

Republic of the Philippines DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS **CENTRAL OFFICE** Manila

November 17, 2021

DEPARTMENT M	EMORANDU	м)
CIRCULAR NO.	67	) )
Series of 2021	đ	1 17 2021

FOR / TO : Undersecretaries Assistant Secretaries Service Directors Bureau Directors Regional Directors Heads of UPMOs District Engineers This Department

For information and guidance, attached is a copy of COA Circular 2021-013 dated November 10, 2021 entitled "Reiteration of the Rules on the Proper Service of Copies of Notice of Suspension, Notice of Disallowance/Notice of Charge, Decision on Request for Relief from Accountability, Notice of Finality of Decision, COA Order of Execution or any other COA Order or Decision to all Persons Liable and Providing Guidelines Thereof".

A copy of said COA Circular Letter may also be downloaded from the **DPWH website:http://dpwhweb.** If an office cannot access the DPWH website, a hard copy may be obtained from the Records Management Division, HRAS upon request.

For dissemination to all concerned.

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MARICHU A. PALAFOX, CESO III Assistant Secretary for Support Services

Encl: COA Circular No. 2021-013 dated November 10 2021

8.1.2 JJC/GEC

097,7 DPWH 11,17,2021



## Republic of the Philippines COMMISSION ON AUDIT Commonwealth Avenue, Quezon City

#### CIRCULAR

No.	: 2021 - 013	
Date	: NOV 1 0 2021	

TO

Heads of Departments, Bureaus and Offices of the National Government; Managing Heads and Governing Bodies of Government-Owned and/or Controlled Corporations, including their Subsidiaries, Self-Governing Boards, Commissions or Agencies, and State Universities and Colleges; Local Chief Executives; All Commission on Audit (COA) Assistant Commissioners, Cluster Directors, Regional Directors, Supervising Auditors, Audit Team Leaders, Audit Team Members, and all Others Concerned

SUBJECT :Reiteration of the Rules on the Proper Service of<br/>Copies of Notice of Suspension, Notice of<br/>Disallowance/Notice of Charge, Decision on Request<br/>for Relief from Accountability, Notice of Finality of<br/>Decision, COA Order of Execution or any other COA<br/>Order or Decision to all Persons Liable and Providing<br/>Guidelines Thereof

#### 1.0 BACKGROUND

The Commission Proper (CP), in the exercise of its adjudicatory function, is confronted with the recurring issue on denial of due process on account of non-receipt by the aggrieved parties of Notice of Suspension (NS), Notice of Disallowance (ND)/Notice of Charge (NC), Decision on Request for Relief from Accountability (DRRA), Notice of Finality of Decision (NFD), COA Order of Execution (COE), or any other order or decision of this Commission. While this Commission adheres to the pronouncement of the Supreme Court (SC) in several cases that the essence of due process is simply the opportunity to be heard or the opportunity to seek reconsideration of the action or ruling complained of; however, service of copies of NS, ND/NC, DRRA, NFD, COE or other order or decision of this Commission is a vital and indispensable ingredient of due process, and compliance with the rules regarding proper service is as much as an issue of due process as it is of jurisdiction.<sup>1</sup>

<sup>1</sup> Carmelita T. Borlongan vs. Banco De Oro, G.R. No. 217617, April 5, 2017.

To ensure proper and complete service of NS, ND/NC, DRRA, NFD, COE or other COA order or decision, this Commission reminds its auditors and all others concerned to strictly observe the standards and rules of service of copies of NS, ND/NC, DRRA, NFD, COE or other COA order or decision as set by procedural rules. These rules exist primarily for the benefit of litigants to afford them with speedy and appropriate relief from this Commission's action.

Also, the following guidelines in the service of NS, ND/NC, DRRA, NFD, COE or other order or decision of this Commission are hereby provided, including some relevant provisions of the 1997 Rules of Court, as amended by Administrative Matter No. 19-10-20-SC or the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure, which took effect on May 1, 2020, which may be applied suppletorily.

#### 2.0 PURPOSE

To ensure proper and complete service of NS, ND/NC, DRRA, NFD, COE or other COA order or decision, in order to apprise the persons liable and other concerned parties of the existence of the NS, ND/NC, DRRA, NFD, COE or other COA order or decision, and to afford them the opportunity to seek appropriate relief from this Commission's actions.

#### 3.0 COVERAGE

This Circular lays down the guidelines/procedure for the proper service of copies of NS, ND/NC, DRRA, NFD, COE or other COA order or decision relative to Section 7, Rule IV of the 2009 Revised Rules of Procedure of the COA (RRPC) and COA Circular No. 2009-006, prescribing the use of the Rules and Regulations on Settlement of Accounts, dated September 15, 2009.

#### 4.0 GUIDELINES

4.1 Service of NS and DRRA shall be made by the auditor through personal service, substituted personal service, or registered mail within 10 calendar days from date of issuance thereof.

For agency personnel who are still employed or connected with the agency, service of NS, ND/NC shall be effected through personal service, substituted personal service, or registered mail within 10 calendar days from date of issuance thereof. In case of several payees, as in the case of a disallowed payroll, service shall be made to the accountant within 10 calendar days from the date of its issuance. The accountant shall be responsible for informing all payees concerned within five working days

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from receipt of notice thereof. This shall constitute constructive service to all payees listed in the payroll,<sup>2</sup> provided that the accountant certifies that he/she took steps in notifying all the payees, including the concerned officials and members of the board, if any.<sup>3</sup>

The accountant shall submit the Accountant's Affidavit of Service<sup>4</sup> to the auditor within five days after the period of posting of the Notice to Payees, and after all concerned payees have been notified through their respective e-mail addresses if known, or to the official electronic mail address of the offices of each concerned employee. The posting of Notice to Payees and the sending of said Notice shall be done simultaneously for two consecutive weeks. If personal service is not practicable, service shall be made through substituted personal service, or registered mail.

For government personnel who are no longer connected with the agency and for non-government parties, such as contractors, service of NS, ND/NC shall be through registered mail within 15 calendar days from its issuance.

- In case of former government personnel, the addresses to be used are those stated in the last submitted Personal Data Sheet, or the addresses indicated in their 201 File.
- In case of non-government parties, service shall be made to the addresses indicated in the contracts or similar documents involving their transaction with the agency.

If personal service is more practicable, the auditor may resort to such mode of service.

In all these cases, if the last day for serving the NS, ND/NC or DRRA falls on a weekend or holiday, service shall be made on the next business/working day.

4.2 Service of NFD, COE, and any COA order or decision shall be made by the auditor, or the Offices of the Commission Secretary (ComSec), Cluster Director (CD), or Regional Director (RD), or Assistant Commissioner concerned, through registered mail or by electronic means or facsimile.

<sup>&</sup>lt;sup>2</sup> Section 7, Rule IV, 2009 Revised Rules of Procedure of the Commission on Audit (COA), and Section 12.1, COA Circular No. 2009-006, September 15, 2009 (Prescribing the use of Rules and Regulations on Settlement of Accounts).

<sup>&</sup>lt;sup>3</sup> A sample format of the Accountant's Affidavit of Service is attached hereto as Annex "A." See also *Delilah* J. Ablong, et al. vs. COA, G.R. No. 233308, August 18, 2020.

<sup>&</sup>lt;sup>4</sup> See attached Annex "A."

- 4.3 The modes of service of NS, ND/NC or DRRA shall be undertaken in the following manner:
  - A) Personal service is done:
    - i. By delivering personally a copy of the NS, ND/NC or DRRA to the person liable.

#### Substituted personal service

- ii. If the person liable or other concerned party could not be served personally after at least three attempts on two different dates, or refuses to receive or sign thereon, it shall be sufficient that the copy was tendered<sup>5</sup> to him or her; or by leaving a copy within the view and presence of the person liable;<sup>6</sup>
- iii. By leaving a copy of the NS, ND/NC or DRRA in the liable party's office or regular place of business with some competent person in charge thereof, who shall indicate his or her printed name, signature, position, and date of receipt on the server's copy. A "competent person" includes, but is not limited to, one who customarily receives correspondences for the liable party therein; and
- iv. In case of appealed NDs/NCs or DRRAs, if a party is represented by counsel, service shall be made upon the counsel on record in accordance with Item (ii) above.

Where several counsels appear/represent for one party, such party shall be entitled to only one copy of the ND/NC or DRRA to be served upon the lead counsel if one is designated, or upon any of them if there is no designation of a lead counsel.

<sup>&</sup>lt;sup>5</sup> Advising the persons liable of the notice issued against them and informing them of their right to file an appeal within six months from receipt thereof. In the case of *Spouses Benedict and Sandra Manuel vs. Ramon Ong.* G.R. No. 205249, October 15, 2014, it was held that tendering summons is itself a means of personal service as it is contained in Section 6, Rule 14, 1997 Rules of Court.

<sup>&</sup>lt;sup>6</sup> Section 5, Rule 14, Administrative Matter No. 19-10-20-SC or the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure, effective May 1, 2020.

- B) If personal service is not practicable, service shall be made through registered mail. Resort to this mode of service shall be accompanied by a written explanation why the service was not done personally. Service by registered mail is done:
  - i. By depositing a copy in the post office, in a sealed envelope, plainly addressed to the person liable or the latter's counsel, at his or her office address, if known; and
  - ii. If the office address of the person liable is unknown, a copy shall be sent to his or her residence, if known, with instruction to the postmaster to return the mail to the sender after 10 days, if undelivered.
- C) If service of NS, ND/NC, and DRRA cannot be made despite attempts through personal service or registered mail, service may be made by delivering the copy to the CD or RD concerned with proof of failure of personal service or through registered mail, within 10 calendar days from failure of service. Service upon the CD or RD shall be deemed service upon the persons liable and other concerned parties. The service is complete at the time of such delivery.
- 4.4 The modes of service of NFD, COE or other COA order or decision shall be undertaken in the following manner:
  - A) By personal service, following the procedures under Item 4.3 (A) above.
  - B) If personal service is not practicable, service of NFD, COE, and any COA order or decision shall be made via electronic mail (e-mail) or facsimile provided that the liable party previously consented to be served through such mode. The consent shall be in writing, clearly indicating the e-mail address or facsimile number of the person/s liable or other concerned party.

Service to the persons liable, either through e-mail or facsimile shall be made within five days from the date of issuance thereof.

C) Service by electronic means shall be made:

i. By sending an e-mail to the person liable or to the email address of his or her counsel, or

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- ii. Through other electronic means of transmission as authorized by, or upon written instruction of, the CD or RD.
- D) Service by facsimile shall be made by sending a facsimile copy to the person liable or to his or her counsel's given facsimile number.
- E) In case the party changes his or her e-mail address or facsimile number while the action is pending, the party must promptly file, within five days from such change, a notice of change of e-mail address or facsimile number with the CP, CD or RD, Audit Team Leader or Supervising Auditor, as the case maybe, and serve the notice or decision on all other parties concerned.
- F) Service through e-mail and facsimile must contain the following information: 1) NS, ND/NC and/or case numbers, and date; 2) subject or case/document title; 3) the concerned party serving the document or paper; 4) the nature of the document or paper; 5) the party or parties against whom the action or relief is sought; and 6) the nature of the action or relief sought. In service by e-mail, the sender may attach as reference the soft copy of the document, but must include in the e-mail the information enumerated above.<sup>7</sup>
- G) The concerned officials may only resort to service by registered mail if the person/s liable or concerned party had not previously given consent to be served through electronic means or facsimile. Service by registered mail shall be made within 15 calendar days from date of issuance thereof, in accordance with Item 4.3 B (i) and (ii).

The involved Agency Head shall be furnished a copy of the NFD, COE, and any COA order or decision.

- 4.5 If no registry service is available in the locality of either the sender or the addressee, service of NFD, COE and any COA order or decision may be done by ordinary mail or an accredited private courier within 15 calendar days from date of issuance thereof.
- 4.6 If service of NFD issued by the auditor, or COE by the CD or RD, or other COA order or decision issued by the CD or RD cannot be made under the above preceding items, the office and place of residence of the person liable or his or her counsel being unknown, or e-mail address is unknown, service may be made by delivering the copy to the ComSec, through the CD or RD concerned, with proof of failure of service by

<sup>&</sup>lt;sup>7</sup> A sample format is attached hereto as Annex "B."

electronic means, registered mail, and by ordinary mail or accredited courier, within 10 calendar days from failure of service.

In case of service of COE issued by the General Counsel (GC), through the Prosecution and Litigation Office, Legal Services Sector, this Commission, or other COA order or decision, or judgments rendered by the SC, cannot be made under the above preceding items, service may be made by delivering the copy to the ComSec, through the GC, with proof of failure of service by electronic means, registered mail, and by ordinary mail or accredited courier, within 10 calendar days from failure of service.

The ComSec is tasked to inform the CP of failure to serve the above documents, including the unserved NFD issued by its office, to the persons liable and other concerned parties despite attempts to serve through the aforementioned modes of service. The CP, in the exercise of its residual power<sup>8</sup> as the final arbiter of this Commission's action within its level, shall decide on the proper treatment of unserved documents to the persons liable and other concerned parties.

The CP may order that the service upon the ComSec, CD or RD, as the case maybe, be deemed service upon the persons liable and other concerned parties. The service is complete at the time of such delivery.

4.7 Completeness of Service:

A) Personal service is complete upon actual delivery.

B) Service by registered mail is complete upon:

- i. Actual receipt by the addressee; or
- ii. After five days from the date he or she received the first notice<sup>9</sup> of the postmaster, whichever date is earlier.

C) Electronic service is complete:

i. At the time of the electronic transmission of the document;

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<sup>&</sup>lt;sup>8</sup> As applied by analogy in the case of *Heirs of Eliza Q. Zoleta, et al, vs. Land Bank of the Philippines and Department of Agrarian Reform Adjudication Board*, G.R. No. 205128, August 9, 2017.

<sup>&</sup>lt;sup>9</sup> The postmaster's certification as to the sending of the first notice should include the data not only as to whether or not the corresponding notices were issued or sent but also as to how, when and to whom the delivery thereof was made. *Hernandez, et al. vs. Navarro, et al.* G.R. No. L-28296, November 24, 1972.

- ii. When available, at the time that the electronic notification of service of the document is sent; or
- iii. Electronic service is not effective or complete if the party serving the document learns that it did not reach the addressee or person to be served.
- D) Service by facsimile transmission is complete upon receipt by the other party, as indicated in the facsimile transmission printout.
- E) Service by ordinary mail is complete upon the expiration of 10 days after mailing.
- F) Service by accredited courier is complete upon actual receipt by the addressee, or after at least two attempts to deliver by the courier service, or upon the expiration of five calendar days after the first attempt to deliver, whichever is earlier.
- 4.8 The auditor, and other concerned personnel, shall maintain a record of the date of actual or constructive service of notices/decisions for purposes of determining the running of the reglementary period as provided under the RRPC. These information shall be included in the Record of COA Decisions,<sup>10</sup> in accordance with Section 25.1<sup>11</sup> of COA Circular No. 2009-006.
- 4.9 The auditor and other concerned personnel are reminded that the Proof of Service is an indispensable requirement under procedural rules in ensuring that due process has been observed. It is that piece of evidence proving that the persons liable have been apprised of their possible liability on an NS, ND/NC, DRRA, NFD, COE or other COA order or decision.

Proof of Service<sup>12</sup> shall consist of the following:

A) Personal service:

- i. A written acknowledgment of the party served;
- ii. The official return of the server; or

<sup>&</sup>lt;sup>10</sup> Section 12.4, COA Circular No. 2009-006, September 15, 2009.

<sup>&</sup>lt;sup>11</sup> The Auditor shall maintain an ROCD showing the NDs and NCs issued to his agency, the appeal/s taken thereon, the decision/s on appeal/s, the NFDs and COEs issued and the NSSDC if settlements have been made. *Ibid.* 

<sup>&</sup>lt;sup>12</sup> Section 17, Rule 13, supra, note 6.

- iii. The affidavit of the party serving, containing a full statement of the date, place and manner of service.<sup>13</sup>
- B) Service through registered mail:

The affidavit of the party serving, containing a full statement of the date, place and manner of service, with the registry receipt issued by the mailing office, and the registry return card reflecting receipt of the party or his authorized representative. The auditor/CD/RD are directed to coordinate with the mailing office in obtaining the appropriate registry return card.

C) Service by electronic means and facsimile:

Proof shall be made by an affidavit of service executed by the person who sent the e-mail, facsimile, or other electronic transmission, together with a printed proof of transmittal.

D) Service by ordinary mail or accredited courier:

The affidavit of the party serving, containing a full statement of the date, place and manner of service, and stating the fact that there is no registry service available in the locality of either the sender or the addressee.

In the case of service by accredited private courier, proof shall be made by an affidavit of service executed by the person who brought the audit action or decision to the service provider, together with the courier's official receipt or document tracking number.

4.10 The Auditor should at all times initiate action to secure a copy of the Proof of Service. To avoid instances where the right to due process of the persons liable is at issue and to expedite service of NS, ND/NC, DRRA, NFD, COE or other COA order or decision, the auditor, the Offices of the ComSec, CD/RD, or GC, are expected to observe faithful compliance with these guidelines.

<sup>13</sup> A sample Affidavit of Service of Items 4.9 (iii) is attached hereto as Annex "C."

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#### 5.0 PENALTY CLAUSE

Failure or negligence of the officials or employees of this Commission to effectively discharge their duties and responsibilities provided herein shall be a basis for appropriate administrative sanctions.

#### 6.0 REPEALING CLAUSE

All circulars, memoranda, and other issuances or any parts thereof inconsistent with this Circular are hereby revoked, amended or modified accordingly.

#### 7.0 SEPARABILITY CLAUSE

In the event that any of the provision of this Circular is declared invalid or unconstitutional, all the provisions not affected thereby shall remain valid and with legal effect.

#### 8.0 EFFECTIVITY

This Circular shall take effect after 15 days from publication in a newspaper of general circulation.





Chairperson

ROLAND C. PONDOC Commissioner

# ANNEX "A"

REPUBLIC OF THE PHILIPPINES)

#### ) S.S.

## ACCOUNTANT'S AFFIDAVIT OF SERVICE

- I, (Name of Accountant), of legal age, Filipino, with office address at , after being sworn to according to law, depose and state that:
- 1) I am the (Position/Designation) of (Agency), (Office Address);
- 2) On (<u>Insert Date</u>), I received a copy of a Notice of Disallowance No.
   \_\_\_\_\_, dated \_\_\_\_\_. Under the said ND No.
   \_\_\_\_\_, the (<u>Nature of Benefits or Compensation</u>) therein granted to the (Agency) employees were disallowed in audit;
- I am responsible for immediately informing all the payees affected by said ND No. \_\_\_\_\_\_ pursuant to Section 12.1 of Commission on Audit (COA) Circular No. 2009-006 dated September 15, 2009;
- 4) On (Insert Date) at (insert time) a.m./p.m., I posted a Notice to Payees re: (Nature of Benefits/Compensation received) at the Bulletin Board of the (Agency) located in a conspicuous place in the floor/lobby thereof, for two consecutive weeks. A copy of the Notice to Payees is attached;
- 5) I also sent the said Notice to Payees to each concerned employee through their respective e-mail addresses if known, or to the official electronic mail address of the offices of each concerned employee, for at least two times in a week, for two consecutive weeks. A copy of the email printout evidencing such is attached;
- 6) By taking the above steps in notifying the payees concerned, I have performed my duties under Section 12.1 of COA Circular No. 2009-006, and the same shall constitute constructive service to all payees listed in the disallowed payroll under ND No. \_\_\_\_\_\_dated ; and
- 7) It is my responsibility to submit this affidavit within five days after sending the Notice to Payees under Item No. 5; and

8) I am executing this affidavit to attest to the truth of the foregoing facts and for whatever legal purpose it may serve.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_\_ in \_\_\_\_\_\_, Philippines.

#### (Name and Signature of Affiant)

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_, affiant exhibiting to me his/her (competent proof of identity) issued by \_\_\_\_\_, valid until \_\_\_\_\_.

NOTARY PUBLIC

Doc. No	;
Page No.	;
Book No.	;
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Affidavit of Service/2

# ANNEX "B"

## SERVICE THROUGH ELECTRONIC MAIL

(Sample Body of E-mail under Item 4.4 (F), COA Circular No.

# Subject of Email : Notice of Finality of Decision/COA Order of Execution/COA Order/COA Decision No.

Dear (Name of Person/s Liable or Counsel, if duly represented by a lawyer),

Pursuant to Item 4.4 (F) of COA Circular No\_\_\_\_, dated \_\_\_\_\_, I (<u>Name of Server/COA Employee</u>), (<u>Position/Designation</u>), (Office and Office Address), hereby serve upon you a copy of the NFD/COE or other Order/COA Decision with the following details:

Case Number		
Case Title		
Persons Liable	Position	Nature of Participation
1.		
2.		
3.		

A copy of the NFD/COE/COA Order/COA Decision is attached to this email for your easy reference.

(Name of Process Server) Position/Designation Office

# ANNEX "C"

REPUBLIC OF THE PHILIPPINES)

) S.S.

### **AFFIDAVIT OF SERVICE**

I, (Name of Server), of legal age, Filipino, with office address at , after being sworn to according to law, depose and state that:

1) I am the (Position/Designation) of (Office);

(Please check one that is applicable)

- 2) Personal Service. On (Insert Date) at (insert time) a.m./p.m., I served the original/certified true copy of the (ND/NC/Decision on Relief from Accountability) by delivering it to (Name of Person/s Liable/Counsel/Authorized Representative, affiliation with the person/s liable) in person at the following address , as evidenced by his/her signature above his/her name, with the date of receipt, on the stamp bearing the words "RECEIVED," copy attached.
  - ☐ Substituted Service. On (Insert Date and Time) and (Insert <u>Date and Time) a.m./p.m.</u>, I tried to serve the original/certified true copy of the (ND/NC/Decision on <u>Relief from Accountability</u>) by delivering it to (Name of <u>Person/s Liable/Counsel/Authorized Representative</u>, <u>affiliation with the person/s liable</u>) in person at the following address \_\_\_\_\_\_, but said person REFUSED to receive or sign thereon. Thus,

I tendered said document to said person.

- □ I left a copy of the said document within the view and presence of said person.
- ☐ I left a copy of the said document in the office of the person/s liable or their regular place of business with some competent person in charge thereof, as evidenced by his/her signature above his/her name, with the date of receipt, on the stamp bearing the words "RECEIVED," copy attached.

**Registered Mail.** On <u>(Insert Date)</u> at <u>(insert time) a.m./p.m.</u>, I served the original/certified true copy of the <u>(ND/NC/Decision on</u> Relief from Accountability) or (NFD/COE or other Order or

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<u>Decision</u>) by depositing a copy in the Post Office (Address), in a sealed envelope, plainly addressed to (Name of Person/s Liable/Counsel, if duly represented by a lawyer), with postage fully paid, as evidenced by **Registry Receipt No.**\_\_\_\_\_, copy attached, and with instructions to the Post Master to return the mail to sender after 10 days if undelivered.

☐ I resorted to this mode of service because after attempting to serve the original/certified true copy of the (ND/NC/Decision on Relief from Accountability) by delivering it to (Name of Person/s Liable/Counsel/Authorized Representative, affiliation with the person/s liable) in person at the following address \_\_\_\_\_\_, on at least three attempts, said person:

could no longer be found in the above address.

- no longer holds office in his/her regular place of business.
- ☐ I resorted to this mode of service because the person/s liable did not previously give their consent to be served through electronic means.
- ☐ I resorted to this mode of service because after sending the scanned, true and correct, copy of the <u>(NFD/COE or</u> <u>other Order or Decision)</u> through electronic mail, the same would bounce back through an e-mail from "Mailer Daemon" o "Mail Delivery Subsystem" with the subject "Failed Delivery" either due to *wrong email address*, *email address no longer exists*, or the *inbox of the recipient is full*.

**By electronic means/facsimile**. On (Insert Date) at (insert time) a.m./p.m., I served the scanned, true and correct, copy of the (NFD/COE or other Order or Decision) via email to (Name of Person/s Liable/Counsel, if duly represented by a lawyer) through the following e-mail address (insert e-mail address/es), the last known e-mail addresses of the addressees, as evidenced by a printout of the e-mail, copy attached; via facsimile to (Name of Person/s Liable/Counsel, if duly represented by a lawyer) through a facsimile machine with number (insert fax number), as evidenced by the facsimile transmission output, copy attached.

Affidavit of Service/2

**Ordinary Mail/Private Courier**. On (Insert Date) at (insert time) a.m./p.m., I served the original/certified true copy of the (NFD/COE or other Order or Decision) via ordinary mail, to (Name of Person/s Liable/Counsel, if duly represented by a lawyer) there being no registry service available in my locality/the locality of the addressee/s; via (Name of private courier), an accredited courier, as evidenced by the courier's official receipt with document tracking number, copy attached.

Service upon the Cluster/Regional Director. On (Insert Date) at (insert time) a.m./p.m., I served the original/certified true copy of the (NFD/COE or other Order or Decision) (issued by the ATL/SA or CD/RD concerned) upon (Name of the Cluster/Regional Director concerned) considering that service could not be made under the above preceding items. A copy of the proof of failure of service by electronic means, registered mail, ordinary mail or accredited private courier is attached.

Service upon the Commission Secretariat. On (Insert Date) at (insert time) a.m./p.m., I served the original/certified true copy of the (NFD issued by the CP, COE or other Order or Decision/judgment by the Supreme court) upon (the Office of the Commission Secretary) considering that service could not be made under the above preceding items. A copy of the proof of failure of service by electronic means, registered mail, ordinary mail or accredited private courier is attached.

3) I am executing this affidavit to attest to the truth of the foregoing facts and for whatever legal purpose it may serve.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_\_ in \_\_\_\_\_\_, Philippines.

(Name and Signature of Affiant)

Affidavit of Service/3

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_\_, affiant exhibiting to me his/her (competent proof of identity) issued by \_\_\_\_\_\_, valid until \_\_\_\_\_\_.

NOTARY PUBLIC

Doc. No. \_\_\_\_; Page No. \_\_\_\_; Book No. \_\_\_\_; Series of \_\_\_\_.

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Affidavit of Service/4