



IDAHO
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

August 3, 2010

Re: Money Transmission Licensing Inquiry

Dear M

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

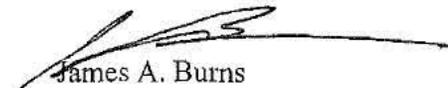
It has been your representation that consumers (bill payers) are not at risk of loss as long as they obtain and retain receipts provided to them through an agent network that is associated with _____, using _____ and the MasterCard RPPS system. As stated in your letter, "_____ is liable for fund collected by _____ or its Agents and owed to billers regardless of whether the Agent or _____ forwards payment."¹

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 _____ or at a _____ agent.

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

¹ Although we have received documentation in connection with your MasterCard RPPS Sponsee Agreement, we would request that _____ acknowledge this communication in writing and state their agreement with the description provided herein regarding the Bank's liability to the consumer.

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

MAY 24 2010

DEPT. OF FINANCE
STATE OF IDAHO

May 20, 2010

Mr. James Burns
State of Idaho Department of Finance Securities Bureau
800 Park Blvd, Suite 200
Boise, Idaho 83712
Phone: (208) 332-8080

CONFIDENTIAL TREATMENT
REQUESTED

Re:

Dear Mr. Burns:

Thank you for the time you spent in reviewing the details of our billpay processing system. In this letter, I have included a more detailed description of our billpay services as well as the documentation substantiating the relationship between _____, MasterCard RPPS, and _____, and in particular, the fact that the consumer (the "Customer") faces no risk in the described transactions. Enclosed you will find a copy of the following exhibits:

1. RPPS Sponsor Agreement;
2. Flow chart entitled Bill Payment Data Flow of Funds Diagram ("Flow of Data Chart");
3. Flow chart entitled Bill Payment Flow and Funding Processes ("Flow of Funds Chart");
4. MasterCard RPPS Overview; and
5. Relevant sections of the MasterCard RPPS Rules and Obligations.

Bill Payment Process

As mentioned in our March 12th 2010 letter, the MasterCard RPPS service facilitates electronic bill payment services, a service widely offered by many banks including _____, a commercial bank which is chartered under the laws of Ohio and whose deposits are insured by the Federal Deposit Insurance Corporation. MasterCard RPPS is an extensive network enabling consumer bill payments for approximately 95 percent of electronic bill payment industry service providers (see Mastercard RPPS Overview). Mastercard RPPS processes tens of millions of transactions monthly for its bank customers (see http://www.rpps.com/rpps/03_onlinepay_1.html#1). _____, like other banks, contracts with third parties such as _____ to extend access to services such as electronic bill payment services for under-banked or unbanked Customers. _____ has agreed to sponsor _____ in the MasterCard RPPS network.

As our earlier letter discussed, the MasterCard RPPS bill payment system is referred to as a “good funds” model because MasterCard RPPS guarantees payment to all billers in the RPPS network. _____, as sponsoring bank, is liable for all payments processed by its delegates, including _____, through the RPPS network (see Sponsee Agreement, Second Paragraph, First Sentence and MasterCard RPPS Rules and Obligations Section 3.2) – thus, putting the Customer in the position of using the electronic bill payment services directly with the bank.

The bill payment process begins when a Customer enters one of the almost 5,000 independent agents (“Agent”) in _____ network across the country to pay a bill. The Customer presents payment instructions and a form of payment to the Agent. For the bill payment services, the Customer pays a nominal transaction fee. The Agent enters the payment data online using _____ software program which immediately transmits the data to _____. Once the Agent has collected funds from the Customer and processes the payment instructions, the Customer is given a receipt. As described in the next paragraph, as long as the Customer retains his receipt, there is no risk that the Customer’s bill will not be paid.

The payment data files are then uploaded onto a MasterCard RPPS server, which is accessed five times each day by MasterCard RPPS. MasterCard RPPS processes the payment data files aggregating the payment data received from *all* RPPS delegates, including _____, verifies that account numbers for all billers are accurate, and reconciles all payment details within each payment data file. Once processed, RPPS transmits the payment data to the biller or the biller’s designated financial institution. The biller or the designated financial institution has the data within two hours of the time that RPPS receives the data from the _____, and has its funds before the close of business on the day after it receives the data (see generally the Flow of Data Chart and the Flow of Funds Chart). The receipt of data and funds happens regardless of whether the Agent ever pays _____, whether _____ pays _____ or whether _____ pays MasterCard RPPS. Thus, as long as the Customer retains his receipt, there is no risk that the Customer’s bill will not be paid, and the Customer’s bill is often paid before money is received by _____. Because the transmission of funds to the biller happens independent of _____ should not be required to be licensed under Idaho’s money transmitter laws.

Conclusion

As discussed above, [redacted] and its Agents are marketing bill payment services which are services widely offered by many banks but inaccessible to under-banked or unbanked customers. [redacted] has contracted with [redacted] to extend these banking services which are facilitated through MasterCard RPPS. As [redacted] bank sponsor in the RPPS system, [redacted] is liable for funds collected by [redacted] or its Agents and owed to billers regardless of whether the Agent or [redacted] forwards payment. In other words, once the funds are collected by the Agent, the Customer's bill is paid in full with no risk to the Customer.

We appreciate your time and effort in analyzing this business model. Please do not hesitate to contact me at [redacted] if you have any questions or need any further information.

Best regards,

Jim Burns

From:
Sent: Wednesday, April 28, 2010 10:13 AM
To: Jim Burns
Subject: RE: Interpretive Opinion Request

Mr. Burns,

Thank you for reviewing the information again. Please let me know when would be a good time to discuss the issue further and I will make sure I am available.

To briefly address the issue you referred to below I am able to confirm for you that if a customer certifies that they received a receipt that is not a part of the "system" from one of our authorized locations we would honor the receipt and insure that the payment was processed into the system for the customer.

Thank you,

From: Jim Burns [mailto:jim.burns@finance.idaho.gov]
Sent: Friday, April 23, 2010 10:52 AM
To:
Subject: RE: Interpretive Opinion Request

Good question...I need to look at it again and then we should probably chat...I need for us to find a way to protect the consumer in the event they are given a receipt that is not part of the "system" and then their money is lost....

I will try to get to this so we can talk on Monday.

Regards,

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

From:
Sent: Friday, April 23, 2010 9:33 AM
To: Jim Burns
Subject: RE: Interpretive Opinion Request

Mr. Burns,

8/3/2010

I just wanted to follow-up with you and see if you had any further questions in regards to our billpay service or if you have had time to determine whether or not we would be required to be licensed in order to offer this service in the state of ID. I look forward to hearing from you.

Thank you,

From: Jim Burns [mailto:jim.burns@finance.idaho.gov]
Sent: Monday, April 05, 2010 2:31 PM
To:
Subject: RE: Interpretive Opinion Request

Dear M

Thanks for your quick reply.

In the second page of your letter, you discuss the "good funds" model used by MasterCard which apparently requires the financial institution to be on the hook for losses that might result from errors at the agent or _____ level of the transaction "once the system receives the data about a payment."

If I have properly summarized above, it appears that customer funds must be somehow processed into the system in order for the guarantee to apply. My question is what protections are afforded to consumers if a bad agent does nothing more than issue a phony receipt and never does enter data into the RPPS system?

Regards,

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

From:
Sent: Monday, April 05, 2010 11:01 AM
To: Jim Burns
Subject: RE: Interpretive Opinion Request

Mr. Burns,

I am comfortable using email as a means of correspondence. Thank you for responding to my letter so promptly. Any questions you have I would be happy to answer.

8/3/2010

Thank you,

From: Jim Burns [mailto:jim.burns@finance.idaho.gov]
Sent: Monday, April 05, 2010 12:06 PM
To:
Subject: Interpretive Opinion Request

Dear M

Are you comfortable using email as a means to correspond regarding your March 12, 2010 letter to the Department of Finance? If so, I have a couple of brief questions.

Regards,

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

RECEIVED

2010 MAR 23 AM 11:54

STATE OF IDAHO
DEPT OF FINANCE

March 12, 2010

Mr. Gavin M Gee
State of Idaho Department of Finance Securities Bureau
800 Park Blvd, Suite 200
Boise, Idaho 83712
Phone: (208) 332-8010

CONFIDENTIAL TREATMENT
REQUESTED

Re:

Dear Mr. Gee:

On behalf of _____, we request the department's determination as to whether _____ is required to be licensed under the Idaho Money Transmitters Act (Title 26 Chapter 29) or other Idaho statutes in connection with a banking organization's bill payment services offered through an agent network assembled by _____. To assist you with your analysis, we have provided below a description of a brief background of _____ the bill payment services offered by _____ Bank ("_____"), a commercial bank chartered under the laws of Ohio and insured by the Federal Deposit Insurance Corporation, and the agent network through which these bill payment services are offered.

Description of

_____, a multifaceted software and service organization headquartered in _____, was incorporated in 1996. It is now one of the largest providers of prepaid home phone services and other phone related prepaid products in the United States. These services, including prepaid phone services, prepaid wireless handsets, prepaid wireless service, and prepaid long distance phone cards, are offered nationwide through a network of almost 5,000 independent agents ("Agents"). _____ is registered with and regulated by the Public Utility Commissions in each of the 41 states it provides telecommunication products and services.

Bill Payment Services and _____ Bank

_____ has entered into an agreement with _____ to provide _____ Agents the opportunity to offer _____ electronic bill payment and presentment ("EBPP") services to primarily under-banked and unbanked individuals who historically have not had access to such services.

EBPP services are enabled by MasterCard's Remote Payment Presentment Services ("RPPS") network, which facilitates the electronic bill payment services, offered by many banks throughout the United States.

As mentioned above, _____ is a bank chartered under the laws of the state of Ohio with its deposits insured by the Federal Deposit Insurance Corporation. _____ has affiliated banks that are chartered under the laws of Michigan and the United States. _____ has entered into an agreement with MasterCard to enable _____ directly or indirectly through third parties to offer consumer bill payments through the MasterCard's electronic bill payment and presentment service.

As an RPPS member bank, _____ maintains the primary relationship with MasterCard, processing EBPP credit and debit transactions via the automated clearing house network. _____, like other banks, "sponsors" or contracts with third parties, such as _____ to extend access to such services to under-banked or unbanked customers.

The MasterCard RPPS bill payment system is referred to as a "good funds" model because MasterCard guarantees payment to all billers in the RPPS network. This guarantee makes the *sponsoring bank* liable for all payments through the RPPS network. In other words, once the RPPS system receives the data about a payment, the sponsoring bank, i.e., _____ is liable for funds collected by _____ or its Agents and owed to billers regardless of whether _____ defaults on its obligation. In other words, once the funds are collected by the Agent, the customer's bill is deemed paid-in-full and considered an obligation of _____

Under the RPPS system, since _____ bears the responsibility to ensure that bill payments requested by customers are made to billers, these services are bank services and would not appear to be subject to the state's money transmitter licensing requirements.

Please note, _____ does not provide nor participate in any of the following:

- Issuance, sale, and redemption of money orders or traveler's checks;
- Check cashing
- Currency exchange or dealing
- Debt services or Debt consolidation;
- Payments/replenishments to prepaid debit cards;
- Payments to non-MasterCard/RPPS billers; or
- Online bill payment services.

We respectfully request confidential treatment because of the non-public information this letter contains.

Please do not hesitate to contact me at _____ or _____ or my
colleague _____ at _____ or _____ if you have any questions,
would like to schedule a time to discuss this matter with _____
further information. _____ personnel, or require anything

Best regards,