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PROCEDURE IN FORFEITURE OF BONDS

CUSTOMS MEMORANDUM ORDER NO. 28-90, March 28, 1990

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To complement the provisions of CMO 129-88 and 70-89, the procedure in the forfeiture of bonds is hereby prescribed as follows:

I. Pre-Forfeiture

1. From the time of importation and upon the issuance of the surety bond, all the necessary entries and/or supporting documents shall be reproduced by the Liquidation & Billing Division and copies thereof be furnished the Bonds Division and the Collection Service. The original copy of all entries shall be considered as security documents to be kept in a security storage area at the Liquidation & Billing Division (for consumption entry) and the WDRD (for warehousing entry) which shall be handled and controlled by an officer solely designated to manage said restricted area;

2. Upon maturity of the bond, the Bonds Division shall retrieve/recall the entry and the supporting documents thereof from the LBD (for consumption entries) or the WDRD (for warehousing entries);

3. In case of lost entries and/or supporting documents, the provision of CMO 70-89 shall be followed. Otherwise, the Bureau should initiate the reconstitution of said documents motu proprio or produce the customs copy of the bond policy.

4. The District Collector of Customs of the port of entry shall notify both the obligor and the surety about the maturity of the bonds for payment and/or submission of documents to satisfy the conditions of the bond for cancellation. In the absence of such settlement or submission of required documents mentioned in No. 4.6, II Administrative and Legal Provisions of CMO No. 70-89 to the District Collector of Customs, forfeiture proceedings shall follow.

II. Forfeiture

1. The Bonds Division shall submit to the Commissioner of Customs (Attn.: Chief Legal Service) and the District Collector of Customs (Attn.: Chief, Law Division) for evaluation, review and possible court action a report of bonds for forfeiture which remain outstanding after ninety (90) days from maturity thereof within ten (10) working days from the lapse of said period of ninety (90) days.

2. Copies of the entries and the supporting documents retrieved/recalled by the Bonds Division in accordance with No. 2, Title I-Pre-Forfeiture hereof as well as copies of the bonds or surety contract/policy should be forwarded by the Bonds Division along with the report stated in No. 1 of this title.

3. The report by the Bonds Division on the Bonds liable for forfeiture along with the necessary documents submitted therewith shall be evaluated and reviewed by the Law Division of the port of entry and/or the Legal Service, Office of the Commissioner, which shall make its recommendation to the District Collector or the Commissioner of Customs, as the case may be within ten (10) working days from receipt of the report and the necessary documents.

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4. Court action, if warranted, shall be filed within thirty (30) days from receipt of the recommendation for the forfeiture of the bonds.

5. A court action shall not deter the Commissioner/Collector of Customs from suspending the operation of a customs bonded warehouse in conformity with CMO 83-89, as amended.

III. In case the surety company ceased to exist before the obligation with the Bureau is extinguished:

1. If a domestic surety — within three (3) year period from dissolution of a surety company the Law Division of the port of entry and/or Legal Service, Office of the Commissioner, shall file a claim under Section 77 or 78 of the Corporation Law or under Rule 104 and 66 of the Revised Rules of Court;

2. In case of a foreign entry — inquire from the Office of the Insurance Commissioner regarding the withdrawal of said foreign surety company and prosecute the claim in accordance with Sections 202-A, 202-B, 202-C, 202-D and 202-E of the Insurance Act.

IV. As a preventive measure, the Bureau shall, henceforth, require that all bonds shall include the following agreement on the bond policy:

"The herein surety company hereby agrees to settle immediately upon maturity the monetary value of the bond should the importer fail to fulfill the conditions herein guaranteed even without the production of the original entry and its supporting documents"

V. Repealing Clause

All Customs Memorandum Orders which are not consistent with this shall be considered amended and/or superseded accordingly.

VI. Effectivity

This shall be effective April 1, 1990 and all concerned shall be guided accordingly.

Adopted: 28 Mar. 1990

(SGD.) SALVADOR M. MISON
Commissioner

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