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one's own behalf or in a representational capacity, including the circumstances under which disciplinary sanctions—censure, suspension, or debarment—may be imposed upon persons appearing in a representational capacity, including attorneys and accountants, but not including employees of the Board. These disciplinary sanctions, which continue in effect beyond the duration of a specific proceeding, supplement the provisions of §263.6(b) of subpart A, which address control of a specific proceeding.

§ 263.91 Censure, suspension or debarment.

The Board may censure an individual or suspend or debar such individual from practice before the Board if he or she engages, or has engaged, in conduct warranting sanctions as set forth in §263.94; refuses to comply with the rules and regulations in this part; or with intent to defraud in any manner, willfully and knowingly deceives, misleads, or threatens any client or prospective client. The suspension or debarment of an individual shall be initiated only upon a finding by the Board that the conduct that forms the basis for the disciplinary action is egregious.

§ 263.92 Definitions.

(a) As used in this subpart, the following terms shall have the meaning given in this section unless the context otherwise requires.

(b)(1) *Practice before the Board* includes any matters connected with presentations to the Board or to any of its officers or employees relating to a client's rights, privileges or liabilities under laws or regulations administered by the Board. Such matters include, but are not limited to, the preparation of any statement, opinion or other paper or document by an attorney, accountant, or other licensed professional which is filed with, or submitted to, the Board, on behalf of another person in, or in connection with, any application, notification, report or document; the representation of a person at conferences, hearings and meetings; and the transaction of other business before the Board on behalf of another person.

(2) *Practice before the Board* does not include work prepared for an institution solely at its request for use in the ordinary course of its business.

(c) *Attorney* means any individual who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia.

(d) *Accountant* means any individual who is duly qualified to practice as a certified public accountant or a public accountant in any state, possession, territory, commonwealth, or the District of Columbia.

§ 263.93 Eligibility to practice.

(a) *Attorneys.* Any attorney who is qualified to practice as an attorney and is not currently under suspension or debarment pursuant to this subpart may practice before the Board.

(b) *Accountants.* Any accountant who is qualified to practice as a certified public accountant or public accountant and is not currently under suspension or debarment by the Board may practice before the Board.

§ 263.94 Conduct warranting sanctions.

Conduct for which an individual may be censured, debarred or suspended from practice before the Board includes, but is not limited to:

(a) Willfully or recklessly violating or willfully or recklessly aiding and abetting the violation of any provision of the Federal banking or applicable securities laws or the rules and regulations thereunder or conviction of any offense involving dishonesty or breach of trust;

(b) Knowingly or recklessly giving false or misleading information, or participating in any way in the giving of false information to the Board or to any Board officer or employee, or to any tribunal authorized to pass upon matters administered by the Board in connection with any matter pending or likely to be pending before it. The term ''information'' includes facts or other statements contained in testimony, financial statements, applications, affidavits, declarations, or any other document or written or oral statement;

(c) Directly or indirectly attempting to influence, or offering or agreeing to

attempt to influence, the official action of any officer or employee of the Board by the use of threats, false accusations, duress or coercion, by the offer of any special inducement or promise of advantage or by the bestowing of any gift, favor, or thing of value;

(d) Disbarment or suspension from practice as an attorney, or debarment or suspension from practice as a certified public accountant or public accountant, by any duly constituted authority of any state, possession, commonwealth, or the District of Columbia for the conviction of a felony or misdemeanor involving personal dishonesty or breach of trust in matters relating to the supervisory responsibilities of the Board, where the conviction has not been reversed on appeal;

(e) Knowingly aiding or abetting another individual to practice before the Board during that individual's period of suspension, debarment, or ineligibility;

(f) Contemptuous conduct in connection with practice before the Board, and knowingly making false accusations and statements, or circulating or publishing malicious or libelous matter;

(g) Suspension or debarment from practice before the OCC, the FDIC, the OTS, the Securities and Exchange Commission, the NCUA, or any other Federal agency based on matters relating to the supervisory responsibilities of the Board;

(h) Willful or knowing violation of any of the regulations contained in this part.

[56 FR 38052, Aug. 9, 1991, as amended at 68 FR 48267, Aug. 13, 2003]

§ 263.95 Initiation of disciplinary proceeding.

(a) *Receipt of information.* An individual, including any employee of the Board, who has reason to believe that an individual practicing before the Board in a representative capacity has engaged in any conduct that would serve as a basis for censure, suspension or debarment under § 263.94, may make a report thereof and forward it to the Board.

(b) *Censure without formal proceeding.* Upon receipt of information regarding an individual's qualification to practice before the Board, the Board may, after giving the individual notice and opportunity to respond, censure such individual.

(c) *Institution of formal disciplinary proceeding.* When the Board has reason to believe that any individual who practices before the Board in a representative capacity has engaged in conduct that would serve as a basis for censure, suspension or debarment under § 263.94 the Board may, after giving the individual notice and opportunity to respond, institute a formal disciplinary proceeding against such individual. The proceeding shall be conducted pursuant to § 263.97 and shall be initiated by a complaint issued by the Board that names the individual as a respondent. Except in cases when time, the nature of the proceeding, or the public interest do not permit, a proceeding under this section shall not be instituted until the respondent has been informed, in writing, of the facts or conduct which warrant institution of a proceeding and the respondent has been accorded the opportunity to comply with all lawful requirements or take whatever action may be necessary to remedy the conduct that is the basis for the initiation of the proceeding.

§ 263.96 Conferences.

(a) *General.* The Board's staff may confer with a proposed respondent concerning allegations of misconduct or other grounds for censure, debarment or suspension, regardless of whether a proceeding for debarment or suspension has been instituted. If a conference results in a stipulation in connection with a proceeding in which the individual is the respondent, the stipulation may be entered in the record at the request of either party to the proceeding.

(b) *Resignation or voluntary suspension.* In order to avoid the institution of, or a decision in, a debarment or suspension proceeding, a person who practices before the Board may consent to suspension from practice. At the discretion of the Board, the individual may be suspended or debarred in accordance with the consent offered.