

**8275.0095 CRITERIA FOR DETERMINING PENALTY AMOUNTS.**

In determining the appropriate penalty amount against a licensed certification authority for violation of this chapter or Minnesota Statutes, chapter 325K, the secretary may consider the nature of the violation and the extent or magnitude of the severity of the violation, including:

- A. the damages arising from the violation, including:
  - (1) the financial impact of the violation to any subscriber, relying party, or other person;
  - (2) the costs incurred by the state in enforcement, including reasonable investigative costs; or
  - (3) the nonfinancial consequences of the violation, including harm to any subscriber, relying party, or other person;
- B. the nature of the violation, including whether it was continuing in nature, involved criminal conduct, or tended to significantly impair the reliability of any certificate or key pair;
- C. the presence of any aggravating circumstances, including whether the violator:
  - (1) intentionally committed the violation with knowledge that the conduct constituted a violation;
  - (2) attempted to conceal the violation;
  - (3) was untruthful or uncooperative in dealing with the secretary or the secretary's staff;
  - (4) had committed prior violations found by the secretary; or
  - (5) incurred no other sanction as a result of the violation;
- D. the presence of any mitigating circumstances, including whether the violator:
  - (1) had taken any prior action to correct the violation or mitigate its consequences;
  - (2) had previously paid damages to a party resulting from the violation;
  - (3) acted without intention to commit a violation; or
  - (4) acted reasonably in light of any other mitigating factors considered relevant by the secretary.

**Statutory Authority:** *MSs 325K.01; 325K.03; 325K.04; 325K.05; 325K.06; 325K.07*

**History:** *23 SR 1352*

**Published Electronically:** *October 27, 2003*