

RCW 21.20.110 Director may deny, suspend, revoke, restrict, condition, or limit any application or registration—Director may censure or fine registrant—Grounds—Procedures—Costs—Accounting.

(1) The director may by order deny, suspend, revoke, restrict, condition, or limit any application or registration of any broker-dealer, salesperson, investment adviser representative, or investment adviser; or censure or fine the registrant or an officer, director, partner, or person performing similar functions for a registrant; if the director finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, director, or person performing similar functions:

(a) Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false, or misleading with respect to any material fact;

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

(c) Has been convicted, within the past ten years, of any misdemeanor involving a security, or a commodity contract or commodity option as defined in RCW 21.30.010, or any aspect of the securities, commodities, business investments, franchises, business opportunities, insurance, banking, or finance business, or any felony involving moral turpitude;

(d) Is permanently or temporarily enjoined or restrained by any court of competent jurisdiction in an action brought by the director, a state, or a federal government agency from engaging in or continuing any conduct or practice involving any aspect of the securities, commodities, business investments, franchises, business opportunities, insurance, banking, or finance business;

(e) Is the subject of an order entered after notice and opportunity for hearing:

(i) By the securities administrator of a state or by the Securities and Exchange Commission denying, revoking, barring, or suspending registration as a broker-dealer, salesperson, investment adviser, or investment adviser representative;

(ii) By the securities administrator of a state or by the Securities and Exchange Commission against a broker-dealer, salesperson, investment adviser, or an investment adviser representative;

(iii) By the Securities and Exchange Commission or self-regulatory organization suspending or expelling the registrant from membership in a self-regulatory organization; or

(iv) By a court adjudicating a United States Postal Service fraud;

The director may not commence a revocation or suspension proceeding more than one year after the date of the order relied on. The director may not enter an order on the basis of an order under another state securities act unless that order was based on facts that would constitute a ground for an order under this section;

(f) Is the subject of an order, adjudication, or determination, after notice and opportunity for hearing, by the Securities and

Exchange Commission, the Commodities Futures Trading Commission, the Federal Trade Commission, or a securities or insurance regulator of any state that the person has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodities [Commodity] Exchange Act, the securities, insurance, or commodities law of any state, or a federal or state law under which a business involving investments, franchises, business opportunities, insurance, banking, or finance is regulated;

(g) Has engaged in dishonest or unethical practices in the securities or commodities business;

(h) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature; but the director may not enter an order against an applicant or registrant under this subsection

(1)(h) without a finding of insolvency as to the applicant or registrant;

(i) Has not complied with a condition imposed by the director under RCW 21.20.100, or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business, except as otherwise provided in subsection (2) of this section;

(j) Has failed to supervise reasonably a salesperson or an investment adviser representative, or employee, if the salesperson, investment adviser representative, or employee was subject to the person's supervision and committed a violation of this chapter or a rule adopted or order issued under this chapter. For the purposes of this subsection, no person fails to supervise reasonably another person, if:

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

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

(k) Has failed to pay the proper filing fee within thirty days after being notified by the director of a deficiency, but the director shall vacate an order under this subsection (1)(k) when the deficiency is corrected;

(l) Within the past ten years has been found, after notice and opportunity for a hearing to have:

(i) Violated the law of a foreign jurisdiction governing or regulating the business of securities, commodities, insurance, or banking;

(ii) Been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, or investment adviser representative; or

(iii) Been suspended or expelled from membership by a securities exchange or securities association operating under the authority of the securities regulator of a foreign jurisdiction;

(m) Is the subject of a cease and desist order issued by the Securities and Exchange Commission or issued under the securities or commodities laws of a state; or

(n) Refuses to allow or otherwise impedes the director from conducting an audit, examination, or inspection, or refuses access to

any branch office or business location to conduct an audit, examination, or inspection.

(2) The director, by rule or order, may require that an examination, including an examination developed or approved by an organization of securities administrators, be taken by any class of or all applicants. The director, by rule or order, may waive the examination as to a person or class of persons if the administrator determines that the examination is not necessary or appropriate in the public interest or for the protection of investors.

(3) The director may issue a summary order pending final determination of a proceeding under this section upon a finding that it is in the public interest and necessary or appropriate for the protection of investors.

(4) The director may not impose a fine under this section except after notice and opportunity for hearing. The fine imposed under this section may not exceed ten thousand dollars for each act or omission that constitutes the basis for issuing the order. If a petition for judicial review has not been timely filed under RCW 34.05.542(2), a certified copy of the director's order requiring payment of the fine may be filed in the office of the clerk of the superior court in any county of this state. The clerk shall treat the order of the director in the same manner as a judgment of the superior court. The director's order so filed has the same effect as a judgment of the superior court and may be recorded, enforced, or satisfied in like manner.

(5) Withdrawal from registration as a broker-dealer, salesperson, investment adviser, or investment adviser representative becomes effective thirty days after receipt of an application to withdraw or within such shorter period as the administrator determines, unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective upon such conditions as the director, by order, determines. If no proceeding is pending or commenced and withdrawal automatically becomes effective, the administrator may nevertheless commence a revocation or suspension proceeding under subsection (1)(b) of this section within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(6) A person who, directly or indirectly, controls a person not in compliance with any part of this section may also be sanctioned to the same extent as the noncomplying person, unless the controlling person acted in good faith and did not directly or indirectly induce the conduct constituting the violation or cause of action.

(7) In any action under subsection (1) of this section, the director may charge the costs, fees, and other expenses incurred by the director in the conduct of any administrative investigation, hearing, or court proceeding against any person found to be in violation of any provision of this section or any rule or order adopted under this section.

(8) In any action under subsection (1) of this section, the director may enter an order requiring an accounting, restitution, and disgorgement, including interest at the legal rate under RCW 4.56.110. The director may by rule or order provide for payments to investors, rates of interest, periods of accrual, and other matters the director deems appropriate to implement this subsection.

(9) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person

who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [2016 c 61 § 2; 2003 c 288 § 4; 2002 c 65 § 4; 1998 c 15 § 10; 1997 c 58 § 856; 1994 c 256 § 10; 1993 c 470 § 3; 1986 c 14 § 45; 1979 ex.s. c 68 § 7; 1975 1st ex.s. c 84 § 7; 1965 c 17 § 2; 1959 c 282 § 11.]

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Findings—Construction—1994 c 256: See RCW 43.320.007.

Effective date—1986 c 14: See RCW 21.30.901.