

(3) *Temporary suspensions.* An order of temporary suspension shall become effective upon service on the respondent. No order of temporary suspension shall be entered by the Commission pursuant to paragraph (e)(3)(i) of this section more than 90 days after the date on which the final judgment or order entered in a judicial or administrative proceeding described in paragraph (e)(3)(i)(A) or (e)(3)(i)(B) of this section has become effective, whether upon completion of review or appeal procedures or because further review or appeal procedures are no longer available.

(i) The Commission, with due regard to the public interest and without preliminary hearing, may, by order, temporarily suspend from appearing or practicing before it any attorney, accountant, engineer, or other professional or expert who has been by name:

(A) Permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder; or

(B) Found by any court of competent jurisdiction in an action brought by the Commission to which he or she is a party or found by the Commission in any administrative proceeding to which he or she is a party to have violated (unless the violation was found not to have been willful) or aided and abetted the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

(ii) Any person temporarily suspended from appearing and practicing before the Commission in accordance with paragraph (e)(3)(i) of this section may, within 30 days after service upon him or her of the order of temporary suspension, petition the Commission to lift the temporary suspension. If no petition has been received by the Commission within 30 days after service of the order, the suspension shall become permanent.

(iii) Within 30 days after the filing of a petition in accordance with paragraph (e)(3)(ii) of this section, the Commission shall either lift the temporary suspension, or set the matter down for hearing at a time and place designated by the Commission, or both, and, after opportunity for hearing, may censure the petitioner or disqualify the petitioner from appearing or practicing before the Commission for a period of time or permanently. In every case in which the temporary suspension has not been lifted, every hearing held and other

action taken pursuant to this paragraph (e)(3) shall be expedited in accordance with § 201.500. If the hearing is held before a hearing officer, the time limits set forth in § 201.531 will govern review of the hearing officer's initial decision.

(iv) In any hearing held on a petition filed in accordance with paragraph (e)(3)(ii) of this section, the staff of the Commission shall show either that the petitioner has been enjoined as described in paragraph (e)(3)(i)(A) of this section or that the petitioner has been found to have committed or aided and abetted violations as described in paragraph (e)(3)(i)(B) of this section and that showing, without more, may be the basis for censure or disqualification. Once that showing has been made, the burden shall be upon the petitioner to show cause why he or she should not be censured or temporarily or permanently disqualified from appearing and practicing before the Commission. In any such hearing, the petitioner may not contest any finding made against him or her or fact admitted by him or her in the judicial or administrative proceeding upon which the proceeding under this paragraph (e)(3) is predicated. A person who has consented to the entry of a permanent injunction as described in paragraph (e)(3)(i)(A) of this section without admitting the facts set forth in the complaint shall be presumed for all purposes under this paragraph (e)(3) to have been enjoined by reason of the misconduct alleged in the complaint.

(4) *Filing of prior orders.* Any person appearing or practicing before the Commission who has been the subject of an order, judgment, decree, or finding as set forth in paragraph (e)(3) of this section shall promptly file with the Secretary a copy thereof (together with any related opinion or statement of the agency or tribunal involved). Failure to file any such paper, order, judgment, decree or finding shall not impair the operation of any other provision of this section.

(5) *Reinstatement.* (i) An application for reinstatement of a person permanently suspended or disqualified under paragraph (e)(1) or (e)(3) of this section may be made at any time, and the applicant may, in the Commission's discretion, be afforded a hearing; however, the suspension or disqualification shall continue unless and until the applicant has been reinstated by the Commission for good cause shown.

(ii) Any person suspended under paragraph (e)(2) of this section shall be reinstated by the Commission, upon appropriate application, if all the grounds for application of the

provisions of that paragraph are subsequently removed by a reversal of the conviction or termination of the suspension, disbarment, or revocation. An application for reinstatement on any other grounds by any person suspended under paragraph (e)(2) of this section may be filed at any time and the applicant shall be accorded an opportunity for a hearing in the matter; however, such suspension shall continue unless and until the applicant has been reinstated by order of the Commission for good cause shown.

(6) *Other proceedings not precluded.* A proceeding brought under paragraph (e)(1), (e)(2) or (e)(3) of this section shall not preclude another proceeding brought under these same paragraphs.

(7) *Public hearings.* All hearings held under this paragraph (e) shall be public unless otherwise ordered by the Commission on its own motion or after considering the motion of a party.

(f) *Practice defined.* For the purposes of these Rules of Practice, practicing before the Commission shall include, but shall not be limited to:

(1) Transacting any business with the Commission; and

(2) The preparation of any statement, opinion or other paper by any attorney, accountant, engineer or other professional or expert, filed with the Commission in any registration statement, notification, application, report or other document with the consent of such attorney, accountant, engineer or other professional or expert.

#### § 201.103 Construction of rules.

(a) The Rules of Practice shall be construed and administered to secure the just, speedy, and inexpensive determination of every proceeding.

(b) In any particular proceeding, to the extent that there is a conflict between these rules and a procedural requirement contained in any statute, or any rule or form adopted thereunder, the latter shall control.

(c) For purposes of these rules:

(1) Any term in the singular includes the plural, and any term in the plural includes the singular, if such use would be appropriate;

(2) Any use of a masculine, feminine, or neuter gender encompasses such other genders as would be appropriate; and

(3) Unless the context requires otherwise, counsel for a party may take any action required or permitted to be taken by such party.

#### § 201.104 Business hours.

The Headquarters office of the Commission, at 450 Fifth Street, N.W., Washington, D.C. 20549, is open each