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ADMINISTRATIVE FINES FOR VIOLATIONS OF R.A. 7394; R.A. 7581; E.O. 913 SPECIFICALLY ON THE FOLLOWING: 1) R.A. 71 –PRICE TAG LAW; 2) ACT NO. 3883, AS AMENDED – BUSINESS NAME LAW; ...

DTI DEPARTMENT ADMINISTRATIVE ORDER NO. 7, S. 1999, July 14, 1999

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Pursuant to Title X, Book IV of E.O. 292, otherwise known as the Administrative Code of 1987 and to more effectively implement Article 164 (e) of Republic Act No. 7394, otherwise known as the Consumer Act of the Philippines, Section 6 (e) of Executive Order No. 913 and Section 10 (9) of Republic Act No. 7581, respectively, the following rules are hereby promulgated for the information, guidance and compliance of all concerned.

ARTICLE I - TITLE
Section 1. Title. — This Department Administrative Order is referred to as Schedule of Fines.

ARTICLE II - COVERAGE
Section 1. Scope & Coverage. — This Order covers administrative fines relative to:

a) R.A. 7394 (Consumer Act of the Philippine)

b) R.A. 7581 (Price Act)

c) E.O. 913, specifically on the following:

1. R.A. No. 71 — Price Tag Law
2. Act No. 3883, as amended, — Business Name Law
3. Act No. 2728 as amended by Acts 3715 & 3969 — Law on Brokerage
4. R.A. 3952 — Bulk Sales Law
5. Act No. 3893 — Bonded Warehouse Act

ARTICLE III
Section 1. Interpretation. — In case of doubt, this Order shall be interpreted taking into consideration the best interest of the consumers.

ARTICLE IV - SCHEDULE OF FINES FOR RA 7394
Section 1. The administrative fine to be imposed for violation of the Consumer Act of the Philippines shall be in such amount as deemed reasonable by the Secretary which shall in no case be less than Five Hundred (P500.00) pesos nor more than Three Hundred Thousand (P300,000.00) pesos depending on the gravity of the offense and an additional fine of not more than One Thousand (P1,000.00) pesos for each day of continuing violation.

SECTION 2. The provision of the preceding section shall apply to the following provisions of the Consumer Act:

- Price Tag

- Metrication

- Advertising and Sales Promotion

- Labeling and Fair Packaging

- Deceptive, Unfair and Unconscionable Sales Act and Practices

5.1 Home Solicitation
5.2 Referral Sales
5.3 Chain Distribution
5.4 Other Deceptive, Unfair and Unconscionable Sales Act & Practice

- Consumer Product and Service Warranties

- Liability for Products and Services

- Regulation of Repair and Service Firms

- Product Quality & Safety

Section 3. Without prejudice to all other considerations provided herein, the following schedule shall be the basis in the imposition of administrative fine for violation of the Consumer Act, particularly on the provisions on price tag and metrication.

SCHEDULE I

RETAILER WHOLESALER MANUFACTURER

Basic Fine P500.00 P1,000.00 P2,000.00

Minimum 500-10,000.00

1,000-25,000.00

2,000-50,000.00

Medium 1,000-25,000.00 2,000-50,000.00 4,000-100,000.00

Maximum 2,000-50,000.00 4,000-100,000.00 8,000-150,000.00

SECTION 4. In addition to all other requirements provided in this Order, the schedule to be applied in cases of violation of the Consumer Act as provided in Sec. 2, except (1) and (2) are as follows:

SCHEDULE II

RETAILER WHOLESALER MANUFACTURER

Basic Fine P500.00 P1,000.00 P2,000.00

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Minimum P500-50,000.00

P1,000-50,000.00

P2,000-100,000.00

Medium P1,000-100,000.00 P2,000-100,000.00 P4,000-150,000.00

Maximum P2,000-150,000.00 P4,000-150,000.00 P8,000-300,000.00

Section 5. In the event the offender is engaged in two or more activities, the activity to which a higher penalty corresponds, shall be made the basis in imposing the appropriate fine.

ARTICLE V - FINES IMPOSABLE UNDER E.O. 913
Section 1. For violation of Trade and Industry Laws under EO 913 mentioned elsewhere, the imposable administrative fine shall be in such amount as deemed reasonable by the Secretary which shall in no case be less than Five Hundred (P500.00) pesos nor more than One Hundred Fifty Thousand (P150,000.00) pesos taking into consideration the surrounding circumstances.

Section 2. The following Schedule shall apply to violations mentioned in the preceding section, after consideration of the attendant circumstances mentioned in Article VII and VIII of this Order.

SCHEDULE III

RETAILER WHOLESALER MANUFACTURER

Basic Fine P500.00 P1,000.00 P2,000.00

Minimum P500-10,000.00

P1,000-25,000.00

P2,000-50,000.00

Medium P1,000-25,000.00 P2,000-50,000.00 P4,000-100,000.00

Maximum P2,000-50,000.00 P4,000-100,000.00 P8,000-150,000.00

ARTICLE VI - FINES IMPOSABLE UNDER THE PRICE ACT
Section 1. Pursuant to Section 10 (9) of R.A. 7581, an administrative fine of not less than One Thousand (P1,000.00) pesos nor more than One Million (P1,000,000.00) pesos shall be imposed for violation of the aforementioned law subject to the circumstances provided herein and after due notice and hearing.

Section 2. In determining the imposable fine for violation of the Price Act, the following schedule shall be taken into consideration:

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SCHEDULE IV

RETAILER WHOLESALER MANUFACTURER

Basic Fine P1,000.00 P2,000.00 P3,000.00

Minimum P2,000-75,000.00

P3,000-150,000.00

P4,000-250,000.00

Medium P3,000-150,000.00 P4,000-250,000.00 P8,000-500,000.00

Maximum P4,000-300,000.00 P8,000-500,000.00 P20,000-1,000,000.00

Section 3. Whenever the offender is engaged in two or more activities, the activity to which a higher fine is attached shall be imposed, subject to all other requirements of the law.

ARTICLE VII - CIRCUMSTANCES TO BE CONSIDERED IN THE IMPOSITION OF FINES

Section 1. In addition to all other considerations in the imposition of fines mentioned in this Order, circumstances such as mitigating, aggravating and alternative shall be taken into account to arrive at an appropriate fine for violation of the laws covered by this Order.

Section 2. Mitigating circumstances. — The following are considered mitigating circumstances;

- Voluntary admission of guilt

- Willingness to enter into compromise agreement

- Willingness to furnish evidence and/or testify against supplier/manufacturer.

- Willingness to execute undertaking to cease and desist from violating any Trade and Industry Law in the future.

- Good faith

- Compliance with preventive measure of closure as directed.

- Any analogous circumstances

Section 3. Aggravating Circumstances. — The following circumstances are considered aggravating:

- 2nd or more offense of any TIL

- Multiple violation of Trade & Industry Law at one instance

- Violation of Trade & Industry law while undergoing proceedings for violation of another/same Trade and Industry Law.

- Violation by means of deceit and/or misrepresentation.

- Falsification of Official Receipts and/or documents as a means to hide violation.

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- Non-issuance and/or refusal to issue receipts when required by law

- Unjustified absence at mediation (bad faith)

- Non-compliance and/or refusal to comply with the agreement entered into.

- Employment of force, violence, intimidation by respondent against complainant in securing concession.

- Taking advantage of emergency situation and the like.

- Bribery or attempt to bribe public offices to stifle prosecution, without prejudice to public officer's prosecution.

- Non-compliance with any lawful order, decision, award by mediation/arbitration/adjudication officer.

- Concealment or attempt to conceal any piece of evidence.

- Engagement in trade by person whose license/permit or authority had been previously canceled or revoked for violation of Trade & Industry Laws, before the lapse of period for voluntary closure.

- When offender is a public officer.

- Offender not being a public officer but connived with public officer without prejudice to the latter's prosecution.

- Resisting public officer from validly enforcing lawful order.

- Failure/Refusal without valid reasons to comply or execute any undertaking (e.g. to desist from violating Trade & Industry law.)

- Commencement or engagement in trade/business prior to issuance of license/permit or authority to do business.

- Failure/non compliance with preventive measure of closure and desist order.

- Assault upon the person, property or relatives within the 4th civil degree of the enforcing officer by reason of their function

- Respondent by means of false or fraudulent misrepresentation orally or in writing or by other fraudulent means, shall procure from the Bureau the registration, accreditation, license, authority and/or permit to conduct its business.

- Any analogous circumstances.

Section 4. Alternative Circumstances. — The following are considered alternative circumstance, which may either be mitigating or aggravating;

1. First Offense — if it is involves small quantity — then its mitigating, otherwise its aggravating.

2. Quantity/Volumes of goods involved, if small quantity — then its mitigating, otherwise its aggravating.

3. Nature of goods involved — if considered basic/prime goods — its aggravating , if luxury — mitigating

4. Degree of education of violator.

5. Capitalization — For the purpose of determining capitalization of the respondent, reference to its Financial Statements shall be made. If the financial statements are not available or if it is necessary to arrive at a reasonable estimate, capitalization shall be determined by computing the total value of violative goods.

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ARTICLE VIII - OTHER CIRCUMSTANCES

Section 1. In the payment of fines, it shall be made in a lump sum and not later than 30 days from the date the undertaking is submitted. However in case the respondent is financially incapable to pay the designated fine in lump sum, the same shall be paid in installment for not exceeding 12 months. An undertaking to pay in installment specifying the due dates of each installment shall be submitted by the respondent.

Section 2. In addition to the administrative fine imposed, other penalties such as but not limited to closure, confiscation, and suspension if any circumstances warrant. However, respondent may voluntary pay a fine in excess of the maximum provided for under Article 64 of RA 7394, Section 2 (2) of EO 913 and Section 10 (9) of R.A. No. 7581, as the case may be, in lieu of the imposition of other penalties aforecited.

Section 3. For every day of continuing violation, amount of P1,000 shall be paid over and above the administrative fine imposed.

ARTICLE IX - COMPUTATION OF IMPOSABLE FINES AND RULES WHETHER FINE IS TO BE IMPOSED IN THE MINIMUM, MEDIUM OR MAXIMUM

Section 1. Basic Fines shall be imposed based on the schedule provided under the rule.

Section 2. In order to determine the additional fine and to determine whether the fine to be imposed is in the minimum, medium or maximum, the following rules shall be applied.

1. When there is neither mitigating nor aggravating circumstance present, Medium fine shall be imposed.

2. When there is only mitigating circumstances present, Minimum fine shall be imposed.

3. When there is only aggravating circumstances present, Maximum fine shall be imposed.

4. When both are present, the rule on offsetting shall be first applied. Whatever remains shall be considered in imposing the fine (i.e. to observe either 1, 2, 3.).

(Note: For the First offense involving sari-sari stores, wet market stalls with capitalization of not more than Fifty Thousand (P50,000.00) pesos only the basic fine of Five Hundred (P500.00) pesos shall be imposed.

ARTICLE X - TRANSITORY AND FINAL PROVISION
Section 1. Repealing clause. — All rules and regulations or parts thereof which are inconsistent with this Department Administrative Order are hereby repealed or amended accordingly.

Section 2. Effectivity. — This Order shall take effect after fifteen (15) days following the completion of their publication either in Official Gazette or in a newspaper of general circulation.

Adopted: 14 July 1999

(SGD.) JOSE TRINIDAD PARDO
Secretary

Recommending Approval:

(SGD.) ZENAIDA CUISON-MAGLAYA
Assistant Secretary &
Caretaker, BTRCP

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