

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0207

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 26 - 01/15/2002

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 That subsection (M) of § 47-31A-204(a) be repealed.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



1 further illegal activities; ~~or~~

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

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

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