



## Ohio Revised Code

### Section 1315.15 Notice of charges - cease and desist order.

Effective: April 6, 2007

Legislation: House Bill 454 - 126th General Assembly

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(A) The superintendent of financial institutions may issue and serve a notice of charges and intent to issue a cease and desist order upon a licensee or other person if, in the opinion of the superintendent, either of the following applies to the licensee or other person:

(1) The licensee or other person is engaging, has engaged, or, the superintendent has reasonable cause to believe, is about to engage in an unsafe or unsound practice in conducting the business of transmitting money.

(2) The licensee or other person is violating, has violated, or, the superintendent has reasonable cause to believe, is about to violate any of the following:

(a) A law or rule;

(b) A condition imposed in writing by the superintendent in connection with granting an application or other request by the licensee or other person;

(c) A written agreement entered into with the superintendent.

(B) The notice of charges and intent to issue a cease and desist order described in division (A) of this section shall include all of the following:

(1) A statement of the violation or violations or unsafe or unsound practice or practices alleged;

(2) A statement of the facts constituting the violation or violations or unsafe or unsound practice or practices alleged;

(3) Notice that the licensee or other person is entitled to a hearing, in accordance with section 1315.17 of the Revised Code, to determine whether a cease and desist order should be issued against



the licensee or other person, if the licensee or other person requests the hearing within thirty days of service of the notice;

(4) Notice that, if the licensee or other person makes a timely request for a hearing, the licensee or other person may appear at the hearing in person or by attorney or by presenting positions, arguments, and contentions in writing, and at the hearing may present evidence and examine witnesses for and against the licensee or other person.

(5) Notice that failure of the licensee or other person to make a timely request for a hearing to determine whether a cease and desist order should be issued or to appear at the hearing, in person, by attorney, or by writing, is consent by the licensee or other person to the issuance of the cease and desist order.

(C) The superintendent may issue a cease and desist order against the licensee or other person if any of the following applies:

(1) The licensee or other person consents to the issuance of the cease and desist order.

(2) Upon the record of the hearing described in division (B) of this section, the superintendent finds that a violation or unsafe or unsound practice has been established.

(3) The superintendent determines that the licensee's or other person's books and records are too incomplete or inaccurate to permit the superintendent, through the normal supervisory process, to determine the financial condition of the licensee or other person or the details or purpose of one or more transactions that may have a material effect on the financial condition of the licensee or other person.

(4) The superintendent finds that the violation or unsafe or unsound practice alleged in division (B) of this section is likely, prior to completion of the hearing described in that division, to cause any of the following:

(a) The licensee's or other person's insolvency;



- (b) Significant dissipation of the licensee's or other person's earnings or assets;
- (c) Weakening of the licensee's or other person's condition or other prejudice to the interests of the licensee's or other person's customers.
- (D) A cease and desist order may require the licensee or other person to cease and desist from each violation or unsafe or unsound practice, to correct or remedy the conditions resulting from each violation or unsafe or unsound practice, and to take affirmative action, including any of the following:
  - (1) Make restitution or provide reimbursement, indemnification, or guarantee against loss, if either of the following applies:
    - (a) The licensee or other person was or will be unjustly enriched in connection with the violation or practice.
    - (b) The violation or practice involved a reckless disregard for the law or any applicable rule or prior order of the superintendent.
  - (2) Restrict the licensee's or other person's growth;
  - (3) Dispose of any loan or asset involved;
  - (4) Rescind agreements or contracts;
  - (5) Employ qualified officers or employees, who may be subject to approval by the superintendent;
  - (6) Take any other action that the superintendent determines appropriate.
- (E) A cease and desist order issued by the superintendent pursuant to division (C) of this section is effective at the time specified in the order, which shall be as follows:
  - (1) In the case of a cease and desist order issued pursuant to division (C)(2) of this section, not less



than thirty days after service of the order upon the licensee or other person;

(2) In the case of a cease and desist order issued pursuant to division (C)(1), (3), or (4) of this section, immediately upon service of the order on the licensee or other person.

(F) A cease and desist order shall remain effective and enforceable as provided in the order except to the extent it is stayed, modified, terminated, or set aside by action of the superintendent or a reviewing court. If, upon the record of a hearing, the superintendent determines not to issue a cease and desist order, any cease and desist order issued pursuant to division (C)(3) or (4) of this section is terminated.

(G) Within ten days after being served a cease and desist order issued pursuant to division (C)(3) or (4) of this section, a licensee or other person may apply to the court of common pleas of the county in which the principal place of business of the licensee or other person is located, or to the court of common pleas of Franklin county, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the cease and desist order pending completion of the hearing to determine whether a cease and desist order should be issued against the licensee or other person pursuant to division (C)(2) of this section, and the court has jurisdiction to issue the injunction.