

Department of the Army, DoD

§ 552.79

it is in the best interests of the command. The grounds for taking this action will include, but will not be limited to, the following:

(a) Failure of company to meet the licensing and other regulatory requirements prescribed in § 552.56.

(b) An agent or representative engaged in any of the solicitation practices prohibited by this regulation.

(c) Substantiated adverse complaints or reports about the quality of the goods, services, or commodities and the manner in which they are offered for sale.

(d) Personal misconduct by agents or representatives while on the military installation.

(e) The possession of or any attempt to obtain allotment forms, or to assist or coordinate the administrative processing of such forms.

(f) Knowing and willful violation of the Truth-in-Lending Act or Federal Regulation Z.

(g) Failure to incorporate and abide by the Standards of Fairness policies. (See § 552.83.)

§ 552.75 Factors in suspending solicitation privileges.

In suspending privileges for cause, the installation commander will determine whether to limit suspension to the agent alone or to extent it to the company he represents. This decision will be based on the circumstances of the particular case. Included are—

(a) The nature of the violations and their frequencies;

(b) The extent to which other agents of the company have engaged in these practices;

(c) Previous warnings or suspensions; and

(d) Other matters that show the company's guilt or failure to take reasonable corrective or remedial action.

§ 552.76 Preliminary investigation.

When unauthorized solicitation practices have apparently occurred, an investigating officer will be appointed (Army Regulation 15-6). The investigating officer will gather sworn statements from all interested parties who have any knowledge of the alleged violations.

§ 552.77 Suspension approval.

The installation commander will personally approve all cases in which solicitation privileges have been denied or suspended for cause. This includes agents, companies, or other commercial enterprises. Authority to temporarily suspend solicitation privileges for 30 days or less while an investigation is conducted may be delegated by the commander to the installation solicitation officer or other designee. Exception to this time frame must be approved by The Adjutant General (DAAG-PSI) or by the overseas commander. The commander will make the final determination.

§ 552.78 "Show cause" hearing.

Before suspending the solicitation privilege, the company and the agent will have a chance to show cause why the action should not be taken. "Show cause" is an opportunity for the company, the agent, or both to present facts informally on their behalf. The company and agent will be notified, by letter, far in advance of the pending hearing. If unable to notify the agent directly or indirectly of the hearing, then the hearing may proceed.

§ 552.79 Suspension action.

(a) When suspended for cause, immediately notify the company and the agent, in writing, of the reason. When the installation commander determines that suspension should be extended throughout the Department of the Army (whether for the agent or his company), send the case to HQDA (DAAGPSI) WASH DC 20314. Provide all factors on which the commander based his decision concerning the agent or company (exempt report, para 7-20, Army Regulation 335-15). This notification should include—

(1) Copies of the "show cause" hearing record or summary,

(2) The installation regulations or extract,

(3) The investigation report with sworn statements by all personnel affected by or having knowledge of the violations,

(4) The statement signed by the agent as required in § 552.60(c).

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(5) Notification letters sent to the company and the agent advising of suspension of installation solicitation privileges, and

(6) If the agent failed to respond to notification of the hearing, a copy of the letters sent to him and the company offering them the opportunity to be heard.

(b) If the grounds for suspension bear significantly on the eligibility of the agent or company to hold a State license or to meet other regulatory requirements, notify the appropriate State or local civil authorities.

§ 552.80 Suspension period.

All solicitation privileges suspended by installation commanders will be for a specific time. Normally, it will not exceed 2 years. When the suspension period expires, the agent may reapply for permission to solicit at the installation authorizing the denial or suspension. Requests for suspension periods in excess of 2 years will be sent with the complete case to HQDA (DAAG-PSI) WASH DC 20314, for approval. Lesser suspension may be imposed pending decision.

§ 552.81 Agents or companies with suspended solicitation privileges.

Quarterly, HQDA will publish the names of agents and companies whose solicitation privileges have been suspended throughout the Department of the Army. If no change has occurred in the latest quarter, no list will be published.

§ 552.82 Exercise of "off limits" authority.

(a) In appropriate cases, installation commanders may have the Armed Forces Disciplinary Control Board investigate reports that cash or consumer credit transactions offered military personnel by a business establishment off post are usurious, fraudulent, misleading, or deceptive. If it is found that the commercial establishment engages in such practices; that it has not taken corrective action on being duly notified; and that the health, morale, and welfare of military personnel would be served, the Armed Forces Disciplinary Control Board may recommend that the offending business es-

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tablishment be declared "off limits" to all military personnel. The procedures for making these determinations are in Army Regulation 190.24.

(b) On finding that a company transacting cash or consumer credit with members of the Armed Forces, nationwide or internationally, is engaged in widespread usurious, fraudulent, or deceptive practices, the Secretary of the Army may direct Armed Forces Disciplinary Control Boards in all geographical areas where this occurred to investigate the charges and take appropriate action.

§ 552.83 Standards of fairness.

(a) No finance charge contracted for, made, or received under any contract shall be in excess of the charge which could be made for such contract under the law of the place in which the contract is signed in the United States by the serviceman. In the event a contract is signed with a United States company in a foreign country, the lowest interest rate of the state or states in which the company is chartered or does business shall apply.

(b) No contract or loan agreement shall provide for an attorney's fee in the event of default unless suit is filed in which event the fee provided in the contract shall not exceed 20 percent of the obligation found due. No attorney's fees shall be authorized if he is a salaried employee of the holder.

(c) In loan transactions, defenses which the debtor may have against the original lender or its agent shall be good against any subsequent holder of the obligation. In credit transactions, defenses against the seller or its agent shall be good against any subsequent holder of the obligation provided that the holder had actual knowledge of the defense or under condition where reasonable inquiry would have apprised him of this fact.

(d) The debtor shall have the right to remove any security for the obligation beyond State or national boundaries if he or his family moves beyond such boundaries under military orders and notifies the creditor, in advance of the removal, of the new address where the security will be located. Removal of the security shall not accelerate payment of the obligation.