

### **292.390 Denial, suspension, and revocation of registration.**

- (1) The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds that the order is in the public interest and that:
  - (a) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under KRS 292.380(5) as of its effective date, is incomplete in any material respect or contains 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) Any provision of this chapter or any rule, order, or condition lawfully imposed under this chapter has been willfully violated, in connection with the offering by:
    1. The person filing the registration statement;
    2. The issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or
    3. Any underwriter;
  - (c) The security registered or sought to be registered is the subject of an administrative stop order or a similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but:
    1. The commissioner may not institute a proceeding against an effective registration statement under this paragraph more than one (1) year from the date of the order or injunction relied on; and
    2. He may not enter an order under this paragraph on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;
  - (d) The issuer's enterprise or method of business includes or would include activities which are illegal where performed;
  - (e) The offering has worked or tended to work a fraud upon purchasers or would so operate;
  - (f) The offering has been, or would be, made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensations, or promoters' profits or participation, or unreasonable amounts or kinds of options;
  - (g) When a security is sought to be registered by notification it is not eligible for such registration;
  - (h) When a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by KRS 292.360(2)(g);

- (i) The applicant or registrant has failed to pay the proper registration fee; but the commissioner may enter only a denial order under this paragraph and he shall vacate any such order when the deficiency has been corrected;
  - (j) Commissions, compensation, and selling and other transaction expenses greater than twenty percent (20%) in the aggregate, or such other amount specified in the guidelines adopted by the North American Securities Administrators Association, would be paid directly or indirectly, in consideration for the sale of securities sought to be registered.
- (2) The commissioner may not enter a stop order against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next thirty (30) days.
- (3) The commissioner may by order summarily postpone or suspend the effectiveness of the registration statement pending final determination of any proceeding under this section. Upon the entry of a stop order under any part of this section, the commissioner shall promptly notify the issuer of the securities, the applicant or registrant, and the person on whose behalf the securities are to be or have been offered that the order has been entered and of the reasons therefor and that within fifteen (15) days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested within fifteen (15) days and none is ordered by the commissioner, the commissioner shall enter his written findings of fact and conclusions of law and the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to the issuer and to the applicant or registrant, shall enter his written finding of fact and conclusions of law and may modify or vacate the order. The commissioner may modify or vacate a stop order if he finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 867, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 20, sec. 10, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 165, sec. 10, effective July 15, 1994. -- Amended 1972 Ky. Acts ch. 265, sec. 9. - - Amended 1966 Ky. Acts ch. 51, sec. 1. -- Created 1960 Ky. Acts ch. 110, sec. 8, effective January 1, 1961.