



Via Overnight Mail and Email

June 15, 2023

Money Avenue, LLC
33 South Wood Avenue
Iselin, NJ 08830
info@moneyave.com

Timothy Wesley Peters
Principal
14 Mayfair Court
Monroe, NJ 08831-2054
tim@moneyave.com

RE: Notification to Cease and Desist Continuing Violations of
Section 18(a)(4) of the Federal Deposit Insurance Act

Mr. Peters:

This letter follows your response to the Federal Deposit Insurance Corporation's (FDIC) advisory letter dated March 30, 2023 (March 2023 Letter). The FDIC has reason to believe that Money Avenue, LLC (Money Avenue) has made false and misleading statements on its website and other media, directly or by implication, concerning the deposit insurance status of Money Avenue, in violation of section 18(a)(4) of the Federal Deposit Insurance Act (Section 18(a)(4)), 12 U.S.C. § 1828(a)(4), and its implementing regulation, 12 C.F.R. Part 328, Subpart B ("Part 328"). We hereby demand that you cease and desist and take immediate corrective action to address these false and misleading statements, as more fully set forth below.

Section 18(a)(4) and Part 328 prohibit any person from representing that an uninsured product is insured or from knowingly misrepresenting the extent and manner in which a deposit liability or obligation is insured under the FDI Act, whether by making affirmative statements or by omitting material information. Pursuant to Part 328, no person may knowingly make false or misleading representations about deposit insurance including the extent or manner of deposit insurance provided. 12 C.F.R. 328.102(b). A statement regarding deposit insurance would violate this prohibition if the statement omitted material information that would be necessary to prevent a reasonable consumer from being misled. See 12 C.F.R. 328.102(b). The FDIC has the authority to enforce these provisions against any person or entity.

As you know, on April 13, 2023, you responded to the March 2023 Letter by electronic mail (April 2023 email) informing FDIC Counsel Rhonda Campbell that Money Avenue is a fintech banking app on another entity's platform. You further stated that Money Avenue is in partnership with an FDIC-insured bank. Finally, you attached what appears to be a master services agreement by and between Money

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Avenue and the third-party entity platform. Based on the information submitted, however, it is unclear as to the relationship and arrangement between Money Avenue and the FDIC-insured bank that you identified in the letter.

As an initial matter, your April 2023 email reply is wholly unresponsive and insufficient, as it failed to respond to any of the violations detailed in the March 2023 Letter. Significantly, Money Avenue is **not** an insured depository institution but certain statements by Money Avenue, including the use of the FDIC logo, may lead or may have led a reasonable consumer to believe that Money Avenue is FDIC-insured and provides FDIC deposit insurance directly to consumers. As of this letter, Money Avenue's video advertisements to consumers continue to falsely identify itself as "the FDIC-insured financial company."¹ In addition, as of this letter, Money Avenue's media outlets continue to blatantly and prominently use the FDIC logo on its website <https://bankmoneyave.com/>, YouTube, and potentially other media. Furthermore, Money Avenue represents that consumers' funds are FDIC-insured, but does not publicly identify the insured depository institution ("IDI") in which the customer funds are purportedly placed. Of note, in your April 2023 email, you claim to have a partner relationship with an IDI, but your consumer-facing materials do not make such disclosures. Not publicly identifying the IDI where consumers' funds may be placed could result in a reasonable consumer being unable to understand the extent or manner of deposit insurance provided. See 12 C.F.R. 328.102(b)(5). Providing that information to the FDIC alone does not absolve Money Avenue's responsibility to adhere to provisions under Section 18(a)(4) and Part 328.

Based on the foregoing, and your failure to adequately or meaningfully respond to the March 2023 Letter, it appears that the statements identified in the March 2023 Letter regarding deposit insurance violate Section 18(a)(4) and Part 328, and that Money Avenue continues to make these false representations despite being notified by the FDIC. Consequently, the FDIC hereby demands the following corrective actions:

1. You shall immediately remove any and all statements, representations, or references that suggest in any way, expressly or implicitly, that: (1) Money Avenue is FDIC-insured; or (2) FDIC insurance provides protection or coverage in any manner or extent other than as set forth in the FDI Act. Such statements shall be removed from the Money Avenue website (including any pop-ups, hyperlinks, or chatbots), and from any other social media platforms (including both corporate accounts and personal accounts of individuals associated with Money Avenue), as well as any other websites, mobile apps, online outlets, and any other form (electronic or hard copy) of marketing, advertising or other consumer-facing publications or materials of any kind that you control.
2. You shall cease and desist from making any statements, representations, or references, directly or through your owners, officers, directors, or employees that suggest in any way, explicitly or implicitly, that: (1) Money Avenue is FDIC-insured; or (2) FDIC insurance provides protection or coverage in any manner or extent other than as set forth in the FDI Act. Furthermore, to address the misrepresentations that Money Avenue is itself an FDIC-insured entity, you should identify the IDI with which you have a relationship for the placement of deposits in close

¹ <https://youtu.be/NR8U5B001zQ>

proximity to any statement regarding deposit insurance, including the misrepresentations identified above.

3. Within five (5) business days from the receipt of this letter, you shall provide written confirmation [REDACTED] that Money Avenue has fully complied with the requests set forth above and in the March 2023 Letter. Such confirmation shall detail all efforts that Money Avenue took to comply with this letter and the March 2023 Letter, including all steps undertaken by Money Avenue to identify and locate all such misrepresentations, and the scope of Money Avenue's removal of the misrepresentations from its website, YouTube account, and any other marketing, advertising, and consumer-facing materials and communications.

If you believe that any statement you have made related to FDIC deposit insurance is true and accurate, please provide a full listing of all such statements regarding deposit insurance on any medium or platform, together with information and documentation supporting the accuracy of all such statements, not later than five (5) business days from the date of this correspondence.

Failure to promptly remedy the misrepresentations may result in the FDIC taking appropriate action. Enforcement tools available to the FDIC include the authority to issue cease and desist orders and assess civil money penalties for violations of Section 18(a)(4) and Part 328. 12 U.S.C. § 1828(a)(4)(E); See 12 C.F.R. 328.104-107.

This letter constitutes an advisory letter within the meaning of 12 C.F.R. § 328.106. Accordingly, pursuant to 12 C.F.R. § 328.102(b)(6), continuing and/or future false or misleading deposit insurance representations may be deemed to have been knowingly made.

Finally, this letter is intended to address only potential violations of Section 18(a)(4) and Part 328. Your response to this matter may or may not affect our conclusions as to those violations, and does not preclude the FDIC from taking any further action, as appropriate, with respect to the foregoing or any other violations of laws or regulations. Moreover, nothing in this matter bars or estops any other federal or state agency from investigating, or pursuing actions for, violations of other laws and regulations.

Should you have any questions about the contents of this letter, please contact [REDACTED] at [REDACTED]@fdic.gov.

Sincerely,

/s/
Seth P. Rosebrock
Assistant General Counsel, Enforcement Section
Federal Deposit Insurance Corporation