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BEFORE THE ARKANSAS SECURITIES COMMISSIONER

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ARKANSAS SECURITIES DEPT.

**IN THE MATTER OF:
MONEY IN THE BANK, INC.,
SUN VEST, LLC, AND
JAMES B. BANNING**

**CASE NO S-11-0302
ORDER NO. S-11-0302-13-OR02**

CEASE AND DESIST ORDER

On February 20, 2013, the Staff of the Arkansas Securities Department (“Staff”) filed its Request for a Cease and Desist Order (“Request”), stating that it has information and certain evidence that indicates Money in the Bank, Inc., Sun Vest, LLC, and James B. Banning have violated provisions of the Arkansas Securities Act (“Act”), Ark. Code Ann. § 23-42-101 through § 23-42-509. The Arkansas Securities Commissioner (“Commissioner”) has reviewed the Request, and based upon representations made therein, finds that:

FINDINGS OF FACT

The Staff’s Request asserts the following representations of fact:

1. Money in the Bank, Inc. (“Money in the Bank”) is an Arkansas corporation. Money in the Bank is not registered with the Arkansas Securities Department (“Department”) in any capacity.
2. Sun Vest, LLC (“Sun Vest”) is an Arkansas limited liability corporation. Sun Vest is not registered with the Department in any capacity.
3. James B. Banning (“Banning”) is a resident of Hot Springs, Arkansas. Banning is an organizer and the president of Money in the Bank. Also, Banning is an organizer and the managing member of Sun Vest. Banning is not registered with the Department in any capacity.

4. From Arkansas, Money in the Bank, Sun Vest, and Banning offered and sold securities to numerous residents of other states. In exchange for investing money in their plan or scheme, Money in the Bank, Sun Vest, and Banning provided these investors with promissory or equity participation notes. The investment money was supposed to be used by Money in the Bank, Sun Vest, and Banning to purchase real property, primarily in Arkansas, at tax delinquency sales. Once the real property was purchased and the redemption period passed, the property would be repaired or improved. After adequate repairs or improvements were completed, Money in the Bank, Sun Vest, and Banning would find a third party to rent the property or owner finance the property until the third party could obtain a refinancing mortgage loan. Money in the Bank, Sun Vest, and Banning were to use investor money to purchase the property, manage the repair or improvement of the property, and select the third party renters or purchasers. None of the investors exercised much, if any, control over the purchase and management of the property. In exchange for said management of the property, Money in the Bank, Sun Vest, and Banning were usually to receive 50% of any rents collected and 50% of the profits made from the ultimate sale of the property to third parties. The investors were to receive between 25% and 50% of any rental income or profits from the ultimate sale of the property to third parties. The amount of profit for each property was determined after the investor recovered their initial investment, as well as after the deduction of any costs incurred in obtaining, repairing, improving, and managing the property.

5. On or about April 2009, California Resident 1 through California Resident 3 ("CR1-CR3") purchased \$80,000 in securities from Money in the Bank and Banning. The investment made by CR1-CR3 was represented by the four notes attached to the Request as "Exhibits 1-4." One note was dated April 14, 2009, one note was dated April 17, 2009, and

two of these notes were dated October 15, 2009. All of the notes were signed by Banning as president of Money in the Bank. Exhibit 1 states that CR1-CR3 will receive a security interest in property located in Nuevo, California. Exhibit 2 states that CR1 will get 25% of the gross profits from the sale of property to be determined later. Exhibits 3-4 are titled Equity Participation Loan Notes, which promise that CR1-CR3 will get a percentage of between 25% and 50% of the rents and profits from the sale of specific property. Pursuant to the verbal agreement between CR1-CR3 and Banning, Exhibits 1, 3, and 4 were issued by Banning to replace Exhibit 2.

6. Between April 2008 and February 2010 Money in the Bank and Banning offered and sold securities to six other persons. These other persons were California Residents 4 through 6 (“CR4-CR6”), Georgia Resident 1 (“GR1”), Florida Resident 1 (“FR1”), and Ohio Resident 1 (“OR1”). The promissory notes for these individuals were all signed by Banning as president of Money in the Bank and are attached to the Request as “Exhibits 6-11.” Exhibits 4 through 8 all state that the “collateral yet to be determined” would form the basis of the repayment of the promissory notes.

7. On or about April 2007 Arizona Resident 1 (“AR1”) invested \$50,000 in securities offered and sold by Sun Vest and Banning. AR1 received a promissory note dated April 26, 2007, signed by Banning as managing member for Sun Vest. This promissory note is attached to the Request as “Exhibit 5”.

8. The verbal statements of Money in the Bank and Banning and the notes, attached to the Request as Exhibits 1-4, 11, and 7-8, omitted and failed to provide CR3, CR5, CR6, and GR1 with full and complete disclosure of material facts, including, but not limited to, the risk of low or no rental income; the risk that no profit would be realized from the sale of the

property; the risk that the investor could lose some or all of their investment due to poor business practices; the risk of loss from the destruction of the property through fire, vandalism or natural disaster; the risk of a sharp decline in the property market; the risk that Money in the Bank and Banning would not purchase quality property; the risk that Money in the Bank and Banning would not provide sufficient and enforceable security for the entire amount of the investment; the risk that Money in the Bank and Banning would not properly manage the property and complete the repair or improvement of the property; the risk that Money in the Bank and Banning would not properly determine the correct profits from the sale of the property. In fact, CR5, CR6, and GR1 all told the Staff that Banning focused on the up side or positives of his investment plan or scheme, rather than talking about the risks. If Banning mentioned any risk to these investors, he only used the most general terms.

9. Money in the Bank and Banning made repeated misstatements or misrepresentations about the securities and the investment plan or scheme they offered and sold to investors. GR1 stated to the Staff that Banning led him to believe that his investment would be used to purchase property with residential housing located on it. In fact, GR1 stated that his investment money was used to purchase unimproved property or "bare land." In addition, CR5 and CR6 told the Staff that Banning had led them to believe that they would have some say concerning the property purchased with their investment money. In fact, CR5 and CR6 said they had zero input concerning the purchase and management of any property purchased with their investment money. Further, CR5 stated that she understood that Banning would use her entire investment to purchase property. However, Banning only used approximately 62.5% of her investment money to purchase property. Banning held the

additional money for an extended period without investing it in anything. Finally, Banning refused CR5's request for a return of the balance of her investment money.

10. Banning maintains a website for Money in the Bank with the address of www.moneyinthebank.co. On the home page of this website, Banning briefly describes his investment plan or scheme. On the same page Banning states, "we can provide a more stable and higher rate of return than many typical investments.... We strive for investor satisfaction and offer many low risk options for building sustainable wealth." A copy of the home page is attached to the Request as "Exhibit 12." Banning provides no information on any page of the Money in the Bank website to substantiate his claim of a more stable and higher rate of return for his investment plan or scheme. In addition, Banning fails to discuss the many risks involved in his investment plan or scheme on any page of the Money in the Bank website. Further, nothing about Money in the Bank's or Banning's investment plan or scheme can be considered low risk.

11. Money in the Bank, Sun Vest, and/or Banning did not register or obtain any exemption from registration from the Department or the United States Securities and Exchange Commission for any of the securities they offered and/or sold.

CONCLUSIONS OF LAW

12. The promissory notes signed by Banning on behalf of Money in the Bank and Sun Vest and offered and sold to CR1 through CR6, GR1, FR1, OR1, and AR1 were securities as defined by Ark. Code Ann. § 23-42-102(15)(A)(i).

13. Money in the Bank, Sun Vest, and Banning did not properly register any securities, file for any exemption, or make any notice filing concerning any covered security

with the Department regarding the securities offered and sold from Arkansas to CR1 through CR6, GR1, FR1, OR1, and AR1.

14. The offer and sale of unregistered and non-exempt securities by Money in the Bank, Sun Vest, and Banning to CR1 through CR6, GR1, FR1, OR1, and AR1 constitute multiple violations of Ark. Code Ann. § 23-42-501 by Money in the Bank, Sun Vest, and Banning.

15. The failure of Money in the Bank and Banning to make full and complete disclosure of all the risks involved in the securities and the investment plan or scheme offered and sold by Money in the Bank and Banning to CR3, CR5, CR6, and GR1, as detailed in paragraph number 8, were omissions of material facts. In light of the omissions of these material facts, the statements that Money in the Bank and Banning did make to CR3, CR5, CR6, and GR1 about the securities and the investment plan or scheme were made in violation of Ark. Code Ann. § 23-42-507(2).

16. Money in the Bank and Banning violated Ark. Code Ann. § 23-42-507(2) when they made misstatements and misleading statements to CR5, CR6 and GR1 as detailed in paragraphs number 9 and 10.

17. Pursuant to Ark. Code Ann. § 23-42-209, whenever it appears to the Commissioner, upon sufficient grounds or evidence satisfactory 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 or any rule or order under the Act, the Commissioner may summarily order the person to cease and desist from the act or practice. The conduct, acts, and practices of Money in the Bank, Sun Vest, and Banning threaten immediate and irreparable public harm.

Based on the Findings of Fact and Conclusions of Law, this Cease and Order is in the public interest and is appropriate pursuant to Ark. Code Ann. § 23-42-209.

ORDER

IT IS THEREFORE ORDERED that Money in the Bank, Sun Vest, and Banning immediately CEASE AND DESIST from offering and/or selling securities in Arkansas until they are properly registered under the Arkansas Securities Act with the Department. The Staff is hereby ordered to continue its investigation concerning any possible fraud based violations of the Act.

A hearing on this Order shall be held if requested by Money in the Bank, Sun Vest, and/or Banning in writing within thirty (30) days of the date of the entry of this Order, or if otherwise ordered by the Commissioner. Such request should be addressed to the Commissioner and submitted to the following address:

Arkansas Securities Commissioner
201 East Markham, Suite 300
Little Rock, Arkansas 72201

If no hearing is requested and none is ordered by the Commissioner, this Order will remain in effect until it is modified or vacated by the Commissioner. See Ark. Code Ann. § 23-42-209(a)(2).



A. Heath Abshure
Arkansas Securities Commissioner

02/21/2013
Date