

DEPARTMENT OF BUSINESS OVERSIGHT*Ensuring a Fair and Secure Financial Services Marketplace for all Californians*

Jan Lynn Owen
Commissioner of Business Oversight

November 3, 2016

Re: Opinion Request

Dear _____:

Thank you for your letter dated September 29, 2016, in which _____ requested approval by the Department of Business Oversight to include certain bank accounts as eligible securities pursuant to Financial Code section 2084 of the Money Transmission Act.

You submitted a spreadsheet with a list of the bank accounts that _____ wishes to include as eligible securities. Each account is titled:

AS AGENT AND CUSTODIAN
FOR BENEFIT OF ITS CUSTOMERS

Money Transmission Act

Financial Code section 2081 provides, in relevant part, that a money transmitter must own eligible securities with an aggregate market value that is the same as or more than all its outstanding transmission money received in the United States. This requirement ensures that money transmitters adequately safeguard the funds entrusted to them by their customers. Financial Code section 2084, subdivision (b)(3) allows money transmitters to count as eligible securities transmission money that is held in an account that is specifically named to indicate its custodial purpose. To satisfy Section 2084, an account must be named in a manner that clearly indicates that it is for the benefit of the licensee's customers. Financial Code section 2084, subdivision (c) provides that the Commissioner shall decide whether subdivision (b)(3) applies.

The bank account titles listed in the spreadsheet indicate that the funds in these accounts are held in _____'s name as agent and custodian for the benefit of its customers ("FBO accounts"). Thus, they meet the custodial and agency requirements set forth in Financial Code section 2084, subdivision (b)(3). Based on a review of the financial statements and other factors submitted by _____, the Department grants the request to include these FBO accounts as eligible securities pursuant to Financial Code section 2084, subdivision (c).

1515 K Street, Suite 200
Sacramento, CA 95814-4052
(916) 445-7205

One Sansome Street, Suite 600
San Francisco, CA 94104-4428
(415) 972-8565

320 West 4th Street, Suite 750
Los Angeles, CA 90013-2344
(213) 576-7500

1350 Front Street, Room 2034
San Diego, CA 92101-3697
(619) 525-4233

45 Fremont Street, Suite 1700
San Francisco, CA 94105
(415) 263-8500

300 S. Spring Street, Suite 15513
Los Angeles, CA 90013
(213) 897-2085

7575 Metropolitan Drive, Suite 108
San Diego, CA 92108
(619) 682-7227

_____ should continue to evaluate the amount, nature, quality, and liquidity of its assets, amount and nature of its liabilities, and compliance with applicable state and federal law. If there is any material deterioration in _____'s status with respect to the requirements in Financial Code section 2084, subdivision (c), _____ risks losing the ability to count these FBO accounts as eligible securities.

This opinion is based solely on the facts as represented in your correspondence. Any change in the facts or circumstances, as we understand them, could lead to a different conclusion. If you have any questions, please feel free to contact me at _____.

Sincerely,

Jan Lynn Owen
Commissioner
Department of Business Oversight

By

Jennifer L.W. Rumberger
Senior Counsel

JLWR:acp

cc: Robert Venchiarutti, Department of Business Oversight, San Francisco