



**IDAHO**  
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER  
Governor

GAVIN M. GEE  
Director

June 26, 2009

Re: Request For Guidance Regarding Money Transmitter Licensure

Dear M

Please accept my apologies for the delay in responding to your letter of February 4, 2009. Our efforts to give your inquiry comprehensive consideration took more time than might have otherwise been expected.

After having reviewed and discussed your communication with the Securities Bureau Chief and counsel for the Department, we have concluded that it would be appropriate for the firm to license as a money transmitter in Idaho<sup>1</sup>.

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

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<sup>1</sup> It was clear that payment instruments were being issued, a form of licensable activity under the Idaho Money Transmitters Act.

**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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**From:**  
**Sent:** Monday, March 09, 2009 3:37 PM  
**To:** Jim Burns  
**Subject:** [SPAM?? (SP)]:RE: Drafts

Jim,

It was a pleasure speaking with you earlier. I hope the following information offers clarification to your questions.

1. The draft is made payable to the casino by [redacted]. In this regard, does the casino have any recourse against the consumer in the event that the [redacted] draft is not honored or in the event that [redacted] was to become insolvent? The draft is made payable to the casino (NOT the consumer) - so any recourse the casino would have would be on [redacted] *does not bounce settlement checks*, which is what these are.
2. [redacted] obtains a cash advance authorization from the patron's bank and we presume that [redacted] then controls these funds for the purpose of clearing the draft made payable to the casino. Is this correct? We presume that there is some delay between the authorization and funds procurement and the ultimate processing of the draft made payable to the casino. The patron obtains an authorization from the patron's *card issuing bank*. [redacted] is the merchant that simply processes the transaction. (For example, it is the same type of transaction as if you were to go to Wal-Mart and make a purchase using your credit or debit card.) There is a time delay on funding which is why [redacted] has lines of credit; we pay out funds faster than we receive them - similar to A/R financing.
3. In that [redacted] already uses a third-party processor, it seems a bit curious to liken [redacted] to a payment processor in such a second tier transaction model. Any clarity or further explanation would be greatly appreciated. [redacted] is a payment processor from a Bank Secrecy Act (BSA) standpoint. [redacted] simply outsources the IT processing rather than perform the transactions in-house due to high volume and cost efficiency.

Please note that the draft serves two purposes - one is that of the "sales receipt" required by the card associations (Visa compliance) and the other is the reimbursement/settlement used by the casino for monies paid out to the casino patrons/cardholders.

Please let me know if you need anything further.

Thank you.

Licensina Analyst

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**From:** Jim Burns [mailto:Jburns@finance.idaho.gov]  
**Sent:** Mon 3/9/2009 12:49 PM  
**To:**  
**Subject:** Drafts

Dear M

Thanks for speaking with me earlier today. In hopes of further clarification, can you address the following:

1. The draft is made payable to the casino by against the consumer in the event that the to become insolvent? In this regard, does the casino have any recourse draft is not honored or in the event that was
2. obtains a cash advance authorization from the patron's bank and we presume that then controls these funds for the purpose of clearing the draft made payable to the casino. Is this correct? We presume that there is some delay between the authorization and funds procurement and the ultimate processing of the draft made payable to the casino.
3. In that already uses a third-party processor, its seems a bit curious to liken to a payment processor in such a second tier transaction model. Any clarity or further explanation would be greatly appreciated.

Regards,

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

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STATE OF IDAHO  
DEPT OF FINANCE

February 4, 2009

Mr. Jim Burns  
Idaho Department of Finance  
Securities Bureau  
800 Park Boulevard, Suite 200  
Boise, ID 83712

Dear Mr. Burns:

After speaking with Jenny at the Department of Finance, I was instructed to refer the matter below to your attention for your review and determination as to whether or not [redacted] qualifies as a money transmitter in the State of Idaho.

Specifically, we are requesting an administrative ruling in response to the following question:

*Does the completion of a [redacted] credit card cash advance or point of sale debit card transaction that is completed at either a casino cage or a [redacted] booth located within a casino premises require [redacted] to be licensed as a money transmitter?*

As background, [redacted] is engaged in the business of providing cash access services to patrons of casinos and gaming facilities on both tribal and non-tribal lands (each, a "Casino"), including ATM, credit card cash advance and POS debit transactions, and check services. [redacted] provides its services in over 1,000 casinos in the United States.

In most Casinos in which [redacted] provides its services, credit card cash advance and point of sale debit transactions (together, "Cash Access Transactions") are completed by the patron at the Casino cage. [redacted] provides hardware and software to the Casino for use on the Casino floor and within the Casino cage. The Casino cage employees are responsible for facilitating and completing the Cash Access Transactions at the Casino cage.

Currently, in approximately sixty Casinos, instead of the transaction being completed at the Casino cage, [redacted] operates a "booth" on the Casino floor from which [redacted] employees complete patron's Cash Access Transactions.

[redacted] is currently performing Cash Access Transactions as an agent of [redacted], a wholly owned subsidiary of [redacted]. [redacted] is licensed as a money transmitter and, where applicable, a check seller. It is important to note that [redacted] is classified as a money transmitter because of certain additional functions and services it undertakes, which are in addition to [redacted] limited services as a payment processor providing cash access services to the gaming industry. The negotiable instrument – or check – that

causes to be printed at the Casino cage or booth, as applicable, are made on check stock and drawn on an account. As a result of agency relationship with has not been required to be licensed as a money transmitter in any jurisdiction for the purpose of completing Cash Access Transactions.

has recently announced that will be discontinuing services during the latter part of 2009. As such, will be performing Cash Access Transactions without reliance on Accordingly, we are seeking an administrative ruling as to whether, upon termination of the relationship, performance of the Cash Access Transactions and the printing of issued negotiable instruments on own secure check stock drawn on a account requires to obtain a money transmitter license, pursuant to your state's law.

Attached you will find a detailed description of our Cash Access Transaction process, a sample negotiable instrument, and a transaction process flow chart. As described in the attached detailed description, believes that the process flow of our Cash Access Transactions more closely resembles payment processing and settlement rather than money transmission as outlined in FinCEN ruling 2003-8: Definition of a Money Transmitter (Merchant Payment Processor).

As discussed in the attached detailed description, only the negotiable instrument, which is payable to the Casino and not to the patron, is used to reimburse the Casino for the Face amount of the Cash Access Transaction that was extended to the patron from the authorization received from the patron's financial institution.

Your prompt attention to this matter is greatly appreciated, as we realize the time involved to review and grant a license can be lengthy. While we are hopeful that you will agree that is not properly classified as a money transmitter, should your review determine that we are properly classified as a money transmitter, will immediately complete the necessary steps to be in compliance with your State's regulation upon dissolution of the relationship.

Should you have any questions, please feel free to contact me. I can be reached at Monday through Friday, 8:00 am – 5:00 pm (Pacific Time) or via email at

Thank you.

Sincerely,

Licensing Analyst

*Attachments*