

**292.337 Grounds for denial, suspension, limitation, or revocation of registration and for disciplinary action -- Summary order -- Emergency hearing -- Order in accordance with KRS Chapter 13B.**

- (1) The commissioner may deny, refuse to renew, suspend, or revoke the registration of any broker-dealer, agent, investment adviser, or investment adviser representative. The commissioner may bar, censure, or place on probation any registrant or any officer, director, partner, or person occupying a similar status or performing similar functions for a registrant, or restrict, condition, or limit a registrant as to any function or activity of the business for which registration is required in this state. The commissioner may take any of the foregoing actions for any reason set forth in subsection (2) of this section.
- (2) For actions taken in subsection (1) of this section, the commissioner shall find that it is in the public interest and further find that the applicant or registrant or, in the case of a broker-dealer, or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:
  - (a) Has filed an application for registration under this chapter 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 violated or failed to comply with this chapter or any administrative regulation promulgated or order issued under this chapter or a predecessor law;
  - (c) Has been convicted of, or has pending against him or her, a felony;
  - (d) Has been convicted within the past ten (10) years of, or has pending against him or her, any misdemeanor involving a security or any aspect of the securities business;
  - (e) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;
  - (f) Is the subject of an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, agent, investment adviser, or investment adviser representative;
  - (g) Is the subject of any of the following orders that are currently effective and were issued within the last five (5) years:
    1. An order by any securities administrator, entered after notice and opportunity for hearing, denying, suspending, limiting, or revoking the person's license as a broker-dealer, agent, investment adviser, or investment adviser representative or the substantial equivalent of those terms;
    2. An order of a self-regulatory organization finding a violation of federal law or a rule of the self-regulatory organization;

3. A United States Postal Service fraud order;
  4. A cease and desist or other administrative order entered after notice and opportunity for hearing by the commissioner, or any other securities administrator or the United States Commodity Futures Trading Commission; or
  5. An order by the United States Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act, 7 U.S.C. secs. 1 et seq.;
- (h) Has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous ten (10) years;
  - (i) Is insolvent;
  - (j) Is not qualified on the basis of such factors as training, experience, or knowledge of the securities business. However, an order against an individual shall not be based on this paragraph if the individual has passed all examinations required as a condition of registration;
  - (k) Has reasonably failed to supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and, within the previous ten (10) years, committed a violation of this chapter or administrative regulation promulgated or order issued under this chapter;
  - (l) Has failed to pay a fee required under this chapter within thirty (30) days after having received written notice from the commissioner of the failure to pay the required fee. The commissioner shall vacate an order issued under this subsection if the fee is paid within thirty (30) days of the date of the order;
  - (m) Has violated the law of any jurisdiction governing or regulating any aspect of the business of securities or banking, or, within the past five (5) years, has been the subject of an action of any securities regulator 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 is the subject of an action of any securities exchange or self-regulatory organization operating under the authority of a securities regulator suspending or expelling the person from membership in the exchange or self-regulatory organization; or
  - (n) Refuses to allow or otherwise impedes an examination under this chapter or refuses access to a registrant's office to conduct an examination.
- (3) The commissioner may not institute a proceeding under this section based solely on a fact or transaction known to him or her when a registration became effective, unless the proceeding is instituted within sixty (60) days after the effective date of the registration.
  - (4) The commissioner may by order summarily restrict, condition, limit, or suspend a registration, or censure or bar a registrant before final determination of an administrative proceeding under this section. A summary order issued under this

subsection shall only be based upon a finding by the commissioner that such action is in the public interest and that there is substantial evidence of a violation of law that constitutes an immediate danger to the public health, safety, or welfare. One (1) or more of the grounds listed in subsection (2) of this section shall be considered for a summary order. Any person aggrieved by an order of the commissioner under this section may file with the office an application for an emergency hearing pursuant to KRS 13B.125 within thirty (30) days of the date of the order. The commissioner shall comply with KRS 13B.125 when entering a summary order. The commissioner may modify, stay, extend, or vacate the summary order issued under this subsection.

- (5) The commissioner shall not issue an order under this section, except under subsection (4) of this section, without appropriate notice to the applicant or registrant, opportunity for a hearing, and written findings of fact and conclusions of law in accordance with KRS Chapter 13B.

**Effective:** July 15, 2010

**History:** Created 2010 Ky. Acts ch. 82, sec. 9, effective July 15, 2010.

**Legislative Research Commission Note** (7/15/2010). References to the "executive director" of financial institutions in this section, as created by 2010 Ky. Acts ch. 82, sec. 9, have been changed in codification to the "commissioner" of financial institutions to reflect the reorganization of certain parts of the Executive Branch, as set forth in Executive Orders 2009-535 and 2009-1086 and confirmed by the General Assembly in 2010 Ky. Acts ch. 24. These changes were made by the Reviser of Statutes pursuant to 2010 Ky. Acts ch. 24, sec. 1938.