Republic of the Philippines
Department of Finance
Securities and Exchange Commission
COMMISSION EN BANC

IN THE MATTER OF:

HUMANITARIAN AND SPIRITUAL MISSION APOSTULATES OF DAVAO AND ASIA, INC., HASMADAI FOUNDATION, INC., and HASMADAI INSTITUTE OF TECHNOLOGY CORP.

SEC CDO CASE NO. 05-24-112
Promulgated: 21 May 2024

ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT,
Movant.
x----------x

CEASE AND DESIST ORDER

This resolves the *Motion for Issuance of a Cease and Desist Order* ("*Motion*") filed by the Enforcement and Investor Protection Department (EIPD) on 17 May 2024 praying that a Cease and Desist Order (CDO) be issued: (a) directing **HASMADAI Foundation, Inc., Humanitarian and Spiritual Mission Apostulates of Davao and Asia, Inc.**, and **Humanitarian Institute of Technology Corp.** (collectively referred to as "**HASMADAI**"), *Rowel Dagan Bacat, Cyrus Mark Cabasag, Cipriano Quizon, Jr., Ralph Jimmy Calaor Gayatin a.k.a. Dante "Bong" Encarnacion Tabusares, Lecerio A. Lavente, Jr., Duraliza Baja Mahusay, Erwin S. Gabieta, Jeofrie A. Jala, Maria Lourdes Biongan Domosmog, Ledevina M. Generalao, Rodel B. Mahusay, Roy T. Velasco*, and their respective officers, directors, representatives, salesmen, agents, brokers, dealers, promoters, recruiters, uplines, influencers, endorsers, abettors, and enablers and any and all persons, conduit entities, subsidiaries and affiliates (collectively referred to as the "Agents") who are claiming and acting for and on their behalf, to immediately cease and desist from further engaging in activities of offering for sale of securities in the form of (1) Mission Support or *"Charity Mission Support Pledge Form"* and (2) any similar contract that would operate as a direct circumvention of this Order until the requisite registration statement is duly filed with, and approved by the SEC and the corresponding permit to offer/sell securities is issued; and (b) prohibiting HASMADAI, its Agents and any and all persons,

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conduit entities and subsidiaries claiming and acting for and in its behalf from transacting any and all business involving the funds in its depository banks, and from transferring, disposing, or conveying in any other manner, any and all assets, properties, real or personal, including bank deposits, if any, of which the named and/or covered persons herein may have any interest, claim or participation whatsoever, whether directly or indirectly, under their custody, without the authority from the Commission.

PARTIES

Movant EIPD is one of the Commission's operating departments tasked, among others, to investigate *motu proprio* or upon complaint or referral, violations of laws, rules, and regulations administered, implemented, or issued by the Commission, and to seek the issuance of a Cease and Desist Order whenever warranted by the circumstance.[1]

HUMANITARIAN AND SPIRITUAL MISSION APOSTULATES OF DAVAO AND ASIA, INC. is a non-stock, non-profit religious society organized and existing under Philippine laws, having been issued a Certificate of Incorporation on 18 April 2023 bearing Company Registration No. 2023040095445-09. Its principal office is located at Purok Calumpang Lafuente Lim Extension, Odaca, San Miguel (Odaca), Poblacion, City of Digos (Capital), Davao del Sur, Region XI (Davao Region), 8002. Its purpose as stated in its Articles of Incorporation ("AoI") is as follows:

> *"1. To act as catalyst and paradigm in promoting and providing innovative spiritual, social and dynamic development to all people of all walks of life through the teachings of the word of GOD; 2. To engage in, operate and maintain the work of evangelism, apostolate and humanitarian missionary works; 3. To promote, provide, establish and support missionary works all throughout the Philippines; 4. To conduct seminars, trainings, workshop, fellowship, humanitarian mission and the like on a regular basis for the moral enhancement of its members to produce efficiency and effectiveness in promoting and providing spiritual and social dynamism; 5. To promote professional responsibility, good and Godly governance by creating and maintaining sound public opinion and idealism to the members thereby improving their sense of spirituality, justice, patriotism, nationality, equality and goodwill towards the society; 6. To adopt a program of financial assistance and support programs for its members and in the community to alleviate the sufferings of those who are unexpectedly stricken by force majeure, as well as, those made by man; 7. To participate in all civic and social actions undertaken by any*

[1] SEC Office Order No. 512, series of 2013.

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people for peace building efforts to stimulate within the people to resolve conflicts without violence and can work together to improve the quality of peoples' lives to achieve spiritual, socio-cultural and economic realizations; 8. To raise money, solicit and accept grants and donations in any form from any person or persons; 9. To undertake fund-raising activities or other projects to finance all of its undertakings; 10. To acquire real and personal properties as may be necessary for the conduct of its operation to the extent allowed by law; and to borrow and contract such debts as it deems necessary; and 11. In general, to exercise any powers as may be necessary, convenient and appropriate for the accomplishment of its purposes, and for the administration of the temporalities and management of the affairs, estate and properties of the church. ***Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts.***" (Emphasis and underscoring supplied)

Based on its AoI and latest General Information Sheet (GIS), the following are its incorporators, trustees, and officers:

Name	Address	Nationality
Rowel Dagan Bacat *Incorporator*	Junction, City of Kidapawan (Capital), Cotabato (North Cotabato), Region XII (SOCCSKSARGEN), 9400	Filipino
Cyrus Mark Cabasag *Incorporator*	Aplaya Chapter 7, City of Digos (Capital), Davao del Sur, Region XI (Davao Region), 8002	Filipino
Cipriano Quizon, Jr. *Incorporator*	Camiguin 7-A, Aplaya, City of Digos (Capital), Davao del Sur, Region XI (Davao Region), 8002	Filipino
Ralph Jimmy Calaor Gayatin a.k.a. Dante "Bobong" Encarnacion Tabusares *Bishop/President/Trustee/ Incorporator*	Lim Extension Purok Calumpang, San Miguel (Odaca), City of Digos (Capital), Davao del Sur, Region XI (Davao Region), 8002	Filipino
Lecerio A. Lavente, Jr. *Other/Incorporator/Trustee*	Lapu-lapu Extension, Purok Ampalaya Aplaya, City of Digos (Capital), Davao del Sur, Region XI (Davao Region), 8002	Filipino
Duraliza Baja Mahusay *Chief Financial Officer/ Trustee/Incorporator*	Plaridel Street, Poblacion Proper, Kidapawan City, North Cotabato	Filipino
Erwin S. Gabieta *Incorporator*	Mabini Extension Purok Kalaw, Zone 3 (Pob.), City of Digos (Capital), Davao del Sur, Region XI (Davao Region), 8002	Filipino
Jeofrie A. Jala *Incorporator*	1056 Mabini del Rosario, Zone 3 (Pob.), City of Digos (Capital), Davao del Sur, Region XI (Davao Region), 8002	Filipino
Maria Lourdes B. Domosmog *Corporate Secretary/Trustee/ Incorporator*	Taran Poblacion, City of Kidapawan (Capital), Cotabato (North Cotabato), Region XII (SOCCSKSARGEN), 9400	Filipino

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Ledevina M. Generalao *Auditor/Trustee*	Purok Mudia, Labangal, General Santos City (Dadiangas), South Cotabato	Filipino
Rodel B. Mahusay *Other/Trustee*	Purok 5, Nueva Vida, Brgy. New Esperanza, Mlang, North Cotabato	Filipino
Roy T. Velasco *Other/Trustee*	Lim Extension, San Miguel, Digos City, Davao del Sur	Filipino

HASMADAI Foundation, Inc. and **Humanitarian Institute of Technology Corp.** have pending applications for incorporation with the Commission's Davao Extension Office.[2]

RELEVANT FACTS

On 08 April 2024, the Commission's Butuan Extension Office (SEC ButEO) was invited to the committee hearing[3] of the Sangguniang Bayan of San Francisco, Agusan del Sur on the registration status of HASMADAI Foundation, Inc.[4], who is represented by its Chairman Dante "Bobong" Encarnacion Tabusares (Mr. Tabusares). The conduct of the hearing was prompted to shed light on the matter concerning the registration status of HASMADAI Foundation, among others.[5]

On 15 April 2024, during the committee, the SEC ButEO was provided with a copy of the slide presentation allegedly prepared by Mr. Azur Havana, a missionary worker of HASMADAI, which showed the latter's unauthorized investment scheme[6], to wit:

SUPPORTS AND ALLOWANCE

SUPPORT	MONTHLY	SMA	ALLOWANCE	TOTAL (6mos)
5,000.00	1,850.00	-500.00	1,350.00	**8,100.00**
10,000.00	3,700.00	-500.00	3,200.00	**19,200.00**
20,000.00	7,400.00	-500.00	6,900.00	**41,400.00**

Under the foregoing scheme, a donor may pledge an amount ranging from PHP5,000.00 to PHP20,000.00 which will immediately entitle him/her to a monthly Missionary Allowance in an amount equivalent to 27% to 34% of the donation. Thus, a pledge of PHP5,000.00 for example, entitles the donor to receive a monthly Missionary Allowance of PHP1,850.00. A Spiritual Medical Assistance (SMA) in the amount of PHP500.00 will be deducted therefrom which leaves the donor with a net Missionary Allowance (guaranteed return) of PHP1,350.00.

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[2] *Motion*. Par. 4.
[3] *Ibid.* See Annex "B"
[4] *Ibid.* Par. 1 (Statement of Facts and Case)
[5] *Ibid.* Annex "B"; Par. 3 Lines 23-26
[6] *Ibid.* Par. 2 (Statement of Facts and Case)

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Under this scheme, a donor of PHP5,000.00 is therefore guaranteed PHP8,100.00 during a six-month period, while a donation of PhP20,000.00 assures a donor an amount of PHP41,400.00 within the same period. The amount deducted as SMA is used to allegedly subsidize the operation of the SMA Shopping Center of HASMADAI that offers more affordable grocery and household items.[7]

In the same hearing, Mr. Tabusares admitted that HASMADAI is accepting donations from persons who are in the country and abroad. He also admitted that he was previously connected with KAPA[8], a religious corporation whose Certificate of Registration was revoked after having been found to be engaged in investment fraud, as its media coordinator and promoter.[9] Further, Mr. Tabusares did not object to the presentation made by the Missionary Worker particularly on giving of payouts in the form of missionary allowance.

The foregoing information prompted the EIPD to conduct its own investigation to determine if the activities of HASMADAI constitutes a violation of the Securities Regulation Code ("SRC"), the Revised Corporation Code (RCC) and other rules and regulations administered and/or implemented by the Commission.

A surveillance operation was conducted by the EIPD within the CARAGA Region. Meetings were conducted with Local Government officials to discuss the possibility of initiating revocation proceedings against HASMADAI. The teams surveyed the area and found HASMADAI offices located in various Municipalities and Cities in CARAGA Region, which were diligently guarded by security personnel, photos of which are shown below:

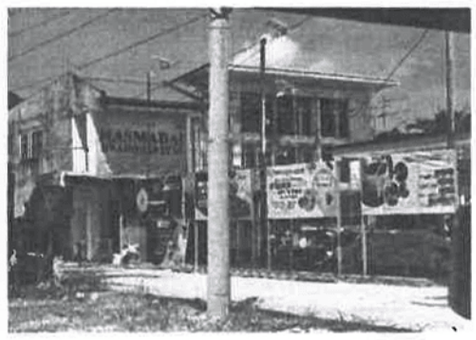

HASMADAI
Barangay 3

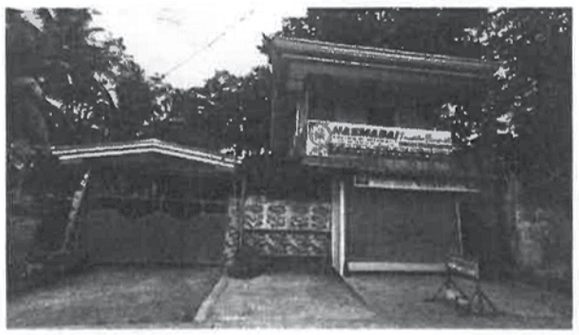

HASMADAI
Barangay 5

[7] *Id.* Par.5 (Statement of Facts and Case)
[8] KAPA- COMMUNITY MINISTRY INTERNATIONAL, INC.
[9] Journal Committee Hearing, April 15, 2024, page 32 of 47, lines 6-19

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Through the surveillance operations, the EIPD was able to confirm that HASMADAI is actually operating in San Francisco, Patin-ay, Prosperidad, Bayugan City, and Cabadbaran City, Prosperidad, Agusan del Sur and Buenavista, Agusan del Norte.

A team witnessed the grand opening of HASMADAI's branch in Mlang, North Cotabato which commenced with a motorcade, and was followed by a speech of Mr. Tabusares who introduced HASMADAI to everyone in attendance.

Further, a team witnessed the opening of HASMADAI Headquarters at Barangay Sabang 3, Surigao City, which again started with a motorcade, and where a video presentation was played which portrayed HASMADAI as engaged in humanitarian activities for two (2) years already. Mr. Tabusares was also seen as promoting HASMADAI which is offering **monthly missionary allowance to missionary workers**. The photos below affirm the events that were witnessed by the surveillance team:

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On 12 May 2024, a surveillance team attended the grand opening of HASMADAI Headquarters in Prosperidad, Agusan Del Sur.

Further, the EIPD was able to secure evidence showing HASMADAI's online presence through various Facebook pages and postings, presenting its multiple locations within the Philippines promising great opportunities[10].

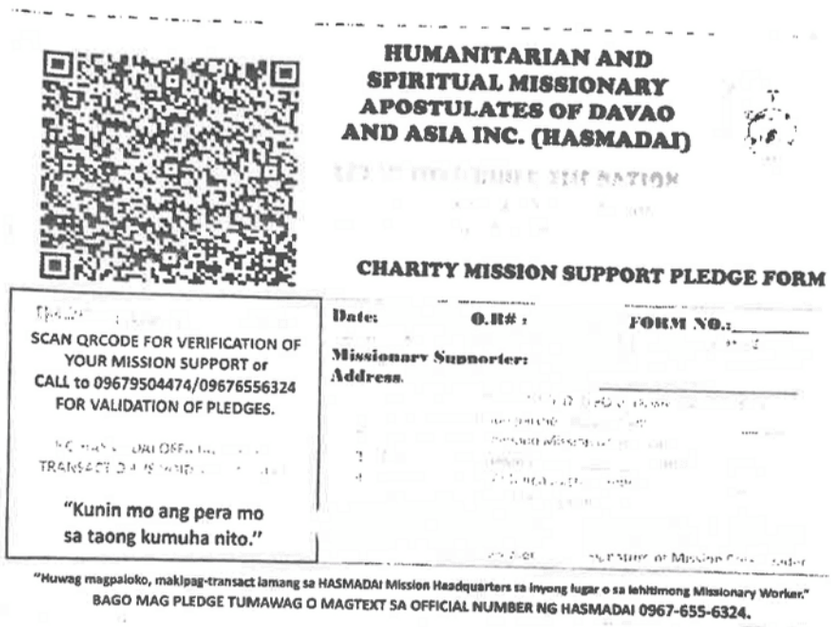
The data and information which the EIPD gathered during its investigation confirmed that the scheme of HASMADAI consisting of its

[10]Ibid

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receipt of donations in exchange for guaranteed returns, is essentially an offer/sale of unregistered securities in the form of investment contracts to the public. HASMADAI lures the public to pledge their hard-earned money in exchange for a guaranteed "missionary allowance" at maturity date.

The Affidavit of an asset who infiltrated and invested in HASMADAI affirmed that the only way for a person to participate in the scheme of HASMADAI, and to ultimately receive guaranteed "missionary allowance", is to be referred by an existing member.[11] In other words, HASMADAI does not accept walk-in investors. It is in this context that HASMADAI gives an existing member-investor an additional income of 5% from referrals.[12] The asset was able to pledge the amount of PHP10,000.00 which will entitle him to a total amount of PHP 19,356.00 within six (6) months or PHP 3,226 per month for six (6) months and was issued a *Charity Mission Support Pledge Form* as shown below:



HUMANITARIAN AND SPIRITUAL MISSIONARY APOSTULATES OF DAVAO AND ASIA INC. (HASMADAI)

CHARITY MISSION SUPPORT PLEDGE FORM

SCAN QRCODE FOR VERIFICATION OF YOUR MISSION SUPPORT or CALL to 09679504474/09676556324 FOR VALIDATION OF PLEDGES.

"Kunin mo ang pera mo sa taong kumuha nito."

Date: **O.R# :** **FORM NO.:**

Missionary Supporter:
Address

"Huwag magpaloko, makipag-transact lamang sa HASMADAI Mission Headquarters sa inyong lugar o sa lehitimong Missionary Worker."
BAGO MAG PLEDGE TUMAWAG O MAGTEXT SA OFFICIAL NUMBER NG HASMADAI 0967-655-6324.

A QR Code indicated in the form directs every donor-member executing the same to send a text message to a mobile number 09676556324, which was found to be registered to Mr. Tabusares.[13] Furthermore, the mobile number 09679504474 provided above corresponds to Mr. Tabusares, who is registered under his alias name Ralph Jimmy Calaor Gayatin.

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[11] *Motion*. Annex "H".
[12] *Ibid.*, Par. 9
[13] Ibid.

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To substantiate its allegation that HASMADAI is engaged in the offer/sale of unregistered securities without the requisite license from the Commission, the EIPD submitted in evidence the Certifications issued by the Commission's Markets and Securities Regulation Department (MSRD)[14] and Corporate Governance and Finance Department (CGFD)[15], which all attested that HASMADAI has not registered any securities under Section 8 and 12 of the SRC; has not filed an application for the registration of, and/or a license to sell securities; has not been issued any license to sell securities; and is not a registered issuer of mutual funds, exchange traded funds and proprietary/non-proprietary shares or membership certificates and timeshares under Sections 8 and 12 of the SRC.

Meanwhile, the Company Registration and Monitoring Department (CRMD) *Certification*[16] attested to the fact borne by the records of the Commission, that while Humanitarian and Spiritual Mission Apostulates of Davao and Asia, Inc. has been issued a Certificate of Incorporation bearing SEC Registration No. 2023040095445-09, HASMADAI Foundation, Inc. and HASMADAI Institute of Technology Corp. are not registered either as a corporation or as a partnership.

In addition, the Department of Social Welfare and Development (DSWD) confirmed that HASMADAI did not apply for, and was not issued an Authority to Conduct National Fund Campaign by the DSWD-Standard Bureau, required under DSWD Memorandum Circular No. 5 Series of 2021[17], in relation to Presidential Decree No. 1564 or the "Solicitation Permit Law"[18], before an entity can validly carry out a public solicitation activity.

ISSUE

Whether the evidence presented by the EIPD warrants the issuance of a Cease and Desist Order (CDO) against HASMADAI and its Agents.

RULING

We grant the Motion.

To begin with, We emphasize the clear and categorical condition

[14] Ibid., Pars. 7-8 and Annex "C"
[15] Ibid., Pars. 7-8 and Annex "D"
[16] Ibid., Pars. 7-8 and Annex "E"
[17] Guidelines in the Processing of Regional and National Public Solicitation Permits
[18] Ibid., pars. 10-11 and Annex "F"

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that this Commission imposed upon HASMADAI when it approved the latter's AoI, to wit:

> "Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts."[19]

The EIPD maintained that the issuance of a CDO against HASMADAI and its Agents is warranted on the ground inter alia that its offer/sale of unregistered securities violates the SRC, and defrauds the investing public.

After carefully considering the Motion which was supported by substantial evidence, the Commission holds that the EIPD was able to establish that HASMADAI and its Agents are offering and/or selling unregistered securities in the form of investment contracts to the public without the requisite license from the Commission, in violation not only of its AoI but also of the relevant provisions of the SRC and its IRR.

Section 3.1 of the SRC defines "securities" as follows:

> "3.1. "**Securities**" are **shares, participation or interests** 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**:
>
> XXX
>
> (b) **Investment contracts**, certificates of interest or participation in a profit-sharing agreement, certificates of deposit for a future subscription; xxx"

An investment contract is defined under Rule 26.3.5 of the 2015 Implementing Rules and Regulations of the SRC (the "SRC-IRR") as follows:

> "**An investment contract means a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits primarily from the efforts of others.** It is presumed to exist whenever a person seeks to use the money or property of others on the promise of profits.

[19] Article Second

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> **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." (Emphasis supplied)

In the case of *SEC v. Howey Co.*, the US Supreme Court defined an investment contract as 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.[20] Investment contracts have been used and adopted in various 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.[21] It is in the context of the foregoing that the U.S. Supreme Court came up with, and adopted the *Howey Test*[22] in determining if an investment scheme, regardless of the legal terminology used, partakes of the nature of an investment contract.

Our Supreme Court thereafter adopted and consistently applied the Howey Test in determining if a transaction or a scheme is a security in the form of an investment contract, which requires prior registration from the Commission. The case of *Virata v. Ng Wee*[23] emphasized this, to wit:

> "In this jurisdiction, the Court employs the Howey test, named after the landmark case of Securities and Exchange Commission v. W.J. Howey Co., to determine whether or not the security being offered takes the form of an investment contract. The case served as the foundation for the domestic definition of the said security.
>
> **Under the Howey test, the following must concur for an investment contract to exist: (1) a contract, transaction, or scheme; (2) an investment of money; (3) investment is made in a common enterprise; (4) expectation of profits; and (5) profits arising primarily from the efforts of others.** Indubitably, all of the elements are present in the extant case." (Emphasis supplied)

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[20] 328 U.S. 293 (1946).
[21] *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 26.3 of the 2015 IRR of the SRC replaced the 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.
[22] *Ibid.*
[23] G.R. Nos. 220926, 221058, 221109, 221135 & 221218, July 5, 2017.

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Moreover, in the case of *Power Homes Unlimited Corp. v. Securities and Exchange Commission*[24] the Supreme Court ruled that in applying the Howey Test, the nature and the entirety of the transaction should be considered, consistent with the broad concept of "securities" in our jurisdiction, thus:

> "It behooves us to trace the history of the concept of an investment contract under R.A. No. 8799. Our definition of an investment contract traces its roots from the 1946 United States (US) case of SEC v. W.J. Howey Co. In this case, the US Supreme Court was confronted with the issue of whether the Howey transaction constituted an "investment contract" under the Securities Act's definition of "security." The US Supreme Court, recognizing that the term "investment contract" was not defined by the Act or illumined by any legislative report, held that "Congress was using a term whose meaning had been crystallized" under the state's "blue sky" laws in existence prior to the adoption of the Securities Act. Thus, it ruled that the use of the catch-all term "investment contract" indicated a congressional intent to cover a wide range of investment transactions. It established a test to determine whether a transaction falls within the scope of an "investment contract." Known as the Howey Test, it requires a transaction, contract, or scheme whereby a person (1) makes an investment of money, (2) in a common enterprise, (3) with the expectation of profits, (4) to be derived solely from the efforts of others. **Although the proponents must establish all four elements, the US Supreme Court stressed that the Howey Test "embodies a flexible rather than a static principle, one that is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits."** Needless to state, any investment contract covered by the Howey Test must be registered under the Securities Act, regardless of whether its issuer was engaged in fraudulent practices." (Emphasis ours)

Applying the foregoing parameters established in jurisprudence, the Commission agrees with the EIPD's finding, and so holds that HASMADAI's investment scheme where investments received from the public, which it calls "pledge" or "donation" earns guaranteed profits,

[24] G.R. No. 164182, February 26, 2008.

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constitutes an offer/sale of unregistered securities as all the elements of the Howey Test are present, to wit:

> ***First***, the evidence presented by the EIPD showed that its member-donors actually donated their hard-earned money in amounts ranging from PhP 5000.00 to PhP20,000.00. The HASMADAI *Charity Mission Support Pledge Form* which was submitted in evidence showed the name and amount of donation as well as the signature of the mission worker who received the donation;
>
> ***Second***, while HASMADAI poses itself to the public as a humanitarian and charitable group, it fosters the scheme that involves the pooling of investments from the public (ingeniously called donor pledges). The funds collected by HASMADAI were ostensibly used to support its educational mission partnership; humanitarian livelihood, charity mission, and spiritual mission as proclaimed in its *Charity Mission Support Pledge Form*. But in reality, the donation/pledge are actually utilized to pay the guaranteed returns in the form of "Monthly Missionary Allowance" due to existing members, which, in turn, ensures its continued operation. The success of HASMADAI's unauthorized investment-taking activities is thus solely dependent on the continued inflow of donations, specifically from new donors. This is the common enterprise that is being sustained by the pledges/donation that HASMADAI is receiving from the public;
>
> ***Third***, HASMADAI's unauthorized investment scheme promises donors guaranteed monthly SMA ranging from 27% to 34% of the donation.
>
> The high rate of return promised by HASMADAI is akin to a double your money scheme at the end of a 6-month period. The member-donor is also entitled to a 5% referral commission for every successful recruit, which is HASMADAI's strategy to ensure continued influx of donors.
>
> ***Fourth***, the profits which donor-investors expect to receive are generated through the efforts of HASMADAI, its Bishop/President Mr. Tabusares and their Agents who do all the marketing and operational work in various areas in

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Visayas and Mindanao, and capitalizing on the promotion of its status as a religious organization allegedly authorized to receive donations for their charitable and humanitarian missions and programs.

Furthermore, the act of HASMADAI encouraging people, through social media i.e. Facebook accounts of their different branches, to participate and join HASMADAI for a promise of great opportunities including receiving monthly missionary allowance, among others, as well as the conduct of public presentations in various key places to inform the people and actively promote its unauthorized investment schemes by promising assured monthly missionary allowances constitute as public offering as defined under Rule 3.1.17 of the 2015 SRC IRR, to wit:

> "3.1.17. **Public offering is 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:
>
> x x x
>
> 3.1.17.2 Presentation in any **public** or commercial **place**;
>
> 3.1.17.3 Advertisement or announcement in radio, television, telephone, **electronic communications, information communication technology or any other forms of communication**;" (Emphasis supplied)

Section 8.1 of the SRC categorically provides that securities cannot be sold or offered for sale within the Philippines if the same are not registered with the Commission in the form of an approved Registration Statement and a Permit to Offer/Sell issued in favor of the applicant, to wit:

> "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 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." (Emphasis supplied)

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In the instant case, the Certifications issued by the MSRD, CGFD, and CRMD all confirm that HASMADAI, its Bishop/President Mr. Tabusares and their Agents have no license to sell, offer, or deal with securities; neither have they caused the registration of the securities that they are currently offering or selling. Verily, HASMADAI's act of offering/selling unregistered securities in the form of investment contract sans the required license constitutes a clear and continuing violation of Sections 8 and 28 of the SRC. This justifies the immediate issuance of a CDO for the protection of the investing public.

Relative to the issuance of a CDO, Section 64.1 of the SRC provides that the Commission may issue a CDO without the necessity of conducting a hearing if, to its mind, the act or practice will operate as a fraud on investors or is otherwise likely to cause grave or irreparable injury or prejudice to the investing public, thus:

> "Section 64. *Cease and Desist Order.* — 64.1. *The Commission,* after proper investigation or verification, *motu proprio* or upon verified complaint by any aggrieved party, **may issue a cease and desist order 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.**" (Emphasis supplied)

Under the afore-quoted provision, there are two (2) essential requisites that must be complied with before a CDO can be validly issued, to wit:

1) There must be a conduct of a proper investigation or verification; and

2) There must be a finding that 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.[25]

[25] Securities and Exchange Commission vs. Performance Foreign Exchange Corporation, G.R. No. 154131, July 20, 2006.

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The Commission finds and so holds that the EIPD fully complied with the requirements prescribed by law which will justify the valid issuance of a CDO.

First, the case records disclose that the EIPD conducted a formal investigation and presented substantial evidence in support of its *Motion* i.e. Certifications from the CRMD, CGFD and MSRD,[26] Field Investigation Reports of the investigation team[27]; Affidavit of the Asset who infiltrated and successfully made a pledge; the Journal Committee Hearing of Sangguninang Bayan of San Francisco, Agusan del Sur dated 15 April 2024, photos of HASMADAI branches, photo of *Charity Mission Support Pledge Form* of HASMADAI .

The second requisite is likewise present considering that HASMADAI and its Agents clearly employed fraud by their very act of selling/offering unregistered securities in the form of investment contracts without license from the Commission, thus making it appear to the public that it is authorized to do so.

Moreover, HASMADAI's AoI shows that it is an independent religious society, a non-stock, non-profit corporation with no sustainable income or viable source of capital that merely relies on the solicitation of donations from its members. It cannot possibly sustain the payment of returns that it guaranteed to (or is guaranteeing) to its members (and the investing public).

The unauthorized investment scheme of HASMADAI also constitutes financial fraud as defined under the Republic Act. No. 11765 of the Financial Products and Services Consumer Protection Act (FCPA), which covers 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. Considering that financial fraud is punished under the FCPA, any act constituting the same should immediately be stopped by the Commission for the protection of the investing public.

Finally, this Commission holds that the act of HASMADAI and its Agents in selling/offering unregistered securities operates as a fraud to the public which, if unrestrained, will likely cause grave or irreparable

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[26] Ibid., Annexes "C" to "E".
[27] *Ibid.*, Annexes "H" to "I".

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injury or prejudice to the investing public.[28] This finds support in the case of *Securities and Exchange Commission vs. CJH Development Corp.*[29] where the Supreme Court emphasized the need for a prompt issuance of a CDO after a finding of a violation of the SRC that will likely defraud or cause grave or irreparable injury to the investing public, thus:

> "**The law is clear on the point that a cease and desist order may be issued by the SEC *motu proprio***, it being unnecessary that it results from a verified complaint from an aggrieved party. **A prior hearing is also not required whenever the Commission finds it appropriate to issue a cease and desist order that aims to curtail fraud or grave or irreparable injury to investors. There is good reason for this provision, as any delay in the restraint of acts that yield such results can only generate further injury to the public that the SEC is obliged to protect.**
> **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 supplied)

WHEREFORE, premises considered, **HASMADAI Foundation, Inc., Humanitarian and Spiritual Mission Apostulates of Davao and Asia, Inc.**, and **Humanitarian Institute of Technology Corp.**, Ralph Jimmy Calaor Gayatin a.k.a. Dante "Bong" Encarnacion Tabusares, Rowel Dagan Bacat, Cyrus Mark Cabasag, Cipriano Quizon, Jr., Lecerio A. Lavente, Jr., Duraliza Baja Mahusay, Erwin S. Gabieta, Jeofrie A. Jala, Maria Lourdes Biongan Domosmog, Ledevina M. Generalao, Rodel B. Mahusay, Roy T. Velasco, and their respective officers, directors, representatives, salesmen, agents, brokers, dealers, promoters, recruiters, uplines, influencers, endorsers, abettors, and enablers and any and all persons claiming and/or acting for and in their behalf, are hereby ordered to **IMMEDIATELY CEASE AND DESIST** from engaging in activities of offering for sale of securities in the form of 1) Mission Support or *"Charity*

[28] Section 64 of the Securities Regulation Code.
[29] (G.R. No. 210316, November 28, 2016)

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Mission Support Pledge Form" and 2) any similar contract that would operate as a direct circumvention of this Order until the requisite registration statement is duly filed with and approved by the SEC and the corresponding permit to offer/sell securities is issued.

HASMADAI FOUNDATION, INC., HUMANITARIAN AND SPIRITUAL MISSION APOSTULATES OF DAVAO AND ASIA, INC., and **HUMANITARIAN INSTITUTE OF TECHNOLOGY CORP.**, together with Ralph Jimmy Calaor Gayatin a.k.a. Dante "Bong" Encarnacion Tabusares, Rowel Dagan Bacat, Cyrus Mark Cabasag, Cipriano Quizon, Jr., Lecerio A. Lavente, Jr., Duraliza Baja Mahusay, Erwin S. Gabieta, Jeofrie A. Jala, Maria Lourdes Biongan Domosmog, Ledevina M. Generalao, Rodel B. Mahusay, and Roy T. Velasco, its officers, operators, administrators, promoters, representatives, salesmen, agents, investment team planners, mentors, enablers, influencers, assigns, conduit entities, subsidiaries, and any and all persons claiming and/or acting for and in their behalf are likewise directed to immediately **CEASE** their internet presence relating to the transactions and investment scheme covered by this *Cease and Desist Order.* The Commission will institute the appropriate administrative and criminal action against any persons or entities found to act as solicitors, information providers, salesmen, agents, brokers, dealers or the like for and in their behalf.

Finally, the Commission hereby **PROHIBITS HASMADAI FOUNDATION, INC., HUMANITARIAN AND SPIRITUAL MISSION APOSTULATES OF DAVAO AND ASIA, INC.**, and **HUMANITARIAN INSTITUTE OF TECHNOLOGY CORP.**, and their respective officers, operators, administrators, promoters, representatives, salesmen, agents, investment team planners, mentors, enablers, influencers, assigns, conduit entities, subsidiaries, and any and all persons claiming and/or acting for and in their behalf from transacting any business involving funds in its depository banks, and from transferring, disposing, or conveying in any manner, any and all assets, properties, real or personal, including bank deposits, if any, of which the named persons herein may have interest, claim or participation, whether directly or indirectly, under their custody, to ensure the preservation of the assets of the investors.

The **EIPD** of the Commission is hereby **DIRECTED** to:

1) Serve this *Cease and Desist Order* to **HASMADAI FOUNDATION, INC., HUMANITARIAN AND SPIRITUAL MISSION APOSTULATES OF DAVAO AND ASIA, INC.**, and **HUMANITARIAN INSTITUTE OF TECHNOLOGY CORP.**,

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together with Ralph Jimmy Calaor Gayatin a.k.a. Dante "Bong" Encarnacion Tabusares, Rowel Dagan Bacat, Cyrus Mark Cabasag, Cipriano Quizon, Jr., Lecerio A. Lavente, Jr., Duraliza Baja Mahusay, Erwin S. Gabieta, Jeofrie A. Jala, Maria Lourdes Biongan Domosmog, Ledevina M. Generalao, Rodel B. Mahusay, and Roy T. Velasco, its officers in the office address as indicated in its Amended Articles of Incorporation and General Information Sheet;

2) Cause the posting of this *Cease and Desist Order* in the Commission's website.

The EIPD is **FURTHER DIRECTED** to submit a formal compliance report, by way of a pleading, to the Commission *En Banc* within ten (10) days from receipt of this ***Cease and Desist Order***.

Let a copy of this Order be furnished to the Company Registration and Monitoring Department, Markets and Securities Regulation Department, Corporate Governance and Finance Department and the Information and Communications Technology Department of this Commission, the Bangko Sentral ng Pilipinas, the Department of Trade and Industry, the National Privacy Commission, the Department of Information and Communications Technology, and the relevant local government unit(s) for their information and appropriate action.

In accordance with the provisions of Section 64.3 of the SRC and Part II, Rule IV, Section 4-3 of the 2016 Rules of Procedure of the SEC, the Respondent may file a verified ***Motion to Lift the CDO*** to the Commission En Banc thru the Office of the General Counsel, within five (5) days from receipt of this Order.

FAIL NOT UNDER PENALTY OF LAW.

SO ORDERED.

Makati City, Philippines.

EMILIO B. AQUINO
Chairperson

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JAVEY PAUL D. FRANCISCO
Commissioner

KARLO S. BELLO
Commissioner

MCJILL BRYANT T. FERNANDEZ
Commissioner

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Republic of the Philippines
SECURITIES AND EXCHANGE COMMISSION
SEC HEADQUARTERS, 7907 Makati Avenue
Salcedo Village, Bel-air, Makati City

19 JUN 2024
DATE

I HEREBY CERTIFY that the foregoing is a true and correct xerox reproduction of the official file (s) thereof in the custody of this Commission consisting of twenty (20) pages, pertaining to Cease and Desist Order - 21 May 2024
SEC CDO CASE NO. 05-24-112

Hazel F. Field-Serra
Administrative Officer IV

Verified By: _____ Fees: N/A Paid under
OR No. N/A Dated N/A