

# BANKING BUD

April 2024



Cultivate compliance  
for optimal growth

## MN SIGNALS RECORD EXPUNGEMENT

Low-level cannabis convictions could be expunged in the coming weeks

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## CANNACHIX

Join the conversation!  
We host a monthly chat to discuss all things cannabis

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## EL CAPITAN SCANDAL

What happened with El Capitan and what can we learn from this unfortunate scandal?

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# Record Expungement



With over 30 states now having laws on the books decriminalizing marijuana in some aspect, many states are also starting to realize how unfair this situation becomes for people convicted of minor marijuana possession charges—what was illegal just a couple years ago is now perfectly legal within their own state. Starting around 2018, several states started the process of pardoning those with possession charges, and following that, we have seen expungements happening at the state level as well. In 2022, President Biden pardoned those with simple possession charges, for federal or DC offenses, marking a historic moment for the country.

Minnesota has become the latest state taking a step towards a fairer justice system with its new law expunging past marijuana convictions. This legislation, enacted alongside the legalization of recreational cannabis in 2023, aims to address the disproportionate impact past marijuana arrests have had on minority communities. The law offers automatic expungement for certain low-level cannabis offenses, estimated to impact around 66,000 Minnesotans. These records will be cleared from the Bureau of Criminal Apprehension (BCA) system, making them inaccessible to most background checks.

For more serious offenses, a newly formed Cannabis Expungement Board will review cases on a case-by-case basis. This board has the authority to expunge or re-sentence convictions involving possession or sale of

cannabis. An estimated 230,000 Minnesotans could be eligible for review by this board.

Expungement offers Minnesotans with past marijuana convictions a fresh start. It removes a barrier to employment, housing, and educational opportunities. This policy shift aims to create a more just and equitable society, particularly for communities disproportionately impacted by past cannabis prohibition laws.

While expungement is underway, it's not instantaneous. Technical changes to the BCA system are expected to be completed by May 2024, allowing for automatic expungement to begin. The Cannabis Expungement Board is still being established, and the process for reviewing more serious offenses will take time. Minnesota's expungement plan is a significant step towards restorative justice. By clearing past marijuana convictions, the state is offering its residents a second chance and working to create a more equitable future.





One of our goals here at the ACBA is to get people involved in the conversation. We aim to be an unbiased, educational voice in the cannabis banking sphere but we can only effectively fulfill our role with YOUR help.

Whether you are a bud-tender, banker, branch manager, or just interested in hearing what's happening, this is your chance to get involved! CannaChix was created as a way to get people talking and break down the barriers between banks and CRBs. So grab your friends or coworkers and join us so we can hear what's affecting the industry today.

CannaChix meets every third Thursday of the month at 3pm EST via zoom. To get access to the link, just send an email to [service@theacba.org](mailto:service@theacba.org) and let us know you'd like to join CannaChix!

Our next meeting is Thursday, April 18th. We hope to see you there!

## Preparing for 4/20: Specialty Banking & Cannabis Programs Unpacked



**Peter Su**  
Director of Specialty Banking at  
Hanover Bank

April 18th  
1pm ET / 12pm CT

**Register Today!**



**Kristin Parker**  
Vice President of Compliance  
and Operations at RiskScout



### FI Memberships

Annual Membership for banks and credit unions that already bank cannabis or are looking for answers. Membership provides access to ALL employees!

**Membership includes:**

- Webinars and Certifications
- Industry Advisory Council (Fis ONLY)
- Ask the Expert
- "High 5" Briefings
- And MUCH more!

**\$5,000 for 12 full months**



### Individual Memberships

Annual Membership for individual professionals from banks, CUs, consulting firms, and vendors seeking their own self-paced educational programs into Cannabis Banking.

**Membership includes:**

- Webinars
- Certifications
- Ask the Expert
- "High 5" Briefings
- And MUCH more!

**\$995 for 12 full months**

The El Capitan scandal has sent shockwaves through the cannabis industry raising concerns, about security and transparency. The controversy surrounding allegations of fraud and mismanagement at El Capitan Advisors, a cash management firm serving cannabis businesses has tarnished the sectors reputation. Despite the industry's growth and challenges with regulations and banking access this scandal has highlighted the vulnerabilities faced by cannabis businesses in managing their finances

## **Background: Cannabis Industry Challenges with Banking**

Even as cannabis legalization spreads across states businesses in the industry continue to grapple with access to banking services due to federal restrictions on marijuana. This regulatory barrier forces many cannabis companies to deal in cash transactions posing risks related to security and financial management. In response to this gap in services specialized firms like El Capitan Advisors emerged to address the needs of cannabis enterprises by providing cash handling solutions tailored to their operations.

## **El Capitan: A Trusted Ally Goes Astray**

Since its establishment in 2019 El Capitan Advisors had gained a reputation as a partner, for managing cash flows within the cannabis market.

The company under the leadership of CEO Andrew Nash provided services such, as transporting cash in vehicles, secure storage in vaults handling tax payments and managing other financial transactions. El Capitan earned a reputation for its efficient services attracting a client base consisting of players in the cannabis industry.

However, towards the end of 2023 cracks started to show in the company's facade. Planet 13 Holdings, a dispensary operator grew suspicious of discrepancies in their accounts managed by El Capitan. Upon investigation Planet 13 discovered evidence indicating missing funds and fraudulent bank statements that concealed the theft. Consequently Planet 13 acted against El Capitan by filing a lawsuit accusing them of misappropriating millions of dollars.

With more and more recreational dispensaries popping up around the country, learning how to bank cannabis-related businesses is a MUST.

Check out our webinars and certifications on safely banking CRBs at [www.theacba.org](http://www.theacba.org).

In a turn of events court ordered seizures of El Capitan’s bank accounts uncovered funds, from different clients sparking concerns about the company’s fundamental accounting practices and its ability to protect client assets. Witness accounts and subsequent investigations painted a picture of alleged mismanagement, misrepresentation and potential fraud committed by El Capitan executives.

### **Impact and Aftermath**

The El Capitan controversy has rippled through the cannabis industry leading to consequences.

- **Financial Setbacks:** Cannabis enterprises that depended on El Capitan’s services have faced setbacks putting their operations and growth plans at risk.
- **Distrust;** The scandal has severely shaken trust in the cannabis cash management sector making it even harder for legitimate businesses to secure banking options.
- **Increased Regulatory Scrutiny;** The situation is expected to draw attention potentially resulting in stricter financial handling regulations for cannabis businesses and adding complexity to an already challenging environment.

- **Damage, to Reputation;** The cannabis industry’s reputation has been tarnished by the scandal reinforcing perceptions regarding transparency issues and potential illicit activities.

### **Lessons Learned and Push for Change, Reflecting on the El Capitan Incident**

The recent scandal involving El Capitan has shed light on the importance of transparency and accountability, in the cannabis sector. It has prompted a call for caution in choosing partners emphasizing thorough due diligence and exploring alternative financial management options.

Companies handling cannabis funds are urged to prioritize transparency by ensuring reporting, independent audits, and easy access to account information for their clients. Moreover, the incident has highlighted the need for banking reform at the level to provide cannabis businesses with access to financial services reducing reliance on risky cash management strategies.

While the El Capitan scandal represents a period for the cannabis industry it also offers an opportunity to learn from errors enforce controls and advocate for systemic changes that promote a more secure and transparent financial environment, for cannabis enterprises.

# Upcoming Events



## Cannabis Banking Audits: Best Practices and Red Flags

Friday, April 19  
1-2 pm EST

Unlock the secrets to a robust and compliant cannabis banking framework with this webinar. Designed specifically for cannabis bankers, this insightful session delves into the intricacies of conducting effective audits in the dynamic and evolving cannabis industry.

## The Q2 Cannabis Bankers' Quarterly: Structuring Lending Deals and Mitigating Risk

Tuesday, May 7  
3-4 pm EST

Join us for this FREE, quarterly webinar with our friends at Shield Compliance as we discuss cannabis rescheduling and whether or not this is the right way forward for total cannabis legalization.



## BSA Compliance in Cannabis Banking: Fundamentals and Updates

Thursday, May 16  
1-2 pm EST

Join us to master the fundamentals and stay updated on the Bank Secrecy Act (BSA) compliance in the cannabis banking sector. This comprehensive session will provide a thorough understanding of the essential BSA principles and shed light on recent updates shaping compliance requirements.

Need more content? We offer memberships that give you and your organization access to all of our webinars!

We also offer certifications to ensure you are kept up to date in this ever-changing industry.