



IDAHO
DEPARTMENT OF FINANCE

DIRK KEMPTHORNE
Governor

GAVIN M. GEE
Director

September 26, 2005

Re: Interpretive Request

Dear M

We have reviewed and discussed your letter of August 2, 2005 wherein you seek guidance regarding the applicability of the Idaho Money Transmitters Act (IMTA) to the business model detailed in your letter. In connection with your inquiry, we provide the following.

Background - As noted in your letter, _____, has contracted with _____ to provide electronic bill payment and associated processing services to public customers. Additionally, _____ will seek to solicit and obtain collection points (agents who will accept customer funds for further payment to creditors) as well as "Billers" (utilities or other business entities that are willing to have their customer's billings paid through the _____ system).

Based on your letter, it appears that both _____ and this Department agree that money transmission, as defined in the IMTA (I.C. §26-2902(11)), will occur when this business model becomes available to Idaho bill paying customers.

Issue of Licensure - Since money transmission is anticipated under the _____ model, the only question remaining is whether the activity can be conducted without the benefit of licensure under the IMTA.

Idaho Code §26-2904 provides various exemptions from the provisions of the IMTA. More specifically, §26-2904(d) states that the IMTA shall not apply to "Banks, credit unions, savings and loan associations, savings banks or mutual banks organized under the Laws of any state or the United States, provided that they do not issue or sell payments instruments through authorized delegates who are not banks, credit unions, savings and loan associations, savings banks or mutual banks" (emphasis added).

While the statutory exclusion in §26-2904 directs itself to "payment instruments", the definition of money transmission under the IMTA includes "the business of...transmitting money...by any and all means including, but not limited to, payment instrument, wire, facsimile or electronic transfer". Based on this language, we believe that the exclusion found at §26-2904(d) would

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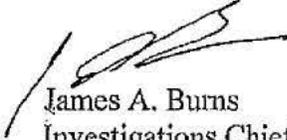
include any form of "money transmission" as defined under the IMTA.

Based on the above criteria, we do not believe that [redacted] and [redacted] can operate the business model without the benefit of licensure under the IMTA. More specifically, we cannot at this time agree that [redacted], acting as an agent of [redacted] is entitled to the exclusion for financial institutions. As to [redacted] the bank will be offering money transmission services through authorized delegates (whether [redacted] or the collection points) who are not financial institutions and thereby not within the ambit of the exclusory language of §26-2904.

Conclusion - As noted in the preceding paragraph, we believe that the proposed business model will require that at least one entity become licensed under the IMTA and that the collection points be contracted as authorized representatives under the IMTA. If you would like to discuss the various licensing models that might be applied given the described business model, please feel free to contact the undersigned directly.

Should you have any questions or comments, or wish to discuss this matter in greater detail, please also contact me directly.

Sincerely,


James A. Burns
Investigations Chief

August 2, 2005

Idaho

Dept. of Finance, Securities Bureau
P O Box 83720
Boise, ID 83720

Attn: Legal Department /Opinion Requested

RECEIVED

AUG 11 2005
DEPT. OF FINANCE
STATE OF IDAHO

Dear Sir/Madam:

I am writing to request your written opinion on whether
as an FDIC insured, duly licensed, Pennsylvania state chartered savings
bank, can legally perform services in your state as a Money Transmitter, or if you require
any sort of additional licensing based on the following circumstances:

We have entered into an agreement with _____ Pennsylvania corpo. on, to
provide electronic bill payment and information processing services, whereby the general
public ("Payors") can arrange for the electronic payment of their obligations to certain
utilities and other businesses ("Billers") that have made or will make arrangements with
and _____ Payors will make payments at locations ("Collectors") that have
entered or will enter into contracts with _____ and

NOVA has contracted with _____ as its agent for the provision of data processing
services, Collector acquisition and Biller acquisition services in connection with and for
the purpose of Money Transmission in certain states. _____ will be liable for all
payments by Payors to Collectors from the time such payment is received by the agent.
The parties will disclose to all Customers that _____ is the money transmitter for the
services. _____ will cause all current and future Collectors or "agents" to enter into
written agreements, including but not limited to a Bill Payment Service & License
Agreement with _____ (or amendments to an existing agreement with
naming _____ as the money transmitter of the payments collected by the agent. The
Collectors will be agents or subagents of _____ if and to the extent required by
applicable laws, rules and regulations, as set forth in the Collector Agreements.

_____ will market and promote the services to potential Collectors and, in
conjunction with _____ will make sure that each Collector continues to be in
compliance with all laws, rules and regulations including but not limited to Bank Secrecy
Act, USA Patriot Act and Anti-Money Laundering regulations.

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will process the data received from the Collectors and transmit to each Business Day, electronic reports and ACH files containing accurate and complete data for the bill payment activity will then collect the funds received by the Collectors from the Collectors' designated accounts via Automated Clearing House ("ACH") transactions and distribute the funds to the appropriate Billers via ACH transactions or alternative means based on the biller remittance method, in each case, based on the Payment Reports. will distribute the funds to the appropriate Billers according to or as specified within the Payment Reports.

Based upon the foregoing information, we are also asking for your determination as to whether, based on the contracted arrangement between the parties, and the Collectors are required to be licensed in your state.

Please include in your response, the relevant statutes and/or regulations that support your determination, so that we may note same in our records.

Your prompt response to this request would be greatly appreciated, as it will guide us in our endeavors.

Should you have any questions, please do not hesitate to contact me at

Thank you for your time and attention to this request.

Very truly yours,

Chief Operating Officer/BSA Officer