

**Lac Vieux Desert Band of Lake Superior Chippewa  
Tribal Financial Services Regulatory Authority  
Commission Regulations**

**Regulation 1.3**

**Originally Adopted by TFSRA Resolution 2014-01 on January 6, 2014**

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**Amended by TFSRA on October 6, 2021**

## **Consumer Dispute Hearing Procedure**

For Consumer Financial Services Regulatory Code Section 9

**Authority:** Section 4.1 of the Tribal Consumer Financial Services Regulatory Code (“Code”) states that “[t]he Tribal Council hereby establishes the [Tribal Consumer Financial Services Regulatory Authority (“Authority”)] as an independent governmental subdivision of the Tribe. The purpose of the Authority is to implement the Code and to promulgate and enforce regulations on behalf of the Tribe for the benefit and interests of the Tribe and its members.” See also Code §§ Section 4.12(a), (c), (g), (h), (i), (j), (o) and Section 9.

**Purpose:** This regulation establishes the Tribal Consumer Financial Services Regulatory Authority’s (“Authority’s”) administrative procedure (“Procedure”) for a consumer dispute hearing on contested matters brought under Code § 9.

**Construction:**

1. The Procedure shall be construed to secure a fair, efficient, and impartial determination of the issues presented consistent with due process.
2. The Procedure is meant to supplement, not displace, the Code, especially the Formal Dispute Resolution Procedure and the Administrative Appeals Procedure in the Code. If this Procedure conflicts with the Code, the Code governs.

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### **SECTION I. GENERAL PROVISIONS**

**A. General Provisions.** All hearings before the Authority, other than hearings on proposed regulations or administrative rules, shall be conducted in accordance with this Procedure.

**B. Definitions.** In this Procedure, the definitions in Code § 2 apply. Additionally, the following definitions apply:

1. “Administrative Appellate Procedure” means the procedure created by § 9 of the Code.
2. “Agent” means the Authority’s Regulatory Agent.

3. “Authority” means the Tribal Consumer Financial Services Regulatory Authority, the governmental subdivision of the Tribe charged with the implementation of the Code and regulations of the Tribe as defined and described in the Code and pursuant to Tribal law.
4. “Business Day” means all calendar days except Sundays and legal public holidays.
5. “Code” means the Tribal Consumer Financial Services Regulatory Code as approved and adopted by Tribal Council Resolution No. 2011-030, and as subsequently amended.
6. “Formal Dispute Resolution Procedure” means the procedure created by § 9 of the Code.
7. “Licensee” means any Financial Services Licensee, Vendor Licensee or Employee Licensee whenever used generally in this Procedure.
8. “Petition” means either (a) a Formal Dispute Resolution Proceeding Petition that requests review of a Financial Licensee’s determination and proposed resolution of a Consumer’s complaint, (b) or, a consumer’s grievance filed in the first instance with the Authority.
9. “Petition for Review” means a request to the Tribal Court to invoke the Administrative Appeal Procedure to review an Authority finding and order issued following this Procedure.
10. “Petitioner” means a person who files a Petition.
11. “Hearing Officer” means any Hearing Officer appointed by the Authority for the purpose of conducting a Consumer Dispute Hearing Procedure. The Hearing Officer shall be a licensed attorney in any jurisdiction who is deemed qualified by the Authority to conduct the Consumer Dispute Hearing Procedure.
12. “Procedure” means the Tribal Consumer Financial Services Regulatory Consumer Dispute Hearing Procedure.
13. “Respondent” means a person against whom a proceeding is commenced.

#### **C. Computation of Time.**

- i. In computing any period of time prescribed or allowed by this Procedure, the time in which an act is to be done shall be computed by excluding the first day, and including the last, unless the last day is not a business day, in which case the period will run until the end of the next business day.
- ii. Unless otherwise specified by the Authority, the day the Authority receives a filing shall be the date used to determine whether a pleading or other paper has been timely filed and for all record and scheduling purposes.

#### **D. Hearing Officer; Powers; Communications.**

1. The Hearing Officer shall conduct all Formal Dispute Resolution proceedings. The powers of the Hearing Officer shall include, but are not limited to:

- a. Conducting a full, fair, and impartial hearing;
  - b. Taking action to avoid unnecessary delay in the disposition of the proceedings;
  - c. Maintaining proper decorum;
  - d. Adjourning hearings when necessary to avoid undue disruption of the proceedings;
  - e. Administering oaths and affirmations;
  - f. Ruling upon offers of proof;
  - g. Ruling upon motions and examine witnesses;
  - h. Limiting repetitious testimony and time for presentations;
  - i. Setting the time and place for continued hearings and fix the time for the filing of briefs and other documents;
  - j. Directing the parties to appear, or confer, or both, to consider clarification of issues, stipulations of facts, stipulations of law, settlement, and other related matters;
  - k. Requiring the parties to submit prehearing orders and legal memorandum;
  - l. Examining witnesses as deemed necessary;
  - m. Granting applications for subpoenas and issuing subpoenas for witnesses and documents to the extent authorized by Tribal law;
  - n. Issuing proposed and final orders and taking any other appropriate action authorized by Tribal law; and
  - o. On motion, or on the Hearing Officer's own initiative, adjourning hearings, except where limited by Tribal law.
2. A party may move to disqualify a Hearing Officer based on actual bias to a particular party, personal prejudice to a particular party, direct or future financial advantage in the outcome of the proceeding, or direct or future pecuniary interest. Any motion to disqualify must demonstrate the factual basis for disqualification as well as show that the Hearing Officer is so impaired that a fair procedure and hearing cannot be held before that Hearing Officer. A party's unilateral perception of a basis for disqualification alone cannot serve as a basis for disqualification.
  3. The Hearing Officer may recuse him or herself at any time and without explanation.
  4. No Agent or Hearing Officer may serve as a witness or be called to testify. No Agent or Hearing Officer may be a party to any proceedings before the Authority.
  5. A Hearing Officer who would otherwise be recused or disqualified by the terms of this Procedure may disclose on the record the basis of disqualification and may ask the parties and their attorneys to consider, out of his or her presence, whether to waive

disqualification. If, following disclosure, the parties agree that the Hearing Officer should not be disqualified, the Hearing Officer may preside over the proceeding. The agreement shall be incorporated into the hearing record.

6. If the Hearing Officer is disqualified, incapacitated, deceased, otherwise removed from, or unable to continue a hearing, or to issue a proposal for decision or final order as assigned, the Authority may exercise its authority under Code § 4.12(e) and (g) to appoint an outside service provider or tribunal to preside over the dispute.
7. **Ex Parte Communications Prohibited.** Once a dispute is brought forth under the Formal Dispute Resolution Procedure, no person shall communicate with the Authority or the Hearing Officer relating to the merits of the dispute without the knowledge and consent of all other parties to the matter, except the Hearing Officer may, when circumstances require, communicate with parties or attorneys for scheduling, or other administrative purposes that do not deal with substantive matters or issues on the merits.

#### **E. Attorneys; Misconduct; Withdrawal and Substitution.**

1. A party may appear in person, by an attorney, or by a lay advocate. To appear on behalf of a party, an attorney or lay advocate shall file a notice of appearance. After a notice of appearance has been filed or after an appearance is made on the record, service of all papers in a proceeding shall be made upon the person whose name appears on the notice of appearance, at the email address indicated on the notice of appearance, and shall be effective as service on the party represented.
2. An attorney or lay advocate who has entered an appearance may withdraw from the case, or be substituted for another attorney or lay advocate, only by order of the Authority. Timely notice of withdrawal or substitution shall be provided to all parties, their attorneys or lay advocates, and the Hearing Officer. Granting withdrawal shall be liberally given.

#### **F. Filing; Service of Documents and Other Pleadings.**

1. All filings shall be electronically filed via email to the Authority. All parties' email addresses shall be included on all filings, which shall constitute service. If an appearance has been filed by an attorney or lay advocate, documents and pleadings shall be served via email on the attorney or lay advocate of record.
2. Documents received by the Authority by 11:59 p.m. Central Time are considered filed and served on the date received.
3. All filings must include a caption or cover sheet with the following information:
  - a. Case name;
  - b. Case number;
  - c. Document title; and
  - d. Name, telephone number, and email address of sender.

- e. Unless a motion for leave for additional pages is granted, no filings may be more than fifteen (15) pages.
- f. The Hearing Officer may decline to consider any document or pleading not compliant and served pursuant to this Procedure.

**G. Notice of Hearing.** A notice of hearing shall be issued by the Hearing Officer and shall contain:

- 1. The address and phone number of the hearing location;
- 2. A statement of the date, hour, place, and nature of the hearing;
- 3. A statement of the legal authority and jurisdiction under which the hearing is being held;
- 4. The nature of the action, if any;
- 5. A statement of the issues or subject of the hearing. On request, the Hearing Officer may require a party to furnish a more definite and detailed statement of the issues; and
- 6. A citation to the applicable law and rules, if any.

**H. Email Address and Telephone Number of Parties.**

- 1. All parties to a dispute shall keep the Hearing Officer informed of their current email addresses and telephone numbers.
- 2. Failure to keep the Hearing Officer informed of a current email address or telephone number may result in a proceeding in the absence of a party who fails to appear.

## **SECTION II. COMMENCEMENT OF PROCEEDING**

**A. Commencement of Action.** Contested matters begin when a Petitioner files a Petition with the Authority. Upon receipt of a Petition, the Authority shall begin a Formal Dispute Resolution Proceeding.

**B. Petitions.**

- 1. A Petition may be filed with the Authority upon a Petitioner's dissatisfaction with a Licensee's initial determination made pursuant to § 9.3(b) of the Code, or upon a consumer's grievance filed in the first instance with the Authority.
- 2. A Petition shall contain all of the following information:
  - a. The Petitioner's name, legal residence, mailing address, if different than the address for the legal residence, email address, and telephone number;
  - b. The name of the opposing party or parties;
  - c. A description of the matter in controversy;

- d. A statement of the amount or amounts in dispute;
- e. A clear and concise statement of the facts supporting the Petition, specifying, when possible, the factual events and circumstances giving rise to the alleged wrongful action or inaction;
- f. A copy of the Petitioner's application and, for a customer, the customer's loan agreement;
- g. A copy of any Licensee determination obtained pursuant to § 9.2 of the Code, or an explanation why a copy cannot be provided;
- h. The relief sought;
- i. Any other information the Petitioner may feel relevant to the Petition or may assist the Authority to evaluate the Petition;
- j. A request for a hearing or a statement waiving a right to a hearing; and,
- k. The signature of the Petitioner or Petitioner's attorney or lay advocate.
- l. A sample Petition may be accessed on the TFSRA's website.

**C. Response to Petition.** The Respondent shall have thirty (30) days from the date of service of the Petition to file a Response. Failure to file a Response may result in a default judgment, as provided in Regulation 5.12.

**D. Motion Practice.**

- 1. All requests for action by the Hearing Officer or the Authority, other than during a hearing, shall be made by written motion. Motions shall state specific grounds and describe the action or order sought. A copy of all written motions or requests for action shall be served pursuant to this Procedure.
- 2. When a motion hearing is requested or deemed necessary by the Hearing Officer, the hearing shall be scheduled no sooner than fourteen (14) days after service unless a motion to expedite is granted or unless other scheduling provisions prevent compliance with this timeline.
- 3. A response to a motion may be filed within fourteen (14) days after service of the motion unless otherwise ordered by the Hearing Officer or unless other scheduling provisions prevent compliance with this timeline.
- 4. No reply shall be accepted without leave from the Hearing Officer. A motion for leave explaining the need for a reply may be filed with the proffered reply.
- 5. All motions and responses shall include citations to supporting authority and, if relevant, supporting affidavits or citations to evidentiary materials of record.

6. A filing party attests that all attachments and exhibits and supporting evidence filed with any motion (a) are true and correct copies; and, (b) would be admissible as evidence.
7. A request for oral argument on a motion shall be made in writing. The Hearing Officer has discretion to require oral argument on a motion or allow or deny oral argument based on a request from a party.
8. Notice of oral argument on a motion shall be given prior to the date set for hearing.
9. Multiple motions may be consolidated for oral argument and consideration.
10. A party may withdraw a motion for oral argument at any time.
11. The Hearing Officer shall rule upon motions within a reasonable time. Any relief granted by the Hearing Officer in response to a motion shall be incorporated in a written order.
12. Motions. A party may file any motion it deems proper, founded in law or fact, and in good faith. In addition to the guidance in this Section II(D), the following shall apply:
  - a. Motions to Expedite or for an Extension of Time. Requests to expedite or for extensions of any time limit established in the Procedure shall be made by written motion and filed with the Hearing Officer before the expiration of the period originally prescribed or previously extended, except as otherwise provided by Tribal law, or by stipulation of the parties. A motion under this Rule shall be granted only for good cause or on the written stipulation of the parties.
  - b. Motions for Dismissal; Summary Disposition. A party may file a motion to dismiss or a motion for summary disposition of all or part of a proceeding.
    - i. A motion to dismiss may be filed before a Response to a Petition and will toll the time to respond to the Petition until after the motion to dismiss is decided.
    - ii. A motion for summary judgment may be filed after a Response is filed.
    - iii. The Hearing Officer may grant dismissal or summary disposition on all or part of a proceeding upon a determination that any of the following exists: there is no genuine issue of material fact; there is a failure to state a claim for which relief may be granted; or, there is a lack of jurisdiction or standing.
    - iv. If the dismissal or summary disposition is denied, or if the decision on the motion does not dispose of the entire action, then the action shall proceed to hearing.
  - c. Motions for Protective Orders; Compel. A party may move for a protective order from unreasonable, oppressive, embarrassing, or disproportionate discovery, or discovery that seeks confidential or privileged information. A party may move to compel discovery responses after the time to serve responses has lapsed. For either

motion, the movant must confirm that he has in good faith conferred with other parties in an effort to solve the dispute.

- d. Preliminary Injunctive Relief. A party may move for preliminary injunctive relief by showing (1) that the party is likely to succeed on the merits of the dispute; (2) that the party is likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in their favor; and (4) that an injunction is in the public interest.
- e. Motions to Stay. A party may move to stay a dispute by showing that without a stay the movant would be substantially prejudiced by proceeding without a stay and that a stay would not substantially prejudice the non-movant.
- f. Motions for Sanctions; Strike. A party may move for sanctions or to strike filings when a filing does not serve a proper purpose, is not based on a reasonable interpretation of law, is unsupported by evidence, and/or is otherwise not filed in good faith.
- g. Motions to Consolidate Disputes; Bifurcate Proceedings. Any party to a dispute may file to consolidate with another ongoing dispute that shares common questions of law and/or fact so long as consolidation would not prejudice any other party. A motion to consolidate may not be used to create a class action or other similar aggregation of Petitioner's claims. Any party to a dispute may file to bifurcate any dispute to expedite and/or economize proceeding.
- h. Motions for Discovery. Motions for discovery may be filed pursuant to Section III and must adequately address the expectations of Section III(B) and (C).
- i. Motions for Reconsideration. Motions for reconsideration may be filed pursuant to Section V(L) following a hearing. Under the same standards, motions for reconsideration may be filed requesting reconsideration of any decision or order.

### **SECTION III. DISCOVERY**

#### **A. Availability; Scope; Timing.**

- 1. A party may move for discovery after a Response is served and only as allowed under this Procedure. If discovery is allowed, interrogatories and requests for production are permitted regarding any non-privileged matter that is relevant to any party's claims or defenses and proportional to the needs of the proceeding.
- 2. The Hearing Officer possesses discretion to permit discovery so long as it relates to the issues raised in the Petition and/or Response and describes with particularity the evidence sought.



3. The time for completion of discovery shall be set by an order of the Hearing Officer. The order shall:
  - a. Indicate the final service deadline for any discovery requests;
  - b. Require that any party serving discovery requests file a certificate of service with the Authority; and
  - c. Advise the parties that any party may move for a protective order from any discovery requests.

## **B. Stipulations.**

1. The parties may agree upon facts and/or identify those that remain in controversy by written stipulation or by a statement entered into the record.
2. Stipulations shall be used as evidence at the hearing or subsequent proceedings.
3. Stipulations are binding on the parties that have acknowledged acceptance of the stipulations.

## **C. Interrogatories**

1. A party may serve written interrogatories to be answered by the party to whom the interrogatories are directed.
2. Interrogatories shall be answered separately and fully in writing under oath. If an interrogatory is objected to, the reasons for objection shall be stated in place of an answer. The answers shall be signed by the person making them and shall contain information that is available to the party served or that could be obtained by the party from its employees, agents, representatives, or persons who may testify on the party's behalf.
3. The party to whom the interrogatories are directed shall serve a copy of the answers on the party or the party's attorney or lay advocate submitting the interrogatories and on all other parties or their attorneys or lay advocates within fourteen (14) days after service of the interrogatories.
4. The Hearing Officer may issue an order compelling a response if one is not received in the time specified under Subsection III(C) of this Regulation.
5. To the extent that answers are admissible as evidence before the tribunal, answers to interrogatories may be used against the party making them, and an adverse party may introduce an answer that has not been previously offered in evidence by a party.

6. The Hearing Officer may limit interrogatories, as justice requires, to protect the answering party from annoyance, expense, embarrassment, oppression, or violation of a privilege.
7. A party who has given a response that was complete when made is under a duty to supplement the response to include information thereafter acquired.

**D. Requests for Production of Documents and Tangible Things for Inspection, Copying, or Photographing; Inspection of Property.**

1. A party may serve upon another party a request to produce documents, papers, books, records, accounts, letters, photographs, objects, or tangible things, which are not privileged, which come within the scope of discovery permitted under this section, and which are in the party's possession.
2. A party upon whom a request is served shall serve a response to the request within thirty (30) days of service of the request. If a party upon whom a request is served does not comply with the request, then the Hearing Officer may, upon motion or its own initiative, order the party to produce any designated documents, papers, books, records, accounts, letters, photographs, objects, or tangible things, which are not privileged and come within the scope of discovery permitted under this section, and which are in the party's possession.
3. If the party or person upon whom a request is served claims that the item is not in his, her, or its possession or that he, she, or it does not have information calculated to lead to discovery of the item's whereabouts, then he, she, or it may be ordered to submit to examination before the Hearing Officer or to other means of discovery regarding the claim.
4. Failure to comply with an order requiring a response to discovery requests may result in, dismissal of the case, a default judgment or other sanctions.

**SECTION IV. PREHEARING PROCEDURE**

- A. Prehearing Conferences.** At the request of any party, or upon the Hearing Officer's order, the Hearing Officer may order a prehearing conference to address matters including, but not limited to, any of the following:
1. Factual and legal issues in the case;
  2. Confidential documents;
  3. Hearing scheduling, procedure, oral argument, and order of presentation;
  4. Subpoenas for personal appearance;

5. Stipulations;
  6. Requests for official notice of documents or other evidence;
  7. Identification and exchange of documentary evidence;
  8. Admission of evidence;
  9. Identification and qualification of witnesses;
  10. Motions;
  11. Position statements;
  12. Settlement; or
  13. Any other matters that will promote the orderly and prompt conduct of the hearing.
- B. Prehearing conferences may be conducted in person, by telephone, by videoconference, or other electronic means at the discretion of the Hearing Officer.
- C. When a prehearing conference has been held, the Hearing Officer shall issue a prehearing and case management order which states the actions taken or to be taken with regard to any matter addressed at the prehearing conference.
- D. If a prehearing conference is not held, the Hearing Officer may issue a prehearing and case management order to regulate the conduct of proceedings.
- E. If a party fails to appear for a prehearing conference after proper notice, the Hearing Officer may proceed with the conference in the absence of that party. A party who fails to attend a prehearing conference is subject to any procedural agreement reached, and any order issued, with respect to matters addressed at the conference.

## **Section V. Hearing Procedure.**

### **A. Location.**

The Hearing Officer shall designate a location for all hearings under the Formal Dispute Resolution Procedures of the Code. Following written notice and approval by the Hearing Officer, parties and witnesses may attend a hearing remotely by either video or teleconference.

### **B. Timing.**

A hearing on the merits of a Petition shall take place, except as otherwise determined by the Authority or Hearing Officer, no less than thirty (30) days and no more than one hundred twenty (120) days after the Authority receives the Petition.

### **C. Record.**

1. The Hearing Officer shall maintain an official record of each case or proceeding.
2. The record shall include all of the following:
  - a. Notice of hearings and orders of adjournment;
  - b. Prehearing orders;
  - c. Motions, pleadings, briefs, petitions, requests, agency rulings, and intermediate written rulings;
  - d. Evidence presented;
  - e. A statement of matters officially noticed;
  - f. Offers of proof, objections, and rulings;
  - g. An official recording of the proceeding prepared by the Hearing Officer;
  - h. Transcripts, if ordered by the Hearing Officer or submitted by a party prior to issuance of a final decision;
  - i. Final orders or orders on reconsideration; and
  - j. Written notation of any ex parte communications referred to on the record.

### **D. Telephone and Electronic Hearings.**

The Hearing Officer may conduct all or part of a hearing by telephone, videoconference, or other electronic means.

### **E. Hearing by Brief.**

1. Unless a party objects, the Hearing Officer may direct that the hearing be conducted by submission of briefs. If the Hearing Officer so directs, the Hearing Officer shall prescribe the time limits for submission of briefs and provide direction on whether filings are to be either simultaneous or successive

### **F. Hearing Procedure.**

1. Every contested case hearing will be before the Authority and presided over by the Hearing Officer.

2. The hearing shall follow the prehearing and case management order, issued under Section IV(C).

**G. Evidence.** Unless otherwise directed by the Authority, parties to the contested matter must be given the opportunity to present evidence.

1. The Hearing Officer may admit and give probative effect to evidence of a type commonly relied upon by a reasonably prudent person in similar circumstances or evidence that is reasonably related to the claim.
2. Irrelevant, immaterial, or unduly repetitious evidence may be excluded.
3. Claims of privilege shall be evaluated using federal authority from within the United States Circuit Court, Sixth Circuit.
4. Objections to offers of evidence may be made and shall be noted in the record.
5. For the purpose of expediting a hearing, and when the interests of the parties will not be substantially prejudiced, the Hearing Officer may require submission of all or part of the evidence in written form.
6. The Hearing Officer may take official notice of judicially cognizable facts, and general, technical, or scientific facts within the Authority's specialized knowledge.
7. Evidence in a proceeding shall be offered and made a part of the record if admitted by the Hearing Officer.

**H. Examination of Witnesses.**

1. Order of Examination. The party calling the witness shall have the right to a direct examination. All adverse parties shall have a right to cross examine. After cross examination, the party that called the witness shall have the right to rebut any cross examination or move to redirect the witness.
2. The testimony of all witnesses shall be upon oath or affirmation.
3. Witnesses may be sequestered by the Hearing Officer on his or her own initiative, or upon request of a party.
4. The Hearing Officer may limit the number of witnesses to prevent cumulative or irrelevant evidence, and to prevent unnecessary delay

**I. Procedure Following Hearing.**

1. Post-Hearing Motions. A party may file a post-hearing motions for the purpose of reopening the hearing to allow additional evidence. Any such motion shall be supported by describing the evidence that the movant party first learned about only after the close of

the hearing and explain why the proffered evidence could not have been discovered sooner, and demonstrate that the evidence meets the criteria of Section V(G). Any motion to reopen the hearing shall be made before entry of a final decision and order. Such motion shall state the nature of the evidence, shall identify when the proponent party learned of that evidence, and shall identify the specific issue to which the evidence is relevant.

2. Post-Hearing Brief. A party may request an opportunity to submit a post-hearing brief. The Hearing Officer may grant or deny the request based on the nature of the proceedings. The Hearing Officer may also require a post-hearing brief on his or her own initiative.

#### **J. Final Decisions and Orders.**

1. The Authority shall issue a written final decision within thirty (30) days of a hearing.
2. A written final decision shall include separate sections entitled “findings of fact” and “conclusions of law.” Findings of fact shall include a concise statement of the underlying supporting facts. Each conclusion of law shall be supported by authority or reasoned opinion.
3. A decision and order shall be based on the record as a whole or a portion of the record.
4. A decision and order shall be supported by competent, material, and substantial evidence.
5. A decision and order shall inform the parties of the right to an administrative appeal.
6. A copy of the decision and order shall be mailed on the date it is entered and issued to each party and any attorneys or lay advocate of record.

#### **K. Default**

1. If a party fails to attend or participate in a scheduled proceeding after a properly served notice, the Hearing Officer may conduct the proceedings without participation of the absent party.
2. Default. On its own or upon request, the Authority may issue a default decision under any of the following circumstances:
  - a. a party fails to comply with the Authority’s investigatory requests;
  - b. a Licensee fails to answer; or
  - c. a party fails to appear at a prehearing conference or hearing.

3. Upon default, the Hearing Officer may issue a default order or other dispositive order which shall state the grounds for the order and order appropriate relief.
4. A default and default order may not be set aside but may be appealed pursuant to Section 9 of the Code.

#### **L. Request for Reconsideration; Rehearing.**

1. A party may file a request for reconsideration of the decision and order, without a hearing, or rehearing and the Authority may grant the request for reconsideration upon a showing of material error.
2. A request for reconsideration of the decision and order, without a hearing, or rehearing shall state with specificity the material error claimed.
3. A request for reconsideration of the decision and order, without a hearing, or rehearing which presents the same issues previously ruled on, either expressly or by reasonable implication, shall not be granted.
4. A request for reconsideration of the decision and order, without a hearing, or rehearing shall be filed within thirty (30) days after the issuance of a decision or order.

#### **M. Remedies and Relief**

The Authority may impose the following remedies on a Licensee if it has been found to have violated the Code:

1. Order immediate compliance with the Code;
2. Suspend or revoke a Licensee's License;
3. Issue monetary relief to the prevailing party;
4. Order any additional relief permitted by the Code or not expressly excluded by the Code, Tribal law, or applicable federal law.

#### **Section VI. Administrative Appeals**

- A. **Administrative Appeal.** Unless modified or superseded by subsequently enacted Tribal law or duly adopted Tribal Court Rules, administrative appeals of Authority decisions and orders shall be conducted according to Code § 9.4 and this Regulation.
- B. A party may appeal an Authority decision and order by filing a written petition for review with the Tribal Court within thirty (30) days after the Authority issued its decision and order.

- C. A petition for review must include a statement describing the Licensee's complaint, the determination of the Authority and must include the type of relief the consumer is requesting and a copy of the Authority's decision and order.
- D. The Licensee must mail a copy of the petition for review and all attachments to the Authority. The Authority may file a response within thirty (30) days of receiving the petition for review. The Authority must forward the record of the proceedings to the Tribal Court within thirty (30) days of receiving the petition for review.
- E. An administrative appeal under this Section is not a matter before the Tribal Court as contemplated by LVD Tribal Court Rule 1.006 or an action as contemplated by LVD Tribal Court Rule 2.201. As such, an administrative appeal is not a suit against the Tribe, does not challenge the Tribe's sovereignty, and cannot be used as a means to circumvent the Tribe's sovereignty. By allowing an administrative appeal, the Tribe in no way waives its sovereign immunity because an administrative appeal is not a suit against the Tribe.
- F. The Tribal Court will schedule oral argument within a reasonable time.
- G. Appeal Standards.
  - 1. The Tribal Court shall limit its review to the record below.
  - 2. The Tribal Court shall give deference to the Authority's reasonable interpretation and application of the Code.
  - 3. If the Tribal Court concludes that the Authority's decision and order is arbitrary and capricious, or that it is not supported by the evidence, the Tribal Court may reverse and/or remand the Authority's decision and order. Mere disagreement with the Authority's factual findings is not a basis for reversal.
  - 4. If the Tribal Court concludes that the Authority's conclusions of law conflict with Tribal law or the Tribal Constitution, the Tribal Court shall reverse and remand the Authority's decision.
- H. Within a reasonable time<sup>1</sup> after oral argument, the Tribal Court shall issue an opinion and order. The Tribal Court's opinion and order may be appealed to the Tribal Court. Upon issuance of the Tribal Court's opinion and order, a consumer's administrative remedies are exhausted.

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<sup>1</sup> The Tribal Court is encouraged to render opinions within 60 days of oral argument, but the TFSRA recognizes that the press of other tribal matters may occasionally require an opinion be issued outside this recommended timeframe.