WEST VIRGINIA CODE: §33-27-9

§33-27-9. Criminal proceedings; penalties; orders; fines; disapproval of dividends and distributions.

(a) Any insurer failing, without just cause, to file any registration statement as required by this article shall be required, after notice and hearing, to pay a penalty of up to one thousand dollars for each day's delay, to be recovered by the commissioner. Any penalty so recovered shall be paid into the General Revenue Fund of this state. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(b) Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly permits any of the officers or agents of the insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to subsection (a), section four of this article and subsections (c) and (d), section five of this article, or which violate any other provision of this article, shall pay, in his or her individual capacity, a civil forfeiture of not more than $5,000 per violation, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(c) Whenever it appears to the commissioner that any insurer subject to this article or any director, officer, employee or agent thereof has engaged in any transaction or entered into a contract which is subject to section five of this article and which would not have been approved had such approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the commissioner may also order the insurer to void any such contracts and restore the status quo if the action is in the best interest of the policyholders, creditors or the public.

(d) Whenever it appears to the commissioner that any person or any director, officer, employee or agent thereof has committed a willful violation of this article, the commissioner may cause criminal proceedings to be instituted against such person or the responsible director, officer, employee or agent thereof. Any insurer who willfully violates this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than ten thousand dollars. Any individual who willfully violates this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined in his or her individual capacity not more than ten thousand dollars or, if such willful violation involves the deliberate perpetration of a fraud upon the commissioner, is guilty of a felony and, upon conviction thereof, shall be imprisoned not less than one year nor more than three years, or both fined and imprisoned.

(e) Any officer, director or employee of an insurance holding company system who willfully

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and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the commissioner in the performance of his or her duties under this article, is guilty of a felony and, upon conviction thereof, shall be fined not more than ten thousand dollars, or imprisoned not less than one year nor more than three years, or both fined and imprisoned. Any fines imposed pursuant to this subsection shall be paid by the officer, director or employee in his or her individual capacity.

(f) Whenever it appears to the commissioner that any person has committed a violation of section three of this article which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with article thirty-four of this chapter.

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