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BEFORE THE ARKANSAS SECURITIES COMMISSIONER PM 12: 23
Case No. S-18-0008

ARKANSAS SECURITIES DEPT.

IN THE MATTER OF
PRO OPTIONS ELITE and
CHARLES LOUIS BITTMAN

REQUEST FOR CEASE AND DESIST ORDER

The Staff of the Arkansas Securities Department (Staff) has received information and has in its possession certain evidence which indicates that Pro Options Elite (Pro Options) and Charles Louis Bittman have violated provisions of the Arkansas Securities Act (Act), codified at Ark. Code Ann. §§ 23-42-101 - 509.

ADMINISTRATIVE AUTHORITY

1. This matter is brought in connection with violations of the Act, and is therefore properly before the Arkansas Securities Commissioner (Commissioner) in accordance with Ark. Code Ann. § 23-42-209.

RESPONDENTS

2. Pro Options is represented to be a business entity located in Cedar Park, Texas and/or Nashville, Tennessee registered as an investment adviser or broker-dealer. It has not been found to be a corporation, partnership, limited liability company or any other business entity registered with the Secretary of State of the state of Texas, Tennessee or Arkansas. It has also not been found to be registered as an investment adviser or broker-dealer pursuant to the Act or pursuant to the securities laws of any other state or Canadian province. The Central Registration Depository (CRD), the electronic registration system

set up and run by the Financial Industry Regulatory Agency (FINRA) for the securities industry in North America shows no registration of any kind for Pro Options.

3. Bittman represented himself to be a person registered as an agent of a broker-dealer in Hartford, Connecticut who had no connection or acquaintance with Bittman or any other person discussed herein. This individual's registration authorized him to deal in general securities transactions and also in options trading. Bittman is not registered pursuant to the Act or pursuant to the securities laws of any other state or Canadian province. The CRD shows no registration for Bittman in any capacity anywhere in North America.
4. The identity of the person who Bittman impersonated will be not be revealed. In order to set out the facts as the Investors were led to believe, Bittman will be referred to as Michael T. Doe, a pseudonym. It must be remembered that when Doe is referred to herein, the person referred to is actually Bittman and not the individual he impersonated, who had no part in this matter.

FACTS SUPPORTING CEASE AND DESIST ORDER

5. Nine Arkansas residents (the Investors), who will be referred to individually as AR1 through AR9, entered into trading agreements with Pro Options for investment advice concerning securities. Collectively, the Investors paid Pro Options over \$50,000 in fees and lost over \$600,000. Most of the losses were caused by one trade on May 17, 2017.
6. AR1 was the first Investor and the Investor who invested the most. He found Pro Options online sometime in 2015. He called a telephone number and spoke to someone named Charlie, who he now believes is Bittman. At the direction of Pro Options, he opened a securities account with TD Ameritrade (TDA) that would allow an investor to transact trades without a broker and allowed Pro Options to trade the account. After a while,

AR1's account was not being traded as he wanted it traded. He asked for and received his money back.

7. After AR1 closed his first account, he was contacted by Bittman posing as Doe. Doe told AR1 that he had bought Pro Options and would love to have a chance to trade AR1's account. At Doe's direction, AR1 opened a TDA account in November 2016 and allowed Doe to trade the account.
8. Doe told AR1 that he would make money in his account by trading in index options. Options are usually contracts to buy or sell stocks at a specific, named price– the strike price– on or before the option's expiration date. A contract to buy stock is a call, and a contract to sell stock is a put.
9. Index options allow an investor to buy or sell the value of an underlying index at the strike price on or before the expiration date of the option. With index options, no stocks are traded. Instead, all transactions are settled in cash.
10. Doe traded SPX index options which trade on the value of the Standard and Poor 500 (S&P), a well known index of 500 American stocks. Of the several types of SPX options available, Doe traded SPX Weeklys¹. These options are open for periods of one week. European style options, SPX Weeklys can be exercised only at closing on the expiration date and the settlement price, which is used to determine if the S&P reached the strike price, is the closing price on the expiration date.
11. Another factor to consider in dealing with SPX options is the \$100 multiplier used when the S&P reaches 2360, as it had on May 17, 2017. The multiplier is used in figuring the amount of each option contract, which makes each SPX option contract have a notional

¹The stock symbol for these options is SPXW.

value of \$230,000. When dealing in quantities of 100, this can result in trades worth millions of dollars. When the trade used is a vertical spread, which is a two-part trade, both a buy and a sale (to be discussed more in detail below), the effect of the multiplier is cancelled. The real part of that type of trade is the difference between the buy and the sale.

12. Doe used a type of options trading called a vertical spread. As he explained it to AR1, a vertical spread involves two of the same option, either two puts or two calls. If the investor is anticipating a rising market in the S&P 500, puts are used; if a falling market is expected, calls are used. Although others might use the opposite options for the same type of market—calls for rising markets and puts for falling markets—this was Doe’s preferred strategy.
13. AR1 was satisfied with Doe’s trading. He opened more accounts and spread the word with the other eight Investors, all of whom were friends and colleagues who had come together with AR1 to form an informal investors’ club. Doe made presentations to the informal investors’ club and represented to the Investors who attended that his method of trading options in vertical spreads was a fairly safe method that had little potential for loss. After hearing how satisfied AR1 was with Doe’s performance and Doe’s presentations, the other eight investors entered into agreements with Doe, also. A basic part of the agreement was for each Investor to open at least one TDA account of the type AR1 had opened.
14. All nine Investors agreed to allow Doe to trade their TDA accounts, all of which were accounts set up for individual investors to trade without a broker or investment adviser. TDA allowed investors to allow others to make trades for them, but not to charge for

performing that service. Some of the investors gave Doe a limited power of attorney to make trades in their accounts, but not to move money in or out of the account, and others simply gave Doe their username and passwords. In exchange for managing their accounts, Doe took a flat fee which varied from investor to investor, but which totaled \$57,150 in all.

15. Doe executed vertical spreads using both puts and calls and made a moderate amount of money for most of the Investors until May 17, 2017. On that day, the S&P opened at 2382.95 but closed down at 2357.03. What most likely precipitated the downward movement on that day was the appointment of Robert Mueller as special counsel to investigate Russian interference with the 2016 American presidential election. On that day, the nine Investors lost a total of \$625,501.62.
16. The particular vertical spread used on May 17 was what is sometimes called a bull put, a two-part trade comprised of two puts with the same expiration dates, one *written* for a specific number of puts for a higher price and one *bought* for the same number of puts at a lower price. By *writing* a put, an investor seeks to sell a contract to another to sell the other the puts at a particular price when the price of the index reaches the strike price. When an investor *buys* a put, the investor has agreed to buy puts at a named price when the index reaches the strike price. In this case Doe was anticipating or betting that the index would rise, which would allow the lower price puts he bought offset the higher priced puts he sold, thus netting him the difference.
17. Because Doe bought a put and wrote a put on the expiration date, it can be inferred that he anticipated no change in the direction of the price and that when he placed this two-

part trade, the S&P was at or above 2360 and had not begun to fall. He clearly expected the S&P to rise during the day and did not anticipate the dip experienced that day.

18. An example of Doe's trading in vertical spreads is that of AR2. In that account Doe wrote a put for 100 contracts at \$1.05 each at a strike price of 2365 and bought a put for 100 contracts for \$.55 each at the strike price of 2360. Doe was planning on both strike prices being reached. Had it gone up as anticipated, he would have realized a net gain of \$4,845.30. Because the index went down instead of up, AR2 lost \$45,194.68. This was approximately 75% of the value of AR2's account. The experience of AR2 was the experience of all 9 Investors, all losing approximately 75% of their accounts in one day.

APPLICABLE LAW

19. Ark. Code Ann. § 23-42-102(9) as it existed at the times in question defined investment adviser as any person who, for compensation, engages in the business of advising others of, among other things, the advisability of buying or selling securities.
20. Ark. Code Ann. § 23-42-102(17(A)(xvii) defines security in pertinent part as “[i]n general, any interest or instrument commonly known as a “security.”
21. Ark. Code Ann. § 23-42-102(14)(A) defines representative in pertinent part as any “partner, officer, director of an investment adviser . . . or other individual employed by or associated with an investment adviser . . . who for compensation . . . [m]akes any recommendation or otherwise renders advice regarding securities.”
22. Ark. Code Ann. § 23-42-301(c) provides that it is unlawful for any person to transact business in this state as an investment adviser or investment adviser representative without first being registered as such pursuant to the Act.

23. Ark. Code Ann. § 23-42-307(a)(2) provides that it is unlawful for any investment adviser or investment adviser representative to engage in any act, practice or course of business which would operate as a fraud or deceit upon the other person.
24. Ark. Code Ann. § 23-42-307(a)(3) provides that it is unlawful for any investment adviser or investment adviser representative to make any untrue statement or omit to state a material fact necessary in order to make the statements made not misleading in light of the circumstances under which they are made.
25. Ark. Code Ann. § 23-42-507(2) provides that it is unlawful for any person in connection with the offer or sale of any security, directly or indirectly, to make any untrue statement or omit to state a material fact necessary in order to make the statements made not misleading in light of the circumstances under which they are made.
26. Ark. Code Ann. § 23-42-507(3) provides that it is unlawful for any person in connection with the offer or sale of any security, directly or indirectly, to engage in any act, practice or course of business which would operate as a fraud or deceit upon another person.

VIOLATIONS OF LAW

27. SPX index options are traded on the Chicago Board Options Exchange (CBOE), a major American securities exchange. They are specifically listed in the Securities Act of 1933 as securities, as they are explicitly listed in many state statutes. Because they are commonly known as securities, and a specific securities registration is required to legally trade in them, they are securities pursuant to Ark. Code Ann. § 23-42-102(17)(A)(xvii).
28. When Bittman, acting as an agent of Pro Options, recommended to the Investors that they invest by trading in SPX options as set out above, he made those recommendations for

compensation, the flat fees he charged each Investor for this service. Pro Options also made these recommendations to the Investors because what Bittman did as the agent of Pro Options was the action of Pro Options. Pro Options and Bittman were therefore acting as an investment adviser and an investment adviser representative, respectively, as defined by Ark. Code Ann. §§ 23-42-102(9) and 23-42-102(14)(A). Because neither Pro Options nor Bittman were registered in accordance with the Act as an investment adviser or an investment adviser representative, respectively, they acted in violation of Ark. Code Ann. § 23-42-301(c).

29. Bittman's impersonation of Doe, who was an individual who was registered to deal in securities and specifically in options, was securities fraud in violation of Ark. Code Ann. § 23-42-307(a)(3) and Ark. Code Ann. § 23-42-507(2) because it was the omission of a material fact necessary to make the implicit and explicit statements of competence to give investment advice and competently trade options not misleading. This information was material because the disclosure of this information would have significantly altered the total mix of information available to the Investors and would have been seen by a reasonable investor as significant or important in deciding whether to do business with Bittman and allow him to enter options trades in their accounts. The disclosure of this information would have been significant because it would have called into question the trustworthiness and competence of Bittman and Pro Options.
30. Bittman's impersonation of Doe, who was an individual who was registered to deal in securities and in options, was securities fraud in violation of Ark. Code Ann. § 23-42-307(a)(2) and Ark. Code Ann. § 23-42-507(3) because representing to the investing

public that one is registered and thus legally authorized to deal in options is an act, practice or course of business that would operate as a fraud or deceit upon another person. Believing that Bittman, posing as Doe, was registered and legally authorized to deal in options would instill in prospective clients a false sense of security that would not exist if the truth were known.

LEGAL AUTHORITY TO ISSUE CEASE AND DESIST ORDER

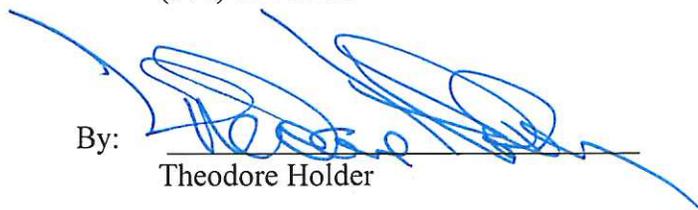
31. Ark. Code Ann. § 23-42-209(a)(1)(A) provides that whenever it appears to the Commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of the Act, he may summarily order the person to cease and desist from the act or practice.

WHEREFORE, the Staff respectfully requests that the Commissioner summarily issue a cease and desist order against Pro Options Elite and Charles Louis Bittman ordering them to cease and desist from any further actions in the state of Arkansas that constitute:

- 1) the giving of investment advice for compensation, i.e., acting as an investment adviser or investment adviser representative, until such time as the persons and entities offering such investment advice for compensation are all properly registered or shown to be exempt from registration pursuant to the Arkansas Securities Act, and
- 2) securities fraud.

Respectfully submitted,
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By:


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