



Ohio Revised Code

Section 4728.05 Investigations - injunctions.

Effective: July 1, 2009

Legislation: House Bill 525 - 127th General Assembly

(A) The superintendent of financial institutions may, either personally or by a person whom the superintendent appoints for the purpose, if the superintendent considers it advisable, investigate the business of every person licensed as a precious metals dealer under this chapter, and of every person, partnership, and corporation by whom or for which any purchase is made, whether the person, partnership, or corporation acts, or claims to act, as principal, agent, or broker, or under, or without the authority of this chapter, and for that purpose shall have free access to the books and papers thereof and other sources of information with regard to the business of the licensee or person and whether the business has been or is being transacted in accordance with this chapter. The superintendent and every examiner may examine, under oath or affirmation, any person whose testimony may relate to any business coming within this chapter.

(B) In making any investigation or conducting any hearing pursuant to this section, the superintendent or a person designated by the superintendent, at any time, may do any of the following:

(1) Compel by subpoena the attendance of witnesses;

(2) Take depositions of witnesses residing without the state in the manner provided for in civil actions;

(3) Pay witnesses the fees and mileage provided for under section 119.094 of the Revised Code;

(4) Administer oaths;

(5) Compel by order or subpoena duces tecum the production of all relevant books, records, accounts, and other documents and examine such books, records, accounts, and other documents.

(C) If a person fails to comply with a subpoena or subpoena duces tecum, the superintendent may



apply to the court of common pleas of Franklin county for an order compelling the person to comply with the subpoena or subpoena duces tecum or, for failure to do so, an order holding the person in contempt of court. The superintendent, in accordance with section 4728.03 of the Revised Code, may suspend or revoke the license of any precious metals dealer who fails to comply with this division.

(D) In connection with any investigation under this section, the superintendent may file an action in the court of common pleas of Franklin county or the court of common pleas of the county in which the person who is the subject of the investigation resides to obtain an injunction, a temporary restraining order, or other appropriate relief, if it appears to the superintendent that the person is engaging in actions or threatening to engage in actions in violation of this chapter.

(E) If in an investigation under this section the superintendent determines that a person not licensed under this chapter, or an employee of that person, has been or is engaged or is threatening to engage in activities for which a license is required under this chapter, the superintendent may issue an order to that person requiring the person to show cause why the person should not be subject to licensure under this chapter. If the superintendent determines, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, that a person is engaged in, or is threatening to engage in activities that constitute a violation of this chapter, the superintendent may issue a cease and desist order that describes the person and activities that are subject to the order and may impose upon the person a penalty of not less than one hundred nor more than ten thousand dollars for a violation of this chapter. Any cease and desist order and any penalty issued under this section are enforceable in and may be appealed to a court of common pleas pursuant to Chapter 119. of the Revised Code.