
SENATE BILL 5208

State of Washington

53rd Legislature

1993 Regular Session

By Senators Prentice, Moore, Wojahn, Fraser, Pelz, McAuliffe, Vognild and Winsley

Read first time 01/18/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to enforcement powers of the director of licensing
2 in regard to the securities industry; and amending RCW 21.20.110.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 21.20.110 and 1986 c 14 s 45 are each amended to read
5 as follows:

6 The director may by order deny, suspend, or revoke registration of
7 any broker-dealer, salesperson, investment adviser salesperson, or
8 investment adviser; censure or fine the registrant or an officer,
9 director, partner, or person occupying similar functions for a
10 registrant; or restrict or limit a registrant's function or activity of
11 business for which registration is required in this state; if the
12 director finds that the order is in the public interest and that the
13 applicant or registrant or, in the case of a broker-dealer or
14 investment adviser, any partner, officer, or director:

15 (1) Has filed an application for registration under this section
16 which, as of its effective date, or as of any date after filing in the
17 case of an order denying effectiveness, was incomplete in any material
18 respect or contained any statement which was, in the light of the

1 circumstances under which it was made, false, or misleading with
2 respect to any material fact;

3 (2) Has willfully violated or willfully failed to comply with any
4 provision of this chapter or a predecessor act or any rule or order
5 under this chapter or a predecessor act, or any provision of chapter
6 21.30 RCW or any rule or order thereunder;

7 (3) Has been convicted, within the past five years, of any
8 misdemeanor involving a security, or a commodity contract or commodity
9 option as defined in RCW 21.30.010, or any aspect of the securities or
10 investment commodities business, or any felony involving moral
11 turpitude;

12 (4) Is permanently or temporarily enjoined by any court of
13 competent jurisdiction from engaging in or continuing any conduct or
14 practice involving any aspect of the securities or investment
15 commodities business;

16 (5) Is the subject of an order of the director denying, suspending,
17 or revoking registration as a broker-dealer, salesperson, investment
18 adviser, or investment adviser salesperson;

19 (6) Is the subject of an order entered within the past five years
20 by the securities administrator of any other state or by the federal
21 securities and exchange commission denying or revoking registration as
22 a broker-dealer or salesperson, or a commodity broker-dealer or sales
23 representative, or the substantial equivalent of those terms as defined
24 in this chapter or by the commodity futures trading commission denying
25 or revoking registration as a commodity merchant as defined in RCW
26 21.30.010, or is the subject of an order of suspension or expulsion
27 from membership in or association with a self-regulatory organization
28 registered under the securities exchange act of 1934 or the federal
29 commodity exchange act, or is the subject of a United States post
30 office fraud order; but (a) the director may not institute a revocation
31 or suspension proceeding under this clause more than one year from the
32 date of the order relied on, and (b) the director may not enter any
33 order under this clause on the basis of an order unless that order was
34 based on facts which would currently constitute a ground for an order
35 under this section;

36 (7) Has engaged in dishonest or unethical practices in the
37 securities or investment commodities business;

38 (8) Is insolvent, either in the sense that his or her liabilities
39 exceed his or her assets or in the sense that he or she cannot meet his

1 or her obligations as they mature; but the director may not enter an
2 order against a broker-dealer or investment adviser under this clause
3 without a finding of insolvency as to the broker-dealer or investment
4 adviser;

5 (9) Has not complied with a condition imposed by the director under
6 RCW 21.20.100, or is not qualified on the basis of such factors as
7 training, experience, or knowledge of the securities business; or

8 (10)(a) Has failed to supervise reasonably ((his or her)) a
9 salesperson((s if he or she is a broker-dealer)) or ((his or her)) an
10 investment adviser salesperson ((if he or she is an investment adviser.

11 ~~The director may by order summarily postpone or suspend~~
12 ~~registration pending final determination of any proceeding under this~~
13 ~~section)). For the purposes of this subsection, no person fails to~~
14 ~~supervise reasonably another person, if:~~

15 (i) There are established procedures, and a system for applying
16 those procedures, that would reasonably be expected to prevent and
17 detect, insofar as practicable, any violation by another person of this
18 chapter, or a rule or order under this chapter; and

19 (ii) The supervising person has reasonably discharged the duties
20 and obligations required by these procedures and system without
21 reasonable cause to believe that another person was violating this
22 chapter or rules or orders under this chapter.

23 (b) The director may issue a summary order pending final
24 determination of a proceeding under this section upon a finding that it
25 is in the public interest and necessary or appropriate for the
26 protection of investors. The director may not impose a fine under this
27 section except after notice and opportunity for hearing. The fine
28 imposed under this section may not exceed five thousand dollars for
29 each act or omission that constitutes the basis for issuing the order.

--- END ---