Republic of the Philippines
Department of Finance
Securities and Exchange Commission
Philippine International Convention Center
Secretarial Bldg., PICC Complex, Roxas Blvd., Pasay City
COMMISSION EN BANC

In the Matter of:

SCENTKOWORLD CORPORATION and BRENDAHL CRUZ HOLDINGS, INC.

SEC Admin Case No. 09-19-183

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

CEASE AND DESIST ORDER

This resolves the Petition for Revocation with Prayer for Issuance of Cease and Desist Order[1], filed by the Commission's , enjoining SCENTKOWORLD CORPORATION and BRENDAHL CRUZ HOLDINGS, INC., its officers, directors, officers, salesmen, agents, representatives and any and all persons claiming and acting for and in their behalf, **to cease and desist** from engaging in activities of selling and/or offering for sale of securities in the form of investment contract until the requisite registration statement is duly filed and approved by the Commission and the corresponding license to offer/sell is issued.

RELEVANT FACTS

Respondent **SCENTKOWORLD CORPORATION** ("SCENTKOWORLD" for brevity) is a corporation registered with the Commission on 6 July 2018 with Company Registration No. CS201812717[2]. Its principal office as stated in its Articles of Incorporation (AoI) is located at Unit 401 316 Building, Monumento, Rizal Avenue, corner EDSA, Barangay 86, Caloocan City, Third District, NCR, Philippines 1400. The primary purpose as stated in its AoI is:

"To engage in wholesale trading of goods and merchandise."[3]

[1] Dated 12 September 2019.
[2] See attached Certificate of Incorporation attached as Annex "A" of the Petition.
[3] See Annex "B" of the Petition.

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The incorporators and first directors of respondent SCENTKOWORLD appearing in the said AoI[4] are as follows:

Name	Citizenship	Residential Address
Brendahl Apostol Cruz	Filipino	No. 16 Milagrosa Ext., Barangay 151 Caloocan City, Third District, NCR Philippines 1400
Aurelio Agustin, Jr.	Filipino	San Roque II (Pob.) Bacarra, Ilocos Norte, Region I, Philippines, 2916
Maribel Cruz	Filipino	No. 16 Milagrosa Ext., Barangay 151 Caloocan City, Third District, NCR Philippines 1400
Benjamin Lapaz Ordona	Filipino	Guerrero Bauang, La Union, Region I, Philippines 2501
Alexander Macalintal	Filipino	084 St. Joseph Subd., Padre Garcia, Batangas, Region IV-A, Philippines 4200
Rudyan Dizon Osano	Filipino	Blk 45 Lot 7 T&C Southville Washington Santo Tomas (Calabuso) City of Binan, Laguna Regions IV-A Philippines 4024
Judy Sarcilla Puche	Filipino	Blk 8 Lot 44 Villa Susana Malitlit City of Santa Rosa, Laguna Region IV-A Philippines 4026
Anacleta Ramel Dizon	Filipino	186 6th Avenue, Mabalacat Barangay 111 Caloocan City, Third District, NCR Philippines 1400
Arnel Demapendan	Filipino	3084 El Cano Subd., Pelayo Pulungbulu, Angeles City, Pampanga, Region III, Philippines, 2009
Analiza Chavez Sibug	Filipino	No. 40 San Antonio, Lubao Pampanga, Region III, Philippines, 2005
Myrna Lalucis	Filipino	Pinagkawitan Lipa City, Batangas, Region IV-A, Philippines 4217

Based on the latest General Information Sheet (GIS)[5]. The names of the Directors and Officers of the said respondent are as follows:

Name	Incr.	Board	Officer	Stockholder
Brendahl Apostol Cruz	Y	Chairman	President	Y
Aurelio Agustin, Jr.	Y	Member	VP Marketing	Y
Maribel Cruz	Y	Member	Treasurer	Y
Benjamin Lapaz Ordona	Y	Member	Director	Y
Alexander Macalintal	Y	Member	Director	Y
Rudyan Dizon Osano	Y	Member	Director	Y
Judy Sarcilla Puche	Y	Member	Director	Y

[4] *Ibid.*
[5] Issued dated 14 June 2019, attached as Annex "C" of the Petition.

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Anacleta Ramel Dizon	Y	Member	Secretary	Y
Arnel Demapendan	Y	Member	Director	Y
Analiza Chavez Sibug	Y	Member	Director	Y
Myrna Lalucis	Y	Member	Director	Y

On the other hand, respondent **BRENDAHL CRUZ HOLDINGS, INC.** ("BRENDAHL" for brevity) is a corporation registered with the Commission on 25 July 2019 with Company Registration No. CS201954130[6]. Its principal office as stated in its AoI is located at Unit 401, No. 316 Building, Monumento, EDSA, Barangay 86, Caloocan City, Third District, NCR, Philippines 1400. The primary purpose of which is:

> **"To acquire by purchase, exchange, assignment or otherwise, and sell, assign, transfer, exchange, lease, let, develop, mortgage, pledge, deal, in and with and otherwise operate, enjoy and dispose of, all properties of every kind and description and wherever situated and to the extent permitted by law, including but not limited to real estate, whether improved or unimproved, and any interest or right therein, as well as buildings, tenements, warehouse, factories, edifices and structures and other improvements, and shares of capital stock or other securities or obligations, created, negotiated or issued by any corporation, association or other entity, and while the owner, holder or possessor thereof, to exercise all rights, powers and privileges of ownership or any other interest therein, including the right to receive, collect and dispose of, any and all rentals, dividends, interests, and income derived therefrom, and the right to vote on any proprietary or other interest on any shares of the capital stock, and other securities, having voting power, so owned or held and; provided that the corporation shall not engage in the business of an investment company as defined in the Investment Company Act (R.A. 2629) as amended, without first complying with the applicable provisions of the said statute. That the corporation shall all the express powers of a corporation as provided for under Section 36 of the Corporation Code of the Philippines.**
>
> **Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts."**[7]

The incorporators and first directors of respondent named in the AoI[8] are as follows:

[6] See Annex "D" of the Petition.
[7] See Annex "E" of the Petition.
[8] *Ibid.*

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Name	Citizenship	Residential Address
Brendahl A. Cruz	Filipino	No. 16, Bagong Bario, Milagrosa Ext., Barangay 151 Caloocan City, Third District, NCR Philippines 1400
Maribel B. Cruz	Filipino	No. 16 Milagrosa Ext., Barangay 151 Caloocan City, Third District, NCR Philippines 1400
Rudyan Dizon Osano	Filipino	Block 45, Lot 7, T & C Southville Washington Santo Tomas (Calabuso) City of Biñan, Laguna, Region IV-A, Philippines 4022
Anacleta Ramel Dizon	Filipino	No. 186 6ith Avenue, Mabalacat Barangay 111 Caloocan City, third District, NCR Philippines, 1400
Analiza Chavez Sibug	Filipino	No. 40 San Antonio Lubao, Pampanga, Region III, Philippines 2005

Based on the information[9] received by the Securities and Exchange Commission (SEC), SCENTKOWORLD represents to the public, through the social media, false information that respondent BRENDAHL has obtained a Secondary License from the Commission. The content of the postings further stated that "respondent SCENTKOWORLD is under respondent BRENDAHL and soon, they can buy a rural bank or they can even put up their own bank".[10]

Postings on the internet about the solicitation activities and investment package of respondent SCENTKOWORLD were likewise discovered which shows that one can earn Twenty Thousand Pesos (Php20,000.00) from an investment of Five Thousand Pesos (Php5,000.00) in Thirty Days (30). The posting goes on to describe earnings of Two Hundred Thousand Pesos (Php200,000.00) from an investment of Fifty Thousand Pesos (Php50,000.00) within Thirty Days (30).

However, based on the Certification[11] issued by the Corporate Governance and Finance Department (CGFD) and Markets and Securities Regulation Department (MSRD), respondent BRENDAHL, contrary to the contents of the postings on the internet, has not been issued any Secondary License by the SEC as they have not secured prior approval of registration and/or license to solicit investments as prescribed under Section 8 of the Securities Regulation Code (SRC)[12].

Thus, in order to protect the public, an ADVISORY[13] was issued informing the public that "the issuance of a Certificate of Incorporation only grants corporations juridical personality but does not constitute an authority or

[9] Affidavit executed, dated September 2019, attached as Annex "F" of the Petition.
[10] *Ibid.*
[11] Issued dated 30 July 2019 and 31 July 2019 respectively, attached as Annex "G" and "H" of the Petition.
[12] Republic Act No. 8799, The Securities Regulation Code.
[13] Posted on the Commission's website on 31 July 2019, attached hereto as Annex "I" of the Petition.

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license for the corporation to engage in activities that require a secondary license from the SEC". The public was further warned that "BRENDAHL CRUZ HOLDINGS, INC. and SCENTKOWORLD CORPORATION have not been issued licenses or permits to publicly offer or sell securities by the SEC."

Further, it appears that respondents SCENTKOWORLD and BRENDAHL maintain its presence in an internet-based website particularly in "YouTube"[14], a video-sharing website, wherein they presented their investment scheme to entice prospective investors.

In the said video, a certain Mr. Aurelio Agustin, Jr. offered that "in order to become a member/investor they just need to pay an amount of Php5,000.00, afterwards, they will have to wait for Thirty (30) days to receive the Php20,000.00 as "Company Sales Reward".[15]"

To further support its allegation, on 29 August 2019, another team from EIPD was sent to the office of respondent SCENTKOWORLD and BRENDAHL to conduct another surveillance operation.

They represented themselves to be interested in becoming a member/investor and asked if there is anyone who could assist them. Promptly, they were entertained by a certain Mr. Gourido who introduced himself as a pioneer of respondent SCENTKOWORLD and thereafter made the orientation for them. At the orientation, Mr. Gourido discussed the two (2) baskets system of earning from SCENTKOWORLD which is the REWARDS BASKET and the NETWORK BASKET. Each basket was described as follows:

"A. The Rewards Method

> Mr. Gourido stated that through this method, an investor must pay an initial investment of Five Thousand Pesos (Php 5,000.00) and an additional One Thousand Pesos (Php 1,000.00) as processing fee. The investor will then be given Three (3) 100ml Bottles of SCENTKO Perfumes worth One Thousand Seven Hundred Pesos (Php 1,700.00) each, which he/she can sell for additional profit.
>
> With regard to the actual investment made, the investor will receive Four Hundred Percent (400%) of his/her investment as payout after fourteen (14) to thirty (30) days, subject to ten percent (10%) taxes. Such pay-outs may be monitored through the electric *"dashboard"* provided by SCENTKO while pay-outs or payments may be made either by cashing out from their office either by check or cash or through BDO and BPI.

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[14] Based on the affidavit dated 12 September 2019 with a copy of DVD containing the downloaded presentations of Mr. Brendahl Cruz, hereto attached as Annex "K" of the Petition.

[15] Paragraph 32, page 11 of the Petition.

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Mr. Gourido further explained that the pay-outs are distributed on a "paunahan" basis. To clarify, the team asked if "paunahan" means "first come, first served" and the answer was in the affirmative. As explained the earlier investors who shall pay the amount of six thousand three hundred (Php 6,300.00) pesos shall be paid ahead of the latter investors. Hence, investors are encouraged to pay as early as possible and as many slots as they could. The company, he further explained, cannot fix the exact date of the pay-out because the pay-out would depend on new pay-ins.

a. **Networking Method**

This is a binary system method. According to Mr. Gourido, an investor will earn through direct referrals.

He explained that an investor will earn ten percent (10%) or Five Hundred Pesos (Php 500.00) for every Five Thousand Pesos (Php 5,000.00) paid by his/her direct referrals with a ceiling of Twenty One Thousand Five Hundred Pesos (Php 21,500.00) per day for the protection of the company.

He added that the investor will also earn an additional Five Hundred Pesos (Php 500.00) each time his/her downline becomes congruent or aligned.

There is likewise a so called Passing of Leadership in which the leading investor will receive Five percent (5%) from the earnings of his/her 1st assigned leader, Ten percent (10%) for the 2nd assigned leader, and Fifteen percent (15%) from the 3rd assigned leader.

Investors will also receive additional rewards if they are able to achieve certain investment targets such as gadgets, sedans, SUVs and even house and lots[16]."

With the foregoing considered, due to urgent necessity, we now resolve first the *Prayer/Motion for Cease and Desist Order*.

We find the *Motion* impressed with merit.

Evidence show that SCENTKOWORLD and BRENDAHL are selling and/or offering for sale securities to the public in the form of investment contracts without the necessary license issued by the Commission.

It is worthy to note that registration of all securities before it can be sold

[16] Copy of the Field Investigation Report, dated 29 August 2019 is hereto attached as Annex "L".

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or offered for sale to the public is mandatory and cannot be dispensed with under section 8, paragraph 8.1, Chapter III of the SRC thus:

"CHAPTER III

REGISTRATION OF SECURITIES

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. Xxx."

In the investment scheme of respondent SCENTKOWORLD, called "Buy & Earn Program", one can earn a certain amount of profit corresponding to the package an investor would buy. A table of computation of the "Program" is shown below:

BUY AND EARN PROGRAM WITH PRODUCTS[17]			
PACKAGE	**COMPANY SALES REWADS**	**PRODUCTS (100ML Parfum)**	**REGISTRATION FEE**
5K	**20K**	**3 Bottles**	**100**
10K	**40K**	**6 Bottles**	**200**
20K	**80K**	**12 Bottles**	**400**
30K	**120K**	**18 Bottles**	**600**
40K	**160K**	**24 Bottles**	**800**
50K	**200K**	**30 Bottles**	**1000**

Based on the above table, it shows that for every investment of Five Thousand Pesos (Php5,000.00), an earnings or payout of Twenty Thousand Pesos (Php20,000.00) will accrue in Thirty Days (30), and may vary depending on the package an investor would want to avail. To the extent that an investment of Fifty Thousand Pesos (Php50,000.00) could earn Two Hundred Thousand Pesos (Php200,000.00), in just 30 days. By computing the amount earned over the investment, it would result to a return on investment equivalent to Four Hundred Percent (400%) for a span of 30 days.

Section 3 of the SRC, the term "Securities" is defined as:

"Sec. 3. *Definition of Terms*. – 3.1. "Securities" 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.

(b) Investment contracts, certificates of interest or participation in a profit sharing agreement, certificates of deposit for a future subscription. (Boldface ours).

[17] Attached as Annex "N" of the Petition.

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Xxx."

Moreover, in relation thereto, Rule 26.3.5 of the 2015 Implementing Rules and Regulations (IRR) of the SRC on the same occasion defines an investment contract:

"Xxx.

> 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."

The elements of an investment contract were enumerated in the case of *Power Homes Unlimited Corporation vs. SEC*[18] citing the so-called Howey Test enunciated in *SEC vs Howey*[19] are as follows : **(1) an investment of money; (2) in a common enterprise; (3) with expectation of profits, (4) primarily from efforts of others.**

SCENTKOWORLD and BRENDAHL investment contract satisfies the elements mentioned in the case of Howey as follows:

First. Respondent entice and solicit investments in the minimum amount of Five Thousand Pesos (Php5,000.00) in order to participate to a "Buy and Earn Program".

Second. There must be a common enterprise. As defined under Section 26.3.5 of the of the 2015 IRR of SRC, a common enterprise is deemed created when two (2) or more investors "pool" their resources thus:

"Xxx.

> 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."

Respondent pool the investments in a profit-making venture.

Third. There must be an expectation of profits. Investors expect to earn at least Twenty Thousand Pesos (Php20,000.00) in a span of 30 days.

Lastly. The expectation on profits is derived primarily from the efforts of others. The investor is only required to place his/her money in order to become a member and need not do anything to earn the 400% return on their investment within a period of 30 days. Proof of which is the assertions[20] being

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[18] G.R. No. 164182, 26 February 2008.
[19] 328 U.S. 293 (1946).
[20] See attached Annex "M" of the Petition.

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presented in the social media, to quote:

> *"SCENTKOWORLD CORPORATION"*
>
> *Buy and Earn Program*
>
> *400% Company Sales Rewards*
>
> *Your 5000 ----> Turn into 20,000*
>
> *No Need Invite*
> *No Need Selling*
>
> *Just Wait for more or less 30 business days"*

Applying the foregoing elements, the investment scheme of respondent SCENTKOWORLD falls within the ambit of an investment contract. In *SEC vs. Howey Co.*[21], the U.S. Supreme Court held---

> "Thus all the elements of a profit-seeking business venture are present here. The investors provide the capital and share in the earnings and profits; the promoters manage, control and operate the enterprise. It follows that the arrangements whereby the investors' interests are made manifest involve investment contracts, regardless of the legal terminology in which such contracts are clothed."

Furthermore, the act of respondent SCENTKOWORLD in allowing its members to discuss, orient and make the public familiar with its schemes and inviting them to join the company through its Facebook account posts and its presentation in its YouTube account constitutes public offering as defined under Rule 3.1.17 of the IRR of the SRC, which provides:

> **"3.1.17. Public Offering** is any means 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:
>
> xxx.
>
> **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)**

[21] *Supra.*

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Finally, in the case of respondent BRENDAHL, which claims to be a holding company of respondent SCENTKOWORLD, it has been shown, among others, to be offering or soliciting investments from the public despite the fact that they are not authorized by the SEC to sell or offer to sell securities in violation of Sections 8 and 12 of the SRC aggravated by their representation that they have an approved secondary license issued by the Commission when in fact there is none.

Section 26.3 sub-paragraph 5, Rule 26 of the 2015 IRR of the SRC enumerates the following prohibited acts covered by fraudulent transactions:

> **"Rule 26 - Fraudulent Transactions**
>
> Xxx.
>
> **26.3. Prohibited Representations Dealings and Solicitations.**
>
> It shall be unlawful for any:
>
> Xxx.
>
> **26.3.5.** Person, whether as principal or agent, to buy, sell or deal in securities or solicit investments in securities and other investment contracts, unless he is a registered broker, dealer or licensed salesman of a broker dealer and the securities are registered under the Code or exempt from registration pursuant to Sections 9 and 10 thereof."

Nowhere in the purpose clause of respondents' AoI is it stated that the respondent corporations are engaged in the business of soliciting and accepting of investments and money placements from the public. What is clearly written is that it shall not solicit, accept, or take investments/placements from the public neither shall it issue investment contracts.

Based on the evidence presented, the selling or the offering for sale of securities whether directly or indirectly, in the form of investment contract, without the necessary license or permit will operate as a fraud on investors or is likely to cause grave or irreparable injury or prejudice to the investing public. Thus, they must be restrained.

WHEREFORE, premises considered, SCENTKOWORLD and BRENDAHL, its officers, directors, representatives, salesmen, agents AND ANY AND ALL PERSONS CLAIMING AND ACTING FOR AND IN THEIR BEHALF, are hereby **ORDERED** to **immediately CEASE AND DESIST, UNDER PAIN OF CONTEMPT**, from further engaging in activities of selling and/or offering for sale of securities, in the form of investment contracts, or any others of the same nature as discussed in the

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Order, until the requisite registration statement is duly filed with and approved by the Commission and the corresponding permit to offer/sell is issued.

Furthermore, to forestall grave damage and prejudice to all concerned, and to ensure the preservation of assets for the benefit of investors, SCENTKOWORLD and BRENDAHL, or any of their representatives, or any person/s acting for and in their behalf, and such other persons directing or controlling the activities of such corporation, officers, representatives, salesmen, agents, are all **ENJOINED from (a) transacting any and all business involving the funds in its depositary banks, and (b) transferring, disposing, or conveying in any other manner any and all assets and properties, real or personal, including bank deposits, if any, under their custody**, of which the named persons herein may have any interest, claim, or, participation whatsoever, whether directly or indirectly, immediately upon receipt of this *Order*, until further orders from this Commission.

Finally, SCENTKOWORLD and BRENDAHL, its directors, officers, salesmen, agents, representatives and any and all persons claiming and acting for and in their behalf, are directed to **CEASE** their internet presence relating to the above-stated investment-taking activities. The Commission will institute appropriate administrative and criminal action against any person/s or entities found to act as solicitors, information providers, salesmen, agents, brokers, dealers or the like for and in behalf of the subject corporations.

The EIPD is hereby **DIRECTED** to:

1.) serve this *Orde*r to SCENTKOWORLD CORPORATION, and BRENDAHL CRUZ HOLDINGS, INC., their President, General Manager, Corporate Secretary, Treasurer or In-House Counsel;

2.) post copies of the *Order* at the entrance of the main office and/or branches, if any, of SCENTKOWORLD CORPORATION and BRENDAHL CRUZ HOLDINGS, INC.

EIPD is **FURTHER DIRECTED** to submit a formal compliance report, by way of 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 also posted in the Commission's website.

In accordance with the provisions, of Sec. 64.3[22] of the SRC and Sec. 4-3, Rule IV, Part II of the 2016 Rules[23], the parties subject of *the Cease and Desist Order* may file a request for lifting thereof within five (5) days from receipt hereof.

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[22] Section 64.3. Any person against whom a cease and desist order was issued may, within five (5) days from the receipt of the Order, file a formal request for a lifting thereof. Xxx.

[23] The 2016 Rules of Procedure of the Securities and Exchange Commission.

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SO ORDERED.

Pasay City, Philippines; 24 September 2019.

EMILIO B. AQUINO
Chairperson

***EPHYRO LUIS B. AMATONG**
Commissioner

JAVEY PAUL D. FRANCISCO
Commissioner

KELVIN LESTER K. LEE
Commissioner

KARLO S. BELLO
Commissioner

*On Official Business

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