

28 **61-1-22. Sales and purchases in violation -- Remedies -- Limitation of actions.**

29 (1) (a) This Subsection (1) applies to a person who:

30 (i) offers or sells a security in violation of:

31 (A) Subsection 61-1-3(1);

32 (B) Section 61-1-7;

33 (C) Subsection 61-1-17(2);

34 (D) a rule or order under Section 61-1-15, which requires the affirmative approval of
35 sales literature before it is used; or

36 (E) a condition imposed under Subsection 61-1-10(4) or 61-1-11(7); or

37 (ii) offers, sells, or purchases a security in violation of Subsection 61-1-1(2).

38 (b) A person described in Subsection (1)(a) is liable to a person selling the security to
39 or buying the security from the person described in Subsection (1)(a). The person to whom the
40 person described in Subsection (1)(a) is liable may sue either at law or in equity to recover the
41 consideration paid for the security, together with interest at 12% per year from the date of
42 payment, costs, and reasonable attorney fees, less the amount of income received on the
43 security, upon the tender of the security or for damages if the person no longer owns the
44 security.

45 (c) Damages are an amount calculated as follows:

46 (i) subtract from the amount that would be recoverable upon a tender under Subsection
47 (7)(b) the value of the security when the buyer disposed of the security; and

48 (ii) add to the amount calculated under Subsection (1)(c)(i) interest at:

49 (A) 12% per year:

50 (I) beginning the day on which the security is purchased by the buyer; and

51 (II) ending on the date of disposition; and

52 (B) after the period described in Subsection (1)(c)(ii)(A), 12% per year on the amount
53 lost at disposition.

54 (2) The court in a suit brought under Subsection (1) may award an amount

54a ~~up to~~ **up to or** ~~equal to~~ equal to55 three times the consideration paid for the security, together with interest, costs, and attorney
56 fees, less any amounts, all as specified in Subsection (1) upon a showing that:57 (a) the violation was reckless or intentional; or58 (b) the violation was of Subsection 61-1-1(2), was negligent, and ~~it is demonstrated by~~58a clear and convincing evidence that the violation ~~involved an~~