

DIRK KEMPTHORNE
GOVERNOR



GAVIN M. GEE
DIRECTOR

STATE OF IDAHO
DEPARTMENT OF FINANCE
700 W. STATE STREET, 2ND FLOOR
P. O. BOX 83720
BOISE ID 83720-0031
www.state.id.us/finance/dof.htm

March 15, 2001

Re: Idaho Money Transmission Activities

Dear M

Thank you for your letter of February 19, 2001 and your stated intention to seek licensure under the Idaho Money Transmitters Act.

As you may now know, the Idaho Money Transmitter Act provides for various potential penalties where the operator acts, or acted, in violation of the statute. In this regard, the Department attempts to gain a full understanding of the conduct in question and to assess whether the violations were conducted with knowledge or intent as to the state statute. Obviously, the more information we have, the better prepared we are to make a judgment as to whether enforcement action is appropriate. For example, we would consider it important to know whether [redacted] has outstanding obligations to Idaho users of its services (or whether any such obligations present significant risks to the public).

You have voiced some concern for the privacy promised by [redacted] to customers that use this service. We are cognizant of your client's sensitivity to the confidentiality of their dealings with your firm, but are also committed to understanding the nature and extent of the business that has been conducted thus far.

Based on the representations made and the concerns voiced in your letter, we are willing to accept general written representations by you in lieu of specific information on your clients. In this regard, we would like for you to address the following:

- a) The number of transactions that have occurred since the service-began being offered,
- b) the number of clients that [redacted] has provided services to,
- c) the amount of any customer related liabilities (e.g., un-cashed payment instruments) currently carried by [redacted] and [redacted]
- d) the anticipated timeframe for the filing of an application for licensure as a money

Banks & Savings Banks (208) 332-8005
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Money Transmitters (208) 332-8004

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Director's Fax: (208) 332-8097
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Supporting Services (208) 332-8001
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transmitter in Idaho.

We hope that the above explanation provides you with some insight regarding our request for information and that the amended request for information provides an acceptable resolution of your concerns. Your prompt attention is greatly appreciated and your written response is requested not later than March 28, 2001. Should you have questions or need additional information before providing your response, please feel free to contact the undersigned directly at (208) 332-8080.

Sincerely,

JAMES A. BURNS
Idaho Dept. of Finance

February, 19th 2001

Jim Burns
State of Idaho
Dept. of Finance
PO Box 83720
Boise ID 83720

RECEIVED

FEB 21 2001

DEPARTMENT OF FINANCE

Mr. Burns, I am in receipt of your letter dated February 14, 2001.

We, at _____ were completely unaware of the laws governing "money transmissions", and are quite dismayed to find this out after the fact of starting our web-site. I do not currently know what regulations would apply to our service business, and will meet with an attorney sometime this week to discuss the applicable law. We met with our former attorney Lee Dillion of Dillion, Bosch Daw & Bock on more than one occasion. At this stage we were conducting research and I with my partner present had a list of questions regarding our business, and the very first question that we asked was concerning the legality of what our business does? I specifically asked him before the web-site was up, before I had invested thousands of dollars of my own personal money in the corporation if what we were doing was legal, and if there were any regulations that would apply either from the State or Federal level of government. He answered all of the questions with a "no", which in turn led us to believe that what we were doing was OK. There are many similar web-sites on the Internet that do the same function more or less as we do, for example, Bidpay.com, Paypal.com and Sendmoneyorder.com. We are a service web-site, we simply provide a service, we are not a bank, we are catering to a unique niche of society.

I did not receive any of this information from any of the numerous brochures that the State of Idaho provided when we filed our business name and incorporated as well.

We intend to apply for the appropriate license, as I have already called and requested the "information packet" to be sent to me. I have yet to speak to another attorney about where we stand, as Mr. Dillion is no longer with his firm. I can assure you that you will have our complete cooperation in any matters if you are willing to work with us. If you wish for us to **cease** doing business, until such matters can be resolved, we will **voluntarily** do so, as our business is not yet profitable.

In your letter you state "It is hereby requested that you provide in writing, a detailed accounting of your Idaho money transmission activities within or from this state. To the extent that _____ has facilitated money transmission or the issuance of payment instruments, please provide detailed information regarding the dates, amounts and dollar value of such transactions. Also please provide information regarding your claim that "Every money transfer that is processed by _____ is 100% insured up to the deposited amount... This is a bonded service that protects every valuable customer"."

To this I would say that the customer is protected 3 ways 1. They can issue a charge back from their credit card company. 2. The money order is traceable, and if not cashed refundable. 3. The customer's money is insured by the FDIC, the money goes straight into our business account. 4. We are purchasing an employee dishonesty bond that insures the money if any one is convicted of theft from the company. Currently our business is operating at a loss. We are not even averaging one transaction per day. Until I can give you specific numbers on our business, could you please give me a reason for requesting such information, as we have pledged to our customers to keep all customer information in strict confidence. (See web-site).

Upon speaking to you, as I have been unable to reach you since the receipt of the above referenced letter, maybe you will be better able to explain what we as a corporation need to do to come into full compliance with the law. I have many questions for you, and intend to meet with an attorney sometime this week so he can let me know what else I need to do and answer any further questions.

I know that it is in the State's best interest to work with legitimate businesses -to have them come into compliance with the law rather than to try approach them with hostility, and put them out of business.

Thank you,

DIRK KEMPTHORNE
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February 14, 2001

Re: Idaho Money Transmission Activities

Dear M

The Idaho Department of Finance is charged with the administration and enforcement of the Idaho Money Transmitters Act. In this regard, we license and regulate any persons or entities engaged in money transmission activities.

Idaho Code §26-2901(11) 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 with the United States by any and all means..."

Based on the above definition, a recent article in the Idaho Business Review, and a review of the _____ website, it appears that your activities fall within the definition of "money transmission".

Idaho Code §26-2903(1) states that "no person...shall engage in the business of money transmission without a license as provided in accordance with the provisions of this chapter." In this regard, it appears that you may be operating in violation of the Idaho Money Transmitters Act. For you information, violations of the act can result in civil and/or criminal penalties.

It is hereby requested that you provide, in writing, a detailed accounting of your Idaho money transmission activities within or from this state. To the extent that _____ has facilitated money transmission or the issuance of payment instruments, please provide detailed information regarding the dates, amounts and dollar value of such transactions. Also please provide information regarding your claim that "Every money transfer that is processed by _____ is 100% insured up to the deposited amount... This is a bonded service that protects every valuable customer".

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Your prompt attention is greatly appreciated and your written response is requested not later than March 5, 2001. Should you have questions or need additional information before providing your response, please feel free to contact the undersigned directly at (208) 332-8080.

Sincerely,

JAMES A. BURNS
Idaho Dept. of Finance