

RCW 21.30.350 Denial, suspension, revocation, or limitation of license—Grounds. (1) The administrator may, by order, deny, suspend, or revoke any license or an exemption granted under RCW 21.30.030(7), limit the activities which an applicant or licensed person may perform in this state, conserve any applicant or licensed person, or bar any applicant or licensed person from association with a licensed commodity broker-dealer, if the administrator finds that (a) the order is in the public interest and (b) that the applicant or licensed person or, in the case of a commodity broker-dealer any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the commodity broker-dealer:

(i) Has filed an application for licensing with the administrator or the designee of the administrator 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 light of the circumstances under which it was made, false or misleading with respect to any material fact;

(ii) (A) Has violated or failed to comply with a provision of this chapter, a predecessor act, or a rule or order under this chapter or a predecessor act, (B) is the subject of an adjudication or determination within the last five years by a securities agency or administrator or court of competent jurisdiction that the person has wilfully violated the federal securities act of 1933, the securities exchange act of 1934, the investment advisers act of 1940, the investment company act of 1940, or the commodity exchange act, or the securities law of any other state (but only if the acts constituting the violation of that state's law would constitute a violation of this chapter had the acts taken place in this state);

(iii) Has, within the last ten years, pled guilty or nolo contendere to, or been convicted of any crime indicating a lack of fitness to engage in the investment commodities business;

(iv) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in, or continuing, any conduct or practice indicating a lack of fitness to engage in the investment commodities business;

(v) Is the subject of an order of the administrator denying, suspending, or revoking the person's license as a commodity or securities broker-dealer, securities salesperson or commodity sales representative, or investment adviser or investment adviser salesperson;

(vi) Is the subject of any of the following orders which are currently effective and which were issued within the last five years:

(A) An order by a securities agency or administrator of another state, Canadian province or territory, or the federal securities and exchange commission, entered after notice and opportunity for hearing, denying, suspending, or revoking the person's license as a commodities or securities broker-dealer, sales representative, or investment adviser, or the substantial equivalent of those terms;

(B) A suspension or expulsion from membership in or association with a self-regulatory organization registered under the securities exchange act of 1934 or the commodity exchange act;

(C) A United States postal service fraud order;

(D) A cease and desist order entered after notice and opportunity for hearing by the administrator or the securities agency or administrator of any other state, Canadian province or territory, the

securities and exchange commission, or the commodity futures trading commission;

(E) An order entered by the commodity futures trading commission denying, suspending, or revoking registration under the commodity exchange act;

(vii) Has engaged in any unethical or dishonest conduct or practice in the investment commodities or securities business;

(viii) Is insolvent, either in the sense that liabilities exceed assets, or in the sense that obligations cannot be met as they mature;

(ix) Is not qualified on the basis of such factors as training, experience, and knowledge of the investment commodities business;

(x) Has failed reasonably to supervise sales representatives or employees; or

(xi) Has failed to pay the proper filing fee within thirty days after being notified by the administrator of the deficiency. However, the administrator shall vacate any order under (xi) of this subsection when the deficiency has been corrected.

An order entered under this subsection shall be governed by subsection (2) of this section and RCW 21.30.200 and 21.30.210.

The administrator shall not institute a suspension or revocation proceeding on the basis of a fact or transaction disclosed in the license application unless the proceeding is instituted within the next ninety days following issuance of the license.

(2) If the public interest or the protection of investors so requires, the administrator may, by order, summarily suspend a license or postpone the effective date of a license. Upon the entry of the order, the administrator shall promptly notify the applicant or licensed person, as well as the commodity broker-dealer with whom the person is or will be associated if the applicant or licensed person is a commodity sales representative, that an order has been entered and of the reasons therefore and that within twenty days after the receipt of a written request the matter will be set down for hearing. The provisions of RCW 21.30.200 and 21.30.210 apply with respect to all subsequent proceedings.

(3) If the administrator finds that any applicant or licensed person is no longer in existence or has ceased to do business as a commodity broker-dealer or commodity sales representative or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the administrator may, by order, cancel the application or license. [1987 c 243 § 6; 1986 c 14 § 36.]