

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

Jan Lynn Owen
Commissioner of Business Oversight

June 15, 2015

IN REPLY REFER TO:
 FILE NO: QP 405

Re: _____ – Request for Interpretation Under the California Money
 Transmission Act

Dear _____:

Thank you for your letter dated February 4, 2015, in which you asked whether _____ is subject to the licensing requirements of the Money Transmission Act (MTA). As Senior Counsel for the Legal Division, the Commissioner requested that I respond to this matter. In your letter, you described _____ activities and provided reasons why the MTA's licensing requirements should not apply to it.

You stated that _____ has contracted with child-support state agencies in the United States to transmit child-support payments submitted by non-custodial parents. The non-custodial parents pay _____ by debit or credit card through its online portal, a website. _____ immediately emails a receipt to the non-custodial parent. _____ collects the funds from their bank account or charges their credit card, depending on the manner of payment. _____ receives the funds, it transmits the funds to the appropriate child-support agency.

Money Transmission Act

Financial Code section 2003(o) defines money transmission as, among other things, "receiving money for transmission." _____ engages in money transmission as defined in the MTA. _____ receives money from non-custodial parents and transmits this money to child-support agencies. Although _____ engages in money transmission, certain exemptions exist that, if applicable, allow a person to engage in money transmission without being subject to regulation under the MTA.

Financial Code section 2010(c) exempts from the MTA public entities including "state, county, city, or any other governmental agency or governmental subdivision of a state."

licensed or exempt from licensure... Thus, if the child support agencies were to engage in

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money transmission, the child-support agencies would be exempt from MTA licensure because they are a governmental agency or subdivision.

You argue that because _____ has contracted to collect and transfer funds for the child-support agencies, it is acting as the agent of the child-support agencies and therefore is likewise exempt under Financial Code section 2030(a). You substantiate your argument with a copy of an agreement that _____ proposes to enter with the California Department of Child Support Services. The agreement includes a provision whereby the Department of Child Support Services would appoint _____ as its agent for purposes of processing child-support payments from non-custodial parents.

In addition to the proposed agreement with the Department of Child Support Services, by email on April 24, 2015, you also provided us revised content that you propose to post on

_____ is responsible for transmitting their payments to the State; that _____ is the State's appointed agent, and that the disclaimer of liability applies to the web site operation and not to the money-transmission services. You also revised the format of _____'s website so that the link to the Terms of Service is prominently displayed at the bottom of each web page.

We have considered your arguments and the supporting documentation. We agree that _____ would act as an agent of the Department of Child Support Services within the meaning of Financial Code section 2030(a). We further agree that as an agent of a state child-support agency, which is exempt under Financial Code section 2010(c), _____ is also exempt from licensure under the MTA. Please note, however, that _____ is exempt only as to those governmental agencies or subdivisions with whom it has an agreement to act as agent.

Our position is based solely on the representations contained in your correspondence. Any change in the facts or circumstances, as we understand them, could lead to a different conclusion.

Sincerely,

Jan Lynn Owen
Commissioner of Business Oversight

By

Manuela Rumsey
Senior Counsel

MR:is

cc: Robert Venchiarutti, Department of Business Oversight, San Francisco
Joyce Tsai, Department of Business Oversight, San Diego