Lastly, it may be noted that the respondents did not refute the findings of the Commission that they are engaged in the sale of securities in the form of investment contracts without the proper registration in violation of the Securities Regulation Code.[24]

WHEREFORE, premises considered,, the *Motion to Lift Cease and Desist Order* filed by respondents CACERES LENDING INVESTOR CO., GLOBAL MONEY UNLIMITED and ECC-LIVELIHOOD SOCIAL SERVICES, INC is hereby **DENIED** and the CEASE AND DESIST ORDER issued against CACERES LENDING INVESTOR CO., GLOBAL MONEY UNLIMITED and ECC-LIVELIHOOD SOCIAL SERVICES, INC, its partners, officers, directors, agents, representatives, conduits, assigns, and any and all persons claiming and acting for and in behalf and under its authority is hereby **MADE PERMANENT**.

The Enforcement and Prosecution Department is hereby **DIRECTED** to: (a) serve this Order on the respondents or any of its authorized representatives; (b) post copies of the Order at the entrance of the main office and/or branches, if any, of the respondents. Let a copy of this Order be also posted in the Commission's website. Furthermore, let this Order be published in a national newspaper of general circulation.

Let copies of this Order be furnished the Corporation Finance Department and the Economic Research and Information Department for their information and appropriate action.

FAIL NOT UNDER PENALTY OF LAW.

SO ORDERED.

Mandaluyong City; 21 June 2012.

TERESITA J. HERBOSA
Chairperson

MA. JUANITA E. CUETO*
Commissioner

RAUL J. PALABRICA
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

ELADIO M. JALA
Commissioner

[24] *Cease and Desist Order*, pp. 4-5.

*on sick leave

while receiving profits or a certain percentage of the money it loaned to its borrowers. The respondents claimed that CACERES loaned out money to its members without any profit or percentage in return. Clearly, as can be gleaned from the provision of RA 9474[20] there is no mention of the phrase "receiving profits or certain percentage of money it loaned to borrowers". Moreover, there is no requirement under RA 9474 that a company should receive profits or interests based on loans made to the borrowers in order to be classified as a lending company. Nevertheless, based on the facts and evidence gathered consisting of marketing plans, flyers, the purpose stated in its Articles of Partnership, the statements made by Mr. Caceres and by some of the members/investors, CACERES is clearly engaged in lending money for profit using an expired registration with the Commission.

The respondents further claim, in the same *Motion to Lift CDO*, that since a primary license to operate as a lending company as provided in its Articles of Partnership was granted by the Commission, it presupposes that the matter of lending money under RA 9474 is included in the license to operate granted to CACERES.[21] The argument is baseless since Sec. 4, RA 9474 mandates that no lending company shall conduct business unless granted an authority to operate by the Commission.[22] The authority granted by the Commission is not derived from its Articles of Partnership but rather from the required CA issued by the Commission.[23]

Moreover, Sec. 4, RA 9474 further provides that a lending company must operate as a corporation, not as a partnership. The business of lending money can no longer be carried on under a partnership but must be done through a corporation. In this case, CACERES was registered with the Commission as a partnership. To reiterate, the Articles of Partnership had already expired on 14 June 2009. CACERES has not even attempted to establish nor has been established as a corporation thereafter.

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[20] Section 3(a) of Republic Act No. 9474 defines a LENDING COMPANY as **a corporation engaged in granting loans from its own capital funds or from funds sourced from not more than nineteen (19) persons.** It shall not be deemed to include banking institutions, investment houses, savings and loans associations, financing companies, pawnshops, insurance companies, cooperatives and other credit institutions already regulated by law. The term shall be synonymous with lending investors.

[21] *Motion to Lift CDO* dated 28 May 2012, pp. 2-3.

[22] *SECTION 4. Form of Organization.* — A lending company shall be established only as a corporation: Provided, That existing lending investors organized as single proprietorships or partnerships shall be disallowed from engaging in the business of granting loans to the public one year after the date of effectivity of this Act.
No lending company shall conduct business unless granted an authority to operate by the SEC.

[23] Rule 3a(i) of the Implementing Rules and Regulations of RA 9474.

proprio, a CDO is that the EPD must conduct a proper investigation or verification. Once an investigation or verification by the EPD is conducted, the Commission, *motu proprio*, may issue a CDO, if in the judgment of the Commission, 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. A verified complaint filed by any aggrieved party is not the only manner by which the Commission may issue a CDO.

In the instant case, the respondents were not denied due process by the non-filing of a formal complaint or verified compliant by any aggrieved party as argued by them in their *Motion to Lift CDO*. The Rules explicitly state that a CDO may be issued *motu proprio* upon a prior investigation or verification by the EPD, or upon a verified complaint. The CDO was issued *motu proprio* by the Commission *En Banc* on 17 May 2012 after a prior investigation conducted by EPD in accordance with the Rules. Thus, a verified complaint need not be furnished and served upon the respondents as argued by them since a CDO may be issued *motu proprio* by the Commission.

Moreover, the issuance of the CDO is valid since it was based on a prior investigation and verification conducted by the EPD contrary to the respondents' assertion that the issuance was merely based from a letter.[15] The records reveal that EPD conducted a thorough investigation prior to the issuance of the CDO when: (1) numerous informants/complainants provided details to the EPD of the entities' operations involving CACERES' lending and investment-taking activities;[16] (2) Edmundo Caceres Jr., on his own volition, even appeared before the Commission and explained the major components of the Marketing Plan of CACERES and GLOBAL MONEY that are substantially the same with what was provided by the informants/complaints;[17] (3) a Field Investigation Report prepared by the EPD stated that ECC has assumed the unauthorized lending and investment-taking business of CACERES and GLOBAL MONEY contrary to its purpose as a non-profit corporation;[18] and (4) EPD Investigators attended a business seminar and were handed a CACERES brochure, ECC Recruitment Genealogy Chart, ECC Membership Forms and ECC ID Form.[19] Clearly, investigation and verification were conducted by the EPD leading to the consequent filing by the EPD of the Motion for Issuance of a Cease and Desist Order dated 10 April 2012, prior to the issuance by the Commission of the CDO as mandated by the Rules.

In the same Motion to Lift CDO, the respondents claim that they cannot be considered a lending company and not covered under RA 9474 because it is understood that under its provisions a lending company is one that is engaged in lending activities

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[15] *Motion to Lift CDO* dated 28 May 2012, p. 1.
[16] *Cease and Desist Order*, pp. 4-5.
[17] *Id.*, pp. 5-6.
[18] *Id.*, pp. 6-7.
[19] *Id.*, p. 7.

brochure, ECC Recruitment Genealogy Chart, ECC Membership Forms and ECC ID Form.[10]

A Cease and Desist Order dated 17 May 2012 was issued by the Commission *En Banc* against the respondents for engaging in the unauthorized business of lending money to the public without being established as a corporation and for engaging in the unauthorized business of selling securities to the public without the proper registration.[11]

On 05 June 2012, the Commission received the respondents' *Motion to Lift CDO* dated 28 May 2012 praying that the CDO dated 17 May 2012 be lifted.[12] In their *Motion to Lift CDO*, the respondents argue that the CDO is not supported or substantiated by any other evidence to uphold its legality. They claim that the issuance was merely based from a letter sent by a certain person named Edwin, and not necessarily a formal complaint. Furthermore, they argue that they were not furnished a formal copy of the complaint but only mere invitations to appear in the investigations conducted by the EPD. Thus, they claim that they were placed at a lost because they cannot answer to the charges levied upon them and, as a result, they were denied due process.[13]

Section 10-2, Rule X of the 2006 Rules of Procedure of the Securities and Exchange Commission (Rules), in providing the requirements for the issuance of a CDO, states the following:

> "Sec. 10-2. *Issuance of a CDO.* –The Commission, through the OGC, after proper investigation or verification by CED (now EPD), *motu proprio*, or upon verified complaint, may issue a CDO 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. x x x"

Under the above provision, the Commission may issue a CDO either ***motu proprio*** or upon verified complaint[14] without a prior hearing. The essential requirement that must be complied with by the Commission before it may issue, *motu*

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[10] *Id.*, p. 7.
[11] In violation of Sec. 4, RA 9474 and Sec. 8 of RA 8799 (The Securities Regulation Code), respectively.
[12] *Motion to Lift CDO* dated 28 May 2012, p. 5.
[13] *Id.*, pp. 1-2.
[14] Section 10-2, Rule X of the 2006 Rules provides that a verified complaint may be filed by the aggrieved party with the Commission, through the CED (now EPD), for the issuance of a CDO pursuant to the provisions of Section 64 of the SRC.

Lending Company (CA) as required by R.A. 9474, otherwise known as the Lending Company Regulation Act of 2007.[3] Its registration had expired on 14 June 2009.[4]

GLOBAL MONEY UNLIMITED (GLOBAL MONEY) is not registered with the Commission.[5] However, GLOBAL MONEY is part and parcel of CACERES and is doing business under the umbrella of CACERES.[6] On the other hand, **ECC-LIVELIHOOD SOCIAL SERVICES, INC.** (ECC) is a non-stock, non-profit corporation duly registered with the Commission on 16 March 2012.[7]

EPD claims that on 1 February 2012, a letter addressed to Chairperson Teresita J. Herbosa was sent by a concerned citizen named Edwin informing the Chairperson of the lending and investment-taking activities of CACERES and GLOBAL MONEY. On 08 March 2012, an Advisory was posted on the website of the Commission advising the public not to enter into any lending or other transactions with CACERES and GLOBAL MONEY since it has not been issued a CA.[8]

Thereafter, numerous informants/complainants appeared before the EPD and provided details of the entities' operation such as the membership fees, the recruitment of new members, the scheme to receive unlimited income and the availability of interest-free loans to members. On 9 and 12 March 2012, Edmundo Caceres Jr., who was the Partner of CACERES and is the President of ECC, appeared before the Commission and explained the components of the CACERES and GLOBAL MONEY which are substantially the same as that provided by the informants/complainants.[9]

On 20 March 2012, unnamed individuals reported that CACERES has started using the name of ECC in the alleged lending and investment-taking activities, in order to evade the controversy caused by the posting of the Advisory. This was confirmed in EPD's Field Investigation Report. It was further stated in the said Report that ECC has assumed the unauthorized lending and investment-taking business of CACERES and GLOBAL MONEY at their common office at Sta. Rosa, Laguna. On 29 March 2012, EPD Investigators confirmed that ECC is engaged in the same business as CACERES after conducting surveillance by attending the business seminar and were handed a CACERES

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[3] *Id*, p. 2.
[4] *Id.*, p. 1.
[5] *Id.*, p. 2.
[6] *Motion to Lift Cease and Desist Order* (CDO) dated 28 May 2012, p. 2.
[7] *Cease and Desist Order* dated 17 May 2012, p. 2.
[8] *Id.*, pp. 3-4.
[9] *Id.* pp. 4-6.

Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City

In the Matter of:

CACERES LENDING INVESTOR CO., GLOBAL MONEY UNLIMITED, and ECC-LIVELIHOOD SOCIAL SERVICES, INC.

SEC-CDO Case No. 04-12-003

ENFORCEMENT AND PROSECUTION DEPARTMENT
Petitioner

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ORDER

Pending consideration by the Commission is a *Motion to Lift Cease and Desist Order* (CDO) dated 28 May 2012 filed by the respondents **CACERES LENDING INVESTOR CO., GLOBAL MONEY UNLIMITED** and **ECC-LIVELIHOOD SOCIAL SERVICES, INC.,** through their counsel, and was received by the Commission on 05 June 2012.

On 06 June 2012, the Commission issued an Order directing the respondents to appear at the hearing on the *Motion to Lift CDO* on 11 June 2012, at 2:30 p.m. at the Office of the General Counsel of the Commission. The respondents, however, failed to appear at the scheduled hearing. Thus, the *Motion to Lift CDO* has been submitted for resolution pursuant to the Order issued by the Commission on 11 June 2012.

CACERES LENDING INVESTOR CO. (CACERES) was a partnership previously registered with the SEC on 14 June 1999, and had a term of existence for ten (10) years as provided for in its Articles of Partnership.[1] It was granted by the Commission a primary license to operate as a partnership for the purpose of engaging in the business of lending.[2] However, it has not been issued a Certificate of Authority to Operate a

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[1] Cease and Desist Order dated 17 May 2012, p 1.

[2] Article V of its Articles of Partnership: "*To engage in a business of lending investors lending money to person and entities under terms and conditions allowed by law provided that the company shall not engage in financing activities under R.A. 5980 and pawnbrokering under P.D. 114.*"