

THE ATTORNEY GENERAL



STATE OF UTAH
STATE CAPITOL • SALT LAKE CITY
DA 8-5261

- **VERNON B. ROMNEY**
ATTORNEY GENERAL
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DEPUTY ATTORNEY GENERAL

May 7, 1970

Hal S. Bennett, Executive Director
Department of Business Regulation
330 East Fourth, South
Salt Lake City, Utah

Dear Mr. Bennett:

With reference to your question concerning the denial of an application for a license as a securities agent, it is our opinion that, under Section 61-1-6 (f), an application may be denied if the commission, by order, finds that such denial is in the public interest and if they find that the applicant has, within the past five years, been expelled from a national securities association registered under the Securities Exchange Act of 1934, such as the National Association of Securities Dealers.

Although such statute provides for denial, if the applicant has been expelled from such an organization by the Securities and Exchange Commission, it is our opinion that expulsion by the organization itself, thus making expulsion by the Securities and Exchange Commission unnecessary, would have the same effect and would be treated with equal dignity by the courts as though the expulsion took place by the Securities and Exchange Commission. This appears to be in keeping with the purpose of that section, which is to protect the public from agents who have been expelled from such organizations. Subsection (6) of such statute, however, provides:

"No order may be entered under any part of this section without appropriate prior notice to the applicant or registrant granting opportunity for hearing and written findings of fact and conclusions of law."

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Under this section, it would seem preferable, if denial is in order, to hold a hearing, at which the facts are established concerning the expulsion from the organization, and any other facts which would seem pertinent in the public interest, and that written findings and conclusions be entered to support the order and to form the basis for any action which the applicant might desire to pursue for writ of mandamus or otherwise to attempt to secure a license.

Very truly yours,



VERL R. TOPHAM

Assistant Attorney General

VRT/ko