NATIONAL ADMINISTRATIVE REGISTER · MAY 15, 1990

SCHEDULE OF ADMINISTRATIVE FINES

DOT MEMORANDUM, May 15, 1990

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Pursuant to the authority of the Department of Tourism under Executive Order No. 120 dated 30 January 1987 and Section 4(j) of PD No. 1463 and in further reference to the approved Policy Guidelines on the Imposition of Administrative Fines dated 30 January 1989 the following schedule of administrative fines and corresponding violations of DOT rules and regulations are recommended for confirmation.

A
Imposition of P10 ,000.00 Fine for Following Violations

1. Operating a tourism-oriented establishment (TOE), without any license from the Department of Tourism;

2. Opening or maintaining a branch office without approval of the Department;

3. Transfer or alienation of license without the prior approval of the Department or transfer of substantial rights or ownership of shares or interest therein without prior approval of the Department;

4. Failure to renew/replace surety bond within fifteen (15) days from the time it is ordered forfeited, confiscated, cancelled, or revoked;

5. Fraudulent representation, written or oral, by any officer or employee of a tourism oriented establishment for the purpose of securing issuance of license or making false declaration or statement or making use of any document containing the same or committing fraud or any act of misrepresentation for purposes of obtaining the issuance, renewal of any certificate of registration of license;

6. Gross and evident bad faith in dealing with passengers/fraud solicitation or business;

7. Disobedience to any lawful order of the Department;

8. Tolerance of gross misconduct, dishonesty, or misrepresentation committed by any of the travel agency's officers or employees against its clients to the detriment of the tourism industry;

9. Serious physical injury or loss of life of any guest or client due to the fault or negligence of any official or employee of resorts, apartels, and tourist inns;

10. Repeated losses of guest's belongings in hotels and other accommodation establishments;

11. Allowing premises or facilities of tourism-oriented establishments for illegal, immoral or illicit activities;

12. Gross negligence in supervision and/or control of employees;

13. Repeated violation of the acts enumerated in Section 10 of the rules governing tour guides such as dishonesty, misrepresentation, forced tipping, and non-wearing of ID;

14. Commission of acts inimical to the tourism industry; and

15. Acts or omissions analogous to the above.

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B

Imposition of P5 ,000.00 Fine for Following Violations

1. Tour guiding without license;

2. Failure by a travel agency to file renewal application and/or to comply with all requirements for renewal within sixty (60) days from the expiration date of the license;

3. Non-compliance with the requirements provided in Chapter II, Section 8 of the rules and regulations governing the business of travel agency on the submission of documents for annual review of license, such as amended articles of incorporation, proof of renewal of surety bond, income tax return, and audited financial statements;

4. Failure to comply with any of the conditions set forth in the license, not specifically covered under these guidelines;

5. Failure to submit a notice of any change in its personnel or organization within fifteen (15) working days from such change;

6. Failure to meet standards and requirements set forth in the rules governing tourism oriented establishments;

7. Employment, hiring or utilization of services of tour guides who are not holders of a license issued by the Department including working visa and work permit in the case of non Filipino employees, whether or not for a fee or commission;

8. Employment of foreign national without prior DOT approval;

9. Forced tipping or contributions from tourists committed by tour guides, boatmen, and tourist transport employees;

10. Violation by a tourist transport operator on the agreement or contract entered into with client or passenger,

11. Acts or omissions of any member of the hotel staff committed against any guest/tenant of the hotel;

12. Acts of dishonesty, misrepresentation, or misconduct committed by a tour guide against a member of a tour group or against employer or co-employee;

13. Gross neglect in compliance with lawful Department orders; and

14. Acts or omissions analogous to the above.

C

Imposition of P1 ,000.00 Fine for Following Violations

1. Failure to apply for renewal of license within June 1 to 30 of the renewal year as prescribed under Section 9 of the Travel Agency Code;

2. Failure of tour guides to renew their licenses within the prescribed period;

3. Violation of Section 8 of the rules governing tour guides requiring the wearing of ID;

4. Advertising in print media without specifying DOT license number;

5. Non-compliance with PD No. 381 requiring prior approval of the Department of Tourism development projects:

6. Neglect in compliance with lawful Department orders; and

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7. Acts or omissions analogous to the above.

D
Imposition of P500.00 Fine for Following Violations

1. Failure of tourist transport operator to file application for renewal of license or to complete documents within sixty (60) days from the expiration of the license, provided meritorious and valid grounds are submitted to justify such failure;

2. Failure to maintain standards set for accredited exhibit managers/support service contractors; and

3. Acts or omissions analogous to the above.

E
Acts or Omissions Classified As Special Category

1. Failure by a hotel to remedy defects/deficiencies noted in inspection — a fine of P75/day for every day of delay but not to exceed P1 ,500.00;

2. Failure by apartel or tourist inn to remedy defects — fine of P50.00/day of delay not to exceed P1 ,000.00;

3. Failure by a resort to remedy defects — fine of P50.00/day of delay but not to exceed P5 ,000.00; and

4. Failure by a professional congress organizer to apply for renewal of license within the prescribed period — fine of P300.00.

F

In the imposition of fines, the Department shall give due consideration to the facts of each case with particular attention to the circumstances which may aggravate or mitigate liability. Each mitigating circumstance shall cause a lowering of fine by not more than P1 ,000.00, while each aggravating circumstance shall cause the increasing of fine by not more than P1,000.00. Notwithstanding this rule, the maximum administrative fine imposable shall be P10 ,000.00, while the minimum shall be P500.00, except as otherwise provided herein.

G
Mitigating Circumstance

The following shall be considered as Mitigating Circumstances —

1. First offense;

2. Good faith;

3. Reliance upon the erroneous representation of a public official who appears to be knowledgeable or authoritative of the facts represented;

4. Immediate compliance with. Department Orders; and

5. Analogous circumstances which could almost justify non-compliance of Department rules and orders.

H
Aggravating Circumstances

The following shall be considered as Aggravating Circumstances —

1. Habitual delinquency.

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2. Bad faith;

3. Disregard or disobedience of Department orders;

4. Contumacious defiance of Department authority; and

5. Analogous circumstances which show disrespect to the Department.

I

The Legal Service shall take the appropriate measure to ensure that all administrative fines imposed shall be fair, equitable and proportionate to the violation committed taking into consideration the special circumstances of each case. For this purpose, it shall consider the affordability of the violator and the damage caused to the industry, the transacting public in general and innocent parties in particular.

J

The imposition of the above fines shall be without prejudice to the application of other administrative sanctions such as forfeiture of bonds and instruments utilized in unlawful or prohibited acts, suspension, cancellation or revocation of license.

Adopted: 15 May 1990

(SGD.) PETER D. GARRUCHO, JR.
Secretary

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