



Ohio Revised Code

Section 1707.261 Director's request for restitution or rescission.

Effective: September 29, 2005

Legislation: House Bill 66 - 126th General Assembly

(A) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code, after consultation with the attorney general the director of commerce may request that court to order the defendant or defendants that are subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of any provision of sections 1707.01 to 1707.45 of the Revised Code.

(B) If the court of common pleas is satisfied with the sufficiency of the director's request for restitution or rescission under division (A) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use of any act, practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of a purchaser or holder of securities, the court may order the defendant or defendants subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of sections 1707.01 to 1707.45 of the Revised Code.

(C) A court order granting restitution or rescission based upon a request made pursuant to division (A) of this section shall meet the requirements of division (B) of this section and may not be based solely upon a final order issued by the division of securities pursuant to Chapter 119. of the Revised Code or upon an action to enforce a final order issued by the division pursuant to that chapter. Notwithstanding the foregoing provision, a request for restitution or rescission pursuant to division (A) of this section may concern the same acts, practices, or transactions that were, or may later be, the subject of a division of securities action for a violation of any provision of sections 1707.01 to 1707.45 of the Revised Code. If a request for restitution or rescission pursuant to division (A) of this section concerns the same acts, practices, or transactions that were the subject of a final order issued by the division of securities pursuant to Chapter 119. of the Revised Code, the court shall review the request in accordance with division (B) of this section, and the standard of review in section 119.12 of the Revised Code shall not apply to the request.



(D) No purchaser or holder of securities who is entitled to restitution or rescission under this section shall recover, pursuant to this section or any other proceeding, a total amount in excess of the person's purchase price for the securities sold in violation of sections 1707.01 to 1707.45 of the Revised Code.

(E)(1) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code against any state retirement system investment officer, after consultation with the attorney general, the director of commerce may request that court to order the state retirement system investment officer or officers that are subject to the injunction to make restitution to the state retirement system damaged by the state retirement system investment officer's or officers' violation of any provision of sections 1707.01 to 1707.45 of the Revised Code.

(2) If the court of common pleas is satisfied with the sufficiency of the director's request for restitution under division (E)(1) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use of any act, practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of a state retirement system, the court may order the state retirement system investment officer or officers subject to the injunction to make restitution to the state retirement system damaged by the state retirement system investment officer's or officers' violation of sections 1707.01 to 1707.45 of the Revised Code. A request for restitution pursuant to division (E)(1) of this section may concern the same acts, practices, or transactions that were, or may later be, the subject of a division of securities action for a violation of any provision of section 1707.01 to 1707.45 of the Revised Code.

(F)(1) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code against a bureau of workers' compensation chief investment officer, after consultation with the attorney general, the director of commerce may request that court to order the bureau of workers' compensation chief investment officer who is subject to the injunction to make restitution to the bureau of workers' compensation damaged by the bureau of workers' compensation chief investment officer's violation of any provision of sections 1707.01 to 1707.45 of the Revised Code.

(2) If the court of common pleas is satisfied with the sufficiency of the director's request for



restitution under division (F)(1) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use of any act, practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of the bureau of workers' compensation, the court may order the bureau of workers' compensation chief investment officer subject to the injunction to make restitution to the bureau of workers' compensation damaged by the bureau of workers' compensation chief investment officer's violation of sections 1707.01 to 1707.45 of the Revised Code. A request for restitution pursuant to division (F)(1) of this section may concern the same acts, practices, or transactions that were, or may later be, the subject of a division of securities action for a violation of any provision of section 1707.01 to 1707.45 of the Revised Code.