

[**SHFC, January 30, 2014**]

OVERSIGHT COMMITTEE RULES OF PROCEDURE

Adopted: 30 January 2014

Date Filed: 10 February 2014

The Oversight Committee shall exercise jurisdiction over Complaints in the nature of Grievance/Request for Assistance seeking redress or relief concerning an act or omission of corporate officers and employees which do not amount to administrative offenses, or those which constitute a ground for administrative offense, or both; as well as over those cases involving violations and offenses committed by Community Mortgage Program-Mobilizer (CMP-M) as embodied in the Guidelines for the accreditation of Community Mortgage Program-Mobilizer (CMP-M) approved on 22 June 2012 and its Implementing Rules and Regulations (IRRs) approved on 09 July 2013.

The Oversight Committee shall be composed of:

Chairman: VP Ernesto R.
Leynes
Members: Atty. Jose D.
Melgarejo
Ms. Lourdes P.
Panaligan
Secretariat: Atty. Tristan
Frederick L.
Tresvalles
Ms. Maricris L.
Calina

The Committee is empowered:

1. to adopt its own rules and procedures in faithful observance of the Office of the Ombudsman (OMB) Rules of Procedure, Administrative Order No. 07 (January 2004), specifically *Rule IV [the Procedure in Grievance/Request for Assistance]* and *Rule III [Procedure in Administrative Cases]*;
2. to issue subpoena *duces tecum* and *ad testificandum* to both SHFC and non-SHFC employees and officers who are parties to the case; or to issue letters-of-invitations to third persons as resource person/s for the committee hearings;
3. to make a findings-of-facts and recommend administrative level solutions or sanctions, or both;
4. to recommend the matter to the appropriate government agency for commencement of any civil or criminal action;
5. to conduct on-site ocular inspections relevant to the case involved; and

6. to propose policy and operational remedial measures to Top Management.

RULE I ORGANIZATION AND PROCESS

Section 1. Exercise of Powers and Functions. – The Oversight Committee shall sit en banc in the exercise of its adjudicative powers, functions and duties. It shall be presided by the Chairman or, in his absence, by the Member next-in-rank in attendance.

A majority of the actual Members of the Oversight Committee shall constitute a quorum for its session *en banc*. The affirmative vote of a majority of those in attendance and who are participating shall be necessary to approve any matter submitted for its consideration.

The Chairman, or in his absence the Member next-in-rank, controls the proceedings during the session or hearing. He shall rule on all motions and objections interposed therein. He may, however, yield the conduct of the proceedings to any Member who shall exercise the powers of the Chairman.

The Chairman or any Member shall mandatorily inhibit himself from participation in the proceedings of a matter or case whenever he is disqualified by reason of privity of interest, contract or relationship within the fourth degree of consanguinity or affinity.

RULE II PROCEDURE IN GRIEVANCE/REQUEST FOR ASSISTANCE

Section 1. *Grievance or request for assistance; nature of.* - A grievance or request for assistance may consist of a complaint or request seeking redress or relief concerning an act or omission of an officer or employee, alleged to be unreasonable, unfair, oppressive, discriminatory, improper or inefficient, and which does not necessarily amount to an administrative, civil or criminal offense.

Section 2. *By whom handled.* - Grievance or request for assistance shall be acted upon by the Secretariat of the Oversight Committee for the purpose of registration and inclusion in the agenda of the meeting to be called by the Oversight Committee.

Section 3. *Action thereon* - A grievance or request for assistance shall be acted upon by the Oversight Committee within reasonable time upon receipt.

a) Where the grievance or request for assistance appears to be manifestly frivolous, vexatious, or made in bad faith, or where it involves a matter purely between private parties, the same may be dismissed outright and the complainant/requesting party informed of the reasons for such dismissal;

b) Where the redress, relief or assistance sought may be acted upon by another government agency, the same may be referred to the office concerned.

c) In all other cases which the Oversight Committee may take cognizance of, the procedure in the following section shall be observed.

Section 4. *Procedure* –

a) If the grievance or request is relatively simple and/or requires immediate action, the same may be acted upon by telegram, telephone, or other means of

communication or given personal attention by going to the office or department or employee concerned.

b) Whenever deemed necessary or advisable, a copy of the grievance or request for assistance, together with pertinent documents shall be sent to the office or department or employee concerned, copy furnished its head, if any, for the taking of immediate remedial action; or, if the relief requested may not be complied with, to submit a written explanation therefore.

c) If such explanation is found satisfactory, and/or appropriate action had already been taken on the grievance or request, the same shall be dismissed and the parties informed accordingly.

d) The Oversight Committee may arrange a conference between the complainant/requesting party, and the office department or employee concerned with a view to a satisfactory and expeditious resolution of the grievance/request.

e) Upon consideration of the facts or information gathered, a resolution on the grievance or request shall be made within fifteen (15) days of which the parties shall be notified and appropriate steps taken to ensure compliance herewith.

Section 5. *Mediation proceedings.* -

a) Application and Interpretation. -The provisions of this Rule shall apply in case mediation is proper as may deem necessary and appropriate by the Committee.

In applying and construing the provisions of this Rule, consideration must be given to the need to promote candor between the parties and the mediators through confidentiality of the mediation process, the policy of fostering prompt, economical, and amicable resolution of disputes in accordance with the principles of integrity of determination by the parties, and the policy that the decision-making authority in the mediation process rests with the parties.

The term "mediation" shall include conciliation.

b) *Mediation conference.* - In case the Committee determines that a mediation is necessary as warranted by the circumstances, the committee acting as mediators shall invite the parties to a mediation conference to explore the possibility of an amicable settlement.

In case the parties are not personally present, their representative or counsel shall be clothed with the proper special power of attorney or board resolution, as the case may be, to enter into a settlement.

Said mediation conference shall be terminated within thirty (30) days from the date of initial conference.

c) *Effect of non-appearance in mediation conference.* - Where a party fails or refuses to appear during the scheduled mediation, the party present may move for termination of mediation and continuation of the proceedings.

d) *Confidentiality of Information.* - Information obtained through mediation shall be subject to the following principles and guidelines:

i) Information obtained through mediation shall be privileged and confidential.

ii) A party, a mediator, or a non-party participant may refuse to disclose and prevent any other person from disclosing a mediation communication.

iii) Confidential information shall not be subject to discovery and shall be inadmissible in any adversarial proceeding whether judicial or quasijudicial. However, evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its use in a mediation.

iv) In such adversarial proceeding, the following persons involved or previously involved in a mediation may not be compelled to disclose confidential information obtained during mediation: (1) the parties to the dispute; (2) the mediator or mediators; (3) the counsel of the parties; (4) the non-party participants; (5) any persons appointed as staff in connection with the mediation as secretary, stenographer, clerk or assistant; and (6) any other person who obtained or possesses confidential information by reason of his/her profession.

v) A mediator may not be called to testify to provide information gathered in mediation. A mediator who is wrongfully subpoenaed shall be reimbursed the full cost of his attorney's fees and related expenses.

e) *Waiver of Confidentiality.* - A privilege arising from the confidentiality of information may be waived in a record, or orally during a proceeding by the mediator/s and the mediation parties.

A privilege arising from the confidentiality of information may likewise be waived by a non-party participant if the information is provided by such nonparty participant.

A person who discloses confidential information shall be precluded from asserting the privilege under Section 4 of this Rule to bar disclosure of the rest of the information necessary to a complete understanding of the previously disclosed information.

A person who discloses or makes representation about a mediation is precluded from asserting the privilege under Section 4, to the extent that the communication prejudices another person in the proceeding and it is necessary for the person prejudiced to respond to the representation disclosure.

f) *Exceptions to the Privilege.* -

i) There is no privilege against disclosure under Section 4, if mediation communication is:

1) in an agreement evidenced by a record authenticated by all the parties to the agreement.

2) available to the public or that is made during a session of a mediation which is open, or is required by law to be open to the public;

3) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;