46.26 VIOLATIONS BY DIRECTORS, TRUSTEES, OR OFFICERS.

Subdivision 1. **Notice of intent to remove from office.** Whenever in the opinion of the commissioner any director, trustee or officer of an institution has committed any violation of law; has violated a cease and desist order which has become final; has engaged or participated in any unsafe or unsound practice in connection with the institution; or has committed or engaged in any act, omission, or practice which constitutes a breach of a fiduciary duty as a director, trustee or officer of the institution, and the commissioner determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interest of its depositors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty, the commissioner may serve a written notice of intent to remove from office upon the director, trustee or officer.

Subd. 2. **Notice of intent to remove from office or prohibit further participation.** (a) Whenever in the opinion of the commissioner any director, trustee or officer of an institution, by conduct or practice with respect to another institution or business organization which has resulted in substantial financial loss or other damage to that institution or business organization, has evidenced a personal disability and unfitness to continue as a director, trustee or officer of the institution, and whenever in the opinion of the commissioner any other person participating in the conduct of the affairs of an institution, by conduct or practice with respect to such institution, another institution, or other business organization which has resulted in substantial financial loss or other damage to the institution or business organization, has evidenced a personal disability and unfitness to participate in the conduct of the affairs of such institution, the commissioner may serve a written notice upon the director, trustee, officer, or other person of the commissioner's intent to remove that person from office or to prohibit further participation in any manner in the conduct of the affairs of the institution.

(b) Whenever any director, trustee or officer of an institution, or other person participating in the conduct of the affairs of an institution, is convicted in any state or federal court of a felony involving dishonesty or breach of trust the commissioner may serve upon the director, trustee, officer, or other person a written notice of the commissioner's intention to remove the person from office or to prohibit further participation in any manner in the conduct of the affairs of the institution.

Subd. 3. [Renumbered, subd 2, paragraph (b)]

Subd. 4. **Contents.** A notice of intention to remove a director, trustee, officer, or other person from office or to prohibit participation in the conduct of the affairs of an institution shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. The hearing shall be held not earlier than 10 days nor later than 30 days after the date of service of the notice, unless an earlier or later date is set by the commissioner at the request of the director, trustee, officer, or other person and for good cause shown. Unless the director, trustee, officer, or other person appears at the hearing in person or by a duly authorized representative, that person shall be deemed to have consented to the issuance of an order of removal or prohibition. In the event of consent, or if upon the record made at the hearing the commissioner finds that any of the grounds specified in the notice has been established, the commissioner may issue such orders of suspension, removal from office, or prohibition from participation in the conduct of the affairs of the institution as the commissioner deems appropriate. The order shall become effective at the expiration of 30 days after service upon the institution and the director, trustee, officer, or other person concerned, except in the case of an order issued upon consent which shall become effective at the time specified therein. The order shall remain effective and enforceable until it is stayed, modified, terminated, or set aside by action of the commissioner or a reviewing court.

History: *1978 c 544 s 3; 1986 c 444*