

**HOUSE BILL NO. 527**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Introduced: 3/1/04**

**Referred: State Affairs, Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the Alaska Securities Act, including reports, proxies, consents,**  
2 **authorizations, proxy statements, and other materials, civil penalties, refunds of**  
3 **proceeds from violations, restitution, and investment adviser representatives; and**  
4 **providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* **Section 1.** AS 44.55.139 is amended to read:

7 **Sec. 45.55.139. Reports of corporations.** A copy of all annual reports,  
8 proxies, consents or authorizations, proxy statements, and other materials relating to  
9 proxy solicitations distributed, published, or made available by any person to at least  
10 30 Alaska resident shareholders of a corporation that has [TOTAL ASSETS  
11 EXCEEDING \$1,000,000 AND] a class of equity security held of record by 250 [500]  
12 or more persons and that [WHICH] is exempted from the registration requirements of  
13 AS 45.55.070 by AS 45.55.138, shall be filed with the administrator concurrently with  
14 its distribution to shareholders.

1 \* **Sec. 2.** AS 45.55.920(b) is amended to read:

2 (b) The administrator may issue an order against an applicant, registered  
3 person, or other person who knowingly or intentionally violates this chapter or a  
4 regulation or order of the administrator under this chapter, imposing a civil penalty of  
5 not more than \$2,500 for a single violation, or not more than **\$100,000** [\$25,000] for  
6 multiple violations, in a single proceeding or a series of related proceedings.

7 \* **Sec. 3.** AS 45.55.920(c) is amended to read:

8 (c) For violations not covered by (b) of this section, the administrator may  
9 issue an order against an applicant, registered person, or other person who violates this  
10 chapter or a regulation or order of the administrator under this chapter, imposing a  
11 civil penalty of not more than \$500 for a single violation, or not more than **\$25,000**  
12 [\$5,000] for multiple violations, in a single proceeding or a series of related  
13 proceedings.

14 \* **Sec. 4.** AS 45.55.920(e) is amended to read:

15 (e) After an order issued by the administrator under (b) or (c) of this section  
16 becomes final and all rights of appeal are exhausted, the administrator may petition the  
17 superior court to enter a judgment against a person who is a respondent in the order for  
18 the amount of the civil penalty levied **or the amount of restitution ordered** against  
19 the person. Subject to AS 44.62.570, the filing of the petition for a judgment does not  
20 reopen the final order to further substantive review unless the court orders otherwise.  
21 A judgment entered under this subsection may be executed on and levied under in the  
22 manner provided in AS 09.35.

23 \* **Sec. 5.** AS 45.55.920 is amended by adding a new subsection to read:

24 (f) When issuing an order under (b) or (c) of this section, if another person has  
25 been harmed as a direct result of the violation, the administrator may also order the  
26 violator to refund to the administrator the proceeds received by the violator from the  
27 violation and may also order the violator to make restitution.

28 \* **Sec. 6.** AS 45.55.990(15) is amended to read:

29 (15) "investment adviser representative"

30 (A) means a natural person who

31 (i) makes a recommendation or otherwise renders

1 advice regarding securities; manages accounts or portfolios of clients;  
 2 determines which recommendation or advice regarding securities  
 3 should be given; solicits, offers, or negotiates for the sale of or sells  
 4 advisory services; or supervises employees who perform an activity  
 5 described in this sub-subparagraph; and

6 (ii) is a supervised person of a state investment adviser  
 7 that is registered or required to be registered under this chapter **or is a**  
 8 **supervised person of a federal covered adviser and has a place of**  
 9 **business located in this state**, if a substantial portion of the business of  
 10 the supervised person is providing to clients who are natural persons  
 11 the services described in (i) of this subparagraph [, OR WHO IS A  
 12 SUPERVISED PERSON OF A FEDERAL COVERED ADVISER,  
 13 HAS A PLACE OF BUSINESS LOCATED IN THIS STATE, AND  
 14 HAS SIX OR MORE CLIENTS WHO ARE NATURAL PERSONS,  
 15 IF A SUBSTANTIAL PORTION OF THE BUSINESS OF THE  
 16 SUPERVISED PERSON IS PROVIDING TO CLIENTS WHO ARE  
 17 NATURAL PERSONS THE SERVICES DESCRIBED IN (i) OF  
 18 THIS SUBPARAGRAPH];

19 (B) means other persons who are not otherwise covered by this  
 20 paragraph but who are designated by regulation or order of the administrator;

21 (C) except persons covered by (36)(A)(ii) of this section, does  
 22 not include a person that would not be defined as an investment adviser  
 23 representative under 17 C.F.R. 275.203A-3 adopted under 15 U.S.C. 80b-3a  
 24 (Investment Advisers Act of 1940), as that regulation exists on or after  
 25 October 1, 1999;

26 \* **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).