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To effectively carry out and implement the provisions of Presidential Decree No. 902-A, as amended, the Revised Securities Act and other security laws and rules enforced by the Commission, the Commission pursuant to the powers vested in it under existing laws, hereby promulgates the following set of rules of procedure to govern administrative actions or proceedings before the Securities Investigation and Clearing Department (SICD) of the Securities and Exchange Commission (SEC).

RULE I

Title

SECTION 1. Title — This set of rules shall be known as the SICD RULES OF PROCEDURE ON ADMINISTRATIVE ACTIONS/PROCEEDINGS.

SECTION 2. Applicability — This set of rules shall apply to all administrative cases for violation of the Revised Securities Act, Investment Company Act, Corporation Code of the Philippines, Financing Company Act, Laws on Partnership and other laws administered by the Commission in which the sanctions are revocation, suspension or denial of franchise/certificate of registration/license or imposition of fines, filed by the Prosecution and Enforcement Department (PED) of this Commission, with the SICD in the exercise of powers and functions under Presidential Decree No. 902-A, as amended.

SECTION 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 brought before the SICD. Formal requirements may not affect the intrinsic validity of the proceedings, provided that the information and facts alleged therein are clearly indicated for the judicious disposition of the case.

SECTION 4. Nature of Proceedings — Subject to the requirements of due process, proceedings before the SICD shall be summary in nature not necessarily adhering to or following the technical rules of evidence obtaining in the courts of law. Such proceedings must be completed and terminated within ninety (90) days from and after the termination of the preliminary conference. The Rules of Court on Summary Procedure in Civil Cases may apply in said proceedings in suppletory character whenever practicable.

The Hearing Officer may require the parties to submit a draft of the decision/resolution they seek, stating clearly and distinctly the facts and the laws upon which it is based. The Hearing Officer/Panel may adopt, in whole or in part, either of the parties draft decision/resolution, or reject both. The hearing officer shall decide the case within thirty (30) days from date of submission of the draft decision or from the expiration of the period to submit the same as required by the said Hearing Officer.

SECTION 5. Prohibited Pleadings and Motions — The following pleadings, motions, petitions shall not be allowed:

a. Motion to Dismiss or Quash;

b. Motion for a Bill of Particulars.,

c. Motion for Reconsideration and/or Reopening of Hearing;

d. Motion for Extension of time to file Pleadings, affidavits or any other paper;

e. Application for provisional remedies except where the applicant, acting in the interest of investors' protection is the government;

f. Motions for Postponement.

SECTION 6. Verification of Charge Sheets — All charge sheets filed under this set of rules must be verified:

a) by the PED in cases PED motu propio conducts an investigation and/or when the initiating party reports a violation of the law without being an injured party; or

b) by the initiating party who filed a complaint with PED for investigation and who expects to obtain affirmative relief from the action or proceeding filed by PED with SICD;

Provided, that in the case of (b), in order to avoid multiplicity of suits, no charge sheet shall be accepted for filing unless the verification portion thereof includes a statement that the party commencing the action has not filed any other action or proceedings involving the same issues in any court, tribunal or agency nor such action or proceeding to the best of his knowledge, is pending in any for a provided, further, that if any such action is pending, the status of the same must be stated and should knowledge thereof be acquired after the filing of the charge sheet, he should notify the Commission within five (5) days from such knowledge. Provided finally, that non-compliance herewith shall be a cause for the summary dismissal of the charge sheet filed with the Commission.
SECTION 7. Venue of Hearings — All actions brought under this set of 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 investigated by such extension office of the Commission but PED shall prepare and file the necessary charge sheet.

RULE II

Parties

SECTION 1. Designation of Parties — Pursuant to this set of rules, in all cases filed with the SICD, the party initiating the action shall be called the complainant/petitioner and the party/entity against whom an action is made shall be called the respondent.

RULE III

Commencement of Action

SECTION 1. Caption and Title — In all charge sheets filed with the SICD, the PED shall be the complainant and shall be stated in the caption, motion, resolution, or order and in all summons, notices and processes to be served,

Republic of the Philippines
SECURITIES AND EXCHANGE COMMISSION
Securities Investigation and Clearing Department
SEC Bldg., EDSA, Greenhills
Mandaluyong City

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In the matter of the

_____

_____ SEC Administrative Case No. _____

For:_____

(State the nature of action)

SECTION 2. When Action is Deemed Commenced — An action is deemed commenced upon the filing by the PED of a verified charge sheet in accordance with these rules. IaHSCc

SECTION 3. Form and Contents of Charge Sheet — The charge sheet shall be in writing, under oath and drawn in clear and concise language, specifying the names and addresses of complainant/petitioner, respondent/s and witnesses, if any. It shall state the ultimate facts constituting the cause of action or specific violation of law or rules and regulations as well as information pertinent thereto. It shall also specify the remedies/relief sought.
SECTION 4. Docket Numbers and Calendar of Cases — All administrative cases cognizable by the SICD shall be numbered and docketed consecutively and entered into an appropriate separate docket book therefor. Corresponding code numbers and/or abbreviations may be used for ready reference.

SECTION 5. Summons — Upon docketing of the charge sheet, the SICD shall issue summons requiring respondent/s to file the required Answer within twenty (20) days from receipt thereof, copy furnished the complainant, Copy of the charge sheet shall be sent to the respondent together with the summons.
SECTION 6. Contents of Summons — The summons shall be directed to the respondent/s under the seal of the Commission and shall contain:

a. A direction that the respondent/s answer within an inextendible period of twenty (20) days from receipt thereof;

b. A notice that unless respondent/s so answer/s, the complainant will take judgment as maybe warranted by the facts alleged in the complaint and limited to what is prayed for therein.

SECTION 7. Alias Summons — If summons is returned without being served on any or all the respondents, or if it has been lost, the Hearing Officer on demand of the complainant, may issue alias summons as the case may require, in the same form as the original with the indication that it is an alias summons.

SECTION 8. By whom Summons may be Served — The summons may be served by the process server of the Commission or for special reasons by any person specially authorized by the Hearing Officer.

SECTION 9. 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 10. 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, Secretary, Cashier, Agent or any of its directors.

SECTION 11. Substituted Service — If 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 at respondent's principal office or regular place of business with some competent person in charge thereof.
SECTION 12. Service by Publication — In actions for suspension or revocation of franchise of a corporation

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instituted by the PED 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 charge sheet 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 brought.
SECTION 13. 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; it 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 charge sheet 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.

The provision of Rule V (SUMMONS) of the SICD REVISED RULES OF PROCEDURE, as amended, shall have suppletory application on the provisions of this set of rules regarding summons and service thereof.

RULE IVProceeding Before the Designated Hearing Officer

SECTION 1. Preliminary Conference — The Hearing Officer shall not later than twenty (20) days after the answer is filed, conduct a preliminary conference of the case during which the parties and their respective counsels shall be present for the purpose of considering the following:

a. The simplification of issues and stipulation of facts and admissions of documents; and

b. Such other matters as may aid in the prompt disposition of the case.

Any respondent not appearing in the preliminary conference must execute a Special Power of Attorney authorizing his counsel to appear for him.

A party who fails to appear at a preliminary conference may be non-suited or considered as in default.

SECTION 2. Amicable Settlement — Amicable settlement of a case between the complainant and the respondent/s is allowed unless it is contrary to law, public order and public policy.
SECTION 3. Submission of Documents — During the preliminary conference or immediately thereafter, the Hearing Officer may require the parties to simultaneously submit their respective verified position papers accompanied by all supporting documents and the affidavits of their witnesses, if any which shall take the place of their direct testimony. The parties shall furnish each other with copies of the position papers together with the supporting affidavits and documents submitted by them.
SECTION 4. Disposition of Case — Immediately after the submission by the parties of their position papers and supporting documents, the Hearing Officer shall determine whether there is a need for a hearing. The parties shall be afforded an opportunity to be present but without the right to examine or cross-examine. If the parties so desire, they may submit questions to the Hearing Officer which the latter may propound to the parties or witnesses

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concerned.

If the Hearing Officer finds no necessity of further hearing after the parties have submitted their position papers and supporting documents, he shall so inform the parties stating the reasons therefor and shall ask them to acknowledge the fact that they were so informed by signing the minutes of the hearing and the case shall be deemed submitted for resolution/decision.

SECTION 5. Submission of draft decision/resolution — Unless otherwise provided for by special laws, the appropriate final pleadings required of the parties to be submitted shall include draft of the decision/resolution they seek, stating clearly and distinctly the facts and the law upon which it is based. The Hearing Officer/Panel may adopt, in whole or in part, either of the parties' decision/resolution, or reject both. This requirement shall likewise be applied to orders other than the final judgment.

RULE V

Resolutions/Decisions

SECTION 1. Resolution/Decision — Upon submission of the case for resolution, the Hearing Officer shall issue the corresponding order or resolution as the final consideration of the matters submitted to it within fifteen (15) days.

SECTION 2. Finality of Resolution/Decision — Any order or resolution of the Hearing Officer, in the absence of appeal therefrom, shall become final and executory twenty (20) days from the date of receipt thereof.

RULE VI

Contempt

SECTION 1. Direct Contempt — The Hearing Officer may summarily punish for contempt any person committing misconduct in the presence of the Hearing Officer, or so near to him as to seriously interrupt any hearing or investigation, refuses to be sworn as a witness or to answer questions when lawfully required to do so. 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 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.

RULE VII

Subpoena and Subpoena Duces Tecum

SECTION 1. When to File — If the attendance of a witness or the production of documents clearly specified is necessary, any party may request the issuance of the necessary subpoena or subpoena duces tecum at least five (5) days prior to the scheduled conference.

RULE VIII

Appeals

SECTION 1. Appeal from the Resolution, Ruling or Order of the Hearing Officer — Any decision, ruling or order of the Hearing Officer may be appealed by the aggrieved party to the Commission sitting en banc within fifteen (15) days after receipt by the appellant of notice of such resolution, ruling or order.

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The aggrieved party may appeal the order, resolution or ruling of the Commission en banc to the Court of Appeals by petition for review in accordance with the pertinent provisions of the Rules of Court.
SECTION 2. Rulings, Orders, Resolutions of the Commission en banc — In all cases, the resolutions, rulings or orders of the Commission en banc shall be immediately executory notwithstanding the appeal unless the Court of Appeals itself directs otherwise.

RULE IX

Any rules or regulations inconsistent with these Rules are deemed amended and/or repealed.

RULE X

Effectivity

SECTION 1. This set of rules shall take effect FIFTEEN (15) DAYS after publication in a newspaper of general circulation.

Adopted: 4 Nov. 1996

(SGD.) PERFECTO R. YASAY, JR
Chairman

(SGD.) FE ELOISA C. GLORIA

(SGD.) EDIJER A. MARTINEZ
Associate Commissioners

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