



IDAHO
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

August 25, 2011

Re: Money Transmitter Licensing Inquiry

Dear M

It was a pleasure to speak with you recently regarding your written submission on behalf of

As noted in our conversation, we believe that the proposed business model constitutes money transmission as provided for in the Idaho Money Transmitters Act. As we also discussed, the Department will consider taking a no action enforcement position as to licensing if it is in the public interest to do so all risk to the payment originator can be eliminated.

If you have any questions or need to discuss this matter further, please feel free to contact me directly at (208) 332-8080.

Sincerely,

James A. Burns
Investigations Chief

SECURITIES BUREAU
800 Park Blvd., Suite 200, Boise, ID 83712
Mail To: P.O. Box 83720, Boise ID 83720-0031
Phone: (208) 332-8004 Fax: (208) 332-8099
<http://finance.idaho.gov>

PROTECTING THE INTEGRITY OF IDAHO FINANCIAL MARKETS

RECEIVED

2011 AUG 17 PM 2: 26

STATE OF IDAHO
DEPT OF FINANCE

Idaho Department of Finance
ATTN: Gavin M. Gee, Director
800 Park Blvd., Suite 200
Boise, Idaho 83712

Re: Money transmitter licensing interpretation request –

Dear Director Gee,

is an insurance agency founded in 2008 and licensed in your state for the sale of pet health insurance to consumers. is a wholly-owned subsidiary of . The underwriter for is – a Company.

Recently, has decided to expand into a non-insurance business named with the intention of assisting veterinarians in offering pet wellness programs to their clients. will be registering as a dba in your state. would like to confirm that it does not need a money transmitter or other license to operate its proposed business model, as described below.

will contract with veterinary clinics to provide them with proprietary software to facilitate their creation, selling and management of annual wellness service contracts to their clients. The veterinary clinic will create its own annual wellness plan(s) to be sold to its clients via the software and website, which are designed to provide veterinary services to the veterinary clinic's clients' pets. The veterinary clinic's client will purchase the annual wellness plan from his or her veterinary clinic online via the website.

Once a veterinary client purchases an annual wellness contract, pursuant to its contract with the veterinary clinic, will collect monthly payments from the veterinary client on behalf of their veterinary clinic. All funds collected by from veterinary clients, on behalf of their veterinary clinic, will be via credit card or debit card only. the vendor used by for payment collection, will then deposit collected funds into a account. will then remit collected funds to the veterinary clinic via EFT or check if requested, less a small fee collected to cover costs. Only the veterinary clinic will be liable to for this fee; no veterinary client is responsible for payment of this fee or any other of the veterinary clinic's fees owed to . The veterinary clinic has access to a secure web portal to review the funds collected status from each client. The client also has access to a secure web portal to view their payment history and manage their personal information.

This processing of veterinary clients' wellness contract payments is a convenience will provide to the veterinary clinics, and is only a small piece of the total services will offer to veterinary clinics related to their wellness programs.

The attached graph demonstrates the proposed business model.

will not be "receiving money for transmission" in the traditional sense. will be acting only on behalf of veterinary clinics, pursuant to its contracts with those veterinary clinics. will not be acting on behalf of the veterinary clinic's clients. processing of payments from veterinary clients to veterinary clinics will be ancillary to its primary business, which is assisting veterinary clinics in offering wellness programs to their clients. As described above, will provide proprietary software to facilitate veterinary clinics' creation, selling and management of annual wellness service contracts to the veterinary clinic's clients. The website cannot be used to pay for anything other than a wellness plan offered by a veterinary clinic. Payments cannot be made to any other parties, or even to a veterinary clinic for anything other than the wellness plan.

As you may know, the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury, recently revised its regulations implementing the Bank Secrecy Act regarding money services businesses (MSBs). (See *Amendment to the Bank Secrecy Act Regulations – Definitions and Other Regulations Relating to Money Services Businesses*, published on July 21, 2011 at 76 Fed. Reg. 43585.)

The definition of MSB includes money transmitters, who are "persons that provide money transmission services" as well as "any other person engaged in the transfer of funds." However, FinCEN now excludes from the definition of money transmitter a person that only "Acts as a payment processor to facilitate the purchase of, or payment of a bill for, a good or service through a clearance and settlement system by agreement with the creditor or seller." (31 CFR 1010.100(ff)(5)(ii)(B).)

FinCEN explains this change as follows:

Although payment processors may provide a money transmission service, the service is ancillary to their primary business of coordinating payments either from a debtor to a creditor or, if operating at the point of sale, from a purchaser to a merchant.[] A payment processor could not provide the primary service of coordination without providing ancillary money transmission services, but because the money transmission services are ancillary, and because they are generally low risk, it is appropriate for entities engaged in this activity to be excluded from the definition. Note, however, that this limitation only applies to transmission services by payment processors on behalf of the creditor or seller and not the debtor or buyer. ... (76 Fed. Reg. 43593.)

Confidential Treatment Requested

As explained above, processing of payments from veterinary clients to veterinary clinics will be a small ancillary part of its primary business, which is assisting veterinary clinics in offering wellness programs to their clients, pursuant to contracts between and the veterinary clinics.

We understand that FinCEN's regulations impose different requirements than the licensing laws in your state. However, given these recent changes, we want to confirm that does not need a money transmitter or other license to operate in your state.

Please do not hesitate to contact me if you have any questions.

Compliance Manager

Emailed on 8/15/11 to finance@finance.idaho.gov



IDAHO
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

May 12, 2011

Re: Money Transmission Licensing Inquiry

Dear M

In connection with your inquiry regarding the need to license as a money transmitter in Idaho, we provide the following.

As noted in your submissions to the Department, acts as an agent of for the purpose of marketing and distributing reloadable stored value cards issued by Funds associated with the stored value cards are obligations of and has represented that "as the issuer of the Cards, has all legal responsibility in the State of Idaho for satisfying the money transmission obligations owed to holders of the Cards...The Bank's responsibilities and obligations include, without limitation, the Bank's assumption of all risk of loss that Cardholders may suffer as a result of the failure of to transmit funds representing Cardholders' monetary value loads to the Bank." has further represented that there "will not be any third party 'load' locations or agents" and that cash or check loads will only be accomplished at an owned location.

Based solely upon the facts presented in your communications, the Department has determined to take a no enforcement action position as it pertains to the licensing provisions of the Idaho Money Transmitters Act in this instance. This determination is based specifically on our understanding that financial obligation to the customer originates at the time the funds are presented at

Please be advised, that should the facts of your described business activities be different than characterized above, or change at a later date, then the Department's conclusion may well be different than stated herein. It should be noted that the Department did not reach any conclusion regarding the activities of another agent of since may be operating additional programs or other web portal services not associated with.

Should you have any questions or need additional clarification, please feel free to contact the undersigned at (208) 332-8080.

Sincerely,


James A. Burns
Investigations Chief

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PROTECTING THE INTEGRITY OF IDAHO FINANCIAL MARKETS

Jim Burns

From:
Sent: Wednesday, May 11, 2011 1:38 PM
To: Jim Burns
Subject:
Attachments: Prepaid Card Program Fund Flow Related Bank Accounts.pdf

Jim

This email is in response to your email about "online loads" to the " " card and access and control over the bank accounts. Online loads to the " " card are limited to Greendot loads. Where the customer purchases a "greendot" card from a retailer, activates the card, and then goes on line to transfer funds from the "Greendot" card to the " " card. The funds flow directly to settlement accounts and ultimately the custodial account where cardholder funds reside, all such accounts being under " " name.

The " " accounting team does have the ability to view some of the " " accounts as well as move funds between the various " " accounts set up to support this program. The key accounts are:

- Gateway account – where " " funds land daily
- ACH receiving account – where funds from check 21 check loads and direct deposit land
- Association settlement account – where we place funds daily to settle with MasterCard
- Custodial account – the main account that holds the cardholder funds and that is balanced daily

The " " accounting team has access to move funds from the custodial account out to the settlement account for daily settlement with MasterCard and the ability to move funds from the Gateway account into the Custodial account for loads coming in from prior business day. " " cannot move funds from any " " account to any account outside of INB.

I have attached a chart that reflects the flow of funds between the parties and identifies the various accounts and ownership.

Please review and let me know if you have any further questions.

Deputy General Counsel
" " affiliates

Jim Burns

From:
Sent: Wednesday, April 27, 2011 3:27 PM
To: Jim Burns
Subject: Request for "no Enforcement Action" Letter
Attachments: Exemption Request MT.pdf; Third-Party Agency Agmt FINAL -EXECUTION COPY 10-21-2010.pdf; Description of Products Services.docx

Dear Mr. Burns

The purpose of this email is to follow-up on a conversation you and I had in early April regarding plans to market and distribute a prepaid debit card issued by , a national bank located in Texas, through retail financial centers operating in Idaho. requests that the Securities Bureau issue a "No enforcement Action" letter from the Securities Bureau with respect to its obligation to obtain a Money Transmitters License under the Idaho Money Transmitters Act, Idaho Code, 26-2901, et seq., as it relates to the activities related to prepaid debit card program.

As you may recall from our conversation, is an agent of for delivery of the prepaid debit card services. The prepaid debit card will be marketed in Idaho as the " " debit card. takes full responsibility for all consumer transactions facilitated by associated with the " ' debit card and fully indemnifies the consumer from any potential loss. has sent a letter to you, a copy of which is attached below, confirming the relationship between the parties and obligations to consumers .

In your consideration of request, I have attached the following documents for your review:

1. Business Description of the " " prepaid debit card program proposed to be marketed and distributed by to consumers in Idaho.
2. Third Party Agency Agreement between and ;
3. Copy of letter from Executive Vice President, dated April 27, 2011 to Jim Burns, Investigations Chief, Securities Bureau, Department of Finance, State of Idaho.

Please review at your earliest convenience and let me know if you have any further questions or need any additional documents. I appreciate your consideration of request.

Deputy General Counsel
affiliates

April 27, 2011

Mr. Jim Burns
Investigations Chief
Securities Bureau
Department of Finance
State of Idaho
800 Park Blvd., Suite 200
Boise, ID, 83712

RE: Request for "No Enforcement Letter" relating to Money Transmitter
Licensing

Dear Mr. Burns:

On behalf of _____ (the "Bank"), I submit to you this letter to enable
_____ to be exempt from licensing under the Idaho
Money Transmitters Act, Idaho Code Sec. 26-2901, et seq.

The Bank issues prepaid transaction cards ("Cards") that are marketed and distributed
by _____. The Bank has appointed _____ as its agent with respect to all
actions _____ takes in connection with the Cards. While _____ assists the
Bank through the marketing and distribution of the Cards, the Bank, as the issuer of the
Cards, has all legal responsibility in the State of Idaho for satisfying the money
transmission obligations owed to holders of the Cards (the "Cardholders") upon receipt
by _____ of the Cardholders' monetary load values. The Bank's responsibilities
and obligations include, without limitation, the Bank's assumption of all risk of loss that
Cardholders may suffer as a result of the failure of _____ to transmit funds
representing Cardholders' monetary value loads to the Bank.

Please do not hesitate to contact me at _____ if you
have any questions or need any additional information regarding this matter.

Sincerely,

Executive Vice President / Director of



IDAHO
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

May 2, 2011

Re: Interpretive Request

Dear M

Your letter to Michael Larsen dated January 13, 2010 has been reviewed and discussed in detail. In connection with your inquiry, we provide the following.

Background - As noted in your letter, the credit counseling industry and more specifically, credit counseling agencies, "are, in fact, receiving money from the consumers, retaining it in trust account and then transmitting it to creditors for the purpose of paying the consumers' bills, invoices or accounts." Your letter further seeks to determine if a credit counseling agency that engages in the preceding activity is required to be licensed under the Idaho Money Transmitters Act¹.

Applicability of Idaho Money Transmitters Act (IMTA) -- The IMTA defines "money transmission" as the sale or issuance of payment instruments or engaging in the business of receiving money for transmission or the business of transmitting money...by any and all means including, but not limited to, payment instrument, wire, facsimile or electronic transfer (Idaho Code §26-2901).

Based on the description of activities included in your letter and when considering the language of the IMTA, we agree that the activity in question constitutes money transmission as defined in Idaho law. As such, the question remains whether a money transmitter license is needed to engage in the aforementioned activities.

Issue of Licensure -- Idaho Code §26-2904 provides various exemptions from the provisions of the IMTA. However, there does not appear to be any exemption from licensure available under Idaho Code §26-2904 for credit counseling agencies regardless of whether these agencies have another license issued through the Department of Finance as credit counselors under the Idaho Collection Agency Act.

¹ As you are no doubt are aware, the Idaho Collection Agency Act also requires the licensure of anyone that would "engage or offer to engage in this state in the business of receiving money from debtors for application or payment to...any creditor or creditors of such debtor" (Idaho Code §26-2223).

SECURITIES BUREAU
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<http://finance.idaho.gov>

Based on the above criteria, it does appear that credit counseling agencies that receive money from consumers and then transmit it to creditors are money transmitter as defined in the IMTA.

Other Considerations – While the Department appreciates the complications that this opinion may present for industry, we do not see a ready solution that would eliminate the need for a money transmitter’s license. In this regard, there are perhaps three avenues that credit counseling agencies might explore.

First, the IMTA provides for an exemption from licensure for “authorized representatives of a licensee, acting within the scope of authority conferred by a written contract conforming to the requirements of...” the IMTA. This is exactly how “pay stops” such as gas stations can accept and forward customer funds for further payment to utility companies and others. It might be possible for credit counseling agencies to associate with a licensed money transmitter for the purpose transmitting the funds at the time of creditor payment.

Secondly, credit counseling agencies could obtain their own license as a money transmitter. While there certainly are licensing and bonding requirements under the IMTA, the process is not excessively difficult.

Finally, we are aware of some alternate statutory approaches used in other states. Apparently, some state laws provide discretion to the State Administrator to ascertain if other regulations or statutes govern the activity sufficiently to waive licensure requirements. Other states have preserved an exemption for certain classes of operators when the activity in question is solely incidental to their regular business. These types of solutions would require a statutory change and would need the support of both industry and its regulators.

Conclusion - As noted earlier, we believe that the fund transfer activities of certain credit counseling agencies constitute money transmission and are therefore regulated under the Idaho Money Transmitters Act. At present, we believe that licensure or appointment as a money transmitter agent would be the most expedient way to solve this problem for current credit counselors that engage in the enumerated activities.

Should you have any questions or comments, or wish to discuss this matter in greater detail, please feel free to contact me.

Sincerely,


James A. Burns
Investigations Chief



IDAHO
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

April 18, 2011

Re: Money Transmitter Licensing Inquiry

Dear M

I have reviewed your letter of April 12, 2011 and provide the following.

The Idaho Money Transmitters Act defines money transmission as the business of receiving money for transmission or the business of transmitting money....by any and all means...including electronic transfer. Further, the Department has determined that internet only providers and others that transmit funds on behalf of Idaho residents or entities are money transmitters under the Act regardless of whether a physical location is present within the state of Idaho.

As you might conclude from the preceding statement, we are of the view that
will need to obtain a money transmitter's license in Idaho if you continue to transmit funds on behalf of Idaho residents or entities. We are also concerned that you may have operated in violation of the licensing provisions of the Idaho Money Transmitters Act by having customers in our state that wire funds through your firm.

Should you have any questions or need additional information, please feel free to contact the undersigned at (208) 332-8080 or at jburns@finance.idaho.gov. Licensing and other materials can be found at <http://finance.idaho.gov>. If you would prefer, we can mail you a licensing package.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Burns".

James A. Burns
Investigations Chief

SECURITIES BUREAU
800 Park Blvd., Suite 200, Boise, ID 83712
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Phone: (208) 332-8004 Fax: (208) 332-8099
<http://finance.idaho.gov>

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2011 APR 15 AM 11:44

STATE OF IDAHO
DEPT. OF FINANCE

April 12, 2011

Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, ID 8371

Re: Licensing Requirements

Greetings:

, is a money transmitter located and licensed in the State of Washington. It is regulated by and follows Washington and FinCEN regulations and guidelines. It does not maintain any agents or employees in your state. It does, however, have customers in your state that wire money through

If were to do business in your State, would we need to obtain a State license?

Please contact me with the requirements, if any, of licensing in your State. I am happy to give you any other information about our business that may be helpful in your determination. Thank you for your assistance in this matter.