

[, August 01, 1989]

SEC REVISED RULES OF PROCEDURE

To effectively carry out and implement the provisions of Presidential Decree No. 902-A, as amended, the Commission pursuant to the powers vested in it under existing laws, hereby promulgates the following revised rules of procedure to govern actions or proceedings before it. (Amended)

RULE I

Meaning of Words and Construction

SECTION 1. Meaning of Words. — For the purpose of these Rules:

- a) Commission — shall refer to the Securities and Exchange Commission.
- b) Commissioner — shall refer to either the Chairman or any of the Associate Commissioners.
- c) Hearing Officer — shall refer to any Commissioner, officer, body or panel duly designated or created by the Commission to hear and decide a particular case.
- d) Order — shall refer to any directive, other than a judgment, of a Hearing Officer. (Amended)

SECTION 2. Interpretation. — These rules shall be liberally construed to carry out the objectives of P.D. No. 902-A, as amended, and other laws enforced by the Securities and Exchange Commission and to assist the parties in obtaining just, expeditious and inexpensive settlement of cases filed with the Commission.

RULE II

Powers of a Hearing Officer

SECTION 1. Who Conducts Hearings. — Hearings shall be conducted by the Commission or by a Commissioner or by such other officer, body or panel as may be designated or created by the Commission for the purpose. (Amended)

SECTION 2. Powers of a Hearing Officer. — A Hearing Officer is empowered to hear and decide cases brought before the Commission. Pursuant thereto, he shall also have the power to administer oaths and affirmations, issue subpoena, receive evidence, and compel attendance of parties and witnesses and the production of any book, papers, correspondence, memoranda, and other records which are deemed relevant or material to the case, to punish for contempt of the

Commission, both direct or indirect, in accordance with the pertinent provisions of, and penalties prescribed by the Rules of Court. (Amended)

SECTION 3. Venue of Hearings. — All actions brought under these rules shall be commenced and heard in the main office of the Commission. However, an action involving a corporation whose principal office is within a region where the Commission has an extension office may be commenced and heard in such extension office of the Commission. (New)

RULE III

Parties to Actions or Proceedings

SECTION 1. Who may be Parties. — Only natural or juridical persons or entities authorized by law may be parties.

SECTION 2. Parties in Interest. — All actions filed with the Commission must be prosecuted and defended, in the name of the real party in interest. All persons having an interest in the subject of the action and in obtaining the relief demanded shall be joined as complainants or petitioners. All persons who claim an interest in the controversy or the subject thereof adverse to the complainant or petitioner or who are necessary to a complete determination or settlement of the questions involved therein shall be joined as respondents. (Amended)

SECTION 3. Representative Parties. — A trustee of an express trust, a guardian, executor or administrator, or a party authorized by statute, may sue or be sued without joining the party for whose benefit the action is presented or defended; but the Hearing Officer may, at any stage of the proceedings, order such beneficiary to be made a party. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

SECTION 4. Class Suit. — When the subject matter of the controversy is one of common or general interest to many persons, and the parties are so numerous that it is impracticable to bring them all before the Commission, one or more may sue or defend for the benefit of all. But in such case, the Hearing Officer shall make sure that the parties actually before it are sufficiently numerous and representative so that all interests concerned are fully protected. Any party in interest shall have a right to intervene in protection of his individual interest.

SECTION 5. Derivative Action. — No action shall be brought by a stockholder in the right of a corporation unless the complainant (1) was a stockholder at the time the questioned transaction occurred as well as at the time the action was filed and remains a stockholder during the pendency of the action and (2) the complainant alleges with particularity the efforts, if any, made by the complainant to obtain the action he desires, or the reason for not making the effort.

An action authorized by this section shall not be discontinued, compromised or settled without approval of the Hearing Officer. If the

Hearing Officer determines that the interest of the stockholders or of any class thereof will be substantially affected by the discontinuance, compromise or settlement, the Hearing Officer may direct that notice, by publication or otherwise, be given to the stockholders or any class thereof whose interests he determines will be so affected. (New)

SECTION 6. *Compulsory Joinder of Indispensable Parties.* — Parties in interest without whom no final determination can be had of an action shall be joined either as complainant, petitioner or respondent.

SECTION 7. *Transfer of Interest.* — In case of any transfer of interest, the action may be continued by or against the original party, unless the Hearing Officer upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party.

RULE IV

Commencement of Action: Pleadings

SECTION 1. *Commencement of Action.* — Any action may be commenced by filing a verified complaint or petition with the Commission and paying the docket and other required fees therefor. (Amended)

SECTION 2. *Docket Fee and Other Fees.* — The docket fee for filing a complaint or petition, third-party complaint, complaint or petition in intervention and permissive counterclaim, unless otherwise provided by the Commission, shall be one-tenth (1/10) of one percent (1%) of the amount claimed or prayed for, exclusive of interest, but which shall not be less than two hundred pesos (P200.00) nor more than ten thousand pesos (P10,000.00); provided, however, that if there is no claim for money, the docket fee shall be two hundred pesos (P200.00).

There shall also be collected as process service fee the amount of Twenty-five Pesos (P25.00) for every respondent named in the complaint or petition. (Amended)

SECTION 3. *Pleadings Defined.* — Pleadings are the written allegations of the parties of their respective claims and defenses submitted to the Commission for trial and judgment.

SECTION 4. *Pleadings Allowed.* — The pleadings allowed by these Rules are the petition, complaint, answer, intervention, counter-claim, cross-claim, reply, third party complaint, and other similar complaints, and answers to such pleadings.

SECTION 5. *Form of Pleadings.* — All pleadings filed with the Commission shall be printed, mimeographed or typewritten on legal size bond papers and shall be in English or Pilipino. A pleading shall be verified only by an affidavit stating that the person verifying the same has read the pleading and that the allegations thereof are true of his own knowledge. Verifications based on "information and belief" or upon "knowledge", "information" or "belief" shall be deemed insufficient.

Each pleading shall contain a caption setting forth the name of the Commission, the title of the case, the case number, and designation of

the pleading.

The original and two (2) signed copies of every pleading shall be filed with the Commission, except a complaint, petition, third-party complaint or complaint or petition in intervention where there are more than one (1) respondents in which case, there shall be filed as many additional signed copies of the said pleading as there are additional respondents.

No pleading shall be accepted by the Commission unless it conforms to the formal requirements provided by these rules. (Amended)

SECTION 6. Complaint. — The complaint shall contain the names and residences of the parties and a concise statement of the ultimate facts constituting the complainant's cause or causes of action. It shall specify the relief/s sought, but it may add a general prayer for such further or other relief/s as may be deemed just or equitable.

SECTION 7. Petition. — The petition shall contain the names and residences of the parties and a brief statement of the right of the petitioner sought to be enforced, the law, rule or regulation under which the petition is based, and the relief sought.

SECTION 8. Answer. — The answer shall set forth the negative and affirmative defenses upon which the respondent relies.

SECTION 9. Capacity. — Facts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred. A party desiring to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued in a representative capacity, shall do so by specific denial, which shall include such supporting particulars as are peculiarly within the pleader's knowledge. (New)

SECTION 10. Action or Defense Based on Document. — Whenever an action or defense is based upon a written Instrument or document, the substance of such instrument or document shall be set forth in the pleading, and the original or a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be a part of the pleading or said copy may with like effect be set forth in the pleading.

SECTION 11. How to Contest Genuineness of Such Documents. — When an action or defense is founded upon a written instrument, copied in or attached to the corresponding pleading as provided in the preceding Section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath, specifically denies them and sets forth what he claims to be the facts; but this provision does not apply when the adverse party does not appear to be a party to the instrument when compliance with an order for an inspection of the original instrument is refused.

SECTION 12. Specific Denial. — The respondent must specify each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters which

he will rely upon to support his denial. Where a pleader desires to deny only a part or a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Where the respondent is without knowledge or information sufficient to form a belief as to the truth of a material averment made in the complaint or petition, he shall so state, and this shall have the effect of a denial.

SECTION 13. Defenses and Objections Not Pleaded Deemed Waived. — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived; except the (1) failure to state the cause of action which may be alleged in a later pleading, if one is permitted by motion for judgment on the pleadings, or at the trial on the merits; but in the last instance, the motion shall be disposed of in accordance with the provisions of Section 20 of this Rule in the light of any evidence which may have been received. Whenever it appears that the Commission has no jurisdiction over the subject matter, the Hearing Officer shall dismiss the action.

SECTION 14. Amendments in General. — Pleadings may be amended by adding or striking out an allegation or the name of any party, or by correcting a mistake in the name of a party or a mistaken or inadequate allegation or description in any other respect, so that the actual merits of the controversy may speedily be determined, without regard to technicalities, and in the most expeditious and inexpensive manner.

SECTION 15. When Amendments Allowed as a Matter of Right. — A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or if the pleading is one to which no responsive pleading is permitted and the case has not been set for hearing, he may so amend it at any time within ten (10) days after it is served.

SECTION 16. Amendments by Leave of Hearing Officer. — After a responsive pleading is served, substantial amendments may be made only upon leave of the Hearing Officer. But such leave may be refused if it appears to the Hearing Officer that the motion was made with intent to delay the action or that the cause of action or defense is substantially altered. Orders of the Hearing Officer upon the matters provided in this Section shall be made upon motion filed and after notice to the adverse party, and an opportunity to be heard.

SECTION 17. Formal Amendments. — A defect in the designation of the parties may be summarily corrected at any stage of the action, provided no prejudice is caused thereby to the adverse party.

SECTION 18. Amendments to Conform to or Authorize Presentation of Evidence. — When issues not raised by the pleading are tried by express or implied consent of the parties, they shall be treated in all respects, as if they had been raised in the pleadings. Such amendments of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on