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2008 OCT 10 AM 11:43

October 7, 2008

STATE OF IDAHO  
DEPT OF FINANCE

James Burns  
Investigations Chief  
Idaho Department of Finance  
800 Park Blvd., Suite 200  
Boise, Idaho 83712

RE:

Dear Mr. Burns:

Thanks for the time you spent in connection with the above referenced prepaid card program. As we discussed, I have enclosed a brief funds flow to set forth and describe how funds are moved to the prepaid cards for use by consumers.

Further to our discussion this letter will confirm certain legal and operational matters in connection with involvement in the above referenced program. First of all, the prepaid card is issued by and is a bank product. is a federal savings association regulated by the Office of Thrift Supervision, and is an authorized delegate of to provide marketing services. It is important to note that although has the primary responsibility to oversee the actions of our Regulator maintains the authority to examine or audit as well.

All funds, as depicted in the funds flow, are directed to the omnibus account held for the benefit of cardholders and controlled by In essence, does not collect, control, nor move any funds on behalf of

Cardholders have a direct contractual relationship with who is responsible for all obligations related to the card function and use. Moreover the responsibility for funds loaded to the card through any legitimate means, including (i) (ii) Visa link, (iii) ACH direct deposit of payroll, or (iv) other electronic transfer, remains solely with the Bank. In other words, is responsible to a cardholder for funds loaded, even if the funds through some act of malfeasance never are submitted to the Bank.

Please do not hesitate to call or email me if you have questions or need any further information.

Best regards,

Chief Legal Officer



**IDAHO**  
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER  
Governor

GAVIN M. GEE  
Director

September 25, 2008

Re: Money Transmission Licensing

Dear M

Thank you for meeting with us this past week regarding the activities and business model of

**Background** -- The Department has had ongoing communications with and its principals regarding whether a money transmitters license would be appropriate given the business model presented by More specifically, has represented that

1. is as an appointed agent of Bank for the marketing of branded stored value cards,
2. The branded stored value cards are issued by Bank and the cards are Bank products,
3. All loads to the stored value products are to occur through:
  - a) locations<sup>1</sup> through to Bank,
  - b) ACH electronic fund transfers direct to Bank,
  - c) VISA Link merchant locations, or
  - d) Payroll electronic direct deposit transactions to Bank,
4. complies with all federal Bank Secrecy Act requirements,
5. does not directly handle any customer funds and does not control the omnibus or individual consumer accounts associated with the omnibus account controlled by Bank, and
6. Stored value card purchasers are Bank customers and the contractual relationship with the card is solely between Bank and the card customer.

Representatives of Bank have orally represented<sup>2</sup> that is an appointed agent of their financial

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<sup>1</sup> is a licensed Money Transmitter in Idaho and its agents operate as authorized delegates of the licensee.

**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>

institution and that ANY customer payment intended for loading to an [redacted] branded stored value card through any of the referenced loading mechanisms is ultimately the responsibility of [redacted] Bank and that the bank will properly credit [redacted] cardholder loads, even where financial loss occurs outside the control of [redacted] Bank (e.g., [redacted] agent malfeasance). [redacted] Bank is responsible to the customer for any losses which may occur once the customer has tendered funds to a merchant, [redacted], or other agent of [redacted] Bank.

*Policy Considerations* – It has been your representation that consumers are not at risk of loss as long as they obtain and retain receipts provided to them through the various card loading mechanisms. As such, you believe that the activities of [redacted] present no risk to consumers and that the consumer protection element of the Idaho Money Transmitters Act is satisfied by the program as designed.

Based solely upon the facts presented above, 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 [redacted] Bank's financial obligation to the customer originates at the time the funds are presented through one of the identified loading mechanisms.

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.

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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<sup>2</sup> To further formalize our opinion in this matter, we request written confirmation by [redacted] Bank of the oral representations attributed to them herein.

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2008 SEP 11 AM 11:25

STATE OF IDAHO  
DEPT OF FINANCE

9 September 2008

James A. Burns, Investigations Chief  
Idaho Department of Finance  
800 Park Blvd., Suite 200  
Boise, ID 83720-0031

Re: Money Transmission Licensing Inquiry

Dear Mr. Burns,

We received your letter dated August 26, 2008 regarding the Department's review of the applicability of the Idaho Money Transmitters Act to \_\_\_\_\_ business activities. We appreciate the consideration that the Department has given to this matter.

In the letter, you ask that we reply by September 12, 2008 if we have other information that we would like to have considered regarding the applicability of the Act to our prepaid card programs. In order for us to ensure a thorough understanding of the Department's analysis and conclusions we respectfully request to meet with you at your office for a more detailed discussion. We and our issuing bank partner, \_\_\_\_\_, would like to schedule this meeting at your earliest convenience and we will commit to providing the Department our response within two weeks of the meeting date.

If you would like to discuss our extension request please call me at your convenience. I can be reach at \_\_\_\_\_ Thank you for your consideration.

Sincerely,

President,

cc:



**IDAHO**  
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER  
Governor

GAVIN M. GEE  
Director

August 26, 2008

Re: Money Transmission Licensing Inquiry

Dear M

I wanted to apprise you of the Department's decision regarding the applicability of the Idaho Money Transmitters Act to the business model being applied by

Historically, the Department of Finance has taken the view that stored value instruments are a form of payment instrument, thus placing the sale or issuance of such instruments within the purview of the Idaho Money Transmitters Act<sup>1</sup>.

Since approximately April 2008, the Department has considered the variations presented in your business model (e.g., using licensed Green Dot locations as load stations) to determine whether it would be appropriate for the firm to obtain a money transmitter license in the State of Idaho.

While the Idaho-related business activities of appear limited, we presently believe that offering payment instruments to Idaho residents via the Internet remains a licensable activity and that licensure of as a money transmitter would be appropriate.

If you believe that other information exists that should be considered in connection with our determination in this matter, please forward that information for our review not later than September 12, 2008. Should you have any questions or need additional information, please feel free to contact the undersigned at (208) 332-8080.

Sincerely,

James A. Burns  
Investigations Chief

<sup>1</sup> Enclosed is an opinion letter previously issued by the Department that may assist you in better understanding the Department's past approach to the stored value market.

**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>

## Jim Burns

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To:  
Subject: Services Overview

Will:

It was a pleasure to meet with you this past week. As a follow-up, I wanted to be certain that I have a clear understanding of the services and business model being used by

I have summarized what I believe to be a brief overview of programs and was hoping to get your feedback on this summary:

has been operating for approximately two years. Most company executives are formerly associated with Capital One in a variety of capacities.

acts as a program manager of various stored value products that are associated with gift cards and pre-paid debit cards issued by Metabank, a federal savings bank under OTS supervision.

is the retail marketer of Metabank cards to end users. also markets the distribution of gift cards in association with corporate internal and external incentive programs. The Metabank set-up also provides for the ability to have one's pay direct-credited to their pre-paid debit account.

program is similar to many pre-paid card programs in that a) the cards are issued by a chartered financial institution; b) is a program manager and marketer, and c) a third party processing company (Metavante) oversees the management of customer monies and sub-accounts for funds held at Metabank.

Unlike many traditional three-pronged programs, the present program has a couple of twists:

- a) presently only retails the pre-paid debit card via their website. There presently is no retail distribution network.
- b) Pre-paid card "reloads" are accomplished at current Green Dot locations. Green Dot is a licensed money transmitter in Idaho.
- c) It is possible for clients to order the payment of a paper check to third parties (debt-payments or anyone directed by the client). Here, (likely through Metavante) directs Metabank to issue and deliver a check as requested by the client.
- d) is exploring the possibility of offering what amounts to an overdraft protection plan for pre-paid card holders. The present thought is to have customer's opt-in every time that they are presented with a potential overdraft situation (normally in advance of arriving at the purchase location).

Jim Burns  
Investigations Chief  
MBA, CFE, CRCP  
Idaho Dept. of Finance  
Boise, ID  
(208) 332-8080  
Idaho Toll Free 1-888-346-3378

**Jim Burns****From:****Sent:** Friday, April 18, 2008 3:33 PM**To:** Jim Burns**Subject:** Money Transmitter Follow Up

Hi Jim,

I just wanted to drop you a note with some follow-up on your email from earlier this week. I spoke with Metabank to make sure I provide the correct characterization of our relationship and the activities that we perform on their behalf. Below I've provided comments for each of the areas for which you requested clarification regarding our current programs. Both we and Metabank are happy to have further conversations to discuss this in more detail. Thanks.

has been operating for approximately two years. Most company executives are formerly associated with Capital One in a variety of capacities.

- This is correct. All company executives were formerly employees at Capital One for 6 or more years.

acts as a program manager of various stored value products that are associated with gift cards and pre-paid debit cards issued by Metabank, a federal savings bank under OTS supervision.

- This is also correct. As a program manager, we act as a limited agent on Metabank's behalf to provide certain services enumerated in our agreement with them. These activities generally fall into the categories of marketing and servicing card accounts issued by the bank.

is the retail marketer of Metabank cards to end users. also markets the distribution of gift cards in association with corporate internal and external incentive programs. The /Metabank set-up also provides for the ability to have one's pay direct-credited to their pre-paid debit account.

- This is also correct. We perform the marketing of cards through our programs under Metabank's supervision. The terms and conditions associated with each of the products are established by Metabank and the bank approves all of our marketing materials prior to use. For our reloadable pre-paid debit cards, customers can choose to have their pay directly deposited into their card account through the ACH network. These deposits are received directly by Metabank and held in a pooled, custodial bank controlled account for the benefit of the cardholders..

program is similar to many pre-paid card programs in that a) the cards are issued by a chartered financial institution; b) is a program manager and marketer, and c) a third party processing company (Metavante) oversees the management of customer monies and sub-accounts for funds held at Metabank.

- Yes. The one thing to add here is that Metavante processes credit and debit transactions initiated by cardholders and initiates the corresponding movement of funds for settlement at the direction of Metabank. Metabank and Metavante have a direct agreement governing such processing services..

Unlike many traditional three-pronged programs, the present program has a couple of twists:

a) presently only retails the pre-paid debit card via their website. There presently is no retail distribution network.

- This is correct.

b) Pre-paid card "reloads" are accomplished at current Green Dot locations. Green Dot is a licensed money transmitter in Idaho.

- This is also correct, or customers can direct deposit their pay via ACH as describe above.

c) It is possible for clients to order the payment of a paper check to third parties (debt-payments or anyone directed by the client)

Here, (likely through Metavante) directs Metabank to issue and deliver a check as requested by the client.

- Checks sent by customers are initiated by the customer through Metavante's online bill payment system. The processing is performed by Metavante and these checks are issued by M&I Bank FSB, the parent company of Metavante.

**Jim Burns**

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**From:**  
**Sent:** Friday, April 18, 2008 3:40 PM  
**To:** Jim Burns  
**Subject:** One more thing...

Hi Jim,

Regarding some sort of lending / overdraft line we're just in our initial stages of thinking how to offer and implement these sorts of services for customers and there a number of paths that we could take. At this point, we like to make sure we're all on the same page regarding the Money Transmitter thing before pursuing the additional services conversation further. When we are ready to start thinking about it more I will certainly seek input from you and other folks at the Department of Finance.

Thanks for your help on this and have a great weekend!

**Jim Burns**

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**From:**  
**Sent:** Tuesday, April 08, 2008 1:18 PM  
**To:** Jim Burns  
**Cc:**  
**Subject:** About

Jim,

Some info about

We've been in business for about two years, Idaho corporation, (We have a wholly-owned subsidiary, that does some consulting work.) There are five full-time staff—all former Cap One folks. We worked together here for five or six years until Cap One pulled out of Boise. The president of

We sell reloadable Visa prepaid cards. Many of our customers have no other bank account. They direct deposit money into their account and use our online bill payment service to pay many of their bills. They use the Visa prepaid card to make purchases at stores, shop online or by phone, and get cash from ATMs. Through ACH, customers can move funds between their their card account and an outside bank account. There's a maximum balance of \$10K on the account.

Our Visa cards are issued by MetaBank, a federally-chartered Thrift in Sioux Falls. Funds are FDIC-insured. Our cardholders can deposit cash at any store that sells Green Dot MoneyPaks, including Walgreens, CVS, Rite Aid, Wal-Mart, etc. We're a Visa-approved Third Party Servicer, PCI-compliant, comply with OFAC and AML/BSA.

Since our cards are all prepaid, our customers can make purchases only if they have sufficient funds in their account. We're considering offering some sort of overdraft feature to let them go into the negative a bit, until their next deposit. There are different ways we can implement the overdraft feature—would like to discuss those with you to understand what we need to do with the State.

Thanks for your help—you and everyone we've met at the Finance Department have been very helpful.

Talk to you soon.