



Republic of the Philippines
Department of Finance
Securities and Exchange Commission
PICC Secretariat Building, PICC Complex, Pasay City

In the Matter of:

SEC EN BANC CASE NO. MP-2019-001

R & L INVESTMENTS, INC.

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ORDER

FACTUAL ANTECEDENTS

On 31 October 2019, a certain Lucy Linda D. Lee, who introduced herself as a nominee of R & L Investments, Inc. ("R&L"), reached out to Mr. Alexander Yu, Director of the Philippine Stock Exchange, through a phone call to report an untoward incident involving R&L's settlement clerk, Mr. Marlo Moron.¹ The said phone conversation was followed by a face-to-face meeting at around 3:30 the afternoon of the same day, attended by Mr. Joseph Lee, President of R&L, and Ms. Lee, and the representatives of the PSE, the Securities Clearing Corporation of the Philippines (SCCP), and the Capital Markets Integrity Corporation (CMIC).²

During the said meeting, Ms. Lee divulged that she had been informed by Ms. Sandra Yu, the nominee of Yu & Company, Inc., that R&L's settlement officer made numerous error transactions on several trading days. Upon investigating the matter, Ms. Lee stated that when she logged in at R&L Philippine Depository & Trust Corporation's (PDTC) account, there were only about Php 30 Million worth of shares left in PDTC. Consequently, Ms. Lee discovered that most of the shares owned by R&L and its clients were missing.

Initial investigation revealed that approximately Php 700 Million worth of proprietary and client shares have been transferred to another account through EQ trades, and were sold without client authorization by Mr. Moron. This apparently resulted in R&L losing millions worth of clients' shares.³

As proof of the allegations, Ms. Lee presented two BP Portfolio Reports (BPR) dated 4 September 2019 and 30 October 2019. The September 2019 BPR shows that the total market value of shares of R&L and its clients lodged in the PDTC account was Php 743,405,682.88, while the October 2019 BPR revealed that the total market value of the shares of the trading participant and its clients significantly decreased to Php 30,395,891.99.⁴

¹ R&L letter to Mr. Alexander Yu dated 4 November 2019 signed by Lucy Linda Lee

² CMIC letter to R&L dated 7 November 2019.

³ As narrated by Ms. Lee during their meeting on 31 October 2019 attended by Mr. Joseph Lee and other representatives from PSE, SCCP and CMIC

⁴ Letter of CMIC to R&L dated 7 November 2019 regarding their Special Audit of the Books and Records of R&L

A perusal of the book and records of R&L shows no unusual or suspicious transactions. Ms. Lee maintained that the reports submitted by her settlement officer were all seemingly clear of any discrepancy. Further, Ms. Lee affirmed that the said settlement officer had access not only to R&L's books and records, but also to the trading participant's account with PDTC. Nonetheless, Ms. Lee avowed that R&L had already discontinued the access of the settlement officer to R&L's trading accounts.

Ms. Lee thereafter concluded that Mr. Moron might have been submitting and/or presenting both to her and CMIC fraudulent and spurious documents to make it appear that all transactions were accounted for.

Based on Ms. Lee's letter to Mr. Yu,⁵ Mr. Moron and his wife, Edna, went to R&L's office on 1 November 2019 and admitted the liability on the illegal transfer of shares from R&L holdings in the PCD system to another broker, allegedly Venture Securities, Inc., using the account name Julieta Sulapas. In addition, Mr. Moron also admitted to forging reports to conceal his actions from the management, as well as from the audits conducted. According to Mr. Moron, he executed the actions alone and insisted that he has no cash or securities left to return.

In its letter dated 7 November 2019, the CMIC informed Venture that it will conduct a special audit of its pertinent books and records, which will commence on 8 November 2019.

On 8 November 2019, the CMIC informed this Commission that it has placed R&L under involuntary suspension in accordance with Article X, Section 7 of the CMIC Rules.

In its letter dated 12 November 2019, the PDTC informed R&L that it has deactivated the sweeping of share balances from R&L's Depository House Accounts to Securities Clearing Corporation of the Philippines ("SCCP") Nostro Account by end of 8 November 2019.

After receipt of the foregoing reports on 12 November 2019, the Commission immediately ordered PDTC to provide BP Portfolio Reports of R&L for the periods of 31 December 2018, 4 September 2019 and 30 October 2019.

Using the documents received from PDTC and comparing them with the information in the reports submitted by PSE, SCCC, and CMIC that there are missing and unaccounted customer assets of R&L, the Commission, sensing the gravity of the blatant inconsistencies in the figures reported, thereafter issued an order to R&L to preserve its books and records. The said order was communicated by the Commission to R&L through a letter dated 12 November 2019, which stipulated the following findings:

1. To date, R&L had only total assets and net-worth amounting to Php 77,111,880.74 and Php 51,692,705.99, respectively based on its Risk-Based Capital Adequacy Reports for the cut-off date October 31, 2019.

⁵ Letter dated 4 November 2019.

2. The Php 700 Million worth of client shares allegedly sold without authorization will result in the R&L's financial condition being so deteriorated that it will not readily meet the demands of its customers for the delivery of securities and/or payment of sales proceeds.
3. As such, the Commission, thru the Markets and Securities Regulation Department ordered the preservation of the books and records of R&L, and all its assets until otherwise directed. The PDTC, CMIC and the PSE are likewise ordered to take all the necessary actions.

LEGAL BASIS

Section 33.1 (d) of the Securities Regulation Code (SRC) provides that "when the Exchange shall have found that the financial condition of its member firm has so deteriorated that it cannot readily meet the demands of customers for the delivery of securities and/or payment of sales proceeds, the Exchange shall, upon order of the Commission, take over the operation of the insolvent firm and immediately proceed to settle the member firm's liabilities to its customers."

Moreover, Rule 33.1(d) of the 2015 SRC Rules provides:

"Section Rule 33.1(d) - Protection of Customer Accounts in Case of Business Failure of an Exchange Trading Participant

33.1(d).1. *When a Trading Participant has filed or is the subject of a petition for insolvency, suspension of payment and/or rehabilitation or when an Exchange or pertinent SRO determines that **the Trading Participant's financial condition has so deteriorated that it cannot readily meet the demands of its customers for the delivery of securities and/or payment of sales proceeds, the Commission may issue ex parte an order compelling the insolvent or failed Trading Participant and the Exchange or pertinent SRO to take the necessary action to protect customer accounts** including, but not limited to, the preservation of the failed Trading Participant's books and records. Said order shall remain in effect until lifted by the Commission motu proprio or upon petition of the failed Trading Participant.*

33.1(d).2. *Based on any of the grounds mentioned in the preceding SRC Rule, **the Commission, after proper investigation or verification, motu proprio** or upon verified complaint by any party, order an Exchange **or pertinent SRO to take over the operation of the failed Trading Participant for the purpose of preserving and protecting the failed Trading Participant's books, records, customer accounts, trade-related assets and settling its liabilities to its customers.***

xxx xxx xxx" (Emphasis supplied)

Also, Rule 36.5.3 of the 2015 SRC-IRR, expressly states that the Commission itself can make a determination of the business failure of a Broker Dealer, as follows:

"36.5.3. Business failure of the Broker Dealer shall be established upon a determination that the financial condition of the Broker Dealer has so

deteriorated that the Broker Dealer cannot readily meet the demands of its customers for the delivery of securities and/or the payment of sales proceeds; provided, however, that such determination shall not be dependent upon a judicial declaration of insolvency. Such determination will be made by: a. the Exchange or the pertinent SRO; or b. the Commission, when the Exchange or the pertinent SRO fails or does not exercise such timely determination.” (Emphasis supplied)

RELEVANT INFORMATION TO SUPPORT THE TAKE – OVER ORDER

Below are the relevant information showing a considerable decline in R&L's financial condition, which was derived by the Commission after proper investigation and verification:

1. As of 31 December 2018, the Audited Financial Statement filed by R&L with the Commission revealed that the company is in possession of clients securities (Client Portfolio) amounting to **Php 738,897,290**. The Audited Financial Statement was prepared by independent external auditors using the documents provided by the R & L Investments, Inc.

However, on 12 November 2019, the PDTC provided the Commission with R&L's Business Partner (BP) Report for the period of 31 December 2018 ("31 December 2018 BP Report"). The said report shows that R&L's Client Portfolio only amounts to **Php 132,255,939**. The difference in the valuation of PCDs between the Client Portfolio and the 31 December 2018 BP Report amounts to **Php 606,641,351** representing the total amount of missing securities for the account of its clients.

The Audited Financial Statement also shows that the company has total net assets of **Php 46,815,973**. The amount of missing securities if absorbed by the company will result in net negative equity of **Php 559,825,378**.

2. On 4 September 2019, the CMIC conducted its regular audit of R&L for the period ending 31 August 2019, wherein R&L submitted its BP Report for the said period ("4 September 2019 BP Report") reflecting a balance of **Php 743,405,682**. However, when PDTC provided the Commission with R&L's BP Report for the said period, only **Php 31,544,255** was shown.
3. During the special audit conducted by CMIC on R&L on 8 November 2019, pursuant to the involuntary suspension order, it was revealed that R&L's books as of 31 October 2019 shows a balance of **Php 747,819,698** amount of shares for the account of R&L clients. PDTC's own documents show a glaring contrast from what was provided by R&L, with a figure amounting only to **Php 30,395,892**.

By way of summary, below is a tabulation of the aforesaid figures showing the estimated negative net asset of R&L after absorbing its losses:

Period	Per Books of R&L Investment Inc.	Per Philippine Depository Trust Corporation	Approximate Difference	Net Asset before Absorbing Losses	Estimated Net Asset after Absorbing Losses
December 31, 2018	Php 738,897,290	Php 132,255,939	Php (606,641,351)	Php 46,815,973	Php (559,825,378)
August 31, 2019	Php 743,405,682	Php 31,544,255	Php (711,861,427)	Php 47,501,077	Php (664,360,350)
October 31, 2019	Php 747,819,698	Php 30,395,892 ⁶	Php (717,423,806)	Php 51,692,706	Php (665,731,100)

Accordingly, the Commission, through the computation presented by the Markets and Securities Regulation Department, has sufficiently established that the financial condition of R&L Investment Inc. has so deteriorated to readily meet the demands of its clients for the delivery of latter's securities and the payment of their sales proceeds.

WHEREFORE, premises considered, the Capital Markets and Integrity Corporation is hereby ordered to:

1. Take-over the operations of R&L Investment Inc., the failed Trading Participant, pursuant to Rule 33.1(d) of the 2015 SRC Rules;
2. To implement the provisions of Rule 33.1(d), to include when appropriate, the following:
 - a) Suspend R&L Investment Inc. as a Trading Participant and immediately arrange for another Trading Participant to take over the outstanding contracts relating to securities, and simultaneously notify the Commission of such suspension and takeover;
 - b) Promptly notify customers of R&L Investment Inc. that their accounts have been transferred to another Trading Participant and provide such customers with the opportunity to transfer anew their accounts to another Trading Participant of their choice;
 - c) Settle R&L Investment Inc.'s liabilities to customers through the sale of the Trading Participant's trading rights and other trade-related assets including PSE shares as may be prescribed by the Commission; the liquidation of paid up capital; and/or the supervision of payment of claims against the surety bond;

⁶ This amount is based on the PDTC BP Portfolio Report dated 30 October 2019 and submitted to SEC by the PDTC. Roughly, we can make this comparable with the 31 October 2019 position report based on R&L books and records by deducting the net sale of Php 433,294 (which settled on 31 October 2019) from the PDTC report thus, resulting in Php 29,962,598. This should increase the figure in the approximate difference to Php 717,857,100.


- d) Inform the Accredited Trust Fund referred to in Section 36.5 of the Code, where such failed Trading Participant is a Participant, of such takeover and inform the customers that they may also claim compensation for losses from the Trust Fund, subject to the validation of their claims by the Exchange or pertinent SRO and the Trust Fund; and
 - e) Where after such settlement and liquidation of the failed Trading Participant's trade-related assets, there are outstanding liabilities to customers of the failed Trading Participant, refer the same to the Accredited Trust Fund and inform the customers of the further steps necessary for claiming compensation for unsatisfied losses.
3. To take necessary actions to protect customer accounts including, but not limited to the preservation of the assets and books and records of R&L Investment Inc.
 4. To execute such acts or documents necessary or appropriate in carrying out the foregoing powers.

The CMIC is also hereby directed to determine the various violations of the provisions of the Securities Regulation Code and its Implementing Rules and Regulations possibly committed by R&L Investment Inc., its officers and employees and to submit its report and recommendation to the Markets and Securities Regulation Department, **within seven (7) days from conclusion of its audit, but not later than 20 December 2019** for the purpose of instituting administrative or criminal action against responsible persons when warranted. This does not, however, preclude the Commission from continuing its own examination, investigation, or filing of any action against respondent R&L Investment Inc. and its responsible officers and employees.

SO ORDERED.

Pasay City, Philippines, 14 November 2019.

**BY AUTHORITY OF THE
COMMISSION EN BANC:**


KELVIN LESTER K. LEE
Officer-in-Charge

Handwritten initials: P, S, P, dlp