

RULES AND REGULATIONS GOVERNING THE TRANSACTIONS OF CUSTOMS BROKERS, CUSTOMS BROKERAGE FIRMS AND ATTORNEYS-IN-FACT IN THE BUREAU OF CUSTOMS

BOC CUSTOMS ADMINISTRATIVE ORDER NO. 3-93, February 10, 1993

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By authority of Section 608 of the Tariff and Customs Code of the Philippines, the following rules and regulations governing the issuance, suspension and revocation of annual licenses and the general transaction of business by, customs brokers, customs brokerage firms and attorneys-in-fact are hereby prescribed and published for the information and guidance of all concerned.

RULE 1. Who May Engage In Customs Brokerage Business. — Any person, partnership or corporation duly licensed by the Bureau of Customs to engage in the transaction of a general customs brokerage business on behalf of others in connection with the importation or exportation of articles, goods, wares, and merchandise; and other Customs matters necessitating the services of such brokers may engage in customs brokerage business.

RULE 2. Issuance of Annual License and Requirements Therefore. — A Customs Broker's License is valid only for one (1) year from the date of the issuance thereof. It may be renewed annually by the Collector of Customs of the port where the applicant desires to establish a customs business only upon written application and submission of the following;

A IN CASE OF A NATURAL PERSON

1. A Valid Professional License Issued by the Professional Regulations Commission to the Individual Customs Broker.
2. A sworn statement of assets and liabilities showing the sound financial standing or position of the applicant, duly attested by a reputable Certified Public Accountant or accounting firm.
3. A list of his employees authorized to represent the Licensee in the Bureau of Customs together with their latest 2x2 photograph, addresses, positions, specimen signatures, SSS Number and Taxpayer's Identification Number (TIN).
4. A continuing Fidelity or Surety Bond in the amount of not less than THIRTY THOUSAND PESOS (P30,000.00), which amount shall be increased if found inadequate by the Collector, to answer for whatever damages the Government may suffer as a consequence of any act or omission which the broker or his employees may be held liable as well as for any financial obligations or liabilities that he has personally assumed and failed to settle according to his agreement(s) or commitment(s) with the Bureau of Customs.
5. A certified copy of his Privileged Tax Receipt for the current year that the license is applied for which shall be submitted not later than the 31st of January of every year.

B IN CASE OF A JURIDICAL PERSON

1. A certified true copy of the Articles of Incorporation and By-Laws or Articles of Partnership duly registered with the Securities and Exchange Commission. Provided that at least two (2) of the officers of the firm who are licensed customs brokers pursuant to Section 3401 of the TCCP, shall be stockholders of the corporation or general partners of the partnership.
2. A sworn statement of the assets and liabilities of the partnership or corporation showing the sound financial standing or position of the firm, duly attested by a reputable Certified Public Accountant or accounting firm.
3. A Valid Professional License Issued by the Professional Regulations Commission of the two (2) customs brokers required to be officers of the firm pursuant to Section 3401 of the TCCP. Provided that one of the customs brokers shall be designated as "Principal" and the other as "Alternate" Broker, the latter to act as the signing broker in the absence of the former. Provided further, that in no case shall an individual broker be allowed to represent more than one (1) licensed customs brokerage firm.
4. A list of employees authorized to represent the Licensee in the Bureau of Customs together with their latest 2x2 photograph, addresses, positions specimen signatures, SSS Number and Taxpayer's Identification Number (TIN).
5. A continuing Fidelity or Surety Bond in the amount of not less than FIFTY THOUSAND PESOS (P50,000.00), which amount shall be increased if found inadequate by the Collector, to answer for whatever damages the Government may suffer as a consequence of any act or omission which the brokerage firm or its employees may be held liable as well as for any financial obligations or liabilities that it has personally assumed and failed to settle according to its agreement(s) or commitment(s) with the Bureau of Customs.
6. A certified copy of the Privileged Tax Receipt of the firm, as well as those of the two licensed brokers who represent it, corresponding to the period for which the license is to be issued. Provided that failure of the applicant to submit or comply with any of the requirements enumerated in paragraphs (A) & (B) above, shall be a valid ground for the non-issuance and/or automatic cancellation or revocation of the license.

RULE 3. Numbers and Forms of Original Annual Licenses.

Original annual Licenses shall be consecutively numbered and shall be issued only upon compliance with all the requirements prescribed herein by affixing a ONE HUNDRED PESOS (P100.00) documentary stamp required under Section 3301 (r) of the TCCP and the seal of the Bureau of Customs in the following format:

(A) FOR AN INDIVIDUAL CUSTOMS BROKER

CUSTOM'S BROKER'S LICENSE

NO. _____

A satisfactory showing having been made as to the integrity and ability of _____, a duly registered Customs Broker with the Professional Regulations Commission, and he, having filed the bond required by, and otherwise complied with, the regulations relating to Customs Brokers pursuant to Section 3406 of the Tariff and Customs Code of the Philippines, is hereby licensed as a Customhouse Broker, and authorized to conduct a general customs brokerage business at the Port of Manila, during the calendar period ending December 31, ____; Provided, that this license may be revoked or suspended at any time by the Collector of Customs for cause.

Given under my hand and the seal of the Bureau of Customs at the Port of _____ Philippines, this _____ day of _____, 19 ____.

Collector of Customs

(B) FOR A CUSTOMS BROKERAGE FIRM

CUSTOMS BROKERAGE LICENSE NO. _____

A satisfactory showing having been made as to the integrity and ability of _____, a duly organized partnership/corporation, represented by _____ and _____, both duly registered licensed customs brokers with the Professional Regulations Commission, and it having filed the bonds required by, and otherwise complied with, the regulations relating to customs brokers pursuant to Section 3406 of the Tariff and Customs Code of the Philippines, is hereby licensed a Customhouse Broker, and authorized to conduct a General Customs Brokerage business at the Port of Manila, during the calendar period ending December 31, _____; Provided, that this license may be revoked or suspended at any time by the Collector of Customs for cause.

Given under my hand and the seal of the Bureau of Customs at the Port of _____, Philippines, this _____ day of _____, 19 _____.

Collector of Customs

RULE 4. Application for Renewal of License and Requirements Therefore. — Application for renewal of license shall be filed under oath with the Office of the District Collector concerned not later than December 31 of each calendar year stating, among other things, that the applicant possesses all the qualifications and none of the disqualifications to act as a customs broker or customs brokerage firm and has complied with all the requirements herein prescribed.

Renewal license shall be issued conditioned upon the submission of the following:

A. Clearance from the Law Division and Collection Division of the Collection District concerned that the customs broker or brokerage firm has no pending financial obligation or liability to the Bureau of Customs as of the time of the application for renewal of license.

B. Fidelity or Surety Bond in the amount stated in Rule 2 (A) No. 4 and (B) No. 5 as the case maybe together with a Certificate of Premium Payment.

C. Amendments, if any, to the Articles of Incorporation and By-Laws or Articles of Partnership duly registered with the Securities & Exchange Commission;

D. Confirmation under oath of the List of Employees.

E. Latest Statement of Net Worth duly certified by a Certified Public Accountant or accounting firm.

F. A certified copy of the applicant's Privileged Tax Receipt of the current year.

G. Mayor's permit in the case of Corporation & Partnership.

H. Certified List of Clients.

The foregoing documents shall be submitted not later than January 31 of the year covering the renewal period of the license applied for and failure to do so shall cause the automatic cancellation or revocation of the license.

RULE 5. Issuance of License and Forms for Renewal. — Renewal of annual license shall be issued conditioned upon compliance with the foregoing requirements. It shall be in the same forms and contents as prescribed in Rule 3 hereof except the word "RENEWAL" and the required ONE HUNDRED PESOS (P100.00) documentary stamp affixed therein.

RULE 6. Suspended or Revoked License. — No Renewal of license shall be issued to any individual customs

broker or brokerage firm whose license has been suspended or revoked by the Collector of Customs or whose Certificate as individual customs broker has been suspended or revoked by the Professional Regulations Commission pursuant to Section 3407 of the TCCP.

Likewise, no license shall be issued to any customs broker or brokerage firm whose license is suspended or revoked by another Collector of Customs during the period of suspension or revocation.

RULE 7. Preventive Suspension of Customs Brokers and/or Brokerage Firms Licenses. — The Collector of Customs of the Collection District concerned shall, upon showing of a prima facie case of violations of the Tariff and Customs Code of the Philippines; the Code of Ethics for Customs Broker; the rules and regulations prescribed herein or any other related laws, rules and regulations promulgated by competent authority, immediately place under PREVENTIVE SUSPENSION the license of the Broker or Brokerage Firm for a period of Ninety (90) days, pending formal hearing of the case.

If the formal hearing or investigation is not finally terminated or decided within the period of ninety (90) days after the date of suspension, the license of the broker or brokerage firm shall automatically be reinstated, provided, that when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent broker or brokerage firm, the period of delay shall not be counted in computing the period of suspension herein provided.

RULE 8. Causes for Suspension or Revocation of Customs Broker's Licenses. — The following acts and/or omissions committed by a licensed customs broker or brokerage firm or any of their employees shall among others be sufficient cause for the suspension or revocation of his or its license;

- Deliberate refusal without justifiable reason to perform the duties pertaining to them as a licensed customs broker or brokerage firm when such refusal would prejudice the interest of the Government or their clients;

"Justifiable reason", as contemplated in this sub-paragraph, shall be construed to mean any and all acts the commission of which by a licensed customs broker or brokerage firm shall render them liable under existing laws, rules and regulations, either administratively and/or criminally;

- Misappropriation of the funds entrusted to them by their client for payment of customs duties, taxes, charges and other fees, to which the Government is entitled;

- Willful misdeclaration or undervaluation of imported or exported articles, goods, wares or merchandise, that resulted or would have resulted in the loss of Government revenue, or in evasion of any control regulation of the government;

- Knowingly filing of an entry in behalf of any person or entity who is non-existing or fictitious and/or having fictitious name or phoney address; or knowingly using supporting document which are found to be spurious, fake, falsified or otherwise tampered.

- Lack of control and proper supervision over their employees authorized to represent them in the Bureau of Customs in connection with customs transactions;

- Willful and deliberate violations of any provisions of the Tariff and Customs Code or Rules and Regulations issued pursuant thereto, most especially the Customs Administrative Order which establishes a uniform rate to be charged by Licensed Customs Brokers for their services.

- Violation of the Code of Ethics for Customs Brokers, adopted and recommended by the Board of Examiners for Customs Brokers and approved by the Commissioner of Civil Service on April 15, 1958;

- Continued neglect of duty or incompetency;

- Failure to report to the District Collector of Customs any fraud upon the customs revenue which comes to his knowledge or cognizance, or shall knowingly assist or abet in the importation or exportation of any article.

RULE 9. Report of Suspension and Copy of the Decision to be Furnished the Professional Regulations Commission. — The Collector of Customs concerned shall immediately submit a report to the Professional Regulations Commission of the suspension of the broker's license with a brief statement of the pertinent facts and reason for the suspension. After the case against the broker is terminated, the Commission shall likewise be furnished a copy of the Decision thereof and, if said decision is adverse to the respondent, a formal complaint shall be filed by the Collector of Customs with the Commission for whatever action it may take under the premises.

RULE 10. Appeal, With Whom Appeal is Filed, Forms and Contents. — Decision of the Collector of Customs imposing a penalty exceeding one (1) month suspension may be appealed to the Commissioner of Customs within fifteen (15) days from receipt of a copy of the decision and thereafter to the Secretary of Finance within the same period from receipt of the decision of the Commissioner of Customs. Provided, that the suspension or revocation of the broker's license shall not be stayed during the pendency of the appeal with the Commissioner of Customs or the Secretary of Finance, as the case may be, unless the latter directs otherwise.

The appeal shall state distinctly and clearly the date the respondent received the decision and in case he filed a motion for reconsideration of the decision, the date he filed said motion and the date he received the resolution of his motion. Failure to do so may cause the dismissal of the appeal.

The appellant shall likewise state distinctly the grounds of the appeal together with the arguments in support thereof.

RULE 11. Qualifications for Employees of Customs Brokers or Customs Brokerage Firms. — Employees or "personeros" authorized by a customs broker or a customs brokerage firm to represent said employer in the Bureau of Customs shall have the following qualifications and must comply with the following requirements:

1. Be a Filipino citizen;
2. Of good moral character;
3. Has completed a training program or seminar for which a Certificate of Attendance is issued by the Customs Brokers Association duly accredited by the Professional Regulations Commission. Provided, that the accredited association must conduct such seminars at least once a year to accommodate applicants for such employment.
4. NBI Clearances. — Such Clearance Shall Be Presented At The Beginning Of The Employment Until Such Time As The Necessity Arises For A New Clearance.

RULE 12. Disciplinary Action Against Employees of Customs Brokers and Customs Brokerage Firms. — Employees of customs brokers and customs brokerage firms may be barred from entering customs premises and/or transacting with the Bureau of Customs for disorderly conduct, for acts prejudicial to the interest of the Government, or for habitual delinquency in cases of violation of rules and regulations prescribed by the Bureau of Customs.

RULE 13. Notice of Separation from Service of Employees of Customs Brokers or Customs Brokerage Firms. — Duly licensed customs brokers and brokerage firms shall immediately notify the Bureau of Customs, thru the office of the Collector of the Port where they have been licensed to do business, of every case where an employee or representative of the customs broker or customs brokerage firm concerned has ceased to be employed by the

latter or whose authority as such employee or representative has been terminated. The notice shall be made in writing, stating the name of the employee or representative whose employment or authority has been terminated, the date such termination took effect, and the number of the Customs Pass issued, if any, to said employee or representative.

RULE 14. Additional Requirements. — Collectors of Customs May Recommend to the Commissioner of Customs Additional Requirements or Deletions or Amendments of the Requirement/S Contained in this CAO which recommendation or copy thereof shall be Furnished The Customs Brokerage Association Duly Accredited By The Professional Regulations Commission For Comment Before Approval Or Denial Of The Same.

RULE 15. Supervisory Authority Over Attorneys-In-Fact. — In Order To Establish A Uniform Procedure In The Exercise Of Supervisory Authority Over Attorneys-In-Fact The Following Rules Shall Strictly Be Enforced Before A Special Power Of Attorney Issued In Favor Of An Individual Who Is Not A Customs Broker May Be Issued:

A. The special power of attorney executed in favor of a person who is not otherwise a customs broker shall specify, inter alia, the name of the consignee; the bill of lading or airway bill number of the shipment, the date of arrival, the voyage or flight number, and the registry number;

B. The special power of attorney shall specify that the commission extended to the agent or attorney-in-fact is limited and pertains only to the shipment therein described;

C. A special power of attorney issued by a corporation or a regular importer or any other entity, to a person who is not otherwise a customs broker must be accompanied with a certificate of employment under oath stating that the agent or attorney-in-fact is a full-time employee or official of the corporation or the importer or entity and receiving a fixed compensation as such; and

D. The law division in the collection district, or its equivalent unit in the subports, shall evaluate whether or not the special power of attorney is sufficient in form and substance, and shall maintain a logbook in which the special power of attorney shall be registered.

RULE 16. Repealing Clause. — Any Contrary Customs Administrative Order, Memoranda, Orders Or Other Issuances Are Hereby Deemed Repealed Or Modified Accordingly.

RULE 17. Effectivity . — this order shall take effect upon approval by the Secretary of Finance and after thirty (30) days publication in a newspaper of general circulation in the Philippines.

Adopted: 10 Feb. 1993

(Sgd.) GUILLERMO L. PARAYNO, JR.

Commissioner

APPROVED:

(Sgd.) RAMON R. DEL ROSARIO, JR.

Secretary

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