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October 10, 2013

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

RE: Quarterly Update

Dear Chairman Carona:

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

Enforcement Activities

Since the last report to the Committee, there have been a number of significant enforcement actions taken in various areas of the state to prosecute individuals for the fraudulent sale of securities to the public. The Agency has continued to develop and maintain good working relationships with state and federal prosecutors as well as local, state and federal regulatory and law enforcement agencies to ensure that appropriate action is taken in these complex cases.

Last month, an individual was sentenced in Collin County to a 40-year prison term after pleading guilty to a scheme to defraud elderly investors. That case followed a 25-year sentence for a Central Texas man who sold interests in non-existent oil and gas wells to the public, 10-year prison terms for two men who orchestrated a Houston-based \$30 million fraudulent scheme involving life settlements, an 80-year federal sentence for an individual who sold fictitious notes supposedly issued by European Banks for a Plano wealth management firm, a 19-year federal sentence for the founder of a Baytown oil and gas exploration company who was operating a Ponzi scheme, and multiple federal sentences, including one for 16 years, involving a Dallas company's fraudulent sale of notes. Other criminal cases during the period involved the sale of investments in international secured debt obligations, a biodiesel plant, a non-existent timber-harvesting project along the Amazon River, real estate funds, foreign currency trading programs, and government bonds. Enforcement attorneys of the Agency were appointed to act as special prosecutors in cases in Tom Green, Collin, Nueces, Rockwall, Hays, and Smith counties.

Federal Legislation and Rulemaking

The U.S. Securities and Exchange Commission issued rules, effective September 23, 2013, to implement Title 2 of the federal "Jumpstart Our Business Startups" (JOBS) Act signed by the President in 2012. The law permits unregistered offerings to be made to the public using general solicitation. As previously stated to the Committee, state securities registration requirements for these offerings are preempted under the law and state authority is limited to after-the-fact fraud investigation and enforcement. The Agency anticipates that there will be a significant increase in the number and scope of fraudulent offerings made to the public through newspaper, magazine, email, internet and public event advertising. Texas is coordinating with other state securities regulators to heighten public awareness of the potential pitfalls in this area.

Agency Performance

The Agency exceeded the performance targets for enforcement investigations and the number of inspections of securities dealers and investment advisers. The Agency took additional steps to ensure that firms subject to onsite and unannounced examination, including the firms that recently transitioned from federal to state oversight, were subject to a four-year inspection cycle, rather than the five-year cycle set by the 2013 performance measure. Workload in registration increased and exceeded performance targets as recovery in the financial markets had a direct influence on the number of securities filings.

Recent employment turnover of approximately 30 percent in the Inspections and Compliance Division staff will adversely affect the ability of the Agency to maintain the appropriate level of performance in inspections going forward. As experienced professionals leave to join firms in the industry and other financial regulators, the lower salary structure of the Agency only supports hiring less experienced or inexperienced persons. Substantial time and resources are required for training new professionals in these complex areas and developing the important skills and expertise that is needed to efficiently and effectively do the job. A fundamental change in the salary structure of the Agency, for example -- one tied to a percentage of the salaries paid by the federal regulator, is needed to address this issue.

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

Sincerely,


JOHN MORGAN
Securities Commissioner