## 80A.81 SECTION 604; ADMINISTRATIVE ENFORCEMENT.

(a) **Issuance of an order or notice.** If the administrator determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter, the administrator may:

(1) issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter;

(2) issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under section 80A.56(b)(1)(D) or (F) or an investment adviser under section 80A.58(b)(1)(C); or

(3) issue an order under section 80A.48.

(b) **Summary process.** An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the administrator shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement whether the administrator will seek a civil penalty or costs of the investigation, a statement of the reasons for the order, and notice that, within 15 days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the administrator within 30 days after the date of service of the order, the order, which may include a civil penalty or costs of the investigation if a civil penalty or costs were sought in the statement accompanying the order, becomes final as to that person by operation of law. If a hearing is requested or ordered, the administrator, after notice of an opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) **Procedure for final order.** If a hearing is requested or ordered pursuant to subsection (b), a hearing must be held under chapter 14. A final order may not be issued unless the administrator makes findings of fact and conclusions of law in a record according to chapter 14. The final order may make final, vacate, or modify the order issued under subsection (a).

(d) **Civil penalty.** In a final order under subsection (c), the administrator may impose a civil penalty up to $10,000 for each violation.

(e) **Costs.** In a final order, the administrator may charge the actual cost of an investigation or proceeding for a violation of this chapter or a rule adopted or order issued under this chapter.

(f) **Filing of certified final order with court; effect of filing.** If a petition for judicial review of a final order is not filed in accordance with section 80A.86, the administrator may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(g) **Enforcement by court; further civil penalty.** If a person does not comply with an order under this section, the administrator may petition a court of competent jurisdiction to enforce the order. The court may not require the administrator to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against

the person for contempt in an amount up to $10,000 for each violation and may grant any other relief the court determines is just and proper in the circumstances.

**History:** *2006 c 196 art 1 s 41,52*