

JOHN MORGAN
SECURITIES COMMISSIONER



BETH ANN BLACKWOOD
CHAIR

DERRICK MITCHELL
MEMBER

E. WALLY KINNEY
MEMBER

DAVID A. APPELBY
MEMBER

ALAN WALDROP
MEMBER

CARLA JAMES
DEPUTY SECURITIES COMMISSIONER

Mail: P.O. BOX 13167
AUSTIN, TEXAS 78711-3167

Phone: (512) 305-8300
Facsimile: (512) 305-8310

Texas State Securities Board

208 E. 10th Street, 5th Floor
Austin, Texas 78701-2407
www.ssb.state.tx.us

January 4, 2012

The Honorable John Carona
Chair, Senate Committee on Business & Commerce
P.O. Box 12068
Austin, Texas 78711

RE: Fiscal Year 2012, First Quarter Update

Dear Chairman Carona:

Pursuant to the request of the Senate Committee on Business and Commerce, below is the quarterly update of information relating to the Texas State Securities Board.

Implementation of Contingent Rider Funding

In 2010 President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which will increase the number of investment advisers the Agency is responsible for monitoring. The Dodd-Frank Act increased the threshold for federal registration of investment advisers from \$25 million in assets under management to \$100 million in assets under management. As a result of this change, the number of investment advisers regulated by the Agency will increase from 1,079 to approximately 2,108 -- an increase of about 95%. This additional group of firms and individuals are scheduled to become registered with the Agency this year.

The 82nd Legislature appropriated, in the form of a contingent revenue rider, resources to the Agency to address the increase in regulatory oversight. The Agency submitted revenue information to the Comptroller of Public Accounts (CPA) in September of 2011. The Agency has met the revenue target and is awaiting certification from the CPA in order to receive this important funding. These funds are needed by the Agency to begin the process of hiring and training personnel to effectively regulate this group of registrants.

Enforcement Activities

The Agency continues to investigate fraudulent securities schemes of increasing size and complexity and assist state and federal prosecutors with the criminal prosecution of control persons and sales agents associated with those schemes. The relationships that have been established with prosecutors throughout the state continue to yield excellent results. In the first quarter of this year these included a 15-year state prison

term for an Amarillo man who fraudulently sold promissory notes and "private annuities" to elderly investors in a \$7 million scheme, a five-year federal prison term for a Plano man for the fraudulent sale of promissory notes to approximately 180 investors, a 10-year state prison term for a Dallas man for the fraudulent sale of oil and gas interests, and a 17-year federal prison term for an Austin man who orchestrated a \$50 million Ponzi scheme.

The Agency continues to play a significant role in the national auction rate securities (ARS) settlements by coordinating actions with other regulators to provide relief to investors. In an administrative action in October, approximately \$8 million dollars was made available to Texas investors whose funds had been frozen in the ARS market since 2008.

Agency Performance

During the first quarter of fiscal year 2012 the Agency deposited \$23.7 million into the general fund; processed 11,701 securities filings; processed 16,444 dealer, agent and investment adviser applications; conducted 64 inspections; and obtained administrative orders against eight individuals. Investigations by the Agency led to criminal indictments of 10 individuals and conviction of 10 individuals for securities fraud and related offenses. The Agency received a fine payment of \$500,000 in connection with the settlement of an administrative case in December.

Pending Federal Legislation

The Agency is currently monitoring several bills in Congress that may adversely affect its ability to protect investors. Two of these would preempt state securities laws and weaken measures intended to minimize investor risks. The North American Securities Administrators' Association has proposed a model rule to address the capital-raising objectives of the legislation while preserving important investor protections.

Please contact me at (512) 305-8302 if you have any questions.

Sincerely,


JOHN MORGAN
Securities Commissioner

JM/cj