

Article - Commercial Law

[Previous][Next]

§11–205.

(a) Except as provided in subsection (i) of this section, if the Attorney General believes that a person may be in possession, custody, or control of any documentary material, wherever situated, or may have any information which the Attorney General believes is relevant to the subject matter of an investigation of a possible violation of this subtitle, the Attorney General may serve on the person before institution of a civil proceeding for the violation a written civil investigative demand which requires that person to produce the documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony concerning documentary material or information, or to furnish any combination of such material, answers, or testimony.

(b) (1) The demand of the Attorney General shall state the statute and section of the statute the alleged violation of which is under investigation, and the general subject matter of the investigation.

(2) If the demand requests production of documentary material, the demand shall:

(i) Describe the class of documentary material to be produced under the demand with reasonable specificity to indicate fairly the material demanded;

(ii) Prescribe a return date of not less than 3 days after the demand is served by which the documentary material is to be produced; and

(iii) Identify the member of the Office of the Attorney General to whom the documentary material is to be made available for inspection and copying.

(3) If the demand requests answers to written interrogatories, the demand shall:

(i) Propound the written interrogatories to be answered;

(ii) Prescribe a return date of not less than 3 days after the demand is served by which the answers to written interrogatories are to be submitted; and

(iii) Identify the member of the Office of the Attorney General to whom such answers are to be submitted.

(4) If the demand requests oral testimony, the demand shall:

(i) Prescribe a date, time, and place at which oral testimony is to be given;

(ii) Identify the member of the Office of the Attorney General who will conduct the examination; and

(iii) Identify the member of the Office of the Attorney General to whom the transcript of the examination is to be submitted.

(c) The demand of the Attorney General may not:

(1) Contain any requirement which would be unreasonable or improper if contained in a summons or summons duces tecum issued by a court of the State; or

(2) Require the disclosure of any documentary material, answers to written interrogatories, or oral testimony which could not be required by a summons or summons duces tecum issued by a court of the State.

(d) Service of the demand of the Attorney General shall be made by:

(1) Delivering an executed copy of the demand to the person to be served;

(2) Delivering an executed copy of the demand to an officer, agent, or employee of the person to be served at the person's principal place of business in the State if the person is not a natural person or is not available; or

(3) Mailing by registered or certified mail an executed copy of the demand addressed to the person to be served at the person's principal place of business in the State or, if the person has no place of business in the State, at the person's principal office or place of business out of State.

(e) The documentary material demanded under this section shall be produced for inspection and copying and oral testimony shall be given during normal business hours at the principal office or place of business of the person served, or at any other time or place agreed to by the person served and the Attorney General.

(f) (1) Unless otherwise ordered by the court for good cause shown, the documentary material, written answers to interrogatories, transcripts of oral testimony, or copies of any product of discovery produced under the demand may not be presented for inspection or copying by or their contents disclosed to any person other than an authorized employee of the Attorney General without the consent of the person who produced the material.

(2) Copies of the material produced shall be available for inspection and copying by the person who produced the material or the person's authorized representative under any reasonable terms and conditions prescribed by the Attorney General.

(3) The Attorney General may use the material produced in the enforcement of this subtitle, including presentation before any court. Material which contains trade secrets may not be presented except with the approval of the court in

which the action is pending and after adequate notice is given to the person furnishing the material.

(g) (1) A petition to extend the return date or to modify or set aside a demand issued under subsection (a) of this section may be filed at any time before the return date specified in the demand or within 20 days after the demand is served, whichever period is shorter.

(2) A petition to require the Attorney General or any other person to perform a duty imposed by this section and any other petitions in connection with the demand may be filed by the person on whom the demand is served.

(3) A petition filed under this subsection shall state good cause and be filed in the court of the county where the petitioner resides or where the petitioner's principal place of business is located.

(h) (1) If a person fails to comply with a written civil investigative demand served on the person under this section, the Attorney General may file in the court of the county where the person resides, transacts business, or is found, and serve on the person a petition for an order of the court for the enforcement of this section.

(2) If the person transacts business in more than one county the petition shall be filed in the county where the person's principal place of business is located, or in any other county agreed to by the parties to the petition.

(3) The court in which the petition is filed has jurisdiction to hear and determine the matter presented and enter any order required under this section.

(i) This section is not applicable to a criminal prosecution.

[Previous][Next]