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REVISED RULES OF PROCEDURE 2000 OF THE SECURITIES AND EXCHANGE COMMISSION

, May 30, 2000

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Pursuant to Presidential Decree No. 902-A, as amended, and other related laws in the interest of just, speedy and inexpensive determination of disputes and claims, the Commission hereby promulgates the following revised rules of procedure to govern actions and proceeding before it, in the exercise of its adjudicative functions.

PART 1 Securities Investigation and Clearing Department and appealed cases to the En Banc

RULE I
General Provisions

SECTION 1-1. Title — These Rules shall be known as “Revised Rules of Procedure 2000 of the Securities and Exchange Commission”

SECTION 1-2. Definitions — For purposes of these Rules the following terms shall mean:

a. Commission — the Securities and Exchange Commission
b. Commissioner — the Chairman or any of the Associate Commissioners
c. Hearing Officer — any Commissioner, officer, body or panel duly designated or created by the Commission to hear and decide a particular case.
d. Order — any directive, other than a judgment, of a Hearing Officer.
e. Corporation — also refers to a partnership or an association registered with the Commission.

SECTION 1-3. Construction — These rules shall be liberally construed in order to promote public interest and to assist the parties in obtaining just, speedy and inexpensive determination of every action or claim brought before the Commission.

SECTION 1-4. Nature of Proceedings — Subject to the requirements of due process, proceedings before the Commission shall be summary in nature not necessarily adhering to or following the technical rules of evidence obtaining in the regular courts. Provided, however, that the Rules of Court may apply in a suppletory manner whenever practicable.

SECTION 1-5. Venue of Hearings — All actions or claims brought under these Rules shall be commenced and heard in the main office of the Commission. However, an action involving a corporation whose principal office is within a region where the Commission has an extension office may be filed with and heard in such extension office.

SECTION 1-6. Assignment of Cases — All cases filed with the Commission shall be assigned to the Hearing Officer(s) by means of a raffle, unless for special reasons the Commission determines otherwise. The SICD Director or his deputy shall conduct the raffle on a regularly scheduled basis in open court with at least two hearing officers present. The minutes of the raffle proceedings shall be recorded and signed by the Director and the hearing officers in attendance. (new).

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RULE II
Parties

SECTION 2-1. Who May be Parties — Only natural or juridical persons or entities authorized by law may be parties.

SECTION 2-2. Parties in Interest — All actions or claims filed with the Commission must be prosecuted and defended in the name of the real party in interest. All persons having an interest in the subject of the actions or claims and in obtaining the relief demanded shall be joined as complainants or petitioners. All persons who claim an interest in the controversy or the subject thereof adverse to the complainant or petitioner or who are necessary to a complete determination or settlement of the questions involved therein shall be joined as respondents.

SECTION 2-3. Representative Parties — A trustee of an express trust, a guardian, executor or administrator, or a party authorized by statute, may sue or be sued without joining the party for whose benefit the action is presented or defended; but the Hearing Officer may, at any stage of the proceedings, order such beneficiary to be made a party. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

SECTION 2-4. Class Suit — When the subject matter of the action or claim is one of common or general interest to many person, and the parties are so numerous that is impracticable to join all before the Commission, one or more may sue or defend for the benefit of all. But in such case, the Hearing Officer shall make sure that the parties actually before it are sufficiently numerous and representative so that all interests concerned are fully protected.

SECTION 2-5. Derivative Action — No action or claim shall be brought by a stockholder in the name of a corporation unless the complainant (a) was a stockholder at the time the questioned transaction occurred as well as the time the action was filed and remains a stockholder during the pendency of the action, and (b) the complainant alleges with particularly the efforts, if any, made by the complainant to obtain the action he desires, or the reason for not making the effort.

An action authorized by this section shall not be discontinued, compromised or settled without approval of the Hearing Officer. If the Hearing Officer determines that the interest of the stockholders or of any class thereof will be substantially affected by the discontinuance, compromise or settlement, the Hearing Officer may direct that notice, by publication or otherwise, be given to the stockholders or any class thereof whose interests he determines will be so affected.

SECTION 2-6. Compulsory Joinder of Indispensable Parties — Parties in interest without whom no final determination can be had of an action shall be joined either as complainant, petitioner or respondent.

SECTION 2-7. Transfer of Interest — In case of any transfer of interest, the action may be continued by or against the original party, unless the Hearing Officer upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party.

SECTION 2-8. Intervention — A person may, at any stage of the proceedings, be permitted by the Hearing Officer, in his discretion, to intervene in an action, if he has legal interest in the matter in litigation or in the success of either of the parties or an interest against both, or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the Commission.

SECTION 2-9. Motion for Intervention — A person desiring to intervene shall file a motion for leave of the Commission with notice upon all parties to the action.

SECTION 2-10. Discretion of the Hearing Officer — In allowing or disallowing a motion for intervention, the

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Hearing Officer shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties and whether or not the intervenor's right may be fully protected in a separate proceeding.

SECTION 2-11. Complaint/Petition or Answer in Intervention — The intervention shall be made by complaint/petition filed and served in regular form and may be answered as if it was an original complaint/petition filed and served in regular form and may be answered as if it was an original complaint/petition but where intervenor unites with the respondent in resisting the claims of the complainant or petitioner, the intervention may be made in the form of an answer to the complaint or petition.

SECTION 2-12. When to File — The complaint/petition or answer in intervention shall be filed within ten (10) days from notice of the order permitting the intervention.

RULE III
Commencement of Action: Pleadings

SECTION 3-1. Commencement of Action — An action under these rules is commenced by the filing of an original complaint or petition with the Commission (new).

SECTION 3-2. Pleadings Allowed — The only pleadings allowed to be filed are the complaint/petition, compulsory counterclaim pleaded in the answer, the answer thereto, the reply and the rejoinder. Provided, however, that such restrictions are not applicable to actions filed under the Rules of Procedure on Corporate Recovery. (amended)

SECTION 3-3. Verification — Only the complaint or petition and the answer shall be verified by an affidavit that the affiant has read the pleading and the allegations therein are true and correct of his own knowledge and belief. A pleading which contains a verification based on "information and belief" or upon "knowledge, information and belief," or which lacks a proper verification, shall be treated as an unsigned pleading and shall not be considered as filed. (amended).

SECTION 3-4. Certification — The complainant/petitioner or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not thereto commenced any action or filed any claim involving the same issues in any court, tribunal or agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report the fact within five (5) days therefrom to the Commission wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall cause the dismissal of the petition without prejudice. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

SECTION 3-5. Prohibited Pleadings — The following pleadings, motions, or petitions shall not be allowed in the covered by these Rules:

a. Motion to dismiss the complaint;
b. Motion for a bill of particulars;

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c. Motion for new trial, or for reconsideration of judgment or order, or for reopening of trial;
d. Petition for relief from judgment;
e. Motion for extension of time to file pleadings, affidavits or any other paper;
f. Memoranda;
g. Motion to declare the defendant in default;
h. Motion for Postponement and other motions of similar intent; and
i. Motion for leave to amend pleadings. (amended)

SECTION 3-6. Duty of Hearing Officer — The Hearing Officer shall, from an examination of the allegations in the complaint/petition and such evidence as may be attached thereto, dismiss the complaint/petition if it is not sufficient in form and substance. Otherwise, he shall forthwith issue the corresponding summons within Five (5) days from the filing of the complaint/petition.

SECTION 3-7. Form of Pleadings — All pleadings filed shall be printed, mimeographed or typewritten on legal size bond papers and shall be in English or Filipino.

Each pleading shall contain a caption setting forth the name of the Commission, the title of the case, the case number, and designation of the pleading.

The original and two (2) signed copies of every pleading shall be filed with the Commission, except a complaint, petition, or petition in intervention where there are more than one respondent in which case, there shall be filed as many additional signed copies of the said pleading as there are additional respondents.

No pleading shall be accepted by the Commission unless it conforms to the formal requirements provided by these rules.

SECTION 3-8. Complaint/Petition — The compliant/petition shall contain the names and residences of the parties, a concise statement of the ultimate facts constituting the complainant's or petitioner's cause or causes of action, a brief statement of the right/s sought to be enforced, the law, rule or regulation under which the complaint/petition is based, a summary of the complainant's or petitioner's claims, a statement of the issues to be determined, the affidavits of witnesses, copies of documentary and other evidence, and the relief/s sought.

SECTION 3-9. Capacity — The facts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of person that is made a party, must be averred. A party desiring to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued in representative capacity, shall do so by specific denial, which shall include such supporting particulars as are peculiarly within the pleaders knowledge.

SECTION 3-10. Answer — Within twenty (20) days from service of summons, the defendant shall file his answer to the complaint and serve a copy thereof on the plaintiff. The answer shall contain the affidavits of witnesses, and copies of documentary and other evidence, if any. Affirmative and negative defenses not pleaded in the answer shall be deemed waived, except for lack of jurisdiction and failure to state a cause of action. Cross-claims and compulsory counterclaims not asserted therein shall be considered barred. The answer to counterclaims shall be filed within fifteen (15) days from service of the answer in which they are pleaded.

SECTION 3-11. Effect of Failure to Answer — Should the defendant fail to answer the complaint within the period above provided, he shall be considered in default. The Hearing Officer shall, motu proprio, proceed to render judgement granting the plaintiff such relief as his pleading may warrant, unless the Hearing Officer in his discretion requires the plaintiff to submit evidence which shall be received ex parte.

SECTION 3-12. Reply and Rejoinder — Within fifteen (15) days from the service of the answer, the plaintiff may

rebut any matter raised in the answer by way of a reply. A rejoinder on the matters alleged in the reply may be submitted by the respondent within fifteen (15) days from receipt of the reply. The reply and rejoinder shall likewise contain the affidavits of witnesses, documentary and other evidence in support thereof, if any.

SECTION 3-13. Inadmissibility of Affidavit, Document and Other Evidence — The affidavits of the parties' respective witnesses, documents, and other supporting evidence shall be attached to the appropriate pleading. A witness without the requisite affidavit shall not be allowed to testify except an adverse party or hostile witness. Documents and other evidence or copies thereof which are not attached to the pleadings shall be inadmissible. However, the Hearing Officer may allow for compelling reasons, the submission of affidavits and other documents as the parties may prove necessary during the pre-trial which must be submitted not later than five (5) days prior to the commencement of the trial.

Supporting affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify on the matters stated therein.

SECTION 3-14. Action or Defense Based on Document — Whenever an action or defense is based upon a written instrument or document, the substance of such instrument or document shall be set forth in the pleading, and the original of a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be admitted unless the adverse party, under oath, specifically denies them and set forth what he claims to be the facts; but this provision does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused.

SECTION 3-16. Specific Denial — The respondent must specify each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters which he will rely upon to support his qualification of an averment. Where the respondent desires to deny only a part or a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Where the respondent is without knowledge or information sufficient to form a belief as to the truth of material averment made in the complaint or petition, he shall so state, and this shall have the effect of a denial, otherwise the averment shall be deemed admitted.

SECTION 3-17. When Amendments Allowed as a Matter of Right — A party may amend his pleading once a matter of right at any time before a responsive pleading is served or, in case of a reply, at any time within ten (10) days after it is served.

SECTION 3-18. Docket Fee and Other Fees — The docket fee for filing a complaint or petition, complaint or petition in intervention, unless otherwise provided by the Commission, shall be one-tenth (1/10) of one percent (1%) of the amount claimed or prayed for plus twenty percent (20%) of such amount, exclusive of interest, but which shall not be less than one thousand pesos (1,000.00). Provided, however, that if there is no claim for money, the docket fee shall be one thousand pesos (P1,000.00). Provided, further, that in cases for suspension of payments, rehabilitation, and involuntary dissolution the docket fee shall be five thousand pesos (P5,000.00). Provided, finally, that a complaint or petition shall be deemed filed only after the payment of the required docket fees and all other fees which by law are payable.

There shall also be collected as process service fee the amount of one hundred pesos (P100.00) for every respondent named in the complaint or petition. (amended)

RULE IV
Summons

SECTION 4-1. Summons — Upon the filing of the complaint or petition, the corresponding summons to the

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respondent shall forthwith be issued within Five (5) days from date of filing of the complaint. Provided, however, that a summons shall not be issued in cases under the Rules of Procedure for Corporate Recovery where the Petitioner is the debtor. (amended).

SECTION 4-2. Contents — The summons shall be directed to the respondent under the seal of the Commission, and shall contain:

a. The names of the parties to the action;
b. A direction that the respondent answer within the time fixed by these Rules; and
c. A notice that unless the respondent so answers, plaintiff will take judgment by default and may be granted the relief applied for as provided for in Rule III, Sec. 10 of these Rules.

SECTION 4-3. Alias Summon s — If summons is returned unserved on any or all the respondents, or if it has been lost, the Hearing Officer on demand of the petitioner or complainant may issue alias summons as the case may require, in the same form as the original. (amended)

SECTION 4-4. By Whom Summons May Be Served — The summons may be served by the process serves of the Commission, or for special reasons by any person specially authorized by Hearing Officer.

SECTION 4-5. Return of Summons — When the service has been completed, the process server shall return the summons to the Commission attached to the proof of service.

SECTION 4-6. Personal Service of Summons — The summons shall be served by handing a copy thereof to the respondent in person or if he refuses to receive it, by tendering it to him. If the respondent is a corporation, partnership or association organized and registered under the laws of the Philippines, service must be made on the President, Manager, Corporate Secretary, or any authorized directors or officers.

SECTION 4-7. Substituted Service — If, for justifiable causes, the respondent cannot be served personally with the summons as provided in the preceding section, service may be effected, (a) by leaving copies of the summons at the respondent’s dwelling house or residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies of respondent’s principal office or regular place of business with some competent person in charge thereof.

SECTION 4-8. Service Upon Private Foreign Entities — If the respondent is a foreign corporation, partnership or association doing business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government officials designated by law to that effect or on any of its officers or agents within the Philippines. The government official designated by law for the service of summons shall in turn transmit a copy of the summons to the home office of said respondent foreign entity by registered mail. The time to answer shall be thirty days (30) days from receipt thereof by the home office, expenses incurred by the said government official for such service shall be paid in advance by the parties at whose instance the service was made. (amended).

SECTION 4-9. Service by Publication — When the address of a respondent is unknown or even if known, whereabouts cannot be ascertained by diligent inquiry, service of summons may, by leave of the Commission, be effected upon him by publication of the complaint or petition once in a newspaper of general circulation and in such places and for such time as the Commission may order. The publication expenses shall be defrayed by the petitioner or complainant. Likewise, when the respondent does not reside or is not found in the Philippines, service may, by leave of the Commission, be effected out of the Philippines by personal service in the manner provided under Section 6 hereof, and which may be effected through the Office of the Department of Foreign Affairs; or by publication of the complaint or petition once in a newspaper of general circulation and in such

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places as the Commission may order. A copy of the complaint or petition as well as the order granting such leave shall be sent by registered mail to the last known address of the respondent.

Any order granting such leave shall specify a reasonable time which shall not be less than thirty (30) days from the date of last publication, in case of a resident respondent whose address is unknown or whose whereabouts cannot be ascertained and not less than sixty (60) days from the date of last publication, in case of non-resident respondent, within which the respondent must answer.

Any application to the Commission for leave to effect service of summons by publication shall be made by motion in writing, supported by affidavit of the petitioner or complainant or some person on his behalf, setting forth the grounds for the application. (amended).

SECTION 4-10. Service by Publication in Action for Suspension or Revocation of Franchise of a Corporation Instituted by the Prosecution and Enforcement Department — In actions for suspension or revocation of franchise of a corporation instituted by the Prosecution and Enforcement Department at the request and upon the relation of another person when the address of respondent is unknown or even if known, his whereabouts cannot be ascertained by diligent inquiry, service of summons, may, by leave of the Commission, be effected upon the respondent by publication of the complaint or petition and the order granting such leave once in a newspaper of general circulation. The publication expenses shall be defrayed by the person at whose request and upon whose relation the same is bought.

SECTION 4-11. Proof of Service — The proof of service of a summons should be made in writing by the server setting forth the manner, the place and the date of service; its shall specify any papers which have been served with the process and the name of the person who received the same; and shall be sworn to when made by a person other than the server of the Commission.

When the service has been made by publication on a resident respondent whose address is unknown or whose whereabouts cannot be ascertained, service may be proved by the affidavit of the printer, editor or business or advertising manager and to which affidavit a copy of such publication shall be attached.

When the service has been made by publication on a non-resident respondent, service may be proved, aside from the affidavit of the printer, editor or business or advertising manager, by the affidavit of the server that a copy of the complaint or petition and the order of the Commission was sent by registered mail to the last known address of the respondent.

The respondent’s voluntary appearance before the Commission shall be equivalent to service for purposes of acquiring jurisdiction over his person, unless he makes an explicit reservation thereto.

RULE V
Proceeding Before the Designated Hearing Officer

SECTION 5-1. Preliminary Conference — In any action, the Hearing Officer shall set the case for preliminary conference within ten (10) days after the last pleading is filed, and the parties and their attorneys shall be directed to submit a pre-trial brief and to appear before the Hearing Officer on the date set on the notice, to consider, based on the affidavits, documents and other evidence submitted by the parties:

a. The possibility of an amicable settlement;
b. The simplification of the issues;
c. Schedule hearing which must be undertaken continuously as schedule until completed and terminated; and
d. Such other matters as may aid in the just and speedy disposition of the case.

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The Hearing Officer shall terminate the preliminary conference ten (10) days after its commencement, whether or not the parties have agreed to settle their differences. (amended)

SECTION 5-2. Amicable Settlement — During the preliminary conference, the Hearing Officer shall take the initiative in seeing to it that the parties exhaust all available means to arrive at a fair and reasonable settlement of the case. The parties, on the other hand, shall be prepared to present during the preliminary conference specific proposals or counter-proposals to effect such settlement.

Amicable settlement shall always be encouraged, even at the stage of the proceedings, provided it shall not be prejudicial to the public interest or to third parties or contrary to law, rules or regulations of the Commission nor against the good morals or public policy. The amicable settlement shall, as far as practicable, be reduced into writing, duly signed by the parties and/or their counsels, which shall be the basis of the corresponding order or decision of the Hearing Officer.

SECTION 5-3. Failure to Appear at Preliminary Conference — The failure of the plaintiff to appear in the preliminary conference shall lead to a dismissal of his petition. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counterclaim based on the facts alleged and limited to what is prayed for in the answer. Provided, however, that the Hearing Office may, in his discretion, reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable.

If a sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with the preceding paragraph. This rules shall not apply where one or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference.

SECTION 5-4. Hearings — Should the Hearing Officer find upon consideration of the pleadings, the affidavits and other evidences and position statements submitted by the parties that a judgment may be rendered thereon without the need of a formal hearing, he may proceed to render judgment.

In cases where the Hearing Officer deems it necessary to hold a hearing to clarify specific factual matters before rendering judgment, he shall set the case for hearing for the purpose. At such hearing, only witnesses whose affidavits were submitted may be asked clarificatory questions by the Hearing Officer and may be cross examined by the adverse party.

SECTION 5-5. Preliminary Conference Order — After the preliminary conference, the Hearing Officer shall issue an Order reciting the action taken at the conference; the stipulations made by the parties as to any of the matters considered; a recital of such other evidence as the parties may have agreed upon; the witnesses, if any, to be presented by all the parties; and the scheduled dates of hearings if any shall be commenced not later than fifteen (15) days from the date of the termination of the preliminary conference. The hearing, if any shall be set for successive and continuous daily trial and completed within 60 days from the date of the first hearing, 30 days to be alloted to complainant and 30 days for the respondents. Provided, further, that the failure of a party to present a witness or witnesses on a scheduled hearing date shall be deemed a waiver of such hearing date. Provided, finally, that a party may present such witness or witnesses within the remaining hearing dates. (amended)

SECTION 5-6. Submission of Draft Decisions — Within fifteen (15) days after the submission of case for resolution, the parties shall submit a draft of the decision or resolution they seek, stating clearly and distinctly the facts and the law upon which it is based. The Hearing Officer may adopt, in whole or in part, either of the parties' draft decision or resolution, or reject both. At the discretion of the Hearing Officer, this requirement may likewise apply to orders other than the final judgment. (amended)

RULE VI

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Decision

SECTION 6-1. Decision — The Hearing Officer shall render a decision within thirty (30) days from submission of the decision. The draft decision shall contain clearly and distinctly a statement of the facts proved or admitted by the parties and the law upon which the judgment is based. (amended)

SECTION 6-2. Finality of Decision — The decision of the Hearing Officer, in the absence of appeal therefrom, shall become final and executory fifteen (15) days from the date of receipt thereof.

RULE VII
Contempt

SECTION 7-1. Direct Contempt — A person guilty of misbehavior in the presence of or so near the Hearing Officer as to obstruct or interrupt the proceedings before him, including disrespect towards the Hearing Officer, offensive personalities towards others, or refusal to be sworn to or answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by the Hearing Officer and punished by fine not exceeding one thousand pesos (P1,000.00) or imprisonment not exceeding ten (10) days, or both such fine and imprisonment. The Hearing Officer may require the Sheriff or other police agencies of the locality where the hearing or investigation is conducted, to assist in the enforcement of this action.

SECTION 7-2. Indirect Contempt — Any person who shall fail or refuse to comply with the promulgated decision, order or writ of the Hearing Officer without justifiable cause after being required to do so, shall be punished for contempt pursuant to the applicable provisions of the New Rules of Court.

RULES VIII
Subpoena and Subpoena Duces Tecum

SECTION 8-1. When Issued — If the attendance of a witness or the production of clearly specified documents is necessary, any party may request the issuance of a subpoena or subpoena duces tecum before or during the scheduled preliminary conference. Provided, however, that a subpoena may only be issued if the witness or document sought to be subpoenaed has been previously referred to or stated in the petition/complaint, the answer or any subsequent pleadings including the pre-trial. Provided further, that upon request of any party, the Hearing Officer, may in his discretion issue a subpoena during the hearing for justifiable reasons.

RULE IX
Production or Inspection of Documents or Things

SECTION 9-1. Motion for Production or Inspection Order — Upon motion of any party showing good cause therefor, the Hearing Officer may (a) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letter, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his possession, custody or control; or (b) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated relevant object or operation thereon. The order shall specify the time, place and manner of making the inspection and taking copies and photographs, and may prescribe such terms and conditions as are just. Provided, however, that request for the production or inspection of documents or things shall be made before or during the preliminary conference and only for documents and things previously referred to in the complaint/petition, answer, reply, or rejoinder.

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TITLE II

RULE X
Provisional Remedies

SECTION 10-1. Proceedings on Provisional Remedies — Provisional Remedies applied for by any of the parties shall be heard and resolved by the hearing officer within twenty (20) days from application. If the hearings thereon are not completed within that period for any reason whatsoever, the Hearing Officer shall resolve the matter on the basis of whatever evidence is available from the records of the case. (new)

RULE XI
Preliminary Injunction

SECTION 11-1. Issuance of Preliminary Injunction — A preliminary injunction may be granted by the Hearing Officer, upon bond filed with the Commission to be fixed by the Hearing Officer, at any time after the commencement of the action and before judgment when it is established after notice and hearing:

> a. That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period of perpetually;
>
> b. That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
>
> c. That a party, court, agency or person is doing, threatens, or is about to do, or is procuring or suffering to be done, some act probably in violation of the rights of the applicant respecting the subject of the action, and tending to render the judgment ineffectual.

SECTION 11-2. Objection to, or Dissolution of, Injunction — The application for injunction may be denied upon a showing of its insufficiency. It may also be denied, or, if granted, may be dissolved on other grounds upon affidavit of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or, if granted, may be dissolved, it if appears after hearing that although the applicant is entitled to the injunction, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the Hearing Officer conditioned that he will pay all damages which the applicant may suffer by the refusal or the dissolution of the injunction. If its appears that the extent of the preliminary injunction granted is too great, it must be modified.

SECTION 11-3. Final Injunction — If after the trial of the action it appears that the applicant is entitled to have the act or acts complained of permanently enjoined, the Hearing Officer shall grant a final injunction perpetually restraining the party or person enjoined from the commission or continuance of the act or acts or confirming the preliminary mandatory injunction.

SECTION 11-4. Temporary Restraining Order Ex-parte — Any complaint or initiatory pleading which contains a prayer for the issuance of a temporary restraining order (TRO) shall be referred to the Chairman or in his absence, the most senior Associate Commissioner, for appropriate action. If the Chairman or Associate Commissioner determines, in his discretion, that the matter is of extreme urgency such that unless a TRO is issued grave injustice and irreparable injury will arise, he may forthwith issue a TRO effective only for seventy-two (72) hours from issuance. The parties shall immediately be summoned and the case set for raffle to a Hearing Officer in their presence (amended).

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SECTION 11-5. Summary Hearing — Before the expiry of the seventy-two (72) hours, the Hearing Officer/Panel to whom the case was raffled shall conduct a summary hearing wherein all parties shall be given an opportunity to argue orally or in writing to determine whether the TRO shall be extended for the remaining seventeen (17) days. In case where no seventy-two (72) hour-TRO has been issued, action upon the application for TRO shall be taken by the Hearing Officer/Panel only after a summary hearing within twenty-four (24) hours after the case is transmitted to him after the raffle.

SECTION 11-6. When Hearing Deemed Conducted — The summary hearing shall be deemed to have been conducted when the adverse party or his counsel has been given the opportunity to oppose the application for TRO whether orally or in writing. Provided, however, that the failure on the part of the adverse party or counsel to oppose the application shall be deemed a waiver of his right to be heard thereon. In which case, the application for TRO shall be deemed submitted for resolution.

SECTION 11-7. Application for Preliminary Injunction — During the period of the effectivity of the TRO, the application for writ of preliminary injunction, if any, shall be heard and resolved by the Hearing Officer/Panel assigned to the case. If the hearings thereon are not completed within the period of the effectivity of the TRO for any reason whatsoever, the Hearing Officer/Panel shall resolve the application for preliminary injunction on the basis of whatever evidence is available from the records of the case.

SECTION 11-8. Applications for TRO after Commencement of the Action — At any time after the commencement of the action but before judgment, the SICD Director or his assistant in his absence, shall act on any application for TRO ex parte by any of the parties. Thereafter, the proceedings provided in summary hearing in the preceding sections shall apply. (amended).

SECTION 11-9. Prohibitions — Any motion that would delay the resolution of the application for TRO is prohibited. A petition for Certiorari with respect to the issuance of the seventy-two (72) -TRO is likewise prohibited.

RULE XII
Preliminary Attachment

SECTION 12-1. Preliminary Attachment — At the commencement or at any time before entry of judgment, the complainant or petitioner o r any proper party may have the property of the adverse party attached as security for the satisfaction of judgment that may be recovered in those cases analogous to those expressly provided under Rule 57 (Preliminary Attachment) of the Rules of Court.

SECTION 12-2. Issuance and Contents of Order — An order of attachment may be issued upon motion with notice and hearing by the Hearing Officer where the action or claim is pending, and must required the sheriff of the Commission to attach so much of the property in the Philippines of the party against whom it is issued, not exempt from execution, as may be sufficient to satisfy the applicant’s demand, unless such party makes deposit or gives a bond in an amount equal to that fixed in the order, which may be the amount sufficient to satisfy the applicant’s demand or the value of the property to be attached as stated by the applicant, exclusive of costs. Provided however that the SICD Director or in his absence his assistant. may issue an order of attachment ex-parte. (amended)

SECTION 12-3. Except as provided for in the preceding sections, all provisions of Rule 57 of the Rules of Court shall apply as far as practicable.

RULE XIII
Receivers

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SECTION 13-1. Appointment of Receiver — Upon verified petition, one or more receivers of the property, real or personal which is the subject of the action or claim, may be appointed by the Hearing Officer after notice and hearing in the following cases:

a. When a corporation has been dissolved, or is insolvent, or is in imminent danger of insolvency, or has forfeited its corporate rights;

b. When it appears from the complaint or answer, and such other proof as the Hearing Officer may require, that the party applying for the appointment of receiver has an interest in the property or fund which is the subject of the action or claim, and that such property or fund is in danger of being lost, removed, or materially injured unless a receiver be appointed to guard and preserve it; and

c. Whenever in other cases it appears that the appointment of the receiver is the most convenient and feasible means of preserving, administering, or disposing of the property in litigation.

SECTION 13-2. Bond on Appointment of Receiver — Before issuing the order appointing a receiver the Hearing Officer shall require the applicant to file a bond executed to the party against whom the application is presented, in an amount to be fixed by the Hearing Officer, to the effect that the applicant will pay such party all damages he may sustain by reason of the appointment of such receiver in case the applicant shall have procured such appointment without sufficient cause; and the Hearing Officer may, in his discretion, at any time after the appointment, require an additional bond as further security for such damages.

SECTION 13-3. Denial of Application or Discharge of Receiver — The application may be denied, or the receiver discharged, when the adverse party files a bond executed to the applicant, in an amount to be fixed by the Hearing Officer, to the effect that such party will pay the applicant all damages he may suffer by reason of the acts, omissions, or other matters specified in the application as ground for such appointment. The receiver may also be discharged if it is shown that his appointment was obtained without sufficient cause.

SECTION 13-4. Oath and Bond Receiver — Before entering upon his duties, the receiver shall be sworn to perform them faithfully, and shall file a bond, executed to such person and in such sum as the Hearing Officer may direct, to the effect that he will faithfully discharge his duties in the action or proceeding and obey the orders of the Commission (new).

RULE XIV
Management Committee

SECTION 14-1. Appointment of Management Committee — The Hearing Officer may, upon verified petition or motu propio, create and appoint a management committee to undertake the management of corporations, partnerships or other associations when there is imminent anger of dissipation, loss, wastage or destruction of assets or other properties or paralization of business operations of such corporations or entities which may be prejudicial to the interest of minority stockholders, parties-litigants or the general public.

TITLE III

RULE XIV
Election Contest

SECTION 14-1. To What Cases Applicable — The provisions under this rule shall apply to election contest in stock or non-stock corporations, respectively.

An election contest shall mean any controversy or dispute involving title or claim to any elective office in a stock or non-stock corporation, the validation of proxies, the manner of elections, and the qualifications of candidates,

including the proclamation of winners to the office of directors or trustees or other officers directly elected by the stockholders in a close corporation or by members in a non-stock corporation when the Articles of Incorporation or By-laws so provides.

It is filed by a stockholder or member of record as of the date of the election on the grounds of fraud, irregularities and illegal acts committed before, during, after the casting, counting of votes and declaration of results thereof. (amended)

SECTION 14-2. Duty of the Hearing Officer Upon the Filing of the Complaint or Petition — Upon the filing of the complaint or petition, the Hearing Officer from a consideration of the allegations thereof:

a. May dismiss the complaint or petition outright due to:

1. failure to file the case within fifteen (15) days from the date of the election if the by-laws do not provide for a procedure for resolution, or within fifteen (15) days from the resolution of the controversy by the corporation as may be provided for in its by-laws;

2. failure to exhaust intra-corporate remedies in election protests as may be provided for in the corporation's by-laws; or

b. May order the issuance of summons.

SECTION 14-3. Answer — Upon being served with summons, the respondent must answer the complaint or petition within ten (10) days from service thereof which will include all available grounds for a motion to dismiss. The answer to a compulsory counterclaim must be filed within ten (10) days from service thereof.

SECTION 14-4. Effect of Failure to Answer — Upon failure to answer the complaint or petition within the reglementary 10-day period herein provided, the Hearing Officer motu proprio or on motion, shall render judgment as may be warranted by the facts alleged in the complaint or petition, or compulsory counterclaim.

SECTION 14-5. Preliminary Conference — Not later than ten (10) days after the answer is filed, a preliminary conference shall be held, during which the parties as well as their respective counsel shall be present.

The parties shall submit a pretrial brief at least three (3) days before the preliminary conference which shall include:

a. any proposal for an amicable settlement;
b. simplified issues of the case;
c. facts and documents sought to be admitted or stipulated on;
d. number and names of witnesses, and brief statement of their testimony; and TACEDI
e. such other matters as may aid in the prompt disposition of the petition.

Any party who fails to attend the preliminary conference, shall be dealt with in accordance with Section 5.3 these Rules.

After the preliminary conference, the Hearing Officer shall immediately issue a preliminary conference order specifying the matters taken up during the conference. (amended)

SECTION 14-6. Judgment; Hearing, When Ordered — Upon a consideration of the pleadings, the affidavits and other evidences, and position statements submitted by the parties, the Hearing Officer shall proceed in accordance with Section 4 Rule 5 of these rules.

SECTION 14-7. Prohibited Pleadings and Motions — The following pleadings, motions or petitions shall not be allowed:

a. Motion to Dismiss;
b. Motion for a Bill of Particulars;
c. Motion for New Trial or for Reconsideration;
d. Petition for Relief from Judgment;
e. Motion for Extension of Time to File Pleadings, Affidavits or any Other Paper;
f. Memorandum;
g. Petition for Certiorari, Mandamus or Prohibition against any Interlocutory Order of the Hearing Officer;
h. Motion to Declare Respondent in Default;
i. Motion for Postponement;
j. Reply or Rejoinder;
k. Third Party Complaint; and
l. Intervention.

SECTION 14-8. Affidavits — The affidavits required to be submitted under this rule shall state only facts of direct personal knowledge of the affiants which are admissible in evidence and shall show their competence to testify to the matters stated therein.

A violation of this requirement may subject the party or the counsel who submits the same to disciplinary action and shall be caused to expunge the inadmissible affidavit or portions thereof from the record.

SECTION 14-9. Hearing and Judgment — In cases where a hearing is ordered, the same must be finished on the same date set therefor, insofar as practicable. The judgment in the case must be rendered within fifteen (15) working days from termination of the hearing.

SECTION 14-10. Decision Immediately Executory — The Decision of the Hearing Officer shall be immediately executory unless stayed by the Commission En Banc.

RULE XV
Petition For Review Of Certiorari

SECTION 15-1. Petition for Review or Certiorari — When any Hearing Officer/Panel of the Commission, has acted without or in excess of its jurisdiction, or with grave abuse of discretion and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition with the Commission En Banc alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings, order or ruling as the law requires, of such Hearing Officer or Panel of Hearings Officers.

The Petition shall be accompanied by a certified true copy of the judgment, order, or ruling subject thereof, together with copies of all pleadings and documents relevant thereto. Provided that no petition for review or certiorari shall be given due course unless it includes a certification non-filing of multiple petitions and complaints provided for in Section 3-4 of the Revised Rules of Procedure 2000 of the Securities and Exchange Commission (New).

SECTION 15-2. Where petition filed — The petition shall be filed with the Clerk of the Commission En Banc in seven (7) copies, within ten (10) days from receipt of the order or ruling subject of the petition, furnishing a copy thereof to the party interested in sustaining the order and the Hearing Officer/Panel who issued the same. (New)

SECTION 15-3. Docket Fee — Unless otherwise provided by the Commission, the docket fee shall be Two Thousand Pesos (P2,000) and Five Thousand Pesos (P5,000) for cases of suspension of payments (New).

SECTION 15-4. Parties Respondent — When the Petition filed relates to the acts or omission of a Hearing Officer

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of the Commission the petitioner shall join, as parties respondent, the person or persons interested in sustaining the order; and its shall be the duty of such person or persons to defend the questioned order or ruling (New).

SECTION 15-5. Order to Answer — If the Petition is sufficient in form and substance to justify such process, the Commission En Banc shall issue an order requiring the respondents to answer the petition within ten (10) days from receipt of a copy thereof. Such order shall be served on the respondent in such manner as the Commission en Banc may direct. (New).

SECTION 15-6. Expediting proceedings. Preliminary Injunction — The Commission En Banc in which the petition is filed may make orders expediting the proceedings and may also grant a preliminary injunction for the preservation of the rights of the parties pending such proceedings. (new)

SECTION 15-7. Summary Proceedings — The proceedings before the Commission En Banc shall be summary in nature. Upon receipt of the verified petition, the Commission En Banc may either dismiss the petition if it is not sufficient in form and substance or is filed manifestly for delay or if from its face there is no showing that in issuing the questioned Order/Ruling, the Hearing Officer has acted without or in excess of his jurisdiction, or has acted with grave abuse of discretion. It may require the party or parties interested in sustaining the questioned Order/Ruling, to Comment/Answer thereon within ten (10) days from notice upon the filing of which the petition is deemed submitted for resolution, unless the Commission En Banc sets the case for oral arguments. (new)

SECTION 15-8. Stay of the Action — No petition for review or certiorari shall stay the progress of the action in the main case unless a restraining order is issued by the Commission En Banc enjoining the further hearing of the main case and, in which event, the Commission En Banc may also issue such order for the preservation of the rights of the parties during the pendency of the proceedings. (new)

RULE XVI
Appeal

SECTION 16-1. Decision, Order or Ruling Subject to Appeal — Only final decision, orders or ruling shall be subject to appeal to the Commission En Banc.

No interlocutory or incidental order shall stay the progress of an action, nor shall it be the subject of appeal for one party or the other or ruling is rendered for one party or the other, except as provided in Rule XV hereof. (New)

SECTION 16-2. How Appeal is Taken — Appeal may be taken by serving upon the adverse party and filing with the Commission En Banc within fifteen (15) days from notice of Decision, Order or Ruling, a notice of appeal and a memorandum on appeal and paying the corresponding docket fee therefore. Provided, that no appeal shall be given due course unless it includes a certification of non-filing of multiple petitions and complaints provided for in Section 3.3 (new)

SECTION 16-3. Perfection of Appeal — The appeal is deemed perfected upon the filing of notice of appeal, memorandum on appeal and payment of the required docket fee within the period provided for in this Rules. (new)

SECTION 16-4. Notice of Appeal — The notice of appeal shall specify the parties to the appeal designate the Decision, Order, Ruling or part thereof, appealed from; and shall indicate the material dates to show that the appeal was seasonably filed. (new)

SECTION 16-5. Memorandum on Appeal; form And Contents Thereof — The full names of all the parties to the proceedings shall be stated in the caption of the memorandum on appeal and shall include the decision, order, or

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ruling from which the appeal is taken, and in, chronological order, copies of only such pleadings, petition, motions and all interlocutory orders as are related to the appealed decision, order, or ruling and necessary for the proper understanding of the issue/s involved, together with such date as will show that the appeal was perfected on time. The memorandum on appeal in seven (7) copies shall contain a concise statement of the facts and issues involved, the errors assigned, the ground relied upon for the appeal and the arguments in support thereof. (new)

SECTION 16-6. Appeal Fee — Unless otherwise provided by the Commission, a fee of Two Thousand (2,000) Pesos shall be charged for every appeal to the Commission en banc. Provided however, that cases involving Petition for Suspension of Payments shall be Five Thousand (5,000) Pesos.

SECTION 16-7. Reply Memorandum — The appellee shall file seven (7) copies of the reply memorandum with the Clerk of the Commission En banc, furnishing copy thereof to the appellant, within ten (10) days from receipt of the memorandum of appeal.

Failure to file said reply memorandum within the period herein specified shall be construed a waiver to file the same. (new)

SECTION 16-8. Dismissal of Appeal for Non-Compliance — The appeal may be dismissed by the Commission En ban for failure to comply with this Rules, or if it is not perfected within the period provided herein, or if the decision, order or ruling appealed from is not appealable under the rules. (new).

SECTION 16-9. When Appeal Deemed Submitted for Decision — Upon the filing of the reply memorandum with the Commission En banc, or after the expiration of the period to file the same and no such memorandum has been filed, the appeal shall be deemed submitted for decision, unless the Commission En banc motu propio, or upon proper motion and for special reason, sets the case for oral arguments. (new)

SECTION 16-10. Standard Review — Factual Findings of the hearing officer below shall remain undisturbed unless the Commission En banc finds that clear error has been committed. (new)

SECTION 16-11. Disposition of Appeal — The Commission En banc, in the exercise of its appellate jurisdiction, may affirm, reverse or modify, the decision, order or ruling appealed from, or may direct further proceedings to be taken. No Motion for Reconsideration of the Order or Decision of the Commission En banc shall be entertained. (new)

RULE XVII
Conduct of Parties and Hearing Officers

SECTION 17-1. Code of Ethics — Hearing Officers and Commissioners shall comply with the Code of Ethics for Hearing Officer attached herein as “Annex A” [*] (new)

SECTION 17-2. Prohibition of Ex-parte Communication — No person who is a party to or an agent of a party to any proceedings before the Commission shall make or knowingly cause to be made to a hearing officer in such proceeding an ex parte communication relevant to the merits of the proceeding.

Any Hearing Officer who receives an ex-parte communication shall transmit such communication to the Records Officer, SICD Records Unit. Such materials shall be made part of the public docket of such proceeding.

Ex-parte communication shall include an oral or written communication on any matter relevant to a proceeding before a hearing officer in which other parties to the proceeding are not privy to and were not given reasonable prior notice thereof. (new)

RULE XVIII

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Effectivity

SECTION 17-2. [*][*] Repeal and Separability — All existing rules, regulations or orders or any part thereof inconsistent with this Rules are hereby repealed, amended or modified accordingly. If any part or provision of these Rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

SECTION 17-1. [*][*] Effectivity — These Rules shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Adopted: 30 May 2000

(SGD.) LILIA R. BAUTISTA
Chairman

(SGD.) FE ELOISA C. GLORIA
Associate Commissioner

(SGD.) EDIJER A. MARTINEZ
Associate Commissioner

(SGD.) ROSALINDA U. CASIGURAN
Associate Commissioner

(SGD.) DANILO L. CONCEPCION
Associate Commissioner

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[*]Annex "A" hereof not filed with ONAR.

[*][*] Sections 17-2 and 17-1 of Rule XVIII above erroneously numbered by the filing agency. They should be Sections 18-1 and 18-2. Please note also that 17-2 (of the same Rule XVIII) came ahead of Section 17-1

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