

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2422

By: Henshaw

AS INTRODUCED

An Act relating to securities; amending 71 O.S. 1991, Section 406.1, which relates to Oklahoma Securities Act; updating statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY 71 O.S. 1991, Section 406.1, is amended to read as follows:

Section 406.1 (a) Upon a showing by the Administrator that a person has violated or is about to violate the Oklahoma Securities Act, Section 1 et seq. of this title, or a rule or order of the Administrator under the Oklahoma Securities Act or that a person has engaged or is about to engage in dishonest or unethical practices in the securities business, the Administrator, initially or subsequent to an administrative proceeding, may bring an action in the district court of Oklahoma County or the district court of any other county where service can be obtained on one or more of the defendants and the district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(1) Upon a showing of a violation of the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma

Securities Act or conduct involving dishonest or unethical practices in the securities business:

- (i) a temporary restraining order, permanent or temporary prohibitory or mandatory injunction, or a writ of prohibition or mandamus;
- (ii) a civil penalty up to a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or of Fifty Thousand Dollars (\$50,000.00) for multiple violations in a single proceeding or a series of related proceedings;
- (iii) a declaratory judgment;
- (iv) restitution to investors;
- (v) the appointment of a receiver or conservator for the defendant or the defendant's assets; and
- (vi) other relief the court deems just.

(2) Upon a showing that the defendant is about to violate the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act or that the defendant is about to engage in dishonest or unethical practices in the securities business only:

- (i) a temporary restraining order; or
- (ii) a temporary or permanent injunction; or
- (iii) a writ of prohibition or mandamus.

(b) In determining the appropriate relief under subsection (a) of this section, the court shall consider any enforcement actions taken and/or sanctions that may have been imposed by the Administrator under Section 406 of this title in connection with the subject transactions.

(c) The Administrator shall not be required to post a bond in an action under this section.

(d) Upon a showing by the securities agency or administrator of another state that a person has violated the securities act of that

state or a rule or order of the securities agency or administrator of that state, the court, in addition to any other legal or equitable remedies, may impose one or more of the following remedies:

(1) appointment of a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this state; and

(2) other relief the court considers just.

(e) No costs shall be assessed for or against the Administrator in any proceeding under the Oklahoma Securities Act brought by or against it in any court except as otherwise provided by law.

SECTION 2. This act shall become effective September 1, 1994.

44-2-7463

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