Republic of the Philippines
SECURITIES AND EXCHANGE COMMISSION
SEC Bldg. EDSA, Greenhills, Mandaluyong City

In the matter of
MITA LENDING INVESTOR,

SEC Admin. Case No. 01-12-141
For: Cease and Desist Order

ENFORCEMENT AND PROSECUTION DEPARTMENT,
Petitioner,

x----------x

ORDER

This resolves the prayer for the issuance of a Cease and Desist Order in the Petition for Revocation of the Certificate of Registration of **MITA LENDING INVESTOR CO.** ("Mita Lending") filed by the Enforcement and Prosecution Department ("EPD") of the Commission.

The relevant facts are narrated below.

Mita Lending is a partnership duly registered with the SEC on 08 January 1999 under SEC Registration No. A199900202.[1] As indicated in the purpose clause of its Articles of Partnership, Mita Lending is engaged in lending activities, *viz*:

> "a) **To engage in the business of a lending investor, lending money to persons and entities under the terms and conditions allowed by law**, provided that the company shall not engage in financing activities under R.A. 5980 and pawnbroker under PD 114.
>
> b) **To borrow money, issue notes or other obligations therefore and to secure the same by any lien or mortgage for the furtherance of the business operations which shall be derived from not more than 19 lenders.**[2]"

On 22 May 2007, Republic Act No. 9474, also known as the Lending Company Regulation Act of 2007 (R.A. 9474), was passed and signed into law mandating that

[1] Records, p. 24.
[2] Id, p. 21.

all companies engaged in lending activities or business shall secure a Certificate of Authority from the Commission and comply with the minimum capital requirement of one million pesos (Php1,000,000.00), wherein existing companies engaged in lending activities are given such time as determined by the Commission to comply with the minimum capitalization requirement, *viz*:

> "Section 4. Form of Organization. - ***A lending company shall be established only as a corporation, Provided that existing lending investors organized as sole 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.***
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> ***No lending company shall conduct business unless granted an authority to operate by the SEC.***
>
> Section 5. Capital. – The minimum paid in capital of any lending company which may be established after the effectivity of this Act shall be One million pesos (P1,000,000.00): Provided, however, That lending companies established and in operation prior thereto shall comply with the minimum capitalization required under the provisions of this Section within such time as may be prescribed by the SEC which time shall, in no case, be less than three years from the date of effectivity of this Act and: Provided, further, That the SEC may prescribe a higher minimum capitalization if warranted by circumstances."

Rule 3 (a) (i) of the Implementing Rules and Regulations of R.A. 9474 requires existing lending companies organized as partnership, as in the case of Mita Lending, to organize itself as a stock corporation with the prescribed minimum capitalization and to secure a Certificate of Authority to operate as a lending company, viz –

> "RULE 3. Requirements for Organization - (a) Form of Organization - A lending company shall be established as a stock corporation.
>
> i. **Existing Lending Companies organized as single proprietorships or partnerships shall, within a period of one (1) year from the effectivity of the Act, organize themselves as a stock corporation with the minimum capitalization prescribed under the Act and secure a Certificate of Authority to operate a lending company.** Otherwise, they shall be disallowed from engaging in the business of granting loans to the public. xxx xxx xxx"

On 03 August 2009, the Corporation Finance Department (CFD) of the Commission sent a show cause letter to Mita Lending directing the latter to secure from the Commission a secondary license or a Certificate of Authority to Operate as a Lending Company as required under R.A. 9474 and its Implementing Rules and Regulations (IRR), and to show cause why it should not be held liable for violation of Rule 10 of said IRR and be subjected to a fine of not less than Ten Thousand Pesos

and not more than Fifty Thousand Pesos or imprisonment of not less than six months but not more than ten years or both for doing lending business without the required Certificate.[3]

On 20 January 2010, CFD issued SEC CFD Order No. 071, series of 2010 against Mita Lending enjoining it to secure a Certificate of Authority to Operate as a Lending Company.[4] Mita Lending ignored said directive and signified no intention to comply with the same.

On 04 January 2011, EPD sent a letter addressed to Ms. Catherine De Leon-Arce, Head of the Business Permits and Licensing Office (BPLO) of Mandaluyong City, requesting for a certification on whether they have issued a business permit to Mita Lending.[5] In reply, Ms. De Leon-Arce issued a certification dated 25 January 2011 stating that Mita Lending appears in the list of businesses registered with the BPLO of Mandaluyong, and has dutifully renewed its license since 03 March 1999.[6] It further certified that the latest renewal of its license was on 19 January 2011.[7]

On 19 October 2011, Teresita Lloret, the only Filipino partner of Mita Lending, and her son Ramon Lloret appeared before EPD in a scheduled conference wherein she informed that she has no knowledge about the formation, activity and operation of Mita Lending and that she only borrowed money from a certain Mr. Singh, an Indian, and signed several documents pertaining to her loan and not as a partner of Mita Lending.[8]

From the foregoing, it has been established that Mita Lending continues to engage in the lending business without the required Certificate of Authority. Being a partnership, Mita Lending has been in violation of Section 4 of R.A. 9474, which mandates all entities engaged in lending activities or business to incorporate as a stock corporation and to secure a Certificate of Authority from the Commission. Thus, the continued operation of Mita Lending without the requisite Certificate violates R.A. 9474 and may cause injury or fraud to the investing public. Accordingly, the issuance of a cease and desist order pursuant to Section 5.1 (i) of Republic Act No. 8799[9] against Mita Lending Investor Co. is warranted under the foregoing circumstances.

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[3] Records, pp. 18, 30.
[4] Id, pp. 17, 30.
[5] Id, pp. 7, 29.
[6] Id, pp. 6, 29.
[7] Id.
[8] Id, pp. 1, 28.
[9] Securities Regulation Code, SEC. 5. Powers and Functions of the Commission. – 5.1. The Commission shall act with transparency and shall have the powers and functions provided by this Code, Presidential Decree No. 902-A, the Corporation Code, the Investment Houses Law, the Financing Company Act and other existing laws. Pursuant thereto, the Commission shall have, among others, the following powers and functions: xxx xxx xxx

(i) Issue cease and desist orders to prevent fraud or injury to the investing public; xxx xxx.

WHEREFORE, premises considered, Mita Lending Investor Co., its partners, officers, representatives, agents, conduits, assigns, and any and all persons claiming and acting for and in behalf and under their authority, are hereby ordered to immediately **CEASE AND DESIST**, under pain of contempt, from further conducting business as a lending company.

FAIL NOT UNDER PENALTY OF LAW.

SO ORDERED.

City of Mandaluyong, 29 March 2012.

TERESITA J. HERBOSA
Chairperson

MA. JUANITA E. CUETO
Commissioner

RAUL J. PALABRICA
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

ELADIO M. JALA
Commissioner