

Government Accountability Office

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rules of professional conduct and ethics of the jurisdictions in which an attorney is licensed to practice, to the extent that those rules are relevant to conduct affecting the integrity of the Board, its process, and its proceedings. The Board will also look to professional guidelines in evaluating an individual's conduct.

(b) *Imposition of sanctions.* (1) When a party or its representative or attorney or any expert/consultant fails to comply with any direction or order issued by the Board (including an order to provide or permit discovery), or engages in misconduct affecting the Board, its process, or its proceedings, the Board may make such orders as are just, including the imposition of appropriate sanctions. The sanctions may include:

(i) Taking the facts pertaining to the matter in dispute to be established for the purpose of the appeal in accordance with the contention of the party submitting the discovery request;

(ii) Forbidding challenge of the accuracy of any evidence;

(iii) Refusing to allow the noncompliant party to support or pose designated claims or defenses;

(iv) Prohibiting the noncompliant party from introducing in evidence designated documents or items of testimony;

(v) Striking pleadings or parts thereof, or staying further proceedings until the order is obeyed;

(vi) Dismissing the appeal or any part thereof; and/or

(vii) Imposing such other sanctions as the Board deems appropriate.

(2) Prior to imposing sanctions, the Board will provide the noncompliant party with notice and an opportunity to be heard on the issue of whether sanctions should be imposed. The opportunity to be heard does not mean that the party is entitled to a hearing; the opportunity to provide written argument shall satisfy this requirement.

(c) *Disciplinary proceedings.* In addition to the above procedures, the Board may discipline individual party representatives, attorneys, and experts/consultants for a violation of any Board order or direction or standard of conduct applicable to such individual where the violation affects the integ-

rity of the Board's process or proceedings. Sanctions may be public or private and may include admonishment, disqualification from a particular matter, referral to an appropriate licensing authority, or such other action as circumstances may warrant. The Board, in its discretion, may suspend an individual from appearing before the Board as a party representative, attorney, or expert/consultant if, after affording such individual notice and an opportunity to be heard, a majority of all members of the Contact Appeals Board determines that such sanction is warranted.

§ 22.11 Depositions [Rule 11].

(a) *When depositions may be taken.* After an appeal has been docketed by the Board and a complaint has been filed, either party may take the testimony of any person by deposition upon oral examination or written questions, for the purpose of discovery or for use as evidence in the appeal proceedings, or for both purposes.

(b) *Time, place, and manner of taking.* The time, place, and manner of taking depositions shall be as mutually agreed to by the parties or, failing such agreement, be governed by order of the Board.

(c) *Limits.* The number of depositions taken shall not be limited except as the Board may require to protect a party from annoyance, burden, or harassment.

(d) *Use as evidence.* No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at the hearing. Depositions ordinarily will not be received in evidence if the deponent is present and can testify personally at the hearing; however, depositions may be used to contradict or impeach the testimony of a deponent as a witness. If only a part of a deposition is offered in evidence by a party, an adverse party may require the offering party to introduce any other part which in fairness ought to be considered with the part introduced. In any case, the Board, upon the agreement of the parties, may permit the introduction of relevant portions of depositions as designated by the parties. If

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no hearing has been conducted and the appeal has been submitted on the record pursuant to §22.17 of this part [Rule 17], the Board, in its discretion, may receive depositions in evidence to supplement the record.

§ 22.12 Interrogatories [Rule 12].

(a) *When interrogatories may be served.* After an appeal has been docketed by the Board and a complaint has been filed, a party may serve on an adverse party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer or agent who shall furnish such information as is available to the party.

(b) *Answers.* The interrogatories shall be answered separately and fully in writing, signed under oath by the person answering them, and served on the party submitting the interrogatories. Objections to the interrogatories shall be signed by counsel for the party responding to the interrogatories. An interrogatory is not necessarily objectionable merely because an answer to the interrogatory may involve an opinion or contention that relates to fact or the application of law to fact; however, the Board may order that such interrogatory need not be answered until after discovery has been completed or some other event has occurred.

(c) *Scope and use as evidence.* Interrogatories may relate to any matters which can be inquired into under §22.11 of this part [Rule 11] (Depositions), and the answers may be used to the same extent as provided for the use of the deposition of a party.

(d) *Limits.* The number of interrogatories or sets of interrogatories to be served shall not be limited except as the Board may require to protect a party from annoyance, burden, or harassment.

(e) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon which the interrogatory has been served, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such

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interrogatory to specify the record(s) from which the answer may be derived or ascertained and to afford the party serving the interrogatory a reasonable opportunity to examine, audit, or inspect such records and to make copies thereof. Such specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the record(s) from which the answer may be ascertained.

§ 22.13 Requests for Admission [Rule 13].

(a) *When requests for admission may be served.* (1) After an appeal has been docketed by the Board and a complaint has been filed, a party may serve on the opposing party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request, or of the truth of any relevant matters of fact set forth in the request. Each of the matters for which an admission is requested shall be deemed admitted unless, within the period designated in §22.8(c) and §22.8(f) of this part [Rules 8(e) and 8(f)] for responding to discovery requests, the party to whom the request is directed serves upon the party requesting the admission either:

(i) A sworn statement denying specifically the matters for which an admission is requested or setting forth in detail the reasons why he or she cannot truthfully admit or deny those matters, or

(ii) Written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part.

(2) If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in Rule 8(f). A denial shall fairly meet the substance of the requested admission and, when good faith requires that a party deny only a part of a matter for which an admission is requested, he or she shall specify so much of it as is true and deny only the remainder.

(b) *Limits.* The number of requests for admissions served shall not be limited except as the Board may require to