PRESCRIBING PROCEDURES FOR THE SPEEDY DISPOSITION OF ADMINISTRATIVE CASES IN BFAD

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Pursuant to Executive Order 26 vis-a-vis Book V of the Revised Administrative Code and Article 163 of the Consumer's Act or RA 7394, BFAD hereby provides for the rules of procedure in the conduct of administrative investigation.

1. Cases for administrative investigation shall be initiated upon a sworn complaint or a report of violation by a Food and Drug Regulation Officer (FDRO) of the BFAD duly accompanied by a record of inspection.

2. Except for complaints regarding a product contaminated with visible foreign matter, administrative investigation motu proprio involving adulterated product shall only be commenced upon a "confirmatory report of analysis."

This confirmatory report of analysis shall refer to a second report of analysis on another set of samples of the same product.

3. The complaint shall clearly state the facts showing the acts complained of, the party against whom the complaint is filed and the administrative relief sought.

4. The Report of Violation shall clearly state the acts or omissions in violation of the law, rules and regulation, the party or person who committed the violation, shall be accompanied by the record of inspection and the report of analysis with respect to adulterated and misbranded/mislabelled products.

The record of inspection shall indicate:

1)

the time and date of inspection;

2)

the BFAD license number of the establishment inspected, if any, and the validity of such License to Operate;

3)

the name and place or exact address of the establishment and the person who committed the violation;

4)

the manner of the collection of samples, if any;

5)

the inventory of the product from where the sample is taken and the report of analysis, whenever relevant;

6)

the findings of inspection; and

7)

other relevant facts.

5. Upon receipt of the complaint or report of violation, a notice shall be issued to the party respondent who shall be given ten (10) days to file an answer to the complaint or report of violation.

6. The answer shall be accompanied by the affidavits of witnesses, documentary evidence or offers of settlement. Provided, that such offers of settlement shall not be considered as an implied admission of guilt and/or liability on the part of the offeror.

7. After receipt of the answer, a preliminary conference will be set, whereby the hearing officer will provide a venue for conciliation, amicable settlement and proposals of adjustments.

In the event that an amicable settlement will not be reached, hearing of the case will be scheduled.

8. Affidavits and reports signed by government officials shall be adopted as the direct testimonies of the affiants/signatories.

No witness other than the government employees who are signatories of reports or official document, shall be called to testify unless or until he shall have reduced into an affidavit his direct testimony. Depositions whenever practicable and convenient, shall be used.

9. Motions for postponement may only be granted for justifiable reasons and only when the same is filed three days before the scheduled hearing.

For reasons of illness of any party indispensable in the conduct of the proceeding, a sworn medical certificate will be required to substantiate the ground for postponement.

10. The movants for an interlocutory order shall submit and attach to their motions a draft order stating the necessary facts and grounds for the interlocutory order applied for, which the Hearing Officer/or Chief of BFAD-LICD may or may not adopt.

11. After the hearing, memoranda or position papers will be required. Such memoranda or position papers shall be accompanied by a draft of the resolution/decision which the parties seek. Such draft resolution/decision shall clearly and distinctly state the facts and the law upon which it is based.

12. After appreciating the applicable laws, rules, regulations and the evidence submitted, the BFAD may adopt, in whole or in part, either of the parties' draft decisions or reject both.

13. The pertinent provisions of the Rules of Court, the Consumers Act or RA 7394 and prevailing jurisprudence shall be applied in a suppletory character in all matters of procedure not covered by these rules.

14. This Order shall take effect fifteen (15) days following completion of its publication in at least two newspapers of general circulation.

Adopted: 10 Feb. 1993

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