

**[ SEC, March 13, 1998 ]**

**RULES OF PROCEDURE GOVERNING THE ISSUANCE OF  
TEMPORARY RESTRAINING ORDERS**

*SECTION 1. Applicability.* — These Rules shall apply to complaints or any initiatory pleadings with application for temporary restraining order (TRO) filed with the Securities and Exchange Commission.

*SECTION 2. Where Filed.* — Any complaint or initiatory pleading filed with the Securities Investigation and Clearing Department (SICD) of this Commission which contains a prayer for the issuance of TRO shall be referred to the Office of the Chairman for appropriate action. For this purpose, the SICD shall forward an original copy of such complaint or initiatory pleading to the Office of the Chairman. Unless otherwise ordered, the case before SICD shall proceed notwithstanding the pendency of the resolution of the application for TRO. Provided, however, that the dismissal by the SICD of the complaint or initiatory pleading shall render the application for TRO moot and academic.

*SECTION 3. TRO Issued Ex-parte.* — If the Chairman or, in his absence, the most senior Associate Commissioner, determines, in his discretion, that the matter is of extreme urgency such that unless a TRO is issued grave injustice and irreparable injury will arise, he may forthwith issue a TRO; Provided, that the TRO so issued shall be effective for only seventy-two (72) hours from its issuance.

*SECTION 4. Summary Hearing.* — The Chairman or, in his absence, the most senior Associate Commissioner shall refer the application for TRO to the Director of the SICD who, within twenty-four hours after the case records are transmitted to him, shall conduct a summary hearing on such application for the purpose of determining whether a TRO should be granted or, if a 72-hour TRO has been issued, to extend the same for another period. In no case, however, shall the effectivity of the TRO exceed twenty (20) days inclusive of the seventy-two hours previously granted.

*SECTION 5. When Hearing Deemed Conducted.* — The summary hearing shall be deemed to have been conducted when the adverse party or his counsel has been given the opportunity to oppose the application for TRO whether orally or in writing. Provided, however, that the failure on the part of the adverse party or his counsel to oppose the application shall be deemed a waiver. In which case, the application for TRO shall be deemed submitted for resolution.

*SECTION 6. Application for Preliminary Injunction.* — Within the period of the effectivity of the TRO, the application for a writ of preliminary injunction. if any shall be heard and decided by the Hearing Officer assigned to the case. If the hearings thereon are not completed within the period of the effectivity of the TRO for any reason whatsoever, the Hearing Officer shall decide on the application for preliminary injunction on the basis of whatever evidence is available from the