

## § 1605.5

party. No reply to the answer will be permitted.

(d) All motions to limit or quash shall be ruled upon by the Commission. The Office of the Secretary shall serve the decision on the motion to limit or quash the order of access upon the moving party or the counsel of the moving party and shall furnish a copy of the decision to the Associate Executive Director for Compliance and Enforcement or the General Counsel, as appropriate. The decision on the motion to limit or quash shall be the final decision on the matter. Motions for reconsideration will not be received.

### § 1605.5 Subpoenas.

(a) The Commission may issue to any person, sole proprietorship, partnership, or corporation a subpoena requiring the production of documentary evidence (subpoena duces tecum) and/or the attendance and testimony of witnesses (subpoena ad testificandum) relating to any matter under investigation. The Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement, the Director of the Enforcement Division, the Solicitor, or the General Counsel, depending upon which officer is involved with the subpoena, the power to negotiate and approve the terms of satisfactory compliance with such subpoena.

(b) The person, sole proprietorship, partnership, or corporation upon whom a subpoena is served may file a motion to limit or quash the subpoena. Any such motion shall set forth the reasons why the subpoena should be quashed or limited and may be accompanied by memoranda, affidavits, or other documents submitted in support of the motion. Unless a different period of time for filing a motion is specified in the subpoena, the motion must be received in the Office of the Secretary of the Commission within ten calendar days after the subpoena is mailed or delivered to such person, sole proprietorship, partnership, or corporation unless the Commission, upon a showing of good cause, grants an extension of time within which to file a motion to limit or quash a subpoena.

(c) Upon receipt of any such motion, the Office of the Secretary shall immediately notify and transmit a copy of

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the motion to the Associate Executive Director for Compliance and Enforcement or the General Counsel, as appropriate. Unless a different period of time is specified in the subpoena, the Associate Executive Director for Compliance and Enforcement or the General Counsel shall file an answer with the Office of the Secretary within ten calendar days after receipt of a copy of the motion. A copy of the answer shall be served upon the moving party or the counsel of the moving party. No reply to the answer will be permitted.

(d) All motions to limit or quash a subpoena shall be ruled upon by the Commission. The Office of the Secretary shall serve the decision on the motion to limit or quash the subpoena upon the moving party or the counsel of the moving party and shall furnish a copy of the decision to the Associate Executive Director for Compliance and Enforcement or the General Counsel, as appropriate. The decision on the motion to limit or quash shall be the final decision on the matter. Motions for reconsideration will not be received.

### § 1605.6 Investigational hearings.

(a) The Commission may order, and by subpoena, may compel any person, sole proprietorship, partnership, or corporation to provide information at an investigational hearing. Such hearings shall be for the purpose of taking the testimony, under oath, of witnesses and receiving documents and other data relating to any subject under investigation. Such hearings shall be presided over by the commission, by one or more of its members, an Administrative Law Judge, hearing examiner, attorney-examiner or by a duly designated officer or employee. The hearings shall be stenographically reported, and a transcript thereof shall be made a part of the record.

(b) A Commissioner who participates in such a hearing or other investigation, inspection, or inquiry shall not be disqualified by reason of such participation from subsequently sharing in a Commission decision in the matter.

(c) All investigational hearings shall be closed to the public, unless otherwise ordered by the Commission.

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(d) The release of the record of such hearing shall be governed by the Commission's regulations under the Freedom of Information Act, 5 U.S.C. 552, and/or other applicable laws or regulations.

### § 1605.7 Depositions.

(a) The Commission may order and, by subpoena, may compel testimony to be taken by deposition at any stage of any investigation. Such depositions may be taken before any person designated by the Commission who has the power to administer oaths. The testimony given shall be reduced to writing by the person taking the deposition or under such person's direction and shall then be submitted to the deponent for signature unless the deponent waives the right to sign the deposition. All depositions shall be closed to the public, unless otherwise ordered by the Commission. The release of the record of such depositions shall be governed by the Commission's regulations under the Freedom of Information Act, 5 U.S.C. 552, and/or other applicable laws or regulations.

(b) Any changes in form or substance which the deponent desires to make shall state the reasons for such changes. The deposition shall then be signed by the deponent, unless the deponent waives the right to sign, cannot be found, or is unable or refuses to sign. If the deposition is not signed by the deponent within 30 days of its submission to the deponent, or such shorter time as the Commission may designate, the Commission designee shall sign it and state on the record the fact of the waiver of the right to sign or of the illness or absence of the deponent, or the fact of the deponent's inability or refusal to sign together with the reason, if any, given therefor. The deposition referred to herein may be used in any investigation or any administrative or judicial adjudicative proceeding.

### § 1605.8 Rights of witnesses at investigational hearings and of deponents at depositions.

(a) Any person, or agent or officer of a sole proprietorship, partnership, or corporation who is required to produce documentary evidence or give testimony as a witness at an investiga-

tional hearing conducted under provisions of § 1605.6 or as a deponent at a deposition taken in accordance with provisions of § 1605.7 may be accompanied by an attorney or an official or employee of the person, sole proprietorship, partnership, or corporation, who may act as counsel for the witness or the deponent. However, a person who is subpoenaed to produce documentary evidence or give testimony at an investigational hearing or deposition cannot act as counsel for another witness or deponent at the same proceeding. The term attorney refers to members of the bar of a Federal Court or the courts of any State or Territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia. The witness or deponent and his or her counsel may act as follows during the course of an investigational hearing or deposition:

(1) A witness or deponent may confer, in confidence, with his or her counsel concerning any questions asked of the witness or deponent. If the witness or deponent or counsel objects to a question, the objection and basis thereof shall be stated on the record. In the case of an objection based upon the privilege against self incrimination, the privilege must be asserted by the witness or deponent. If a witness at an investigational hearing refuses to answer a question or provide other information, the presiding officer shall have the authority to immediately order the witness or deponent to answer the question or provide the information requested, except in circumstances where an immediate ruling would be unwarranted and except where such refusal is based upon the privilege against self incrimination, which shall be handled in accordance with the procedure set forth in 18 U.S.C. 6002 and 6004. Otherwise, all objections shall be ruled upon by the presiding officer at the time the objection is made.

(2) Objections timely made under the provisions of § 1605.8(a) shall be noted on the record, shall be treated as continuing, and shall be preserved throughout the course of the proceeding without the necessity of repetition during similar lines of inquiry.