

§ 5.56

16 CFR Ch. I (1–1–10 Edition)

§ 5.56 Disposition.

(a) Upon the conclusion of an investigation under this part, the General Counsel shall forward to the Commission a summary of the facts disclosed by the investigation along with a recommendation as to whether the Commission should issue an order to show cause pursuant to § 5.57.

(b) When the former government employee involved is an attorney, the General Counsel shall also recommend whether the matter should be referred to the disciplinary committee of the bar(s) of which the attorney is a member.

§ 5.57 Order to show cause.

(a) Upon a Commission determination that there exists reasonable cause to believe a former government employee has violated 18 U.S.C. 207, the Commission may issue an order requiring the former employee to show cause why sanctions should not be imposed.

(b) The show cause order shall contain:

(1) The statutory provisions alleged to have been violated and a clear and concise description of the acts of the former employee that are alleged to constitute the violation;

(2) Notice of the respondent's right to submit an answer and request a hearing, and the time and manner in which the request is to be made; and

(3) A statement of the sanctions that may be imposed pursuant to § 5.67 of this part.

(c) Subsequent to the issuance of an order to show cause, any communications to or from the Commission or any member of the Commission shall be governed by the *ex parte* provisions of § 4.7 of the Commission's Rules of Practice. 16 CFR 4.7.

§ 5.58 Answer and request for a hearing.

(a) An answer and request for a hearing must be filed with the Secretary of the Commission within thirty (30) days after service of the order to show cause.

(b) In the absence of good cause shown, failure to file an answer and request for a hearing within the specified time limit:

(1) Will be deemed a waiver of the respondent's right to contest the allegations of the show cause order or request a hearing and

(2) Shall authorize the Commission to find the facts to be as alleged in the show cause order and enter a final decision providing for the imposition of such sanctions specified in § 5.67 as the Commission deems appropriate.

(c) An answer shall contain (1) a concise statement of the facts or law constituting each ground of defense and (2) specific admission, denial, or explanation of each fact alleged in the show cause order or, if the respondent is without knowledge thereof, a statement to that effect. Any allegations of a complaint not answered in this manner will be deemed admitted.

(d) Hearings shall be deemed waived as to any facts in the show cause order that are specifically admitted or deemed to be admitted as a result of respondent's failure to deny them. Those portions of respondent's answer, together with the show cause order, will provide a record basis for initial decision by the Administrative Law Judge or for final decision by the Commission.

(e) If all material factual allegations of the show cause order are specifically admitted or have been deemed admitted in accordance with paragraph (c) of this section, the Commission will decide the matter on the basis of the allegations set forth in the show cause order and respondent's answer.

§ 5.59 Presiding official.

(a) Upon the receipt of an answer and request for a hearing, the Secretary shall refer the matter to the Chief Administrative Law Judge, who shall appoint an Administrative Law Judge to preside over the hearing and shall notify the respondent and the General Counsel as to the person selected.

(b) The powers and duties of the presiding official shall be as set forth in § 3.42(b) through (h) of the Commission's Rules of Practice.

§ 5.60 Scheduling of hearing.

The presiding official shall fix the date, time and place of the hearing. The hearing shall not be scheduled earlier than fifteen days after receipt of