

### **13-22-3 Investigative and enforcement powers -- Education.**

- (1) The division may make any investigation it considers necessary to determine whether any person is violating, has violated, or is about to violate any provision of this chapter or any rule made or order issued under this chapter. As part of the investigation, the division may:
  - (a) require a person to file a statement in writing;
  - (b) administer oaths, subpoena witnesses and compel their attendance, take evidence, and examine under oath any person in connection with an investigation; and
  - (c) require the production of any books, papers, documents, merchandise, or other material relevant to the investigation.
- (2) Whenever it appears to the director that substantial evidence exists that any person has engaged in, is engaging in, or is about to engage in any act or practice prohibited in this chapter or constituting a violation of this chapter or any rule made or order issued under this chapter, the director may do any of the following in addition to other specific duties under this chapter:
  - (a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may issue an order to cease and desist from engaging in the act or practice or from doing any act in furtherance of the activity; or
  - (b) the director may bring an action in the appropriate district court of this state to enjoin the acts or practices constituting the violation or to enforce compliance with this chapter or any rule made or order issued under this chapter.
- (3) Whenever it appears to the director by a preponderance of the evidence that a person has engaged in or is engaging in any act or practice prohibited in this chapter or constituting a violation of this chapter or any rule made or order issued under this chapter, the director may assess an administrative fine of up to \$500 per violation up to \$10,000 for any series of violations arising out of the same operative facts.
- (4) Upon a proper showing, the court hearing an action brought under Subsection (2)(b) may:
  - (a) issue an injunction;
  - (b) enter a declaratory judgment;
  - (c) appoint a receiver for the defendant or the defendant's assets;
  - (d) order disgorgement of any money received in violation of this chapter;
  - (e) order rescission of agreements violating this chapter;
  - (f) impose a fine of not more than \$2,000 for each violation of this chapter; and
  - (g) impose a civil penalty, or any other relief the court considers just.
- (5)
  - (a) In assessing the amount of a fine or penalty under Subsection (3), (4)(f), or (4)(g), the director or court imposing the fine or penalty shall consider the gravity of the violation and the intent of the violator.
  - (b) If it does not appear by a preponderance of the evidence that the violator acted in bad faith or with intent to harm the public, the director or court shall excuse payment of the fine or penalty.
- (6) The division may provide or contract to provide public education and voluntary education for applicants and registrants under this chapter. The education may be in the form of publications, advertisements, seminars, courses, or other appropriate means. The scope of the education may include:
  - (a) the requirements, prohibitions, and regulated practices under this chapter;
  - (b) suggestions for effective financial and organizational practices for charitable organizations;
  - (c) charitable giving and solicitation;
  - (d) potential problems with solicitations and fraudulent or deceptive practices; and
  - (e) any other matter relevant to the subject of this chapter.

Amended by Chapter 382, 2008 General Session