
SENATE BILL 6390

State of Washington

52nd Legislature

1992 Regular Session

By Senators Moore, von Reichbauer and Rasmussen

Read first time 01/28/92. Referred to Committee on Financial Institutions & Insurance.

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:

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

7 (2) Has willfully violated or willfully failed to comply with any
8 provision of this chapter or a predecessor act or any rule or order
9 under this chapter or a predecessor act, or any provision of chapter
10 21.30 RCW or any rule or order thereunder;

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

16 (4) Is permanently or temporarily enjoined by any court of
17 competent jurisdiction from engaging in or continuing any conduct or
18 practice involving any aspect of the securities or investment
19 commodities business;

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

23 (6) Is the subject of an order entered within the past five years
24 by the securities administrator of any other state or by the federal
25 securities and exchange commission denying or revoking registration as
26 a broker-dealer or salesperson, or a commodity broker-dealer or sales
27 representative, or the substantial equivalent of those terms as defined
28 in this chapter or by the commodity futures trading commission denying
29 or revoking registration as a commodity merchant as defined in RCW
30 21.30.010, or is the subject of an order of suspension or expulsion

1 from membership in or association with a self-regulatory organization
2 registered under the securities exchange act of 1934 or the federal
3 commodity exchange act, or is the subject of a United States post
4 office fraud order; but (a) the director may not institute a revocation
5 or suspension proceeding under this clause more than one year from the
6 date of the order relied on, and (b) the director may not enter any
7 order under this clause on the basis of an order unless that order was
8 based on facts which would currently constitute a ground for an order
9 under this section;

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

12 (8) Is insolvent, either in the sense that his or her liabilities
13 exceed his or her assets or in the sense that he or she cannot meet his
14 or her obligations as they mature; but the director may not enter an
15 order against a broker-dealer or investment adviser under this clause
16 without a finding of insolvency as to the broker-dealer or investment
17 adviser;

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

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

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

28 (i) There are established procedures, and a system for applying
29 those procedures, that would reasonably be expected to prevent and

1 detect, insofar as practicable, any violation by another person of this
2 chapter, or a rule or order under this chapter; and

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

7 (b) The director may issue a summary order pending final
8 determination of a proceeding under this section upon a finding that it
9 is in the public interest and necessary or appropriate for the
10 protection of investors. The director may not impose a fine under this
11 section except after notice and opportunity for hearing. The fine
12 imposed under this section may not exceed five thousand dollars for
13 each act or omission that constitutes the basis for issuing the order.