

§515.714

undue burden or expense, or the disclosure of the information would be, or might reasonably lead to a disclosure, contrary to Executive Order 12958 or other Executive orders concerning disclosure of information, U.S. Treasury Department regulations, the Privacy Act, or the Freedom of Information Act.

(2) The Administrative Law Judge shall also safeguard the security and integrity of any documents under seal and shall take all appropriate steps to preserve the confidentiality of such documents or any parts thereof, including closing portions of the hearing to the public. Release of any information under seal, in any form or manner, is subject to the same sanctions and the exercise of the same authorities as are provided with respect to ex parte communications under paragraph (e)(5) of this section.

(3) Should the Administrative Law Judge deny placement of any documents under seal or under protective order, any party, and any person whose documents or materials are at issue, may file an interlocutory appeal to the Secretary or the Secretary's designee. In such cases the Administrative Law Judge must not release or expose any of the records or documents in question to the public or to any other parties for a period of 20 calendar days from the date of the Administrative Law Judge's ruling, in order to permit a petitioner the opportunity either to withdraw the records and documents or to file an interlocutory appeal with the Secretary or the Secretary's designee requesting an order that the records be placed under seal.

(4) Upon settlement, final decision, or motion to the Administrative Law Judge for good cause shown, all materials (including all copies) under seal or protective order shall be returned to the respective parties, except when it may be necessary to retain a record until the judicial process is completed.

(5) Written notice of all requests for release of protected documents or materials shall be given to the parties registered with the Administrative Law Judge at least 20 calendar days prior to any permitted release and prior to any access not specifically authorized under the protective order. A copy of

31 CFR Ch. V (7-1-01 Edition)

all requests for information, including the name, address, and telephone number of the requester, shall be provided to the petitioner. Each request for access to protected material must also provide the names, addresses, and telephone numbers of all persons represented by the requester, including those on whose behalf the requester seeks access to protected information. The Administrative Law Judge shall impose sanctions provided under §515.706(e)(4) and (e)(5) for failure to provide this information.

§515.714 Conduct of hearings.

(a) *In general*—(1) *Overview*. Hearings shall be conducted to provide a fair and expeditious presentation of the relevant disputed issues and facts. Each party has the right to present its case or defense by oral and documentary evidence and to conduct such cross examination as may be required for full disclosure of the relevant facts.

(2) *Order of hearing*. The Office of Foreign Assets Control shall present its case-in-chief first, unless otherwise ordered in advance by the Administrative Law Judge or otherwise expressly specified by law or regulation. The Office of Foreign Assets Control shall be the first party to present an opening statement and a closing statement and may make a rebuttal statement after the respondent's closing statement.

(3) *Stipulations*. Unless the Administrative Law Judge directs otherwise, all stipulations of fact and law previously agreed upon by the parties, and all documents, the admissibility of which has been previously stipulated, will be admitted into evidence upon commencement of the hearing.

(b) *Transcript*. A record of the hearing shall be made by manual or electronic means, including through the use of audio recorded diskettes or audio-visual cassettes, and transcribed unless the Administrative Law Judge rules otherwise. The transcript shall be made available to any party upon payment of the cost thereof. The Administrative Law Judge shall have authority to order the record corrected, either upon a motion to correct, upon a motion to stipulate by the parties for good cause shown, or following notice to the parties upon the Administrative

Law Judge's own motion. The Administrative Law Judge shall serve notice upon all parties, at the addresses provided by the parties pursuant to §515.703(b)(1)(iii), that the certified transcript, together with all hearing exhibits and exhibits introduced but not admitted into evidence at the hearing, has been filed with the Administrative Law Judge.

§515.715 Evidence.

(a) *Admissibility.* (1) Except as is otherwise set forth in this section, evidence that is relevant and material is admissible to the fullest extent authorized by the Administrative Procedure Act and other applicable law.

(2) Evidence may be excluded if it is misleading or its probative value is substantially outweighed by the danger of unfair prejudice or confusion of the issues, or considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(3) Evidence that would be inadmissible under the Federal Rules of Evidence need not be deemed or ruled to be inadmissible in a proceeding conducted pursuant to this subpart if such evidence is relevant and material, and not unduly repetitive.

(b) *Official notice.* (1) Official notice may be taken of any material fact which may be judicially noticed by a United States district court.

(2) All matters officially noticed by the Administrative Law Judge shall appear on the record.

(3) If official notice is requested or taken of any material fact, the parties, upon timely request, shall be afforded an opportunity to object.

(c) *Duplicate copies.* A duplicate copy of a document is admissible to the same extent as the original, unless a genuine issue is raised as to whether the copy is in some material respect not a true and legible copy of the original.

(d) *Objections to admissibility of evidence.* Objections to the admissibility of evidence must be timely made and rulings on all objections must appear on the record. Failure to object to admission of evidence or to any ruling constitutes a waiver of the objection.

(e) *Rejected exhibits.* The Administrative Law Judge shall retain rejected

exhibits, adequately marked for identification, in the event of an interlocutory appeal.

(f) *Stipulations.* The parties may stipulate as to any relevant matters of fact or to the authenticity of any relevant documents. Such stipulations may be received into evidence at a hearing and are binding on the parties with respect to the matters therein stipulated.

(g) *Depositions of unavailable witnesses.* If a witness is unavailable to testify at a hearing, and that witness has testified in a deposition within the United States to which all parties to the proceeding have received timely notice and an opportunity to participate, a party may offer as evidence all or any part of the transcript of the deposition, including deposition exhibits. All costs of depositions shall be borne by the party requesting the deposition.

§515.716 Proposed decisions; recommended decision of Administrative Law Judge; final decision.

(a) *Proposed decisions.* Any party may file with the Administrative Law Judge a proposed decision within 30 calendar days after the parties have received notice that the transcript has been filed with the Administrative Law Judge, unless otherwise ordered by the Administrative Law Judge.

(b) *Reliance on relevant authorities.* The proposed decision must be supported by citation to relevant authorities and by transcript page references to any relevant portions of the record. At the same time the proposed decision is filed, a post-hearing brief may be filed in support. The post-hearing brief shall be filed either as part of the same document or in a separate document.

(c) *Reply briefs.* Reply briefs may be filed within 15 calendar days after the date on which the parties' proposed decision is due. Reply briefs must be strictly limited to responding to new matters, issues, or arguments raised in another party's papers. A party who has not filed a proposed decision or a post-hearing brief may not file a reply brief.

(d) *Simultaneous filing required.* Absent a showing of good cause for the use of another procedure, the Administrative Law Judge shall not order the filing by any party of any brief or reply