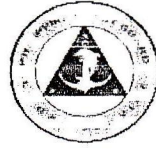


CIRCULAR NR 03-11

**APPEARANCE OF
LAWYERS BEFORE
JUDICIAL
TRIBUNAL/OTHER
AGENCIES**

30 MARCH 2011



DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS
PUNONGHIMPILAN TANOD BAYBAYIN NG PILIPINAS
(Headquarters Philippine Coast Guard)
COAST GUARD LEGAL SERVICE
139 25th Street, Port Area
Manila, 1018

HPCG/CGLS

30 March 2011

CIRCULAR
NUMBER 03-11

**APPEARANCE OF PCG LAWYERS BEFORE JUDICIAL
TRIBUNALS/OTHER AGENCIES**

1. PURPOSE:

This Circular prescribes the regulations under which members of the PCG on active duty may be permitted to appear occasionally before any civil court or other judicial tribunal or government agency as attorney or counsel in connection with any matter outside of or not related to their official duties. Occasional appearance as counsel in isolated cases and under the condition imposed by this Circular may be permitted as not amounting to engaging in a profession within the contemplation of the inhibition against practice of profession by government employee.

2. AUTHORITY:

Memorandum Circular Nr 17, OP, dtd 4 Sep 86, Sec 7 (b) (2) of RA 6713 (Code of Conduct and Ethical Standard for Public Officials and Employee) and Circular Number 3, AFP dated 13 January 1993.

3. RESTRICTIONS:

a. Section 7 (b) (2) of RA 6713, provides that public officials and employees during their incumbency shall not engage in the private practice of their profession unless authorized by the Constitution or law, provided that such practice will not conflict or tend to conflict with their official functions. Memorandum Circular Nr 17 of the President dtd 4 Sep 86 prohibits public officers and employees from engaging directly in any private business, vocation or profession, among other business activities, without a written permission from the head of department; Provided, that this prohibition will be absolute if the entire time of the concerned officer or employee be at the disposal of the Government.

**MEMORANDUM CIRCULAR NO. 17 - REVOKING MEMORANDUM
CIRCULAR NO. 1025 DATED NOVEMBER 25, 1977**

Memorandum Circular No. 1025 dated November 25, 1977 "PROHIBITING ANY GOVERNMENT OFFICIAL AND EMPLOYEE FROM ACCEPTING PRIVATE EMPLOYMENT IN ANY CAPACITY WITHOUT PRIOR AUTHORITY OF THE OFFICE OF THE PRESIDENT," is hereby revoked.

The authority to grant permission to any official or employee shall be granted by the head of the ministry or agency in accordance with Section 12, Rule XVIII of the Revised Civil Service Rules, which provides:

"Sec. 12. No officer or employee shall engage directly in any private business, vocation, or profession or be connected with any commercial, credit, agricultural, or industrial undertaking without a written permission from the head of Department; Provided, That his prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the Government; Provided, further, That if an employee is granted permission to engage in outside activities, the time so devoted outside of office hours should be fixed by the chief of the agency to the end that it will not impair in any way the efficiency of the officer or employee: And provided, finally, That no permission is necessary in the case of investments, made by an officer or employee, which do not involve any real or apparent conflict between his private interests and public duties, or in any way influence him in the discharge of his duties, and he shall not take part in the management of the enterprise or become an officer or member of the board of directors",

Subject to any additional conditions which the head of the office deems necessary in each particular case in the interest of the service, as expressed in the various issuances of the Civil Service Commission.

Manila, September 4, 1986.

13 January 1993

CIRCULAR
NUMBER 3APPEARANCE OF AFP LAWYERS BEFORE JUDICIAL
TRIBUNALS/OTHER AGENCIES

1. **PURPOSE:** This Circular prescribes the regulations under which members of the AFP on active duty may be permitted to appear occasionally before any civil court or other judicial tribunal or government agency as attorney or counsel in connection with any matter outside of or not related to their official duties. Occasional appearance as counsel in isolated cases and under the condition imposed by this Circular may be permitted as not amounting to engaging in a profession within the contemplation of the inhibition against practice of profession by government employees.

2. **AUTHORITY:** Memorandum Circular Nr 17, OP, dtd 4 Sep 86 and Section 7(b) (2) of RA 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

3. **RESTRICTIONS:** a. Section 7(b) (2) of RA 6713, provides that public officials and employees during their incumbency shall not engage in the private practice of their profession unless authorized by the Constitution or law, provided that such practice will not conflict or tend to conflict with their official functions. Memorandum Circular Nr 17 of the President dtd 4 Sep 86 prohibits public officers and employees from engaging directly in any private business, vocation or profession, among other business activities, without a written permission from the head of department. Provided, that this prohibition will be absolute if the entire time of the concerned officer or employees be at the disposal of the Government.

b. Grant of permission under this Circular shall be on a case to case basis and shall not authorize the grantee to privately exercise his profession on a regular basis.

c. No appearance as counsel before the civil courts or other judicial tribunal or government agency shall be made in cases where the AFP is the adverse party or has an interest, direct or indirect; or where such appearance would tend to interfere with or hamper in any degree the full and proper discharge of official duties or would normally give rise to a reasonable suspicion that such appearance would have that effect.

d. Appearance authorized under this circular shall be limited to the following cases:

(1) De officio cases where counsel volunteered his services solely for self-improvement and to gain experience.

(2) Cases affecting the interest of counsel members of his family and/or household to include ascendants, descendants, brothers, sisters and household helpers.

e. All such appearance shall be made on authorized

case, furlough and/or leave shall be without prejudice to reversion and/or termination whenever warranted by the needs of the service.

4. **APPLICATION FOR PERMIT TO APPEAR.** a. Approving authority. The Chief of Staff, AFP (See VII, para 15 AFPR G-130-131, as amended). The authority of the Chief of Staff to grant and terminate permission to appear as counsel may be delegated to The Judge Advocate General, AFP, who in the event of such delegation, may act for and under the command and in the name of the Chief of Staff in all matters pertaining to this Circular.

b. Application must be addressed to the Chief of Staff (Attn: TUSA) and copied thru channels.

c. Applications will include a statement of the nature of the action, names of the parties, court or government agency trying the case, date and place of the trial and applicant's interest or intervention in the case; that applicant's appearance would not interfere with or hamper in any degree his full and proper discharge of his official duties, or normally give rise to a reasonable suspicion that such appearance would have that effect, or result to the prejudice of the AFP, and that applicant will forgo his case, furlough and/or leave and with it his appearance as counsel (with the courts approval on proper cases) should the exigencies of the service so demand (See para 3 above).

5. **TERMINATION:** Permission to appear as counsel granted under this Circular may be terminated by the Chief of Staff, AFP thru the Judge Advocate General whenever it shall appear that such appearance is prejudicial to the interest of the Armed Forces of the Philippines.

6. **RESCISSION:** Circular Nr 13, this Headquarters dtd 11 Oct 55 is hereby rescinded.

BY ORDER OF THE SECRETARY OF NATIONAL DEFENSE:

OFFICIAL:

BISANEO C ABANIA
General, AFP
Chief of Staff

OCTAVIO S DAUZ
Captain, PN (GSC)
The Adjutant General

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