STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 876 BY: BROWN

AS INTRODUCED

AN ACT RELATING TO BUSINESS OPPORTUNITY SALES; AMENDING 71 O.S. 1991, SECTIONS 802, 803, 808, 810, 814, 815 AND 817, WHICH RELATE TO THE OKLAHOMA BUSINESS OPPORTUNITY SALES ACT; MODIFYING DEFINITION; CONFORMING LANGUAGE; CLARIFYING STATUTORY REFERENCE; ALLOWING SUBMISSION OF UNAUDITED FINANCIAL STATEMENTS FOR CERTAIN INTERIM PERIOD; MODIFYING DISCLOSURE REQUIREMENT; PROVIDING CONDITION FOR CERTAIN SUMMARY ORDER; MODIFYING PROCEDURES FOR REQUESTING AND HOLDING CERTAIN HEARINGS; MODIFYING CONDITIONS FOR MAKING CERTAIN ORDERS FINAL OR DISSOLVING ORDERS; CLARIFYING LANGUAGE; REQUIRING COSTS OF PREPARING CERTAIN RECORD BE BORNE BY APPEALING PARTIES; AUTHORIZING ADMINISTRATOR TO HONOR REQUESTS FOR NO-ACTION LETTERS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 71 O.S. 1991, Section 802, is amended to read as follows:

Section 802. As used in the Oklahoma Business Opportunity Sales Act, Section 801 et seq. of this title, unless otherwise provided:

1. "Administrator" means the Administrator of the Oklahoma Department of Securities.

2. "Advertising" means any circular, prospectus, advertisement or other material or any communication by radio, television, newspapers, magazines, pictures or similar means used in connection with an offer or sale of any business opportunity.

3. a. "Business opportunity" means a contract or agreement, between a seller and purchaser, express or implied, orally or in writing, wherein it is agreed that the seller or a person recommended by the seller shall provide to the purchaser any products, equipment, supplies or services enabling the purchaser to start a business and the seller represents directly or indirectly, orally or in writing, that:

(1) The seller or a person recommended by the seller will provide or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases or other similar devices, on premises neither owned nor leased by the purchaser or seller; or

(2) The seller or a person recommended by the seller will provide or assist the purchaser in finding outlets or accounts for the purchaser's products or services; or

(3) The seller or a person specified by the seller will purchase any or all products made, produced, fabricated, grown, bred or modified by the purchaser; or

(4) The seller guarantees that the purchaser will derive income from the business which exceeds the price paid to the seller; or

(5) The seller will refund all or part of the price paid to the seller, or repurchase any of the products, equipment or supplies provided by the seller or a person recommended by the seller, if the purchaser is dissatisfied with the business; or

(6) The seller will provide a marketing plan.

b. "Business opportunity" does not include:

(1) Any offer or sale of an on-going business operated by the seller and to be sold in its entirety; or

(2) Any offer or sale of a business opportunity to an on-going business where the seller will provide products, equipment, supplies or services which are substantially similar to the products, equipment, supplies or services sold by the purchaser in connection with the purchaser's on-going business; or

(3) Any offer or sale of a business opportunity which involves a marketing plan made in conjunction with the licensing of a federally registered trademark or federally registered service mark provided that the seller has a minimum net worth of One Million Dollars ($1,000,000.00) as determined on the basis of the seller's most recent audited financial statements prepared within thirteen (13) months of ~~the first~~ such offer ~~in this state~~ or sale. Net worth may be determined on a consolidated basis where the seller is at least eighty percent (80%) owned by one person and that person expressly guarantees the obligation of the seller with regard to the

offer or sale of any business opportunity claimed to be excluded under this division; or

(4) Any offer or sale of a business opportunity by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator or a judicial offer or sale of a business opportunity.

4. "Department" means the Oklahoma Department of Securities.

5. "Franchise" means a contract or agreement between a seller and a purchaser, express or implied, orally or in writing, where it is agreed that:

a. A franchisee is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan prescribed in substantial part by a franchisor; and

b. The operation of the franchisee's business pursuant to such a plan is substantially associated with the franchisor's business and trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor or its affiliate.

For the purposes of this paragraph, "franchisee" shall mean a person to whom a franchise is granted and "franchisor" shall mean a person who grants a franchise.

6. "Marketing plan" means advice or training, provided to the purchaser by the seller or a person recommended by the seller, pertaining to the sale of any products, equipment, supplies or services and the advice or training includes, but is not limited to, preparing or providing:

a. Promotional literature, brochures, pamphlets or advertising materials;

b. Training regarding the promotion, operation or management of the business opportunity; or

c. Operational, managerial, technical or financial guidelines or assistance.

7. "Offer" or "offer to sell" includes every attempt to dispose of a business opportunity for value or solicitation of an offer to purchase a business opportunity.

8. "On-going business" means an existing business that, for at least six (6) months prior to the offer, has been operated from a specific location, has been open for business to the general public and has substantially all of the equipment and supplies necessary for operating the business.

9. "Person" means an individual, corporation, trust, partnership, incorporated or unincorporated association or any other entity.

10. "Purchaser" means a person who enters into a contract or agreement for the acquisition of a business opportunity or a person to whom an offer to sell a business opportunity is directed.

11. "Sale" or "sell" includes every contract or agreement of sale, contract to sell, disposition of a business opportunity or interest in a business opportunity for value.

12. "Seller" means a person who sells or offers to sell a business opportunity or any agent or person who directly or indirectly acts on behalf of such person.

SECTION 2. AMENDATORY 71 O.S. 1991, Section 803, is amended to read as follows:

Section 803. The following business opportunities are exempt from Sections ~~6~~ 806 through ~~11~~ 811 of ~~the Oklahoma Business Opportunity Sales Act~~ this title:

1. Any offer or sale of a business opportunity for which the immediate cash payment made by the purchaser for any business opportunity is at least Twenty-five Thousand Dollars ($25,000.00) if the immediate cash payment does not exceed twenty percent (20%) of the purchaser's net worth as determined exclusive of principal

residence, furnishings therein, and automobiles. The Administrator may by rule withdraw or further condition the availability of this exemption.

2. Any offer or sale of a business opportunity for which the purchaser is required to make a payment to the seller or a person recommended by the seller not to exceed Two Hundred Fifty Dollars ($250.00) during the period from any time before commencing operation to within six (6) months after commencing operation of the business opportunity.

3. Any offer or sale of a business opportunity where the seller has a net worth of not less than One Million Dollars ($1,000,000.00) as determined on the basis of the seller's most recent audited financial statements, prepared within thirteen (13) months of ~~the first~~ such offer ~~in this state~~ or sale. Net worth may be determined on a consolidated basis where the seller is at least eighty percent (80%) owned by one person and that person expressly guarantees the obligations of the seller with regard to the offer or sale of any business opportunity claimed to be exempt under this paragraph. The Administrator may by rule withdraw or further condition the availability of this exemption.

4. Any offer or sale of a business opportunity where the purchaser has a net worth of not less than Two Hundred Fifty Thousand Dollars ($250,000.00). Net worth shall be determined exclusive of principal residence, furnishings therein, and automobiles. The Administrator may by rule withdraw or further condition the availability of this exemption.

5. Any offer or sale of a business opportunity where the purchaser is a bank, savings and loan association, trust company, insurance company, credit union, investment company as defined by the Investment Company Act of 1940, pension or profit sharing trust or other financial institution or institutional buyer or a dealer

registered pursuant to the Oklahoma Securities Act, where the purchaser is acting for itself or in a fiduciary capacity.

6. Any offer or sale of a business opportunity which is defined as a franchise in Section ~~2 of the Oklahoma Business Opportunity Sales Act~~ 802 of this title provided that the seller delivers to each purchaser at the earlier of the first personal meeting, or ten (10) business days prior to the earlier of the execution by a purchaser of any contract or agreement imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity, one of the following disclosure documents:

a. A Uniform Franchise Offering Circular prepared in accordance with the guidelines adopted by the North American Securities Administrators Association, Inc., or

b. A disclosure document prepared pursuant to the Federal Trade Commission rule entitled Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, 16 C.F.R. Section 436.

For the purposes of this paragraph, a personal meeting shall mean a face-to-face meeting between the purchaser and the seller or their representatives, which is held for the purpose of discussing the offer or sale of a business opportunity. The Administrator may by rule adopt any amendment to the Uniform Franchise Offering Circular that has been adopted by the North American Securities Administrators Association, Inc. or any amendment to the disclosure document prepared pursuant to the Federal Trade Commission rule entitled Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, 16 C.F.R. Section 436, that has been adopted by the Federal Trade Commission.

7. Any offer or sale of a business opportunity for which the required cash payment made by a purchaser for any business

opportunity does not exceed Five Hundred Dollars ($500.00) and the required payment is made for the not-for-profit sale of sales demonstration equipment, material or samples or the required payment is made for product inventory sold to the purchaser at a bona fide wholesale price.

8. Any offer or sale of a business opportunity which the Administrator exempts by order or a class of business opportunities which the Administrator exempts by rule upon the finding that such exemption would not be contrary to public interest and that registration would not be necessary or appropriate for the protection of purchasers.

9. Any business which is operated under a lease or license on the premises of the lessor or licenser as long as such business is incidental to the business conducted by the lessor or the licenser on such premises, including, without limitation, leased departments, licensed departments and concessions.

SECTION 3. AMENDATORY 71 O.S. 1991, Section 808, is amended to read as follows:

Section 808. A. It shall be unlawful for any person to offer or sell any business opportunity required to be registered pursuant to the Oklahoma Business Opportunity Sales Act unless a written disclosure document as filed pursuant to Section ~~7 of the Oklahoma Business Opportunity Sales Act~~ 807 of this title is delivered to each purchaser at least ten (10) business days prior to the execution by a purchaser of any contract or agreement imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity.

B. The disclosure document shall have a cover sheet which is entitled, in at least ten-point bold type, "DISCLOSURE REQUIRED BY THE STATE OF OKLAHOMA". Under the title shall appear the statement in at least ten-point type that "THE REGISTRATION OF THIS BUSINESS

OPPORTUNITY DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE STATE OF OKLAHOMA. THE INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT HAS NOT BEEN VERIFIED BY THIS STATE. IF YOU HAVE ANY QUESTIONS OR CONCERNS ABOUT THIS INVESTMENT, SEEK PROFESSIONAL ADVICE BEFORE YOU SIGN A CONTRACT OR MAKE ANY PAYMENT. YOU ARE TO BE PROVIDED TEN (10) BUSINESS DAYS TO REVIEW THIS DOCUMENT BEFORE SIGNING ANY CONTRACT OR AGREEMENT OR MAKING ANY PAYMENT TO THE SELLER OR THE SELLER'S REPRESENTATIVE". The seller's name and principal business address, along with the date of the disclosure document shall also be provided on the cover sheet. No other information shall appear on the cover sheet. The disclosure document shall contain the following information unless the seller uses a disclosure document as provided in Section ~~7 of the Oklahoma Business Opportunity Sales Act~~ 807 of this title:

1. The names and residential addresses of those salespersons who will engage in the offer or sale of the business opportunity in this state;

2. The name of the seller; whether the seller is doing business as an individual, partnership or corporation; the names under which the seller has done, is doing or intends to do business; and the name of any parent or affiliated company that will engage in business transactions with purchasers or which will take responsibility for statements made by the seller;

3. The names, addresses and titles of the seller's officers, directors, trustees, general managers, principal executives, agents and any other persons charged with responsibility for the seller's business activities relating to the sale of the business opportunity;

4. Prior business experience of the seller relating to business opportunities including:

a. the name, address and a description of any business opportunity previously offered by the seller,

b. the length of time the seller has offered each such business opportunity, and

c. the length of time the seller has conducted the business opportunity currently being offered to the purchaser;

5. With respect to persons identified in paragraph 3 of subsection B of this section:

a. a description of the persons' business experience for the ten-year period preceding filing date of the disclosure document. The description of business experience shall list principal occupations and employers, and

b. a listing of the persons' educational and professional backgrounds, including the names of schools attended and degrees received, and any other information that will demonstrate sufficient knowledge and experience to perform the services proposed;

6. Whether the seller or any person identified in paragraph 3 of subsection B of this section:

a. has been convicted of any felony, has pleaded nolo contendere to a felony charge or has been the subject of any criminal, civil or administrative proceedings alleging: The violation of any business opportunity law, securities law, commodities law, franchise law, fraud or deceit, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations; or

b. has filed in bankruptcy, been adjudged bankrupt, been reorganized due to insolvency, or was an owner, principal officer or general partner of any other person that has so filed or was so adjudged or

reorganized during or within seven (7) years of the date of the disclosure document;

7. The name(s) of the person(s) identified in paragraph 6 of subsection B of this section, nature of and parties to the action or proceeding, court or other forum, date of the institution of the action, docket reference to the action, current status of the action or proceeding, terms and conditions or any order or decree, the penalties or damages assessed and terms of settlement;

8. The initial payment required, or when the exact amount cannot be determined, a detailed estimate of the amount of the initial payment to be made to the seller;

9. A detailed description of the actual services the seller agrees to perform for the purchaser;

10. A detailed description of any training the seller agrees to provide for the purchaser;

11. A detailed description of services the seller agrees to perform in connection with the placement of equipment, products or supplies at a location, as well as any agreement necessary in order to locate or operate equipment, products or supplies on a premises neither owned nor leased by the purchaser or seller;

12. A detailed description of any license(s) or permit(s) that will be necessary in order for the purchaser to engage in or operate the business opportunity;

13. Any representations made by the seller to the purchaser concerning sales or earnings that may be made from the business opportunity, including, but not limited to:

a. the bases or assumptions for any actual, average, projected or forecasted sales, profits, income or earnings,

b. the total number of purchasers who, within a period of three (3) years of the date of the disclosure document, purchased a business opportunity involving

the product, equipment, supplies or services being offered to the purchaser, and

c. the total number of purchasers who, within three (3) years of the date of the disclosure document, purchased a business opportunity involving the product, equipment, supplies or services being offered to the purchaser who, to the seller's knowledge, have actually received earnings in the amount or range specified;

14. A detailed description of the elements of a guarantee made by a seller to a purchaser. Such description shall include, but shall not be limited to, the duration, terms, scope, conditions and limitations of the guarantee;

15. A statement describing any contractual restrictions, prohibitions or limitations on the purchaser's conduct. The seller shall attach a copy of all business opportunity and other contracts or agreements proposed for use or in use in this state including, without limitation, all lease agreements, option agreements and purchase agreements;

16. The rights and obligations of the seller and the purchaser regarding termination of the business opportunity contract or agreement;

17. A statement accurately describing the grounds upon which the purchaser may initiate legal action to terminate the business opportunity contract or agreement;

18. A copy of the most recent audited financial statements of the seller. If the seller's audited financial statements are dated more than four (4) months prior to the filing of the disclosure document, the seller shall submit ~~reviewed~~ unaudited financial statements for the interim period;

19. A list of the states in which the business opportunity is registered;

20. A list of the states in which the disclosure document is on file;

21. A list of the states which have denied, suspended or revoked the registration of the business opportunity;

22. A section entitled "Risk Factors" containing a series of short concise statements summarizing the principal factors which make the business opportunity a high risk or one of a speculative nature. Each statement shall include a cross-reference to the page on which further information regarding that risk factor can be found in the disclosure document; and

23. Any additional information as the Administrator may require by rule or order.

SECTION 4. AMENDATORY 71 O.S. 1991, Section 810, is amended to read as follows:

Section 810. A. The Administrator may issue an order denying effectiveness to, or suspending or revoking effectiveness of, any registration if the Administrator finds that the order is in the public interest and that:

1. The registration as of its effective date or as of any earlier date in the case of any order denying effectiveness, or any amendment as of its effective date, or any report is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

2. Any provision of the Oklahoma Business Opportunity Sales Act or any rule, order or condition lawfully imposed pursuant to the act has been willfully violated, in connection with the business opportunity:

a. by the person filing the registration, or

b. by the seller, any partner, officer or director of the seller, any person occupying a similar status or performing similar functions, or any person directly

or indirectly controlling or controlled by the seller, but only if the person filing the registration is directly or indirectly controlled by or acting for the seller;

3. The business opportunity registered or sought to be registered is the subject of an administrative order denying, suspending or revoking a registration or a permanent or temporary injunction of any court of competent jurisdiction; but the Administrator:

a. may not institute a proceeding against an effective registration pursuant to this paragraph more than one (1) year from the date of the order or injunction relied on, and

b. may not enter an order pursuant to this paragraph on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts, other than facts which establish jurisdiction, which would currently constitute a ground for an order under this section;

4. The seller's enterprise or method of business, or that of the business opportunity, includes or would include activities which are illegal where performed;

5. The business opportunity or the offering of a business opportunity has worked or tended to work a fraud upon purchasers or would so operate;

6. There has been a failure to file any documents or information required by Section ~~7 of the Oklahoma Business Opportunity Sales Act~~ 807 of this title;

7. The seller has failed to pay the proper filing fee but the Administrator may enter only a denial order under this paragraph and the Administrator shall vacate any such order when the deficiency has been corrected; or

8. The seller's literature or advertising is misleading, incorrect, incomplete or deceptive.

B. The Administrator may not institute a proceeding under this section against an effective registration on the basis of a fact or transaction known to the Administrator when the registration became effective unless the proceeding is instituted within thirty (30) days from the date the registration became effective.

C. ~~The~~ 1. If the Administrator makes written findings of fact to support the conclusion that the public interest will be harmed by delay in issuing an order pursuant to subsection A of this section, the Administrator may by order summarily postpone or suspend the effectiveness of the registration pending final determination of any proceeding under this section.

2. Upon the entry of the summary order, the Administrator shall promptly notify the seller that:

a. the summary order has been entered and ~~of~~ the reasons therefor ~~and that within fifteen (15) days after the receipt by the Department of a written request the matter will be set down for hearing. Said request for hearing shall be made within fifteen (15) days of receipt of the notice of entry of the summary order. If no hearing is requested within the specified time and none is ordered by the Administrator, the summary order will become permanent in effect unless it is modified or vacated by the Administrator.~~,

b. the person subject to the order, if desiring a hearing, must make written request for such hearing to the Administrator within fifteen (15) days after receipt of the notice, and

c. within fifteen (15) days after receipt of a written request for a hearing from said person or at such earlier time during regular business hours of the

Department as mutually agreed upon by the Department and said person, a hearing on the matter shall be commenced to determine whether the summary order should be modified, vacated or become a permanent order as provided in subsection A of this section;

3. The summary order shall remain in effect until the conclusion of the hearing on the summary order unless the Administrator or his designated hearing officer extends the summary order pending a final determination. The summary order shall become a permanent order if the person to whom notice is addressed does not request a hearing within fifteen (15) days after the receipt of notice. If a request for hearing on the summary order is timely made and if said hearing is not commenced by the Administrator within the time limit set forth herein, the summary order shall dissolve and a permanent order shall not be issued pursuant to subsection A of this section, except upon reasonable notice and opportunity for a hearing.

D. No stop order may be entered under any part of this section, except ~~the first sentence~~ under paragraph 1 of subsection C of this section, without appropriate prior notice to the seller, opportunity for hearing, and written findings of fact and conclusions of law.

E. The Administrator may vacate or modify an order issued under this section if the Administrator finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

SECTION 5. AMENDATORY 71 O.S. 1991, Section 814, is amended to read as follows:

Section 814. A. Whenever it appears to the Administrator that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of the Oklahoma Business Opportunity Sales Act or any rule or order hereunder, the Administrator may:

1. Issue an order directing the person to cease and desist from continuing the act or practice and/or issue an order imposing a civil penalty up to a maximum of Five Thousand Dollars ($5,000.00) for a single violation or transaction or of Fifty Thousand Dollars ($50,000.00) for multiple violations or transactions in a single proceeding or a series of related proceedings; or

2. Initially or subsequent to an administrative proceeding pursuant to paragraph 1 ~~above~~ of this subsection, bring an action in the district court of Oklahoma County or the district court in any other county where service can be obtained on one or more of the defendants to enjoin the acts or practices and to enforce compliance with the Oklahoma Business Opportunity Sales Act or any rule or order hereunder. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets or the court may order rescission, which shall include restitution plus the legal interest rate, for any sales of business opportunities determined to be unlawful pursuant to the Oklahoma Business Opportunity Sales Act or any rule or order hereunder. The court shall not require the Administrator to post a bond.

B. Except as provided in subsection D of this section or unless the right to notice and hearing is waived by the person against whom the sanction is imposed, the sanctions provided in paragraph 1 of subsection A of this section may be imposed in an administrative proceeding only after notice and hearing as required by ~~the Oklahoma~~ Article II of the Administrative Procedures Act, Section 309 et seq. of Title 75 of the Oklahoma Statutes. If the person to whom notice is addressed does not request a hearing within fifteen (15) days after the receipt of said notice, a permanent order shall be issued.

C. For purposes of determining any sanction to be imposed under subsection A of this section, the Administrator shall consider,

among other factors, the frequency and persistence of the conduct constituting a violation of the Oklahoma Business Opportunity Sales Act or a rule or order of the Administrator under the Oklahoma Business Opportunity Sales Act, the number of persons adversely affected by the conduct, and the resources of the person committing the violation.

D. 1. If the Administrator makes written findings of fact to support the conclusion that the public interest will be harmed by delay in issuing a cease and desist order pursuant to paragraph 1 of subsection A of this section, the Administrator may issue a summary order pending the hearing required by subsection B of this section.

~~2.~~ Once the summary order is entered, the Administrator shall promptly notify the person subject to the summary order that:

a. the summary order ~~was~~ has been entered~~,~~ and the reason ~~for the entry of the summary order, that~~ therefor,

b. the person subject to the order, if desiring a hearing, must make written request for such hearing to the Administrator within fifteen (15) days after receipt of the notice, and ~~that~~

c. within fifteen (15) days after receipt of a written request for a hearing ~~the Administrator is required to set~~ from said person or at such earlier time during regular business hours of the Department as mutually agreed upon by the Department and said person, a hearing on the ~~summary order as provided in paragraph 3 of this subsection~~ matter shall be commenced to determine whether the summary order should be modified, vacated or become a permanent order as provided in paragraph 1 of subsection A of this section.

~~3. If the Administrator receives a request for a hearing on the summary order as provided in paragraph 2 of this subsection, the~~

~~Administrator shall set a date and time for a hearing to commence on the summary order. Such date shall be within fifteen (15) days of the date the request for a hearing is received by the Administrator. The time for commencement of the hearing shall be during the regular business hours of the Department. The hearing may be set at another date and time if the date and time is acceptable to the Administrator and all parties subject to the summary order who requested a hearing pursuant to paragraph 2 of this subsection.~~

~~4. The hearing on the matter shall be held to determine whether the summary order should be modified, vacated or become permanent. The summary order shall remain in effect until the conclusion of the hearing on the summary order unless the Administrator or the designated hearing officer extends the summary order pending a final determination.~~

~~5.~~ 2. The summary order shall ~~become permanent without a hearing if the person to whom notice is addressed does not request a hearing as required by paragraph 2 of this subsection. If a request for hearing on the summary order is made as required by paragraph 2 of this subsection, but the hearing is not set to commence and is not commenced by the Administrator as provided in paragraph 3 of this subsection~~ remain in effect until the conclusion of the hearing on the summary order unless the Administrator or his designated hearing officer extends the summary order pending a final determination. The summary order shall become a permanent order if the person to whom notice is addressed does not request a hearing within fifteen (15) days after the receipt of notice. If a request for hearing on the summary order is timely made and if said hearing is not commenced by the Administrator within the time limit set forth above, the summary order shall dissolve and a cease and desist order shall not be issued pursuant to paragraph 1 of subsection A of this section except upon reasonable notice and opportunity for a hearing as provided in subsection B of this section.

SECTION 6. AMENDATORY 71 O.S. 1991, Section 815, is amended to read as follows:

Section 815. A. Any person aggrieved by a final order of the Administrator may obtain a review by the Commission by filing with the Commission at the offices of the Department, within fifteen (15) days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part and stating his ground therefor. The petition, the record in the administrative hearing, including but not limited to the transcript, and written briefs submitted by the appealing parties and the Administrator shall be reviewed by the Commission. The cost of preparing the record of the administrative hearing shall be borne by the appealing parties. Oral argument by all parties shall be heard by the Commission en banc unless waived by the party. Other than newly discovered evidence, additional evidence may only be presented by the appealing party and/or the Administrator on the request of the Commission. Upon the written request of the party on whose behalf the appeal is brought, or upon his own motion, the Administrator shall cause complete stenographic notes to be taken of the proceeding before the Commission. If requested by the appealing party, the cost of taking and transcribing such notes shall be borne by the said appealing party. If such notes are taken upon the motion of the Administrator, the cost shall be borne by the Department. The Commission or a majority thereof shall make such order as is deemed proper, just and equitable within sixty (60) days of receipt by the Commission of the written petition of the appealing party or at such later time as agreed to in writing by all parties.

B. Any person aggrieved by a final order of the Oklahoma Securities Commission may obtain a review of the order by the Supreme Court of Oklahoma. The proceedings for review shall be as now prescribed by law and by rules of the reviewing court, subject

to the power of the other court to make other and further rules with reference thereto.

C. The commencement of proceedings under this section before the Commission shall not operate as a stay of the Administrator's order, unless so ordered by the Commission. The commencement of proceedings under this section before the Supreme Court shall not operate as a stay of the Commission's order, unless so ordered by the Court.

SECTION 7. AMENDATORY 71 O.S. 1991, Section 817, is amended to read as follows:

Section 817. A. A document is filed when it is received by the Administrator.

B. The Administrator shall keep a register of all applications for registration and disclosure documents which are or have been effective pursuant to the Oklahoma Business Opportunity Sales Act and all orders which have been entered under the act. The register shall be open for public inspection.

C. The information contained in any registration statement, filing, application or report filed with the Administrator may be made available to the public under such rules as the Administrator may prescribe.

D. The Administrator may honor written requests from interested persons for interpretive opinions <u>or no-action letters</u> upon the payment of a fee in the amount of Two Hundred Fifty Dollars ($250.00).

SECTION 8. This act shall become effective September 1, 1992.

43-2-1802 JY