



RESOLUTION NO. 11-2010

ADOPTING GUIDELINES ON THE FILING AND DELIVERY OF COMMUNICATIONS IN CIAC CASES

WHEREAS, the CIAC Rules of Procedure Governing Construction Arbitration (CIAC Rules) generally provide for the filing/submission and delivery of communications in arbitration cases, as follows:

“Rule 3.1 Filing – Any party to a construction contract desiring to avail of arbitration shall file its Request for Arbitration in the prescribed form and number of copies to the Secretariat of the CIAC.

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Rule 6.2 Notices – Notifications or communications from the Secretariat and/or the Arbitrator(s) shall be validly made if they are delivered against receipt or forwarded by registered mail to the address or last known address of the party/ies for whom the same are intended as notified by the party/ies in question or by the other party/ies as appropriate.

If the Notice to Respondent/Request to Answer the complaint under Section 3.3 hereof is not received by Respondent due to wrong address or because Respondent has moved out from, or cannot be found at, the last known address provided by the Claimant, the CIAC Secretariat shall inform the Claimant of the non-delivery/non-receipt of the notice and require Claimant to provide CIAC with Respondent’s correct/new address within fifteen (15) days from receipt of advice. If Claimant fails to comply, the Commission shall dismiss the case without prejudice to its refiling once the whereabouts of Respondent/s are known to Claimant/s.

6.2.1 Notification or communication shall be deemed to have been effected on the date when actually or constructively received.”

WHEREAS, raising the need to clarify, by way of specific implementing guidelines, the abovementioned general provisions of the CIAC Rules on filing and notices/communications, the Philippine Institute of Construction Arbitrators and Mediators, Inc (PICAM), an organization composed exclusively of CIAC-accredited arbitrators and mediators, expressed apprehension over problems encountered in the delivery of notices/communications to parties who are no longer residing or cannot be found at the addresses given or at their last known addresses;

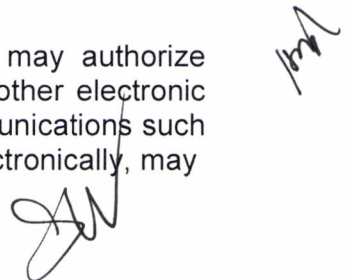
WHEREAS, to address these concerns and mindful that the delivery/provision of notices/pleadings/processes/communications is essential to comply with the requirements of due process, the PICAM, during its 10th Board of Trustees Meeting held on 07 October 2010, approved the draft guidelines on the matter prepared by one of its trustees, Atty. Custodio O. Parlade, for endorsement to the Commission;

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[Signature]

WHEREAS, the Commission, in its 131st Regular Meeting held on 08 November 2010, discussed the draft guidelines and found the same to be in order;

NOW, THEREFORE, THE COMMISSION, by virtue of the powers vested in it by law, and based on the recommendation of the PICAM, **RESOLVES** to adopt the following Guidelines on the Filing and Delivery of Communications in CIAC Cases:

1. The term "communications" shall apply to submissions made to, or filed with, the Construction Industry Arbitration Commission [CIAC] by a party in connection with a case to be filed, and/or to submissions made or filed with the Arbitral Tribunal when the case is already pending before CIAC which shall include all pleadings, motions, manifestations, comments, oppositions, challenges of arbitrators, draft decisions, reports, witness statements, exhibits, and notifications. It shall also apply to notices sent or delivered to the parties from CIAC or from an arbitral tribunal appointed to hear such case which shall include awards, procedural orders, terms of reference, directions and notices.
2. Filing of communications shall be made either by personal delivery to CIAC or by courier. If filing is made by courier, the communication is deemed filed on the date the courier delivers the communication to, and is received by, the CIAC Secretariat [the "Secretariat"]. If filing fees are required to be paid upon filing, the communication is deemed filed on the date such fees are paid to CIAC.
3. Delivery of initial and subsequent communications from CIAC or an arbitral tribunal to a non-resident party registered as a foreign corporation allowed to engage in business in the Philippines, may be made to its resident agent in the Philippines or in default of a resident agent, to the Securities and Exchange Commission in accordance with law.
4. Delivery of initial and subsequent communications from CIAC or from the arbitral tribunal to any other non-resident party may be made electronically or by registered air mail or by some other form of communication to the latter's last known address.
5. Delivery of initial and subsequent communications from CIAC or from the arbitral tribunal to any party whose whereabouts are unknown shall be made to his/her/its last known address by personal delivery or by courier. The communication is deemed delivered, when made in this manner, when it is duly certified to CIAC or the arbitral tribunal.
6. Communications, other than the initiatory pleading, shall not be considered filed unless there is proof of delivery of such communications upon the other parties in the form of a stamp mark on the face of such communications or a certification of delivery by a courier. Communications to a party shall be made to his/her/its counsel of record. Communications delivered to a party's counsel of record shall be deemed delivered to all lawyers of record of that party.
7. The arbitral tribunal, upon prior consultation with the parties, may authorize delivery of communications by electronic mail, telefax or some other electronic form that provides a record of the delivery, and require that communications such as pleadings, witness statements or exhibits, when delivered electronically, may



be followed by the delivery of the hard copy of such communications within such period that the arbitral tribunal may fix.

8. The arbitral tribunal, in exceptional circumstances, having regard to the means of communication available to a party to a case, may allow delivery of communications by postal special delivery or registered mail or, with the consent of the party concerned, delivery may be made in some other acceptable form or to the address of a third person.

This Resolution shall take effect fifteen (15) days after receipt of certified copies thereof by the Office of the National Administrative Register, University of the Philippines Law Center.

UNANIMOUSLY APPROVED.

08 November 2010, Makati City.


ISAAC S. DAVID
Acting Chairman 


SAMSON C. LAZO
Member