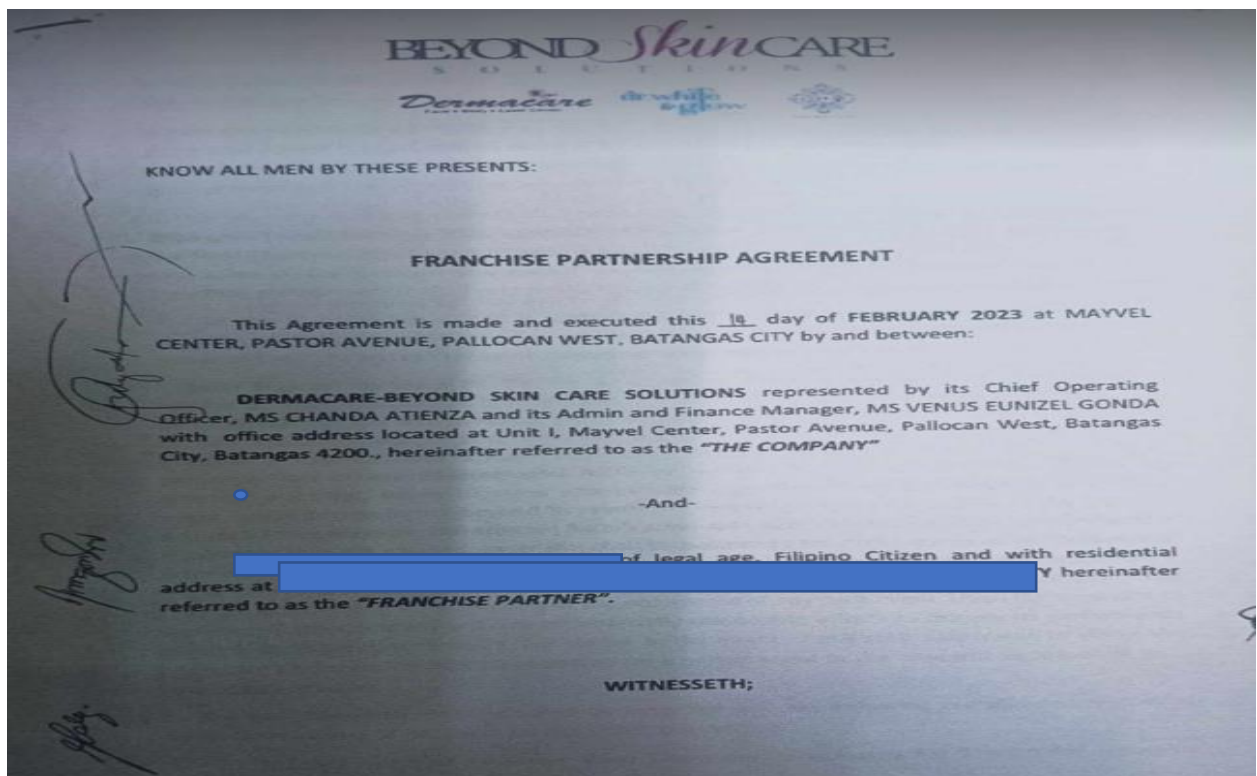
“to purchase, acquire, own, lease, sell and convey real properties such as lands, buildings, machinery and equipment and other personal

properties as may be necessary or incidental to the conduct of the corporate business and to pay in cash, shares of its capital stock, debentures and other evidence of indebtedness, as may be deemed expedient, for any business or property acquired by the corporation.

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

In May 2023, the Commission received information that individuals or group of persons representing an entity named **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS** is enticing the public to invest their money in the said entity with a promise of high monetary rewards or profits.

Based on the reports, **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS** operated by its Chief Operating Officer, **Ms. Chanda Atienza** and the company's "Admin" and Finance Manager, **Ms. Venus Eunizel Gonda**, is enticing the public to invest in the said entity under its "Franchise Partner Agreement" for a promise of receiving a guaranteed return equivalent to 12.6 % interest every quarter for a period of 5 years with complimentary services, such as the following: 50% discount on all Dermacare / Dr. White and Glow Services, 50% discount on all owned brand Dermacare / Dr. White and Glow Products, 20% discount on Doctors Services, complimentary services for 2 extension of choice and a maximum of 2 treatments per visit. Below is a screenshot of the Franchise Partnership Agreement which was presented to the Commission:



1. That the FRANCHISE PARTNER shall pay the amount of TWO HUNDRED FIFTY THOUSAND PESOS (250,000.00PHP) upon signing of this Agreement.

2. That the FRANCHISE PARTNER shall receive a fixed amount of THIRTY ONE THOUSAND FIVE HUNDRED PESOS (31,500.00PHP) every quarter as his share in the business operations of THE COMPANY. In this regard, THE COMPANY shall issue twenty (20) post-dated checks dated every quarter every year for 5 years upon signing of this agreement.

3. That the term of this Agreement shall be for FIVE (5) YEARS, commencing on FEBRUARY 14, 2023 until FEBRUARY 14, 2028, renewable for another period of FIVE (5) years provided that the FRANCHISE PARTNER sends a written intent to renew at least sixty (60) days prior to the expiration of the term. In this regard, another agreement will be executed and another franchise partnership fee shall be paid by the FRANCHISE PARTNER.

4. That the FRANCHISE PARTNER is prohibited from withdrawing from the Agreement at the duration of the term of this Agreement. The rights bestowed to the FRANCHISE PARTNER are personal in nature and cannot be transferred or assigned to a third person.

5. Force Majeure. Including but not limited to natural disasters, pandemics or other weather-related or natural conditions (acts of God), the commencement, occurrence, continuation or intensification of any war (whether or not declared), sabotage, armed hostilities, civil unrest, military attacks or acts of terrorism (including cyber attack or otherwise) or declaration of national emergency, civil disturbance, strike, lockout, slowdown, riot, energy shortage, embargo, acts of any Governmental Authority, systems failure, malfunction or disruption, internet, electrical, power or other utilities failure, malfunction or disruption, or any other event, cause or occurrence beyond its reasonable control (a "Force Majeure"). In the event of any such Force Majeure, the affected Party's covenants, agreements and obligations under this Agreement that are excused under this shall be postponed for such time as its performance is suspended or delayed on account thereof; provided that the Company shall use commercially reasonable efforts to minimize the effect of any such event. The company will promptly notify the Partner in writing upon learning of the occurrence of any such event. Upon the cessation of such event, the Company will use commercially reasonable efforts to resume its performance with the least practicable delay. For clarity, in the event of any such suspension or delay, the period for performance shall be extended for a period equal to the time lost by reason of such suspension or delay.

6. That the FRANCHISE PARTNER shall be accorded with the following complimentary services for Dermacare and Dr. White branches ONLY as incentive:

- *150,000 worth of Face and Body Treatment consumable for 5 years for 1 specific Corporate Branch ONLY (Excluding IV/ Drip Injectable, Laser such as Diode, Pico White, Exilis Elite, CO2/ Fractional, Black Doll, V-MAX and Doctor Services)
- *50% discount on All Dermacare / Dr. White and Glow Services

- *50% discount on All Owned Brand Dermacare / Dr White and Glow Products
- *20% discount on Doctors Services
- * Complimentary Services for two (2) extensions of choice
- *Maximum of two (2) treatments per visit. Subject for appointment at least 2-3 days lead time.

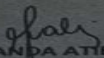
7. CONFIDENTIALITY CLAUSE: That this Agreement shall be considered CONFIDENTIAL and all parties are prohibited to disclose any of the terms of this Agreement to any third party otherwise the disclosing party shall liable for damages without prejudice to other legal action/s that may be filled due to said disclosure.


8. That no modification, alteration or amendments to this Agreement shall be made valid if not made in writing and duly signed by both parties herein;

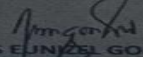
9. That this Agreement shall be valid and binding among the parties, their successors-in-interest and assigns.


IN WITNESS WHEREOF, the parties have hereunto set their hands in BATANGAS CITY
 This 14 day of FEBRUARY 2023.

DERMACARE-BEYOND
 SKIN CARE SOLUTIONS

By: 
 CHANDA ATIENZA
 Chief Operation Officer
 SSS-0433442659




 VENUS EUNZEL GONDA
 Admin and Finance Manager
 DO1-10-006592



It was further reported that the registered company name of **DERMACARE-BEYOND SKIN CARE SOLUTIONS** is **"BEYOND SKIN CARE VENTURES INC."**

As earlier discussed, **BEYOND SKIN CARE VENTURES INC.**, is a registered corporation under Company Registration No. CS201950505, however, it is not authorized to solicit investments from the public as it did not secure prior registration

and/or license to solicit investment from the Commission as prescribed under Section 8 of the Securities Regulation Code.

On the other hand, per initial verification from the Commission's Database, **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS** is not registered as a corporation or partnership. Consequently, **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS** also does not have a secondary license or authority to solicit investments or offer securities as only registered corporations can apply for and be issued a secondary license by the Commission.

On 08 September 2023, the Commission has issued an Advisory and the same was posted on the Commission's website on 11 September 2023, informing the public that **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.:**

*“xxx are **not authorized to solicit investments** from the public, not having secured prior registration and/or license to sell securities or solicit investments as prescribed under Section 8 of the Securities Regulation Code (SRC). Further, the public is advised to exercise caution in dealing with any individual or group of persons soliciting investments for and on behalf of **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.** and **NOT TO INVEST** or to **STOP INVESTING** in the investment scheme being offered by the subject entities or its representatives xxx”*

On 18 September 2023, a **Show Cause Order** was issued against **BEYOND SKIN CARE VENTURES INC.**, addressed to the company's registered principal office address, and to its stockholders, namely; Chanda P. Atienza, Maila B. Castillo, Jefferson Perez, Venus Eunizel P. Gonda and Catherine A. Salazar, **directing the company to show cause why no administrative sanctions and/or criminal charges should be imposed/filed against BEYOND SKIN CARE VENTURES INC., and/or its incorporators, directors or officers for violation of the Securities Regulation Code and other pertinent laws, rules and regulations of the Commission, to show cause why no administrative sanctions and/or criminal charges should be imposed/filed against BEYOND SKIN CARE VENTURES INC., and its incorporators, directors or officers for offering and/or selling unregistered securities to the public in violation of Section 8, 26, and 28 of the Securities Regulation Code, to show cause why its Certificate of Incorporation should not be revoked pursuant to Section 6(i)(2) of Presidential Decree No. 902-A 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 engaging in ultra vires acts in violation of the Revised Corporation Code of the Philippines, and to show cause why no administrative sanction and/or criminal charges should be filed against BEYOND SKIN CARE VENTURES INC., and/or its incorporators, directors and officers for committing investment fraud in violation of Section 11 of Republic Act No. 11765 otherwise known as the Financial Products and Services Consumer Act.**

On 20 September 2023, the Show Cause Order was sent through the declared email address of the company as reflected in the records of the Commission at unicbuzsco888@yahoo.com.

On 26 September 2023, the Show Cause Order was sent via registered mail to the declared address of the company and of its incorporators.

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 the allegations stated in the aforementioned Show Cause Order. Hence, we now resolve the instant proceedings on the basis of available evidence.

DISCUSSION:

Clearly in this case, the compensation scheme that **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.**, is offering to the public under its “*Franchise Partner Agreement*”, partakes of the nature of securities in the form of an “Investment Contract” as defined under Section 3.1 of the Securities Regulation Code (SRC).

Section 3.1 of the Securities Regulation Code (SRC) defines **securities** as 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* (G.R. No. 164182 February 26, 2008) traced from the case of *SEC vs. Howey Co.* (66 S.Ct.1100 May 27, 1946) and was later modified in the case of *SEC vs. Glenn W. Turner Enterprises, Inc.* (474 F.2d476 February 1, 1973), as follows:

- A contract, transaction or scheme;
- An investment of money;
- A common enterprise;
- Expectation of profits; and
- 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 Page 11 of 14 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 and in relation to SRC Rule 26.3.5 of the 2015 SRC IRR must be registered with the Commission pursuant to Sections 8 and 12 of the SRC before the same can be **offered or sold** for distribution.

Meanwhile, 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. "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 registration or license from the Commission who acts as brokers 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 **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.**, to determine if they satisfy the elements of an investment contract. In our evaluation, indeed, the elements of an investment contract are manifested in the investments being offered by **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.**, which are as follows:

- By investing in the company, **the investor enters into a contract;**
- There is a **placement of money** from the public as they are enticed to invest in the company that represented to be engaged in a lucrative business and are required to invest money in order for them to earn profits;
- The money invested is placed in a **common enterprise;**

- The **investors expect to derive profits** as they are primarily attracted to join **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.**, for a promise of receiving a guaranteed return equivalent to 12.6% interest every quarter for a period of 5 years with complimentary services; and
- The investors expect to earn profits derived primarily from the efforts of others or from **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.**

In this case, **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.**, is offering an investment scheme which is within the definition of securities under Section 3.1 of the SRC in the nature of an investment contract. As defined, an investment contract is a contract or scheme for the placing of capital or laying out of money in a way intended to secure income or profit from its employment.¹ It has been applied to a variety of situations where individuals were led to invest money in a common enterprise with the expectation that they would earn a profit through the efforts of the promoter or of someone other than themselves.²

It is noteworthy to mention that **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.**, is not authorized to solicit investments from the public as it did not secure prior registration and/or license to solicit investment from the Commission as prescribed under Section 8 of the Securities Regulation Code. Hence, the act of **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.**, in soliciting investments from the public without the necessary secondary license from the Commission is unauthorized.

Further, Section 11 of Republic Act No. 11765 or the Financial Products and Services Consumer Protection Act (FCPA) also prohibits investment fraud which is defined under the law as any form of deceptive solicitation of investments from the public which includes Ponzi schemes and such other schemes involving the promise or offer of profits or returns sourced from the investments or contributions made by the investors themselves and the offering or selling of investment schemes to the public without a license.

It is important to emphasize that **BEYOND SKIN CARE VENTURES INC.**, 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 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.

¹ *SEC vs Howey Co.*, 328 U.S. 293 (1946)

² *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 3.1G of the SRC's IRR replaces this 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 promised.

In **BEYOND SKIN CARE VENTURES INC.**'s Articles of Incorporation as approved by the Commission, it is clearly provided that the business of the subject company is:

"To establish, operate, manage, own and maintain a skin care clinic and such other enterprises which may have similar or analogous undertakings or dedicated to services of fully qualified cosmetic doctor, aesthetic doctor and or trained dermatologist, facial therapists and registered nurses who may or may not be connected with the clinic, and to provide, supply and sell related skin care products as long as they are FDA approved as its primary purpose.

"to purchase, acquire, own, lease, sell and convey real properties such as lands, buildings, machinery and equipment and other personal properties as may be necessary or incidental to the conduct of the corporate business and to pay in cash, shares of its capital stock, debentures and other evidence of indebtedness, as may be deemed expedient, for any business or property acquired by the corporation, as its secondary purpose.

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

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 and 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, the purpose in **BEYOND SKIN CARE VENTURES INC.**'s Articles of Incorporation expressly prohibits it to operate an investment-taking scheme.

In an SEC opinion³, 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 Registration issued to **BEYOND SKIN CARE VENTURES INC.**, explicitly states that:

This Certificate grants juridical personality to the corporation **but does not authorize it to issue, sell or offer for sale to the public.**

³ SEC-OGC Opinion No. 11-33 dated 29 July 2011 addressed to Mr. Jesus B. Lapuz.

securities such as but not limited to, shares of stock, **investment contracts**, debt instruments and virtual currencies without prior Registration Statement approved by the Securities and Exchange Commission **nor to undertake business activities requiring a Secondary License from this Commission 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 share, cash share/membership certificate issuers or selling agents thereof nor to operate a fiat money to virtual currency exchange. **Neither does this Certificate constitute a permit to undertake activities for which other government agencies require a license or permit.** (emphasis supplied)

To exacerbate matters, the scheme being offered by **DERMACARE-BEYOND SKIN CARE SOLUTIONS / BEYOND SKINCARE SOLUTIONS / BEYOND SKIN CARE VENTURES INC.**, is clearly in the nature of a *ponzi* scheme⁴ where the profits or payouts shall be taken from incoming investors or additional pay-ins of existing members-investors, considering that it does not have any underlying legitimate business from where it could source its promised return on investments to its investors. 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 of 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.”

On the other hand, as held in the case of *SEC vs. CJH Development Corporation, (G.R. No. 210316, 28 November 2016)*⁵, the Supreme Court ruled that *the sale and/or offer of securities without the requisite license, necessarily operates as a fraud on investors, thus:*

⁴ 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 bonds 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. (*People of the Philippines v. Priscilla Balasa, et. al., G.R. 106357, dated September 3, 1998*).

⁵ SEC vs. CJH Development Corporation, (G.R. No. 210316, 28 November 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 ours)

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 misrepresentations as to what the corporation can do or is doing to the to the great prejudice of or damage to the general public. Likewise, Section 5.1 (m) of the SDRC and Section 179 (j) of the Revised Corporation Code of the Philippines empower the Commission to revoke the franchise or Certificate of Incorporation/Registration of corporations registered with it.

Under the 2016 Rules of Procedure of the Securities and Exchange Commission, the EIPD shall exercise authority over persons and entities, whether under the primary authority of other Operating Departments, involved in the following:

“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 Corporation Code;

2. Petitions for revocation⁶ 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; and

⁶ Revocation refers to involuntary dissolution of corporate registration pursuant to Section 138 of the Revised Corporation Code.

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.”

Considering that nowhere is it stated in its primary purpose that **BEYOND SKIN CARE VENTURES INC.**, is authorized to engage in the selling or offering for sale of securities to the public, the activity of **BEYOND SKIN CARE VENTURES INC.**, of selling or offering for sale of investments is considered 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.

WHEREFORE, for violations of Section 44 of the Revised Corporation Code of the Philippines (R.A. 11232), Sections 8.1, 26.1 and 28.1 of the Securities Regulation Code, Section 11 of the Financial Products and Services Consumer Protection Act, P.D. 902-A in relation to Section 179 (j) of the RCCP and Section 5.1 (m) of the SRC, the Certificate of Incorporation and the registration of **BEYOND SKIN CARE VENTURES INC.**, as a corporation, is hereby **REVOKED**.

Further, Section 54 of the Securities Regulation Code provides:

SEC 54. Administrative Sanctions. – 54.1. If, after due notice and hearing, the Commission finds that: (1) There is a violation of this Code, its rules, or its orders; xxx it shall, in its discretion, impose any or all of the following sanctions as may be appropriate in the light of the facts and circumstances:

xxx.

(ii) A fine of no less than Ten thousand pesos (P10,000.00) nor more than One million pesos (P1,000,000.00) plus not more than Two thousand pesos (P2,000.00) for each day of continuing violation;

xxx.”

Hence, a fine of ONE MILLION PESOS (**P1,000,000.00**) is hereby imposed against **BEYOND SKIN CARE VENTURES INC.**, for offering securities to the public without prior registration and license from the Commission and **BEYOND SKIN CARE VENTURES INC.**, and its incorporators is directed to pay the fine of **One Million Pesos (P1,000,000.00) each** pursuant to Section 54.1 (ii) of the SRC within a period of Fifteen (15) days from receipt of this Order.

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 this Commission is likewise requested to enter the “**revoked**” status of subject corporation in the online database of the Commission.

SO ORDERED

Makati City, 07 November 2023.


OLIVER O. LEONARDO
Director

E3/E26/E22/E23