

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0207

SENATE BILL NO. 26

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to authorize a civil penalty for securities violations by
2 registered or unregistered persons or entities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That subsection (M) of § 47-31A-204(a) be repealed.

5 ~~—————(M) A civil penalty levied under subsection (a) shall not exceed ten thousand dollars~~
6 ~~per violation per person. All administrative fines received shall be deposited in~~
7 ~~the state general fund.~~

8 Section 2. That § 47-31A-408 be amended to read as follows:

9 47-31A-408. Whenever it appears to the director that any person has engaged or is about to
10 engage in any act or practice constituting a violation of any provision of this chapter, or any rule
11 or order hereunder, ~~he may in his discretion bring either or both of the following remedies the~~
12 director may do one or more of the following:

13 (1) Issue a cease and desist order, with or without prior hearing, against the person or
14 persons engaged in the prohibited activities, directing them to cease and desist from
15 further illegal activities; ~~or~~



1 (2) Bring an action in the circuit court to enjoin the acts or practices to enforce
2 compliance with this chapter, or any rule or order hereunder; or

3 (3) Impose by order and collect a civil penalty against any person found in an
4 administrative action to have violated any provision of this chapter, or any rule or
5 order issued under this chapter, in an amount not to exceed ten thousand dollars per
6 violation per person. The director may bring actions to recover penalties pursuant to
7 this subdivision in district court. All administrative fines received shall be deposited
8 in the state general fund.

9 Upon a proper showing a permanent or temporary injunction, restraining order or writ of
10 mandamus shall be granted and a receiver or conservator may be appointed for the defendant or
11 defendant's assets. In addition, upon a proper showing by the director, the court may enter an
12 order of rescission, restitution or disgorgement directed to any person who has engaged in any
13 act constituting a violation of any provision of this chapter, or any rule or order hereunder. The
14 court may not require the director to post a bond.