Republic of the Philippines
SECURITIES & EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills, Mandaluyong City

IN THE MATTER OF:

SEC CASE NO. 02-09-006

LEGACY CONSOLIDATED PLANS, INC., LEGACY CARD, INC., GALAXY REALTY & HOLDINGS, INC., SHINING ARMOR PROPERTY, INC., ONE REALTY CORPORATION, ONECARD COMPANY, INC.

COMPLIANCE AND ENFORCEMENT DEPARTMENT,
Petitioner.
X----------X

ORDER

This resolves the Motion for Issuance of Permanent Cease and Desist Order dated 31 March 2009 filed by petitioner Compliance and Enforcement Department (CED).

The brief background of the case is narrated as follows:

LEGACY CONSOLIDATED PLANS, INC. (LEGACY, for brevity) is a pre-need company duly registered with the Securities and Exchange Commission on 26 February 1988 with Certificate of Registration No. 0000148826. The primary purpose of respondent LEGACY, as stated in its amended Articles of Incorporation, is:

> "To engage in the business of establishing, organizing, developing, conducting, managing, maintaining, operating, promoting, marketing, and selling educational assistance and pension plans, as well as other type of pre-need plans and services, to be delivered in the future to subscribers, purchasers or plan holders; to manage, buy, sell, all types of merchandise, equipment and/or services pertaining to the pre-need businesses."

The instant case stemmed from the abrupt closure by LEGACY of its head and branch offices, and discontinuance of its business operations without prior notice to the SEC and its investors. As a result of said closure, numerous investors went to the SEC, through the CED, to inquire about the legality of their investments with respondent LEGACY, and to seek the assistance of the SEC for the recovery of their investments.

According to the complainants-investors, respondent LEGACY, through its sales-agents/salesmen, enticed them to invest in various investment opportunities offered by the said corporation. These investment products are: (1) Double Your Money Program (3 year plan or 5 year plan); (2) Mutual Fund; (3) Pre-need Buy-Back with Deed of Assignment; (4) Motor Vehicle with Money Back; and (5) Maxicore. Based on the representations of respondent LEGACY's sales-agents/salesmen, these investment products offer rates of interest as high as one hundred percent (100%), and the investment is safe and secure because the same will be paid through postdated checks payable on equal monthly and/or quarterly basis, which were actually issued to the investors upon receipt of their investments.

Based on the Complaints-Affidavits and various documents received by CED, the modus operandi of respondent LEGACY is to employ and use its sales-agents/salesmen to offer and sell its investment products to the public. Once an investment is made, the investor is given a set of documents, such as: (1) Official Receipt, (2) Pension Plan Application Form, (3) Pre-need Buy-Back Agreement with Deed of Assignment and (4) Postdated Checks, as proofs of investment.

The Complaints-Affidavits show that the official receipts issued to the investors to acknowledge receipt of their investments bear the name of LEGACY CONSOLIDATED PLANS, INC., but the postdated checks given to the investors as assurance for the payment of the maturity value or proceeds of their investments are issued by its affiliate and subsidiary corporations which are LEGACY CARD, INC., GALAXY REALTY & HOLDINGS, INC., SHINING ARMOR PROPERTY, INC., ONE REALTY CORPORATION and ONECARD COMPANY, INC. Stated otherwise, while the investors' investments are received by LEGACY CONSOLIDATED PLANS, INC., the obligation for the payment of the investors' claims representing the maturity value or proceeds of their investments are assumed by its affiliates.

Upon the request of the CED, the Corporate Finance Department (CFD), issued a negative certification stating, among others, that LEGACY has no license to sell securities aside from pre-need plans namely: education, pension and life/memorial plans. Similarly, the Market Regulation Department ("MRD" for brevity) issued a negative certification stating, among others, that the names of the sales agents/salesmen, as mentioned by the investors in their respective Complaints-Affidavits, are not listed as authorized or licensed sales-agents/salesmen to offer or sell securities to the public.

On 26 February 2009, the SEC, upon Motion filed by the CED, issued a Cease and Desist Order ("CDO", for brevity) enjoining respondents LEGACY

CONSOLIDATED PLANS, INC., LEGACY CARD, INC., GALAXY REALTY & HOLDINGS, INC., SHINING ARMOR PROPERTY INC., ONE REALTY CORPORATION, ONECARD COMPANY, INC., any of their representatives or any person/s acting for and in behalf, and such other person directing and controlling the activities of such corporations, officers, directors, representatives salesmen and agents from a) transacting any and all business involving the funds in its depository banks, and b) from transferring, disposing or conveying in any other manner any and all asset, properties, real or personal, including bank deposit and tax credit certificates if any, of which the named persons herein may have any interest, claim, participation or whatsoever, whether directly or indirectly, under their custody, excluding trust funds or assets thereof, immediately upon receipt of the Order, until further order from this Commission. Moreover, subject corporations and any and all of its affiliates, officers, sales agents/salesmen or representative are also restrained from selling, offering any and all securities/investment contracts to the public in the absence of requisite license under the Securities and Regulation Code (SRC) and the existing rules and regulations of the SEC.

On the same day of the issuance of the CDO, it was posted on the SEC website and continues to be posted therein. On 27 February 2009, copies of the CDO were personally served by SEC liaison officers on the incorporators, officers, directors, representative salesmen and agents of respondents LEGACY CONSOLIDATED PLANS, INC., LEGACY CARD, INC., GALAXY REALTY & HOLDINGS, INC., SHINING ARMOR PROPERTY INC., ONE REALTY CORPORATION, ONECARD COMPANY, INC., and their affiliate corporations namely, LEGACY CONSOLIDATED ASSETS HOLDINGS, INC. FUSION CAPITAL CORPORATION, LEGACY MOTOR, INC., SCHOLARSHIP PLANS PHILS, INC., CONVENTIONAL REALTY COPRPORATION, LEGACY T.D. FUND, INC., LEGACY G.S. FUND, INC., LEGACY H.Y. FUND, INC. at their respective addresses appearing in their articles of incorporation. On 28 February 2009, the CDO was published in the Philippine Daily Inquirer.

The respondents and all the persons against whom the CDO were issued were given a non-extendible period of five (5) working days from receipt thereof within which to file a formal request or motion for the lifting of the CDO.

Based on the records, only Atty. Monina Vierneza Dio, Mr. John Y. Gaisano and UCPB Savings Bank filed their respective motion to lift the subject CDO. The respondents LEGACY CONSOLIDATED PLANS, INC., LEGACY CARD, INC., GALAXY REALTY & HOLDINGS, INC., SHINING ARMOR PROPERTY INC., ONE REALTY CORPORATION, ONE CARD COMPANY, INC., and their affiliate corporations namely, LEGACY CONSOLIDATED ASSETS HOLDINGS, INC. FUSION CAPITAL CORPORATION, LEGACY MOTOR, INC., SCHOLARSHIP PLANS PHILS, INC., CONVENTIONAL REALTY COPRPORATION, LEGACY T.D. FUND, INC., LEGACY G.S. FUND, INC., LEGACY H.Y. FUND, INC., have not filed any formal request or motion for the lifting of the said CDO pursuant to Section 10-3 of the 2006 Rules of Procedure of the Securities and Exchange Commission.

The failure of the respondents to file the necessary motion is deemed a

waiver on their part to avail for themselves of such remedy. Furthermore, Section 10-5 of the abovementioned Rules provides that if the respondent fails to file a motion to lift CDO within the prescribed period, the Director of the CED may file with the Commission a motion to make the CDO permanent.

The Commission resolves to grant the motion.

Section 8 paragraph 8.1 of the SRC clearly states that *"securities shall not be sold or offered for sale in the Philippines unless said securities are duly registered by the issuer in accordance with the procedure laid out in the SRC and without a registration statement duly approved by the SEC."*

In the instant case, the various investment schemes offered and sold by respondent LEGACY, through its individual sales agents/ salesman and officers, fall within the definition of "securities" under Section 3.1 of the SRC which are *"shares, participation or interest in a corporation or in a commercial enterprise or profit-making venture and evidenced by a certificate, contract, instrument, whether written or electronic in character. It includes: xxx investment contracts, certificates of interest or participation in a profit sharing agreement, certificates of deposit for a future subscription."*

In relation thereto, Rule 3(1)(G) of the Amended Implementing Rules and Regulations of the SRC defines an investment contract as follows:

> "G. 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.
>
> An investment contract is presumed to exist whenever a person seeks to use the money or property of others on the promise of profits.
>
> 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 brokers commission."

The investment scheme of respondent LEGACY falls squarely within the ambit of an investment contract. As gleaned from the allegations and documents submitted by the complainants- investors, the scheme consists in the placement or investment of a certain amount of money by the complainants- investors *in a common enterprise belonging to the respondent LEGACY, in consideration of the promise of earning profits primarily out of the entrepreneurial and managerial efforts of LEGACY.* Complainants-investors are not expected to do anything except to receive the profits of the amount they invested through the checks issued by respondent LEGACY.

Said investment contracts, being in the nature of securities, are required under Section 8 of the SRC to be registered with the SEC before being offered or sold to the general public. However, based on the records of the SEC, no

application for registration of these securities, i.e., investment contracts, was filed by the respondent LEGACY in violation of the provisions of Section 8 of the SRC. As evidenced by the Certification issued by the CFD, respondent LEGACY has no license to sell securities aside from pre-need plans namely: education, pension and life/ memorial plans. In other words, LEGACY is not authorized by the SEC to offer and sell investment contracts to the public.

Thus, the evidence on hand so far presented to this Commission shows that the respondent corporations, in concert and in connivance with one another, engaged in the offer and sale of investment contracts, and the solicitation and acceptance of deposits and placement of investment from the general public without the proper authority or license from this Commission, have offered and sold securities without the necessary permit or registration from the SEC. By doing so, respondent corporations have misrepresented to the public that they can issue securities or solicit investments from the general public.

Considering the gravity of the offenses committed, the multitude of affected investors, and in order to prevent further violations and protect the investing public from similar machinations and grave irreparable damage in the future, it is imperative that the Cease and Desist Order dated 26 February 2009 issued by the Commission be made permanent.

WHEREFORE, premises considered, and pursuant to the authority vested in the Commission, the Cease and Desist Order dated 26 February 2009 is hereby rendered **PERMANENT.**

SO ORDERED.

Mandaluyong City, 2 April 2009.

FE B. BARIN
Chairperson

MA. JUANITA E. CUETO
Commissioner

RAUL J. PALABRICA
Commissioner

THADDEUS E. VENTURANZA
Commissioner

MANUEL B. GAITE
Commissioner