

Coleen Hodson

From: Jim Burns
Sent: Thursday, January 28, 2016 1:45 PM
To:
Cc: Mike Larsen
Subject: Idaho Money Transmitter Requirements

Dear :

We thank you for your patience as we have revisited the need for credit counselors to also license under the Idaho Money Transmitters Act.

At the present time, we have determined that credit counselors that are licensed in Idaho and operating in full compliance with the Idaho Collection Agency Act (e.g., bonding, banking, etc.) will not be required to separately license as a money transmitter.

This view holds only where the credit counselor's remittances on behalf of customers is solely incidental to their credit counselor activities. If the credit counselor expands their activities beyond those solely incidental to their credit counseling activities, then a license may well be required.

Please feel free to contact me if you have any additional questions, concerns or thoughts.

Regards,

Jim Burns, MBA, CFE, CAMS, CRCP
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November 19, 2015

Mr. Norman Real
Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, ID 83720-0031

RE: Request to Review Requirement of Money Transmitter License

Dear Mr. Real:

We are contacting you in hopes of receiving clarification as to the requirements regarding Money Transmitters. Our agency,

is a 501(c)(3) nonprofit organization that assists consumers with financial education and debt management plans. We are a member of the National Foundation of Credit Counseling ("NFCC"),¹ as well as certified by the Council on Accreditation ("COA"), a certifying organization for nonprofits. We are held to the Member Quality Standards as mandated by the NFCC, and we must recertify every four (4) years to ensure we are meeting all standards of the COA.

To help you understand our services and purpose of our mission, following is an overview of our role in the area of financial education, credit counseling and debt management.

Our industry began in the 1950's as a way to assist consumers when confronting excessive unsecured debt challenges. In response to the growth of credit card debt and the struggles it created for millions of consumers, the nonprofit credit counseling sector was created to assist those in need of counseling and education regarding the management of those debts. Our primary focus has always been to provide holistic financial counseling and education to consumers in need.

Our counselors work with the client to prepare a financial assessment and tailor the counseling and education session around the willingness and financial capacity of the client. In cases where appropriate, the counselor will recommend a Debt Management Program ("DMP"). If the client determines that they would benefit from participation in a DMP, a proposal is submitted to their creditors. If both the Creditor and consumer agree to the terms as requested in the proposal, the consumer enters into an agreement with to make single, monthly payments to ;

¹ The NFCC works closely with the Consumer Financial Protection Bureau (CFPB) and announced in May 2015 its participation in the CFPB's new Financial Education Exchange (CFPB FinEx). See <http://financialeducation.nfcc.org/2015/05/12/nfcc-announces-participation-in-cfpb-financial-education-exchange/>

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which are then disbursed to the Creditors as agreed upon in the DMP. Creditors do not “forgive” this debt, but provide a reduction in the amount of interest charged as a concession to ensure the receipt of an on-time monthly payment from the consumer. As education is the primary focus of our services, the DMP service and process is an ancillary function we perform for those clients who elect to participate.

Remittances from the consumer are placed directly into a trust account created solely for the purpose of disbursement to the Creditors. A very small portion of the actual disbursement of funds to Creditors is settled by manual checks, with the vast majority performed by a third-party transmitter, Remote Payment and Presentment Services (“RPPS”) upon receipt of funds from our financial institution (refer to attachments).

Currently, _____ holds DMP licenses and/or bonds as required in thirty-six (36) states, including a license in Idaho. These states require that we file annual and sometimes, quarterly reporting of activity related to DMPs, as well as routine audits. DMP regulations are designed to protect the consumer and specifically cover the transactions explained above. We are licensed in the State of Idaho by the “Idaho Department of Finance” under license number _____. In addition to our license, we carry a surety bond in the amount of \$26,000 as required by our DMP license.

Given the scope of our existing licensing obligations, we feel that duplicate licensing and/or bonding for the same service would be redundant, and additionally require an unnecessary financial and administrative burden on _____. As a nonprofit with limited funding, the burden falls upon _____ to ensure that we are meeting all requirements as outlined by each state’s regulatory body.

In your review of our request for clarification and determination, we respectfully request that you refer to the U.S. Department of Treasury, FinCEN ruling of November 24, 2004². Although the context is federal anti-money laundering law, the underlying concerns are very similar to those applicable to state money transmitter licensing laws. The FinCEN ruling, in summary, states:

The general service that the business provides is to help debtors create a plan for payment and/or adjustment of their debts, and to obtain the agreement of creditors to accept payment under that plan. FinCEN views the money transmission that the business conducts as ancillary to the debt management service that the

² FinCEN Ruling 2004-R004 (Definition of Money Service Business)

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business provides, and incidental to a debtor's primary purpose in using the services of the business. To the extent that the money transmission conducted by the business is limited to submitting payments to creditors on behalf of debtors in conjunction with a debt management plan, FinCEN would not deem the business a money transmitter.

Included in this inquiry you will find a detailed description of our business services; flow of funds; listing of all trust accounts where funds are held; and the identities of relationships between all parties involved in a transaction.

Finally we note that the following states have already agreed that licensed DMP organizations do not require a duplicative money transmitter license. We hope you would agree as well:

Alabama	Indiana	New Hampshire	Washington
Colorado	Kansas	New Jersey	Wisconsin
Connecticut	Kentucky	Oregon	
Delaware	Maine	Virginia	
Iowa	Mississippi	Vermont	

Thank you in advance for your consideration. We will be reaching back out to you in the next 7-10 days for your determination. In the meantime, if you have any questions whatsoever, please do not hesitate to contact me at or via email at ; I look forward to hearing from you.

Very truly yours,

Senior VP and Chief Financial Officer

Attachments