

# BUSINESS & FARM

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## Securities panel policy called common

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ARKANSAS DEMOCRAT-GAZETTE

The practice of allowing contributions to be made to nonprofit organizations instead of fines being paid to a state agency is not uncommon, experts in the field say.

Stephens Inc. filed a complaint with the Arkansas Ethics Commission last month claim-

ing that Arkansas Securities Commissioner Heath Abshire violated state law by allowing securities firms to make donations to nonprofit organizations instead of paying fines to the state.

Stephens said in its complaint that the Arkansas Securities Act, Arkansas Code Annotated 21-42-101, requires all fines imposed and collected or moneys collected in lieu of

a fine "shall be deposited as special revenues in the state treasury and credited to the Investor Education Fund to be administered by the Securities Commissioner" for the purposes of investor education in Arkansas.

But Abshire argues that a contribution made in connection with a securities law settlement can be paid to an organization that focuses on investor protection and investment for education.

Abshire's department allowed three securities firms earlier this year to make donations totaling more than \$170,000 to the North American Securities Administrators Association, a nonprofit organization whose membership consists of securities administrators in 50 states and various North American countries. Abshire is on the board of the organization and has served as its president.

Abshire also suggested that Stephens make a \$25,000 donation to the organization in lieu of a fine the Securities Department levied against the firm. Stephens declined, saying

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## Policy

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It felt that there was a conflict of interest for Abshire to allow a contribution to be made to an organization where he is a board member and president.

Two Little Rock lawyers said Abshire's offer to accept nonprofit donations in lieu of fines has been common for years.

"The truth of the matter is I don't know whether it is legal or illegal," said one lawyer who asked not to be identified. "But I do know that Heath is

not the first one to ever think about it. If you look at it, I think you'll find nationwide examples where companies that are under regulatory investigation often make payments to nonprofits in lieu of paying a fine."

Another lawyer, who also asked not to be identified, agreed.

"It has been a practice for many years," he said. "I'm not saying whether it is right or wrong."

If it determines that there has been an ethics violation, the Arkansas Ethics Commission has several sanctions it could apply, said Graham

Sloan, director of the commission.

The commission has the authority to issue three levels of public letters — a caution, a warning or a reprimand, Sloan said. It also can issue fines ranging from \$50 to \$2,000, Sloan said.

Rob Steinhuch, a law professor at the University of Arkansas at Little Rock's W.H. Bowen School of Law, said he doesn't see a problem with Abshire's actions.

"This is part of the normal settlement negotiating process," Steinhuch said of allowing contributions to be made

to the state.

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