



Tung Chan, Securities Commissioner

## **Minutes of the Colorado Securities Board Meeting**

**Thursday, December 15, 2022**

The meeting was held in person at 1560 Broadway, Conference Room 100B. Those unable to attend in person attended virtually through Google Meet. The meeting was called to order at 9:00 a.m. by Chairperson Keith Olivia. Additional Board members in attendance were Vice Chair Elizabeth Vonne in person and Nicolas Budor virtually, and a quorum was present. Rikard Lundberg and Nilsa Mahon were not available for the meeting.

Division of Securities staff members present in person were Securities Commissioner Tung Chan, Chief Investigator Jonathan Block, Chief Examiner Jeffrey Eaby and Administrative Assistant Felicia Nevarez. Program Assistant Shiela Gowan was in attendance virtually by Google Meet. First Assistant Attorney General Robert Finke was also in attendance in person.

### **1. Approval of Previous Board Meeting Minutes**

- Chair Olivia asked for a motion to approve the minutes from the September 22, 2022, meeting. Nicolas Budor moved to approve the minutes and Elizabeth Vonne seconded the motion. The Board voted unanimously to approve the September 22, 2022, meeting minutes.

### **2. Report on Division Activities**

- Commissioner Chan provided the Board a brief update of the rule making hearing held on December 1, 2022, in person at 1560 Broadway. The hearing went very well and was open to the public. The rule making will now be finalized and signed then sent to Secretary of State to process.
- Commissioner Chan discussed the Division's outcomes of criminal cases for the quarter.

- Commissioner Chan presented the Board with an article from the Denver Post, dated November 14, 2022, and titled: Disbarred Denver attorney Steve Bachar pleads guilty to theft, admits defrauding investor of \$125,000. The sentencing for Bachar will be January 27, 2023, in Denver District Court. The Division investigated the case and referred it to the Denver District Attorney.
- Commissioner Chan discussed the University of Colorado Boulder for New Investors campaign that includes placing a Division billboard on Interstate 70 West going past Idaho Springs and creating a Division microsite, Protect Your Investments Like You Protect Your Adventures. The microsite includes the following information:
  - Smart Investing Checklist
  - Learn Investing 101
  - Investment Red Flags
  - Podcast of Real-Life Investment Scams
  - Check if your Adviser or Sales Rep is Licensed
- The Microsite header shows the billboard that is currently being used on Interstate 70 featuring a skier and the other activity-focused versions will be posted later this year on billboards such as rock climbing and mountain biking.
- Commissioner Chan discussed staffing. The Division currently has six positions open, including two examiner positions, two investigator positions, one public information officer and one deputy commissioner position.

Chief Investigator Jon Block provided an update on the enforcement section:

- Mr. Block discussed the article concerning Geoffrey James.

Chief Examiner Jeff Eaby provided an update on the examination section:

- The ongoing financial planning guide received comments from the public and industry.

- The Division has thoroughly reviewed these comments and issued a response letter as well as a revised guide with clarifications. The main point of revising the guide was to clarify that the recommendations in the guide are staff opinions and to add language to clarify best practices.
- Investment adviser rules are principles-based, and the Division's position is based on specific facts and circumstances and the current existing laws and rules. The clarification letter, comment letters and amendments were all posted on the Division's website.
- This type of staff guidance is a communication tool regulator at the U.S. Securities and Exchange Commission (SEC), Financial Industry Regulatory Authority (FINRA) and the state's use. The Division exam staff stressed that the guidance was not biased against financial planners in favor of assets under management (AUM) models and advisers. These rules apply to all models. Commissioner Chan showed the Board the website to find the posted guide and other information.
- Final update on the rulemaking process: The public hearing was held December 1. The Division received industry feedback which will lead to better-quality proposed rules. The major proposed rule amendments included:
  - Adopting Regulation Best Interest as a conduct of standard for broker dealers and representatives of firms.
  - Investment adviser continuing education (IAR CE) requirements. Twelve continuing education credits that will be effective in 2024.
  - Updates to the books and records requirements.
  - Firm trade blotters: Firms need to keep a memorandum of all the trades entered for clients and the proposed amendments will also require advisers to document the date the adviser received approval from the client, the method of approval, for example, phone call or email and details on trade errors, and how the error was corrected for the client.

- Advisers will be required to capture and maintain a summary of oral complaints received by clients in addition to the current requirements for maintaining files of written complaints and litigation.
  - Firms will also be required to maintain compliance procedures, supervisory procedures, a code of ethics, a business continuity and succession planning.
  - Physical security must be added to the firm's cybersecurity procedures to protect client files.
- Rules should be finalized by end of January 2023 or beginning of February 2023 with the Secretary of State.
  - Examination section plans to host future monthly webinars for investment advisers, like a round table. The webinars will go over the new rules and how the changes can be implemented in the firm day-to-day.

### 3. Other Business

- None.

### 4. Schedule Date and Time for Next Meeting

- Next scheduled meeting is Wednesday, March 15, 2023, at 9:00 a.m., in person at 1560 Broadway, Suite 100B at the Department of Regulatory Agencies (DORA) Welcome Center conference room.

The meeting was adjourned at 9:48 a.m.

  
Chair

MARCH 15, 2023  
Date