

CODE OF CONDUCT FOR HEARING OFFICERS

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(ANNEX A OF THE REVISED RULES OF PROCEDURE 2000[*])

Honorable, competent and independent Hearing Officers in the Securities and Exchange Commission exist to administer justice and thus promote the unity of the country, the stability of government, and the well-being of the people.

Canon 1

A Hearing Officer shall uphold the integrity of his office and help promote the independence of the Commission.

Rule 1-1. A Hearing Officer shall adhere to maintain and enforce high standards of conduct, and shall personally observe those standards so that the integrity and independence of his office will be preserved.

The provisions of this Code are to be construed and applied further to this objective.

Canon 2

A Hearing Officer shall avoid impropriety and the appearance of impropriety in all of his activities.

Rule 2-1. A Hearing Officer shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Commission.

Rule 2-2 . He should not allow family, social, political, or other relationships to influence his conduct or judgment, nor shall he convey or permit others to convey the impression that any individual is in a special position to influence him.

Canon 3

A Hearing Officer shall perform the duties of his office impartially and diligently.

Rule 3-1 . He should hear and decide all matters assigned to him except those in which he or she is disqualified.

Rule 3-2. A Hearing Officer shall be faithful to the law regardless of partisan interests, public clamor, or fear of criticism, and shall maintain professional competence in the law.

Rule 3-3 . He should require order and decorum in proceedings before him. He should be patient, dignified, and courteous to litigants, witnesses, lawyers and others with whom he deals with in an official capacity, and shall require similar conduct of lawyers and all staff and personnel under his direction and control.

Rule 3-4 . A Hearing Officer shall perform his duties without bias or prejudice. He shall not, in the performance of these duties, by words or conduct, manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.

Rule 3-5 . The Hearing Officer shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, full right to be heard according to law. He shall not initiate or consider ex parte

communications, or consider other communications made to him outside the presence of the parties concerning pending or impending proceeding, except as follows:

- a. To obtain the advice of a disinterested expert on the law applicable to a proceeding before him, if he gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.
- b. Consult with Commission personnel and other Hearing Officers whose function is to aid him in carrying out his adjudicative responsibilities.
- c. A Hearing Officer, may initiate ex parte communications, where circumstances require, for scheduling, administrative purposes, or emergencies that do not deal with substantive matters provided that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and the Hearing Officer makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.
- d. Ex-parte motions allowed under the Rules and form part of the records.

Rule 3-6. A Hearing Officer shall dispose of all matters fairly, promptly, and efficiently.

Rule 3-7. A Hearing Officer shall not make any public comment about a pending or impending proceeding, and shall not make any nonpublic comment that might substantially interfere with a fair trial or hearing. The Hearing Officer shall require similar abstention on the part of the Commission's personnel subject to his direction and control. This Canon does not prohibit Hearing Officer from making statements in the course of their official duties or from explaining for public information the procedures of the Commission, and does not apply to proceedings in which the Hearing Officer is a litigant in a personal capacity.

Rule 3-8. A Hearing Officer shall not disclose or use, for any purpose unrelated to his duties, nonpublic information acquired in his official capacity.

Rule 3-9 . A Hearing Officer shall disqualify himself in any proceedings in which disqualification is required by law. In all proceedings before him, he shall disclose on the record information that the Hearing Officer believes the parties or their lawyers might consider relevant to the question of disqualification, even if he believes there is no actual basis for disqualification.

Rule 3-10. A Hearing Officer should take no part in a proceeding where the Hearing Officer's impartiality might reasonably be questioned. These include, among others, proceedings where:

- a. The Hearing Officer has personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
- b. The Hearing Officer served as executor, administrator, guardian, trustee or lawyer in the case or matters in controversy, or a former associate of the judge served as counsel during their association, or the Hearing Officer was a material witness therein;
- c. The Hearing Officer is related by consanguinity or affinity to a party litigant within the sixth degree or to counsel within the fourth degree;
- d. The Hearing Officer knows that his spouse or child has a financial interest as heir, legatee, creditor, fiduciary, or otherwise, in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

June 6, 2000

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[*] Revised Rules of Procedure 2000 of the Securities and Exchange Commission, please see NAR Volume 11/2 page 1119.

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