WEST VIRGINIA CODE: §32-4-407

§32-4-407. Sworn investigator, investigations and subpoenas.

(a) Sworn Investigators. --

(1) The commissioner may appoint special investigators to aid in investigations conducted pursuant to chapter thirty-two, thirty-two-a or thirty-two-b of this code.

(2) The commissioner, deputy commissioners and each investigator, prior to entering upon the discharge of his or her duties, shall take an oath before any justice of the West Virginia Supreme Court of Appeals, circuit judge or magistrate which is to be in the following form:

State of West Virginia

County of ....., to wit: I, ...,do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and I will honestly and faithfully perform the duties imposed upon me under the provisions of law as a member of the securities commission of West Virginia to the best of my skill and judgment.

(Signed).....

Taken, subscribed and sworn to before me, this ..... day of ..... 2 .....

(3) The oaths of the commissioner, deputy commissioner or commissioners and investigators of the West Virginia securities commission are to be filed and preserved in the office of the State Auditor.

(b) Investigations and subpoenas. --

(1) The commissioner in his or her discretion: (A) May make such public or private investigations within or outside of this state as he or she considers necessary to determine whether any person has violated or is about to violate any provision of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder; (B) may require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter to be investigated; and (C) may publish information concerning any violation of this chapter or any rule or order hereunder.

(2) For the purpose of any investigation or proceeding under this chapter, the commissioner, deputy commissioner or commissioners, if any, and special investigators appointed pursuant to this section may administer oaths and affirmations, subpoena witnesses, compel attendance of witnesses, take and store evidence in compliance with the policies and procedures of the West Virginia state police and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the

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commissioner finds relevant or material to the inquiry.

(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the circuit court of Kanawha County, upon application by the commissioner, may issue to the person an order requiring him or her to appear before the commissioner, or the officer designated by him or her, 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 of court.

(4) No person is excused from attending and testifying or from producing any document or record before the commissioner, or in obedience to the subpoena of the commissioner or any officer designated by him or her, or in any proceeding instituted by the commissioner on the ground that the testimony or evidence (documentary or otherwise) required of him or her may tend to incriminate him or her or subject him or her 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 he or she is compelled, after claiming his or her privilege against self-incrimination to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(5) Civil and criminal investigations undertaken by the West Virginia securities commission are not subject to the requirements of article nine-a, chapter six of this code and chapter twenty-nine-b of this code.

(6) Nothing in this chapter may be construed to authorize the commissioner, a deputy commissioner, a special investigator appointed pursuant to this section or any other employee of the State Auditor to carry or use a hand gun or other firearm in the discharge of his or her duties under this article.

(7) Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime.

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