



**COLORADO**

Department of  
Regulatory Agencies

Division of Securities

Tung Chan, Securities Commissioner

## **Minutes of the Meeting of the Colorado Securities Board Thursday, March 25, 2021**

Due to COVID-19, the meeting was held virtually through Google Meet. The meeting was called to order at 9:00 a.m. by Chairperson Thomas Kenning. Additional Board members in attendance were Nilsa Mahon, Keith Olivia, Lawrence Reifurth and Rikard Lundberg.

Division of Securities members present were Securities Commissioner Tung Chan, Deputy Commissioner David Cheval, Chief Investigator Jonathan Block, Chief Examiner Jeffrey Eaby and Program Assistant Shiela Gowan. First Assistant Attorney General Robert Finke was also present.

Roll call was taken.

The Chair asked for a motion to approve the minutes from the December 17, 2020, meeting. Keith Olivia moved to approve the minutes. Nilsa Mahon seconded the motion. The board voted unanimously to approve the December 17, 2020, meeting minutes.

First Assistant Attorney General Robert Finke informed the board that Chris Beall had accepted a new position as Deputy Secretary of State. Commissioner Chan wished Chris well on his new position and stated she was looking forward to working with the next appointment to his position.

### **1. Report on Division activities**

Commissioner Chan reported on recent Division activities:

- The Commissioner gave an update regarding employees projected return to the office. The Colorado Department of Regulatory Agencies (DORA) return to office will be in stages, and the date that the Governor has given is July 12.

- The Commissioner gave a general update on the cases involving securities matters that are pending at the Colorado Supreme Court, including Lawrence and HEI.
- Items posted on the Division's website in the previous quarter under Press Releases are the following:
  - Alerts for securities firms to be aware of any impact of SolarWinds hack.
  - Investment adviser examination priorities.
  - The top investor threats for 2021.
  - The Metals.com case encouraging defrauded investors to file claims with the court-appointed Receiver by April 30, 2021.
- March 26, 2021: The Division partnered with the Investor Protection Trust, Detroit Public Television and PBS Books to produce, The COVID Effect: Restoring Financial Wellness, virtual event. The event was livestreamed on the Division's Facebook page. See the [Division of Securities website](#) for the 12-part Virtual Event Series, Boomers to Zoomers.
- Keith Olivia asked a question regarding the short sales of GameStop recently in the news. Commissioner Chan went into a discussion about Robinhood, GameStop and AMC, and stated that the Division along with regulators and legislators across the country were concerned.

## 2. Enforcement Update

Chief Investigator Jonathan Block provided an update on recent enforcement staff activities:

- Jon briefed the board on a complaint involving a California investment adviser who aggressively used inverse and leveraged exchange-traded funds (ETFs), and whose Colorado clients lost a considerable amount of money. The adviser reached a monetary settlement with one of the investors.
- James Chevarria's case was referred to Jefferson County District Attorney and the District Attorney charged Chevarria with six counts of securities fraud. Chevarria was not licensed with the Division or with the U.S. Securities and Exchange Commission (SEC). The Division obtained bank records that allegedly showed Mr. Chevarria received \$1.4 million from 14 investors but never purchased investments on behalf of investors.

- A case was referred to the Attorney General's Office called FX Trade Capital and the Attorney General filed a complaint against FX Trade Capital. The matter involved a complaint from an investor who had attempted to withdraw money from his account at FX Trade Capital. He had paid approximately \$12,000 in withdrawal fees and has not seen any return on his investment.

### 3. Examinations Update

Chief Examiner Jeffrey Eaby provided an update on recent examination staff activities:

- The Division released 2021 exam priorities in early February. The priorities list is not meant to cover all matters that will be reviewed in an examination and advisers are required to comply with all applicable rules, which can be found on the [Division's website at Statutes and Rules](#).
- The Division is getting closer to releasing an investment adviser guide. The guide will provide an overview of compliance requirements in Colorado. The Division is hoping this will become a living document that is refreshed every year.

### 4. Other Business

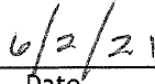
- Keith Olivia asked a question about how staffing has been affected by COVID-19. Commissioner Chan stated the Division currently was not fully staffed with openings for examiner and investigator positions. Currently the onboarding and hiring task is taking longer.

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

- The next meeting was scheduled for Thursday, June 24, 2021, at 9:00 a.m. Note: Date was changed to Thursday, June 3, 2021, at 9:00 a.m. by emails.

The meeting adjourned at 9:46 a.m.

  
Chair

  
Date