80C.12 DENIAL, SUSPENSION OR REVOCATION OF REGISTRATIONS OR EXEMPTIONS.

Subdivision 1. **Grounds.** The commissioner, with or without prior notice or hearing, may issue a cease and desist order and may issue an order denying, suspending or revoking any registration, amendment or exemption on finding any of the following:

(a) That the applicant, registrant or franchisor or any officer, director, agent or employee thereof or any other person has violated or failed to comply with any provision of sections 80C.01 to 80C.22 or any rule or order of the commissioner;

(b) That the offer, sale, or purchase of the franchise would constitute misrepresentation to or deceit or fraud upon purchasers thereof, or has worked or tended to work a fraud upon purchasers or would so operate;

(c) That the applicant, registrant or franchisor or any officer, director, agent or employee thereof or any other person is engaging or about to engage in false, fraudulent or deceptive practices in connection with the offer and sale of a franchise;

(d) That any person identified in a public offering statement has been convicted of an offense described in section 80C.04, clause (5), or is subject to an order, or has had a civil judgment entered against the person as described in section 80C.04, clause (5), and the involvement of the person in the business of the applicant or franchisor creates a substantial risk to prospective franchisees;

(e) That the financial condition of the franchisor adversely affects or would adversely affect the ability of the franchisor to fulfill its obligations under the franchise agreement;

(f) That the franchisor's enterprise or method of business includes or would include activities which are illegal where performed;

(g) That the method of sale or proposed method of sale of franchises or the operation of the business of the franchisor or any term or condition of the franchise agreement or any practice of the franchisor is or would be unfair or inequitable to franchisees.

Subd. 2. **Commissioner's order; review.** Upon the entry of an order under subdivision 1 without a hearing, the commissioner shall promptly serve a copy of the order upon the subject applicant, registrant, franchisor or other person. The order shall state the reasons for its issuance and shall either order a hearing, which shall be set for no later than 20 days from the date of the order, or specify that upon the written request of the applicant, registrant, franchisor, or other person, the matter will be set for hearing within 15 days after receipt of the request; provided that with the consent of the applicant, registrant, franchisor or other person a hearing may be held subsequent to the expiration of either period specified herein. If no hearing is requested within 30 days of service of the order and none is ordered by the commissioner, 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 and hearing in accordance with the provisions of chapter 14, shall affirm, modify or vacate the order.

Subd. 3. **Order to show cause.** As an alternative to the procedure prescribed in subdivision 2, the commissioner may issue an order to show cause setting a hearing and requiring an applicant, registrant, franchisor or other person to appear and show cause why a cease and desist order should not be issued, or why an order denying, suspending or revoking a registration, amendment or exemption should not be issued. The order to show cause shall give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. The hearing shall be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order making such disposition of the matter as the facts require.

Subd. 4. **Burden of proof.** In any proceeding under sections 80C.01 to 80C.22, the burden of proving an exemption or exception from a definition is upon the person claiming it.

History: *1973 c 612 s 12; 1979 c 144 s 1; 1982 c 424 s 130; 1986 c 444*