

9-2218. Cease and desist orders; civil fines. (a) If the commissioner determines after notice and opportunity for a hearing pursuant to the Kansas administrative procedure act that any person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of this act or any rule and regulation or order hereunder, the commissioner by order may require any or all of the following:

- (1) That the person cease and desist from the unlawful act or practice;
- (2) that the person pay a fine not to exceed \$10,000 per incident for the unlawful act or practice;
- (3) If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the commissioner may impose an additional penalty not to exceed \$10,000 for each such violation;
- (4) censure the person if the person is registered or licensed under this act;
- (5) bar or suspend the person from applying for a license or registration under this act, or associating with a mortgage business or supervised lender licensed in this state;
- (6) issue an order requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation. Such order may include the assessment of interest not to exceed 8% per annum from the date of the violation; or
- (7) that the person take such affirmative action as in the judgment of the commissioner will carry out the purposes of this act.

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commissioner may issue an emergency cease and desist order.

(1) Such emergency order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto.

(2) Upon the entry of such an emergency order, the commissioner shall promptly notify the person subject to the order that it has been entered, of the reasons, and that a hearing will be held upon written request by the person.

(3) If the person requests a hearing, or in the absence of any request, if the commissioner determines that a hearing should be held, the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Upon completion of the hearing the commissioner shall by written findings of fact and conclusions of law vacate, modify or make permanent the emergency order.

(4) If no hearing is requested and none is ordered by the commissioner, the emergency order will remain in effect until it is modified or vacated by the commissioner.

History: L. 1999, ch. 45, § 17; L. 2000, ch. 17, § 7; L. 2005, ch. 144, § 7; July 1.