

61-2e-402 Enforcement -- Immunity for board.

- (1)
 - (a) The board may order disciplinary action, with the concurrence of the division, against:
 - (i) an entity registered under this chapter;
 - (ii) an entity required to be registered under this chapter; or
 - (iii) a controlling person of an entity described in this Subsection (1)(a).
 - (b) If the board, with the concurrence of the division, makes a finding described in Subsection (2) pursuant to an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the board, with the concurrence of the division, may:
 - (i) revoke, suspend, or place an entity's registration on probation;
 - (ii) deny an entity's original registration;
 - (iii) deny an entity's renewal registration;
 - (iv) in the case of denial or revocation of a registration, set a waiting period for an applicant to apply for a registration under this chapter;
 - (v) order remedial education;
 - (vi) impose a civil penalty upon a person not to exceed the greater of:
 - (A) \$5,000 for each violation; or
 - (B) the amount of any gain or economic benefit from a violation;
 - (vii) issue a cease and desist order; or
 - (viii) do a combination of Subsections (1)(b)(i) through (vii).
- (2) Subsection (1) applies if the board finds, with the concurrence of the division, that a person has engaged in, is attempting to, or has attempted to engage in:
 - (a) an act that violates this chapter;
 - (b) an act that violates a rule made under this chapter;
 - (c) procuring a registration for the person or another person by fraud, misrepresentation, or deceit;
 - (d) paying money or attempting to pay money other than a fee provided for by this chapter to an employee of the division to procure a registration under this chapter;
 - (e) an act or omission in the business of an appraisal management company that constitutes dishonesty, fraud, or misrepresentation;
 - (f) unprofessional conduct as defined by statute or rule; or
 - (g) other conduct that constitutes dishonest dealing.
- (3)
 - (a) If the board, with the concurrence of the director, issues an order that orders a fine or remedial education as part of a disciplinary action against a person, including a stipulation and order, the board shall state in the order the deadline by which the person shall comply with the fine or remedial education requirements.
 - (b) If a person fails to comply by the stated deadline, the person's registration shall be immediately and automatically suspended:
 - (i) beginning the day specified in the order as the deadline for compliance; and
 - (ii) ending the day on which the person complies in full with the order.
 - (c) If a person fails to pay a fine required by an order, the division shall begin a collection process:
 - (i) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (ii) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
- (4) To the extent permitted by federal law, the board, with the concurrence of the division, may bring a disciplinary proceeding under this chapter for a violation of 15 U.S.C. Sec. 1639e(i).

- (5) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding under this chapter if:
- (a) the action is taken without malicious intent; and
 - (b) in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.

Amended by Chapter 369, 2012 General Session