

## SUBCHAPTER A—RULES OF PRACTICE

### PART 500—APPEARANCE AND PRACTICE

Sec.

- 500.1 Appearance and representation.
- 500.2 Notice of entry or withdrawal of counsel in claims.
- 500.3 Fees.
- 500.4 Suspension of attorneys.
- 500.5 Disqualification of former employees; disqualification of partners of current employees.
- 500.6 Disciplinary proceedings against former employees.

AUTHORITY: Sec. 2, Pub. L. 80-896, 62 Stat. 1240, as amended (50 U.S.C. App. 2001); Sec. 3, Pub. L. 81-455, 64 Stat. 12, as amended (22 U.S.C. 1622); 18 U.S.C. 207.

SOURCE: 52 FR 17556, May 11, 1987, unless otherwise noted.

#### **§500.1 Appearance and representation.**

(a) An individual may appear in his or her own behalf; a member of a partnership may represent the partnership; a bona fide officer of a corporation, trust or association may represent the corporation, trust or association; an officer or employee of the United States Department of Justice, when designated by the Attorney General of the United States, may represent the United States in a claim proceeding.

(b) A person may be represented by an attorney at law admitted to practice in any State or Territory of the United States, or the District of Columbia.

(c) In cases falling within the purview of subchapter B of this chapter, persons designated by veterans', service, and other organizations to appear before the Commission in a representative capacity on behalf of claimants shall be deemed duly authorized to practice before the Commission when the designating organization shall have been issued a letter of accreditation by the Commission. Petitions for accreditation shall be in writing, executed by duly authorized officer or officers, and addressed to the Foreign Claims Settlement Commission of the United States, Washington, DC 20579. Upon receipt of a petition setting forth perti-

nent facts as to the organization's history, purpose, number of posts or chapters and their locations, approximate number of paid-up memberships, statements that the organization will not charge any fee for services rendered by its designees in behalf of claimants and that it will not refuse on the grounds of non-membership to represent any claimant who applies for such representation if such claimant has an apparently valid claim, accompanied by a copy of the organization's constitution, or charter, by-laws, and its latest financial statement, the Commission in its discretion will consider and in appropriate cases issue or deny letters of accreditation.

(d) A person may not be represented before the Commission except as authorized in paragraphs (a), (b), and (c) of this section.

#### **§500.2 Notice of entry or withdrawal of counsel in claims.**

(a) Counsel entering an appearance in a claim originally filed by a claimant in the claimant's behalf, or upon request for a substitution of attorneys, shall be required to file an authorization by such claimant.

(b) When counsel seeks to withdraw from the prosecution of a claim, it must appear that the client (claimant) has been duly notified.

(c) When a claimant advises the Commission that counsel no longer represents such claimant, a copy of the Commission's acknowledgement shall be forwarded to such counsel.

#### **§500.3 Fees.**

(a) No remuneration on account of services rendered or to be rendered to or on behalf of any claimant in connection with any claim falling within the purview of subchapter B of this chapter shall exceed ten per centum of the amount allowed on account of such claim, except that the Commission in its discretion may fix a lesser per centum with respect to any claim filed thereunder.

(b) The total remuneration on account of services rendered or to be rendered to or on behalf of any claimant

in connection with any claim falling within title I of the International Claims Settlement Act of 1949, as amended, shall not exceed ten per centum of the total amount paid on account of such claim.

**§ 500.4 Suspension of attorneys.**

(a) The Commission may disqualify, or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found after a hearing in the matter—

(1) Not to possess the requisite qualifications to represent others before the Commission; or

(2) To be lacking in character or integrity or to have engaged in unethical or improper professional conduct; or

(3) To have violated sections 10 and 214 of the War Claims Act of 1948, as amended, or section 4(f) of the International Claims Settlement Act of 1949, as amended, or § 500.3 of part 500 of these regulations.

(b) Contemptuous or contumacious conduct at any hearing shall be ground for exclusion from said hearing and for summary suspension without a hearing for the duration of the hearing.

**§ 500.5 Disqualification of former employees; disqualification of partners of current employees.**

(a) No member, officer or employee of the Commission, including a special Government employee shall, after employment has ceased, knowingly act as an agent or attorney for, or otherwise represent, any person or party (other than the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any person or party (other than the United States) (1) to the Commission or any other department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, (2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Colum-

bia is a party or has a direct and substantial interest, and (3) in which such member, officer, employee, or special Government employee, participated personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed.

(b) No member, officer, or employee of the Commission, including a special Government employee, shall, within two years after employment has ceased, knowingly act as agent or attorney for, or otherwise represent, any person or party (other than the United States) in any formal or informal appearance before, or with intent to influence, make any oral or written communication on behalf of any person or party (other than the United States) (1) to an organization enumerated in paragraph (a)(1) of this section, or any officer or employee thereof, (2) in connection with any matter enumerated and described in paragraph (a)(2) of this section, and (3) which was actually pending under his or her official responsibility as an employee within a period of one year prior to the termination of such responsibility.

(c) No member, officer, or employee of the Commission, including a special Government employee, in an executive level position, in a position with a comparable or greater rate of pay, or in a position that involved significant decision making or supervisory responsibility as designated by the Director of the Office of Government Ethics under 18 U.S.C. 207(d)(1)(C), shall, within two years after employment has ceased, knowingly represent or aid, counsel, advise, consult or assist in representing any person or party (other than the United States) by personal presence at any formal or informal appearance before (1) an organization enumerated in paragraph (a)(1) of this section, or an officer or employee thereof, (2) in connection with any matter enumerated and described in paragraph (a)(2) of this section, and (3) in which he or she participated personally or substantially as an employee (18 U.S.C. 207(b)(ii)).

(d) No member, officer, or employee of the Commission other than a special Government employee with service of

less than sixty days in a given calendar year, who has been an employee in an executive level position or a position with a comparable or greater rate of pay, or in a position which involved significant decision making or supervisory responsibility as designated by the Director of Office of Government Ethics under 18 U.S.C. 207(d)(1)(C), shall, within one year after such employment has ceased, knowingly engage in conduct described in the next sentence. The prohibited knowing conduct is that of acting as attorney or agent for, or otherwise representing anyone other than the United States, in any formal or informal appearance before, or with the intent to influence, making any oral or written communication on behalf of anyone other than the United States (1) to the Commission, or any employee thereof, (2) in connection with any rulemaking or any matter enumerated and described in paragraph (a)(2) of this section and (3) which is pending before the Commission or in which it has a direct and substantial interest.

(e) No partner of an employee shall act as agent or attorney for anyone other than the United States before an organization enumerated in paragraph (a)(1) of this section, or any officer or employee thereof, in connection with any matter enumerated and described in paragraph (a)(2) of this section in which such Government employee is participating or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his or her official responsibility.

**§ 500.6 Disciplinary proceedings against former employees.**

(a) Upon a determination by the Commission's Designated Ethics Officer, after investigation, that there is reasonable cause to believe that a former officer or employee, including a former special Government employee, has violated 18 U.S.C. 207 (a), (b) or (c), the Designated Ethics Officer shall cause a copy of written charges of the violation(s) to be served upon such individual, either personally or by registered mail. The charges shall be ac-

companied by a notice to the former employee to show cause within a specified time of not less than 30 days after receipt of the notice why he or she should not be prohibited from engaging in representational activities in relation to matters pending before the Commission, as authorized by 18 U.S.C. 207(j), or subjected to other appropriate disciplinary action under that statute. The notice to show cause shall include:

(1) A statement of allegations, and their basis, sufficiently detailed to enable the former employee to prepare an adequate defense;

(2) Notification of the right to a hearing; and

(3) An explanation of the method by which a hearing may be requested.

(b) If a former employee who submits an answer to the notice to show cause does not request a hearing or if the Designated Ethics Officer does not receive an answer within five days after the expiration of the time prescribed by the notice, the Designated Ethics Officer shall forward the record, including the report(s) of investigation, to the Chairman. In the case of a failure to answer, such failure shall constitute a waiver of defense.

(c) Upon receipt of a former employee's request for a hearing, the Designated Ethics Officer shall notify him or her of the time and place thereof, giving due regard both to such person's need for an adequate period to prepare a suitable defense and an expeditious resolution of allegations that may be damaging to his or her reputation.

(d) The presiding officer at the hearing and any related proceedings shall be a Federal administrative law judge or other Federal official with comparable duties. The presiding officer shall insure that the former employee has, among others, the rights:

(1) To self-representation or representation by counsel;

(2) To introduce and examine witnesses and submit physical evidence;

(3) To confront and cross-examine adverse witnesses;

(4) To present oral argument; and

(5) To a transcript or recording of the proceedings, upon request.

(e) The Designated Ethics Officer shall designate one or more officers or employees of the Commission to

present the evidence against the former employee and perform other functions incident to the proceedings.

(f) A decision adverse to the former employee must be sustained by substantial evidence that he or she violated 18 U.S.C. 207 (a), (b) or (c).

(g) The presiding officer shall issue an initial decision based exclusively on the transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, and shall set forth in the decision findings and conclusions, supported by reasons, on the material issues of fact and law presented on the record.

(h) Within 30 days after issuance of the initial decision, either party may appeal to the Chairman, who in that event shall issue the final decision based on the record of the proceedings or those portions thereof cited by the parties to limit the issues. If the final decision modifies or reverses the initial decision, the Chairman shall specify the findings of fact and conclusions of law that vary from those of the presiding officer.

(i) If a former employee fails to appeal from an adverse initial decision within the prescribed period of time, the presiding officer shall forward the record of the proceedings to the Chairman.

(j) In case of a former employee who filed an answer to the notice to show cause but did not request a hearing, the Chairman shall make the final decision on the record submitted by the Designated Ethics Officer pursuant to subsection (b) of this section.

(k) The Chairman, in a case where:

(1) The defense has been waived;

(2) The former employee has failed to appeal from an adverse initial decision; or

(3) The Chairman has issued a final decision that the former employee violated 18 U.S.C. 207 (a), (b) or (c) may issue an order:

(i) Prohibiting the former employee from making on behalf of any person or party (other than the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, the Commission on a pending matter of business for a period not to exceed five years, or

(ii) Prescribing other appropriate disciplinary action.

## PART 501—SUBPOENAS, DEPOSITIONS, AND OATHS

Sec.

501.1 Extent of authority.

501.2 Subpoenas.

501.3 Service of process.

501.4 Witnesses.

501.5 Depositions.

501.6 Documentary evidence.

501.7 Time.

AUTHORITY: Sec. 2, Pub. L. 80-896, 62 Stat. 1240, as amended (50 U.S.C. App. 2001); sec. 3, Pub. L. 81-455, 64 Stat. 12, as amended (22 U.S.C. 1622).

SOURCE: 52 FR 17559, May 11, 1987, unless otherwise noted.

### § 501.1 Extent of authority.

(a) *Subpoenas, oaths and affirmations.* The Commission or any member thereof may issue subpoenas, administer oaths and affirmations, take affidavits, conduct investigations and examine witnesses in connection with any hearing, examination, or investigation within its jurisdiction.

(b) *Certification.* The Commission or any member thereof may, for the purpose of any such hearing, examination, or investigation, certify the correctness of any papers, documents, and other matters pertaining to the administration of any laws relating to the functions of the Commission.

### § 501.2 Subpoenas.

(a) *Issuance.* A member of the Commission or a designated employee may, on such member or employee's own volition of upon written application by any party and upon a showing of general relevance and reasonable scope of the evidence sought, issue subpoenas requiring persons to appear and testify or to appear and produce documents. Applications for issuance of subpoenas duces tecum shall specify the books, records, correspondence, or other documents sought. The subpoena shall show on its face the name and address of the party at whose request the subpoena was issued.

(b) *Deposit for costs.* The Commission or designated employee, before issuing