



COLORADO

Department of
Regulatory Agencies

Division of Securities

Tung Chan, Securities Commissioner

Minutes of the Colorado Securities Advisory Board Meeting June 28, 2023

The meeting was held in person at 1560 Broadway Conference Room 100D. The meeting was called to order at 10:00 a.m. by Chairperson Keith Olivia with a quorum present. Additional Board members in attendance were Vice Chair Elizabeth Karpinski Vonne and Rikard Lundberg in person. Nicolas Budor and Nilsa Mahon joined by telephone. Division of Securities staff members present in person were Securities Commissioner Tung Chan, Deputy Securities Commissioner Jeffrey Eaby, Chief Investigator Jonathan Block and Program Assistant Shiela Gowan. First Assistant Attorney General Janna Fischer was also in attendance in person.

1. Individuals introduced themselves through roll call

- Chair Olivia asked for a motion to approve the minutes from the March 15th, 2023, meeting. Rikard Lundberg moved to approve the minutes and Elizabeth Karpinski Vonne seconded the motion. The Board voted unanimously to approve the March 15th, 2023, meeting minutes.

2. Report on Division Activities

The Commissioner provided her report:

- Commissioner Chan stated the Division had been working hard for the end of the Fiscal year to meet all their numbers. It was a very busy time for the Division, but the Division did well.
- Commissioner Chan provided the Board a brief overview on the Anthony Capital LLC matter. This case started as an exam in the spring of 2022. Examiner Elena Bottelberge in her review found potential signs of fraud. The matter was passed to investigations who worked with our attorneys to quickly get a receiver in place. This has been a very dramatic case, that included a mediation settlement, an appeal of that settlement, investments in Harbor City, a fund in Florida that turned out to be a Ponzi scheme and a Nigerian Prince gold mine scheme.

- Commissioner Chan gave an update on the Gary Dragul case which has made headlines. This case began in 2014 and went to the Criminal Division of the Attorney General. The case was delayed and continued for years. On the morning of the trial, right before the jury was going to be selected, a settlement was reached wherein Mr. Dragul pleaded guilty to two counts of securities fraud with plea that included 120 days in Arapahoe County jail, \$1 million in restitution, eight months of house arrest, a decade on Economic Crime Probation, and 200 hours of community service. He will be formally sentenced on September 15th, 2023.
- The Division has a new Examiner 3 Anthony Campen who has over 30 years of experience. He will be taking over John Harth's position. Also, the Division has a new Investigator, Muffie Humphrey.
- The Division currently has openings for chief examiner, public information officer, one examiner and one investigator.
- Denver will be hosting a North American Securities Administrators Association (NASAA) Administrators meeting at the Denver Hilton. This meeting will be attended by commissioners of the various states, provinces and territories in North America.
- Update on the outreach billboards: For the summer a billboard will feature a Rock Climber at 21st and Champa. The billboard on Interstate 70 will have a new location on 6th Avenue West and Interstate 70 and will shift to skiing in the winter months. The Division has received positive feedback on the billboards, including positive comments mainly through social media.

Deputy Commissioner Jeffrey Eaby provided an update on the examination section:

- NASAA will be holding an Investment Advisers training for three days in St. Louis. The Division will have three examiners attending. As part of the training on June 27th, Commissioner Tung Chan and Deputy Commissioner Jeff Eaby gave a remote presentation on the Division's Ongoing Financial Planning Guide that set out best practices for investment advisers (IAs) and investment adviser representatives (IARs). The Guide has received pushback from certain groups of the industry who do not want to be regulated in a manner consistent with the laws.
- This is currently day two of a hearing at the Office of Administrative Courts to revoke an investment adviser's license.
- Approximately two weeks after the last Board meeting, the Commissioner entered an order against Robinhood Financial. Robinhood is an app-based trading broker-dealer that started to offer commission free trading.

The settlement was part of a multi-state effort and Colorado was a lead state. The outcome of this order was that Robinhood agreed to pay each state \$210,000 and to maintain reasonable and effective policies and procedures that govern their customer support. Robinhood also agreed to enhance their reimbursement policies for evaluating if a customer suffered losses due to an inefficiency in customer support.

- Commissioner Tung Chan added that the Guide is first in the nation and formed the basis of the NASAA guide.
- Deputy Commissioner Jeff Eaby stated that Commissioner Tung Chan entered an order in May regarding Legacy Financial LLC. Legacy Financial recommended exchange-traded funds (ETFs) that would earn in one day three times the S&P 500 and held these products for significant amounts of time. The Division's position is that these products are unsuitable to be held for extended periods. In response to the misuse of ETFs by IAs and IARs, the Division put out an industry alert explaining and warning about the misuse of ETFs. This alert can be found on the [Division's website](#).
- The Division is currently working with human resources to fill the Chief Examiner position which has not yet been posted. The posting will be forwarded to Board members once available.

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

- Chief Investigator Jon Block added to the Anthony matter, stating Mr. Anthony created special purpose entities by selling membership interests. Those entities raised investor funds by selling settlements or second life insurance policies. Allegedly, Mr. Anthony would buy a policy with a \$10 million face value for \$300,000 then charge the customer \$400,000. The Division took issue as that was about a 33% commission. Mr. Anthony argued that the fee calculation should not be off the cost of the policy, but off the face value of the policy which was \$10 million. The Division did not agree.
- Gary Dragul pleaded guilty to two felony counts of securities fraud. As covered by the Commissioner, the two plea agreements call for Mr. Dragul to spend a total of 120 days in Arapahoe County Jail, pay \$1 million in restitution, serve eight months of house arrest, spend a decade on probation and complete 200 hours of community service. Mr. Dragul will be sentenced September 15th, 2023.
- Daniel Levine was a licensed adviser with a number of firms through 2018. Mr. Levine established a number of entities away from his primary business and engaged in private security transactions. Mr. Levine was raising money for those entities while being employed with various dealers and investment advisers who then let Mr. Levine go.

Mr. Levine was sanctioned by the Financial Industry Regulatory Authority (FINRA) and by the Division. Mr. Levine also allegedly raised funds from previous clients, many of them in their 80s and 90s. Allegedly, he invested the funds in his company but also used some of it to pay off earlier investors and used a lot of it for his own personal benefit including paying off gambling debts. Mr. Levine was indicted on 19 counts including fraud.

- Kent Edlin was an unlicensed financial adviser from Pueblo. Mr. Edlin prepared taxes with a concentration of senior clients. Mr. Edlin allegedly raised almost \$500,000 from 11 people. Mr. Edlin claimed that he was investing the money on behalf of the 11 investors but remained vague about where he was putting the money. Records allegedly showed that he transferred all the money into his personal account and used the money for his own benefit. Mr. Edlin was indicted on two counts of securities fraud earlier this year.

3. Other Business

- Commissioner Tung Chan stated that this was Rikard Lundberg's last Board meeting. The Commissioner thanked him for his service and presented him with a plaque and certificate.
- Board applications have already been received for positions that are opening.
- Elizabeth Karpinski Vonne reapplied for reappointment and the Commissioner thanked her for her service and for reapplying.
- Commissioner Tung Chan congratulated Janna Fischer on her promotion with the Attorney General's Office to Senior Attorney General.

4. Schedule Date and Time for Next Meeting

- The next meeting was scheduled to be Wednesday, September 6, 2023, at 10:00 a.m. to 12:00 p.m. This meeting will also include an executive session for Board member training with AGs. The meeting will be in person at 1560 Broadway, Suite 100B at the Department of Regulatory Agencies (DORA) Welcome Center conference room.

The meeting was adjourned at 11:06 a.m.


Chair

SEPTEMBER 6, 2023
Date