

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

#### **(4) Enforcement**

The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 6107 of this title.

(Pub. L. 101-624, title XIX, §1927, Nov. 28, 1990, 104 Stat. 3862.)

#### **Editorial Notes**

##### **REFERENCES IN TEXT**

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

#### **§ 6107. Enforcement**

##### **(a) Jurisdiction**

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this chapter.

##### **(b) Referral to Attorney General**

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or any order or regulation issued under this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

##### **(c) Civil penalties and orders**

###### **(1) Civil penalties**

A person who willfully violates a provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under such order or regulation, may be assessed a civil penalty by the Secretary of not less than \$500 nor more than \$5,000 for each such violation. Each violation shall be a separate offense.

###### **(2) Cease-and-desist orders**

In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

###### **(3) Notice and hearing**

No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to such violation.

###### **(4) Finality**

The penalty assessed or cease and desist order issued under this subsection shall be

final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

#### **(d) Review by district court**

##### **(1) Commencement of action**

Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in the district court of the United States for the district in which such person resides or does business, or in the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

##### **(2) Record**

The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

##### **(3) Standard of review**

A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

##### **(e) Failure to obey orders**

A person who fails to obey a cease and desist order after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than \$500 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

##### **(f) Failure to pay penalties**

If a person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any district court in which the person resides or conducts business. In such action, the validity and appropriateness of such civil penalty shall not be subject to review.

(Pub. L. 101-624, title XIX, §1928, Nov. 28, 1990, 104 Stat. 3863; Pub. L. 102-237, title VIII, §803(2), Dec. 13, 1991, 105 Stat. 1882.)

#### **Editorial Notes**

##### **AMENDMENTS**

1991—Subsec. (d)(1)(A). Pub. L. 102-237 substituted “United States District Court” for “United States district court”.

#### **§ 6108. Investigations and power to subpoena**

##### **(a) Investigations**

The Secretary may make such investigations as the Secretary considers necessary for the ef-