Republic of the Philippines
Department of Trade and Industry
Securities and Exchange Commission
SEC Bldg. EDSA, Greenhills, Mandaluyong City

IN THE MATTER OF

MIT ASSOCIATES LLC INC.

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SEC Admin Case No.: 03-08-93
(CED Case No. 07-2863)
For: Revocation of Certificate of Registration

DECISION

For consideration is the Petition dated 12 March 2008 filed by the Compliance and Enforcement Department[1] ("CED" for brevity) of the Commission praying for the revocation of the corporate franchise of MIT Associates LLC Inc. ("MIT").

The relevant facts are narrated below:

MIT is a corporation registered with the Commission on 19 January 2007 with SEC Registration No. CS200700829. It was organized to engage in the business of manufacturing goods such as wood fiber products and to trade the same. Sometime in March 2007, CED received an electronic mail from a certain Michael Jordan, a resident of Johannesburg, South Africa who wrote that he was a victim of a brokerage fraud perpetrated by MIT Associates, LLC, a foreign company in connivance with other corporations located in the Philippines.[2] Jordan alleged that he remitted payments totaling US$35100 to the Account of MITS Associates Inc. under Account No. 5386-00-3809 to the then Equitable PCI Bank, A Santos Ave. Branch, Dr. A. Santos Ave., Sucat, Parañaque City.[3] Based on the Treasurer's Affidavit that was submitted in support of MIT's application for registration, its Treasurer in trust James K. Raterta, stated that he deposited the paid-up capital of MIT with the Equitable PCI Bank, St. James A. Santos Branch.

An investigation was then initiated for possible violation of securities laws. CED sent a notice of hearing to the following incorporators in their respective addresses stated in MIT's Articles of Incorporation: (1) Jaime C. Santos, (2) Enrique G. Dizon, (3) Melissa A. Hernandez, (4) Mariano S. Martin, and (5) Salvador D. Muli.[4] Except for the notice for Jaime C. Santos, the mail matters were all returned to the sender.

[1] Now known as Enforcement and Prosecution Department.
[2] Petition, Annex "C".
[3] *Supra.*
[4] Id, Annexes "J" to "N".

For this reason, the instant petition was filed. Personal service of the Order dated 25 March 2008 directing MIT and its incorporators/directors to file their answer or comment was attempted but the same proved futile. Another attempt to serve the order by registered mail likewise failed. Thus, on 12 May 2009 an Order was issued directing the Service of Summons by way of publication. The Order, the Summons, and the petition were published in the 03 June 2009 issue of the Philippine Star based on the Affidavit of Publication[5] of Ms. Perlita De Lara, Accounting Supervisor of the PhilSTAR Daily, Inc. To this date, however, no answer has been filed. Thus, the instant petition is now ripe for resolution.

We now consider the allegation of CED that MIT committed fraud in its (MIT) procurement of its corporate franchise.

The petition is meritorious.

The Securities Regulation Code[6] (SRC) provides:

> "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, ... Pursuant thereto the Commission shall have, among others, the following powers and functions:
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> (a) Have jurisdiction and supervision over all corporations, partnerships or associations who are the grantees of primary franchises and or a license or permit issued by the Government;
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> xxx
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> (d) Regulate, investigate or supervise the activities of persons to ensure compliance;
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> xxx
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> (f) Impose sanctions for the violation of laws and the rules, regulations and orders issued pursuant thereto;
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> xxx
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> (m) Suspend, or revoke, after proper notice and hearing the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law; and
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> (n) Exercise such other powers as may be provided by law as well as those which may be implied from, or which are necessary or incidental to

[5] Dated 16 June 2009 and forwarded to the Office of the General Counsel on 16 June 2010.
[6] Republic Act No. 8799 (2000)

the carrying out of, the express powers granted the Commission to achieve the objectives and purposes of these laws. "

The grounds for imposing sanctions against a corporation are stated in Presidential Decree No. 902-A, as amended, the pertinent portion of which reads:

> "SEC. 6. In order to effectively exercise such jurisdiction, the Commission shall possess the following powers:
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> xxx
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> i) To suspend, or revoke, after proper notice and hearing, the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law, including the following:
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> 1. Fraud in procuring its certificate of registration;"

In the instant case, the fraud was committed when all the incorporators/directors of MIT stated an address that was either false or fictitious during the registration of the corporation. As a result, MIT was able to obtain a certificate of registration from the Commission. Had the Commission known that the addresses stated in the Articles of Incorporation of MIT were false or fictitious, MIT would not have been granted its corporate franchise.

Moreover, Section 14[7] of the Corporation Code[8] enumerates the mandatory provisions that must be stated in the articles of incorporation of domestic

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[7] "SEC. 14. Contents of the articles of incorporation. — All corporations organized under this code shall file with the Securities and Exchange Commission articles of incorporation in any of the official languages duly signed and acknowledged by all of the incorporators, containing substantially the following matters, except as otherwise prescribed by this Code or by special law:

1. The name of the corporation;
2. The specific purpose or purposes for which the corporation is being incorporated. Where a corporation has more than one stated purpose, the articles of incorporation shall state which is the primary purpose and which is/are the secondary purpose or purposes: Provided, That a non-stock corporation may not include a purpose which would change or contradict its nature as such;
3. The place where the principal office of the corporation is to be located, which must be within the Philippines;
4. The term for which the corporation is to exist;
5. The names, nationalities and residences of the incorporators;
6. The number of directors or trustees, which shall not be less than five (5) nor more than fifteen (15);
7. The names, nationalities and residences of persons who shall act as directors or trustees until the first regular directors or trustees are duly elected and qualified in accordance with this Code;
8. If it be a stock corporation, the amount of its authorized capital stock in lawful money of the Philippines, the number of shares into which it is divided, and in case the share are par value shares, the par value of each, the names, nationalities and

corporations, except as otherwise prescribed by the Corporation Code or by special law.[9] Relevant to the instant case is the matter on the names, nationalities and residences of the incorporators, which must be specified in the articles of incorporation.[10] Failure to state those matters shall be a cause for the Commission to reject the filing of the articles of incorporation of a domestic corporation that is applying for registration with the Commission, or like in the case at hand, a sanction.

Finally, worthy of note also is the fact that the Articles of Incorporation is a notarized document. As such, the document is executed to lend truth to the statements contained therein and to the authenticity of the signatures.[11] The CED investigators conducted surveillance on the addresses of the incorporators/directors stated in the articles of incorporation, and obtained certifications from the concerned Offices of the Barangay Captain that the incorporators/directors were not residents in those barangays or that the addresses do not exist.[12] A certification was also issued stating that MIT does not exist in the address stated in its articles of incorporation.[13] From the foregoing circumstances, there is substantial evidence to prove that the address of MIT and its incorporators/directors are false or fictitious.

WHEREFORE, the instant petition is **GRANTED**. The corporate franchise of MIT ASSOCIATES LLC is **REVOKED**. Further, let the names of the following incorporators/directors of MIT be included in the watch list of the Commission : (1) Jaime C. Santos, (2) Enrique G. Dizon, (3) Melissa A. Hernandez, (4) Mariano S. Martin, and (5) Salvador D. Muli.

Let a copy of this decision be furnished the Company Registration and Monitoring Department for its appropriate action and the Economic Research and Information Department for posting in the website of the Commission as well as the extension offices for public dissemination.

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residences of the original subscribers, and the amount subscribed and paid by each on his subscription, and if some or all of the shares are without par value, such fact must be stated;

9. If it be a non-stock corporation, the amount of its capital, the names, nationalities and residences of the contributors and the amount contributed by each; and
10. Such other matters as are not inconsistent with law and which the incorporators may deem necessary and convenient. xxx"

[8] Batas Pambansa Bilang 68 (1980).
[9] De Leon, Hector S. THE CORPORATION CODE OF THE PHILIPPINES ANNOTATED 147-148 (2002).
[10] B.P. Blg. 68, Section 14, par. 5 reads:

"SEC. 14. Contents of the articles of incorporation. — All corporations organized under this code shall file with the Securities and Exchange Commission articles of incorporation in any of the official languages duly signed and acknowledged by all of the incorporators, containing substantially the following matters, except as otherwise prescribed by this Code or by special law:

xxx

5. The names, nationalities and **residences** of the incorporators;" (Emphasis supplied)

[11] Lao, et al. v. Villones-Lao, et al., G.R. No. 126777, April 29, 1999.
[12] Petition, Annexes "E" to "I".
[13] Petition, "D".

SO ORDERED.

Mandaluyong City, 15 July 2010.

FE B. BARIN *
Chairperson

MA. JUANITA E. CUETO
Commissioner

RAUL J. PALABRICA
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

ELADIO M. JALA
Commissioner

*on official business