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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

**SOAH DOCKET NO. 312-16-2355
SSB DOCKET NO. IC16-01**

<u>IN THE MATTER OF THE</u>	§	BEFORE THE STATE OFFICE
<u>DEALER REGISTRATION OF</u>	§	OF
<u>PTI SECURITIES & FUTURES, L.P.</u>	§	ADMINISTRATIVE HEARINGS

TO: Thomas Patrick Haugh, Chief Executive Officer
PTI Securities & Futures, L.P.
411 S. Wells, Suite 900
Chicago, Illinois 60607

NOTICE OF HEARING

This is your OFFICIAL NOTICE that a hearing will be held at the State Office of Administrative Hearings, in the William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas 78701, before an Administrative Law Judge beginning on April 11, 2016 at 9:00 AM Central for the purpose of determining whether PTI Securities and Futures, L.P. ("Respondent"), a dealer registered with the Securities Commissioner of Texas ("Securities Commissioner"), should be REPRIMANDED and ASSESSED AN ADMINISTRATIVE FINE of Eighty Thousand Dollars (\$80,000.00).

This hearing will be held pursuant to The Securities Act, Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-43 (West 2010 & Supp. 2015)("Texas Securities Act"); the Rules and Regulations of the State Securities Board, 7 Tex. Admin. Code Chapter 101 (Supp. 2015)("Board Rules"); the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001 to 2001.902 (West 2008 & Supp. 2015); and the Rules of Practice and Procedure of the State Office of Administrative Hearings, 1 Tex. Admin. Code Chapter 155 (Supp. 2015)("SOAH Rules").

IF YOU DO NOT FILE A WRITTEN ANSWER OR OTHER WRITTEN RESPONSIVE PLEADING TO THIS NOTICE OF HEARING ON OR BEFORE THE 20TH DAY AFTER THE DATE ON WHICH THIS NOTICE WAS MAILED TO YOU OR PERSONALLY SERVED ON YOU, THE FACTUAL

ALLEGATIONS IN THIS NOTICE COULD BE DEEMED ADMITTED, AND THE SECURITIES COMMISSIONER MAY DISPOSE OF THIS CASE WITHOUT A HEARING AND MAY GRANT THE RELIEF SOUGHT IN THIS NOTICE.

THE RESPONSE MUST BE FILED IN AUSTIN, TEXAS, WITH THE STAFF OF THE STATE SECURITIES BOARD AND THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND ALSO SERVED ON THE STAFF OF THE STATE SECURITIES BOARD.

IF YOU FAIL TO ATTEND THE HEARING, EVEN IF A WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING HAS BEEN FILED AND SERVED, THE FACTUAL ALLEGATIONS IN THIS NOTICE COULD BE DEEMED ADMITTED, AND THE SECURITIES COMMISSIONER MAY DISPOSE OF THIS CASE WITHOUT A HEARING AND MAY GRANT THE RELIEF SOUGHT IN THIS NOTICE.

CONTACT INFORMATION

**Ronak V. Patel, Esq.
Callie Baker, Esq.
Texas State Securities Board
208 E. 10th Street, 5th Floor
Austin, Texas 78701
Telephone: (512) 305-8300
Facsimile: (512) 305-8340**

**Docketing Office
State Office of Administrative Hearings
300 W. 15th Street, Suite 504
Austin, Texas 78701
Telephone: (512) 475-3445
Facsimile: (512) 475-4994**

Pursuant to §105.8 of the Board Rules, all documents filed by any party, other than business records and transcripts must be contemporaneously served upon the Securities Commissioner's representative as identified below:

**Marlene Sparkman, General Counsel
Securities Commissioner's Representative
Texas State Securities Board
208 E. 10th Street, 5th Floor
Austin, Texas 78701
Telephone: (512) 305-8300
Facsimile: (512) 305-8336**

Legal authority and jurisdiction for this matter exist under Sections 14, 23, and 23-1 of the Texas Securities Act, Section 2003.021(b) of the Texas Government Code, and Section 155.51 of the SOAH Rules.

The staff of the Texas State Securities Board ("Staff") will present evidence in support of its request that Respondent be REPRIMANDED AND ASSESSED A FINE of Eighty Thousand Dollars (\$80,000.00).

The evidence provided by the Staff will prove the following:

I. Respondent

1. On March 17, 1992 Respondent registered with the Securities Commissioner as a dealer. This registration is currently effective.

II. Failure to Enforce Written Supervisory Procedures

2. On or about November 23, 2009, a seventy-five (75) year old Texas resident ("Client") opened a Traditional IRA with Respondent.
3. Client was the only account holder on the IRA. The Client's account application included his social security number and date of birth and signature.
4. In December 2011 the Client contacted his agent, who was also the Chief Compliance Officer for Respondent ("CCO"), and submitted a "Required Minimum Distribution Form" requesting a withdrawal from the IRA account with the payment being mailed to his home address.
5. The Client elected to have an amount withheld for income taxes at a tax rate of fifteen percent (15%). Client's date of birth, social security number and signature were included on the form and matched the account application form previously submitted to Respondent by Client.
6. In December 2014 the Client told the CCO he did not want to take his required minimum distribution and wanted to leave the account intact.

A. Transfer Processed on February 23, 2015

7. On February 19, 2015, the CCO received an email in his SPAM folder from the Client's email address. The subject line stated "[SPAM] Hi Dan" and the body of the email stated "Hi Dan, Could you please email me the cash balance on all my account (sic). Thanks [Client]."
8. On February 19, 2015, the CCO responded to the email. The CCO included a new subject line of "pti" and in the body of the email wrote: "The balance is \$151,355.69."
9. On February 19, 2015, the CCO received a reply to his email whereby the sender requested a wire transfer of \$45,780 to an individual with an address in Louisiana. Prior to this email, the Client had never made a request to wire or deposit money into this individual's account.
10. On February 19, 2015, CCO responded to the email stating: "Attached is the distribution request – also RBC requires you to sign the wiring instructions." RBC was the financial institution serving as custodian for Respondent's clients, including the Client's funds.

11. On February 23, 2015 the CCO received an email with signed copies of the wiring instructions and the distribution request form. The signatures on each of these documents were not the same as the signature on Client's account application.
12. Furthermore, the form had an incorrect social security number and birth date. The Client was born in 1934 and the birthdate included on the form was in 1969.
13. On February 23, 2015 the CCO replied to the email indicating that the form did not designate the type of distribution requested. The CCO received a response an hour later stating it was a required minimum distribution.
14. The distribution form submitted had a checked box stating: "I elect not to have federal income tax withheld from my payment(s)." In addition to the other inconsistencies on the forms, this election was contrary to the Client's previous actions related to tax withholdings.
15. Despite the inconsistencies, the CCO did not speak with the Client prior to Respondent processing the distribution to the Louisiana address.
16. On February 23, 2015, the CCO received another email in his SPAM account with the subject line "[SPAM] Hi Dan" and requested to be emailed when the wire is completed. The CCO responded minutes later "it has already gone."

B. Transfer processed on March 4, 2015

17. On March 4, 2015, CCO received another email requesting a second wire transfer of \$45,780 to another unrelated individual to Client, whom the Client had never wired money before. This individual's address was listed as being in Alabama.
18. The March 4, 2015 email included signed wiring instructions and a completed disbursement form. The signatures on the documents again did not match the account application previously submitted. Furthermore, the birthdate and the social security number did not match the Client's information. This form also indicated that income taxes not be withheld.
19. Despite these inconsistencies, the CCO again did not speak with the Client prior to Respondent processing the distribution.
20. On March 4, 2015, CCO received an additional email requesting the status of the wire. CCO wrote back "It has been sent."

C. Transfer Processed on March 10, 2015

21. On March 10, 2015, CCO received another email requesting a third wire transfer for \$53,980. The email also included signed wiring instructions and a completed

disbursement form. The signatures on the documents again did not match the account application previously submitted, the birthdate was incorrect, the social security number was incorrect and again the form elected to not have income taxes withheld.

22. The wire transfer requested the funds be sent to the same individual in Alabama to whom the second wire transfer was sent.
23. Despite the inconsistencies, Respondent again processed the request for a wire transfer as specified by the March 10, 2015 distribution form.
24. The CCO received an additional email on March 10, 2015 requesting the status of the transfer. The CCO stated that he was just notified by RBC that the receiving bank rejected the wire. The CCO said the next step would be for Client to contact the bank.
25. On March 11, 2015, the CCO received a response email that included new signed wiring instructions and stated "Please RBC transfer (sic) the money there today and email me as soon as it's done."
26. On March 11, 2015, the CCO sent an email to the Client's email address requesting that the Client call the CCO "regarding yesterday's transaction." The CCO received an email reply indicating that the Client was out of town and that was why the transaction request was made by email.
27. On March 11, 2015, the CCO finally called the Client and informed him that two wire transfers had been performed, and that a third wire transfer had been rejected by the receiving bank.
28. The Client told the CCO that he did not make the wire transfer request and did not know anything about the wires.
29. The completed wire transfers depleted the account by sixty percent (60%) in ten (10) days. The third wire transfer would have depleted the account by ninety-six percent (96%) in sixteen (16) days.
30. On or about July 16, 2015, the Client filed a complaint with the Staff related to the subject of this Notice of Hearing.

D. Respondent's Procedures were not Enforced and were not Reasonably Designed

30. As all relevant times, Respondent's written supervisory procedures required the Respondent to "verify customer's signatures prior to acting on a LOA (Letter of Authorization) instructing the firm to change an address, transfer an account or securities, etc." Respondent was also required to compare all such signatures to the customer's New Account Forms and customer agreements. Any discrepancies required a discussion with the broker and/or customer before conducting the action requested via the LOA.

31. Respondent did not enforce its own written supervisory procedures because it did not verify the signatures included on the three wire distribution request forms and signed wiring instructions nor did Respondent otherwise discuss the discrepancies with the Client before processing the transfer requests.
32. In addition to regulation by the State Securities Board, the Respondent is required to be a member of the Financial Industry Regulatory Authority ("FINRA") and is required to comply with FINRA rules. In January 2012, FINRA released a regulatory notice titled "Customer Account Protection, Verification of Emailed Instructions to Transmit or Withdraw Assets from Customer Accounts." FINRA stated that they had seen a rise in the "number of reports of incidents of customer funds stolen as a result of instructions emailed to firms from customer email accounts that have been compromised."
33. FINRA highlighted the risks with accepting instructions to withdraw or transfer funds by email because customer email accounts are susceptible to being breached by hackers to commit fraud.
34. Respondent failed to establish, maintain, and enforce written supervisory procedures related to how Respondent's agents should verify that email instructions were in fact sent by a client nor regarding how its agents should verify and address "red flags" related to transfer requests.

III. Legal Authority

35. Board Rule 115.10(b)(1) requires registered dealers, such as Respondent, to establish, maintain, and enforce written supervisory procedures to supervise the activities of its agents that are reasonably designed to achieve compliance with the Texas Securities Act, Board Rules and all applicable securities law and regulations.
36. Respondent's failures to enforce its written supervisory procedures related to the transfer requests on or about February 23, 2015, March 4, 2015, and March 10, 2015 are each violations of §115.10(b)(1) of the Board Rules.
37. Respondent's failures to establish, maintain, and enforce written supervisory procedures related to how Respondent's agents should verify that email instructions were in fact sent by a client nor regarding how its agents should verify and address "red flags" related to transfer requests constitute violations of §115.10(b)(1) of the Board Rules.
38. The foregoing violations of §115.10(b)(1) of the Board Rules constitute bases for reprimanding the Respondent pursuant to Section 14.(A)(6) of the Texas Securities Act.
39. Pursuant to Section 23-1.A(3) of the Texas Securities Act, the aforementioned violations of a Board Rule constitute bases for the assessment of an administrative fine against Respondent.

40. Pursuant to Section 23-1.B(1) of the Texas Securities Act, the Respondent may be assessed an administrative fine in an amount of \$20,000 per violation.

IV. Relief Requested


Based on the foregoing allegations, the Staff requests that the Securities Commissioner issue an Order:

- a. REPRIMANDING Respondent;
- b. ASSESSING AN ADMINISTRATIVE FINE of Eighty Thousand Dollars (\$80,000.00) against Respondent; and

Pursuant to §105.13 of the Board Rules, the Staff respectfully requests that the State Office of Administrative Hearings order that all costs charged to the Texas State Securities Board by any court reporting service involved in this matter be assessed against the Respondent.

You are invited to appear personally, with, without, or through counsel, and to present any and all evidence relating to the matters set forth in this Notice.

Signed this 8th day of February, 2016.



Tommy Green
Director of Inspections & Compliance

CERTIFICATE OF SERVICE

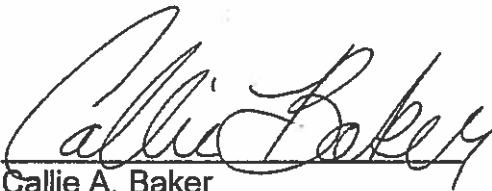
I hereby certify that true and correct copies of the foregoing have been sent via certified mail to the Respondent, and to the Securities Commissioner's Representative by hand-delivery, done on this, the 8th day of February 2016.

Thomas Patrick Haugh, Chief Executive Officer
PTI Securities & Futures, L.P.
411 S. Wells, Suite 900
Chicago, Illinois 60607

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Marlene Sparkman
General Counsel
Securities Commissioner's Representative
Texas State Securities Board
208 E. 10th Street 5th Floor
Austin, Texas 78701
(512) 305-8300
(512) 305-8336

VIA HAND-DELIVERY


Callie A. Baker
Texas State Bar No. 24070951