**Section 1440.10 Guidelines in the Assessment of Civil Penalties**

The following guidelines shall be observed in the assessment of civil penalties.

a) The Standard of Lack of Mitigating Circumstances

In both situations set forth below, it shall be the burden of the respondent to establish a reason why the civil penalty should be mitigated.

1) The violation's occurrence was attributable to causes beyond respondent's control.

2) The violation's occurrence was attributable to action by the Commission which precluded compliance.

b) The Standard of Lack of Good Faith or Intent

1) Included under this standard is the past compliance history of the respondent.

2) Under this standard, the Commission shall consider whether a violation is the result of willful conduct or comes about through mistake, inadvertance or negligence.

c) The Standard of Ability to Pay

The Commission shall consider the financial ability of the respondent to pay the penalties assessed.

d) Degree of Harm to Public, Extent of Violative Conduct

The Commission shall consider the extent of violative conduct which affected the public interest.

e) Financial Benefit Accruing to the Violator

The Commission shall consider the amount of money which accrued to the respondent as a result of its illegal activities.

(Source: Amended at 10 Ill. Reg. 3815, effective February 10, 1986)