

Topic: Other State Agencies Allowed to Bar Registration
 Question by: Tung Chan
 Jurisdiction: Hawaii
 Date: June 1, 2012

Jurisdiction	Question(s)
	<p>Hawaii had a quick question about whether an order from a sister state agency (like an office of consumer protection) could issue an order barring your registry from registering an entity? Apparently at a NAAG conference (national attorney generals), some offices of consumer protection in some other states said that they can bar a business from doing business and then bar the registry from registering those guys until those guys pay their penalties, licenses, etc.</p> <p>Any states actually allow this? If you are one of those states, can you let us know? And is the authority within your statutes?</p>
Manitoba	
Corporations Canada	
Alabama	
Alaska	
Arizona	
Arkansas	
California	
Colorado	
Connecticut	
Delaware	
District of Columbia	<p>To the best of my knowledge there is no such requirement in the District of Columbia.</p> <p>Only local or federal courts may issue order barring the registration of a particular entity.</p>

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Florida	<p>In Florida, the Florida Dept. of Revenue can submit a request to us to Administratively Dissolve a business entity for failure to pay a tax warrant to the state for more than 3 consecutive months. The corporation can only be reinstated if evidence of payment of back taxes is provided by the Dept. of Revenue. To my knowledge this has only been used 5-6 times since it was added to the Dept. of Revenue's statutes in 1992. The statute is s.213.50, F.S. No state agency can prevent the filing of an entity with our office.</p>
Georgia	
Hawaii	
Idaho	
Illinois	
Indiana	
Iowa	
Kansas	
Kentucky	
Louisiana	<p>It would take a court order in Louisiana.</p>
Maine	
Maryland	
Massachusetts	<p>Massachusetts does not allow this.</p>
Michigan	
Minnesota	
Mississippi	

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Missouri	Missouri would honor a court order only. We do not have authority to bar an entity just by receiving a notification/letter from another state agency.
Montana	In Montana another agency cannot bar us from registering an entity unless they obtain a court order.
Nebraska	
Nevada	Generally, it would take a court order, but that has not occurred in an effort to block registration. The Insurance Division may revoke an insurance provider’s right to conduct business in Nevada and the Sec of State must also revoke the entities right to do business in the state upon order from the Insurance Commissioner. That is the only situation that I am aware of where an entity’s right to transact business may be revoked through another agency order.
New Hampshire	New Hampshire would recognize any court order to bar registration, but not from a sister agency. If the agency notifies us of a problem we will inform if there is any activity to register, however.
New Jersey	
New Mexico	
New York	
North Carolina	
North Dakota	In North Dakota, another agency could not bar the registration of a business filing without a court order; however, another agency may not issue a license or permit to an organization that is not registered with the Secretary of State. This is provided in our business entity statutes.
Ohio	
Oklahoma	
Oregon	

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Pennsylvania	Pennsylvania would require a court order.
Rhode Island	Rhode Island does have some filing procedures that require the prior approval of another state agency to accompany a filing, and our Department of Revenue can issue a FORFEITURE of a corporate charter for failure to file taxes. All other issues would require a court order to block registration or “dissolve” an existing charter.
South Carolina	
South Dakota	
Tennessee	

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<p>Texas</p>	<p>An administrative order would not be sufficient to bar the SOS from registering an entity. I am not sure that a court order would be sufficient either. With respect to an attempt to enjoin the Texas SOS from filing a dissolution, the Texas Court of Appeals held that:</p> <p>[1] A court in Texas does not have the jurisdiction to enjoin or to interfere with an executive officer of the state in the lawful exercise of duties and functions committed to them by law. McKinney v. Blankenship, 154 Tex. 632, 282 S.W.2d 691 (1955); State v. Ferguson, 133 Tex. 60, 125 S.W.2d 272 (1939); Prewitt v. Smith, 528 S.W.2d 893 (Tex.Civ.App. Austin 1975, no writ).</p> <p>[2] The duty of the Secretary of State, set out in Tex.Bus.Corp. Act Ann. art. 6.07, to issue a certificate of dissolution to the representative of a dissolved corporation when presented with Articles of Dissolution which conform to the requirements of Tex.Bus.Corp. Act Ann. arts. 6.02 and 6.06 is purely ministerial and mandatory and is beyond the power of a court to enjoin.</p> <p>To hold otherwise would effectively suspend the enforcement of a valid statute in violation of Tex.Const. art. I, s 28 (1876).</p> <p>“Not only may judges and courts not suspend a statute, but neither may they supervise and direct the manner and method of its enforcement by the officers of the executive department of government charged with the duty of enforcing same. This principle is basic in our system of government.”</p> <p>State v. Ferguson, supra.</p> <p>Not sure that I could distinguish our ministerial and mandatory duty to file a dissolution which conformed to statutory requirements from our ministerial and mandatory duty to file an application for registration which conformed to law.</p> <p>Court could certainly enjoin an entity or the principals of the entity from transacting business in this state but based on Beall v. Strake, 609 S.W.2d 885 (Tex. Civ. App-Austin, 1980), I am not sure that a court could appropriately issue an injunction against Texas SOS.</p>

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Utah	<p>Utah recognizes any court order to bar registration or filing. Our statute also has certain types of "holdups" to filing....especially for reinstatement (see http://le.utah.gov/~code/TITLE16/htm/16_10a142000.htm)</p>
Vermont	
Virginia	
Washington	<p>Washington does not allow this.</p>
West Virginia	
Wisconsin	<p>In Wisconsin, it would take a court order to block a registration. I'm not aware of any other sister state agency that could issue an order barring the registration with our Department</p>
Wyoming	

Additional comments:

Full text of email:

Hi everyone,

Hawaii had a quick question about whether an order from a sister state agency (like an office of consumer protection) could issue an order barring your registry from registering an entity?
 Apparently at a NAAG conference (national attorney generals), some offices of consumer protection in some other states said that they can bar a business from doing business and then bar the registry from registering those guys until those guys pay their penalties, licenses, etc.

Any states actually allow this? If you are one of those states, can you let us know? And is the authority within your statutes?

Thanks,

Tung

Tung Chan

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