

Republika ng Pilipinas
Pambansang Pangasiwaan ng Patubig
(NATIONAL IRRIGATION ADMINISTRATION)
Lungsod ng Quezon

OFFICE ADDRESS: NATIONAL GOVERNMENT CENTER
E. DE LOS SANTOS AVENUE
QUEZON CITY PHILIPPINES

TELEPHONE NOS.: 929-60-71 to 79
FAX NO.: 926-28-46

OUR REFERENCE:

MC No. 40, 2001

MEMORANDUM CIRCULAR

TO: THE ASSISTANT ADMINISTRATORS, DEPARTMENT/
REGIONAL/OPERATIONS/ PROJECT MANAGERS, PROVINCIAL
IRRIGATION OFFICERS, IRRIGATION SUPERINTENDENTS AND ALL
OTHERS CONCERNED


SUBJECT: ENTREPRENEURIAL ACTIVITIES OF NIA EMPLOYEES

Attached for your information and guidance is Resolution No. 002000 dated September 4, 2000 of the Civil Service Commission whereby the prohibition against engaging in any private business or profession without the written permission of the head of office is reiterated as expressly provided under Section 18, Rule XIII of the Commission's Memorandum Circular No. 15, s. 1999 (Additional Provisions and Amendments to CSC Memorandum Circular No. 40, s. 1998)

Attention is particularly invited to the Supreme Court ruling in the case **In the Matter of the Petition for Authority to Continue Use of the Firm Name" Ozaete, Romulo, etc..**, 92 SCRA 1 declaring that "xxx the conduct of business or economic ventures shall not be done during office hours nor within the required forty (40) hour work week period; xxx."

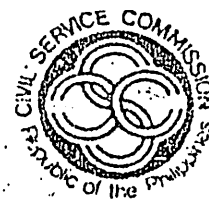
All other issuances which are inconsistent herewith are hereby repealed/modified accordingly.

Strict compliance is enjoined.


ORLANDO C. HONDRADE
Deputy Administrator
& concurrent Officer-In-Charge
Office of the Administrator

22 May, 2001

Republic of the Philippines
CIVIL SERVICE COMMISSION



Serbisyo Sibil: Isang Daang Taong Paglilingkod

LOAYON, Greg. Jr., D.
Re: Legal Query; Entrepreneurial Activity
X-----X

RESOLUTION NO. 002000

Greg D. Loayon, Jr., through electronic mail requests clarification on the propriety of entrepreneurial activities of government employees. Specifically, clarification is sought on whether or not a clearance from the employee's superior is necessary before the said employee can engage in a part-time career as a life insurance agent, to wit:

"May I inquire as to the Civil Service Circular pertaining to government employees engaging in part-time work as life insurance agents. Whereas there was a need for clearance from the employees' superior before they can engage in such part-time career, I believe there was a Civil Service Circular which allowed such employees' to become insurance agents without need for clearance, as long as it doesn't interfere with their official duties."

Relevant to the foregoing concern is Civil Service Commission Memorandum Circular No. 32, series of 1993 (CSC MC # 32, s. 1993) as reiterated in CSC MC # 32, s. 1997, which provides that economic ventures may be allowed subject to certain enumerated conditions. The relevant portions of CSC MC # 32, s. 1993 read, as follows:

"Working as real estate or insurance agents, direct selling of commodities and merchandise, operating retail stores, managing a farm, and contracting out specialized services are some activities from which some employees derive extra income and sustain their living standards."

"Cognizant of the reasons behind these economic ventures, entrepreneurship may be allowed subject, however, to the following conditions:

Constitution Hills, Batasang Pambansa Complex, Diliman 1126, Quezon City
Tel. Nos. 931-7935 / 931-7939 / 931-8092 e-mail: cscphil@csc.gov.ph

Certified True Copy
NOEMI A. REILLO
Board Secretary IV
Commission Proper Secretariat

CSC Resolution No. 002000 dated 09.04.2000

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"1. That government employees shall strictly observe Section 7, paragraphs (a), (b) and (c) of R.A. 6713 which declares as unlawful the following acts and transactions of any public official and employee:

x x x

"(a) Financial and material interest. - Public officials and employees shall not, directly or indirectly have any financial or material interest in any transaction requiring the approval of their office.

"(b) Outside employment and other activities related thereto. - Public officials and employees during their incumbency shall not:

"(1) Own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law;

"(2) Engage in the private practice of their own profession unless authorized by the Constitution or law, provided that such practice will not conflict with their official functions; or

"(3) Recommend any person to any position in a private enterprise which has a regular or pending official transaction with their office.

"2. That the conduct of business or economic ventures shall not conflict or tend to conflict with the official functions of the public official or employee;

"3. That the conduct of business or economic ventures shall not be done during office hours nor within the required forty (40) hour work week period; and

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Board Secretary IV
Commission Proper Secretariat

"4. That the public official or employee shall not in any manner use government resources, facilities, equipment and supplies in the conduct of his or her business or economic ventures."

The text of CSC MC # 32, s. 1993, used the phrase "may be allowed". Such wording reveals the intention of the Commission to allow such undertaking provided the conditions enumerated by said MC are observed.

It should be emphasized that CSC MC No. 32, s. 1993 and s. 1997 are silent as to the requirement of clearance from the head of office before the employee may engage in entrepreneurial activity.

However, Section 18, Rule 13 of CSC MC No. 15, s. 1999 expressly prohibits a government officer or employee from engaging directly or indirectly in any private business or profession without the written permission from the head of agency, to wit:

"SEC. 18. UNLESS OTHERWISE PROVIDED BY LAW, NO OFFICER OR EMPLOYEE SHALL ENGAGE DIRECTLY OR INDIRECTLY IN ANY PRIVATE BUSINESS OR PROFESSION WITHOUT A WRITTEN PERMISSION FROM THE HEAD OF AGENCY. PROVIDED THAT THIS 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 DEVOTED OUTSIDE OF OFFICE HOURS SHOULD BE FIXED BY THE HEAD OF THE AGENCY SO THAT IT WILL NOT IMPAIR IN ANY WAY THE EFFICIENCY OF THE OFFICER OR EMPLOYEE NOR POSE A CONFLICT OR TEND TO CONFLICT WITH THE OFFICIAL FUNCTIONS."

The phrase "any private business" is herein defined as synonymous to an entrepreneurial activity that does not constitute a profession.

Also, relevant is the ruling of the Supreme Court in the case of In the Matter of the Petition for Authority to Continue Use of the Firm Name "Ozaeta, Romulo, etc.", 92 SCRA 1, which defined a profession as "a group of men pursuing a learned art x x x."

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RODOLFO A. SERRANO
Board Secretary III
Commission Proper Secretariat

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"1. That government employees shall strictly observe Section 7, paragraphs (a), (b) and (c) of R.A. 6713 which declares as unlawful the following acts and transactions of any public official and employee:

x x x

"(a) Financial and material interest. - Public officials and employees shall not, directly or indirectly have any financial or material interest in any transaction requiring the approval of their office.

"(b) Outside employment and other activities related thereto. - Public officials and employees during their incumbency shall not:

"(1) Own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law;

"(2) Engage in the private practice of their own profession unless authorized by the Constitution or law, provided that such practice will not conflict with their official functions; or

"(3) Recommend any person to any position in a private enterprise which has a regular or pending official transaction with their office.

"2. That the conduct of business or economic ventures shall not conflict or tend to conflict with the official functions of the public official or employee;

"3. That the conduct of business or economic ventures shall not be done during office hours nor within the required forty (40) hour work week period; and

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NOEMI A. BERNALDO
Board Secretary IV
Commission Proper Secretary


Thus, the term "profession" as used in CSC MC No. 15, s. 1999 is hereby defined as the pursuit of a learned art proven by the passing in an appropriate government examination.

The Commission is well aware that licensed real estate agents and insurance agents undergo government examinations prior to the issuance of their license. It is in this regard that they are on equal footing with certain specialized services such as those rendered by a nurse, doctor, dentist, Certified Public Accountant, engineer, architect and lawyer.

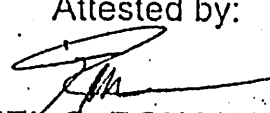
WHEREFORE, the Commission hereby reiterates the prohibition against engaging in any private business or profession without the written permission of the head of office, which applies to the pursuit of a part-time career as a life insurance agent by a government employee.

Quezon City, SEP 04 2000


JOSE F. ERESTAIN, JR.
Commissioner


CORAZON ALMA G. DE LEON
Chairman


ELMOR D. JURIDICO
Commissioner

Attested by:

ARIEL G. RONQUILLO
Director III

Certified True Copy
NOEL A. BELLIO
Secretary IV
Commission Proper Secretariat

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0-99-0783
CPS/pprcm23-2000

Services rendered during the period of extension, FOR THOSE WHO SHALL COMPLETE THE 15 YEARS OF SERVICE REQUIRED UNDER THE GSIS LAW, SHALL BE CREDITED AS PART OF THE GOVERNMENT SERVICE. OTHERWISE, THE SAME SHALL NOT BE CREDITED AS GOVERNMENT SERVICE FOR PURPOSES OF RETIREMENT.

OFFICIALS AND EMPLOYEES ON SERVICE EXTENSION SHALL BE ENTITLED TO SALARIES, ALLOWANCES, AND OTHER REMUNERATIONS, THAT ARE NORMALLY CONSIDERED PART AND PARCEL OF AN EMPLOYEE'S COMPENSATION PACKAGE. THEIR ENTITLEMENT TO SUCH SALARIES, ALLOWANCES, AND OTHER REMUNERATIONS SHALL BE SUBJECT TO EXISTING REGULATIONS ON THE GRANT THEREOF. Such extension of service shall not entitle the employee to leave credits.

SEC. 18. UNLESS OTHERWISE PROVIDED BY LAW, NO OFFICER OR EMPLOYEE SHALL ENGAGE DIRECTLY OR INDIRECTLY IN ANY PRIVATE BUSINESS OR PROFESSION WITHOUT A WRITTEN PERMISSION FROM THE HEAD OF AGENCY. PROVIDED THAT THIS 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 DEVOTED OUTSIDE OF OFFICE HOURS SHOULD BE FIXED BY THE HEAD OF THE AGENCY SO THAT IT WILL NOT IMPAIR IN ANY WAY THE EFFICIENCY OF THE OFFICER OR EMPLOYEE NOR POSE A CONFLICT OR TEND TO CONFLICT WITH THE OFFICIAL FUNCTIONS.

SEC. 19. NO OFFICER OR EMPLOYEE WHO IS ON STUDY LEAVE OR ON SECONDMENT SHALL BE CONSIDERED FOR PROMOTION DURING THE PERIOD OF HIS STUDY LEAVE OR SECONDMENT.

These amendments shall take effect immediately.


CORAZON ALMA G. DE LEON
Chairman

27 August 1999

ASST. Sec. For. & Int. Affairs

OAC-S

N.B. This represents 9th of 9 pages, CSC MC No. 15, s. 1999 on the subject "Additional Provisions and Amendments to CSC Memorandum Circular No. 40, s. 1998."