

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

Jan Lynn Owen
Commissioner of Business Oversight

October 29, 2014

Re: _____ . – Definition of Branch Office

Dear Mr. _____:

This is in response to your letter dated August 25, 2014. You have requested clarification of the Department of Business Oversight’s interpretation of the definition of “branch office” as set forth in Financial Code section 2003(e) of the Money Transmitter Act and its application to kiosks.

BACKGROUND

_____ offers a product called _____. This product is a service which allows friends and family of _____ to transfer money into the _____ individual trust account via the Internet, telephone, and kiosks located in the lobbies of _____.

The issue is whether the building location where a kiosk is placed should be reported as a branch office. _____ asserts that there is ambiguity in the definitions of “branch office” and “office” in the Financial Code. _____ notes that the Financial Code uses “branch office” to define “office,” and “office” to define “branch office.” Due to this apparent circularity in the definitions, _____ then looks to the dictionary definition of “office.” _____ contends that an office means a building where people accept money for transmission on _____ behalf. _____ further asserts that its kiosks do not meet the dictionary definition of “office” because there are no people involved in accepting money at the kiosk.

_____ has provided the names of its customers and their principal addresses, but not the address for each specific location that kiosks are placed. _____ contends that reporting only the principal addresses of its customers, along with the amount of kiosks supplied to each customer, is sufficient to satisfy its reporting requirements pursuant to Financial Code section 2039.

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CALIFORNIA MONEY TRANSMISSION ACT

Financial Code section 2003(e) defines “branch office” to mean “any office in this state of a licensee or agent at which the licensee receives money or monetary value to provide money transmission, either directly or through an agent.”

Financial Code section 121(a) defines “office” to include the “head office, branch office, and any other authorized place of business of a licensee.”

Read together, Financial Code sections 121(a) and 2003(e) define a “branch office” of a money transmitter licensee to mean an authorized place of business at which the licensee receives money or monetary value to provide money transmission, either directly or through an agent.

Thus, it is unnecessary to look to the dictionary definition of "office."

CONCLUSION

The site where a _____ kiosk is located would be considered an authorized place of business because customers can conduct business with _____ at the kiosk. Because the _____ kiosk, i.e., authorized place of business or office, receives money or monetary value to provide money transmission, the site where the kiosk is located is therefore a branch office.

The address of the site where the kiosks are located would be considered one branch office, irrespective of the number of kiosks at that location. Each site where kiosks are located is a separate branch office, and the address for each site should be reported pursuant to Financial Code section 2039(d). This is consistent with the treatment of brick and mortar branch offices.

If you have any questions, please feel free to contact me at (415) 263-8528.

Sincerely,

Jan Lynn Owen
Commissioner

By _____
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