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Department of Finance
INSURANCE COMMISSION
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**INSURANCE MEMORANDUM
CIRCULAR NO. 2-91**

Pursuant to the provisions of Sections 414 and 416 of the Insurance Code, the following rules are hereby promulgated:

**RULES OF PROCEDURE GOVERNING
HEARINGS BEFORE THE INSURANCE COMMISSION**

RULE 1

DEFINITION, CONSTRUCTION, AND SCOPE

Section 1. Definition – For purposes of these Rules, the word “Commission” shall refer to the Insurance Commission and the word “Commissioner” shall refer to the Insurance Commissioner.

Section 2. How Construed – These Rules shall be liberally construed in order to promote and attain the principal objective of adjudicating or settling claims and complaints and/or assisting the parties in obtaining a just, speedy and inexpensive determination of claims and complaints involving any loss, damage or liability for which an insurer may be answerable under any kind of policy or contract of insurance or for which such insurer may be liable under a contract of suretyship, or for which a reinsurer may be sued under any contract of reinsurance it may have entered into, or for which a mutual benefit association may be held liable under the membership certificates it has issued to its members.

Section 3. Scope – These rules shall govern hearings of such claims and complaints when the amount of any loss, damage or liability, excluding interest, costs and attorney’s fees, being claimed or sued upon any kind of insurance, bond, reinsurance contract, or membership certificate does not exceed in any single claim ONE HUNDRED THOUSAND PESOS (P 100,000.00).

RULE 2

PARTIES TO THE ACTION OR PROCEEDINGS

Section 1. Parties in Interest – Every action filed with the Commission must be prosecuted in the name of the real party in interest, who may be a natural or juridical person. The person who files a complaint with the Commission seeking relief from an insurance company or mutual benefit association doing business in the Philippines for any loss, damage or liability for which an insurer may be answerable under any kind of policy or contract of insurance, or for which such insurer may be liable under a contract

of suretyship, or for which a reinsurer may be sued under any contract of reinsurance it may have entered into, or for which a mutual benefit association may be held liable under the membership certificates it has issued to its members, shall be called the Complainant. The insurance company or mutual benefit association against whom the relief sought is directed shall be called the Respondent.

RULE 3

COMMENCEMENT OF ACTION AND PLEADINGS

Section 1. Commencement of Action – Any person seeking relief from the insurance company or mutual benefit association shall file with the Commission a verified complaint stating that the allegations thereof are true of his own knowledge.

Section 2. Form of Pleadings: copies – All pleadings filed with the Commission shall be legibly written or printed on legal size paper. The original and three (3) signed copies of every pleading shall be accepted by the Commission if they conform to the formal requirements provided by these Rules.

Section 3. Contents of Complaints – The complaint shall state the names and addresses of the parties, the substance of the claim, the date when the loss occurred, the amount of claim, the grounds of action and the relief sought.

RULE 4

Section 1. Docketing Fee – Upon filing any action or proceedings, or a permissive counterclaim or crossclaim against a co-party for any claim arising out of the same transaction or occurrence that is the subject matter of the original action or of counter claim therein, a third party complaint and a complaint in intervention and for all services in the same, the complainant shall pay the Commission docket fee to be determined on the basis of the principal amount claimed, exclusive of interest and attorney's fee as follows, to wit:

(1)	If the amount of the principal claim is less than P 500 P 25.00
(2)	P 500 or more but less than P 5,000 P 50.00
(3)	P 5,000 or more but less than P 10,000 P 100.00
(4)	P 10,000 or more but less than P 20,000 P 150.00
(5)	P 20,000 or more but less than P 50,000 P 200.00
(6)	P 50,000 or more but not exceeding P 100,000 P 500.00

The amount, however, of ONE THOUSAND PESOS (P 1,000.00) as docket fee shall be charged against an insurance company claiming for the recovery of the amount it has paid to its assured under its own damage cover against another insurance company.

Section 2. Pauper Litigant – The Commission may authorize a complainant to prosecute his action as pauper litigant upon proper showing, through verified motion that he has no means to pay the legal expenses as provided for in these Rules. Such authority once given shall include an exemption

from payment of docketing and other legal fees. The legal fees shall be a lien to any judgment rendered in the case favorably to the pauper, unless the Commission otherwise decides.

RULE 5

ANSWER

Section 1. Answer – Upon receipt of the complaint, the Commission shall forward a copy thereof to the respondent, requiring him to file his answer within fifteen (15) days from receipt thereof. The respondent must answer the complaint in writing by admitting or denying specifically the material allegations therein or alleging any lawful defense.

Section 2. Completeness of Service – Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of five (5) days after mailing, unless the Commission otherwise provides. Service by registered mail is complete upon actual receipt by the addressee; but if he fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect at the expiration of such time.

RULE 6

MOTION TO DISMISS

Section 1. Grounds – The respondent may within the time for filing answer, file a motion to dismiss the complaint on any of the following grounds:

- (a) The Commission has no jurisdiction over the subject matter or nature of the action;
- (b) Pendency of another action before the court between the same parties for the same cause of action;
- (c) The complaint does not allege facts which involve any claim or complaint involving any loss, damage or liability for which the respondent may be liable under any kind of policy or membership certificate or contract of insurance or guaranty or suretyship.

Section 2. Disposition of Motion – The Commission, in its discretion, may deny or grant the motion or allow amendment of pleadings, or may defer determination of the motion until after hearing if the ground alleged therein does not appear to be indubitable.

Section 3. Time to plead. – If the motion to dismiss is denied or if determination thereof is deferred, the movant shall file his answer within the period prescribed by these Rules, computed from the time he received notice of the denial or determent, unless the Commission provides a different period.

RULE 7

CLAIMS UNDER THE COMPULSARY MOTOR VEHICLE LIABILITY UNDER CHAPTER VI OF THE INSURANCE CODE

Section 1. Pleadings; Hearings; Limitation on Postponements. – Upon receipt of the complaint, the Commission shall forward a copy thereof to the respondent requiring him to file his answer within a non-extendible period of fifteen (15) days from service of summons, and the complainant shall file his answer to the counterclaim, if there be any, within a non-extendible period of fifteen (15) days. Immediately upon receipt of the last pleading completing the joinder of issues, or the expiration of the period for filing the same, the Commission shall set the case for hearing. On the date of hearing but before actually receiving evidence on the case, the Commission shall endeavor to settle the case amicably: Provided, that in no case shall any amicable settlement work out to give the complainant less rights, benefits, or advantage that the law grants him and provided further that a judgment approving such amicable settlement shall be immediately executory. The absence of counsel or any or both the parties shall not be a ground for postponement, provided, they were duly notified.

RULE 8

PRE-TRIAL AND AMICABLE SETTLEMENT

Section 1. Pre-Trial Conference – In any action, the Commission shall direct the parties and their counsel before the actual hearing to appear before him for a pre-trial conference to consider:

- (a) the possibility of an amicable settlement;
- (b) the simplification of the issues;
- (c) the necessity or desirability of amendment to the pleadings;
- (d) the possibility of obtaining admission or stipulation of facts;
- (e) the exchange and acceptance of service of exhibits to be offered in evidence;
- (f) the limitation of the number of witnesses;
- (g) the admissibility and relevance of evidence proposed to be submitted by the parties;
- (h) such other matters as may aid in the just, speedy and inexpensive disposition of the case.

All the parties and their attorneys shall attend the pre-trial conference. The presence of a party is indispensable unless his counsel is authorized to enter into agreement on any or all the above matters. The parties shall inform each other of the nature and character of evidence they propose to offer, indicating the purpose of each item of evidence.

Section 2. Records of Pre-Trial Conference – After the pre-trial conference, the Commission shall issue an order which recites the action taken at the conference, the amendments allowed on the pleadings, and/or the agreements made by the parties as to any of the matters considered. Such order

shall limit the issues for the formal hearing to those not disposed of by admissions and agreements of the parties and when entered, shall serve as the guide in the subsequent course of action or hearing unless modified before the formal hearing to prevent manifest injustice.

Section 3. Amicable Settlement – Unless it shall be prejudicial to public interest or to third parties, the Commission shall endeavor to effect an amicable settlement of the case at any stage of the proceedings, provided it shall not be contrary to any law, rule or regulation nor against public policy. The amicable settlement shall be reduced in writing duly signed by the parties and their counsel, which shall be the basis of an order or decision of the Commission.

RULE 9

Section 1. Notice of Hearing – After the respondent has filed his answer or after the time limit for filing answer has expired, the parties or their counsel, shall be served with notice of hearing at least five (5) days before the date set for hearing.

Section 2. Hearing Officer – the Commissioner or any hearing officer or officers designated by him in a proper order shall conduct hearing and shall be empowered to administer oaths and affirmations, to issue subpoenas, take evidence and to compel attendance of parties and witnesses and the production of any books, papers, correspondence, memoranda or other records which the Commission deems relevant or material to the case or inquiry.

Section 3. Order of Hearing – Unless the Commission directs otherwise, the order of hearing shall be as follows:

- (a) The complainant must produce the evidence in support of his complaint;
- (b) The respondent shall then offer evidence in support of his defense or claim;
- (c) The third, etc., party respondent, if any, shall introduce evidence of the material facts by him pleaded;
- (d) The parties may then respectively offer rebutting evidence only, unless the Commission, for good reasons in the furtherance of justice, permits them to offer evidence upon their original case;
- (e) When the evidence is concluded, unless the parties agree to submit the case without argument, the complainant or his counsel may take the opening argument, then the respondent, the third, etc., party or their respective counsel, and the complainant or his counsel may conclude the argument.

Every party shall have the right to conduct such cross-examination of witness as may be required for the full and true disclosure of the facts of the case.

The hearing officer shall receive such relevant and material evidence, rule on offers of evidence and exclude all irrelevant matters, and shall act according to justice and fairness and shall not be bound by the technical rules of evidence.

Section 4. Depositions – In any hearing, the Commission, upon appropriate order, may cause the deposition of witnesses residing within or outside the Philippines to be taken in the manner prescribed under Rule 24 of the Rules of Court. Where witnesses reside in a place distant from Manila

and it would be inconvenient and expensive for them to appear personally before the Commission, the Commissioner may, by proper order, designate a Municipal Judge or any Clerk of Court of the Regional Trial Court to take depositions of such witnesses in any case pending before the Commission. It shall be the duty of the official to set promptly a date or dates for the taking of such depositions, giving timely notice to parties, and on said date to proceed to take the depositions, reducing them in writing. After the depositions have been taken, the official so designated shall certify to the correctness of the depositions thus taken and forward the same as soon as possible to the Commission. It shall be the duty of the respective parties to furnish stenographers for taking and transcribing the testimony taken. In case there are no stenographers available, the testimony shall be taken by such persons as the Municipal Judge or any Clerk of Court may designate. The Commissioner may also designate a notary public to take the deposition in the manner herein provided.

Section 5. Postponement – Any motion for postponement or continuance of hearing may be granted or denied by the Commission in its discretion. Such motion must be filed with the Commission and copy thereof furnished the other party at least five (5) days before the date of hearing, otherwise, it shall not be considered; provided, however, that no more than three (3) postponements shall be granted to any party.

RULE 10

DECISIONS OR ORDERS

Section 1. Decision or Order – Any decision or order determining the merits of a case shall be in writing and signed by the Commissioner stating clearly and distinctly the facts, the law and/or rules and regulations on which it is based and a copy thereof shall be served the parties either personally or by registered mail.

Section 2. Finality of Decision or Order – The decision or order of the Commission shall become final and executory after the lapse of fifteen (15) days from the date of receipt of a copy thereof by the parties unless a motion for reconsideration of the decision or order is filed within the period herein prescribed.

RULE 11

MOTION FOR RECONSIDERATION

Section 1. Motion for Reconsideration – Within fifteen (15) days from receipt of the decision or order of the Commission, the aggrieved party may be allowed to file a motion for reconsideration of such order, ruling or decision. If the motion is denied, the movant may appeal during the remaining period for appeal reckoned from notice of the resolution of denial.

Section 2. Opposition to Motion for Reconsideration – Within fifteen (15) days from receipt of a copy of the Motion for Reconsideration, the adverse party may file his opposition thereto and serve a copy thereof upon the movant.

Section 3. When Deemed Submitted. – After the opposition is filed, or at the expiration of the period for filing the same without any such opposition having been filed, the motion for reconsideration shall be deemed submitted for resolution by the Commission unless the Commission shall consider it necessary to hear the oral arguments of the parties, in which case the Commission shall issue the corresponding order or notice to that effect.

RULE 12

APPEAL FROM ORDER OR DECISION

Section 1. How Appeal Taken. – Any party affected by a final order, ruling or decision of the Commission may within fifteen (15) days from notice of such order, ruling or decision file a verified petition for review in six (6) legible copies with the Court of Appeals, a copy of which shall be served on the Commission and on the adverse party. Proof of service of the petition on the Commission and on the adverse party shall be attached to the petition.

Section 2. Contents of Petition. - The petition for review shall contain a concise statement of the facts and issues involved and the grounds relied upon for the review and shall be accompanied by a duplicate original or a certified true copy of the ruling, award, order, decision or judgment appealed from, together with certified true copies of such material portions of the record as are referred to therein and other supporting papers. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

Section 3. Effect of Appeal. – The appeal shall not stay the order, ruling or decision sought to be reviewed unless the Court of Appeals shall direct otherwise upon such terms as it may deem just.

RULE 13

CONTEMPT

Section 1. Constructive Contempt – the Commission may, in its discretion file an action in the Regional Trial Court against any person for contempt on any of the following grounds:

- (a) Failure or refusal of a person, without just cause, to obey a subpoena duly issued by the Commission, to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, if within his power to do so;
- (b) Disobedience of or refusal of a person to comply with or resistance to any lawful writ, process, order or decision of the Commissioner and;
- (c) Any kind of abuse of or any unlawful interference with the processes or proceedings of the Commission, not constituting direct contempt.

RULE 14

APPEARANCE OF ATTORNEYS; STENOGRAPHERS

Section 1. Appearance of Attorneys in the Commission – Every attorney appearing before any hearing or investigation conducted by the Commission shall manifest orally or in writing his appearance for a party indicating his name and exact address and exhibit his Privilege Tax Receipt for the current year and his IBP Number and any pleading filed and signed by him shall likewise contain such

information; otherwise, he shall not be allowed to continue proceeding or defending any suit or claim, or deal with the Commission.

Section 2. Stenographic Notes – It shall be the duty of the Stenographic Reporter who has attended the hearing conducted by the Commission to submit to the Hearing Officer within a reasonable period of time his transcript of stenographic notes duly initialed on each page and signed on the last page thereof.

RUEL 15

COSTS

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| (a) | For the complaint or answer | P 15.00 |
| (b) | For attendance of prevailing party and that of his attorney, down to and including final judgment | 20.00 |
| (c) | For each witness necessarily produced, for each day's attendance plus lawful travelling fees | 2.00 |
| (d) | For each deposition lawfully taken and produced in evidence | 5.00 |
| (e) | For original documents, deeds, or papers of any kind produced at the hearing | Nothing |
| (f) | For official copies of such documents deeds or papers | The lawful fees paid for obtaining such copies |
| (g) | In entering and docketing the action or recording the proceeding, for the service of any action, and all lawful fees paid by the prevailing party | All the lawful fees paid by him |

RULE 16

APPLICABILITY OF THE RULES OF COURT

Section 1. Applicability of the Rules of Court – The provisions of the Rules of Court shall apply in an analogous and suppletory character whenever practical and convenient.

RULE 17

EFFECTIVITY

This Circular hereby supersedes Insurance Memorandum Circulars Nos. 1-80 and 1-86, of the Insurance Commission and shall take effect upon approval by the Secretary of Finance.

Sgd. ADELITA A. VERGEL DE DIOS
Insurance Commissioner

APPROVED: May 22, 1991

Sgd. JESUS P. ESTANISLAO
Secretary of Finance