



STATE OF CALIFORNIA

Department of Business Oversight

GOVERNOR **Gavin Newsom** • COMMISSIONER **Manuel P. Alvarez**

IN REPLY REFER TO:

FILE NO: _____

January 28, 2020

Re: _____ – Opinion Request

Dear Ms. _____:

Thank you for your letter dated September 6, 2019 to Jonathan Lee, Assistant Deputy Commissioner of the Money Transmitter Division in the Department of Business Oversight. Your letter on behalf of _____ (“_____”) requests confirmation that processing donations as an agent of a charity is exempt from the Money Transmission Act (“MTA”). You assert that this activity is exempt from the MTA under the agent of payee exemption.¹

_____ provides payment processing services to charitable organizations receiving donations. The donations are processed pursuant to terms of service which state that the charities appoint _____ as “payment processing agent for the limited purpose of receiving payments” on behalf of the charity. The terms also state that the receipt of funds from donors by _____ on the charity’s behalf shall be deemed receipt of funds from the donors by the charity and will satisfy the obligations owed to a charity by the donor in the amount of the applicable payment by the donor, even if _____ fails to remit such funds received from the donors.

The Department intends to propose a regulation concerning the agent of payee exemption in the near future. While the Department engages in the rulemaking process, we decline to opine on the applicability of the exemption to _____’ payment processing activities as an agent of charitable organizations. However, the Department will not require _____ to report this activity under the MTA while the rulemaking is pending.

¹ Fin. Code, § 2010, subd. (l).

This letter is limited to the facts and circumstances presented to the Department in the correspondence listed above. Should any of the facts or circumstances change, the Department's position may also change.

If you have any questions, please contact the undersigned at _____.

Sincerely,

Manuel P. Alvarez
Commissioner
Department of Business Oversight

By

_____/s/_____
Pamela F. Hernandez
Counsel

PFH:ss

cc: Robert Venchiarutti, Deputy Commissioner, Money Transmitter Division