

Article - Business Regulation

[Previous][Next]

§6–205.

(a) (1) The Secretary of State or the Attorney General may investigate an alleged violation of this title.

(2) (i) In the course of any examination, investigation, or hearing, the Secretary of State or the Attorney General may subpoena witnesses, administer oaths, examine an individual under oath, serve written interrogatories, and compel production of records, books, papers, and other documents.

(ii) Information obtained under this subsection is not admissible in a subsequent criminal proceeding against the person who provided the information.

(b) If the Secretary of State or the Attorney General finds or has reasonable grounds to believe that a charitable organization, charitable representative, or public safety solicitor has violated this title, the Secretary of State or the Attorney General may take one or more of the following actions:

(1) by mediation with the apparent violators and any representatives they may choose to assist them, enter into a written assurance of discontinuance, written assurance of voluntary compliance, or other settlement agreement with the apparent violators, in accordance with subsection (c) of this section;

(2) summarily issue a cease and desist order to the violator, if the Secretary of State or the Attorney General:

(i) finds that this title has been violated and that the public health, safety, or welfare requires emergency action; and

(ii) gives the violator written notice of the order, the reasons for the order, and the right of the violator to request a hearing under subsection (g) of this section; or

(3) refer the matter to the appropriate State's Attorney for prosecution.

(c) A settlement agreement under subsection (b)(1) of this section may include one or more of the following stipulations or conditions:

(1) payment by the apparent violator of the cost of the investigation;

(2) payment by the apparent violator of civil penalties a court could order under this title;

(3) payment by the apparent violator of refunds to donors a court could order under this title;

(4) payment by the apparent violator of contributions received to charitable or public safety beneficiaries or for charitable or public safety purposes consistent with the beneficiaries named or purposes represented in the charitable or public safety solicitations which generated the contributions; or

(5) any other stipulation, condition, or remedy that will correct a violation of this title.

(d) An agreement under this section is for conciliation purposes only and does not constitute an admission by any party that the law has been violated.

(e) (1) It is a violation of this title to fail to adhere to any provision contained in a settlement agreement.

(2) A failure of the Secretary of State or the Attorney General to enforce a violation of any provision of a settlement agreement does not constitute a waiver of that or any other provision, or of any right of the Secretary of State or the Attorney General.

(f) The Attorney General may sue in the circuit court for the county in which the alleged violation occurred for an order that:

(1) restrains further violation of this title;

(2) restrains the defendant from making further charitable or public safety solicitations in the State;

(3) except as provided under § 6–5A–11 of this title, recovers for the State a civil penalty not to exceed \$5,000 for each willful violation of this title;

(4) except as provided under § 6–5A–11 of this title, recovers for the State a civil penalty not to exceed \$3,000 for each grossly negligent violation of this title;

(5) enforces compliance with this title; or

(6) secures any other appropriate relief, including:

(i) refunds to donors; and

(ii) payment of the charitable or public safety contributions received by the solicitor to charitable or public safety purposes or beneficiaries consistent with the purposes represented or beneficiaries named in the charitable or public safety solicitations which generated the contributions.

(g) (1) If the Secretary of State or the Attorney General issues a cease and desist order to a person, the person may request a hearing from the Secretary of State.

(2) Within 30 days after a request is submitted, the Secretary of State

shall hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

[Previous][Next]