



DEPARTMENT ADMINISTRATIVE ORDER NO. 05
Series of 2007

SUBJECT: Rules on Mediation in the Resolution of Inquiries, Complaints and/or Cases Filed with the Department of Trade and Industry (DTI) for Violations of the Consumer Act of the Philippines and Other Trade and Industry Laws Supplementing Department Administrative Order No. 07, Series of 2006

Pursuant to Republic Act No. 9285, otherwise known as the Alternative Dispute Resolution (ADR) Act of 2004 declaring it the policy of the State to actively promote party autonomy in the resolution of disputes and encourage the use of ADR as a means to speedy and impartial justice; and further, consistent with Executive Order No. 523, Series of 2006, instituting the use of ADR in the Executive Department, mandating the offices under the Office of the President to develop and institutionalize an ADR program, the following rules of procedure on Mediation of cases filed with the DTI for violation of Consumer Act of the Philippines and other trade and industry laws are hereby prescribed and promulgated.

RULE I GENERAL PROVISIONS

Section 1. Application and Interpretation - In construing the provisions of these rules, consideration must be given to the need to promote candor of parties and Mediation Officers through confidentiality of the mediation process, the policy of fostering prompt, economical, and amicable resolution of disputes in accordance with the principles of integrity of determination by the parties, and the policy that the decision-making authority in the mediation process rests with the parties.

Section 2. Scope - These rules apply to all verbal inquiries or complaints, walk-in and phoned-in, as well as to all written complaints, transmitted electronically or otherwise, for any acts and transactions constituting violation/s of the Consumer Act of the Philippines and other trade and industry laws, including transactions covered by or using electronic data messages as defined in the Electronic Commerce Act or R.A. No. 8742.

These rules shall not apply to formal charges filed by the DTI Field Office for violation/s of the applicable trade and industry laws under DAO No. 7, Series of 2006

Section 3. Definition of Terms - For purposes of these Rules, the following definitions shall be observed:

- (a) "*Complaint*" refers to any written or verbal statement made personally or sent by any electronic means or otherwise, expressing grievance related to violations of the Consumer Act of the Philippines and other trade and industry laws.

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- (b) "*Mediation Officer*" means the DTI personnel assigned or designated to mediate cases or complaints referred to in Section 1 under this Rule.
- (c) "*Mediation*" means, for purposes of these rules, an alternative mode of dispute resolution under which the Mediation Officer as defined hereinabove, facilitates communication and negotiation between the parties, and assists the parties in reaching a voluntary agreement regarding a dispute.
- (d) "*Mediation Party*" means the person who participates in a mediation and whose consent is necessary to resolve the dispute.
- (e) "*DTI Field Office*" means DTI Provincial Office or Area having jurisdiction over a particular province in the Philippines or area of National Capital Region, respectively.

RULE II MEDIATION PROCEDURE

Section 1. Complaint Form.- All complaints received shall be assigned a control number for record purposes.

Section 2. Recording The DTI Provincial or Field Office shall maintain a Log Book on which every complaint received shall be recorded.

Section 3. Notification of the Respondent/s. The proper DTI Provincial or Field Office shall upon receipt of such complaint issue a Notice of Mediation to all Parties using the best and fastest possible means of communication.

Section 4. Schedule of Mediation A mediation shall be set not later than five (5) working days from receipt of the complaint.

Section 5. Mediation Conferences. It is recommended that a maximum of three (3) mediation conferences shall be held within thirty (30) days from the date of the initial conference, or as often as necessary as the parties may consent even beyond the thirty (30) day period.

RULE III PROCEEDINGS BEFORE THE MEDIATION OFFICER

Section 1. Mandatory Mediation. The conduct of mediation in complaints involving violation of the Consumer Act and trade and industry laws filed before the appropriate DTI Field Office is mandatory and a proceeding that shall be conducted prior to the application of the procedures of Department Administrative Order No. 07 Series of 2006 providing a Simplified and Uniform Rules for Administrative Cases filed with the Department of Trade and Industry. Further, mediation shall be still available at any stage of the adjudication proceedings, even on appeal and execution, prior to the full implementation of the decision, upon the request of both parties.

Section 2. Confidentiality of Mediation Proceedings. - All information obtained during the mediation proceedings shall be confidential. Such confidentiality shall be governed by Sections 9, 10, 11 and 12 of Republic Act No. 9285.

Section 3. Role of the Mediation Officer. - Prior to the conduct of the mediation proceedings, the Mediation Officer shall explain to the parties the objectives, nature and rules of the mediation process and , upon the parties agreement to submit to the same, proceed to facilitate communication and negotiation in order to assist the mediation parties in reaching a voluntary agreement regarding their dispute.

Section 4. Appearance of Parties Mandatory. - The appearance of parties in the mediation proceedings is mandatory. In case the parties cannot be personally present, their representative shall be clothed with the proper special power of attorney or board resolution, as the case maybe, with full power to enter into a compromise agreement or settlement. Such authority shall be presented before the commencement of the mediation proceedings.

Section 5. Effect of Non-Appearance in Mediation Conference. Where a party fails or refuses to appear personally or through a representatives during the scheduled procedure mediation conference, the Mediation Officer, motu proprio or upon request of the party present, shall reset the mediation conference and cause the issuance of notice of such resetting, subject to the limitation set forth in Section 5 Rule II of this Order.

RULE IV

MEDIATION AGREEMENT AND TERMINATION OF MEDIATION

Section 1. Mediation Agreement.- If an Agreement is reached, it shall be reduced into writing, signed by the parties and attested by the Mediation Officer. The Mediation Agreement which shall be *final and executory*.

Section 2. Termination of the Mediation Conference.- Where no settlement is reached within thirty (30) days from the date of the initial conference, the Mediation Officer shall terminate the mediation proceedings and the case is submitted for adjudication proceedings unless both parties agree to an extension which shall not exceed fifteen (15) days. Upon termination, the Mediation Officer shall forthwith issue a certificate attesting that Rule III of this Order has been complied with.

RULE V

ENFORCEMENT OF MEDIATION AGREEMENT

Section 1. The parties to the mediation agreement shall immediately satisfy and comply with the terms and conditions thereof.

Section 2. If the parties so desire, they may deposit such Mediation Agreement with the appropriate Clerk of Court of the Regional Trial Court of the place where one of the parties resides. Where there is a need to enforce the mediation agreement, a petition shall be filed by any of the parties with the same court in which case, the court shall proceed summarily to hear the petition, in accordance with the applicable rules of procedure.

RULE VI

OTHER PROVISIONS

Section 1 Repealing Clause. – All other Department Administrative Orders, Department Orders, other issuances, or parts thereof which are inconsistent with this Order are hereby repealed or modified accordingly.

Section 2. Effectivity. – This Order shall take effect fifteen (15) days after full publication in a newspaper of general circulation.

Makati City, July 19, 2007. *ened*

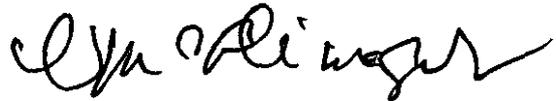


PETER B. FAVILA
Secretary

Recommended by:



ZENAIDA CUISON MAGLAYA
Undersecretary for Consumer
Welfare and Trade Regulation Group



VICTORIO MARIO A. DIMAGIBA
Director
Bureau of Trade Regulation and
Consumer Protection

Paegul,
for a.a. pls. furnish *Motoomull*
w/ a copy of the "receiving copy"
stamped received by the
UP Law Center. w/ transmittal
memo to be signed by you or me.



MEMORANDUM :

Ron

FOR : Director Robert S. Martinez
DATE : 05 July 2007
SUBJECT : **Philippine National Standards under Mandatory Certification Scheme for submission to the U.P. Law Center Office of the the National Administrative Register**

In accordance with the Executive Order (EO) 292, Administrative Code of the Philippines 1987, the Bureau of Product Standards (BPS) is pleased to forward to you three copies of the Philippine National Standards (PNS) under the BPS Mandatory Certification Scheme to be certified by the DTI Records Officer and to be filed with the University of the Philippines Law Center, Office of the National Administrative Register (ONAR).

PNS ISO 13006:2007 - Ceramic Tiles – Definitions, classification, characteristics and and Marking

In this regard all PNS publications inconsistent with this standard shall be deemed superseded.

Kindly furnish the BPS copy of the receipt of the certified PNS by U.P. Law Center, ONAR for our file

For your appropriate and immediate action.

Jama
JESUS L. MOTOOMULL
Bureau Director

Encl.: a/s

OFFICE OF THE DIRECTOR
GENERAL ADMINISTRATIVE SERVICE
RECEIVED BY: *Adyan*
D. : *7-5-07 #934*
TIME : _____