

notified of the deficiencies therein by the Suspension Notice procedure described in § 1710.45(a) of this chapter.

Subpart C [Reserved]

Subpart D—Adjudicatory Proceedings

GENERAL PROVISIONS

§ 1720.105 Scope of rules in this subpart.

The rules in this subpart are applicable to adjudicatory proceedings which involve a hearing or opportunity for a hearing under the Interstate Land Sales Full Disclosure Act.

§ 1720.110 Applicability of sections of this subpart.

Succeeding sections of this subpart shall apply to all adjudicatory hearings conducted by OILSR unless specifically limited in applicability by a particular section.

§ 1720.115 Department representative.

In each case heard before an administrative law judge pursuant to this part, the Department shall be represented by a Department hearing attorney. The General Counsel shall designate one or more attorneys to act as Department hearing attorneys.

§ 1720.120 Qualification for appearances.

(a) Members of the bar of a Federal Court or of the highest court of any state or of the United States are eligible to practice before the Secretary. No register of attorneys will be maintained.

(b) Any individual or member of a partnership involved in any proceeding or investigation may appear on personal behalf or that of the partnership upon adequate identification. A corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(c) A person shall not be represented except as stated in paragraphs (a) and (b) of this section unless otherwise permitted.

§ 1720.125 Public nature and timing of hearings.

(a) All hearings in adjudicatory proceedings shall be public.

(b) Hearings shall proceed with all reasonable speed and insofar as practicable, shall be held at one place and shall continue without recess or suspension until concluded. The administrative law judge shall have the authority to order brief intervals of the sort normally involved in judicial proceedings and, in unusual and exceptional circumstances for good cause stated on the record, shall have the authority to order hearings at more than one place and to order recesses to permit further gathering of evidence or settlement discussions.

§ 1720.130 Restrictions on appearances as to former officers and employees.

(a) Except as specifically authorized by the Secretary, no former officer or employee of the Department of Housing and Urban Development shall appear as attorney or counsel or otherwise participate through any form of professional consultation or assistance in any proceeding or investigation, formal or informal, which was pending in any manner in the Office of Interstate Land Sales Registration while such former officer or employee served with the Department of Housing and Urban Development.

(b) In cases to which paragraph (a) of this section is applicable, a former officer or employee of the Department of Housing and Urban Development may request authorization to appear or participate in a proceeding or investigation by filing with the Secretary a written application disclosing the following relevant information:

(1) The nature and extent of the former officer's or employee's participation in, knowledge of, and connection with the proceeding or investigation during service with the Department of Housing and Urban Development;

(2) Whether the files of the proceeding or investigation came to the former officer or employee's attention;

(3) Whether the former officer or employee was employed in the same office, division, or administrative unit in

which the proceeding or investigation is or has been pending;

(4) Whether the former officer or employee worked directly or in close association with the Office of Interstate Land Sales Registration personnel assigned to the proceeding or investigation;

(5) Whether during service with the Department of Housing and Urban Development the former officer or employee was engaged in any matter concerning the individual, company or industry in the proceeding or investigation.

(c) The requested authorization will not be given in any case:

(1) Where it appears that the former officer or employee during service with the Department of Housing and Urban Development participated personally and substantially in the proceeding or investigation, or

(2) Where the application is filed within one (1) year after termination of the former officer's or employee's service with the Department of Housing and Urban Development and it appears that within a period of one (1) year prior to the termination of service the proceeding or investigation was within the official responsibility of the former officer or employee.

In other cases, authorization will be given where the Secretary is satisfied that the appearance or participation will not involve any actual conflict of interest or impropriety thereof.

(d) In any case in which a former officer or employee of the Department of Housing and Urban Development is prohibited under this section from appearing or participating in a proceeding or investigation, any partner or legal or business associate of such former officer or employee shall likewise be so prohibited unless:

(1) Such partner or legal or business associate files with the Secretary an affidavit that in connection with the matter the services of the disqualified former officer or employee will not be utilized in any respect and the matter will not be discussed with the former officer or employee in any manner, and that the disqualified former officer or employee shall not share, directly or indirectly, in any fees or retainers received for services rendered in connection

with such proceeding or investigation;

(2) The disqualified former officer or employee files an affidavit agreeing not to participate in the matter in any manner, and not to discuss it with any person involved in the matter; and

(3) Upon the basis of such affidavits, the Secretary determines that the appearance or participation by the partner or associate would not involve any actual conflict of interest or impropriety thereof.

§ 1720.135 Standards of practice.

(a) Attorneys shall conform to the standards of professional and ethical conduct required by practitioners in the courts of the United States and by the bars of which the attorneys are members.

(b) The privilege of appearing or practicing may be denied, temporarily or permanently, to any person who is found after notice and opportunity for hearing which at the person's request or in the discretion of the Secretary may be private, and for presentation of oral argument in the matter:

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

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

(3) To have engaged in unethical or improper professional conduct.

(c) Contemptuous conduct at any hearing shall be grounds for summary exclusion from said hearing for the duration of the hearing.

§ 1720.140 Administrative law judge, powers and duties.

(a) Hearings in adjudicative proceedings shall be presided over by a duly qualified administrative law judge who shall be designated by the Secretary in a notice to the parties in the proceeding.

(b) Administrative law judges shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings and to maintain order. They shall have all powers necessary to those ends including all powers granted under 5 U.S.C. 556(c), and also power including but not limited to the following: