

June 11, 1998

Donnie Rutledge

LISLE Law Firm, P.C.

1458 Plaza Place, Suite 101

Springdale, AR 72764-5273

Re: Mark VIII Corporation

No. 98-007

Dear Mr. Rutledge:

The Department has received your letter, dated April 20, 1998, regarding the website of Mark VIII Corporation (the "Company") and James D. Moore, President. In your letter, you request that the Department concur in your interpretation that neither Mr. Moore nor the Company will be required to register as an investment adviser pursuant to the Arkansas Securities Act (the "Act") and that the staff of the Department recommend to the Commissioner that no enforcement action be taken.. A brief summary of the facts surrounding this transaction, as more fully described in your letter, is set forth below.

The website involves monitoring and commenting on various corporations that deal with the Year 2000 computer phenomenon. The stocks of these corporations will be updated on a daily basis. Comments on these companies and their stocks will include the history of the stock and what the stock might do in the future. Mr. Moore will not give any advice to the website's subscribers on an individual basis.

The Act defines "investment adviser" to mean any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who for compensation, issues or promulgates analyses or reports concerning securities. However, the definition of investment adviser excludes a broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them.

Mr. Moore is currently registered as an agent with Texas Capital Securities, Inc., a registered broker-dealer. If a client of Mr. Moore subscribes to the website in order to take advantage of the advice provided, then Mr. Moore may receive "special compensation" in violation of the exclusion from the definition of investment adviser. Accordingly, your request for a no-action position is denied.

If you have any questions, please contact me 501-324-9260.

Sincerely,

Ann McDougal  
Assistant Commissioner