

§ 75D-8. Available RICO civil remedies.

(a) As part of a final judgment of forfeiture, any judge of the superior court may, after giving reasonable notice to potential innocent claimants, enjoin violations of G.S. 75D-4, by issuing appropriate orders and judgments:

- (1) Ordering any defendant to divest himself of any interest in any enterprise, real property, or personal property including property held by the entirety. Where property is held by the entirety and one of the spouses is an innocent person as defined in G.S. 75D-5(i), upon entry of a final judgment of forfeiture of entirety property, the judgment operates, to convert the entirety to a tenancy in common, and only the one-half undivided interest of the offending spouse shall be forfeited according to the provisions of this Chapter;
- (2) Imposing reasonable restrictions upon the future activities or investments of any defendant in the same or similar type of endeavor as the enterprise in which he was engaged in violation of G.S. 75D-4;
- (3) Ordering the dissolution or reorganization of any enterprise;
- (4) Ordering the suspension or revocation of any license, permit, or prior approval granted to any enterprise by any agency of the State;
- (5) Ordering the forfeiture of the charter of a corporation organized under the laws of this State or the revocation of a certificate authorizing a foreign corporation to conduct business within this State upon a finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting affairs of the corporation, has authorized or engaged in conduct in violation of G.S. 75D-4, and that, for the prevention of future unlawful activity, the public interest requires that the charter of the corporation be dissolved or the certificate be revoked;
- (6) Appointment of a receiver pursuant to the provisions of Article 38 of Chapter 1 of the General Statutes of North Carolina, to collect, conserve and dispose of all the proceeds, money, profits and property, both real and personal, subject to the provisions of this Chapter in accordance with the provisions hereof as directed by the final judgment of the superior court having jurisdiction over the parties or subject matter of the action; or
- (7) Any other equitable remedy appropriate to effect complete forfeiture of property subject to forfeiture, or to prevent future violations of this Chapter.

(b) The State through the Attorney General may institute a proceeding under G.S. 75D-5. In such proceeding, relief shall be granted in conformity with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, provided that no showing of special or irreparable damage to the person shall have to be made and provided further that the State shall not be required to execute any bond before or after obtaining temporary restraining orders or preliminary injunctions.

(c) Any innocent person who is injured or damaged in his business or property by reason of any violation of G.S. 75D-4 involving a pattern of racketeering activity shall have a cause of action for three times the actual damages sustained and reasonable attorneys fees. For purposes of this subsection, "pattern of racketeering activity" shall require that at least one act of racketeering activity be an act of racketeering activity other than (i) an act indictable under 18 U.S.C. § 1341 or U.S.C. § 1343, or (ii) an act which is an offense involving fraud in the sale of securities. Any person filing a private action under this subsection must concurrently notify the Attorney General in writing of the commencement of the action. Thereafter, the Attorney

General may file a motion for a protective order in the court where the private action is pending and shall be granted a stay of the private action for a reasonable time if the court finds either:

- (1) The bringing of a private action is likely to materially interfere with or impair a public forfeiture action; or
- (2) The public interest is so great as to require the Attorney General to investigate and bring a forfeiture action.

(d) Any injured innocent person shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the State has in the same property or proceeds. To enforce such a claim the injured innocent person must intervene in the forfeiture proceeding prior to its final disposition.

(e) A final conviction in any criminal proceeding for a violation of those laws set forth in G.S. 75D-3(c), shall estop the defendant in any subsequent civil action or proceeding under this Chapter as to all matters proved in the criminal proceeding.

(f) A defendant in an action commenced by the State pursuant to this Chapter whose convictions of two or more criminal offenses of those criminal statutes as set forth in G.S. 75D-3(c) have become final, which offenses have occurred within a four-year period of each other as set forth in G.S. 75D-3(b) shall be deemed to have, per se violated the provisions of G.S. 75D-4(a)(1) or (2) as of the date of the second conviction.

(g) Any party is entitled to a jury trial in any action brought under this Chapter. (1985 (Reg. Sess., 1986), c. 999, s. 1; 1989, c. 489, s. 1.)