

950 CMR 10.00: ADJUDICATORY PROCEEDINGS: SECURITIES DIVISION

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10.01: Scope of Rules.

950 CMR 10.00 governs procedure in "adjudicatory proceedings" before the Division, subject to and in accordance with the provisions of the M.G.L. c. 30A, the Administrative Procedure Act (APA). 950 CMR 10.00 does not apply to investigations, except where made specifically applicable.

10.02: Construction and Definitions.

- (a) Construction. These rules shall be construed to secure a just and speedy determination of every proceeding.
- (b) Definitions. The following words when used in the rules, except as otherwise required by the context shall have the following meaning:
 - 1. "Adjudicatory Proceeding". A proceeding before the Division in which the legal rights, duties or privileges of specifically named persons are required by constitutional right, by provision of M.G.L. c. 30A, 110A or by any other provision of the General Laws, to be determined, after opportunity for an agency hearing.
 - 2. "the Division". The Securities Division of the Office of the Secretary of the Commonwealth.
 - 3. "Director". The Director of the Division as defined in 950 CMR 14.406(a)(1).
 - 4. "Authorized Representative". An attorney, legal guardian or other person authorized by a Party to represent him in an Adjudicatory Proceeding.
 - 5. "Papers". All written communications filed in an Adjudicatory Proceeding, including motions, pleadings, and other documents.
 - 6. "Party". The Division and/or the specifically named Person(s) whose legal rights, duties or privileges are being determined in an Adjudicatory Proceeding; any other Person(s) who as a matter of constitutional right or by any provision of the General Laws is entitled to participate fully in the proceeding; or any Person allowed by the Division to intervene.
 - 7. "Person". An individual or legal entity(ies).
 - 8. "Presiding Officer". The hearing shall be conducted by a Presiding Officer who may be the Director or a hearing officer appointed by the Director to conduct the hearing. The hearing officer may be a member of the Division, a person authorized by law to serve as a hearing officer or administrative law judge, or any other person who is selected by the Director. When serving as Presiding Officer, the hearing officer shall have all the powers of the Presiding Officer in the conduct of a hearing as contained herein, except that the hearing officer shall not be empowered to make any decision which would finally determine the proceedings. At the conclusion of the hearing, the hearing officer shall submit recommended findings of fact and conclusions of law to the Director for his consideration.
 - 9. "Respondent". Party who must make an answer in an Adjudicatory Proceeding.

10.03: Representation.

(a) Appearance. An individual may appear in his own behalf. An authorized officer or employee may represent a corporation, an authorized member may represent a partnership or joint venture, and an authorized trustee may represent a trust. Any Party in an Adjudicatory Proceeding shall have the right to be accompanied, represented and advised by an Authorized Representative, provided, however, no Authorized Representative shall be permitted to engage in the practice of law unless authorized to do so within the Commonwealth.

(b) Notice of Appearance. An appearance shall be made in every Adjudicatory Proceeding by filing a written notice with the Division and the Presiding Officer. Such notice shall contain the name, address and telephone number of the Authorized Representative.

10.04: Time

(a) Timely Filing. Papers required or permitted to be filed under these regulations, or any provision of the applicable law must be filed with the Securities Division, Office of the Secretary of the Commonwealth, John W. McCormack Bldg., 17th Floor, One Ashburton Place, Boston, MA 02108 or such other place as the Division shall designate within the time limits for such filing as are set by regulation, order of the Presiding Officer or other provision of law.

Papers filed in the following manner shall be deemed to be filed as set forth herein:

1. Hand-delivery during business hours. Hand-delivery during regular business hours shall be deemed filed on the day delivered.
2. Hand-delivery during non-business hours. Hand-delivery at times other than during regular business hours shall be deemed filed on the next regular business day.
3. Mailing. Placing in U.S. mail shall be deemed filed on the date postmarked.

All Papers shall show the date received by the Division, and the Division shall cooperate in giving date receipts to Persons filing Papers by hand-delivery during regular business hours.

(b) Notice of Agency Actions. Notice of actions and other communications from the Division shall be presumably deemed received upon the day of hand-delivery or, if mailed, three days after deposit in the U.S. mail.

(c) Computation of Time. Unless otherwise specifically provided by law or these rules, computation of any time period referred to in these rules shall begin with the first day following the act which initiates the running of the time period. The last day of the time period so computed is to be included unless it is a Saturday, Sunday, or legal holiday or any other day on which the Division is closed, in which event the period shall run until the end of the next following business day. When the time period is less than seven days, intervening days when the Division is closed shall be excluded in the computation.

(d) Extension of Time. It shall be within the discretion of the Division or Presiding Officer, for good cause shown, to extend any time limit contained in these rules. All requests for extensions of time shall be made by motion before the expiration of the original or previously extended time period.

10.05: Filings Generally.

(a) Title. Papers filed with the Division shall state the docket number, the title of the proceeding and the name of the Person in whose behalf the filing is made.

(b) Signatures. Papers filed with the Division shall be signed and dated by the Party on whose behalf the filing is made or by the Party's Authorized Representative and shall state the address and telephone number of such Party or Authorized Representative; except all answers, answers to interrogatories and all responses containing factual representations must be signed by the Party. Signature by a Party constitutes a certification by the signer that he has read the document, knows the content thereof, and that such statements are true, and that it is not interposed for delay. If the document has been signed by an Authorized Representative, where permitted, such signature constitutes a certification that he has full power and authority to sign; that he has read the document; that, after reasonable enquiry, he believes that there is a good ground to support it; and, that it is not interposed for delay.

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- (c) Form. Size and Printing Requirements. All Papers, except those submittals and documents which are kept in a larger format during the ordinary course of a Party's business, shall be hand-printed or typewritten on paper 8 to 8-1/2 inches wide, by 10 to 11 inches long, with left-hand margins not less than 1-1/2 inches wide and other margins not less than 1 inch. The impression shall be on only one side of the page, unless there are more than four pages, and shall be doubled spaced except that quotations in excess of three lines shall be single-spaced and indented.
- (d) Copies. The original of all Papers shall be filed in duplicate, one copy filed with the Presiding Officer and one copy filed with the Division.
- (e) Service. Service of all papers shall be made by delivery by hand (including express courier service), or by United States mail, and shall be deemed complete as of the date of delivery by hand or by date of deposit in an official United States mail facility. All Papers filed with the Division shall be accompanied by a statement signed under the penalty of perjury that copies have been sent, specifying the mode of service, date, the Party to whom sent, the Party's address, and address of service. Failure to comply with this rule shall be grounds for refusal by the Division to accept Papers for filing.

10.06: Initiation of Formal Adjudicatory Proceedings

- (a) Commencement of Adjudicatory Proceeding. The Division may commence an Adjudicatory Proceeding by filing in writing a Notice of Adjudicatory Proceeding signed by the Director or other duly designated person acting in that capacity and an Administrative Complaint.
- (b) Form and Content. The Administrative Complaint shall state clearly and concisely the facts which are grounds for the proceeding, the relief sought, and any additional information required by applicable statutes and regulations. The Notice shall inform the party or parties named of their right to request an administrative hearing in the time prescribed by this regulation.
- (c) Temporary order to cease and desist. Simultaneous with the commencement of an adjudicatory proceeding or at any time thereafter until conclusion of the proceeding, the Division may request a temporary order to cease and desist from the Presiding Officer. The request may be made *ex parte*. The request for a temporary order to cease and desist shall contain a statement setting forth the basis for such request, including, the likely irreparable harm to the public interest which would result if such an order were not issued. The statement may be made in an affirmation filed by the Division and supported by facts contained in the Administrative Complaint and supporting papers. Unless otherwise provided, the order must be served within 24 hours of the time of its signing. The order must notify the Party subject to the order of his right to request an administrative hearing and that such hearing must be set down within 20 days after receipt by the Division of the request for hearing to determine if the order shall become permanent and final.
- (d) Summary Suspension or Postponement of Registration of Broker-Dealer or Agent; Summary Suspension or Postponement of Effectiveness of Registration Statement; Summary Denial or Revocation of Exemption from Registration. Simultaneous with the commencement of an adjudicatory proceeding or at any time thereafter until conclusion of the proceeding, the Presiding Officer may, upon motion of the Division or upon his or her own motion, summarily suspend or postpone the registration of a broker/dealer or agent, summarily suspend or postpone the effectiveness of a registration statement or summarily deny or revoke an exemption from registration. A motion may be made *ex parte*. The order of suspension, postponement, denial or revocation shall set forth the basis for the Order, including specific findings on the need for *ex parte* order, if required by law. If a registration of broker/dealer is at issue, the order shall provide for notice to the applicant or registrant; if the applicant or registrant is an agent, notice to the agent and the employer, or prospective employer of the agent; if a registration statement or exemption from registration is at issue, notice to interested parties of the right to request a hearing and that such hearing will be set down within fifteen days of receipt of written request for hearing. The Presiding Officer may also order a hearing upon Motion of the Division or upon his or her own motion.

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(e) Answer. Within 21 days of service of the Notice of Adjudicatory Hearing and Administrative Complaint, the Respondent shall file an answer to it. Failure to answer timely will be considered a default and may result in the entry of a default judgment or such other action as the Presiding Officer may deem appropriate.

(f) Form of Answer. The Answer shall contain full, direct and specific answers to each claim set forth in the Administrative Complaint admitting, denying, or explaining material facts. If there is insufficient knowledge to answer with specificity, it shall so be stated and, thus, shall be treated as a denial of the claim. The Answer shall contain all affirmative defenses which are relied upon and shall cite the statute(s) and/or regulation(s) which form the basis of each defense. Failure to answer in the manner set forth above may result in the allegations set forth in the Administrative Complaint being deemed as admitted or such other actions as the Presiding Officer may deem appropriate.

(g) Amendments and Withdrawal of Pleadings. The Presiding Officer upon his own initiative or upon the motion of any Party may, in his discretion, order any Party to file a pleading, or to reply to any pleading and further permit either Party to amend its pleadings upon conditions just to all Parties.

10.07: Motions.

(a) General Requirements.

1. Presentation/Objection to Motion. An application to the Presiding Officer should be made by motion. Motions may be made in writing at any time after the commencement of an Adjudicatory Proceeding, or they may be made orally during a hearing. Each motion shall set forth the grounds for the desired order or action and state whether a hearing is desired. Unless otherwise ordered by the Presiding Officer, a party opposing a motion must file its response within 14 days after service of the motion. Any party may request a hearing on the motion. The Presiding Officer may, in his discretion, grant or deny a request for hearing. A request for hearing may be denied on any of the following grounds: oral argument or testimony would not substantially advance the Presiding Officer's understanding of the issues, a delay in deciding the motion until hearing would severely prejudice a party, or a hearing would not be in the public interest.

2. Action on Motions. The Presiding Officer shall, if he determines a hearing on the motion is warranted, give at least three days notice of the time and place for hearing. The Presiding Officer may grant requests for continuances or may in the event of unexcused absence of a Party permit the hearing to proceed, and the unexcused Party's motion or objections will be regarded as submitted. The Presiding Officer may act on a motion when all Parties have responded thereto, or the deadline for response has passed, whichever comes first.

3. Factual Basis. The Parties may offer at a hearing on the motion only such evidence as is relevant to the particular motion. This evidence may consist of facts which are presented orally by sworn testimony, supported by affidavit, or which appear in records, files, depositions, or answers to interrogatories.

(b) Motion for More Definite Statement. If a pleading to which a responsive pleading is required is so vague or ambiguous that a Party cannot reasonably frame a responsive pleading, the responding Party may within the time permitted for such responsive pleading, move for a more definite statement before filing its responsive pleading. The motion shall set forth the defects complained of and the details desired. If the motion is granted, the more definite statement shall be filed within ten days of the notice of the order being sent or within such other time as may be ordered.

(c) Motion to Strike. A Party may move to strike, or the Presiding Officer on its own motion may strike from any pleading any insufficient allegation or defense or any redundant, immaterial, impertinent or scandalous matter.

(d) Motion to Dismiss. Any Party may move to dismiss for failure of the other Party to prosecute or to comply with these rules or with any order of the Division or Presiding Officer. Upon completion by the initiating Party of the presentation of evidence, the responding Party may move to dismiss on the grounds that, upon the facts and/or the law, the Division has not sustained its case. The Presiding Officer may act upon the motion then, or may wait until the close of all the evidence.

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- (e) Motion for Decision on the Pleadings. After the pleadings are closed, and within such time as not to delay the proceedings, any Party may move for judgment on the pleadings. If matters outside the pleadings are presented, the motion shall be treated as one for summary decision.
- (f) Motion for Summary Decision. Any Party may with or without supporting affidavits move for summary decision in his favor, as to all or part of a matter. If the motion is granted as to part of the matter and further proceedings are necessary to decide the remaining issues, a hearing shall so be held.
- (g) Briefs. The Presiding Officer may direct that the parties brief any issue presented by a motion or a pleading or a party may upon motion request that the presiding officer direct briefing of any appropriate issue presented.
- (h) Substitution of Parties. The Presiding Officer may, on motion, at any time in the course of an Adjudicatory Proceeding, permit such substitution of Parties as justice or convenience may require.
- (i) Consolidation of Proceedings. In such cases as there are multiple Adjudicatory Proceedings and where these Adjudicatory Proceedings involve common issues, a Party shall notify the Presiding Officer of this fact, stating with particularity the common issues, and the Presiding Officer may in his discretion consolidate the proceedings.

10.08: Intervention and Participation

- (a) Initiation. Any Person not initially a Party, who with good cause wishes to intervene in, or participate in an Adjudicatory Proceeding shall file a written motion with appropriate pleading for leave to intervene or participate in the proceeding.
- (b) Form and Content. The motion shall state the name and address of the Person making the motion. It shall describe the manner in which the Person making the motion is affected by the proceeding. It shall state the contention of the Person making the motion as to why intervention or participation should be allowed, the relief sought and the statutory or other law in support thereof.
- (c) Filing the Petition. Unless an applicable statute requires otherwise, the motion and appropriate pleading may be filed at any time following the commencement of the Adjudicatory Proceeding, but in no event, later than the date fixed by the Presiding Officer. Motions filed may be allowed at the discretion of the Presiding Officer, provided that the Parties are given notice and opportunity to object.
- (d) Rights of Intervenors. Intervenors shall be Persons substantially and specifically affected by the proceeding. Any Person permitted to intervene shall have all the rights of, and be subject to, all limitations imposed upon a Party, however, the Presiding Officer may exclude repetitive or irrelevant material. Every petition to intervene shall be treated as a petition in the alternative to participate.
- (e) Rights of Participants. Any Person specifically affected by a proceeding shall be permitted to participate. Permission to participate shall be limited to the right to argue orally at the close of hearing and to file a brief. Permission to participate, unless otherwise stated, shall not be deemed to constitute an expression that the Person allowed to participate is a Party in interest who may be aggrieved by any final decision. A Person who moved to intervene and who was allowed only to participate, may participate without waiving its rights to administrative or judicial review of the denial of said motion to intervene.

10.09: Hearings and Conferences

- (a) Pre-hearing Conference. The Presiding Officer may upon his own initiative or upon the application of any Party, call upon the Parties to appear for a conference to consider:
 1. the simplification or clarification of the issues;
 2. the possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreement which will avoid unnecessary proof;
 3. the limitation of the number of expert witnesses, or avoidance of similar cumulative evidence, if the case is to be heard;

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4. the possibility of agreement disposing of all or any of the issues in dispute; and
5. such other matters as may aid in the disposition of the Adjudicatory Proceeding.

Those matters agreed upon by the Parties shall be electronically recorded in the presence of the Parties and/or reduced to writing and shall be signed by the Parties, and shall thereafter constitute part of the record.

The scheduling of a Pre-hearing Conference shall be solely within the discretion of the Presiding Officer.

(b) Pretrial Preparation. At a time scheduled by the Presiding Officer prior to the hearing, the Parties may be required to submit Pretrial memoranda setting forth the:

1. legal issue presented;
2. law relied upon;
3. factual representations to be proven;
4. witnesses to be called and the purpose of their testimony;
5. documents intended to be introduced at the hearing. Such documentation must be filed with the pre-trial memorandum;
6. such other material or representations as the Presiding Officer may direct.

Failure to comply with this requirement may result in a default judgment being entered, or refusal by the Presiding Officer to admit material or hear witnesses or such other appropriate relief as the Presiding Officer may direct.

(c) Authentication of Documents. After receipt of pretrial memoranda, including all documents listed, the Presiding Officer may require a Party to file any objections as to the authenticity of any document listed. Such objection, unless otherwise ordered, must be filed at least 10 days prior to the hearing. Failure to object to the authenticity of a document may be deemed a waiver of any such objection at the hearing.

(d) Submission Without a Hearing. A Party other than the Division may elect to waive a hearing and to submit its case upon the record. Submission of a case without a hearing does not relieve the Parties from the necessity of proving the facts supporting their allegations or defenses.

(e) Hearings, When and Where Held. Hearings will be held at a location designated by the Division. Any Party may, by motion, request that a hearing be held at some place other than that designated, due to disability or infirmity of any Party or witness, or where justice and equity would best be served.

Upon motion of any Party and upon good cause shown, the Presiding Officer may in his or her discretion advance a case for hearing.

(f) Conduct of Hearings.

1. General. Hearings shall be as informal as may be reasonable and appropriate under the circumstances.
2. Decorum. All Parties, Authorized Representatives, witnesses and other Persons present at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in any court. Where such decorum is not observed, the Division or Presiding Officer may take appropriate action.
3. Duties of Presiding Officer. The Presiding Officer shall conduct the hearing, make all decisions regarding admission or exclusion of evidence or any other procedural matters, and administer an oath or affirmation to all witnesses.

(g) Order of Proceedings.

1. Opening. Except as otherwise required by law, it shall be the usual practice that in proceedings initiated by the Notice of Adjudicatory Proceedings, the Division shall open.
2. Discretion of Presiding Officer. Where evidence is peculiarly within the knowledge of one Party, or in cases in which Adjudicatory Proceedings have been consolidated, or where there are multiple Parties, the Presiding Officer may direct who shall open and shall designate the order of presentation.

(h) Presentation.

1. Rights of Parties. All Parties shall have the right to present evidence, cross-examine, make objections, bring motions and make oral arguments. Cross-examination shall occur immediately after any witness' testimony has been received. Whenever appropriate, the Presiding Officer shall permit redirect and recross.

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2. First Presentation. The Party opening the hearing shall have the right to present his position through evidence and testimony first.
 3. Second Presentation. The Party taking the position contrary to that of the Party opening shall have the right to present his position upon completion of the opening Party's case.
- (i) Witnesses and Evidence.
1. Oath. A witness' testimony shall be under oath or affirmation.
 2. Evidence. Unless otherwise provided by any law, the Presiding Officer need not observe the rules of evidence observed by courts but shall observe the rules of privilege recognized by law. Evidence may be admitted and given probative effect only if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Weight to be given evidence presented will be within the discretion of the Presiding Officer.
 3. Offer of Proof. An offer of proof made in connection with an objection taken to a ruling of the Presiding Officer rejecting or excluding preferred testimony shall consist of a statement of the substance of the evidence which the Party contends would be adduced by such testimony; and if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.
- (j) Evidence Included. All evidence, including any records, investigative reports, documents, and stipulations which is to be relied upon in making a decision must be offered and made a part of the record. Documentary evidence may be received in evidence in the form of copies or excerpts, or by incorporation by reference.
- (k) Administrative Notice. The Presiding Officer may take notice of any fact which may be judicially noticed by the courts of this Commonwealth or of general technical or scientific facts within the Presiding Officer's specialized knowledge only if the Parties are notified of the material so noticed and are given an opportunity to contest the facts so noticed.
- (l) Subpoenas. In conducting Adjudicatory Proceedings, the Presiding Officers may issue, vacate, modify and enforce subpoenas requiring the attendance and testimony of witnesses and/or the production of documents or other evidence in accordance with the following provisions:
1. Issuance. A Party may make written application to the Presiding Officer, which may issue the subpoena requested in the name of the Division. The Presiding Officer may issue the subpoena. Where it appears to the Presiding Officer that the subpoena sought may be unreasonable, oppressive, excessive in scope, or unduly burdensome, he may in his discretion, as a condition precedent to the issuance of the subpoena, require the person seeking the subpoena to show the general relevance and reasonable scope of the testimony or other evidence sought. In the event the person requested to issue the subpoena shall after consideration of all the circumstances determine that the subpoena or any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, he may refuse to issue the subpoena, or issue it only upon such conditions as fairness requires. Every subpoena shall show on its face the name and address of the requesting Party. Notice shall not be required for issuance of a subpoena. The form of subpoena shall adhere to the form used in civil cases before the courts.
 2. Motion to Vacate or Modify. Any Person to whom a subpoena is directed may, within a reasonable period, file in writing a motion that the subpoena be vacated or modified. The Presiding Officer shall give prompt notice to the Party who requested issuance of the subpoena. The Presiding Officer may grant such petition in whole, or in part, upon a finding that the testimony, or the evidence, whose production is requested, does not relate with reasonable directness to any matter in question or upon a finding that a subpoena for the attendance of a witness or the production of evidence is unreasonable or oppressive, or has not been issued a reasonable period in advance of the time when the evidence is requested.

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3. Costs. Except for witnesses requested by the Division, witnesses summoned by the Presiding Officer shall be paid the same fees for attendance and travel as in civil cases before the courts. Except for witnesses requested by the Division, the requesting Party shall pay all costs involved with the subpoena, including fees for attendance and travel.
- (m) Transcript of Proceedings.
1. Recording and Transcripts. Testimony and argument at the hearing shall be either recorded electronically or stenographically. Transcripts of the proceedings shall be supplied to any Party, upon request, at his own expense. Any Party, upon motion, may request a stenographer to transcribe the proceedings, at his own expense. In such event, a stenographic record shall be provided to the Presiding Officer at no expense to the Division, and upon such other terms as the Presiding Officer shall order.
 2. Correction of Transcript. Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing. Transcript corrections, agreed to by opposing Parties, may be incorporated into the record, if and when approved by the Presiding Officer, at any time during the hearing, or after the close of evidence, but not more than ten days or such other time as shall be allowed by the Presiding Officer from the date of receipt of the transcript. The Presiding Officer may call for the submission of proposed corrections and may make disposition thereof at appropriate times during the course of the proceeding.
- (n) Briefs. At the close of the taking of testimony, the Presiding Officer may fix a time for the filing of briefs.
- (o) Settling the Record.
1. Contents of Record. The record of the proceeding may consist of the following items: pleadings, pre-hearing conference memoranda, magnetic tapes, orders, briefs, memoranda, answers to interrogatories, depositions, transcripts, exhibits, and other papers or documents which the Presiding Officer has specifically designated be made a part of the record. The record shall at all reasonable times be available for inspection by the Parties. The Presiding Officer may accept legible photocopies of originals.
 2. Evidence After Completion. No evidence shall be admitted after completion of a hearing or after a case submitted on the record, unless otherwise ordered by the Presiding Officer.
 3. Weight of Evidence. The weight to be attached to any evidence in the record will rest within the sound discretion of the Presiding Officer. The Presiding Officer may in any case require either Party, with appropriate notice to the other Party, to submit additional evidence on any matter relevant to the Adjudicatory Proceeding.
 4. Exceptions. Formal exceptions to rulings on evidence and procedure are unnecessary. It is sufficient that a Party, at the time that a ruling is made or sought, makes known his objection to such action and his grounds, therefor, provided that, if a Party has no opportunity to object to a ruling at the time it is made, or to request a particular ruling at an appropriate time, such Party, within three days of notification of action taken or refused, shall state his objection and his grounds therefor.
- (p) Decisions and Final Orders. Every decision and final order shall be in writing and shall be signed by the Director. If a person other than the Director is serving as Presiding Officer, he or she shall prepare recommended findings of fact and conclusion of law to be submitted to the Director. The Director shall review the recommendation and shall be responsible for the issuance of the decision and final order. Every decision and final order shall contain a statement of the reasons therefor, including a determination of every issue of fact or law necessary to the decision and final order. The Director may approve, reject or modify the recommendation of the hearing officer or may refer the matter back to the hearing officer for further proceeding as the Director may decide. The final decision and order shall be mailed to all parties within ten days of signing by the Director.
- (q) Reopening of Hearings. On its own motion or on motion of any Party, the Presiding Officer may at any time before a final decision and order are issued request that the hearing be reopened for the purpose of receiving new evidence.

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(r) Motion for Reconsideration. Any Party may file a Motion for Reconsideration, setting forth specifically the grounds or statutory provision relied upon to sustain the Motion, within ten days from the date a copy of the final decision and order is mailed to the Parties by the Presiding Officer and the Parties shall be notified of their right to appeal as set forth in M.G.L. c. 30A.

(s) Further Appeal. After the issuance of a final decision and order, any Party who has the right to seek administrative or judicial review of the decision may file an appeal with the appropriate court.

(t) Withdrawal of Exhibits. After a decision has become final and all appeal periods have lapsed, the Director may in his/her discretion, upon motion, permit the withdrawal of original exhibits or any part thereof by the Party or Person entitled thereto.

10.10: Settlement of Proceeding

At any time after the commencement of an investigation by the Division, the Division and the respondent or party(ies) subject to investigation may agree to settle the investigation or proceeding. The settlement must be approved by the Director of the Division who may, in his discretion, approve the settlement so long as he finds it is fair, reasonable and in the public interest. The settlement may be entered as a Final Order under M.G.L. c. 110A §§ 412, 204, 304, 407A. Violations of such a Final Order is subject to criminal and civil penalties as provided by law.

10.11: Orders

All Orders which constitute a final disposition of a proceeding must be issued by the Director of the Division.

REGULATORY AUTHORITY

M.G.L. c. 110A, § 412 c. 30A.