

RE: GUIDELINES IN THE COLLECTION OF CONFISCATED BONDS AND EXECUTION OF ORDERS OF FORFEITURE VIS-A-VIS BONDS NOT COVERED BY A.M. NO. 04-7-02-SC (GUIDELINES ON CORPORATE SURETY BO...

MEMORANDUM CIRCULAR NO. 06-2006, June 20, 2006

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TO: ALL JUDGES, CLERKS OF COURT AND SHERIFFS OF THE JUDICIARYRE: GUIDELINES IN THE COLLECTION OF CONFISCATED BONDS AND EXECUTION OF ORDERS OF FORFEITURE VIS-A-VIS BONDS NOT COVERED BY A.M. NO. 04-7-02-SC (GUIDELINES ON CORPORATE SURETY BONDS)

WHEREAS, the Court in a Resolution en banc dated 20 July 2004 (A.M. No. 04-7-02-SC), approved the proposed Guidelines on Corporate Surety Bonds;

WHEREAS, the Guidelines as finalized and approved by the Court took effect on 16 August 2004;

WHEREAS, it has come to the knowledge of the Court that, considering the prospective nature of the guidelines, there are surety companies that are no longer accredited under the new guidelines but had incurred obligations with the courts before 16 August 2004;

WHEREAS, there is also a need to address the matter of surety companies that are accredited under the new guidelines but had incurred obligations with the courts before 16 August 2004 and whose continuing obligations had rendered insufficient the one-million cash deposit they had made under the new guidelines;

WHEREAS, under the Guidelines on Corporate Surety Bonds, accredited surety companies that had incurred obligations with the courts are only liable to have their Certificate of Accreditation and Authority revoked or suspended, leaving unclear the matter of the collection of their accrued obligations;

NOW, THEREFORE, the following guidelines are hereby prescribed for observance by all concerned:

A. General Inventory:

1. All Branch Clerks of Court/ Officers-in-Charge shall, within thirty (30) days upon receipt of this circular, conduct an inventory of the status of surety bonds posted on or before 16 August 2004 by bonding companies whether presently accredited or not (following the herein attached form) and submit a report under oath to the Presiding/Pairing/Acting Judge or in the absence thereof the Executive Judge, copy furnished the OCA.
2. Based on the inventory report, the judge concerned (or in the absence thereof the Executive Judge) shall determine which surety bonds should be confiscated/forfeited.
3. Upon determination of the surety bonds that should be confiscated/forfeited, the judge concerned shall issue an Order of Forfeiture and, if warranted, a Judgment of Forfeiture in accordance with Section 21, Rule 114 of the Rules of Court.
4. In cases where Orders of Forfeiture had been issued and the subsequent Judgment of Forfeiture had become final, the judge concerned shall immediately order the issuance of the corresponding writ of execution.

B. For Surety Companies that are no longer accredited under the new guidelines but have outstanding obligations with the courts:

1. The Branch Clerk of Court shall immediately issue the writ of execution and forward the same to the Sheriff. Within three (3) days upon receipt of the writ from the Branch Clerk of Court, the Sheriff shall, by written notice, require the surety company to pay the obligation in relation to the forfeited judicial bond within fifteen (15) days from receipt thereof.
2. If the obligation remains unsatisfied despite demand, the Sheriff shall make a Return bearing such fact and submit the same to the issuing court within three (3) days, copy furnished the OCA. Upon receipt of the Return, the Branch Clerk of Court shall report the matter to the judge concerned who shall forthwith issue an order directing the Branch Clerk of Court to issue a writ of execution addressed to the Clerk of Court/Ex-Officio Sheriff who exercises jurisdiction over the place where the principal office of the surety company is located.
3. Upon receipt of the writ of execution, the Clerk of Court/Ex-Officio Sheriff shall issue a Notice of Garnishment by serving notice upon the person owing such debts or having in his possession or control such credits to which the judgment obligor is entitled. This is without prejudice to the availment of other modes for satisfying the obligation under Section 9 (b), Rule 39 of the Rules of Civil Procedure if the obligation remains unsatisfied after the garnishment.
4. For purposes of the execution of writs issued relative to this memorandum circular, the provisions of OCA Administrative Circular No. 12, series of 1985 which provides that "no Sheriff or Deputy Sheriff shall execute a writ outside his territorial jurisdiction without first notifying in writing and seeking the assistance of, the Sheriff of the place where the execution shall take place" shall be suspended. The Clerk of Court/Ex-Officio Sheriff designated to implement the writ shall be deemed authorized to execute the writ issued pursuant to the preceding paragraph and he/she shall be duty-bound to proceed with its enforcement being directly answerable to the court issuing the same.
5. The Clerk of Court/Ex-Officio Sheriff shall submit a Return to the court of origin copy furnished the OCA within thirty (30) days from the implementation of the writ.

C. For Surety Companies that are accredited under the new guidelines but have outstanding obligations with the courts:

1. The obligation shall be satisfied in accordance with Section VI of A.M. No. 04-07-02 (Re: Execution of Judgments of Forfeiture in Bail Bonds; Claims Against the Cash Deposit).
2. If the obligation remains unsatisfied, the mode of collection provided for in Section B (paragraphs 2, 3, 4 and 5) of this memorandum circular shall be observed.

D. Expenses

The Clerk of Court shall submit to the Chief Justice through the Fiscal Management and Budget Office (FMBO) for approval the statement of estimated expenses for the implementation of the writ. Once approved, the FMBO shall issue a check payable to the Clerk of Court/Ex-Officio Sheriff referred to in Section B (paragraph 2) of this memorandum circular, subject to liquidation within the same period for rendering a Return upon implementation of the process.

E. Legal Fees

Provisions pertaining to Legal Fees shall not be applicable in so far as this memorandum circular is concerned.

This memorandum circular shall take effect immediately. Strict compliance is hereby enjoined.

20 June 2006.

(SGD.) ARTEMIO V. PANGANIBAN
Chief Justice

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