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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

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<p>COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF BANKING, BUREAU OF COMPLIANCE AND LICENSING</p> <p style="text-align: center;">v.</p> <p>DSI-ITI, LLC</p>	<p>:</p>	<p style="text-align: right;">PA DEPT OF BANKING</p> <p>DOCKET No. 12 <u>0072</u> (ENF-CO)</p>
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CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (“Department”), Bureau of Compliance and Licensing (“Bureau”) evaluated certain business practices of DSI-ITI, LLC (“DSI-ITF”) and its officers, employees and directors. Based on the results of its evaluation, the Bureau contends that DSI-ITI engaged in unlicensed activity in violation of the act of September 2, 1965, P.L. 490, No. 249, known as the Money Transmitter Act, 7 P.S. §§ 6101-6018 (“MTA”). DSI-ITI contends that it did not violate the MTA because it is excluded from the licensing requirements and because it is not engaging in activities governed by the MTA. The parties seek to resolve this matter amicably to save the time and resources that ongoing litigation would require and, to this end, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agrees to the terms of this Consent Agreement and Order (“Order”).

**PARTIES**

1. The Department is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the MTA.

2. The Bureau is primarily responsible for administering and enforcing the MTA for the Department.

3. DSI-ITI is a Delaware limited liability company that provides telecommunications and technology products to state, county and municipal governments, including correctional facilities, in Pennsylvania and throughout the United States.

4. DSI-ITI's principal place of business is located at 5000 Sixth Avenue, Suite 1, Altoona, Pennsylvania 16602.

5. DSI-ITI provides to correctional facilities a method by which friends and family ("consumers") may deposit funds into inmates' commissary accounts.

6. Consumers may deposit funds into inmates' commissary accounts by credit and debit cards through a website ([www.offenderconnect.com](http://www.offenderconnect.com)), telephone or through the lobby kiosks at the facilities.

7. The consumers pay a fee for each transfer they make into the inmates' commissary accounts.

8. DSI-ITI is not, and has never been, licensed as a money transmitter by the Department.

### **BACKGROUND**

9. In June 2010, DSI-ITI organized into its current corporate form.

10. Since DSI-ITI organized in its current corporate form, it has been providing the aforementioned service to county prisons and consumers in Pennsylvania.

11. During an initial six month period of providing this service to county prisons and consumers in its current corporate form, DSI-ITI arranged for a licensed money transmitter to

assist with its business while legal counsel for the company commenced a nationwide review of regulatory compliance issues associated with the activities of the business.

12. In addition, DSI-ITI executed Memoranda of Understanding with the county prisons in which it was operating in Pennsylvania designating DSI-ITI as the prisons' agent.

13. In January 2012, the Bureau contacted DSI-ITI to inquire as to its business activities in Pennsylvania.

### PARTIES' POSITIONS

14. From January 2012 through May 2012, legal counsel for the Bureau and DSI-ITI corresponded as to whether DSI-ITI is a person subject to licensure and whether its activities require licensure.

15. Through legal counsels' correspondences, the parties expressed different opinions regarding the applicability of Section 2 of the MTA to DSI-ITI.

16. Specifically, Section 2 of the MTA provides, in relevant part, that:

No *person* shall engage in the business of transmitting money by means of a transmittal instrument for a fee or other consideration without first having obtained a license from the Department of Banking.

*See* 7 P.S. § 6102 (emphasis added).

17. A "person" to which Section 2 applies includes an "individual or organization but *does not include the governments* of the United States or *of the Commonwealth of Pennsylvania.*" 7 P.S. § 6101 (emphasis added).

18. A "[t]ransmittal instrument means any check, draft, money order, personal money order or method for the payment of money or transmittal of credit, other than a merchandise gift certificate sold in the regular course of business by a vendor or personal property or services."

*Id.*

19. The Bureau's position is that DSI-ITI must be licensed as a money transmitter.

Had the parties elected to go to a hearing on the matter, the Bureau would contend that:

- a. DSI-ITI is an organization and, therefore, a person to which Section 2 of the MTA applies.
- b. The county prisons are governments of the Commonwealth of Pennsylvania and, therefore, are excluded from the requirements of Section 2 as they are not persons to which the MTA applies.
- c. The exclusion does not apply to agents of the county prisons because no language excluding agents of the government is present in the definition of person; thus, DSI-ITI cannot avail itself of the exclusion from the MTA's applicability to which the county prisons are entitled.
- d. Even if such exclusion existed by the terms of the MTA, the Memoranda of Understanding is not sufficient to render DSI-ITI an agent of the county prisons.
- e. DSI-ITI's business activities constitute the "business of transmitting money by means of a transmittal instrument for a fee or other consideration" because DSI-ITI is accepting Pennsylvania consumers' payment information and cash to transfer electronically to the inmates' accounts for a fee.

20. DSI-ITI's position is that it is not subject to the licensing requirements of the MTA. Had the parties elected to go to a hearing on the matter, DSI-ITI would contend that:

- a. DSI-ITI is an agent for its county customers as demonstrated by the express terms of the Memoranda of Understanding.

- b. Because DSI-ITI is an agent of “the governments ... of the Commonwealth of Pennsylvania,” *i.e.* the counties it serves, it stands in the shoes of the county and therefore is not a person to which Section 2 applies.
- c. DSI-ITI’s business activities do not constitute “the business of transmitting money” because DSI-ITI is providing a service to the counties incidental to the sale of goods at the commissary and the telephone services.
- d. DSI-ITI’s business activities do not involve a “transmittal instrument” because the funds transferred are units that can only be redeemed at the county prison for the purchase of goods and services offered by the county and, therefore, are, in essence, a merchandise gift certificate.

21. DSI-ITI contends that it has provided a good faith legal argument regarding the application of the MTA, has been and remains desirous of complying with the MTA, has taken considerable efforts to evaluate its compliance and licensure obligations under the MTA and to structure its business activities in accordance therewith.

22. DSI-ITI has cooperated with the Bureau as demonstrated by providing documents and information to the Bureau as requested.

23. To date, the Bureau has received no consumer complaints regarding DSI-ITI.

24. As of August 7, 2012, DSI-ITI has submitted a license application with the Department.

25. Although DSI-ITI has agreed to enter into this Order with the Bureau, by so agreeing DSI-ITI does not admit to any wrongdoing or of a violation of the MTA by DSI-ITI for any purpose including use of the Order in any other forum.

26. This Order resolves this matter completely.

## AUTHORITY

27. The Department has the authority to impose an order against any company that engages in unlicensed money transmitter activity and may issue a fine of “up to two thousand dollars (\$2,000) for each offense.” See 7 P.S. §§ 6113.1, 6114, 6116; see also 1 Pa. Code § 35.20.

## RELIEF

28. Fine. Within 30 days of the Effective Date of this Order as defined in Paragraph 35, DSI-ITI shall pay the Department a fine in the amount of \$18,000. Payment shall be made by certified check or money order made payable to the “Department of Banking” and shall be mailed or delivered, in person, to the Compliance Division, Bureau of Compliance and Licensing located at 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

29. Corrective Action. Upon the Effective Date of this Order, DSI-ITI’s money transmitter application will be approved by the Department. DSI-ITI shall not engage in the business set forth in this Order without maintaining a money transmitter license.

## FURTHER PROVISIONS

30. Consent. DSI-ITI hereby knowingly, willingly, voluntarily and irrevocably consent to the entry of this Order pursuant to the Bureau’s order authority under the MTA and agrees that it understands all of the terms and conditions contained herein. DSI-ITI, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

31. Publication. The Department will publish this Order pursuant to its authority in Section 302.A(5) of the Department of Banking Code. 71 P.S. § 733-302.A(5).

32. Entire Agreement. This Order contains the entire agreement between the Department and DSI-ITI. There are no other terms, obligations, covenants, representations,

statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Department and DSI-ITI.

33. Binding Nature. The Department and DSI-ITI, and all officers, owners, directors, employees, heirs and assigns of DSI-ITI intend to be and are legally bound by the terms of this Order.

34. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

35. Effectiveness. DSI-ITI hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

36. Other Enforcement Action.

(a) The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against DSI-ITI in the future regarding all matters not resolved by this Order.

(b) DSI-ITI acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

37. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

38. Counterparts. This Order may be executed in separate counterparts, by facsimile and by PDF.

39. Titles. The titles used to identify the paragraphs on this document are for the convenience of reference only and do not control the interpretation of this document.

**WHEREFORE**, in consideration of the foregoing, including the recital paragraphs, the Commonwealth of Pennsylvania, Department of Banking, Bureau of Compliance and Licensing

and DSI-ITI, LLC, intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING  
BUREAU OF COMPLIANCE AND LICENSING**

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Ryan M. Walsh  
Chief of Compliance

Date: August 21, 2012

**FOR DSI-ITI, LLC**

\_\_\_\_\_  
(Officer Signature)

\_\_\_\_\_  
(Print Officer Name)

President & Chief Operating Officer  
(Title)

Date: 8/17/12