

[CIAC RESOLUTION NO. 01-2010, January 28, 2010]

AMENDING RULES 16, 18 AND 19 OF THE CIAC REVISED RULES OF PROCEDURE GOVERNING CONSTRUCTION ARBITRATION

WHEREAS, the Construction Industry Arbitration Commission (CIAC) is empowered under Sections 16 and 21 of Executive Order 1008 (the Construction Industry Arbitration Law) to "enunciate policies and prescribe rules and procedures for construction arbitration" and to "formulate necessary rules and procedures for construction arbitration", respectively;

WHEREAS, Section 16.6 (Termination of Jurisdiction), Rule 16 of the CIAC Revised CIAC Rules of Procedure Governing Construction Arbitration (CIAC Rules) provides for the termination of the jurisdiction of the arbitrator/s over the dispute upon the finality of the Final Award or Decision;

WHEREAS Section 21.2.1, Rule 21 (General Matters) of the CIAC Revised Rules further provides that in all arbitration proceedings before or after an award is rendered but prior to the termination of the jurisdiction of the Arbitral Tribunal pursuant to Rule 16.6, the arbitrator/s shall have the power to issue subpoena and/or subpoena duces tecum requiring any person to attend hearings as a witness or to produce relevant documents;

WHEREAS, there have been cases where the arbitrator/s had to conduct post-award hearings and issue subpoenas and subpoenas duces tecum to concerned persons, including those who were not parties to the arbitration, in order to resolve various motions related to execution which were filed by the parties even after the Final Award or Decision had attained finality (e.g., motions to examine judgment debtor and or its debtor and such other motions necessary for the full satisfaction of the award/decision);

WHEREAS, the issuance by the Arbitral Tribunal of subpoenas to the debtors of the judgment obligor in one of the cases filed before the CIAC was questioned on the contention, among others, that the Arbitral Tribunal no longer had jurisdiction over the dispute pursuant to Rule 16.6; that the Tribunal's authority with respect to the execution or enforcement of its award is limited solely to the issuance of the writ of execution "requiring any sheriff or proper officer to execute said decision, order or final award" (Sec. 20, E.O 1008; Sec. 18.5, Rule 18 of the CIAC Rules); and that Rule 18 of the CIAC Rules, which governs the execution of final awards of the CIAC, as well as the provisions of EO 1008, would show that no additional power is granted to the Tribunal as this power is specifically reserved to the courts pursuant to Secs. 36 to 38 of Rule 39 of the Rules of Court;

WHEREAS, to preclude similar questions from being raised in future cases, Atty. Victor P. Lazatin, Chairman of the Arbitral Tribunal in the above-mentioned case,