

Article - Commercial Law

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§13-402.

(a) (1) If the Division determines that there are reasonable grounds to believe that a violation has occurred, it shall, except as provided in paragraph (2), attempt to conciliate the matter by methods of conference and persuasion with all interested parties and any representatives which they may choose to assist them.

(2) If the Division determines that violations are occurring which are causing immediate, substantial and irreparable injury, the Attorney General may seek an ex parte or interlocutory injunction pursuant to § 13-406, without first attempting conciliation.

(3) The terms of any conciliation agreed to by the parties may be made part of a written assurance of discontinuance or settlement agreement to be signed by the Division and each party. The assurance or agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated.

(b) (1) A written assurance of discontinuance or a settlement agreement may include a stipulation or condition for the violator or alleged violator to:

(i) Pay the costs of investigation by the Division;

(ii) Make restitution to the consumer of money, property, or any other thing received from the consumer in connection with a violation or alleged violation of this title;

(iii) Pay economic damages;

(iv) Post a performance bond or other security; and

(v) Provide information to the Division that is appropriate to assist the public in obtaining relief or to prevent future violations.

(2) When a violator or alleged violator agrees or is ordered to post a performance bond or other security, in determining the amount of security to be posted, the Division shall consider:

(i) The nature of the violation;

(ii) The amount of money, property, or any other thing received from the consumer in connection with the violation;

(iii) Whether full restitution has been paid to the consumer; and

(iv) The risk of future harm to consumers.

(3) In addition to the stipulations and conditions listed in paragraph (1) of this subsection, the Division may use any other stipulation, condition, or remedy necessary to correct a violation of this title.

(4) A cease and desist order issued under § 13-403 of this subtitle may include any stipulation or condition listed in this subsection.

(c) (1) It is a violation of this title to fail to adhere to any provision contained in a written assurance of discontinuance or settlement agreement.

(2) A failure by the Division to enforce a violation of any provision of the assurance or agreement does not constitute a waiver of any other provision or of any right of the Division.

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