



**IDAHO**  
DEPARTMENT OF FINANCE

**C.L. "BUTCH" OTTER**  
Governor

**GAVIN M. GEE**  
Director

March 25, 2016

Re:

Dear \_\_\_\_\_:

The Idaho Department of Finance has concluded our review of the applicability of Idaho state money transmission requirements to \_\_\_\_\_'s business model.

Based on the information provided by \_\_\_\_\_ and the Idaho Supreme Court, the Department has determined to take a no-action position as it pertains to the licensing provisions of the Idaho Money Transmitters Act. This determination is based on the Idaho Supreme Court's written verification that \_\_\_\_\_ is an authorized agent acting on behalf of the Court, and that payments received by \_\_\_\_\_ satisfy the payor's obligation with regard to debts owed to the Courts.

Additionally, the Department's no-action position is based on the understanding that \_\_\_\_\_'s money transmission activities in Idaho are limited to business conducted through the Idaho Supreme Court. Should \_\_\_\_\_'s business activities be different than characterized above, or change at a later date, the Department's conclusion may well be different than stated herein.

If you have questions, please feel free to contact me at 208-332-8081.

Regards,

Coleen Hodson  
Supervising Investigator/Examiner  
Idaho Department of Finance

**SECURITIES BUREAU**

**Bureau Chief – James A. Burns**  
800 Park Boulevard, Suite 200, Boise, ID 83712  
Mail To: P.O. Box 83720, Boise ID 83720-0031  
Phone: (208) 332-8004 Fax: (208) 332-8099  
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**IDAHO**  
DEPARTMENT OF FINANCE

**C. L. "BUTCH" OTTER**  
Governor

**GAVIN M. GEE**  
Director

March 10, 2016

Re:

Dear \_\_\_\_\_ :

Thank you for your response to our letter dated December 1, 2015 regarding \_\_\_\_\_, a services offering of \_\_\_\_\_"), compliance with the Idaho Money Transmitters Act. We understand from the information you presented that \_\_\_\_\_ requests a no enforcement action position from the Department as it relates to the licensing requirements under the Idaho Money Transmitter laws.

As you noted in your correspondence, the Department has provided no enforcement action positions for certain entities that facilitate bill payments by accepting funds from a payor and delivering those funds to a creditor/merchant. The specific criteria associated with this opinion is that: 1) the entity facilitating the funds transfer operates according to a written agreement with the creditor/merchant and 2) the formal agreement states that payment received by the entity receiving the payment will satisfy the payor's obligation to the creditor/merchant.

We recognize that Exhibits A and B included in your January 8, 2016 correspondence to the Department are formal agreements between \_\_\_\_\_ and The Idaho Supreme Court. However, we did not see any specific language in either exhibit stating that \_\_\_\_\_ is acting as an authorized agent on the Court's behalf and that any payment received by \_\_\_\_\_ would satisfy the payor's obligation to the Court.

With the information presented, it does not appear that \_\_\_\_\_ meets the criteria for the Department to issue a no enforcement action position. Should you have additional information that may address our concerns or if you would like more information on licensing as an Idaho money transmitter, please feel free to contact me at 208-332-8081 or [coleen.hodson@finance.idaho.gov](mailto:coleen.hodson@finance.idaho.gov).

Sincerely,

Coleen Hodson, Supervising Investigator/Examiner  
Securities Bureau  
Idaho Department of Finance

800 Park Boulevard, Suite 200, Boise, ID 83712  
Mail To: P.O. Box 83720, Boise ID 83720-0031  
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<http://finance.idaho.gov>

January 8, 2016  
via Hand Delivery & Certified Mail

Ginnie Sorensen  
Financial Examiner/Investigator  
Idaho Department of Finance  
Securities Bureau  
800 Park Boulevard, Suite 200  
Boise, ID 83712

RECEIVED  
2016 JAN -8 PM 2:20  
STATE OF IDAHO  
DEPT OF FINANCE

**Re:** **response to the Idaho Department of Finance's December 1, 2015 letter and request for no-action opinion.**  
File No. 26510.0000

Dear Ms. Sorensen:

[REDACTED] has been retained by [REDACTED] or [REDACTED]), a division of [REDACTED]), a New Mexico corporation. [REDACTED] has requested our assistance in responding to the Department of Finance's ("Department") letter of December 1, 2015, concerning compliance with regard to the Idaho Money Transmitters Act, Idaho Code Ann. § 26-2901, *et seq.* In addition, [REDACTED] requests the Department issue a no-action opinion concerning whether [REDACTED] is required to be licensed under the Act.

For nearly twenty five (25) years [REDACTED] has been a party to a contract (the "Original Contract") with the Idaho Supreme Court (the "Court") for the provision of software and services, including the ISTARs Court Case Management System ("CMS" or "ISTARs"). ISTARs is a fully integrated system that supports all aspects of judicial case management in the state of Idaho, including the accounting for all funds associated with each individual case.

The most recent version of the contract ("Contract") between the Idaho Supreme Court and [REDACTED] is a " [REDACTED] Services Agreement" dated May 20, 2009, which was added pursuant to a Fifth Addendum ("Addendum") to the Original Contract dated May 20, 2009. A confidential copy of the Addendum and Contract are attached as **Exhibit A**.

The services provided by \_\_\_\_\_ under the Contract include the following:

- collection and processing of payments through the ISTAR system, utilizing our client's proprietary software and systems. Under the Addendum, such payments may represent electronic payment of fines, restitution orders, court fees, costs and similar expenses;
- creation of a single merchant account, in the name of "\_\_\_\_\_ Idaho Courts," which is the vehicle by which transfers of funds occur; and
- transmission of funds due the various courts throughout the state through the Supreme Court's "Deposit Account," or similar "Deposit Accounts" maintained by individual courts. Such transmissions occur through ACH transfers by \_\_\_\_\_ to the court's Deposit Account.

Under the terms of the Contract, the \_\_\_\_\_ software is an integral part of the Supreme Court's ISTAR system. See Contract, paragraph 2.2; Addendum. Transaction fees are set at 5% "of the fine, fee, bond or other amounts collected on behalf of Customer courts" by \_\_\_\_\_. According to Attachment C to the Contract, \_\_\_\_\_ pays a monthly services and support fee to the Customer courts of "1% of the fine, fee or other amounts collected that month [o]n behalf of the Customer" court.

Through \_\_\_\_\_'s integrated relationship with the Court and management of ISTAR, \_\_\_\_\_ has direct online access to information contained in ISTAR, including up-to-date information about an individual case or docket.

Below are \_\_\_\_\_'s responses to the questions posed by the Department in the December 1, 2015 letter.

**1. Is \_\_\_\_\_'s payment program offered to Idaho residents?**

Yes; \_\_\_\_\_ is a closed circuit fully integrated service offered to all payors owing money to the Court for any of the purposes identified above. These users access \_\_\_\_\_ via an internet connection. The program is set up so that the user selects the district court where his or her docket is pending and locates his case information by entering his citation number or a court case number, and date of birth. Upon entry of the foregoing information, the program generates a list of all the outstanding balances owed by the individual to the Court as maintained in the ISTAR program. The user then selects the item(s) for payment and, if allowed by the Court, makes payment. Prior to making the payment, the program prompts the user to confirm the item(s) selected for payment, and method of payment. Users are then taken to a secure payment page wherein the user can identify their payment information.

Through \_\_\_\_\_'s integrated access to the ISTARs program, user payments are automatically considered paid by the Court as of the date and time payment is received and the individual case docket is updated. The user receives a receipt for the transaction which he or she may print or have emailed.

**2. Please explain the flow of funds. Do payer/offender funds go into a financial account held by \_\_\_\_\_ prior to going to the court system?**

Pursuant to the \_\_\_\_\_ Contract (attached), \_\_\_\_\_ maintains a deposit account with New Mexico Bank & Trust, a bank regulated by the FDIC, and a Bank regulated by the Bank Security Act. Payments received pursuant to the \_\_\_\_\_ Contract are deposited in a deposit account with a unique merchant ID number. The name of this account is "\_\_\_\_\_/Idaho Courts." Contract § 2.1.2.

As provided in the \_\_\_\_\_ Contract, the Court receives payment information in a report generated each night. Pursuant to Section 2.1.3 and Paragraph 5, \_\_\_\_\_ transmits by ACH transfer payments received via the \_\_\_\_\_ ePayment system, less the negotiated transaction fee of 5%. Such transfers occur within two (2) business days of the deposit of funds representing payment by the obligor, or on behalf of the obligor, to \_\_\_\_\_'s account in accordance with the terms and conditions outlined in the \_\_\_\_\_ Contract.

**3. We understand a fee is charged to use your system. How is the fee paid by the user?**

Pursuant to Section 3.1 of the \_\_\_\_\_ Contract, \_\_\_\_\_ charges a transaction fee of 5.0% of the fine, fee, bond or other amounts collected on behalf of the Court, as compensation for the services and products provided. The fee is assessed to the credit card or debit card of the person or entity making payment in behalf of the defendant, litigant or individual, howsoever described, obligated to make a payment to the relevant Court or Court-authorized agency, and shall be in addition to the amount of the obligation owed. The payer/offender is notified of the transaction fee for using the service, and must consent to the transaction fee before the payment is processed.

As indicated above, \_\_\_\_\_ makes a payment of 1% of the amounts paid under the Contract, back to the Supreme Court (Contract, Attachment C).

**4. If you have made a determination regarding the applicability of the Idaho Money Transmitters Act to \_\_\_\_\_'s business, please provide copies of any legal analysis or opinions that you are relying upon.**

\_\_\_\_\_ respectfully submits that its activities fall within the scope of activities outlined in the Department's previously published no-action letters, including the June 11, 2015 no-action opinion (a copy of which is attached as **Exhibit B**). That no-action letter was provided by the

Department to a payment processor of a utility company on the basis that the company was operating pursuant to a formal agreement with each utility company, and that the agreement created an agency relationship in which payment from the consumer to the company satisfies the consumer's obligation to the utility company.

As provided herein, the [redacted] service presents no potential risk of loss to customers, including Idaho residents. [redacted] maintains a formal agreement with the Court and pursuant to that contract is engaged in collecting payments on behalf of the Court through a closed circuit system. Because the [redacted] service is simply one service offered as part of the fully integrated ISTARs program, [redacted] is able to accept payment and update the CMS docket system to reflect the user's payment almost immediately upon receipt. The entire system has worked and worked well for more than a quarter of a century.

As provided herein, [redacted] respectfully requests that the Securities Bureau of the Idaho Department of Finance issue a no-action letter to [redacted].

Please do not hesitate to contact our office should you require any additional information.

Very truly yours,

Attachments



**IDAHO**  
DEPARTMENT OF FINANCE

C.L. "BUTCH" OTTER  
Governor

GAVIN M. GEE  
Director

December 1, 2015

Certified Mail No. 7009 2820 0002 8375 8636

Re:

Dear \_\_\_\_\_:

The Idaho Department of Finance is charged with the administration and enforcement of several Idaho statutes, including the Idaho Money Transmitters Act. In this regard, we regulate payment processors, money order sellers and other business models that constitute money transmission under the Act.

It has come to our attention that \_\_\_\_\_ is offering a payment program via their website at \_\_\_\_\_. Per Idaho Code §26-2902(11), this activity may fall under the definition of a money transmitter. According to our records, this company is not licensed as a money transmitter in the State of Idaho nor have they claimed an exemption from licensure.

We request the following information to ascertain whether \_\_\_\_\_'s current business activities fall under the Idaho Money Transmitters Act:

1. Is \_\_\_\_\_'s payment program offered to Idaho residents?
2. Please explain the flow of funds. Do payer/offender funds go into a financial account held by \_\_\_\_\_ prior to going to the court system?
3. We understand a fee is charged to use your system. How is the fee paid by the user?
4. If you have made a determination regarding the applicability of the Idaho Money Transmitters Act to \_\_\_\_\_'s business, please provide copies of any legal analysis or opinions that you are relying upon.

We request that a written response providing the above be provided to the undersigned by **December 22, 2015**.

This request for information is made pursuant to Idaho Code §26-2914. This request should not be construed as a finding that any violation exists or has occurred, but that further information is required to make an appropriate determination regarding your payment processing business.

Should questions arise or you wish to discuss the matter prior to your written response, please contact the undersigned at 208-332-8073 or [ginnie.sorensen@finance.idaho.gov](mailto:ginnie.sorensen@finance.idaho.gov).

Sincerely,

Ginnie Sorensen  
Financial Examiner/Investigator

SECURITIES BUREAU

Bureau Chief - James A. Burns  
800 Park Boulevard, Suite 200, Boise, ID 83712  
Mail To: P.O. Box 83720, Boise ID 83720-0031  
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