

SENATE BILL No. 110

AN ACT concerning securities; relating to certain unlawful acts and penalties therefor; investigation by commission; civil penalties; amending K.S.A. 17-1264 and 17-1265 and K.S.A. 2002 Supp. 17-1253, 17-1254, 17-1255 and 17-1266a and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2002 Supp. 17-1253 is hereby amended to read as follows: 17-1253. (a) It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly:

- (1) To employ any device, scheme or artifice to defraud;
- (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
- (3) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

(b) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:

- (1) To employ any device, scheme or artifice to defraud the other person;
- (2) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon the other person;
- (3) to knowingly sell any security to or purchase any security from a client while acting as a principal for such person's own account without disclosing to such client in writing before the completion of such transaction the capacity in which the person is acting and obtaining the consent of the client to such transaction;
- (4) to knowingly effect any sale or purchase of any security for the account of a client while acting as a broker for a person other than such client without disclosing to such client in writing before the completion of such transaction the capacity in which the person is acting and obtaining the consent of the client to the transaction; and

(5) to engage in any dishonest or unethical practice as the commissioner may define by rule and regulation. The prohibitions of subsections ~~3~~ (3) and ~~4 of this section~~ (4) shall not apply to any transaction with a customer of a broker-dealer if such broker-dealer is not acting as an investment advisor in relation to such transaction.

(c) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract if the contract:

- (1) Provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;
- (2) fails to provide in writing that no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; or
- (3) fails to provide in writing that the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

Subsection (c)(1) shall not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date, or in any other manner authorized by rules and regulations adopted by the commissioner for the purposes of furthering compatibility with federal regulations authorizing fees based upon a share of the capital gains upon or capital appreciation of client assets. "Assignment," as used in this subsection, includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

(d) In the solicitation of clients of a person described in subsection (b), it is unlawful for any person to make any untrue statement of a material fact, or to omit to state a material fact necessary in order to make

the statement made, in light of the circumstances under which the statement is made, not misleading.

(e) It is unlawful for any investment adviser to take or have custody of any securities or funds of any client if:

- (1) The commissioner by rules and regulations prohibits custody; or
- (2) in the absence of such rules and regulations, the investment adviser fails to notify the commissioner that such adviser has or may have custody.

(f) ~~(1) A conviction for an intentional violation of this section is a severity level 6, nonperson felony. Any violation of this section committed on or after July 1, 1993, resulting in a loss of \$25,000 or more, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment. Any violation of this section resulting in a loss of \$25,000 or more, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment.~~

(2) *A conviction for an intentional violation of this section resulting in a loss of \$100,000 or more is a severity level 4, nonperson felony.*

(3) *A conviction for an intentional violation of this section resulting in a loss of at least \$25,000 but less than \$100,000 is a severity level 5, nonperson felony.*

(4) *A conviction for an intentional violation of this section resulting in a loss of less than \$25,000 is a severity level 7, nonperson felony.*

Sec. 2. K.S.A. 2002 Supp. 17-1254 is hereby amended to read as follows: 17-1254. (a) It is unlawful for any person to transact business in this state as a broker-dealer or agent unless that person is registered under this act, except in transactions exempt under K.S.A. 17-1262, and amendments thereto.

(b) It is unlawful for any broker-dealer registered under this act or issuer to employ or associate with an agent transacting business in this state unless the agent is registered under this act or engages only in transactions exempt under K.S.A. 17-1262, and amendments thereto. The registration of an agent is not effective during any period when the agent is not associated with a particular broker-dealer registered under this act or a particular issuer. When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make the person an agent, the agent as well as the broker-dealer or issuer shall promptly notify the commissioner.

(c) It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:

- (1) The person is so registered under this act; or
- (2) the person has no place of business in this state and:
  - (A) The person's only clients in this state are investment companies as defined in the investment company act of 1940, other investment advisers, federal covered advisers, broker-dealers, banks, trust companies, savings institutions, insurance companies, employee benefit plans with assets of not less than \$1,000,000 and governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rules and regulations or order of the commissioner; or
  - (B) during the preceding twelve-month period has had not more than five clients, other than those specified in subparagraph (A), who are residents of this state.

(d) It is unlawful for:

(1) Any person required to be registered as an investment adviser under this act to employ or associate with an investment adviser representative unless the investment adviser representative is registered under this act or is exempt from registration. The registration of an investment adviser representative is not effective during any period when such person is not associated with an investment adviser registered under this act; or

(2) any federal covered adviser to employ, or associate with an investment adviser representative having a place of business located in this state, unless such investment adviser representative is registered under this act, or is exempt from registration.

When an investment adviser representative described in paragraphs (1) or (2) begins or terminates employment or association with an investment adviser or federal covered adviser, the investment adviser or federal covered adviser shall promptly notify the commissioner.

(e) Except with respect to federal covered advisers whose only clients

are those described in paragraph (2) of subsection (c) of this section, it is unlawful for any federal covered adviser to conduct advisory business in this state unless such person files with the commissioner such documents as have been filed with the securities and exchange commission together with a consent to service of process, and pays an initial and renewal notice filing fee, if the commissioner by rules and regulations or order requires. Each notice filing under this section shall be effective from its original filing date and expire on December 31 each year, unless renewed.

~~(f) (1) A conviction for an intentional violation of subsection (a) through (d) of this section is a severity level 7, nonperson felony. Any violation of this section committed on or after July 1, 1993, resulting in a loss of \$25,000 or more, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment. This subsection shall not apply to a failure to notify the commissioner of termination of employment or association as an agent or investment adviser representative. Any violation of this section resulting in a loss of \$25,000 or more, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment.~~

(2) *A conviction for an intentional violation of subsection (a) through (d) resulting in a loss of \$100,000 or more is a severity level 5, nonperson felony.*

(3) *A conviction for an intentional violation of subsection (a) through (d) resulting in a loss of at least \$25,000 but less than \$100,000 is a severity level 6, nonperson felony.*

(4) *A conviction for an intentional violation of subsection (a) through (d) resulting in a loss of less than \$25,000 is a severity level 7, nonperson felony.*

(5) *The provisions of this subsection shall not apply to a failure to notify the commissioner of termination of employment or association as an agent or investment adviser representative.*

(g) A broker-dealer, agent, investment adviser or investment adviser representative may be registered after filing with the commissioner, or the commissioner's designee as permitted by subsection (p), a written application containing such relevant information and in such form as the commissioner may require. The applicant shall be registered if the commissioner finds that the applicant and, if applicable, the officers, directors or partners are of good character and reputation, that the applicant's knowledge of the securities business and the applicant's financial responsibility are such that the applicant is suitable to engage in the business, that the applicant has supplied all information required by the commissioner and that the applicant has paid the necessary fee. The commissioner may require as a condition of registration that the applicant and any officers, directors or partners or, in the case of an investment adviser, any persons who represent or will represent the investment adviser in doing or performing any acts or functions which make such person an investment adviser pass a written examination as evidence of knowledge of the securities business. In determining the character and reputation of the applicant, the commissioner may take into consideration any criminal conviction of such person.

(h) The commissioner may, by rules and regulations or order, require a minimum capital for registered broker-dealers, subject to the limitations of section 15 of the securities exchange act of 1934, and establish minimum financial requirements for investment advisers, subject to the limitations of section 222 of the investment advisers act of 1940, which may include different requirements for those investment advisers who maintain custody of clients' funds or securities or who have discretionary authority over the same and those investment advisers who do not.

(i) The commissioner may, by rules and regulations or order, require registered broker-dealers, agents and investment advisers who have custody of or discretionary authority over client funds or securities, to post bonds in amounts as the commissioner may prescribe, subject to the limitations of section 15 of the securities and exchange act of 1934 for broker-dealers and section 222 of the investment advisers act of 1940 for investment advisers, and may determine their conditions. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond so required. No bond may be required of any registrant whose net capital, or, in the case of an investment adviser, whose minimum financial requirements exceeds the amounts required by the commissioner. Every

bond shall provide for suit thereon by any person who has a cause of action under K.S.A. 17-1268, and amendments thereto, and, if the commissioner by rules and regulations or order requires, by any person who has a cause of action not arising under this act. Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within the time limitations provided by law.

(j) (1) Every registered broker-dealer and investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books and other records as the commissioner prescribes by rules and regulations or order, subject to the limitations provided by section 15 of the securities exchange act of 1934, in the case of a broker-dealer, and section 222 of the investment advisers act of 1940, in the case of an investment adviser. All records so required with respect to an investment adviser, shall be preserved for such period as the commissioner prescribes by rules and regulations or order.

(2) With respect to investment advisers, the commissioner may require that certain information be furnished or disseminated as necessary or appropriate in the public interest or for the protection of investors and advisory clients. To the extent determined by the commissioner, information furnished to clients or prospective clients of an investment adviser that would be in compliance with the investment advisers act of 1940 and the rules thereunder may be used in whole or partial satisfaction of this requirement.

(k) The commissioner shall maintain records of registration, notice filings and orders pertaining to broker-dealers, agents, investment advisers, federal covered advisers and investment adviser representatives. Unless the commissioner has designated alternative registration expiration dates as permitted by subsection (p), every registration under this section shall expire December 31 each year, but any registration for the succeeding year shall be renewed upon written application and payment of the fee as herein provided without filing a further statement or furnishing any further information unless specifically required by the commissioner. Unless the commissioner has designated alternative registration renewal dates as permitted by subsection (p), application for renewals must be made not later than December 31 in each year; otherwise, they shall be treated as original applications.

(l) The fee for original or renewal registration of each broker-dealer and each investment adviser shall be not more than \$300. The fee for an original or renewal notice filing of each federal covered adviser shall be not more than \$300. The fee for original or renewal registration of each agent and investment adviser representative shall be not more than \$50. Each fee for original registration shall be payable with the application for original registration and each fee for renewal of registration shall be payable with the application for renewal and, in either case, the fee shall not be returned if the application is withdrawn. The commissioner shall establish such fees by rules and regulations.

(m) The commissioner may by order deny, suspend or revoke the registration of any broker-dealer, agent, investment adviser or investment adviser representative if the commissioner finds that such an order is in the public interest and that the applicant or registrant, or, in the case of a broker-dealer or investment adviser, any partner, officer or director or any person occupying a similar status or performing similar functions:

(1) Has filed an application for registration which as of its effective date ~~is~~, or as of any date after filing in the case of an order denying effectiveness~~},~~ was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) has willfully violated or willfully failed to comply with any provision of this act or any rules and regulations or order under this act;

(3) has been convicted, within the past 10 years, of any misdemeanor involving a security or any aspect of the securities business or of any felony, if the commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(4) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice as an investment adviser, broker-dealer, or as an affiliated person or employee of an investment company, depository institution, insurance company, or

involving any aspect of the securities business or commodities investment business;

(5) is the subject of an order of the commissioner denying, suspending or revoking registration as a broker-dealer, agent, investment adviser or investment adviser representative;

(6) is the subject of an order entered within the past five years by the securities administrator of any other state or by the securities and exchange commission denying, suspending or revoking registration as a broker-dealer, agent, investment adviser or investment adviser representative (or the substantial equivalent of those terms as defined in this act), or is the subject of an order of the securities and exchange commission suspending or expelling the person from a national securities exchange or national securities association registered under the federal securities exchange act of 1934, or is the subject of an order by the commodities futures trading commission denying, suspending or revoking registration under the commodities exchange act, or is the subject of an order suspending or expelling from membership in or association with a member of a self-regulatory organization registered under the securities exchange act of 1934 or the commodities exchange act, or is the subject of a United States post office fraud order; but the commissioner may not enter any order under this clause on the basis of an order under any other state act unless that order was based on facts which would currently constitute a ground for an order under this section;

(7) has engaged in dishonest or unethical practices in the securities business;

(8) in the case of a broker-dealer or investment adviser, is insolvent, either in the sense that such person's liabilities exceed such person's assets or in the sense that such person cannot meet such person's obligations as they mature;

(9) is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, but the commissioner may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both;

(10) is failing to keep or maintain sufficient records to permit an audit disclosing the condition of the registrant's business;

(11) has failed to pay the proper registration fee; but the commissioner may not enter a revocation order under this clause, and the commissioner shall vacate any denial order entered under this clause when the deficiency has been corrected;

(12) has failed reasonably to supervise an agent, investment adviser representative or employee to ensure compliance with this act; or

(13) has willfully and without cause failed to comply with a request for information by the commissioner or person designated by the commissioner in conducting investigations or examinations under this act.

(n) The commissioner may by emergency order suspend registration pending final determination of any proceeding under this section. Upon the entry of any order under this section, the commissioner shall promptly notify the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is an agent or investment adviser representative), that it has been entered and of the reasons therefor and that, upon written request, the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(o) The commissioner may cancel the registration or application in accordance with the provisions of the Kansas administrative procedure act, if the commissioner finds that any registrant or applicant for registration is: (1) No longer in existence or has ceased to do business as a broker-dealer, agent, investment adviser or investment adviser representative; (2) an adjudged incapacitated person; or (3) cannot be located after reasonable search.

(p) (1) The commissioner may participate, in whole or in part, with any national securities association or national securities exchange registered with the United States securities and exchange commission under the federal securities exchange act of 1934 or with any association of state securities administrators in any registration depository where the broker-dealer, agent, investment adviser or investment adviser representative registrations required by subsection (g) may be centrally or simultaneously effected and the accompanying registration fees may be collected

for all states that require the registration of such persons and participate in the registration depository.

(2) If the commissioner finds that participation in the registration depository is in the public interest, the commissioner may by rules and regulations or by order require that:

(A) Applications for the registration or the renewal of the registration of any broker-dealer, agent, investment adviser or investment adviser representative as required by this section may be made through the registration depository;

(B) alternative registration expiration and renewal dates for registered broker-dealers, agents, investment advisers and investment adviser representative be utilized in lieu of the registration expiration and renewal dates provided under subsection (k);

(C) all fees for the registration or the renewal of the registration of any broker-dealer, agent, investment adviser or investment adviser representative be collected by the registration depository in the dollar amounts required by subsection (l), provided that such fees are subsequently submitted to the commissioner pursuant to K.S.A. 17-1270, and amendments thereto, and remitted by the commissioner pursuant to K.S.A. 17-1271, and amendments thereto.

(3) Subsequent to the effective date of any rules and regulations or order of the commissioner that is adopted under subsection (p)(2):

(A) All applications for the registration or the renewal of the registration of any broker-dealer, agent, investment adviser or investment adviser representative, and all documents supporting such applications, which shall be filed with or received by the registration depository shall be deemed to be filed with or received by the commissioner pursuant to subsection (g), when such applications or documents are received by the registration depository; and

(B) any statement which is contained in any application for the registration or the renewal of the registration of any broker-dealer, agent, investment adviser or investment adviser representative or contained in any document supporting such applications, which is filed with or received by the registration depository and which is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect shall constitute a violation of K.S.A. 17-1264, and amendments thereto.

Sec. 3. K.S.A. 2002 Supp. 17-1255 is hereby amended to read as follows: 17-1255. (a) It is unlawful for any person to offer or sell any security in this state, unless:

(1) It is registered under this act;

(2) the security or transaction is exempt under K.S.A. 17-1261 or 17-1262, and amendments thereto; or

(3) it is a federal covered security for which the fee has been paid and documents have been filed as required by K.S.A. 2002 Supp. 17-1270a.

(b) ~~(1) A conviction for an intentional violation of this section is a severity level 7, nonperson felony. Any violation of this section committed on or after July 1, 1993, resulting in a loss of \$25,000 or more, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment. Any violation of this section resulting in a loss of \$25,000 or more, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment.~~

(2) *A conviction for an intentional violation of this section resulting in a loss of \$100,000 or more is a severity level 5, nonperson felony.*

(3) *A conviction for an intentional violation of this section resulting in a loss of at least \$25,000 but less than \$100,000 is a severity level 6, nonperson felony.*

(4) *A conviction for an intentional violation of this section resulting in a loss of less than \$25,000 is a severity level 7, nonperson felony.*

Sec. 4. K.S.A. 17-1264 is hereby amended to read as follows: 17-1264. (a) It is unlawful for any person to make or cause to be made, in any document filed with the commissioner or in any proceeding under this act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect while knowing the statement made to be false or misleading in any material respect.

(b) A conviction for an intentional violation of this section is a severity level ~~10~~ 8, nonperson felony. ~~Any violation of this section committed on or after July 1, 1993, resulting in a loss of \$25,000 or more, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment.~~

Sec. 5. K.S.A. 17-1265 is hereby amended to read as follows: 17-1265. (a) The commissioner may: (1) Make public or private investigations within or outside of this state as necessary to determine whether any registration should be granted, denied or revoked or whether any person has violated or is about to violate any provision of this act or any rule or order hereunder, or to aid in the enforcement of this act or in the prescribing of forms or adoption of rules and regulations; (2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, of all the facts and circumstances concerning the matter to be investigated; and (3) publish information concerning any violation of this act or any rule or order hereunder.

(b) The commissioner may appoint special investigators to aid in investigations conducted pursuant to the Kansas securities act. Such special investigators shall have authority to make arrests, serve subpoenas and all other process, conduct searches and seizures, store evidence, and carry firearms, concealed or otherwise *while investigating violations of this act and to generally enforce all the criminal laws of this state as violations of such laws are encountered by such special investigators*. The director as defined in K.S.A. 74-5602 and amendments thereto is authorized to offer and carry out a special course of instruction for special investigators performing law enforcement duties under authority of this subsection (b). Such special investigators shall not carry firearms without having first successfully completed such special law enforcement training course.

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

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

(e) 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 the commissioner, or in any proceeding instituted by the commissioner, 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. No individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence ~~(, documentary or otherwise)~~, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(f) The commissioner may issue and apply to enforce subpoenas in this state at the request of a securities agency or administrator of another state if the activities constituting an alleged violation for which the information is sought would be a violation of the Kansas securities act if the activities had occurred in this state.

Sec. 6. K.S.A. 2002 Supp. 17-1266a is hereby amended to read as follows: 17-1266a. (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of this act or any rule and regulation or order hereunder, the commissioner by order may require that such person cease and desist from

the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of this act.

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commissioner may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto. Upon the entry of such an order, the commissioner shall promptly notify the person subject to the order that it has been entered, of the reasons and that upon written request the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order.

(c) If the commissioner reasonably believes that a person has violated this act or a rule and regulation or order of the commissioner under this act, the commissioner, in addition to any specific power granted under this act, after notice and hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(1) Censure the person if the person is a registered broker-dealer, agent, investment adviser or investment adviser representative;

(2) issue an order against an applicant, registered person or other person who knowingly violates this act or a rule or order of the commissioner under this act, imposing a civil penalty up to a maximum of ~~\$5,000~~ \$25,000 for each violation. *If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the commissioner may impose an additional penalty not to exceed \$15,000 for each such violation;*

(3) bar or suspend the person from association with a broker-dealer or investment adviser registered in this state; or

(4) issue an order requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation. Such order may include the assessment of interest not to exceed 15% per annum from the date of the violation.

(d) Every hearing in an administrative proceeding shall be public unless the commissioner in the commissioner's discretion grants a request joined in by all the respondents that the hearing be conducted privately.

New Sec. 7. (a) It is unlawful for any person to intentionally influence, coerce, manipulate or mislead any person in connection with financial statements or appraisals to be used in the offer, sale or purchase of securities for the purpose of rendering such financial statements or appraisals materially misleading.

(b) A conviction for a violation of this section is a severity level 8, nonperson felony.

New Sec. 8. (a) It is unlawful for any person to:

(1) Alter, destroy, shred, mutilate, conceal, cover up or falsify any record with the intent to impede, obstruct or influence any investigation by the commissioner or the commissioner's designee;

(2) alter, destroy, shred, mutilate or conceal a record with the intent to impair the object's integrity or availability for use in a proceeding before the commissioner or a proceeding brought by the commissioner; or

(3) take action harmful to a person with the intent to retaliate, including, but not limited to, interference with lawful employment of such person, for providing truthful information relating to a violation of the Kansas securities act.

(b) Violation of this section is a severity level 8, nonperson felony.

Sec. 9. K.S.A. 17-1264 and 17-1265 and K.S.A. 2002 Supp. 17-1253, 17-1254, 17-1255 and 17-1266a are hereby repealed.



Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*