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Texas State Securities Board

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IN THE MATTER OF
FLIPPINGYOURMONEY.COM
AND BRIAN KEITH MCLAIN

§
§ Order No. ENF-14-CDO-1734
§

TO: FlippingYourMoney.com
740 Bella Vita, Port Neches, Texas 77651
3320 Hwy 365, Nederland, Texas 77627

Brian Keith McLain dba Vacuum City
740 Bella Vita, Port Neches, Texas 77651
3320 Hwy 365, Nederland, Texas 77627

EMERGENCY CEASE AND DESIST ORDER

This is your OFFICIAL NOTICE of the issuance by the Securities Commissioner of the State of Texas ("**Securities Commissioner**") of an EMERGENCY CEASE AND DESIST ORDER pursuant to Section 23-2 of The Securities Act, TEX. REV. CIV. STAT. ANN. arts. 581-1 to 581-43 (West 2010 & Supp. 2013) (the "**Texas Securities Act**").

The Staff of the Enforcement Division of the Texas State Securities Board ("**the Securities Board**") has presented evidence sufficient for the Securities Commissioner to find that:

FINDINGS OF FACT

1. FlippingYourMoney.com ("**Respondent FlippingYourMoney**") purports to be an investment company. It maintains last known addresses at 740 Bella Vita, Port Neches, Texas 77651 and at 3320 Hwy 365, Nederland, Texas 77627.
2. Brian Keith McLain dba Vacuum City ("**Respondent McLain**") is a principal of Respondent FlippingYourMoney. He maintains last known addresses at 740 Bella Vita, Port Neches, Texas 77651 and at 3320 Hwy 365, Nederland, Texas 77627.

3. Respondents are offering promissory notes in Texas through webpages accessible by the general public at www.flippingyourmoney.com and www.flippingyourmoney.net.
4. Respondents are representing that:
 - a. Respondent FlippingYourMoney is "an investment company that works with clients throughout the world."
 - b. The promissory notes are "investment[s] for the common man."
 - c. The promissory notes yield profits that are "generally higher than any bank, savings account, or stock investment."
 - d. Principal and returns are guaranteed and that "[e]verything [investors] do with us is risk-free."
5. Respondents are describing the promissory notes as follows:
 - a. Investors may purchase promissory notes that have a fixed term of 30, 60 or 90 days and that pay 10% interest over the term of the investment.
 - b. The investments are "business agreements" that Respondents "back with a guaranteed promissory note against [their] current assets, which consist of real estate holdings and retail businesses."
 - c. Respondents will use money tendered by investors to purchase robotic vacuums, vacuum cleaner supplies, clothing and other inventory. Respondents will sell the inventory at their retail stores for a profit, and the profit will be used to pay returns to investors.
 - d. Investors will be entitled to the stated returns regardless of whether the inventory is sold for a profit.
6. Respondents are providing investors with sample promissory notes that contain the following terms:
 - a. They provide that investors are entitled to "the repayment of [p]rincipal plus 10% interest per month on the initial investment plus compounded interest on principal and interest combined unless the interest is withdrawn monthly."
 - b. They contain an example of the payment structure. They provide that an investment of \$50,000 will entitle investors to "\$50,000 [p]rincipal plus \$5,000 interest for the month, then the next month interest would be

accrued on \$55,000, equaling \$5,500 in interest. Then the new total would be \$60,500.”

- c. They are unsecured, insofar as they are not collateralized, secured or guaranteed by real estate holdings, retail businesses or other assets.
7. The promissory notes have not been registered by qualification, notification or coordination, and no permit has been granted for their sale in Texas.
 8. Rule 506 of Regulation D under the Securities Act of 1933 authorizes an issuer to engage in general solicitation in offering and selling covered securities without first complying with state securities registration requirements, provided that, among other things, all purchasers of the securities are accredited investors and the issuer takes reasonable steps to verify that such purchasers are accredited investors.
 9. Respondents are offering the promissory notes to purchasers who are not accredited investors, and Respondents are not taking reasonable steps to verify that all purchasers are accredited investors.
 10. In connection with the offer of the promissory notes, Respondents are intentionally failing to disclose material facts, including, but not limited to, the following:
 - a. Respondent McLain's business experience and qualifications.
 - b. An accounting of assets, liabilities and other financial information that reflect Respondents' ability to repay principal and pay interest to investors.
 - c. The identity and financial information relating to real estate holdings, retail businesses or other assets used to “back” or “guarantee” the offering made by Respondents.
 - d. On or about July 16, 2012, Chase Bank, USA, N.A., filed a civil complaint against Respondent McLain in Case No. 1:12-cv-00353, in the United States District Court for the Eastern District of Texas, Beaumont Division. The complaint alleged that Respondent McLain was issued a business credit card, borrowed money on the account and failed to pay the balance of \$507,313.10. Thereafter:
 - i. On or about June 3, 2013, Respondent McLain and Chase Bank executed a settlement agreement. The settlement agreement required Respondent McLain to make an initial payment and monthly payments to the plaintiff.

- ii. On or about September 5, 2013, Chase Bank filed a Motion to Enforce the Settlement Agreement, claiming that Respondent McLain failed to remit the initial payment and the monthly payments.
 - iii. On or about October 15, 2013, the United States District Court for the Eastern District of Texas, Beaumont Division, granted the Motion to Enforce the Settlement Agreement and entered an Agreed Judgment previously executed by Chase Bank and Respondent McLain.
 - iv. The Agreed Judgment ordered Respondent McLain to pay \$507,313.10, attorney's fees and expenses of \$26,840.27 and post-judgment interest.
 - v. The judgment has been outstanding at all times material hereto.
- e. On or about November 16, 2012, Bienvenu Investments 1, LLC, filed a lawsuit against Respondent McLain and M. McLain Investments, LLC, in Bienvenu Investments 1, LLC v. M. McLain Investments, LLC, et al., docket number C-20126195-A, in the 15th Judicial District Court of Lafayette Parish, Louisiana. The lawsuit alleged that the defendants leased a commercial building from the plaintiff and failed to tender timely payments. On January 22, 2013, the Court ordered judgment against Respondent McLain and M. McLain Investments, LLC, for \$90,600.00 plus interest at a rate of eighteen percent plus \$5,000 in attorney's fees. The judgment has been outstanding at all times material hereto.

11. Respondents are making an offer containing statements that are materially misleading or otherwise likely to deceive the public, to-wit:

- a. Respondents are representing that Respondent FlippingYourMoney is an investment company, which is materially misleading or otherwise likely to deceive the public because:
 - i. Respondent FlippingYourMoney has not made any filing with The Texas Secretary of State authorizing it to do business in Texas.
 - ii. Respondent FlippingYourMoney is not registered as a dealer, agent, investment adviser or investment adviser representative with the Texas State Securities Board, has not submitted a notice filing as an investment adviser or investment adviser representative with the Texas State Securities Board, and has not filed Form D with the Texas State Securities Board.

- b. Respondents are offering investments through an internet webpage that indicates that the investments are backed by "guaranteed" promissory notes "against" current assets which consist of real estate holdings and retail businesses, which is materially misleading or otherwise likely to deceive the public because sample promissory notes do not provide that the instruments are secured or guaranteed by any assets.
- c. Respondents are representing that they will pay commissions to persons who refer investors, which is materially misleading or otherwise likely to deceive the public because Respondents are not disclosing that the Texas Securities Act requires registration of a person who engages in any act by which a sale is made unless the transaction is exempt under the Securities Act or regulations promulgated thereunder.

CONCLUSIONS OF LAW

1. The above-described investments are "securities" as that term is defined by Section 4.A of the Texas Securities Act.
2. Respondents are violating Section 7 of the Texas Securities Act by offering securities for sale in Texas at a time when the securities are not registered with the Securities Commissioner.
3. Respondents are engaging in fraud in connection with the offer for sale of securities.
4. Respondents are making an offer containing a statement that is materially misleading or otherwise likely to deceive the public.
5. Respondents' conduct, acts, and practices threaten immediate and irreparable public harm.
6. The foregoing violations constitute basis for the issuance of an Emergency Cease and Desist Order pursuant to Section 23-2 of the Texas Securities Act.

ORDER

1. It is therefore ORDERED that Respondents immediately CEASE AND DESIST from offering for sale any security in Texas until the security is registered with the Securities Commissioner or is offered for sale pursuant to an exemption from registration under the Texas Securities Act.
2. It is further ORDERED that Respondents immediately CEASE AND DESIST from engaging in any fraud in connection with the offer for sale of any security in Texas.

3. It is further ORDERED that Respondents immediately CEASE AND DESIST from offering securities in Texas through an offer containing a statement that is materially misleading or otherwise likely to deceive the public.

NOTICE

Pursuant to Section 23-2 of the Texas Securities Act, you may request a hearing before the 31st day after the date you were served with this Order. The request for a hearing must be in writing, directed to the Securities Commissioner, and state the grounds for the request to set aside or modify the Order. Failure to request a hearing will result in the Order becoming final and non-appealable.

You are advised under Section 29.D of the Texas Securities Act that any knowing violation of an order issued by the Securities Commissioner under the authority of Section 23-2 of the Texas Securities Act is a criminal offense punishable by a fine of not more than \$5,000, or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

SIGNED AND ENTERED by the Securities Commissioner this 10th day of June, 2014.


JOHN MORGAN
Securities Commissioner