

MIKE BEEBE
GOVERNOR

A. HEATH ABSHURE
COMMISSIONER



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LITTLE ROCK, ARKANSAS 72201-1692
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ARKANSAS SECURITIES DEPARTMENT

June 23, 2010

James H. Penick, III
Eichenbaum, Liles & Heister, P.A.
124 West Capitol Avenue, Suite 1900
Little Rock, AR 72201-3717

RE: G & K Home Solutions, LLC
No Action 10-NA-0018

Dear Mr. Penick:

The Arkansas Securities Department ("Department") received your request dated January 19, 2010, as supplemented by your March 18, 2010, correspondence (collectively "Request") regarding G & K Home Solutions, LLC. The Request seeks confirmation that the Staff of the Department ("Staff") will not recommend that the Arkansas Securities Commissioner take enforcement action against G & K Home Solutions, LLC for violations of the Arkansas Securities Act ("Act"), located at Ark. Code Ann. §§ 23-42-101 through 23-42-509, with respect to the proposed transactions. I have attached copies of the Request to avoid reciting or summarizing the facts that you have presented.

Based upon the opinions and representations set forth in your Request, the Staff will not recommend enforcement action under Ark. Code Ann. § 23-42-501 should the transactions proposed take place as set forth in the Request. In issuing this no-action letter, we considered the exemption provided for under Ark. Code Ann. § 23-42-503(b) and Rule 503.01(B)(2) of the Rules of the Arkansas Securities Commissioner ("Rules").

Please note that the position of the Department is based solely upon the representations in your Request and applies only to the transactions and facts as represented in the Request. Different facts or circumstances might, and often would, require a different response. The Staff only expresses its position as to the recommendation of formal enforcement action by the Department and does not purport to be a legal opinion or formal conclusion.

We also direct your attention to the anti-fraud provisions of the Act and Rules that remain applicable to the transactions. Responsibility for compliance with these provisions of the Act and Rules rests with the participants in the transactions described in your Request.

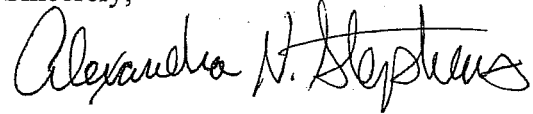
G & K Home Solutions, LLC

June 23, 2010

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If you have any questions or need additional information, please do not hesitate to contact me at 501-324-9260. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Alexandra N. Stephens". The signature is written in a cursive style with a horizontal line crossing through the middle of the name.

Alexandra N. Stephens
Staff Attorney

ANS/

EICHENBAUM, LILES & HEISTER, P.A.

ATTORNEYS AT LAW

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ARKANSAS SECURITIES DEPT.

JAMES H. PENICK, III
Writer's Extension 107
jpenick@ehlaw.com

January 19, 2010

VIA HAND DELIVERY

A. Heath Abshure, Commissioner
Arkansas Securities Department
Heritage West Building, Suite 300
201 East Markham Street
Little Rock, Arkansas 72201-1692

Re: G & K Home Solutions, LLC
Request for Exemption from Registration / No-Action Letter

Dear Mr. Abshure:

We are writing on behalf of our client, [REDACTED] an Arkansas limited liability company (the "Company"), in connection with the proposed transactions described below. On behalf of the Company, we respectfully request the issuance by the Arkansas Securities Department (the "Department") of a letter to the effect that the transactions described below are exempt from registration under the Arkansas Securities Act (the "Act"), or, in the alternative, that the Department will not take any enforcement action against the Company if the Company enters into such transactions without registration. We also request that you confirm that the Company and its members are exempt from the broker-dealer and agent registration requirements of the Act with respect to such transactions.

The Parties

The Company is an Arkansas limited liability company; it is owned by [REDACTED] and [REDACTED], both of whom are Arkansas residents. The Company is engaged generally in the acquisition, renovation, rental, and sale of residential properties in Arkansas. The Company has been in business since April 2003, and since that time has renovated over two hundred (200) single-family residential properties.

The Company will contract with [REDACTED] (the "Manager") to manage the properties involved in the transactions described below. The Manager is a real estate firm whose principal broker, [REDACTED] is licensed with the Arkansas Real Estate Commission. The Manager has been in the property management business for over forty-three (43) years, and manages over two thousand (2,000) single and multi-family residential properties in three (3) states, including Arkansas. The Company will pay the Manager a fixed monthly fee to manage all the properties involved in the transactions described below. One of the owners of the Company, [REDACTED] (the "Agent"), is also a licensed real estate agent with the Manager and will act as the agent to manage all the properties; the Agent will not receive any compensation from the Manager for the management of those properties.

The Company will enter into joint venture arrangements (each, a "Joint Venture") with investors (each, an "Investor"), as more particularly described below. Each Joint Venture will be comprised of only the Company and a single individual, or in some cases a single married couple or an entity owned or controlled by such individual or couple.

The Properties

From time to time, the Company will purchase certain single-family residential properties (each, a "Property") for cash, using its own funds. The Company will then renovate each Property, using its line of credit from a local bank to finance the renovation costs. After the renovation is completed, the Company will rent the Property to a tenant. The Company will then sell the Property to an Investor. Each Investor will acquire fee simple title to, and will be the sole owner of, the particular Property. The purchase price of each Property will be its appraised value, as determined by a licensed, independent appraiser selected by the lender that provides the primary financing for the Property; the purchase price of each Property is expected to be in the range of [REDACTED]

The Company will arrange mortgage financing for [REDACTED] percent ([REDACTED]) of the purchase price of each Property through a local bank (each, a "Bank") selected by the Company.¹ The terms of each such loan will be determined by the applicable Bank, but are expected to be competitive. Neither the Company nor any of its owners has any control over a Bank and neither will receive any type of compensation from a Bank related to the financing of the Property. The remaining [REDACTED] percent ([REDACTED]) of the purchase price will be financed by the Company, which will take a second mortgage on the Property; the Company's second mortgage loan will not bear interest and no payments will be required on that loan until the Property is sold. The Investor will be responsible for all closing costs associated with his or her acquisition of the Property, which are expected to be approximately [REDACTED] for each Property; no real estate

¹ The loan will be a standard commercial loan, whereby the bank will fund eighty percent (80%) of the purchase price.

brokerage commission will be payable in connection with the sale of a Property by the Company to an Investor.

Upon its sale of a Property to the Investor, the Company and the Investor will enter into a joint venture agreement that is hereinafter described. At the same time, the Company will contract with the Manager, on the Investor's behalf, to manage the Property as a rental property until it is later sold. It is generally contemplated that each Property will be held for approximately (b) (7) in order to allow time for reasonable appreciation in value and considerable reduction of the Bank's loan secured by the Property; however, market conditions or other factors may dictate an earlier or later sale.

The Joint Venture

Each joint venture agreement between the Company and an Investor (each, a "Contract") will create a joint venture (each, a "Joint Venture") between the parties with respect to a group of Properties (usually up to (b) (7) Properties) to be acquired by the Investor. The Company contemplates between (b) (7) and (b) (7) new Joint Ventures each year.

Each Contract will authorize the Company to select the individual Properties to be purchased by the applicable Investor. This is done so the Company can fairly allocate Properties, based on location, value, and neighborhood, among the Joint Ventures.

(b) (7)

In accordance with the management contract for each of the Properties, the Manager will collect all rents from the Properties and hold such funds in an escrow account maintained by the Manager. The Manager will pay the mortgage, taxes, and insurance associated with the Properties from the escrow account, except as provided in the preceding paragraph (i.e., in the event of a vacancy). The Manager will also manage the mortgage escrows and record keeping for each Investor with respect to the Properties. The Company and the Manager will make all the decisions related to the management of the Properties, including tenant qualifications and rental terms.

When a Property is sold, after first deducting the costs of the sale (e.g., standard closing costs and real estate brokerage fees), (b) (7) the Company will be reimbursed from the proceeds for all funds advanced by it related to the Property; the remaining net proceeds will be distributed equally to the Investor and the

Company; and any cash surplus from the rental of the Property will be distributed equally to the Investor and the Company (no distributions are anticipated prior to the sale of the Property). In the event the sale proceeds from any Property are not sufficient to pay half of the Company's second mortgage and reimburse the Company for the funds it advanced with respect to the Property, the Investor will have no obligation to pay any of such amounts; that risk will be assumed entirely by the Company.

An Investor may elect to terminate his or her Contract prior to the sale of all of his or her Properties. If such event, the Investor will be obligated to pay off the Company's second mortgage on the Properties, reimburse the Company for all funds advanced in connection with the Properties, and pay a typical management fee equal to [REDACTED] percent ([REDACTED]) of all rent received on account of the Properties.

Legal Analysis

Section 23-42-503(a)(9) of the Act exempts "[a]ny security as to which the commissioner by rule or order finds that registration is not necessary or appropriate in the public interest or for the protection of investors." In addition, Ark. Code Ann. § 23-42-503(b) provides "[t]he commissioner may, from time to time, by his or her rules, and subject to any terms, conditions, and fees which may be prescribed therein, add any class of securities to the securities exempted as provided in this section if the commissioner finds that the enforcement of this chapter with respect to the securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering, but no issue of securities shall be exempted under this section where the aggregate amount at which the issue is offered to the public exceeds one million dollars (\$1,000,000)."

Pursuant to Section 23-42-503(b) of the Act, Rule 503.01(B)(2) of the Rules of the Arkansas Securities Commissioner exempts "small real estate investment oriented securities" that satisfy the requirements of Rule 503.01(B)(2). In our opinion, the transactions described above substantially satisfy those requirements; although there are certain requirements that are not satisfied exactly as specified in Rule 503.01(B)(2); in those instances the proposed transactions actually provide more protection to the Investors than required by Rule 503.01(B)(2). Concerning the requirements of Rule 503.01(B)(2) *[the following paragraphs (a) through (g) correspond to the paragraphs of Rule 503.01(B)(2)]*:

(a) The total purchase price of each Property, and the aggregate purchase price of all Properties involved in each separate Joint Venture, including all fees, commissions, and notes or other evidences of indebtedness, but excluding points and prepaid interest, will not exceed the limitation set forth in Section 23-42-503(b) of the Act (i.e., \$1,000,000);

(b) There will be no more than ten (10) persons as investors in each offering; each Joint Venture will be comprised of only the Company and a single Investor (either a single individual, or in some cases a single married couple or an entity owned or controlled by such individual or couple);

(c) No Investor will purchase less than one-tenth (1/10) ownership in each offering; each Investor will acquire full ownership of each Property involved in that Investor's Joint Venture;

(d) Each Investor will take title to each Property in his or her own name (as the sole owner, or in the case of a married couple, as tenants by the entirety);

(e) The Company will reasonably believe that each Investor is able to bear the economic risk of the investment, and to support that belief the Company will receive from each Investor, prior to entering into a Contract with the Investor or selling a Property to the Investor, a written statement from the Investor that he or she is able to bear the economic risk of the investment;

(f) The Company will reasonably believe that each Investor is purchasing for investment, and to support that belief the Company will receive from each Investor, prior to entering into a Contract with the Investor or selling a Property to the Investor, a written statement from the Investor that he or she is entering in the Contract and purchasing Properties pursuant thereto for investment and not with a view to distribution (other than the ultimate sale by the Investor of the Properties); and

(g) In connection with each Joint Venture, and the sale of each Property with respect thereto, no commission or other remuneration will be paid or given, directly or indirectly, for soliciting any prospective purchaser in Arkansas, except standard real estate brokerage commissions or securities commissions that are reasonable, customary, and competitive in light of the size, type, and location of the Properties, and provided that all such real estate commissions are paid to a registered Arkansas real estate broker or the broker's agent and such commissions will not exceed ten percent (10%) of the total purchase price of the Properties (although the Company will be entitled to receive payment of the purchase price of each Property that it sells to an Investor, and, upon the sale of each Property by an Investor, repayment of the funds advanced by the Company in connection with such Property (or repayment of such funds and a management fee upon the early termination of a Joint Venture by an Investor), as described above, we do not consider such payments to constitute a "commission or other remuneration" for purposes of Rule 503.01(B)(2)).

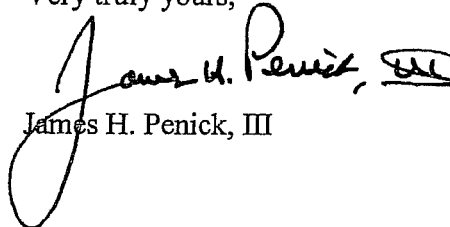
We also believe that requiring registration of the Joint Ventures, and the sale of the Properties in connection therewith, is not in the public interest or necessary for the protection of the Investors for the following reasons: (i) each Investor will be the sole owner of each Property acquired by him or her; (ii) the Company will assume all financial risks associated with the Joint Ventures and the Properties acquired by the owners in connection therewith; (iii) the portion of the purchase price of each Property financed by the Company, as the seller thereof, will be payable only upon the ultimate sale of the Property, or the early termination of the Joint Venture, by the Investor; (iv) the Manager is a real estate brokerage firm, whose principal broker is duly licensed in Arkansas; and (v) the purchase price of each Property will be determined by an independent, licensed appraiser selected by an independent local bank.

Section 23-42-102(1)(B)(i)(a) of the Act exempts from the agent registration requirements of the Act "an individual who represents ... [a]n issuer ... in [e]ffecting transactions in a security exempted by § 23-42-503(a)(1)-(4) or (8) and any other transactions in a security exempted by other subdivisions or subsections of § 23-42-503 which the Securities Commissioner may by rule or order prescribe." As discussed above, we believe that the facts of the proposed transactions merit exclusion. Section 23-42-102(2)(b) of the Act excludes an issuer from the definition of "broker-dealer." Members, officers, or employees of the Company or the Manager may perform certain functions with respect to the Joint Ventures and the Properties, as described generally herein, but will not receive additional compensation specifically for those functions.

We respectfully request that the Department issue a no-action letter to the effect that the transactions described herein will be exempt from registration under the Act, or, in the alternative, that the Department will not take any enforcement action against the Company if the Company enters into the transactions described herein without registration under the Act.

Thank you very much for your assistance. Should you have any questions or require any additional information, please do not hesitate to contact me at (501) 376-4531. Your prompt attention to this request would be greatly appreciated.

Very truly yours,


James H. Penick, III