

Tung Chan, Colorado Securities Commissioner

Minutes of the Colorado Securities Advisory Board Meeting Monday, December 9, 2024

The meeting was held in person at 1560 Broadway, Conference Room 100D, Denver, CO 80202. The meeting was called to order at 10:00 a.m. by Chairperson Elizabeth Karpinski Vonne with a quorum present. Additional Board members in attendance were Philip McDermott and Gary DeWaal, and by Google Meet, Nicolas Budor. Division of Securities staff members present in person included Securities Commissioner Tung Chan, Deputy Securities Commissioner Jeffrey Eaby, Chief Investigator Jonathan Block, Chief Examiner Jason Gross, Investigator Hannah Stewart, Investor Education and Public Outreach Coordinator Annelise Grygiel and Program Assistant Shiela Gowan. Division counsel included Attorney General II Sarah Donahue in person and by Google Meet Assistant Attorney General Graham Gerhart. Chairperson Karpinski Vonne asked for a motion to approve the minutes from the September 25, 2024, meeting. Gary DeWaal moved to approve the minutes and Philip McDermott seconded the motion. The voting Board members unanimously approved the September 25, 2024, meeting minutes.

1. Report on Division Activities

The Commissioner Provided her report:

- Commissioner Chan introduced Investigator Hannah Stewart who gave a brief introduction of her respective background. The Division is currently looking to hire two auditor positions.
- Commissioner Chan stated that the industry has complied with the new Continuing Education for Investment Adviser Representatives at a rate of 90%. The Division put on three interactive webinars prior to the IARCE implementation period and also provided an in-person CE training for Colorado representatives. Colorado is one of the first states in the country to be able to provide an in person IAR continuing education training.

- Commissioner Chan stated that the Division meets with other agencies that enforce against securities violations. The Division expects to do more outreach in the community and to collaborate with other agencies on this outreach in 2025. Public Outreach Coordinator Annelise Grygiel will be taking the lead on this.
- The Division has had an active quarter in the enforcement side, two complaints were filed in the Denver District Court, the Sebastian and Gemelli matters which Chief Investigator Jon Block will cover. Attorneys are also in the process of deposing individuals in the INDX case.

2. Chief Examiner Jason Gross provided an update on examinations:

- The Division is staying on pace for our examinations. As of today, we currently closed 50 exams, which has us on pace with closing 110 by July 1st, 2025.
- Looking at the calendar year 2025, the Division will focus on the following examination priorities, which will be released to industry: suitability; accurately disclosed fees particularly when using a third-party software provider to calculate fees; executed contracts; and accurate and appropriate itemized invoicing.
- The Divisions examination section went back to visiting investment advisers on-site. During COVID the Division began conducting virtual interviews.
- The Division recently entered an order against an investment adviser, Global Wealth, which is an example of someone using a third-party software application to calculate fees. The fees were very inaccurate. The software the firm used was inaccurate and the investment adviser did not double check. The firm has been in business about two years. The firm hired a compliance consultant who is going to review the fees assessed compared to the contract amount to determine any refund due to clients. This examination was a compliance review, generally with someone who is newer in the industry, about two years.

3. Chief Investigator Jon Block provided an update on the Enforcement section:

- The Division has five investigators. Three are very experienced, two are less experienced. The Division has a strong lead auditor. The Division will be conducting interviews this week for vacant auditor positions.

- The Division filed a civil complaint in Denver District Court against a company called Sebastian Partners who is run by Michael Graham. It's alleged that Michael Graham raised about a million dollars in late 2019 for the company. The purpose of the offering was to raise money to buy properties in opportunity zones that have tax benefits. Before he bought any properties, he allegedly spent a substantial amount of money on his personal expenses. The complaint states that in 2021 Mr. Graham purchased three properties, with very little investor capital left, buying them with the remaining funds, a slew of other mortgages loans, funds from hard money lenders and so forth. Mr. Graham had not disclosed to investors he had outstanding judgements and that he mismanaged investments in real estate. Mr. Graham did not disclose he quit claimed two of the properties held by the company to himself. The Division went to court a few weeks ago, filed an injunction and asset freeze in part to freeze the properties and some money. There is a preliminary hearing scheduled on January 15th
- The Division filed a civil complaint in Denver District Court against Market4Caster run by the owner Eric Gemelli. It's alleged that between 2016 and 2022, while withholding material facts and misrepresenting certain facts, he offered and sold millions of dollars of other securities in Colorado. Mr. Gemelli sold a lot of these shares of stock to friends, students and women who he met on dating apps. The Division believes he raised about three million dollars, and he earned about a million in commissions. Mr. Gemelli was not licensed to do any of this. Mr. Gemelli was somewhat difficult to find. There were rumors that he fled to Bolivia. Some of the investments he sold was for a gold mine in Bolivia. But by some great work by the Attorney General's office and the Division staff, Mr. Gemelli was found in Georgia and successfully served.
- In a matter referred to us by the Jefferson County district attorney's office, the Division was able to get an indictment in October. This individual was a gambler who solicited dealers and other players at local casinos by offering to take their money to invest in his business, which was to make short-term loans to people buying residential properties. He allegedly promised to provide investors with significant returns within days of investing. In one case, he made arrangements for one of the investors to meet behind the casino in an alley, where there were no cameras. Using the Division's investigative work, Jefferson County indicted him. He had already been indicted and charged in El Paso.
- The Division has made a number of referrals to our civil AGs and criminal DA's and AG's.

4. Other Business:

- Commissioner Tung Chan presented more information on Mr. Holder, which was settled. Mr. Holder went to gyms to pick up women and on dating apps. Mr. Holder worked to gain the women's trust and then induced them to invest in a fabricated medical related project. Mr. Holder in the settlement is to repay all the victims.
- Next week Commissioner Chan will be traveling to Washington DC to meet with FINRA, in a regulators-only crypto assets forum. Then in January 2025 Commissioner Chan will be speaking at the Securities section of the Colorado Bar regulatory round up.
- Commissioner Chan was asked for an update about the new administration. Commissioner Chan stated there are some anticipations that staff will be cut at the federal level and that budgets will be restricted at the federal level. That means that if the Division is taking on cases that previously would be collaborative with federal agencies, the resources from federal agencies may be limited or unavailable.

5. Schedule Date and Time for Next Meeting:

- The next meeting was scheduled to be Wednesday, March 5, 2025, at 10:00 a.m. to 11:00 a.m. The meeting will be in person at 1560 Broadway, Suite 100D at the DORA Welcome Center conference room.

The meeting was adjourned at 10:52 a.m.


Chair


Date