NATIONAL ADMINISTRATIVE REGISTER · AUGUST 13, 2010

AMENDING SECTION 16.4.1 (SETTLEMENT AS AWARD), RULE 16 OF THE CIAC RULES

CIAC RESOLUTION NO. 04-2010, August 13, 2010

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WHEREAS, the encouragement of the early and expeditious settlement of disputes in the Philippine Construction industry is a State policy declared under Section 2 of Executive Order No. 1008 (the Construction Industry Arbitration Law), creating the Construction Industry Arbitration Commission (CIAC);

WHEREAS, the active promotion of "party autonomy in the resolution of disputes or the freedom of the parties to make their own arrangements to resolve their disputes" is, likewise, a declared policy of the State under Section 2 of Republic Act No. 9285 or the Alternative Dispute Resolution Act of 2004;

WHEREAS, in line with the above State policies, the CIAC Rules of Procedure Governing Construction Arbitration (CIAC Rules) contain the following provisions:

> - Section 21.7 (Freedom to Settle), Rule 21
>
> "The parties shall be free to settle the dispute(s) anytime even if the same is under arbitration..xxx.
>
> 21.7.1. The parties may either jointly withdraw or submit their compromise agreement to CIAC for the rendition of an award by the Arbitral Tribunal, if the latter have already been appointed.xxx."
>
> - Section 16.4 (Award upon Settlement), Rule 16
>
> "If the parties settle their dispute(s) during the course of the arbitration, the Arbitral Tribunal, upon their request, may set forth the agreed settlement as an Arbitral Award.
>
> 16.4.1 (Settlement as Award) – A compromise agreement settled by mediation under CIAC mediation rules shall be treated as an arbitral award if so expressly stipulated by the parties in the settlement agreement."

WHEREAS, parties to a construction dispute may also arrive at a settlement agreement through ad hoc mediation or mediation outside of CIAC mediation rules. However, under Section 16.4.1 of the CIAC Rules, the treatment of mediated settlement agreements as arbitral awards is limited to those arrived at by mediation under the CIAC mediation rules;

WHEREAS, to expand the coverage of mediated settlement agreements which can be converted to arbitral awards, the Philippine Institute of Construction Arbitrators and Mediators, Inc. (PICAM), during its board meeting held on 23 July 2010, agreed to recommend the deletion of the phrase "under CIAC mediation rules" from Section 16.4.1 of the CIAC Rules;

WHEREAS, the Commission, in its 130th Regular Meeting held on 13 August 2010, finding the recommendation to be in order, approved the same subject to the inclusion of a provision to safeguard against the use of CIAC arbitration facilities for the award of fraudulent claims;

NOW, THEREFORE, THE COMMISSION, by virtue of the powers vested in it by law, and based on the recommendation of the PICAM, RESOLVES to amend Section 16.4.1 (Settlement as Award), Rule 16 of the

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CIAC Rules to read as follows:

> "Section 16.4.1 (Settlement as Award) – A compromise agreement settled by mediation shall be treated as an arbitral award if so expressly stipulated in the settlement agreement and subject to the approval of the Arbitral Tribunal, after a summary hearing, that the same is not contrary to law, morals, good customs, public order, or public policy."

The foregoing revision shall take effect fifteen (15) days from receipt of certified true copies of this Resolution by the Office of the National Administrative Register, University of the Philippines Law Center.

UNANIMOUSLY APPROVED.

(SGD.) ISAAC S. DAVID
Acting Chairman

(SGD.) SAMSON C. LAZO
Member

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