

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

Jan Lynn Owen
Commissioner of Business Oversight

July 17, 2015

Re: _____ – Approval to Acquire Control

Dear _____:

This responds to your letter, dated May 8, 2015, on behalf of _____ regarding the acquisition of more than 10 percent of _____'s voting securities by both _____ and _____. _____ is a licensee under the Money Transmission Act (MTA).

BACKGROUND

According to your letter, _____ believes that _____ and _____ may have each acquired control of _____ without the prior approval of the Commissioner of Business Oversight (Commissioner) in violation of Financial Code section 2035(a). _____ has requested on behalf of _____ and _____ that the Department of Business Oversight (Department), under Financial Code section 2035(g), waive any requirement that _____ and _____ obtain approval to acquire control of _____. The request is made on the grounds that _____ and _____ have each filed beneficial ownership reports with the United States Securities and Exchange Commission (SEC) on SEC Schedule 13G. _____ also asks that instead of requiring institutional investors that make passive investments in _____ to obtain the prior approval of the Commissioner before acquiring control of _____ that the Department only require that _____ provide notice within 10 days of these investors' public filings with the SEC.

ANALYSIS

The MTA does not give the Department the authority to approve or exempt an acquisition of control after it occurs. Accordingly, if _____ or _____ have already acquired control of _____, the Department cannot now waive any requirement that they obtain prior approval to acquire control of _____ that has been violated.

Furthermore, the Department will not waive the prior approval requirement for future acquisitions of control of _____ by institutional investors as passive investors merely because their public filings with the SEC are provided to the Department. The

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Commissioner must make significant substantive finding under Financial Code section 2035(b) about the proposed acquirer before giving prior approval for that acquirer to acquire control of a MTA licensee. The filing of a post-acquisition disclosure schedule with the SEC under the federal securities laws, such as a Schedule 13D or Schedule 13G, is not a sufficient basis for waiving the prior approval requirement of Financial Code section 2035(a).

It is the responsibility of the person acquiring control of a MTA licensee to obtain the prior approval of the Commissioner required by Financial Code section 2035(a). _____ should make clear to purchasers of its voting securities, whether on the open market or directly from _____, that a purchaser must obtain the prior approval of the Commissioner under Financial Code section 2035(a) if the stock purchase results in the purchaser acquiring control of _____.

Please contact the undersigned at 213.897.2172 if you have any questions.

Sincerely,

Jan Lynn Owen
Commissioner of Business Oversight

By

Wallace M. Wong
Senior Counsel

WMW:jg