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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15990.3] (Division 3 added by Stats. 1945, Ch. 111.)

PART 2. CONSTITUTIONAL OFFICERS [12001 - 12790] (Part 2 added by Stats. 1945, Ch. 111.)

CHAPTER 6. Attorney General [12500 - 12661] (Chapter 6 added by Stats. 1945, Ch. 111.)

ARTICLE 10. Securities and Commodities [12657 - 12661] (Article 10 added by Stats. 2003, Ch. 876, Sec. 13.)

12657. For purposes of this article, the following terms shall have the following meanings:

(a) "Securities law" shall mean the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) and any other rule or order issued by the Commissioner of Financial Protection and Innovation under this law.

(b) "Commodities law" shall mean the California Commodity Law of 1990 (Division 4.5 (commencing with Section 29500) of Title 4 of the Corporations Code) and any other rule or order issued by the Commissioner of Financial Protection and Innovation under this law.

(Amended by Stats. 2022, Ch. 452, Sec. 181. (SB 1498) Effective January 1, 2023.)

12658. (a) Whenever it appears to the Attorney General that any person has engaged or is about to engage in any act or practice constituting a violation of the securities law or the commodities law, the Attorney General may, in the Attorney General's discretion, bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with the securities law or the commodities law. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver, monitor, conservator, or other designated fiduciary or officer of the court may be appointed for the defendant or the defendant's assets, or any other ancillary relief may be granted as appropriate. A receiver, monitor, conservator, or other designated fiduciary or officer of the court appointed by the superior court pursuant to this section may, with the approval of the court, exercise any or all of the powers of the defendant's officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the Attorney General, or a receiver, monitor, conservator, or other designated fiduciary or officer of the court, by reason of their exercising these powers or performing these duties pursuant to the order of, or with the approval of, the superior court.

(b) If the Attorney General determines it is in the public interest, the Attorney General may include in any action authorized by subdivision (a) a claim for ancillary relief, including, but not limited to, a claim for restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award additional relief.

(c) In any case in which a defendant is ordered by the court to pay restitution to a victim, the court may in its order require the payment as a money judgment, which shall be enforceable by a victim as if the restitution order were a separate civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Any order issued under this subdivision shall contain provisions that are designed to achieve a fair and orderly satisfaction of the judgment.

(Amended by Stats. 2021, Ch. 50, Sec. 114. (AB 378) Effective January 1, 2022.)

12659. (a) The Attorney General, in their discretion, (1) may make public or private investigations within or outside of this state that the Attorney General deems necessary to determine whether any person has violated or is about to violate the securities law or the commodities law or to aid in the enforcement of these laws or in the prescribing of rules and forms by the Commissioner of Financial Protection and Innovation under these laws, and (2) may publish information concerning any violation of the securities law or the commodities law.

(b) In making any investigation authorized by subdivision (a), the Attorney General may, for a reasonable time not exceeding 30 days, take possession of the books, records, accounts, and other papers pertaining to the business of any broker-dealer or

investment adviser and place a keeper in exclusive charge of them in the place where they are usually kept. During this possession no person shall remove or attempt to remove any of the books, records, accounts, or other papers except pursuant to a court order or with the consent of the Attorney General, but the directors, officers, partners, and employees of the broker-dealer or investment adviser may examine them, and employees shall be permitted to make entries therein reflecting current transactions.

(c) For the purpose of any investigation or proceeding under the securities law or the commodities law, the Attorney General or any officer designated by the Attorney General may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the Attorney General deems relevant or material to the inquiry.

(d) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the Attorney General, may issue to the person an order requiring the person to appear before the Attorney General, or the officer designated by the Attorney General, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(e) No person is excused from attending and testifying or from producing any document or record before the Attorney General, or in obedience to the subpoena of the Attorney General or any officer designated by the Attorney General, or in any proceeding instituted by the Attorney General, on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the individual is compelled, after validly claiming the individual's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that an individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(Amended by Stats. 2022, Ch. 452, Sec. 182. (SB 1498) Effective January 1, 2023.)

12660. (a) Any person who violates any provision of the securities law or the commodities law shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General in any court of competent jurisdiction.

(b) As applied to the penalties for acts in violation of the securities law or the commodities law, the remedies provided by this section and by other sections of this article are not exclusive, and may be sought and employed in any combination to enforce the provisions of this article.

(c) No action shall be maintained to enforce any liability created under subdivision (a) unless brought before the expiration of four years after the act or transaction constituting the violation.

(Added by Stats. 2003, Ch. 876, Sec. 13. Effective January 1, 2004.)

12661. (a) The Attorney General may take any actions as are authorized by Section 6d of the federal Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) as amended before or after the effective date of this section.

(b) Nothing in this article shall be construed as a limitation on the powers of the Attorney General under this division or any other law administered by the Attorney General.

(Added by Stats. 2003, Ch. 876, Sec. 13. Effective January 1, 2004.)