

## § 957.15

shall in its notice of appearance identify the individual member of such office who has been assigned to handle the case on its behalf.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

### § 957.15 Conduct of the hearing.

The Judicial Officer shall have authority to:

- (a) Administer oaths and affirmations;
- (b) Examine witnesses;
- (c) Rule upon offers of proof, admissibility of evidence, and matters of procedure;
- (d) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;
- (e) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;
- (f) Require the filing of briefs or memoranda of law on any matter upon which the Judicial Officer is required to rule;
- (g) Order prehearing conferences for the purpose of the settlement or simplification of issues by the parties;
- (h) Order the proceeding reopened at any time prior to his or her decision for the receipt of additional evidence;
- (i) Render a final agency decision;
- (j) Take such other further action as may be necessary to properly preside over the debarment proceeding and render decision therein.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

### § 957.16 Evidence.

(a) Except as otherwise provided in the rules in this part, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern. However, such rules may be relaxed to the extent that the Judicial Officer deems proper to insure a fair hearing.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received in evidence.

(d) Official notice or knowledge may be taken of the types of matters of

## 39 CFR Ch. I (7-1-03 Edition)

which judicial notice or knowledge may be taken.

(e) The written statement of a competent witness may be received in evidence: *Provided*, That such statement is relevant to the issues, that the witness shall testify under oath at the hearing that the statement is in all respects true, and, in the case of expert witnesses, that the statement correctly states his or her opinion or knowledge concerning the matters in question.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

### § 957.17 Witness fees.

The Postal Service does not pay fees and expenses for Respondent's witnesses or for depositions requested by Respondent.

### § 957.18 Depositions.

(a) Not later than 7 days prior to the scheduled date of the hearing any party may file application with the Recorder for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(b) If the application be granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(c) Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. The questions and answers together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. The deposition officer shall put the witness on oath.