

**§ 513.4 Suspension and debarment.**

(a) The Office may censure any person practicing before it or may deny, temporarily or permanently, the privilege of any person to practice before it if such person is found by the Office, after notice of and opportunity for hearing in the matter,

(1) Not to possess the requisite qualifications to represent others,

(2) To be lacking in character or professional integrity,

(3) To have engaged in any dilatory, obstructionist, egregious, contemptuous, contumacious or other unethical or improper professional conduct before the Office, or

(4) To have willfully violated, or willfully aided and abetted the violation of, any provision of the laws administered by the Office or the rules and regulations promulgated thereunder.

(b) *Automatic suspension.* (1) Any person who, after being licensed as a professional or expert by any competent authority, has been convicted of a felony, or of a misdemeanor involving moral turpitude, personal dishonesty or breach of trust, shall be suspended forthwith from practicing before the Office.

(2) Any accountant, appraiser or other licensed expert whose license to practice has been revoked in any State, possession, territory, Commonwealth or the District of Columbia, shall be suspended forthwith from practice before the Office.

(3) Any attorney who has been suspended or disbarred by a court of the United States or in any State, possession, territory, Commonwealth or the District of Columbia, shall be suspended forthwith from practicing before the Office.

(4) A conviction (including a judgment or order on a plea of *nolo contendere*), revocation, suspension or disbarment under paragraphs (b)(1), (b)(2) and (b)(3) of this section shall be deemed to have occurred when the convicting, revoking, suspending or disbarring agency or tribunal enters its judgment or order, regardless of whether an appeal is pending or could be taken.

(5) For purposes of this section, it shall be irrelevant that any attorney, accountant, appraiser or other licensed expert who has been suspended, dis-

barred or otherwise disqualified from practice before a court or in a jurisdiction continues in professional good standing before other courts or in other jurisdictions.

(c) *Temporary suspension.* (1) The Office, with due regard to the public interest and without preliminary hearing, by order, may temporarily suspend any person from appearing or practicing before it who, on or after June 20, 1984, by name, has been:

(i) Permanently enjoined (whether by consent, default or summary judgment or after trial) by any court of competent jurisdiction or by the Office itself in a final administrative order, by reason of his misconduct in any action brought by the Office based upon violations of, or aiding and abetting the violation of, the Home Owners, Loan Act of 1933, as amended, 12 U.S.C. 1461 *et seq.*, the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811 *et seq.* or any provision of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78a, *et seq.*, which is administered by the Office, or of any rule or regulation promulgated thereunder; or

(ii) Found by any court of competent jurisdiction (whether by consent, default, or summary judgment, or after trial) in any action brought by the Office to which he is a party or found by the Office (whether by consent, default, upon summary judgment or after hearing) in any administrative proceeding in which the Office is a complainant and he is a party, to have willfully committed, caused or aided or abetted a violation of any provision of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1461 *et seq.*, the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811 *et seq.* or any provision of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78a, *et seq.*, which is administered by the Office, or of any rule or regulation promulgated thereunder.

(2) An order of temporary suspension shall become effective when served by certified or registered mail directed to the last known business or residential address of the person involved. No order of temporary suspension shall be entered by the Office pursuant to paragraph (c)(1) of this section more than three months after the final judgment

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or order entered in a judicial or administrative proceeding described in paragraphs (c)(1)(i) or (c)(1)(ii) of this section has become effective and all review or appeal procedures have been completed or are no longer available.

(3) Any person temporarily suspended from appearing and practicing before the Office in accordance with paragraph (c)(1) of this section may, within 30 days after service upon him of the order of temporary suspension, petition the Office to lift such suspension. If no petition is received by the Office within those 30 days, the suspension shall become permanent.

(4) Within 30 days after the filing of a petition in accordance with paragraph (c)(3) of this section, the Office shall either lift the temporary suspension or set the matter down for hearing at a time and place to be designated by the Office, or both. After opportunity for hearing, the Office may censure the petitioner or may suspend the petitioner from appearing or practicing before the Office temporarily or permanently. In every case in which the temporary suspension has not been lifted, the hearing and any other action taken pursuant to this paragraph (c)(4) shall be expedited by the Office in order to ensure the petitioner's right to address the allegations against him.

(5) In any hearing held on a petition filed in accordance with paragraph (c)(3) of this section, a showing that the petitioner has been enjoined or has been found to have committed, caused or aided or abetted violations as described in paragraph (c)(1) of this section, without more, may be a basis for suspension or debarment; that showing having been made, the burden shall then be on the petitioner to show why he should not be censured or be temporarily or permanently suspended or debarred. A petitioner will not be permitted to contest any findings against him or any admissions made by him in the judicial or administrative proceedings upon which the proposed censure, suspension or debarment is based. A petitioner who has consented to the entry of a permanent injunction or order as described in paragraph (c)(1)(i) of this section, without admitting the facts set forth in the complaint, shall nevertheless be presumed for all pur-

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poses under this section to have been enjoined or ordered by reason of the misconduct alleged in the complaint.

### §513.5 Reinstatement.

(a) Any person who is suspended from practicing before the Office under paragraph (a) or (c) of §513.4 of this part may file an application for reinstatement at any time. Denial of the privilege of practicing before the Office shall continue unless and until the applicant has been reinstated by order of the Office for good cause shown.

(b) Any person suspended under paragraph (b) of §513.4 shall be reinstated by the Office, upon appropriate application, if all of the grounds for application of the provisions of paragraph (b) of §513.4 subsequently are removed by a reversal of the conviction or termination of the suspension, disbarment or revocation. An application for reinstatement on any other grounds by any person suspended under paragraph (b) of §513.4 may be filed at any time. Such application shall state with particularity the relief desired and the grounds therefor and shall include supporting evidence, when available. The applicant shall be accorded an opportunity for an informal hearing in the matter, unless the applicant has waived a hearing in the application and, instead, has elected to have the matter determined on the basis of written submissions. Such hearing shall utilize the procedures established in §508.3 and paragraph (a) of §508.7 of this chapter. However, such suspension shall continue unless and until the applicant has been reinstated by order of the Office for good cause shown.

[54 FR 49459, Nov. 30, 1989, as amended at 56 FR 38318, Aug. 12, 1991]

### §513.6 Duty to file information concerning adverse judicial or administrative action.

Any person appearing or practicing before the Office who has been or is the subject of a conviction, suspension, debarment, license revocation, injunction or other finding of the kind described in §513.4 (b) or (c) of this part in an action not instituted by the Office shall promptly file a copy of the relevant order, judgment or decree with the Secretary to the Office together with any