

61—38.1(714) Assurance of voluntary compliance. In any case where the attorney general has authority to institute a civil action or proceeding pursuant to Iowa Code section 714.16(7), in lieu thereof, the attorney general may accept an assurance of voluntary compliance with respect to any method, act or practice deemed to be in violation of the Iowa consumer fraud Act from any person who has engaged in, is engaging in, or was about to engage in such method, act or practice. Such assurance may, among other terms, include a stipulation for the voluntary payment by such person of the costs of investigation, the voluntary payment of a civil penalty, or an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved consumers, or both. Matters thus closed may at any time be reopened by the attorney general for further proceedings in the public interest.

An assurance entered into pursuant to this rule shall not be considered an admission of a violation, provided that violation of such an assurance shall be treated as a violation of Iowa Code section 714.16, and shall be subjected to all the penalties and remedies provided therefor. A finding by a court that a violation of such assurance of voluntary compliance has occurred shall establish a prima facie case that the person subject thereto knows, or in the exercise of due care should know, that the person has in the past violated or is intentionally violating the provisions of this chapter.

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