

GUIDELINES FOR THE UNIFORM APPLICATION OF PENALTIES FOR OFFENSES COMMITTED BY AUTHORIZED AND/OR ILLEGAL PRIVATE EXPRESS AND/OR MESSENGERIAL DELIVERY SERVICE FIRMS OR THEIR EMPLO...

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Section 26 of Republic Act No. 7354 approved on 03 April 1992, vested the Secretary of the Department of Transportation and Communications the authority to supervise, regulate and control the operations of private express and/or messengerial delivery service firms' franchises or permits and to impose fines. To enable the Secretary to exercise efficiently and effectively said powers, there is a need to systematize the supervision and control over the carriage and dissemination of mailable matters for the good of the public and in the interest of national security. Pursuant thereto and by virtue of the power of the Secretary under section 1 of Executive Order No. 125-A, Amending Executive Order No. 125, entitled "Reorganizing the Ministry of Transportation and Communications, Defining its Powers and Functions and For Other Purposes", the following guidelines in the application of penalties against erring firms are hereby prescribed.

RULE I

Title

SECTION 1. Title — These rules shall be known as the Guidelines in the Uniform Application of Penalties for Offenses Committed by Private Express and/or Messengerial Delivery Service Firms or Their Employees.

SECTION 2. Applicability — Except as provided for by law, these guidelines shall apply to all individuals, partnerships and corporations operating an express and/or messengerial delivery service, including their officers and employees.

SECTION 3. Definition of Terms:

- a. "EXPRESS AND/OR MESSENGERIAL DELIVERY SERVICE FIRM" — includes every individual, partnership and corporation operating an express and/or messengerial delivery service, including officers and employees thereof.
- b. POSTING — an act of placing or mailing a letter by the public in any authorized private express and/or messengerial delivery service for transmission.
- c. BULK-REMAILING — refers to a big envelope or package containing letters, notes or documents, whether enclosed in smaller envelopes or not, addressed to persons who are not addressee of the said big envelope or package, intended for remailing purposes in the objectives of cost saving on postage stamps charges to the detriment of the postal/messengerial service.
- e. PARTIAL SUSPENSION — the temporary/limited cessation or stoppage of operations of the main and branch offices of the private express and/or messengerial delivery firm imposed for the commission of an offense.
- f. UNAUTHORIZED PLACE — refers to a sitio, barrio, district, town or city not mentioned/covered in the authority granted to a PEMEDES operator.

g. PEMEDES — means Private Express and/or Messengerial Delivery Service.

h. UNFAIR OR RUINOUS COMPETITION — refers to any immoral/illegal practice of soliciting clients/mailings of other firms, using or offering rates lower than the rates approved by the Secretary/Committee, prying on the trade secret(s) of a grantee, bribery of his employees, hiring other's employees on moonlighting basis, misrepresentation, interference with the fulfillment of his contractual obligations, or any malicious interference with his business. To be unfair or ruinous, the competition must result in injury to another grantee through activity(ies) that are contrary to good practice, fairness and honest dealing, or otherwise unlawful. Securing two (2) or more permits/authority to operate messengerial services by one (1) person/family/association etc. is considered as unfair competition.

RULE II

Penalties in General

SECTION 1. Only one (1) penalty shall be imposed for each case. "Each case" shall mean one (1) complaint which may involve one (1) or more charges. When an operator is found to have committed two (2) or more offenses in each case, the penalty for the most serious offense shall be imposed.

SECTION 2. The following are the penalties that may be imposed:

- Fine
- Suspension
- Cancellation/revocation of authority
- Criminal prosecution/perpetual disqualification of officials and employees to work in messengerial services.

RULE III

Classification of Offenses

For the purpose of the application of penalties, offenses are classified into grave, less grave and light.

A. The following are grave offenses:

1. Gross neglect of duty resulting in the damage or pecuniary loss to the mailing public;
2. Mail pilferage or infidelity in the custody of mails due to the fault, negligence or indifference of operators or their authorized officials or employees;
3. Knowingly, willfully, or intentionally accepting the delivery of subversive, obscene or indecent magazines, publications or materials, prohibited drugs and all matters which are absolutely non-mailable under the Philippine Postal Law, rules and regulations;
4. Fraud or deceit in securing authority to operate express and/or messengerial delivery service for extension or renewal thereof;
5. Transfer of rights in or interests over the authority to operate express and/or messengerial delivery service without prior approval of the Secretary of the Department of Transportation and Communications;
6. Allowing other persons or entities to operate under one's authority to operate express and/or messengerial delivery service, under a contract of agency, on commission basis or other arrangements, without prior approval of the DOTC Secretary;
7. Accepting and delivering mail matters without an "Authority to Operate a Private Express and/or Messengerial

Delivery Service" issued by the Secretary of the Department of Transportation and Communications;

8. Operating with revoked, suspended or expired authority, unless in the case of the latter, a petition for extension has been properly and reasonably filed with the Secretary of the Department of Transportation and Communications before said expiration;
9. Opening/operating branch/branches in unauthorized places or accepting and delivering mails at places where the firm is not duly authorized to operate;
10. Accepting foreign or local mails and using the postal facilities for remailing activities;
11. Preventing duly authorized officials of this department from inspecting the mails, office premises, equipment and facilities, or concealing specific records of transactions and operations from such officials without justifiable reason;
12. Engaging in ruinous or unfair competition with other firms similarly engaged in private express and/or messengerial delivery service;
13. Willful violation of the provisions of Republic Act No. 7354 and its implementing rules and regulations, administrative orders, circulars, memoranda, and other similar issuances/decrees;
14. Intentional delay in the delivery of mails unless for a just cause;
15. Knowingly engaging the services of the Letter Carrier of the Philippine Postal Corporation who are still in the service; and/or messengers of other authorized operator;
16. Recidivism;
17. Knowingly submitting a surety bond contracted with a bonding company not authorized by the Insurance Commission to operate during the period covered; and
18. Accepting the employment of messengers without the Messenger's Work License as required under Section 9 of Department Circular No. 2001-01.

B. The following are less grave offenses:

1. Opening branch/branches at authorized places without notifying the Secretary of the Department of Transportation and Communications within ten (10) days prior to actual operations;
2. Allowing messengers to deliver mails without suitable containers where mails are kept to prevent them from being damaged or lost in transit;
3. Delivering mails without the office logo, or the amount charged, or date of posting/date of receipt indicated on their covers;
4. Refusal to pay upon demand fines imposed by the DOTC Secretary, as provided for in these guidelines;
5. Accepting bulk-mails for delivery or entering into a delivery contract whereby mails are charged by bulk not by piece;
6. Submission of untruthful quarterly report.

C. The following are light offenses:

1. Operating without posting the required surety bond or failure to renew said surety bond on or before its expiration;

2. Failure to return "Return To Sender" (RTS) mails by the office of delivery to the office of posting within fifteen (15) days;
3. Failure to return "Return To Sender" (RTS) mails to the sender within fifteen (15) days from receipt at the office of posting; and
4. Allowing messengers to deliver mails/parcels without wearing the proper ID.
5. Failure to submit Quarterly Production Reports within thirty (30) days after the end of the quarter and Semi-Annual Management Report including a list of company's employees, furniture and fixtures and equipment within thirty (30) days after the close of the corresponding semester.

RULE IV- Penalties

Light, Less Grave and Grave Offenses

SECTION 1. The penalties for light, less grave and grave offenses shall be made in accordance with the following schedule of penalties;

A. For Light Offenses:

1. First offense by the main or branch office;
- Fine of P1,000.00
2. Second offense by the main or branch office;
- Fine of P1,500.00
3. Third offense by the main or branch office;
- Fine of P2,000.00

B. For Less Grave Offenses:

1. First offense by the main or branch office;
- Fine of P2,000.00
2. Second offense by the main or branch office;
- Fine of P3,500.00 and suspension of authority for three (3) months
3. Third offense by the main or branch office;
- Fine of P4,500.00 and suspension of authority for six (6) months.

C. For Grave Offenses:

1. First offense;
- Fine of P4,000.00
2. Second offense;
- Fine of P6,000.00
3. Third offense;
- Fine of P8,000.00 and suspension of authority for six (6) months.

4. Fourth offense;

- Revocation of authority.

5. Colorum operators or those with revoked or expired authority shall be ordered to cease and desist their operation of messengerial services. However, their application shall only be accepted when supported by certified document(s) evidencing total termination of questioned colorum operation for a period of six (6) months and payment of P20,000.00 fine.

RULE V

Other Matters

SECTION 1. Effects of penalties are as follows:

- a. The penalty of revocation disqualifies the operator from filing a petition for original authority within one (1) year counted from the date of execution of the decision.
- b. The penalty of suspension consists in the temporary cessation of operation.

SECTION 2. Disabilities:

- a. The penalty of revocation disqualifies the operator from filing a petition for original authority within one (1) year counted from the date of execution of the decision.
- b. The application of one who is found operating private express and/or messengerial delivery service pending approval of the same shall be dismissed. The applicant shall likewise be disqualified from filing a new petition under his name or using those or in partnership of his/her relatives within the third degree of consanguinity or affinity or merged with any other persons, company or corporation within one (1) year from the date of discovery, without prejudice to criminal liability.

RULE VI

Repealing Clause

All rules and regulations in connection with private express and/or messengerial delivery service which are inconsistent with these rules are deemed revoked, superseded or modified accordingly.

RULE VII

Effectivity

These rules shall take effect fifteen (15) days after publication in a newspaper of general circulation or in the Official Gazette.

(SGD.) PANTALEON D. ALVAREZ

Secretary

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