

shared by the Postal Inspection Service with federal, state, or local law enforcement agencies. Unless the Chief Postal Inspector determines that cash or the proceeds of the sale of the abandoned property are to be shared with other law enforcement agencies, such cash or proceeds shall be deposited in the Postal Service Fund established by 39 U.S.C. 2003. The authority to make this determination may be delegated by the Chief Postal Inspector.

[59 FR 29372, June 7, 1994]

### Rules of Procedure Before the Judicial Officer

## PART 951—PROCEDURE GOVERNING THE ELIGIBILITY OF PERSONS TO PRACTICE BEFORE THE POSTAL SERVICE

Sec.

- 951.1 Authority for rules.
- 951.2 Eligibility to practice.
- 951.3 Persons ineligible for admission to practice.
- 951.4 Authorization of appearance may be required.
- 951.5 Complaint of misconduct.
- 951.6 Censure, suspension or disbarment; grounds.
- 951.7 Notice of disbarment; exclusion from practice.
- 951.8 Ex parte communications.

AUTHORITY: 39 U.S.C. 204, 401.

SOURCE: 36 FR 11562, June 16, 1971, unless otherwise noted.

### § 951.1 Authority for rules.

The Judicial Officer promulgates these rules pursuant to authority delegated by the Postmaster General.

### § 951.2 Eligibility to practice.

(a) Any individual who is a party to any proceeding before the Judicial Officer, the Board of Contract Appeals or an Administrative Law Judge may appear for himself or by an attorney at law.

(b) The head of any department of the Postal Service may establish such special rules and regulations pertaining to eligibility to practice before such department as he may deem to be necessary or desirable.

(c) Generally, except as provided in § 951.3, any attorney at law who is a member in good standing of the Bar of the Supreme Court of the United States or of the highest court of any State, District, Territory, Protectorate or Possession of the United States, or of the District of Columbia, and is not under any order of any court or executive department of one of the foregoing governmental entities suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law may represent others before the U.S. Postal Service.

(d) When any person acting in a representative capacity appears in person or signs a paper in practice before the Postal Service his personal appearance or signature shall constitute a representation to the Postal Service that under the provisions of this part and the law he is authorized and qualified to represent the particular party in whose behalf he acts. The Postal Service does not generally take formal action or issue any certificate to show that an individual is eligible to practice before it. (See § 951.4.)

### § 951.3 Persons ineligible for admission to practice.

(a) No person disbarred from practice before the Postal Service or in any other executive department of any of the governmental entities mentioned in § 951.2(c) will be eligible to practice before the Postal Service until said order of disbarment shall have been revoked.

(b) Any person who, subsequently to being admitted to practice before the Postal Service, is disbarred by any governmental entity mentioned in § 951.2(c) shall be deemed suspended from practice before the Postal Service during the pendency of said order or disbarment.

(c) No person who has been an attorney, officer, clerk, or employee in the Postal Service will be recognized as attorney for prosecuting before it or any office thereof any case or matter which he was in anywise connected while he was such attorney, officer, clerk, or employee.

(d) No person coming within the prohibitions of 18 U.S.C. 203, 205, or 207, will be recognized as attorney before

the Postal Service or any office thereof.

**§951.4 Authorization of appearance may be required.**

The Judicial Officer, the head of any department of the Postal Service or any Administrative Law Judge may require any person to present satisfactory evidence of his authority to represent the person for whom he appears.

**§951.5 Complaint of misconduct.**

(a) If the head of any department of the Postal Service has reason to believe, or if complaint be made to him, that any person is guilty of conduct subjecting him to suspension or disbarment, the head of such office shall report the same to the Judicial Officer.

(b) Whenever any person submits to the Judicial Officer a complaint against any person who has practiced, is practicing or holding himself out as entitled to practice before the Postal Service, the Judicial Officer may refer such complaint to the Chief Inspector for a complete investigation and report.

(c) At any time, the Judicial Officer may refer the complaint to the General Counsel for the preparation of formal charges to be lodged against and served upon the person against whom the complaint has been made.

**§951.6 Censure, suspension or disbarment; grounds.**

(a) The Judicial Officer may censure, suspend or disbar any person against whom a complaint has been made and upon whom charges have been served as provided in §951.5 if he finds that such person:

(1) Does not possess the qualifications required by §951.2;

(2) Has failed to conform to standards of ethical conduct required of practitioners at the Bar of any court of which he is a member;

(3) Represents, as an associate, an attorney who, known to him, solicits practice by means of runners or other unethical methods;

(4) By use of his name, personal appearance, or any device, aids or abets an attorney to practice during the period of his suspension or disbarment,

such suspension or disbarment being known to him;

(5) Displays toward the Judicial Officer, Board of Contract Appeals or any Administrative Law Judge assigned to the Postal Service, conduct which, if displayed toward any court of any State, the United States, any of its Territories or the District of Columbia, would be cause for censure, suspension or disbarment; or

(6) Is otherwise guilty of misconduct or lacking in character or professional integrity.

(b) Before any person shall be censured, suspended or disbarred, he shall be afforded an opportunity to be heard by the Judicial Officer on the charges made against him. The General Counsel or his designee shall prosecute such cases.

(c) In the event the Judicial Officer is unavailable for any reason, he may assign complaints of misconduct to the Associate Judicial Officer, an Administrative Law Judge appointed pursuant to the provisions of the Administrative Procedure Act, an Administrative Judge appointed pursuant to the provisions of the Contract Disputes Act of 1978, or some other disinterested member of the headquarters staff of the Postal Service recommended by the Deputy Postmaster General, for the determinations required by §951.5, the conduct of the hearings, and the decision to censure, suspend, or debar persons as provided herein.

[36 FR 11562, June 16, 1971, as amended at 51 FR 16517, May 5, 1986]

**§951.7 Notice of disbarment; exclusion from practice.**

Upon the disbarment of any person, notice thereof will be given to the heads of the departments of the Postal Service and to the other Executive Departments, and thereafter, until otherwise ordered, such disbarred persons will not be entitled to practice before the Postal Service or any department thereof.

**§951.8 Ex parte communications.**

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable

to proceedings under these rules of practice.

[42 FR 5357, Jan. 28, 1977]

**PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS**

Sec.

- 952.1 Authority for rules.
- 952.2 Scope of rules.
- 952.3 Informal dispositions.
- 952.4 Office business hours.
- 952.5 Complaints.
- 952.6 Interim impounding.
- 952.7 Notice of answer and hearing.
- 952.8 Service.
- 952.9 Filing documents for the record.
- 952.10 Answer.
- 952.11 Default.
- 952.12 Amendment of pleadings.
- 952.13 Continuances and extensions.
- 952.14 Hearings.
- 952.15 Change of place of hearings.
- 952.16 Appearances.
- 952.17 Presiding officers.
- 952.18 Evidence.
- 952.19 Subpoenas.
- 952.20 Witness fees.
- 952.21 Depositions, interrogatories, requests for admission of fact and production of documents.
- 952.22 Transcript.
- 952.23 Proposed findings and conclusions.
- 952.24 Decisions.
- 952.25 Exceptions to initial decision or tentative decision.
- 952.26 Judicial Officer.
- 952.27 Motion for reconsideration.
- 952.28 Orders.
- 952.29 Modification or revocation of orders.
- 952.30 Supplemental orders.
- 952.31 Computation of time.
- 952.32 Official record.
- 952.33 Public information.
- 952.34 Ex parte communications.

AUTHORITY: 39 U.S.C. 204, 401, 3005.

SOURCE: 36 FR 11563, June 16, 1971, unless otherwise noted.

EDITORIAL NOTE: For nomenclature changes to this part, see 37 FR 23422, Nov. 3, 1972.

**§ 952.1 Authority for rules.**

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service (See § 952.26) pursuant to authority delegated by the Postmaster General.

**§ 952.2 Scope of rules.**

These rules of practice shall be applicable in all formal proceedings before the Postal Service, 39 U.S.C. 3005, including such cases instituted under prior rules of practice pertaining to these or predecessor statutes, unless timely shown to be prejudicial to the respondent.

[36 FR 11563, June 16, 1971, as amended at 52 FR 36763, Oct. 1, 1987]

**§ 952.3 Informal dispositions.**

These rules do not preclude the disposition of any matter by agreement between the parties either before or after the filing of a complaint when time, the nature of the proceeding, and the public interest permit.

**§ 952.4 Office business hours.**

The offices of the officials mentioned in these rules are located at the Headquarters of the U.S. Postal Service, 475 L'Enfant Plaza, West, SW., Washington, DC 20260, and are open Monday through Friday except holidays from 8:15 a.m. to 4:45 p.m.

[38 FR 17216, June 29, 1973, as amended at 42 FR 7955, Feb. 8, 1977]

**§ 952.5 Complaints.**

When the General Counsel of the Postal Service or his designated representative believes that a person is using the mails in a manner requiring formal administrative action under 39 U.S.C. 3005, he shall prepare and file with the Recorder a complaint which names the person involved; states the name, address and telephone number of the attorney representing Complainant; states the legal authority and jurisdiction under which the proceeding is initiated; states the facts in a manner sufficient to enable the person named therein to make answer thereto; and requests the issuance of an appropriate order or orders. Complainant shall attach to the complaint a copy of the order or orders requested which may, at any time during the proceedings, be modified. The person named in the complaint shall be known as the "Respondent", and the General Counsel shall be known as the "Complainant."