



Republic of the Philippines
Office of the President
DANGEROUS DRUGS BOARD

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BOARD RESOLUTION NO. 119
Series of 2012

SUBJECT: IMPOSING THE FINE OF TEN THOUSAND PESOS (PHP 10,000.00) AGAINST ARTNATURE MANUFACTURING PHILIPPINES, INC. AND CLEARING THE SAME FROM ANY FURTHER LIABILITY REGARDING ITS JULY 8, 2012 SHIPMENT

WHEREAS, pursuant to Section 81 (b) and (r) of Article IX of RA 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 (RA 9165), the Board issued Board Regulation No. 3, Series of 2003 which provides for the “Comprehensive Guidelines on Importation, Distribution, Manufacture, Prescription, Dispensing and Sale of, and Other Lawful Acts in Connection with any Dangerous Drugs, Controlled Precursors and Essential Chemicals and other Similar or Analogous Substances”;

WHEREAS, pursuant to Section 81 (b) and (r) of Article IX of RA 9165, the Board likewise issued Board Regulation No. 5, Series of 2006, which provides for the “Imposition of Fines and other Sanctions for Violations Committed on the Pertinent Provisions of Board Regulation No. 3, Series of 2003”;

WHEREAS, **ARTNATURE MANUFACTURING PHILIPPINES, INC.**, with business address at First Philippine Industrial Park, Sto. Tomas, Batangas, is possessed of a P5 – IM License, with license no. P5 – IM – 02563001 – R017 (License to import specified controlled chemicals, as End – user, Acquisition of controlled chemical shall be made through importation. The license holder is authorized to acquire controlled chemicals from local sources but is not authorized to resell acquired chemicals) issued on October 17, 2011 and valid until October 28, 2012;

WHEREAS, on July 8, 2012, a shipment for **ARTNATURE MANUFACTURING PHILIPPINES, INC.** consisting of six (6) drums of polyurethane (chemical compound containing up of 40% Methyl Ethyl Ketone and 10% Toluene) arrived in the Philippines from South Korea without the necessary importation permit / certificate of exemption, in violation of Section 6 (2) (b) of Board Regulation No. 3, Series of 2003 which states that no operator shall import any dangerous drug or controlled chemicals and their preparations in the absence of a separate import permit or Certificate of Exemption;

WHEREAS, due to the absence of said permit / certificate, said shipment was not released to **ARTNATURE MANUFACTURING PHILIPPINES, INC.** by the Bureau of Customs, prompting the former to seek consideration for their alleged violation with the Dangerous Drugs Board;

WHEREAS, Section 1 (1) of Board Regulation No. 5, Series of 2006 provides that violation of the terms and conditions of a license granted by the PDEA in relation to Section 6 (2) (b) of Board Regulation No. 3, Series of 2003 shall warrant a fine of PHP 10,000.00 for the first commission of offense with a stern warning that the repetition of said offense shall be dealt with in accordance with Section 32, Article II of RA 9165 and other applicable laws;

WHEREAS, ARTNATURE MANUFACTURING PHILIPPINES, INC. has been previously penalized for a similar act, having violated the Board Regulation No. 3, Series of 2003 due to lack of proper importation permit on February 9, 2011, and therefore its officers could be made liable for violation of Section 32 (Liability to a Person Violating Any Regulation Issued by the Board) of RA 9165, as provided for under Board Regulation No. 5, Series of 2006;

WHEREAS, after investigation and due deliberation, it has been determined that previous personnel of **ARTNATURE MANUFACTURING PHILIPPINES, INC.** who have since resigned from the company failed to apprise new personnel of the need for the annual renewal of its Certificate of Exemption with the PDEA and it had no intention of undermining regulations relative to importation;

WHEREAS, records show **ARTNATURE MANUFACTURING PHILIPPINES, INC.** is a PEZA – registered enterprise regularly importing polyurethane; that the controlled chemical component of the same is minimal (40% Methyl Ethyl Ketone and 10% Toluene) and its extraction for illicit use is highly impractical;

WHEREAS, as a rule, although intent to commit a crime is not necessary to prosecute violations of RA 9165, it being a special law, **ARTNATURE MANUFACTURING PHILIPPINES, INC.** had no intent to take control of said shipment considering the absence of an importation permit or Certificate of Exemption and such importation and possession is only incidental to the fact of the arrival of said shipment. Good faith exists on its part and their lack of criminal intent is a valid consideration;

WHEREAS, considering that this is **ARTNATURE MANUFACTURING PHILIPPINES, INC.** second shipment sans importation permit or Certificate of Exemption, the law and pertinent regulations are silent as to the proper penalty that may be imposed;

WHEREAS, it is a general principle in criminal law that penal laws are construed liberally in favor of the accused (Agote v. Lorenzo, GR No. 142675, July 22, 2005). The Supreme Court, in Palaganas v. People of the Philippines (GR No. 165483, September 12, 2006), expanded this principle, when it stated that “when the law is silent, the same must be interpreted in favor of the accused.”;

WHEREAS, considering the fact that **ARTNATURE MANUFACTURING PHILIPPINES, INC.** was in good faith since the importation in question was merely done in the ordinary course of business, that it is a legitimate PEZA – registered company and the controlled chemical content in the shipment is very minimal (40% Methyl Ethyl Ketone and 10% Toluene), the fine of TEN THOUSAND PESOS (Php 10,000.00) as provided under Board Regulation No. 5, Series of 2006 may be imposed, being in consonance with settled jurisprudence.

WHEREFORE, be it **RESOLVED,** as it is hereby **RESOLVED:** That-

- a. **A FINE OF TEN THOUSAND PESOS (PHP 10,000.00) BE IMPOSED** against **ARTNATURE MANUFACTURING PHILIPPINES, INC.** for its July 8, 2012 importation of polyurethane (40% Methyl Ethyl Ketone and 10% Toluene) with an expired Certificate of Exemption;
- b. The **JULY 8, 2012 POLYURETHANE SHIPMENT** of **ARTNATURE MANUFACTURING PHILIPPINES, INC** has satisfactorily **COMPLIED** with the DDB / PDEA administrative and regulatory requirements; and

- c. **ARTNATURE MANUFACTURING PHILIPPINES, INC. IS STERNLY WARNED THAT A REPETITION OF SAID ACT SHALL BE DEALT WITH MORE SEVERELY.**

APPROVED and ADOPTED this 18th day of October, in the year of Our Lord, 2012 in Quezon City.

(Sgd.) **Secretary ANTONIO A. VILLAR, JR.**
Chairman, Dangerous Drugs Board

Attested:

(Sgd.) **Assistant Secretary BENJAMIN P. REYES**
OIC-Secretary of the Board