DISCHARGE OR SEPARATION BY ADMINISTRATIVE ACTION OF PCG OFFICERS

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1. Purpose — Pursuant to paragraph 12 of Executive Order No. 337 dated 13 September 1988, hereby prescribed are the rules and regulations as well as the procedures governing the discharge or separation from the Coast Guard service of PCG Officers.

2. Discharge or Separation from the Service — PCG Officers shall be administratively discharged or separated from the service as provided in EO #337, series of 1988, and these implementing rules and regulations.

a. Referral of Case for Misconduct — When a PCG Officer commits any act of misconduct or such a nature and gravity as to warrant his/her discharge or separation from the service, his/her name and record shall referred by the Commandant, Philippine Coast Guard to the PCG Efficiency and Separation Board for the determination of his/her suitability or fitness for retention in the service.

b. Referral of Case for Failure to Demonstrate Satisfactory Qualifications and Efficiency — The Commandant, Philippine Coast Guard shall from time to time, or as the need arises, cause the review of the personnel records be and efficiency of PCG Officers and refer to the PCG efficiency and Separation Board the names and records of those officers who failed to demonstrate satisfactory qualifications and efficiency as an officer.

3. Benefits — Any officer discharged or separated from the service for reasons other than his/her own misconduct, willful failure to perform his/her duties, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits, shall be entitled to such gratuity, pension, separation pay, or retirement benefits as may be authorized by law.

4. PCG Efficiency and Separation Board —

a. Designation — The Efficiency and Separation Board established under Executive Order No. 337, s-88 shall be officially designated as the Philippine Coast Guard Efficiency and Separation Board.

b. Composition — The PCG Efficiency and Separation Board shall be composed of not less than five (5) nor more than seven (7) officers, one of whom is a member of the Philippine Bar and a uniformed personnel of the PCG who shall act as law member of the Board. They shall be appointed by the Secretary of Transportation and Communications upon recommendation of the Commandant, Philippine Guard from among officers assigned to the PCG. The Secretary of Transportation and Communications shall designate the Chairman thereof.

c. Rank — As far as practicable, the members shall be senior in permanent grade to any officer being considered for discharge or separation by the Board and not be below the permanent grade of captain in the coast guard except that of the law member, the prosecutor and the defense counsel, who may at the time being be lawyers from the DOTC, until such time that the coast guard shall have been able to recruit, commission and call to active duty the necessary number of lawyers to composed the members of the PCG ESB.

d. Tenure — The members of the Efficiency and Separation Board shall serve for a term of two (2) years unless sooner relieved by the Secretary of Transportation and Communications. No officers shall serve in the

Efficiency and Separation Board for more than two consecutive terms.

e. Membership of PCG Officers Belonging to the Technical Service — PCG Officers belonging to the Technical Service shall be represented in membership in the PCG Efficiency and Separation Board.

f. Qualifications — Only officers with sufficient competence, prudence impartiality and judicial temperament shall be appointed as members of the Board.

g. Oath — Before entering upon the discharge of their duties, the members of the Board shall take the following oath or affirmation:

OATH OF OFFICE

"I, (name/rank), do solemnly swear (or affirm) that I will faithfully and conscientiously discharge my duties as (Member/Chairman) of the Efficiency and Separation Board; that I will perform for duties imposed upon me in accordance with the pertinent provisions of law and view the best interest of the coast guard service, I will administer justice without partiality, favor or affection; that I will keep the deliberations of the Board with strictest secrecy and confidence; and that I impose these obligations upon myself voluntarily, without mental reservation or purpose of evasion. SO HELP ME GOD".

h. Disqualification — The Commandant, PCG, the Deputy Commandant, PCG, the Chief of Staff, PCG and the Assistant Chief of Staff for Personnel (CG-1), shall be eligible for appointment as members of the PCG Efficiency and Separation Board.

i. Board Secretary — The Commandant, PCG shall designate an officer of suitable rank to serve, without vote, as Secretary for the Board. The Secretary shall have the power to issue subpoena and subpoena duces tecum, when directed by the Chairman of the Board in connection with case(s) pending before the Board.

j. Prosecuting Officer and Coast Guard Defense Counsel — The Commandant, PCG shall also designate a Prosecuting Officer to prosecute cases referred to the Board, present evidence of alleged misconduct, and/or inefficiency against the responsible officer, and refute his/her defense. The Commandant, PCG shall also designate a Coast Guard Defense to assist the respondent officer in his defense;

k. Tenure of Prosecuting Officer and Coast Guard Defense Counsel — The designated Prosecuting Officer and Coast Guard Defense Counsel shall serve for two (2) years unless sooner relieved, or extended for another term but only for two (2) years by the Commandant, PCG.

l. Clerical and Logistical Support to the Board — The Commandant, PCG shall provide such office supplies, logistical support, clerical assistance and office space as maybe required by the Board.

5. Jurisdiction of the Board — The PCG Efficiency and Separation Board shall have jurisdiction to pass upon the discharge or separation of officers assigned to the Philippine Coast Guard.

6. a. Summary Proceedings, Deliberation Consistent with Due Process — The Board shall act with utmost dispatch in each case. To promote expeditious action in every case referred to it, the Board shall adopt such summary proceedings as are consistent with the minimum requirements of administrative due process. Avoiding technicalities tending to unreasonably delay the disposition of cases. The uniformed personnel-lawyer-member belonging to the Coast Guard Legal Office must be present in all hearings and deliberation of the Board. For this purpose, the following rules shall be observed:

1) The Board shall conduct preliminary conference to be attended by the Prosecuting Officer, Coast Guard Defense Counsel and Law Member, in order to arrive at stipulation of facts, limiting the issues and number of witnesses to be presented by either party, marking for identification of exhibits, waiver of objections to

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admissibility of evidence; number of days within which the Prosecution and Defense Counsels will present their respective evidence; and such other matters as would promote fair and expeditious trial.

2) The Board shall not allow preemptory challenge. Only Challenge for cause shall be entertained;

3) No postponement of scheduled hearings shall be permitted unless shown in meritorious cases;

4) It shall be the duty of both Chairman and the Law member to caution the other members from propounding irrelevant/unnecessary questions, or that which may tend to embarrass the witness;

5) The sworn statement that the affiant shall identify as his/her during the hearing shall be sufficient to constitute as his/her direct testimony in which case cross-examination shall proceed immediately.

b. Reglementary Period — All cases referred to the Board shall be terminated within a period of not more than forty five (45) days from the day of receipt thereof for trial by the Board Secretary. The Chairman of the Board shall submit a monthly report to the Commandant, PCG, the progress of or status of the case on hearing until the case is terminated.

c. Confidentiality of Proceedings and Decisions — The proceedings and decisions of the Board shall be confidential.

d. Quorum Votes Required — A majority of all the members present shall constitute a quorum. All decisions of the Board should be reach by a majority vote of the members present.

7. Determinations — In determining an officer's suitability or fitness to remain in the service, the Board shall weigh his/her proficiency, experience, accomplishments, attitude, ability and his/her character and general value to the service. Due weigh shall be given to such findings and recommendations of a Selection Board pursuant to DOTC Memorandum Circular dtd 19 May 98 re: Promotion System for Commissioned Officer of the Philippine Coast Guard, as may have a bearing on the Officer's fitness for retention in the service. No weigh shall attached to any political, social financial, or any other factor not military in nature.

8. Notification Counsel of Choice — Any officer under consideration for discharge or separation pursuant to EO#337, s-88, and these rules and regulations shall be notified of such fact. The officer concerned shall allowed to be represented by counsel of his/her choice. He/she shall have the right to appear before the Board personally or through counsel and to present any fact, argument or witness in his behalf or any matter pertinent to his/her case. He/she shall be informed of all evidence, charges and adverse reports against him/her and shall be given full opportunity to refute the same.

9. Disabilities — An officer referred to the Board shall not be considered for promotion to the next higher grade until the termination of his case. He/she shall likewise be not eligible for schooling, local or abroad, during the pendency of his/her case.

10. Relief from Assignment — Upon referral of his/her case to the Board, the officer shall be relieved from his/her present duty assignment and reassigned to PCG, RECSTA during the pendency of his/her case.

11. Board Recommendation, Action by Commander —

a. The Board shall recommend specifically in each case that the officer should be retained or that he/she should be separated from the active service. It shall submit a complete report of the case and the record of proceedings to the Commandant, PCG. If retention is recommended and concurred in by the Commandant, PCG, the case shall be considered closed and the officer shall be notified thereof in writing.

b. The Commandant, PCG may remand a case to the Board for such further action or proceedings as, in his

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opinion, is necessary for a full, fair and impartial investigation.

c. In all cases, the Board shall specify in its record of proceedings and resolution of the case the sub-paragraph of paragraph 2 of Executive Order No. 377, s-88 or that of paragraph 2, of this Circular under which the Board took cognizance of the case; whether the recommendation for separation is based on the officer's own misconduct, willful failure to perform his/her duties, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits; and such other matters as the Board may deem pertinent.

d. If the Board determine that an officer's separation is not due to the foregoing causes, and he/she is eligible for retirement, it shall recommend his/her retirement under the applicable provisions of the AFP Retirement Law. (P.D. No. 1638, as amended).

12. Recommendations Required to be Approved by the President —

a. The following recommendations of the Board shall be forwarded to the President thru the Secretary of Transportation and Communications for final decision.

1) Separation from the service concurred in by the Commandant, PCG; and

2) Retention/Separation not concurred in by the Commandant, PCG.

b. The Secretary of Transportation and Communications may remand a case to the PCG Board for such further action or proceedings as, in his opinion, is necessary for a full, fair and impartial hearing or investigation.

13. Transitory Provision — All cases pending after the transfer of the PCG to the Department of Transportation and Communications which can no longer be referred to the PCG Efficiency and Separation Board shall now be referred to the PCG Efficiency and Separation Board established pursuant to EO#337, series of 1988, and this Circular for the appropriate proceedings.

14. Effectivity — This Circular takes effect immediately.

Date Filed: 6 May 2003

(SGD.) VICENTE C. RIVERA, JR.
Secretary

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