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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES  
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COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, BUREAU OF COMPLIANCE	:	
AND LICENSING	:	
	:	
v.	:	
	:	Docket No.: 13 <u>0067</u> (BNK-CAO)
TOUCHPAY HOLDINGS, LLC	:	
	:	

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CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department") Bureau of Compliance and Licensing ("Bureau"), has reviewed the business practices of TouchPay Holdings, LLC ("TouchPay") and its officers, employees and directors. Based on the results of its review, it is the Bureau's position that TouchPay violated the act known as the Money Transmitter Act, 7 P.S. § 6101 *et seq.* ("MTA"). TouchPay agrees to enter into this Consent Agreement and Order ("Order") without admitting to any wrongdoing. The parties to the above-captioned matter, in lieu of litigation and for purposes of settlement, hereby stipulate that the following statements are true and correct, and intending to be legally bound, hereby agree to the terms of this Order.

**BACKGROUND**

1. The Department is the Pennsylvania 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.

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3. TouchPay's principal place of business is located at 7801 Mesquite Bend Drive, Suite 101, Irving, TX 75063.

4. TouchPay engages in the business of money transmission by, *inter alia*, facilitating the transfer of funds for deposit into prison inmate accounts.

5. TouchPay charges its customers a fee for this service.

6. Based on correspondence with the Department, it was determined that TouchPay should be licensed as a money transmitter in order to engage in the money transmission business in Pennsylvania.

7. Consequently, TouchPay contacted the Bureau and informed the Bureau that it planned to apply for a money transmitter license.

8. In July of 2013, TouchPay submitted an application for a money transmitter license with the Department.

9. TouchPay disclosed to the Bureau that from March of 2008 through February of 2011 it had processed money transmission transactions in Pennsylvania.

10. TouchPay has been cooperative with the Bureau by fully disclosing its activities and by applying for a license upon ascertaining that a license was necessary.

#### VIOLATION

11. Section 2 of the MTA provides, in relevant part, that "[n]o 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. . . ." 7 P.S. § 6102.

12. A transmittal instrument is "any check, draft, money order, personal money order or method for the payment of money or transmittal of credit. . . ." 7 P.S. § 6101.

13. TouchPay does not meet any of the exemptions to licensure contained in the MTA. *See* 7 P.S. §§ 6103, 6104.

14. It is the Bureau's position that TouchPay engaged in the business of transmitting money by means of a transmittal instrument for a fee when it, *inter alia*, facilitated the transfer of money into inmate accounts from March of 2008 through February of 2011, in violation of the MTA.

15. The Department may fine persons that violate the provisions of the MTA an amount of "up to two thousand dollars for each offense." 7 P.S. § 6116.

#### RELIEF

16. Fine. TouchPay agrees to pay to the Department a fine in the amount of \$36,000. The fine shall be payable in six (6) payments of \$6,000 with the first payment due within thirty (30) days of the Effective Date of the Order and subsequent payments due every 30 days thereafter until paid in full. Payments shall be remitted by company check, certified check or money order made payable to the "Department of Banking and Securities" and shall be sent to the attention of the Compliance Division, Bureau of Compliance and Licensing located at 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

17. Corrective Action. TouchPay shall maintain a money transmitter license with the Department as long as it engages in the business of transmitting money by means of a transmittal instrument for a fee or other consideration on behalf of Pennsylvania consumers.

#### FURTHER PROVISIONS

18. Consent. TouchPay hereby knowingly, willingly, voluntarily and irrevocably consents 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. TouchPay, 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.

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

20. Entire Agreement. This Order contains the whole agreement between the parties. 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 Bureau and TouchPay.

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

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

23. Effectiveness. TouchPay hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

24. 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 TouchPay in the future regarding all matters not resolved by this Order.

b. TouchPay 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.

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

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

27. Titles. The titles used to identify the paragraphs of 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 and Securities, Bureau of Compliance and Licensing and TouchPay Holdings, LLC intending to be legally bound do hereby execute this Consent Agreement and Order.

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

**FOR TOUCHPAY HOLDINGS, LLC**

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Ryan Walsh, Chief  
Compliance Division  
Department of Banking and Securities

Date: November 1, 2013

(Officer Signature)

Daniel B Burgess  
(Print Officer Name)

Manager  
(Title)

Date: 10/31/2013