BEFORE THE ARKANSAS SECURITIES COMMISSIONER
CASE NO. S-26-0030
ORDER NO. S-25-0030-26-OR02

IN THE MATTER OF:
JOHN MARK DOWNING
f/k/a JOHN MARK ESEPPI **RESPONDENT**

CEASE AND DESIST ORDER

On September 17, 2026, the staff of the Arkansas Securities Department ("Staff") filed its Request for a Cease and Desist Order ("Request") stating that it had received certain information and had in its possession certain evidence indicating that John Mark Downing f/k/a John Mark Eseppi ("Downing"), has violated the Arkansas Securities Act ("Act"), codified at Ark. Code Ann. §§ 23-42-101 through 23-42-509, and the Rules of the Arkansas Securities Commissioner ("Rules") promulgated under the Act and codified at 23 CAR §§ 300-101 through 300-609. The Arkansas Securities Commissioner ("Commissioner") has reviewed the Request, and based on the representations made therein, finds as follows:

FINDINGS OF FACT

The Request contains the following representations of fact:

1. Downing is a resident of Crawford County, Arkansas. On or around August 2010, Downing changed his name from John Mark Eseppi to John Mark Downing.

2. Between 1995 and 1997, Downing was registered with the Arkansas Securities Department ("Department") as a broker-dealer agent (CRD# 1912842) with the former firm A.G. Edwards & Sons, Inc. (CRD# 4) until he was permitted to resign. Downing has not been registered in the securities industry in any capacity since April 4, 1997.

3. On February 12, 2004, Downing was indicted in Texas for engaging in fraud in the offer and sale of securities in two causes of action, F04-00189 and F04-00197. He later pled guilty

to one felony count of a false statement in connection with the sale of securities in Texas. *See Texas v. Eseppi*, F-04-00189 (194th Jud. Dist. Ct., Apr. 4, 2006).

4. On November 30, 2004, Downing pled guilty to three counts of first-degree larceny in Connecticut (Dkt No. LLI-CR04-0577603-T) for a Ponzi-like investment scheme. He was sentenced to serve eight years of a 16-year prison sentence. In 2008, the sentence was modified and suspended after he served four years in prison and five years on probation on each of the three counts. While on probation in 2008, Downing was charged with violating the terms of his probation based on alleged attempts to solicit investors to invest with him. On January 29, 2010, the court ordered his probation to continue without any changes.

5. In 2018, the Connecticut Banking Commissioner entered an Order to Cease and Desist, Order to Make Restitution, Notice of Intent to Fine, and Notice of Right to Hearing (Dkt No. CRF-18-8420-S) against Downing. In that order, it was alleged that Downing persuaded an individual to give him access to their TD Ameritrade account, where he would manage the individual's account. Downing allegedly told that individual that he would not incur any losses, but if he did then he would refund the account. Downing allegedly incurred $23,400.00 in trading losses, which the investor was unsuccessful in recovering. The order alleged Downing acted as investment adviser without being registered and engaged in fraudulent activity.

Financial Services

6. Around 2018 and 2019, Downing began to offer financial services, such as tax and accounting services, to residents of Northwest Arkansas. Downing is not a certified public accountant in Arkansas. Downing would also offer investment services despite his lack of securities-industry registration. According to some of the investors identified herein, Downing would tout his financial background as a broker and tell investors that with his experience he would make them money.

7. Downing offered investment services to most of his investors after meeting them at a local bar and grill in Fayetteville, Arkansas. The investors explained to the Staff that Downing would start a conversation with them and then befriend them based on shared experiences. Their conversations would then shift to investing and investment opportunities that Downing touted as desirable. At that point, Downing would offer to make investments on the investors' behalf and take 20% of the profits the investments made in exchange for his services.

Arkansas Resident 1 ("AR-1")

8. AR-1 met Downing at a Fayetteville, Arkansas bar and grill, and they started talking. The two exchanged numbers and started a friendship.

9. During their interactions, the two began to talk about trading and investing. Downing told AR-1 that he could invest on AR-1's behalf, manage the investments, and provide his services in exchange for 20% of AR-1's profits. Downing also guaranteed against any loss of investment. In a text message to AR-1, Downing said,

> And as I promised, from the beginning, if this goes wrong I'm writing you a check for $5,300. If we win, I get 20% of the profit, if we don't you get 100% of your money back. I've got your back brother, don't worry about that! This is a free ride that should tell you how confident I am!

10. In October 2019, AR-1 gave Downing approximately $5,300.00 to invest and manage.

11. After receiving those funds, Downing used the money for his own personal expenses. Downing deposited the funds into his personal checking account and then made purchases at convenience stores, grocery stores, restaurants, liquor stores, and for food delivery. He also made peer-to-peer transactions[1] using the funds.

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1 Peer-to-Peer transactions are a way to electronically transfer money to another person using a website or mobile app.

12. Downing did not transfer the funds to a brokerage account or investment firm to purchase any securities with AR-1's funds.

13. In March 2020, Downing sent AR-1 a peer-to-peer transaction payment for $1,000.00 and described it as "Repay." Additionally, Downing wrote AR-1 a check for $7,500.00 with a memo of "refund." According to AR-1, they were unable to deposit the check because of insufficient funds.

Out of State Investor 1 ("OSI-1")

14. OSI-1 was in Fayetteville, Arkansas, for a weekend trip and met Downing at the same Fayetteville bar and grill where the other Arkansas investors did. Downing and OSI-1 exchanged numbers to keep in touch.

15. After a few weeks of communicating, Downing told OSI-1 that he had an investment opportunity and that if OSI-1 gave him money to invest, they would split the profits. Downing acknowledged that type of arrangement in a peer-to-peer transaction with OSI-1. In the notes/memo line of a transaction with OSI-1, Downing wrote "Dude, this thing is going to be $100. I'm entitled to 20% of the profit. This isn't an [ATM]. I guarantee against l [sic]," insinuating a guarantee against loss.

16. OSI-1 told the Staff that the money they gave to Downing was for him to invest and manage on their behalf. They gave Downing at least $775.00. They stated that some of their subsequent investments with Downing were for the purchase of futures and buying stocks around the time companies were about to go public, all of which were recommended by Downing and going to be purchased and managed by Downing.

17. After receiving those funds, Downing used the money for his own personal expenses. Downing deposited the funds into his personal checking account and then used funds for his own personal expenses.

18. OSI-1 received alleged profits on a few occasions, but they did not recoup their entire investment from Downing. OSI-1 stated that when they sought the return of their funds, Downing was unable to pay them back and, according to OSI-1, made many excuses to avoid returning OSI-1's investment and profits.

Arkansas Resident 2 ("AR-2")

19. AR-2 met Downing at the same bar and grill as other investors. Downing and AR-2 talked and discovered that they had similar shared military experiences. As they spoke, Downing told AR-2 that he knew about good investment opportunities. Downing discussed that if AR-2 gave him money, he would invest it on AR-2's behalf, take a portion of the profit he made, and guarantee a complete return of AR-2's money. While discussing these investment opportunities and what Downing could do, AR-2 believed that Downing was a stockbroker or professional investment person.

20. AR-2 decided to provide Downing with approximately $2,500.00 for Downing to invest on their behalf.

21. After providing Downing with that money, AR-2 began to ask questions about their investment, such as what the money was invested in and how it was performing. According to AR-2, Downing never provided that information. Downing would only tell AR-2 that they were "covered"—meaning Downing would not let AR-2 lose any of the money they invested.

22. Downing did not use AR-2's money for investing. The funds were used by Downing for his personal and living expenses. The funds were used for purchases at restaurants,

liquor stores, and grocery stores. Additionally, Downing took cash withdrawals from the funds and used them to make peer-to-peer transactions.

23. Downing did pay some money back to AR-2. That money, however, was money from other investors. It was not from the profits of investing AR-2 money.

Arkansas Investor 3 ("AR-3")

24. AR-3 became an investor with Downing after another investor told AR-3 that Downing was managing money well for them. At the other investor's urging, AR-3 met with Downing and the other investor for lunch to discuss investing with Downing. At that lunch meeting, Downing talked about investing for retirement and investing in general. Moreover, Downing told AR-3 that every dollar invested with and managed by him would be protected against losses and that in exchange for making AR-3 profits, Downing would take 20% for his services.

25. After that meeting, AR-3 decided to invest $5,000.00 with Downing. The next time AR-3 spoke with Downing, they were told that the $5,000 investment had doubled. That statement and other similar ones over the course of a year, led AR-3 to give Downing approximately $14,920.00 for investing. In total, AR-3 gave Downing $19,920.00 for investing.

26. AR-3 told the Staff that Downing alleged to them that their investment was worth approximately $60,000.00 to $70,000.00. Based on the representation that their money had grown significantly, AR-3 started to request some of the alleged profits that Downing had made.

27. After a few months of receiving monthly payments, the checks to AR-3 from Downing started to bounce for insufficient funds. When AR-3 asked Downing about the checks bouncing, Downing told AR-3 that "we got hit," meaning that the investment was gone and there were no longer any funds.

28. The $19,920.00 that AR-3 gave to Downing to invest and manage was not used for investing. The funds were primarily used for Downing's personal and living expenses. The funds were used for purchases at restaurants, liquor stores, and grocery stores. Additionally, Downing took cash withdrawals from the funds and used the funds to make peer-to-peer transactions.

29. AR-3 did receive funds back from Downing, but those funds were the funds of another investor. They were not funds generated from trading or investing.

Out-of-State Investor Two ("OSI-2")

30. In early 2020, Downing met an out-of-state investor ("OSI-2") online. OSI-2 was new to investing and was seeking information about investing from online message boards and met Downing that way. Over the course of two years, Downing and OSI-2 built a friendship where they would talk about investing and investment opportunities. According to OSI-2, Downing led them to believe that he was a hedge fund manager or financial adviser.

31. In summer 2022, Downing offered OSI-2 a place in his "investing program." In this investing program, OSI-2 would give Downing $10,000.00 to manage and grow on OSI-1's behalf, and Downing would provide them with $1,000.00 a month as a profit.

32. OSI-2 and Downing entered into a promissory note on or around June 28, 2022.

33. Around July 2022, OSI-2 wired $10,000.00 to Downing for the investing program.

34. Downing told OSI-2 that he was going to invest their money and make it grow, but he did not. Instead, the money was used for his own personal expenses. He used the money to make purchases at Walmart, Amazon, and Target. He also made ATM and bank withdrawals of the funds.

35. On July 1, 2022, Downing sent OSI-2 a peer-to-peer payment of $1,500.00 and the noted reason for the payment was "July payment." That money, however, was not money earned

from Downing's investing efforts. It was a repayment with the money OSI-2 originally gave Downing.

36. In August 2022, OSI-2 decided they no longer wanted to be part of Downing's investing program, so they sought the return of their money. Downing would not return the money. OSI-2 attempted to deposit a check Downing provided to them for "insurance." According to OSI-2, the "insurance" was to ensure that OSI-2 would be paid back in full if something happened to Downing before the promissory note became due. When OSI-2 attempted to deposit the check, Downing stopped payment on the check. OSI-2 has not received their investment back.

Arkansas Investor Four ("AR-4") and Arkansas Investor Five ("AR-5")

37. In approximately 2018, AR-4 met Downing at the same restaurant where the other investors met Downing in Fayetteville, Arkansas. AR-4 and Downing became friends, and eventually the two started to talk about retirement and investing. AR-4 mentioned to Downing that they were concerned about their retirement because they did not have a lot of money saved for retirement because they were self-employed. Downing told AR-4 that he could help AR-4 invest aggressively and help them reach their retirement goals.

38. Over the course of a few years, AR-4 gave Downing cash and checks for different investment opportunities. The opportunities were portrayed as part of a partnership where AR-4, along with other alleged investors, would give Downing funds to invest, and Downing would take 20% of the profits. Downing was allegedly buying stock options, stocks, gold and silver coins, and cryptocurrency on AR-4's behalf. Downing also offered AR-4 profits from oil contracts.

39. AR-4 gave Downing at least $32,075.00 over the course of a few years to invest and manage on their behalf.

40. Further, Downing offered AR-5, AR-4's partner, the opportunity to buy Atlas Air shares. AR-5 gave Downing $30,000.00 purchase Atlas Air shares.

41. AR-4's and AR-5's funds were primarily used for Downing's personal and living expenses. The funds were used for purchases at restaurants, liquor stores, and grocery stores. At one point, AR-4 wrote Downing a check with a memo line containing "oil cont." Downing transferred some of those funds to a brokerage platform and purchased shares in United States Oil Fund ("USO"), an exchange-traded fund. Additionally, Downing took cash withdrawals from the funds and used them to make peer-to-peer transactions. Further, some of AR-4's and AR-5's funds were used to pay back other investors.

Arkansas Investors Six ("AR-6"), Seven ("AR-7"), Eight ("AR-8"), and Nine ("AR-9")

42. Downing also received funds from three individuals (AR-6, AR-7, and AR-8) that notated on their checks and peer-to-peer transactions that the funds were to be used for purchasing stocks.

43. One Arkansas investor, AR-9, spoke with the Staff and alleged that they gave Downing cash to purchase stocks and gold for them.

44. The funds from AR-6, AR-7, and AR-8, were used for Downing's personal and living expenses.

Downing Partners, LLC Master Limited Partnership Program

Out-of-State Investor Three ("OSI-3") and Out-of-State Investor 4 ("OSI-4)

45. In 2022, an out of state couple ("OSI-3" and "OSI-4") reached out to American Media Periscope, a digital online news and digital broadcast network, to set up a time to review their finances with Wealth Coach John Michael Chambers to create recommendations for them based on his "GOOTS Model."

46. Chambers's GOOTS Model was an acronym for "get out of the system." In Chambers's GOOTS Model, people would hold their assets five different ways: in cash, precious metals, annuities, a two-year income-producing note, and real estate. With regard to OSI-3 and OSI-4, Chambers recommended that they liquidate the assets in a retirement account and purchase gold and silver, buy an annuity, and invest in an 8% income-producing note from a company called Valentine Beauty Products LLC[2] ("Valentine Beauty").

47. In June 2022, OSI-3 and OSI-4 invested approximately $250,000.00 in two income-producing notes from Valentine Beauty. Around June 2024, OSI-3 and OSI-4 and Valentine Beauty began to negotiate a note extension to extend the time period to June 2026.

48. Around September 2024, Downing, on behalf of Valentine Beauty, reached out to OSI-3 and OSI-4 about writing a modification of the note that would extend the maturity date. Downing wrote the note modification for Valentine Beauty and OSI-3 and OSI-4 and facilitated getting it executed by the parties. The note modification was completed in late 2024.

49. While Downing facilitated the note extension modification, he solicited and sold OSI-3 and OSI-4 a fractional unit in his master limited partnership ("MLP"), known as Downing Partners, LLC Master Limited Partnership Program ("Downing Partners").

50. Downing Partners is not registered with the Arkansas Secretary of State's Office as a partnership or LLC.

51. In a phone conversation with OSI-3, Downing explained the investment.

> This is a simple partnership that I put together and invited [OSI-3 and OSI 4] to put a little bit of money into it. They can use a little bit of monthly income and that's all there is to it. The money goes through me, and I go as a conduit, as a pass through, and put money into master limited partnerships

[2] Valentine Beauty is organized as a domestic LLC in North Carolina and Delaware. Valentine Beauty filed a Form D – Notice of Exempt Offering of Securities with the United States Securities and Exchange Commission on July 26, 2022. In the filing, Valentine Beauty claimed a registration exemption under Rule 506(b) of Regulation D under the Securities Act of 1933.

> that I have hand selected that have very secure and safe criteria and make sure my customers are doing well. I have gone out of my way to make sure that they're insulated by having a minimum of eight of these entities in a package. So that if one does happen to go under, we don't get burned. I'm doing everything I can to maintain a good rate of return for these folks and in the meantime, maintain their security and safety.

52. As part of Downing's solicitation of Downing Partners, he provided OSI-3 and OSI-4 with a partnership agreement and a document describing the partnership ("MLP Explanatory"). The MLP Explanatory contains a page that lists the "MLP's Points of Interest" in the partnership. Those points of interest include the following:

1. Current REAL/Simple Interest rate 12%
2. Payable Monthly
3. Minimum First 10Yrs. non-Taxable income
4. $25,000 initial Partnership Purchase ($2,500 Subsequent)
5. 3% Add On Bonus for New Partnership Purchases (Temp)
6. 6 Months Postdated Checks Sent in Advance for Your Security a[n]d Convenience
7. 90 Day Hold to Capture Bonus in Full

The remaining parts of the document are a white paper written by a law firm explaining the history and legal aspects of an MLP.[3]

53. The MLP Explanatory was portrayed as Downing's proprietary intellectual information.

54. In the agreement executed by the parties, Downing was identified as the General Partner/Managing Director and OSI-3 and OSI-4 were identified as the Limited Partners.

55. In that agreement, it stated that "the Managing Partner has agreed to provide a 12% [APR], distribution paid monthly." Further, the agreement stated, "[t]he Managing [D]irector shall have discretion to temporarily pursue such business(es) as deemed necessary and appropriate to maintain the greatest return for the Partnership."

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3 *See* TIM FEEN, MASTER LIMITED PARTNERSHIPS (MLPS): A GENERAL PRIMER (2014), https://www.lw.com/admin/Upload/Documents/Latham-Master-Limited-Partnership-Primer-2014.pdf.

56. Based on Downing's statements and representations, OSI-3 and OSI-4 believed that the money they gave Downing was an investment into Downing's MLP, which they believed was involved in the oil and gas industry and oil and gas pipelines.

57. OSI-3 and OSI-4 believed that they would receive a 12% annual rate of return based on what Downing had told them and what the documentation stated. Moreover, Downing sent OSI-3 and OSI-4 pre-dated monthly interest payments for December 2024, January 2025, and February 2025.

58. OSI-3 and OSI-4 told the Staff they had no control over the enterprise and no role in the management of the enterprise. Further, they stated that they did not know much about the specifics of the MLP, only that it was involved in the oil and gas industry, and that Downing was the only person involved.

59. Shortly after investing in the partnership, OSI-3 and OSI-4 no longer wanted to be invested and sought the return of their money. They did not receive the funds back.

60. After receiving the couple's $10,000.00 investment, Downing transferred $7,500.00 to a personal brokerage account. In that account, Downing began to trade equity options. The funds were not used for the purpose of supporting Downing Partners. The remaining funds were used for Downing's personal and living expenses.

APPLICABLE LAW

61. It is unlawful for a person to transact business in this state as an investment adviser without first being registered under the Act. Ark. Code Ann. § 23-42-301(c).

62. Person, as defined under Ark. Code Ann. § 23-42-102(13), in pertinent part, includes an individual, an LLC, a corporation, and an unincorporated organization.

63. To "transact business" in this state as used in Ark. Code Ann. § 23-42-301(a) and (c) and as defined in the Rules, 23 CAR § 300-102(b)(45),

> [i]ncludes representing a person or entity as being able to effect transactions in securities for the account of others or for his or her own account regardless of whether any transactions have actually been effected, or being able to serve as an investment adviser regardless of whether any investment advice or service has actually been rendered.

64. An investment adviser includes "any person that, 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 . . . ." Ark. Code Ann. § 23-42-102(9)(A).

65. An investment adviser also includes "a financial planner or other person that, as an integral component of other financially related services, provides or holds himself, herself, or itself out as providing investment advice to others for compensation and as part of a business." Ark. Code Ann. § 23-42-102(9)(B).

66. It is unlawful for a person to transact business in this state as a broker-dealer unless registered under the Act. Ark. Code Ann. § 23-42-301(a).

67. Ark. Code Ann. § 23-42-102(3)(A) states that a broker-dealer is "a person engaged in the business of effecting transactions in securities for the account of others or for his or her own account."

68. The Rules define "engaged in the business of effecting transactions in securities" as including "any person who holds himself or herself out as being able to effect transactions in securities for the accounts of others or for his or her own account regardless of whether any transactions have actually been effected." 23 CAR § 300-102(b)(18).

69. It is unlawful for any person to offer or sell any security in this state unless: (1) it is registered under the Act, (2) exempt from registration under the Act, or (3) it is a covered security. Ark. Code Ann. § 23-42-501.

70. The Act was promulgated to protect investors; therefore, the definition of what constitutes a security under the Act is broad and flexible. *Carder v Burrow*, 327 Ark. 545, 549, 940 S.W.2d 429, 431 (1997) (citing *Schultz v. Rector-Phillips-Morse, Inc.*, 261 Ark. 769, 552 S.W.2d 4, 8 (1977)). Whether a transaction constitutes a securities transaction under the Act is not dependent upon labels and titles, but dependent upon all relevant facts. *Schultz v. Rector-Phillips-Morse, Inc.*, 261 Ark. 769, 777, 552 S.W.2d 4, 8 (1977).

71. The Act defines "security" to include investment contract. Ark. Code Ann. § 23-42-102(17)(A)(xi).

72. A security in the form of an investment contract exists when a person gives money towards the risk capital of a venture with an expectation of benefits but lacks direct control over the investment or policy decisions of the venture. *Smith v. State*, 266 Ark. 861, 865, 587 S.W.2d 50, 52 (Ark. App. 1979). That definition is substantially the same as the tests used by federal courts. *Grand Prairie Savings and Loan Association*, 298 Ark. 542, 545, 769 S.W.2d 20, 22 (Ark. 1989) (citing *Union National Bank v. Farmer's Bank*, 786 F.2d 881(8th Cir. 1986)); *see Securities and Exchange Commission v. W.J. Howey Co.*, 328 U.S. 293, 298–99 (1946) ("[A]n investment contract . . . means a contract, transaction or scheme whereby a person invests his money in the common enterprise and is led to expect profits solely from the efforts of the promoter or third party . . . ."). The Arkansas Supreme Court in *Waters v. Millsap* clarified that the *Smith* factors should not be exclusively relied upon in evaluating whether a transaction is a security; instead, "the all-inclusive nature of the *Schultz* test is better suited to the purposes of the Act." 2015 Ark.

272, *13, 465 S.W.3d 851, 858 (Ark. 2015). Thus, the evaluation of whether a transaction is a securities transaction and falls under the Act's jurisdiction is "determine[d] in each instance from a review of all of the facts." *Schultz*, 261 Ark. 769 at 777 (Ark. 1977).

73. An issuer is defined, in pertinent part, as "every person who issues or proposes to issue any security." Ark. Code Ann. § 23-42-102(10).

74. It is unlawful for any investment adviser to employ any device, scheme, or artifice to defraud the other person; to engage in any act, practice, or course of business which operates as a fraud or deceit upon the other person; or to make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading. Ark. Code Ann. § 23-42-307(a).

75. It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, to employ any device, scheme, or artifice to defraud; to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. Ark. Code Ann. § 23-42-507.

CONCLUSIONS OF LAW

76. Downing acted as an investment adviser to AR1, OSI-1, AR-2, AR-3, OSI-2 and AR-4 when he offered and took funds to invest the funds and manage investments and offered that he would only take a small percentage of the gains for himself as a commission for his management services. Moreover, when he held himself out as being able to provide investment advice as part of other financial services, Downing acted as an investment adviser under the Act. By transacting business as an investment adviser, holding himself out as an investment adviser as part of other

financial services, and not being registered as an investment adviser, Downing violated Ark. Code Ann. § 23-42-301(c).

77. Downing acted as a broker-dealer to AR1, OSI-1, AR-2, AR-3, OSI-2, AR-4, AR-5, AR-6, AR-7, AR-8, and AR-9 when he offered and portrayed himself as being able to purchase and sell securities for each of their behalf and took the investors' funds to do so. By transacting business in this state as a broker-dealer without being registered, Downing violated Ark. Code Ann. § 23-42-301(a).

78. Under the framework of the definition of a security and investment contract, the agreement between OSI-3 and OSI-4 and Downing was a security in the form of an investment contract. The $10,000.00 the couple wired to Downing after signing the partnership agreement was an investment of money. That money was to be used in the risk capital of the venture. Its purpose was to fund and support the MLP. This is illustrated by Downing's explanation of the investment to the couple when he said, "the money goes through me, and I go as a conduit, as a pass through, and put money into master limited partnerships that I have hand selected that have very secure and safe criteria and make sure my customers are doing well." Additionally, the terms of the partnership agreement illustrate that Downing Partners was a business, specifically when the agreement stated that Downing as the managing director would have discretion to pursue business opportunities for the partnership. Moreover, in a typical MLP, limited partners, which the couple is, provide capital for the entity's operations.

79. The couple believed that by participating in the MLP with their investment of $10,000.00 they would receive a monthly income. The expectation is reflected in the agreement, which states that the couple would receive a "12% [APR], distribution paid monthly." Moreover, the couple received three months of predated checks of $1,000.00 after entering into the agreement.

80. OSI-3 and OSI-4 did not have any control over the partnership or how their funds were used. MLPs are run by general or managing partners who provide the necessary services for operation and are responsible for managing day-to-day operations. Downing Partners had Downing to manage the partnership and handle the managerial decisions. Not only is that arrangement reflected in the signed agreement, Downing stated that he hand selects MLPs to invest in. OSI-3 and OSI-4 explained their understanding of their investment to the Staff in a similar manner. The couple told the Staff that to their knowledge, Downing was the sole person involved in the MLP. To them, it was a passive income opportunity whereby they would receive monthly income from their investments and Downing's work with oil pipelines.

81. The transaction between Downing and OSI-3 and OSI-4 is a security under the Act, and because Downing sold a security, he is an issuer under the Act. Ark. Code Ann. § 23-42-102(10).

82. Furthermore, a security must be registered or exempt from registration. Downing's MLP was not registered with the Department, nor was an exemption filed with the Department. Therefore, Downing violated the Act when transacting with OSI-3 and OSI-4 to sell them a unit share in the partnership, which was an unregistered security. Ark. Code Ann. § 23-42-501.

83. Downing created the appearance of being a financial services professional. He told investors that he was a stockbroker, had managed hedge funds, and had years of Wall Street experience. AR-4 recounted to the Staff that Downing gave them a business card for offering his financial services. Furthermore, Downing was allegedly providing accounting and tax services to some of the investors, and he is not licensed with the Arkansas State Board of Public Accountancy. Downing portraying himself as able to provide a wide range of financial services without proper licensure, including investment advisory and broker-dealer activities, was the creation of a scheme

to defraud individuals. By creating and then utilizing this scheme to defraud individuals into giving him money for financial services, including investment adviser and broker-dealer services, Downing violated Ark. Code Ann. § 23-42-507(1) and Ark. Code Ann. § 23-42-307(a)(1).

84. Downing's MLP was not a legitimate business entity. It is not registered with the Arkansas Secretary of State's Office. Any purported partnership was created by Downing to give his scheme the appearance of legitimacy. Not only did Downing create a fake entity, but he also took a publicly available whitepaper about MLPs and added two pages—a title page and a page outlining the purported benefits of his scheme—and portrayed it as his own intellectual property and as part of the disclosure documents for the investment in his scheme. The use of those documents and Downing alleging he had a real business entity were integral parts of Downing's deliberate and dishonest plan to get people to invest with him. Those actions violated Ark. Code Ann. § 23-42-507(1) and Ark. Code Ann. § 23-42-307(a)(1).

85. Downing told his investors that he had years of Wall Street experience and managed investment funds. Downing, however, omitted that he was no longer licensed to provide broker-dealer agent services in Arkansas or in any state. Furthermore, Downing did not share with them he was not registered as an investment adviser or investment adviser representative and could not provide investment advisory services. By failing to fully inform the investors of his professional background, Downing violated Ark. Code Ann. § 23-42-507(2) and Ark. Code Ann. § 23-42-307(a)(3).

86. Downing did not inform his investors that he previously went by another name, John Mark Eseppi. Moreover, he did not inform investors of the prior securities related legal actions brought against him by Texas and Connecticut. Failing to inform the investors of his prior

securities related legal actions was an omission of material facts and a violation of Ark. Code Ann. § 23-42-507(2) and Ark. Code Ann. § 23-42-307(3).

87. In both of Downing's schemes, he used investors' funds for his personal and living expenses. Further, he used some investors' funds to pay other investors. By using the funds for himself and not using them how he agreed to with the investors, Downing engaged in an act and practice that was fraudulent and deceitful. These actions violate Ark. Code Ann. § 23-42-507(3) and Ark. Code Ann. § 23-42-307(a)(2).

ORDER

IT IS THEREFORE ORDERED that the Respondent, John Mark Downing, immediately CEASE AND DESIST from the following activity and from all other activity in violation of the Act and Rules:

1. Downing shall immediately cease and desist from acting as an unregistered broker-dealer in violation of Ark. Code Ann. § 23-42-301(a).

2. Downing shall immediately cease and desist from acting as an unregistered investment adviser in violation of Ark. Code Ann. § 23-42-301(c).

3. Downing shall immediately cease and desist from engaging in the sale of unregistered securities in violation of Ark. Code Ann. § 23-42-501.

4. Downing shall immediately cease and desist from engaging in fraudulent conduct while acting as an investment adviser in violation of Ark. Code Ann. § 23-42-307.

5. Downing shall immediately cease and desist from engaging in fraudulent conduct in connection with the offer and sale of securities in violation of Ark. Code Ann. § 23-42-507.

A hearing on this Order shall be held if requested by the Respondent in writing within thirty (30) days 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
1 Commerce Way, Suite 402
Little Rock, Arkansas 72202

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.

Ark. Code Ann. § 23-42-209(a)(2)(B).

WITNESS MY HAND this the 17th day of September, 2026.

SUSANNAH T. MARSHALL
ARKANSAS SECURITIES COMMISSIONER

By: J. Campbell McLaurin
J. Campbell McLaurin
Deputy Commissioner
Arkansas Securities Department
1 Commerce Way, Suite 402
Little Rock, Arkansas 72202