

SEC REVISED RULES OF PROCEDURE

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To effectively carry out and implement the provisions of Presidential Decree No. 902-A, as amended, the Commission pursuant to the powers vested in it under existing laws, hereby promulgates the following revised rules of procedure to govern actions or proceedings before it. (Amended)

RULE I

Meaning of Words and Construction

SECTION 1. Meaning of Words. — For the purpose of these Rules:

- a) Commission — shall refer to the Securities and Exchange Commission.
- b) Commissioner — shall refer to either the Chairman or any of the Associate Commissioners.
- c) Hearing Officer — shall refer to any Commissioner, officer, body or panel duly designated or created by the Commission to hear and decide a particular case.
- d) Order — shall refer to any directive, other than a judgment, of a Hearing Officer. (Amended)

SECTION 2. Interpretation. — These rules shall be liberally construed to carry out the objectives of P.D. No. 902-A, as amended, and other laws enforced by the Securities and Exchange Commission and to assist the parties in obtaining just, expeditious and inexpensive settlement of cases filed with the Commission.

RULE II

Powers of a Hearing Officer

SECTION 1. Who Conducts Hearings. — Hearings shall be conducted by the Commission or by a Commissioner or by such other officer, body or panel as may be designated or created by the Commission for the purpose. (Amended)

SECTION 2. Powers of a Hearing Officer. — A Hearing Officer is empowered to hear and decide cases brought before the Commission. Pursuant thereto, he shall also have the power to administer oaths and affirmations, issue subpoena, receive evidence, and compel attendance of parties and witnesses and the production of any book, papers, correspondence, memoranda, and other records which are deemed relevant or material to the case, to punish for contempt of the Commission, both direct or indirect, in accordance with the pertinent provisions of, and penalties prescribed by the Rules of Court. (Amended)

SECTION 3. Venue of Hearings. — All actions 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 commenced and heard in such extension office of the Commission. (New)

RULE III

Parties to Actions or Proceedings

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

SECTION 2. Parties in Interest. — All actions 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 action 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. (Amended)

SECTION 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 4. Class Suit. — When the subject matter of the controversy is one of common or general interest to many persons, and the parties are so numerous that it is impracticable to bring them 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. Any party in interest shall have a right to intervene in protection of his individual interest.

SECTION 5. Derivative Action. — No action shall be brought by a stockholder in the right of a corporation unless the complainant (1) was a stockholder at the time the questioned transaction occurred as well as at the time the action was filed and remains a stockholder during the pendency of the action and (2) the complainant alleges with particularity 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. (New)

SECTION 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 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.

RULE IV

Commencement of Action: Pleadings

SECTION 1. Commencement of Action. — Any action may be commenced by filing a verified complaint or petition with the Commission and paying the docket and other required fees therefor. (Amended)

SECTION 2. Docket Fee and Other Fees. — The docket fee for filing a complaint or petition, third-party complaint, complaint or petition in intervention and permissive counterclaim, unless otherwise provided by the Commission, shall be one-tenth (1/10) of one percent (1%) of the amount claimed or prayed for, exclusive of interest, but which shall not be less than two hundred pesos (P200.00) nor more than ten thousand pesos (P10,000.00); provided, however, that if there is no claim for money, the docket fee shall be two hundred pesos (P200.00).

There shall also be collected as process service fee the amount of Twenty-five Pesos (P25.00) for every respondent named in the complaint or petition. (Amended)

SECTION 3. Pleadings Defined. — Pleadings are the written allegations of the parties of their respective claims

and defenses submitted to the Commission for trial and judgment.

SECTION 4. Pleadings Allowed. — The pleadings allowed by these Rules are the petition, complaint, answer, intervention, counter-claim, cross-claim, reply, third party complaint, and other similar complaints, and answers to such pleadings.

SECTION 5. Form of Pleadings. — All pleadings filed with the Commission shall be printed, mimeographed or typewritten on legal size bond papers and shall be in English or Pilipino. A pleading shall be verified only by an affidavit stating that the person verifying the same has read the pleading and that the allegations thereof are true of his own knowledge. Verifications based on "information and belief" or upon "knowledge", "information" or "belief" shall be deemed insufficient.

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, third-party complaint or complaint or petition in intervention where there are more than one (1) respondents 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. (Amended)

SECTION 6. Complaint. — The complaint shall contain the names and residences of the parties and a concise statement of the ultimate facts constituting the complainant's cause or causes of action. It shall specify the relief/s sought, but it may add a general prayer for such further or other relief/s as may be deemed just or equitable.

SECTION 7. Petition. — The petition shall contain the names and residences of the parties and a brief statement of the right of the petitioner sought to be enforced, the law, rule or regulation under which the petition is based, and the relief sought.

SECTION 8. Answer. — The answer shall set forth the negative and affirmative defenses upon which the respondent relies.

SECTION 9. Capacity. — 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 persons 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 a representative capacity, shall do so by specific denial, which shall include such supporting particulars as are peculiarly within the pleader's knowledge. (New)

SECTION 10. 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 or a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be a part of the pleading or said copy may with like effect be set forth in the pleading.

SECTION 11. How to Contest Genuineness of Such Documents. — When an action or defense is founded upon a written instrument, copied in or attached to the corresponding pleading as provided in the preceding Section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath, specifically denies them and sets 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 when compliance with an order for an inspection of the original instrument is refused.

SECTION 12. 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 denial. Where a pleader 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 a material averment made in the complaint or petition, he shall so state, and this shall have the effect of a denial.

SECTION 13. Defenses and Objections Not Pleaded Deemed Waived. — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived; except the (1) failure to state the cause of action which may be alleged in a later pleading, if one is permitted by motion for judgment on the pleadings, or at the trial on the merits; but in the last instance, the motion shall be disposed of in accordance with the provisions of Section 20 of this Rule in the light of any evidence which may have been received. Whenever it appears that the Commission has no jurisdiction over the subject matter, the Hearing Officer shall dismiss the action.

SECTION 14. Amendments in General. — Pleadings may be amended by adding or striking out an allegation or the name of any party, or by correcting a mistake in the name of a party or a mistaken or inadequate allegation or description in any other respect, so that the actual merits of the controversy may speedily be determined, without regard to technicalities, and in the most expeditious and inexpensive manner.

SECTION 15. When Amendments Allowed as a Matter of Right. — A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or if the pleading is one to which no responsive pleading is permitted and the case has not been set for hearing, he may so amend it at any time within ten (10) days after it is served.

SECTION 16. Amendments by Leave of Hearing Officer. — After a responsive pleading is served, substantial amendments may be made only upon leave of the Hearing Officer. But such leave may be refused if it appears to the Hearing Officer that the motion was made with intent to delay the action or that the cause of action or defense is substantially altered. Orders of the Hearing Officer upon the matters provided in this Section shall be made upon motion filed and after notice to the adverse party, and an opportunity to be heard.

SECTION 17. Formal Amendments. — A defect in the designation of the parties may be summarily corrected at any stage of the action, provided no prejudice is caused thereby to the adverse party.

SECTION 18. Amendments to Conform to or Authorize Presentation of Evidence. — When issues not raised by the pleading are tried by express or implied consent of the parties, they shall be treated in all respects, as if they had been raised in the pleadings. Such amendments of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the Hearing Officer may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the Hearing Officer that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The Hearing Officer may grant a continuance to enable the objecting party to meet such evidence.

RULE V

Summons

SECTION 1. Summons. — Upon the filing of the complaint or petition, the corresponding summons to the respondents shall forthwith be issued.

SECTION 2. Contents. — The summons shall be directed to the respondents, under the seal of the Commission, and shall contain: a) a direction that the respondent answer within the time fixed by these Rules, b) a notice that unless the respondent so answers, the complainant or petitioner will take judgment by default and may demand from the Commission the relief applied for.

SECTION 3. Alias Summons. — If summons is returned without being served on any or all of 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.

SECTION 4. 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. (Amended)

SECTION 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. (Amended)

SECTION 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 may be made on the President, Manager, Secretary, Cashier, Agent or any of its directors. (Amended)

SECTION 7. 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. (Amended)

SECTION 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.

SECTION 9. Service by Publication: How Effected. — When the address of a respondent is unknown or even if known, if his 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 and the order granting such leave once in a newspaper of general circulation. 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 and the action relates to, or the subject of which is, property within the Philippines, in which the respondent has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the respondent from any interest therein, or the property of the respondent has been attached within 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 and the order granting such leave once in a newspaper of general circulation. 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 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 brought. (New)

SECTION 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; 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 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. (Amended)

RULE VI

Motion To Dismiss

SECTION 1. Grounds. — Within the time for pleading, a motion to dismiss the action may be made on any of the following grounds:

- a) That the Commission has no jurisdiction over the person of the respondent, or over the subject of the action or suit;
- b) That the Commission has no jurisdiction over the nature of the action or suit;
- c) That the complainant or petitioner or respondent is not the real party in interest;
- d) That the complainant or petitioner has no legal capacity to sue;
- e) That the cause of action is barred by a prior judgment or by statute of limitations;
- f) That the complaint or petition states no cause of action;
- g) That the demand set forth in the complainant's or petitioner's pleading has been waived, abandoned or otherwise extinguished;
- h) That the suit is between members of the same family and no earnest efforts towards a compromise have been made. (Amended)

SECTION 2. Who May File Motion. — A motion to dismiss may be filed by an original respondent, a third-party respondent, the complainant in a counterclaim, or a co-party in a cross-claim.

SECTION 3. Hearing and Order. — After hearing, the Hearing Officer may deny or grant the motion or allow amendment of pleading, or may defer the determination of the motion until the trial if the ground alleged therein does not appear to be indubitable.

SECTION 4. Time to Plead. — If the motion to dismiss is denied or if determination thereof is deferred, the movant shall file his answer within fifteen (15) days computed from the time he received notice of denial or

deferment, unless the Hearing Officer provides a different period.

SECTION 5. Pleading Grounds as Affirmative Defenses. — Any of the grounds for dismissal provided for in this Rule, may be pleaded as an affirmative defense, and a preliminary hearing may, *motu proprio* or upon proper motion, be held thereon as if a motion to dismiss had been filed. (Amended)

RULE VII

Answer

SECTION 1. Form. — The respondent shall answer the complaint or petition in writing, by either denying specifically the material allegations of the complaint or petition, or alleging any lawful defense. All affirmative defenses not pleaded in the answer shall be deemed waived and the same may not be raised for the first time on appeal.

SECTION 2. Time to Answer. — Within fifteen (15) days after service of summons, respondent shall file his answer and serve a copy thereof upon the petitioner or complainant.

Where the respondent is a foreign corporation and service of summons is made on the resident agent designated by the foreign corporation for the purpose, the respondent shall answer within thirty (30) days after receipt of summons by the resident agent. (Amended)

SECTION 3. Answer to Amended Complaint. — If the complaint is amended, the time fixed for the filing and service of the answer shall, unless otherwise ordered, run from notice of the order admitting the amended complaint or from service of such amended complaint. The original answer shall be considered as answer to the amended complaint unless a new answer is filed within ten (10) days from notice of order or service of the amended complaint. (Amended)

SECTION 4. Answer to Third-Party Complaint. — The third-party respondent shall file his answer as provided in this Rule, alleging his defenses and his counterclaims and cross-claims against the complainant, the third-party complainant or any other party and he may assert such defenses as the third party complainant may have against the complainant's claim.

SECTION 5. Answer to Permissive Counterclaim or Cross-claim. — A permissive counterclaim or cross-claim must be answered within ten (10) days from service and failure to do so will constitute a default. The party filing such answer may plead therein a counterclaim or cross-claim. (Amended)

SECTION 6. Default. — If respondent fails to answer within the time fixed by these Rules, the Hearing Officer, *motu proprio* or upon motion of the petitioner or complainant with proof of such failure, shall declare the respondent in default and forthwith receive evidence *ex parte* and render judgment granting such relief as the petition or complaint and the facts proven may warrant. This provision applies where no answer is made to a permissive counterclaim, cross-claim, or third-party complaint within the period provided in this Rule.

No service of pleadings other than substantially amended or supplemental pleadings and final orders or judgments shall be necessary on a party in default unless he files a motion to set aside the order of default, in which event he shall be entitled to notice of all further proceedings regardless of whether the order of default is set aside or not. (Amended)

SECTION 7. Relief from Order of Default. — A party declared in default may at any time after discovery thereof and before judgment file a motion under oath to set aside the order of default upon proper showing that his failure to answer was due to fraud, accident, mistake or excusable negligence and that he has a meritorious defense. In such case, the order of default may be set aside and in the interest of Justice, the Hearing Officer may impose terms and conditions thereon. (New)

SECTION 8. Judgment When Some Respondents Answer, and Others Make Default. — When a complaint or

petition states a common cause of action against several respondents, some of whom answer, and the others fail to do so, the Hearing Officer shall try the case against all upon the answers thus filed, and render judgment upon the evidence presented. The same procedure applies when a common cause of action is pleaded in a counterclaim, cross-claim and third-party claim. (New)

RULE VIII

Preliminary Conference

SECTION 1. Preliminary Conference. — In any action, after the issues have been joined, the Hearing Officer shall set the case for preliminary conference within 15 days therefrom, and the parties and their attorneys shall be directed to appear before the Hearing Officer on the date set on the notice, to consider, based on the preliminary conference brief submitted by the parties:

- a) The possibility of an amicable settlement;
- b) The necessity or desirability of amendments to pleadings;
- c) The possibility of obtaining stipulations or admissions of facts and or documents to avoid unnecessary proof;
- d) The limitation of the number of witnesses;
- e) The simplification of the issues;
- f) The scheduled dates of hearing of the case, and
- g) Such other matters as may aid in the just and speedy disposition of the case. (Amended)

SECTION 2. Preliminary Conference Brief . — A preliminary conference brief mentioned in the preceding paragraph shall be filed within ten (10) days after the issues are joined and shall contain the following:

1.
 - a) A list of material facts to be proved, both in the main case and in any provisional remedy prayed for;
 - b) How they are proved; attaching all documentary evidence in support thereof, properly marked. Documents not attached shall be inadmissible, except newly discovered evidence;
 - c) A list of witnesses to be presented and the nature of their testimony. Witnesses not listed shall not be allowed to testify, except on newly discovered evidence;
 - d) The approximate number of hours that will be required by them for the presentation of their respective evidence;
 - e) The specific trial dates needed to complete presentation of evidence by all parties which must be within a period of three (3) months from the first day of trial.
2. A statement of the issues both of the case and any provisional remedy prayed for;
3. A summary of provisions of law, precedents, authorities or jurisprudence in support of the rights invoked, claims asserted, defenses relied upon or the remedies prayed for, and
4. Legal processes requested or documents intended to be produced by the adverse party. (New)

SECTION 3. 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 any 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 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 correspondent order or decision of the Hearing Officer. (Amended)

SECTION 4. Failure to Appear at Preliminary Conference. — A party who fails to appear at a preliminary conference or to submit the preliminary conference brief within the prescribed period may be non-suited or considered as in default. (Amended)

SECTION 5. Judgment on the Pleadings or Summary Judgment at Preliminary Conference. — If at the preliminary conference, the Hearing Officer finds that facts exist upon which a judgment on the pleadings or a summary judgment may be made, he may render judgment on the pleadings or a summary judgment as justice may require.

SECTION 6. Preliminary Conference Order. — After the preliminary conference, the Hearing Officer shall issue an Order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, including the scheduled dates of hearing. Such order shall limit the issues for trial to those not disposed of by admissions or agreement of counsel and when entered controls the subsequent course of the action, unless modified before trial to prevent manifest injustice. (New)

RULE IX

Subpoena and Subpoena Duces Tecum

SECTION 1. Definition. — Subpoena is a process directed to a person requiring him to attend and to testify at the hearing of an action before the Hearing Officer or for the taking of his deposition which shall be conducted in accordance with the pertinent provisions of the Rules of Court. It may also require him to bring with him any books, documents or other things under his control, in which case it is called a subpoena duces tecum.

SECTION 2. By Whom Issued. — The subpoena shall be issued by the Hearing Officer before whom the witness is required to attend, or the Clerk of Court of First Instance, or Municipal or City Judge before whom the deposition is to be taken upon the request of the Hearing Officer.

SECTION 3. Form and Contents. — A subpoena shall be signed by the Hearing Officer under the seal of the Commission. It shall state the title of the case, shall be directed to the person whose attendance is required, and in case of a subpoena duces tecum, it shall also contain a reasonable description of the books, documents or things demanded which must appear to the Hearing Officer to be prima facie relevant. (Amended)

SECTION 4. Quashing a Subpoena Duces Tecum. — The Hearing Officer upon motion made promptly and in any event at or before the time specified in the subpoena duces tecum for compliance therewith, may quash the subpoena if it is unreasonable and oppressive, the relevancy of the books, documents or things does not appear, if the person in whose behalf the subpoena is issued fails to advance the reasonable cost of the production thereof.

SECTION 5. Service of a Subpoena. — Service of a subpoena shall be made by the process server of the Commission or any person specially authorized by the Hearing Officer who is not a party. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of hearing.

SECTION 6. Compelling Attendance. — In case of failure of a witness to attend, the Hearing Officer issuing the subpoena, upon proof of the service thereof, may upon motion issue a warrant to the Municipal or City police or military authorities to arrest the witness and bring him before the Hearing Officer and the costs of such arrest shall be paid by the witness if the Hearing Officer issuing it shall determine that his failure to

answer the subpoena was willful and without just cause.

SECTION 7. Witness not Bound by a Subpoena. — A witness is not bound to attend as such before the Commission if his place of residence is more than fifty (50) kilometers to the place of hearing unless the party in whose behalf the subpoena is issued, shall tender to him an amount equivalent to his reasonable expenses in coming to and returning from the hearing.

SECTION 8. Contempt. — Failure by any person without adequate cause to obey a subpoena served upon him shall be deemed a contempt of the Commission.

RULE X

Motions In General

SECTION 1. Motion Defined. — Every application for an order not included in a judgment may be called a motion.

SECTION 2. Form. — All motions shall be in writing except motions for continuance made in the presence of the adverse party or those made in the course of a hearing or trial.

The rules applicable to pleading shall apply to all motions insofar as it concerns caption, signing and other matters of form.

SECTION 3. Contents. — A motion shall state the order sought to be obtained and the grounds upon which it is based, and, if necessary, shall be accompanied by supporting affidavits and other papers. All motions shall contain a notice of hearing which shall state the date and time for the hearing on the motion.

When the facts are set forth in a motion which are not of record nor within the judicial notice of the hearing-officer, it is necessary to prove them by affidavit or other papers attached to the motion.

SECTION 4. Notice. — Notice of a motion shall be served by the applicant to all parties concerned, at least three (3) days before the hearing thereof, together with a copy of the motion and of any affidavits and other papers accompanying it.

The Hearing Officer, however, for good cause may hear a motion on shorter notice especially on matters which may be disposed of on its own motion.

SECTION 5. Proof of Service to be Filed with Motion. — No motion shall be acted upon by the Hearing Officer, without proof of service of the notice thereof, except upon satisfaction that the rights of the adverse party or parties are not affected.

SECTION 6. Omnibus Motion. — A motion attacking a pleading or a proceeding shall include all objections then available and all objections not so included shall be deemed waived.

SECTION 7. Motion for Reconsideration. — Any motion for reconsideration of an interlocutory shall be filed within ten (10) days from receipt of such order. No more than one motion for reconsideration of an interlocutory order shall be allowed unless with express prior leave of the Hearing Officer. (New)

SECTION 8. Motion for Extension to File Pleadings. — The period to file pleadings shall not be extended for a period exceeding the original period provided under the Rules or granted by the Hearing Officer. (New)

RULE XI

Bill Of Particulars: Intervention

SECTION 1. Motion for Bill of Particulars. — Before responding to a pleading or if no responsive pleading is permitted by these Rules, within ten (10) days after service of the pleading upon him, a party may move for a more definite statement, or for a bill of particulars of any matter which is not averred with sufficient

definiteness or particularity to enable him properly to prepare his responsive pleading or to prepare for trial. Such motion shall point out the defects complained of and the details desired.

SECTION 2. Stay of Period to File Responsive Pleading. — After service of the bill of particulars or of a more definite pleading, or after notice of denial of his motion, the moving party shall have the same time to serve his responsive pleadings, if any is permitted by these Rules, as that to which he was entitled at the time of serving his motion, but not less than five (5) days in any event.

SECTION 3. Refusal. — If an order of the Hearing Officer to make a pleading more definite and certain or for a bill of particulars is not obeyed within ten (10) days after the notice of the order, or within such other time as the Hearing Officer may fix, he may order the striking out of the pleading to which the motion was directed or make such other orders as he deems just. He may, upon motion, set aside the order or modify it in the interest of justice.

SECTION 4. Intervention: When Proper. — A person may, before or during a trial, 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 5. Motion for Intervention. — A person desiring to intervene shall file a motion for leave of the Commission with notice upon all the parties to the action.

SECTION 6. Discretion of the Hearing Officer. — In allowing or disallowing a motion for intervention, the 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 7. Complaint or Petition or Answer in Intervention. — The intervention shall be made by complaint or petition filed and served in regular form and may be answered as if it was an original complaint or 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 8. Time. — Unless a different period is fixed by the Hearing Officer, the complaint or petition or answer in intervention shall be filed within ten (10) days from notice of the order permitting the intervention.

RULE XII

Trial

SECTION 1. Continuous Trial of Cases. — The Hearing Officer shall, as far as practicable, set the case for successive and continuous daily trial for the reception not only of the evidence in chief but also on any provisional remedy prayed for in the complaint or petition; provided, however, that the hearing of the case on the merits or the reception of evidence of the parties shall be terminated within ninety (90) days, thirty (30) days to be allotted to complainant's or petitioner's evidence, thirty (30) days for respondent, and thirty (30) days for any rebuttal and surrebuttal evidence. In the case of provisional remedies, except Preliminary injunction which is covered by Rule XVIII, the hearings or reception of evidence thereof shall be terminated within thirty (30) days. (New)

SECTION 2. Postponement of Hearings. — Postponement of hearings shall be allowed only on extremely meritorious grounds and provided, that the reception of evidence of the parties shall not exceed the periods provided under the preceding section. (New)

SECTION 3. Order of Trial. — Unless the Hearing Officer, for special reasons, otherwise directs, the order of trial shall be as follows:

a) The complainant or petitioner must produce evidence in support of his allegations in the complaint or

petition, subject to cross-examination by the respondent or his counsel;

b) The respondent shall then offer evidence in support of his defense, counterclaim, cross-claim, and third-party claims subject to cross-examination by complainant or petitioner or his counsel.

c) The third party-respondent, if any, shall introduce evidence of his defense, counterclaim, cross-claim and third-party claim;

d) The fourth, etc. party, if any, shall introduce evidence of the material facts pleaded by him;

e) The parties against whom any counterclaim or cross-claim has been pleaded shall introduce evidence in support of their defense, in the order to be prescribed by the Hearing Officer.

f) The parties may then respectively offer rebutting evidence only, unless the Hearing Officer, for good reasons, in the furtherance of justice, permits them to offer additional evidence pertinent to the original issue.

g) then the presentation of evidence is concluded, the parties may submit their respective memoranda, the submission of which shall be simultaneous, within fifteen (15) days from the date of the last hearing. (Amended)

SECTION 4. Consolidation. — When actions involving a common question of law or fact are pending before the Commission, the Hearing Officer may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. (New)

SECTION 5. Reconsideration. — Within thirty (30) days from receipt of the order or decision of the Hearing Officer, the aggrieved party may file a motion for reconsideration of such order or decision together with proof of service thereof upon the adverse party. No more than one motion for reconsideration shall be allowed unless with the express prior leave of the Hearing Officer. (Amended)

SECTION 6. Opposition to Motion for Reconsideration. — Within ten (10) days from receipt of the copy of the motion for reconsideration, the party interested in upholding the order or decision may file his opposition thereto and serve a copy thereof upon the movant. (Amended)

SECTION 7. When Motion Deemed Submitted. — After the opposition is filed or at the expiration of the period for filing the same without such opposition having been filed, the motion shall be deemed submitted for resolution, unless the Hearing Officer considers it necessary to hear the oral arguments of the parties, in which case notice to that effect shall be issued.

SECTION 8. When Order Becomes Final. — The decision or order of the Hearing Officer shall become final and executory after the lapse of thirty (30) days from notice of such decision or order, unless a motion for reconsideration of such order or decision or an appeal is filed within the period prescribed. (Amended)

RULE XIII

Judgment On The Pleadings, Judgment On Demurrer To Evidence, and Summary Judgment

SECTION 1. Judgment on the Pleadings. — Where an answer fails to tender an issue or otherwise admits the material allegation of the adverse party's pleadings, the Hearing Officer may, on motion of that party, direct judgment on such pleading.

SECTION 2. Judgment on Demurrer to Evidence. — After the complainant or petitioner has completed the presentation of his evidence, the respondent, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that, upon the facts and the law, the complainant or petitioner has shown no right to relief. However, if the motion is granted and the order of

dismissal is reversed on appeal to the Commission en banc the movant loses his right to present evidence in his behalf.

SECTION 3. Summary Judgment. — A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits for a summary judgment in his favor upon all or any part thereof.

A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory relief is sought may, at any time, move with supporting affidavits for a summary judgment in his favor as to all or any part thereof.

RULE XIV

Entry, Execution, Satisfaction and Effect of Judgment

SECTION 1. Entry of Judgment and Orders. — If no appeal or motion for reconsideration is filed within the time provided in these rules, the judgment or order shall be entered and the recording of the judgment or order in the book of entries of judgment shall constitute its entry. The record shall contain the dispositive part of the judgment or order and a certificate that such judgment or order has become final and executory. (New)

SECTION 2. Execution Upon Final Judgment. — Execution shall issue only upon a judgment or order that finally disposes of the action or proceeding. Such execution shall issue as a matter of right upon the expiration of the period to appeal therefrom, if no appeal has been duly perfected.

SECTION 3. Issuance of Writ. — After a decision, order or judgment has become final and executory, the Hearing Officer shall, upon motion of the prevailing party with notice to adverse party issue a writ of execution, attaching thereto a certified true copy of the decision, order or judgment, and serving upon the party against whom the same is rendered, or upon any other person required thereby, or by law, to obey the same, and such party or person may, upon proper motion, be punished for contempt if he disobeys such decision, order or judgment. (New)

SECTION 4. Execution Pending Appeal. — On motion of the prevailing party with notice to the adverse party, the Hearing Officer may, in his discretion, order execution to issue before the expiration of the time to appeal, upon meritorious grounds to be stated in a special order and the posting of a sufficient bond. (Amended)

SECTION 5. Stay of Execution. — Execution issued before the expiration of the time to appeal may be stayed upon the approval by the Hearing Officer of a sufficient supersedeas bond filed by the appellant, conditioned upon the performance of the Judgment or order appealed from in case it is affirmed wholly or in part by the Commission en banc. The bond thus given may be proceeded against on motion before the Hearing Officer with notice to surety, after the case is remanded to him by the Commission en banc. (Amended)

SECTION 6. Effect of Reversal of Executed Judgment. — Where a judgment executed is reversed totally or partially on appeal, the Hearing Officer, on motion, after the case is remanded to him, may issue such orders of restitution as equity and justice may warrant under the circumstances.

SECTION 7. Execution by Motion or by Independent Action. — A judgment may be executed on motion within five (5) years from the date of its entry or from the date it becomes final and executory. After the lapse of such time, and before it is barred by the statute of limitation, a judgment may be enforced by action.

SECTION 8. Judgment for Specific Acts. — If judgment directs a party to deliver deeds or other documents, or to perform any specific act and the party fails to comply within the time specified, the Hearing Officer may direct the act to be done at the cost of the disobedient party by some other person appointed for the purpose and the act when so done shall have like effect as if done by the party.

SECTION 9. Return of Writ of Execution. — The Writ of execution may be made returnable to the Hearing Officer at any time not less than ten (10) nor more than sixty (60) days after its receipt by the officer so designated for the purpose who must set forth in writing on its back the whole of his proceedings by virtue

thereof, and file it together with the other papers of the case. A certified copy of the record in the execution book kept by the clerk shall be evidence of the contents of the original whenever they, or any part thereof, have been lost or destroyed. (Amended)

RULE XV

Petition For Review By Certiorari

SECTION 1. Petition For Review or Certiorari. — The Commission en banc, may entertain a petition for review or certiorari when it appears on the face of the petition that the Hearing Officer has acted without or in excess of his jurisdiction or with grave abuse of discretion in issuing said order and there is no plain, speedy or adequate remedy in the ordinary course of law.

The petition shall be verified, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the questioned order or ruling as the law requires.

The petition shall be accompanied by a certified true copy of the order subject thereof, together with copies of all pleadings and documents relevant and pertinent thereto. (New)

SECTION 2. Docket Fee and Where Petition filed. — Unless otherwise provided by the Commission the docket fee shall be five hundred Pesos (P500.00).

The petition shall be filed with the Secretary of the Commission in seven (7) copies within ten (10) days from receipt of the order subject of the petition from receipt of the order denying the motion for reconsideration, if any, furnishing a copy thereof to the party interested in sustaining the order and the Hearing Officer who issued the same. (New)

SECTION 3. Parties Respondent. — The petitioner shall join as party respondents together with the Hearing Officer who issued the questioned order, the party or parties interested, in sustaining such order, and it shall be the duty of such party or parties to defend the questioned order. (New)

SECTION 4. Proceeding Before the Commission En Banc. — 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 outright 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, the Hearing Officer has acted without or in excess of his jurisdiction, or has acted with grave abuse or discretion, it may require the party or parties interested in sustaining the questioned order, to comment 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 5. 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 orders for the preservation of the rights of the parties during the pendency of the proceedings. (New)

RULE XVI

Appeals

SECTION 1. Decision, Order or Ruling Subject to Appeal. — Only final decisions, orders or rulings may be appealed to the Commission en banc.

No interlocutory order shall stay the progress of an action nor shall it be the subject of appeal to the Commission en banc until a final decision, order or ruling is rendered for one party or the other, except as provided in Rule XV hereof. (Amended)

SECTION 2. Who May Appeal. — Any party to the action may appeal from a final decision, order or ruling of

the Hearing Officer to the Commission en banc.

SECTION 3. How Appeal is Taken: When Perfected. — Appeal may be taken by filing with the Hearing Officer who promulgated the decision, order or ruling within thirty (30) days from notice thereof; and serving upon the adverse party, a notice of appeal and a memorandum on appeal and paying the corresponding docket fee therefor. The appeal shall be considered perfected upon the filing of the memorandum on appeal and payment of the docket fee within the period herein-above fixed. (Amended)

SECTION 4. Interruption of Time to Appeal. — The time during which a motion for reconsideration has been pending shall be deducted from the period for perfecting an appeal.

If a motion for reconsideration has been filed on the last day of the period to appeal and the said motion is denied, the appeal must be perfected within the day following that in which the party appealing received the notice of said denial. (Amended)

SECTION 5. Notice of Appeal. — The notice of appeal shall specify the parties to the appeal, indicate the material dates to show that the appeal was seasonably filed and shall designate the decision or order, or part thereof appealed from. (New)

SECTION 6. Docket Fee for Appeal. — Unless otherwise provided by the Commission the docket fee for an appeal shall be five hundred pesos (P500.00). (Amended)

SECTION 7. Memorandum on Appeal. — The appellant shall file with the Hearing Officer seven (7) copies of the memorandum on appeal which shall contain a concise statement of the facts and issues involved, the errors assigned, the grounds relied upon for the appeal and the arguments in support thereof. (Amended)

SECTION 8. Reply Memorandum. — The appellee shall file seven (7) copies of his reply memorandum with the Secretary of the Commission copy furnished the appellant, within ten (10) days from his receipt of the appeal memorandum. Failure to file said reply memorandum within the period herein fixed shall be construed as a waiver to file the same. (New)

SECTION 9. Transmittal of Case Records. — Within five (5) days following the perfection of the appeal, the entire records of the case, including the notice and memorandum on appeal, shall be transmitted to the Commission en banc. (Amended)

SECTION 10. Action on Incidental Motions. — All incidental motions filed by any party before the perfection of the appeal shall be acted upon by the Hearing Officer concerned. After the appeal has been perfected, said Hearing Officer loses jurisdiction over the case. (New)

SECTION 11. Dismissal of Appeal. — An appeal may be dismissed outright by the Hearing Officer if it is not perfected within the period prescribed by these rules.

Likewise, the Commission en banc may dismiss an appeal if the order or ruling appealed from is not appealable under these rules. (New)

SECTION 12. Withdrawal of Appeal. — An appeal may be withdrawn as a matter of right at any time before the filing of appellants' reply memorandum. After the reply memorandum is filed, the withdrawal may be allowed by leave of the Hearing Officer. (New)

SECTION 13. When Case 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 case shall be deemed submitted for decision, unless the Commission en banc motu proprio, or upon proper motion and for special reasons, sets the case for oral arguments. (New)

SECTION 14. Disposition of Case. — The Commission en banc, in the exercise of its appellate jurisdiction,

may affirm, reverse or modify the decision or order appealed from or may direct further proceedings to be taken. (New)

SECTION 15. Frivolous or Dilatory Appeals. — To discourage frivolous or dilatory appeals, the Commission may impose reasonable penalty, including fines and censures upon the appellants.

RULE XVII

Appeal From The Decision, Order or Ruling Of The Commission En Banc

SECTION 1. Any aggrieved party may appeal the order, decision or ruling of the Commission sitting en banc to the appellate court as may be provided by law.

RULE XVIII

Preliminary Injunction

SECTION 1. Preliminary Injunction Defined. — A preliminary injunction is an order granted at any stage of an action prior to the final judgment, requiring a person to refrain from a particular act. It may also require the performance of a particular act, in which case, it shall be known as a preliminary mandatory injunction.

SECTION 2. Grounds for Issuance of Preliminary Injunction. — A preliminary injunction may be granted 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 petitioner or complainant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the acts complained of, or in the performance of an act or acts, either for a limited period or perpetually.
- b) That the commission or continuance of some act complained of during the litigation or the non-performance thereof would probably work injustice to the petitioner or complainant; or
- c) That the respondent is doing, threatens, or is about to do, or is procuring or suffering to be done, some act probably in violation of the petitioners or complainants rights respecting the subject of the action, and tending to render the judgment ineffectual.

SECTION 3. Verified Complaint and Bond for Preliminary Injunction. — A preliminary injunction may be granted only when:

- a) The complaint or petition is verified, and shows facts entitling the complainant or petitioner to the relief demanded; and
- b) The complainant or petitioner files with the Commission a bond executed to the party enjoined, in an amount to be fixed by the Hearing Officer, to the effect that the complainant or petitioner will pay to such party all damages which he may sustain by reason of the injunction, if the Commission should finally decide that the complainant or petitioner was not entitled thereto.

SECTION 4. Temporary Restraining Order. — If it shall appear from the facts shown by affidavit or by the verified complaint or petition that great or irreparable injury would result to the applicant before the matter can be heard on notice, the Hearing Officer may issue a temporary restraining order to be effective only for a period of twenty days from date of its issuance. Within the said twenty-day period, the Hearing Officer must cause an order to be served on the respondent, requiring him to show cause, at a specified time and place, why the injunction should not be granted, and determine within the same period whether or not the preliminary injunction shall be granted, and shall accordingly issue the corresponding order. In the event that the application for preliminary injunction is denied, the restraining order is deemed automatically vacated. (Amended)

SECTION 5. Grounds for Objection to, or for Motion of Dissolution of Injunction. — The injunction may be refused, or, if granted may be dissolved, upon the insufficiency of the complaint or petition as shown by the complaint or petition itself, with or without notice to the adverse party. It may also be refused or dissolved on other grounds upon affidavit on the part of the respondent which may be opposed by the complainant or petitioner also by affidavits. It may further be refused, or if granted, may be dissolved, if it appears after hearing that although the complainant or petitioner is entitled to the injunction, the issuance or continuance thereof, as the case may be, would cause great damage to the respondents while the complainant or petitioner can be fully compensated for such damages as he may suffer, and the respondent files a bond in an amount fixed by the Hearing Officer conditioned that he will pay all damages which the complainant or petitioner may suffer by the refusal or the dissolution of the injunction. If it appears that the extent of the preliminary injunction granted is too great, it must be modified.

SECTION 6. Order. — After hearing on the merits, the Hearing Officer may grant or refuse, continue, modify or dissolve the injunction as justice may require.

SECTION 7. Service of Copies of Bonds: Effects of Disapproval of Same. — The party filing a bond in accordance with the provisions of this Rule shall forthwith serve a copy of such bond on the other party, who may except to the sufficiency of the bond, or of the surety or sureties thereon. If the complainant's or petitioner's bond is found to be insufficient in amount, or if the- surety or sureties thereon fail to justify, and a bond sufficient in amount with sufficient sureties approved after justification is not filed forthwith, the injunction shall be dissolved. If the respondent's bond is found to be insufficient in amount, or the surety or sureties thereon fail to justify and a bond sufficient in amount with sufficient sureties approved after justification is not filed forthwith, the injunction shall be granted or restored, as the case may be.

SECTION 8. Judgment to Include Damages Against Party and Sureties. — Upon the trial the amount of damages to be awarded to the complainant or petitioner or the respondent, as the case may be, upon the bond of the other party, shall be claimed, ascertained, and awarded under the same procedure as prescribed in Section 20 of Rule 57 of the Rules of Court.

SECTION 9. When Final Injunction Granted. — If upon the trial of the action it appears that the petitioner or complainant is entitled to have the act complained of permanently enjoined, the Hearing Officer shall grant a final injunction perpetually restraining the respondent from the commission or the continuance of the act or confirming the preliminary mandatory injunction.

RULE XIX

Contempt

SECTION 1. Direct Contempt Punished Summarily. — 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 toward the Hearing Officer, offensive personalities toward 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 less than Five Hundred Pesos, (P500.00) or imprisonment not exceeding ten (10) days or both. (Amended)

SECTION 2. Indirect Contempt to be Punished After Charge and Hearing. — After a charge in writing has been filed, and an opportunity given to the accused to be heard by himself or counsel, a person guilty of any of the following acts may be punished for contempt:

- a) Disobedience of or resistance to a lawful writ, process, order, judgment, or command of the Hearing Officer, or injunction granted by him;

- b) Any abuse of or any unlawful interference with the process or proceedings of the Commission, not constituting direct contempt under Section 1 of this rule;
- c) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice or the performance of the Commission's proper function:
- d) Failure to obey a subpoena duly served.

But nothing in this section shall be so construed as to prevent the Hearing Officer from issuing process to bring the accused party into or before the Commission, or from holding him in custody pending such proceedings.
(Amended)

SECTION 3. Hearing: Release on Bail. — If the hearing is not ordered to be had forthwith, the accused maybe released from custody upon filing a bond, in an amount fixed by the Hearing Officer, for his appearance to answer the charge. Upon the day set for the hearing, the Hearing Officer shall proceed to investigate the charge and consider such answer or testimony as the accused may make or offer. (Amended)

SECTION 4. Punishment if Found Guilty. — If the accused is thereupon adjudged guilty of contempt committed against the Hearing Officer, he may be punished by a fine not exceeding ten thousand (P10,000) pesos or imprisonment not more than five (5) years, or both, and if the contempt consists in the violation of an injunction, he may also be ordered to make complete restitution to the party injured by such violation. (Amended)

SECTION 5. Imprisonment Until Order Obeyed — When the contempt consists in the omission to do an act which is yet in the power of the accused to perform, he maybe imprisoned by order of the Hearing Officer until he performs it. (Amended)

SECTION 6. Proceedings When Party Released on Bail Fails to Answer — When an accused released on bail fails to appear on the date fixed for the hearing, the Hearing Officer may issue another order of arrest or may order the bond for his appearance to be prosecuted, or both; and, if the bond be prosecuted, the measure of damages shall be the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the contempt was prosecuted. and the costs of the proceedings, and such recovery shall be for the benefit of the party injured. But if there is no aggrieved party, the bond shall be liable as in criminal cases.

SECTION 7. Hearing Officer May Release Accused. — The Hearing Officer may discharge from imprisonment a person imprisoned for contempt when it appears that public interest will not suffer thereby.

SECTION 8. Review of Judgment or Order by the Commission En Banc: Bond for Stay. — The judgment or order of the Hearing Officer made in a case of contempt punished after written charge and hearing may be reviewed by the Commission en banc, but execution of the judgment or order shall not be suspended until a bond is filed by the person in contempt, in an amount fixed by the Hearing Officer conditioned that if the appeal be decided against him he will abide by and perform the judgment or order. The appeal may be taken as in criminal cases. (Amended)

RULE XX

Action For Suspension Or Revocation Of Franchise

SECTION 1. Grounds for Instituting the Action Against a Corporation. — An action for suspension or revocation of franchise may be brought against a corporation registered with the Commission:

- a) When it has offended against a provision of the Corporation Code;
- b) When it has forfeited its privileges and franchises by non-user;

c) When it has committed or omitted an act which amounts to a surrender of its corporate rights, privileges, or franchises;

d) When it has misused a right, privilege, or franchise conferred upon it by law, or when it has exercised a right, privilege, or franchise in contravention of law.

SECTION 2. Action by Whom Filed. — (a) An action under the preceding section shall be commenced by the Prosecution and Enforcement Department when directed by the Commission.

b) The Prosecution and Enforcement Department may also bring such an action when it has good reasons to believe that any case can be established by proof, or at the request and upon the relation of another person; but in such case the Prosecution and Enforcement Department may first require that an indemnity for the expenses and costs of the action be given to it by the person at whose request and upon whose relation the same is brought.

c) Actions for the suspension or revocation of a franchise or certificate of registration of a corporation, partnership or association as provided in Section 2 (a) shall be filed with the Securities Investigation and Clearing Department. (New)

SECTION 3. Limitation — Nothing contained in this Rules shall be construed to authorize an action against a corporation for forfeiture of charter unless the same be commenced within five (5) years after the act complained of was done or committed. (New)

RULE XXI

Mandamus

SECTION 1. Petition for Mandamus. — When any corporation, board or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition with the Commission alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other specified time, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

SECTION 2. Order to Answer. — If the petition is sufficient in form and substance to justify such process, the Hearing Officer shall issue an order requiring the respondent to answer the petition within ten (10) days from receipt of copy thereof.

SECTION 3. Expediting Proceedings: Preliminary Injunction. — The Hearing Officer may issue orders expediting the proceedings, and may also grant a preliminary injunction for the preservation of the rights of the parties pending such proceedings.

SECTION 4. Proceedings After Answer is Filed. — Once the answer is filed, or the time for its filing has expired, the Hearing Officer shall hear the case, and if after such hearing he finds that the allegations of the petition are true, he shall render judgment for such of the relief prayed for as the petitioner is entitled to, with or without costs, as justice requires.

SECTION 5. Service and Enforcement of Order or Judgment. — A certified copy of the judgment rendered in accordance with the last preceding section shall be served upon the corporation, board, officer or persons concerned in such manner as the Hearing Officer may direct, and disobedience thereof punished as for contempt. An execution may issue as in other cases for any damages or costs awarded.

RULE XXII

Appearance Before The Commission: Stenographers

SECTION 1. Employment of Legal Counsel. — A party who appears before any Hearing Officer to prosecute his complaint or make his defense may employ the services of a legal counsel, who must be a member of the Integrated Bar of the Philippines, unless the Hearing Officer, for special reasons, allows a party to prosecute or defend by himself without the benefit of counsel. (Amended)

SECTION 2. Formal Appearance of Counsel. — Every attorney appearing before any hearing conducted by the Commission shall manifest orally or in writing his appearance for a party stating his name and exact address, his Professional Tax Receipt and IBP Number for the current year, and any pleading filed and signed by him without complying with the above requirement shall not be accepted and he shall not be allowed to continue the prosecution or defense of any suit or claim. (Amended)

SECTION 3. Stenographer. — All hearings before the Commission shall be attended by a stenographer who shall take down notes of all the proceedings had therein. At the termination of each hearing, it shall be the duty of the stenographer to immediately transcribe all the notes taken thereat and after transcription thereof, to have the transcript of stenographic notes, duly certified, initialed on each page and signed on the last page thereof filed with the records of the case.

RULE XXIII

Applicability Of The Rules of Court

SECTION 1. The provisions of the rules of court, unless inconsistent, shall have suppletory effect on those rules. (Amended)

RULE XXIV

Effectivity Applicability

The foregoing Revised Rules shall be published in two newspapers of general circulation in the Philippines or in the Official Gazette and the same shall be effective fifteen (15) days after publication.

Adopted: 1 Aug. 1989

(SGD.) ROSARIO N. LOPEZ

Chairman

(SGD.) GONZALO T. SANTOS, JR. (SGD.) RODOLFO L. SAMARISTA

Associate Commissioner Associate Commissioner

(SGD.) MERLE O. MANUEL (SGD.) ARMANDO Z. GONZALES

Associate Commissioner Associate Commissioner

Effective: 29 October 1989

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