

## Article - Commercial Law

[Previous][Next]

§13-403.

(a) (1) The Division may hold a public hearing to determine if a violation of this title has occurred.

(2) The Division shall serve:

(i) A statement of charges on the alleged violator; and

(ii) A notice of the time and place of hearing on each party of record.

(3) The Division shall hold the hearing not less than ten days after service of the statement of charges. Each party of record may appear before the Division in person or, at his option, by his authorized representative and may have the assistance of an attorney. The parties may present evidence and cross-examine witnesses. All testimony shall be given under oath and may be required by the issuance of a subpoena signed by the Division. Irrelevant, unduly repetitious, or protracted evidence may not be admitted. Hearings may be limited by the Division if the Division so notifies each party before the hearing.

(4) The Division shall keep a full record of the hearing. The record shall be open to inspection by any person. On request of an interested party to the proceeding, the Division shall furnish the party a copy of the hearing record at a cost which the Division considers appropriate.

(b) (1) (i) If, at the conclusion of the hearing, the Division determines on the preponderance of evidence that the alleged violator violated this title, the Division shall state its findings and issue an order requiring the violator to cease and desist from the violation and to take affirmative action, including the restitution of money or property.

(ii) The order may contain any stipulation or condition listed in § 13-402(b) of this subtitle.

(iii) The order shall contain a notice which states that if the Division determines that the violator has not corrected the violation and complied with the order within 30 days following service of the order, the Division shall proceed with enforcement pursuant to this subtitle.

(2) If, at the conclusion of the hearing, the Division determines on the preponderance of evidence that the alleged violator did not violate this title, the Division shall state its findings and issue an order dismissing the complaint.

(c) (1) If, at any time after a complaint has been filed, the Division believes that an appropriate civil action to preserve the status quo or prevent irreparable harm

is advisable, it may file an action in court, including an action which seeks a temporary restraining order or preliminary injunction.

(2) To obtain compliance with its order, the Division may institute a civil proceeding, including a proceeding which seeks a restraining order and a temporary or permanent injunction.

(d) (1) Notwithstanding the provisions of subsection (b) of this section, the Division may issue a cease and desist order without first conducting a hearing if the Division has reasonable grounds to believe that:

(i) A person has violated this title;

(ii) The person will continue to violate this title causing harm to additional consumers; and

(iii) Consumers harmed by the violations will be unable to obtain restitution after a cease and desist hearing.

(2) (i) If the Division intends to issue a cease and desist order under this subsection against a person who is in compliance with all applicable State and local registration, licensing, and bonding laws, and is operating out of a fixed retail location in the State, the Division shall serve an unsigned copy of the order on the person at least 3 business days before it is to be issued.

(ii) The unsigned copy shall be served by delivering it to an employee or agent of the person at the fixed retail location or, if the person operates more than one retail location in the State, at the location that serves as the person's principal office.

(iii) If the person presents evidence or security establishing that the person will be able to pay restitution after a cease and desist hearing, the order may not be issued.

(iv) If, after the person presents evidence under subparagraph (iii) of this paragraph, the Division issues the order, the order shall discuss that evidence and state with specificity the reasonable grounds the Division has to believe that consumers harmed by the violations will be unable to obtain restitution after a cease and desist hearing.

(3) A cease and desist order issued under this subsection shall grant the respondent an opportunity to request a hearing under this section following issuance of the order.

(4) A hearing shall be held within 7 days after the day on which a request for hearing is made.

(5) If no request is made, an order entered under this subsection is final

30 days after the day on which the order is entered.

[Previous][Next]