

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

BANKING AND SECURITIES COMMISSION MEETING 2022-3

THURSDAY, AUGUST 11TH, 2022

PUBLIC SESSION

The regular quarterly meeting of the Banking and Securities Commission was conducted in the 13th floor conference room of the offices of the Department of Banking and Securities at 17 N. Second Street, Harrisburg, with the following in attendance, either live or remotely:

Richard Vague, Secretary and Vice Chair	Mary Beth Stringent, Deputy Secretary
James R. Biery, Commissioner	Charles Vance, Assistant Counsel
William R. Luterman, Commissioner	Veronica Hoof, Assistant Counsel
Mary E. Zenner, Commissioner	Carlton Smith, Assistant Chief Counsel
Gerard Mackarevich, Commission Counsel	Ira Carr, IT Support
Stefanie Hamilton, Chief Counsel	Stacy Walter, Human Resources Liaison
Paul Wentzel, Sr. Legislative Director	Brandon Brown, Admin. & Mgmt. Trainee

CALL TO ORDER AND APPROVAL OF MINUTES FOR PREVIOUS MEETING

1. At 1:00 p.m., Secretary Vague, who is Commission Vice Chair, appeared live and called the meeting to order.

2. Vice Chair Vague advised participants that the meeting was being recorded, and by their participation they were consenting to being recorded.

3. Vice Chair Vague took roll call. Commissioner Biery appeared live, while Commissioners Luterman and Zenner appeared remotely. All other individuals in attendance identified themselves.

4. Vice Chair Vague stated that, with all four of the Commissioners participating, it fulfilled the quorum requirement of section 1121-A.(f) of the Department of Banking and Securities Code for purposes of taking official action. Vice Chair Vague stated that, as required by Section 709 of the Sunshine Act, the Commission previously published notice of this meeting in the Harrisburg Patriot News. In addition, the Commission posted a meeting notice on the Department's website and posted a physical notice at the meeting site.

5. Vice Chair Vague noted that Brandon Brown is taking the minutes of this meeting, a draft of which will be circulated to the Commissioners prior to their next quarterly meeting. The Commission will finalize the minutes and approve them at that meeting.

6. Commission members received copies of the draft minutes for the regular meeting held on May 12, 2022. Pursuant to a motion made by Commissioner Biery and seconded by Commissioner Luterman, the Commission approved the draft minutes as final.

ADJUDICATION MATTERS

7. Vice Chair Vague requested that everyone except the Commissioners and Commission counsel exit the public meeting so that an executive session could be held pursuant to section 708 of the Sunshine Act, to consult with Commission counsel regarding proposed reports in the following matters:

- A. *Bureau of Securities Licensing v. Philadelphia Investment Partners, LLC, Peter C. Zeuli* – Docket No. 210008
- B. *Compliance Office v. Robert Pinzhoffer* – Docket No. 210005
- C. *Bureau of Securities Compliance and Examinations v. Worden Capital Management, LLC, Jamie John Worden, Gregory Bodkin* – Docket No. 210077

Vice Chair Vague stated that the Commission during the executive session will also consult with counsel regarding consent agreements and orders (“CAOs”) proposed by the parties in the following three matters:

- D. *Bureau of Securities Compliance and Examinations v. Wexford Wealth Advisors, LLC, Curtis Pritchard* – Docket No. 210071
- E. *Bureau of Securities Compliance and Examinations v. J.H. Smith Partners & Co., LLC and Jason Christopher Smith* – Docket No. 220008
- F. *Bureau of Securities Compliance and Examinations v. CBD USA Grown, Inc., Deborah Gestner, Roger Gestner* – Docket No. 220004

8. Having concluded the executive session, the Commission reentered public session to consider taking official action.

- A. *Bureau of Securities Licensing v. Philadelphia Investment Partners, LLC, Peter C. Zeuli* – Docket No. 210008 (SEC-OSC)

In this matter, the Department filed an order to show cause against an investment adviser firm and its owner who were alleged to have operated in Pennsylvania for several years without proper registration.

It was alleged that the firm conducted business in Pennsylvania as an investment adviser from 2015 to 2019, when it was federally covered, but failed to notice file, thus violating section

301(f) of the Pennsylvania Securities Act of 1972 (the “1972 Act”). It was further alleged that, after the firm withdrew its registration with the SEC in June 2019, it continued to transact business in Pennsylvania until at least September 2020 while being neither registered nor exempt from registration, thus violating section 301(c) of the 1972 Act.

The hearing officer assigned to the case in his proposed report concluded that respondents had violated the 1972 Act and agreed with the Department’s request to impose assessments based on the number of years of non-compliance, for a total amount of \$108,000. This was based on four years of failure to notice file, at the maximum sanction of \$2,000 for each section 201(f) violation, and two years of failure to register, at \$50,000 per year under section 301(c).

Neither party filed exceptions to the proposed report.

Commissioner Biery motioned for a Final Order to adopt the proposed report as written. Commissioner Zenner seconded the motion.

Vice Chair Vague offered the opportunity for public comment on the motion, but no members of the public were present.

Vice Chair Vague conducted a roll call on the motion to approve a Final Order to adopt the proposed report, as written. With all four commissioners voting in the affirmative, the Commission approved the Final Order in the matter of *Philadelphia Investment Partners, LLC and Peter C. Zeuli*.

B. Compliance Office v. Robert Pinzhoffer – Docket No. 21005 (BNK-C&D)

The Department in an enforcement action alleged that Robert Pinzhoffer committed several violations of the Mortgage Licensing Act. After his Pennsylvania licenses as a mortgage broker and mortgage originator expired, he applied for new licenses but was deficient in complying with requirements. When the Department learned that he allegedly had engaged in broker activities during the period he was unlicensed, it filed a suspension and cease and desist order, to which Mr. Pinzhoffer never responded.

A hearing officer assigned to the matter granted a default judgment, followed by a proposed report that, among other things, (1) temporarily suspended Mr. Pizhoffer’s licenses; and ordered him to (2) cease and desist from engaging in mortgage loan activities; (3) provide detailed information about the loan applications he facilitated while unlicensed; and (4) pay a fine of \$50,000. If he complies with all requirements, the Department may lift the suspensions.

Neither party filed exceptions to the proposed report.

Commissioner Luterman motioned for a Final Order. Commissioner Biery seconded the motion.

The motion was to adopt the proposed report as written, with one exception: The initial paragraph on page 21 of the hearing officer’s proposed report did not apply to this matter, so that one paragraph was stricken in its entirety.

The Vice Chair offered the opportunity for public comment on the motion, but no members of the public were present.

Vice Chair Vague conducted a roll call on the motion to approve a Final Order to adopt the proposed report, as amended. With all four commissioners voted in the affirmative, the Final Order in the matter of *Robert Pinzhoffer* was approved.

C. *Bureau of Securities Compliance and Examinations v. Worden Capital Management, LLC, Jamie John Worden, Gregory Bodkin* – Docket No. 210077 (SEC-OSC)

This matter involved Worden Capital Management, LLC, a broker-dealer, and Jamie Worden, its owner. The Department filed an enforcement action against these two respondents and Gregory Bodkin, the firm's chief compliance officer, alleging that they had failed to furnish information reasonably requested by the Department.

None of the respondents filed answers to the charges. A hearing officer granted a default motion that the Department filed against the firm and Mr. Worden, then later issued a proposed report concluding that the firm and Worden had violated the Department regulations by failing to make and keep required records and refusing to provide information as requested. The hearing officer proposed that the firm and Worden be indefinitely suspended, and also be temporarily barred from the securities business. Additionally, he proposed a \$1,000 assessment. They would be allowed to request reinstatements and the removal of the temporary bars if they pay the assessment and provide the requested records.

Neither party filed exceptions to the proposed report.

Commissioner Zenner motioned for a Final Order to adopt the proposed report as written. Commissioner Luterman seconded the motion.

The Vice Chair offered the opportunity for public comment on the motion to adopt the proposed report, but no members of the public were present.

Vice Chair Vague conducted a roll call on the motion to approve a Final Order to adopt the proposed report as written. With all four commissioners voting in the affirmative, the Final Order in the matter of *Worden Capital Management, LLC, Jamie John Worden, and Gregory Bodkin* was approved.

D. *Bureau of Securities Compliance and Examinations v. Wexford Wealth Advisors, LLC, Curtis Pritchard* – Docket No. 210071 (SEC-OSC)

This matter involved an investment adviser named Wexford Wealth Advisors, LLC. The Department alleged in its enforcement action that the firm and its principal, Curtis Pritchard, violated the 1972 Act and applicable regulation because they had discretionary authority over client funds or securities and allowed the firm's net worth for fiscal 2020 to fall below the required minimum of \$10,000.

The parties proposed to resolve the litigation with a CAO in which the firm, without an admission of violation, will pay \$6,000 in six quarterly installments.

Commissioner Biery motioned to approve the proposed CAO. Commissioner Zenner seconded the motion.

The Vice Chair offered the opportunity for public comment on the motion, but no members of the public were present.

Vice Chair Vague conducted a roll call on the motion to approve the Final Order to approve the CAO as proposed. With all four commissioners voting in the affirmative, the Commission approved the Final Order in the matter of *Wexford Wealth Advisors, LLC, and Curtis Pritchard*.

E. *Bureau of Securities Compliance and Examinations v. J.H. Smith Partners & Co., LLC and Jason Christopher Smith* – Docket No. 220008 (SEC-OSC)

The Department in its enforcement action alleged that a registered investment adviser and its president, chief compliance officer, and managing partner violated the 1972 Act and regulations in connection with recommending three leveraged exchange-traded funds (“ETFs”) to its clients. The Department among other things questioned the suitability of the investments for some of the clients and alleged that the firm failed to properly supervise its employees and maintain written procedures with respect to leveraged ETFs and did not adequately explain their risks.

The parties agreed to resolve the litigation. The proposed CAO stated that respondents do not admit the allegations but recited that from March 2019 until September 2021 the firm did not exercise diligent supervision over its investment adviser representative by failing to establish, maintain, and enforce written procedures regarding leveraged ETFs. Pursuant to the CAO, the respondents agreed to comply with the 1972 Act and regulations and pay \$30,000 in eight (8) quarterly installments of \$3,750.00 each.

Commissioner Zenner motioned to approve a Final Order to approve the CAO as proposed. Commissioner Luterman seconded the motion.

Vice Chair Vague conducted a roll call on the motion to approve a Final Order to approve the CAO as proposed. With all four commissioners voting in the affirmative, the Commission approved the Final Order in the matter of *J.H. Smith Partners & Co., LLC and Jason Christopher Smith*.

F. *Bureau of Securities Compliance and Examinations v. CBD USA Grown, Inc., Deborah Gestner, and Roger Gestner* – Docket No. 220004 (SEC-OSC)

The Department filed an enforcement action alleging that respondents’ sales of unregistered stock in the corporation to investors throughout the United States from their location in the Pittsburgh area constituted willful violations of sections 201 and 401(b) of the 1972 Act.

Respondents have agreed to resolve the litigation with a proposed CAO that, among other things, did not admit the allegations but required the Gestners to pay \$40,000 in two installments.

The Vice Chair offered the opportunity for public comment on the motion, but no members of the public were present.

Vice Chair Vague conducted a roll call on the motion to approve a Final Order to approve the CAO as proposed. With all four commissioners voting in the affirmative, the Commission

approved the Final Order in the matter of *CBD USA Grown, Inc., Deborah Gestner, and Roger Gestner*.

GENERAL PUBLIC COMMENT

9. Turning to the portion of the meeting during which members of the public may make general public comment, Vice Chair Vague noted that, because no members of the public were present, there would be no general public comment.

ADJOURNMENT

10. Vice Chair Vague asked for a motion to adjourn the meeting. Commission Biery motioned and was seconded by Commissioner Zenner. With all four commissioners voting in the affirmative, the meeting was adjourned at 1:55 p.m.

Reviewed and respectfully submitted by:

RICHARD VAGUE, Vice Chair