

Commodity Futures Trading Commission

§ 10.12

(2) Any attorney or accountant who knowingly makes or knowingly causes to be made, or who knowingly solicits or knowingly causes the solicitation of, an ex parte communication which violates the prohibitions contained in paragraph (b) of this section may, on that basis alone, be deemed to have engaged in unprofessional conduct of the type proscribed by 17 CFR 14.8(c).

(3) Any Commissioner, Administrative Law Judge or Commission decisional employee who knowingly makes or knowingly causes to be made, or who knowingly solicits or knowingly causes the solicitation of, an ex parte communication which violates the prohibitions contained in paragraph (b) of this section may, on that basis alone, be deemed to have engaged in conduct of the type proscribed by 17 CFR 140.735-3(b)(3).

(e) *Applicability of prohibitions and sanctions against ex parte communications.* (1) The prohibitions of this section against ex parte communications shall apply:

(i) To any person who has actual knowledge that a proceeding has been or will be commenced by order of the Commission; and

(ii) To all persons after public notice has been given that a proceeding has been or will be commenced by order of the Commission.

(2) The prohibitions of this section shall remain in effect until a final order has been entered in the proceeding which is no longer subject to review or reconsideration by the Commission or to review by any court.

(3) Nothing in this section shall constitute authority to withhold information from Congress.

(Sec. 4, Pub. L. 94-409, 90 Stat. 1246, 1247 (5 U.S.C. 551(14), 556(d) and 557(d)); sec. 101(a)(11), Pub. L. 93-463, 88 Stat. 1391 (7 U.S.C. 4a(j) (Supp. V, 1975))

[42 FR 13700, Mar. 11, 1977, as amended at 60 FR 54801, Oct. 26, 1995]

§ 10.11 Appearance in adjudicatory proceedings.

(a) *Appearance*—(1) *By non-attorneys.* An individual may appear pro se (in his own behalf), a member of a partnership may represent the partnership, a bona fide officer of a corporation, trust or association may represent the corpora-

tion, trust or association, an officer or employee of a State Commission or of a department or political subdivision of a State may represent the State Commission or the department or political subdivision of the State in any proceeding.

(2) *By attorneys.* An attorney-at-law who is admitted to practice before the highest Court in any State or territory, or of the District of Columbia, who has not been suspended or disbarred from appearance and practice before the Commission in accordance with the provisions of part 14 of this title, may represent parties in proceedings before the Commission.

(b) *Debarment of counsel or representative by administrative law judge during the course of a proceeding.* (1) Whenever, while a proceeding is pending before him, the Administrative Law Judge finds that a person acting as counsel or representative for any party to the proceeding is guilty of contemptuous conduct, the Administrative Law Judge may order that such person be precluded from further acting as counsel or representative in such proceeding. An immediate appeal to the Commission may be sought from any such order, pursuant to the terms of § 10.101, but the proceeding shall not be delayed or suspended pending disposition of the appeal: *Provided*, That the Administrative Law Judge may suspend the proceedings for a reasonable time for the purpose of enabling the party to obtain other counsel or representative.

(2) Whenever the Administrative Law Judge has issued an order precluding a person from further acting as counsel for representative in the proceeding, the Administrative Law Judge within a reasonable time thereafter, shall submit to the Commission a report of the facts and circumstances surrounding the issuance of the order and shall recommend what action the Commission should take respecting the appearance of such person as counsel or representative in other proceedings before the Commission.

§ 10.12 Service and filing of documents; form and execution.

(a) *Service by a party or other participant in a proceeding*—(1) *Number of copies; when required.* Two copies of all