

FILED

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

2016 SEP 19 PM 1:08

PA DEPARTMENT OF  
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF BANKING AND :  
SECURITIES, COMPLIANCE OFFICE :

v. :

DOCKET No. 16 0052 (BNK-C&D)

GIVELIFY LLC, :  
TAYO ADEMUYIWA, M.D. an individual, :  
And WALLE MAFOLASIRE, an individual, :  
jointly and severally :

NOTICE OF ANSWER AND PETITION FOR HEARING

You, Givelify LLC, Tayo Ademuyiwa and Walle Mafolasire, have the right to challenge the attached *Order to Cease and Desist and Pay a Fine* ("Order") by filing an Answer and Petition for Hearing, in writing, with the Docket Clerk within 30 days of the date of this Order in accordance with 1 Pa. Code § 35.20 and 1 Pa. Code § 35.37. If you do not file an Answer and Petition for Hearing within 30 days, then you will waive your right to a hearing and the Banking and Securities Commission may enter a final order against you.

Your Answer and Petition for Hearing must be in writing. You must specifically admit or deny the allegations in the Order, set forth the facts you rely upon and state concisely the law you rely upon and the relief you seek as required by 1 Pa. Code 35.17. General denials of the allegations set forth in the Order are not sufficient; you must support your denials with specific facts. Failure to support your denials with specific facts may cause the Commission to deem the facts in the Order as admitted and to enter a final order against you, without hearing.

Your Answer and Petition for Hearing and all other documents relating to this matter must be filed with the Docket Clerk:

Linnea Freeberg  
Docket Clerk  
Pennsylvania Department of Banking and Securities  
17 North Second Street, Suite 1300  
Harrisburg, PA 17101

Further you must serve a copy of the Answer and Petition for Hearing and any other documents on the person who signed the order by providing a copy to his or her counsel below:

Linda Carroll  
Deputy Chief Counsel  
Pennsylvania Department of Banking and Securities  
17 North Second Street, Suite 1300  
Harrisburg, PA 17101

Once you file your Answer and Petition for Hearing, you will be notified of pertinent information such as the name of the presiding officer designated by the Banking and Securities Commission to hear this matter and, if a hearing is scheduled, the date, time and location of the hearing. Individuals have the right to be represented by an attorney. Corporations may be required to be represented by an attorney.

All procedural matters will be governed by the Pennsylvania Administrative Agency Law, 2 Pa. C.S. §§ 501-508, 701-704, and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1 – 35.251.

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TAYO ADEMUYIWA, M.D. an individual, :  
And WALLE MAFOLASIRE, an individual, :  
jointly and severally :

ORDER TO CEASE AND DESIST AND PAY A FINE

THIS 19TH DAY OF SEPTEMBER, 2016, Tayo Ademuyiwa, an individual, Walle Mafolasire, an individual, and Givelify LLC (collectively "Givelify"), and their officers, members, managers, and employees are hereby ordered, jointly and severally, to immediately cease and desist from collecting monetary donations from individuals by any means whatsoever, particularly through its mobile application accessible on smartphones and through Givelify's website, and distributing that money to third party churches, religious groups, or other non-profit or charitable entities, in violation of the Money Transmitter Act ("MTA"), 7 P.S. § 6101 *et seq.* You are further ordered to cease and desist from soliciting churches, religious groups, non-profit or charitable entities, or any Pennsylvania resident or business to contract with Givelify for the use of your services in the collection and distribution of money in violation of the Money Transmitter Act ("MTA"), 7 P.S. § 6101 *et seq.*, by any means whatsoever.

The order to cease and desist is effective immediately since Tayo Ademuyiwa, Walle Mafolasire, and Givelify are not licensed as money transmitters in Pennsylvania.

Tayo Ademuyiwa, Walle Mafolasire, and Givelify are further ordered, jointly and severally, to pay a fine in the amount of \$176,000. The order to pay a fine will be effective in thirty days from the date of this order unless stayed by operation of law upon the filing of a timely Answer and Petition for Hearing.

### FACTS

In support of its Order, the Compliance Office states the following:

#### Parties

1. The Department of Banking and Securities ("Department") is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the Money Transmitter Act.
2. The Compliance Office has the responsibility to administer and enforce the Money Transmitter Act, 7 P.S. § 6101 *et seq.*, on behalf of the Department.
3. The Compliance Office operates from the Department's offices at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.
4. The Department requires that persons engaged in the business of transmitting money by means of a transmittal instrument for a fee or other consideration must be properly licensed or be exempt from licensing by virtue of being an agent of a person licensed or by being a depository institution, or an agent of a depository institution. 7 P.S. §§ 6101 and 6102.
5. Givelify LLC is an Indiana corporation located at 47 South Pennsylvania Street, Suite 902, Indianapolis, Indiana 46204.
6. Givelify LLC is not, nor has ever been, licensed by the Department as a money transmitter.

7. Tayo Ademuyiwa is a physician, owner, and co-founder of Givelify who remains active in promoting Givelify LLC's money transmission services to non-profit entities.

8. Walle Mafolasire is co-founder, owner and President of Givelify LLC.

9. Givelify is engaged in the business of creating transmittal documents for the movement of money from the bank account of an individual to the bank account of a non-profit entity for which it receives payment of a fee. (Exhibit A).

#### Unlicensed Activity

10. Beginning in January 2015, the Compliance Office conducted an investigation into the money transmission services offered to Pennsylvania residents and Pennsylvania churches by Givelify.

11. On March 18, 2015, after numerous communications with Walle Mafolasire and counsel for Givelify, Givelify initiated a Money Transmitter License application through the Nationwide Mortgage Licensing System ("NMLS").

12. By letter dated March 18, 2015, Walle Mafolasire forwarded documents required by Pennsylvania's application to the Department's Licensing Office.

13. On March 19, 2015, Givelify's application was returned to Givelify through its counsel as being deficient.

14. By letter dated March 20, 2015, Givelify informed the Compliance and Legal Offices of the Department that Givelify was "working to complete all required steps to become licensed." The letter further stated that: "Until such time as the money transmitter application is successfully completed and submitted, Givelify hereby agrees to voluntarily cease doing business in the Commonwealth of Pennsylvania." (Exhibit B).

15. The letter referenced in paragraph 16 above was forwarded to Theresa Jones of the Compliance Office and to the legal office by Givelify's legal counsel.

16. On April 8, 2015, in response to an inquiry about progress on the application process, counsel for Givelify informed the Compliance Office that Givelify was exploring adjustments to its business model, including a contract with a new payment processor. The letter stated in part:

As part of that process, they [Givelify] have been looking to actually integrate their technology in with a payment processor. At this time, they have received a contract from a new potential payment processor. The contract would have Givelify license its technology to the payment processor, which will be integrated into the payment processor technology. Givelify would be paid a royalty from the processor for the use of its technology, but would receive no other compensation from the consumer and would pay nothing to the processor.

(Exhibit C).

17. By letter dated May 11, 2015, the Compliance and Legal Office of the Department was informed that: 1) new legal counsel was representing Givelify; 2) Givelify is withdrawing its application for a money transmission license; 3) Givelify will continue to abstain from offering services in Pennsylvania; and 4) Givelify will enquire whether a money transmission license is needed under a new business model it was developing. (Exhibit D).

18. On May 21, 2015, Givelify's new legal counsel presented a package of material that included legal analysis based on federal law arguing that Givelify's original business model was not money transmission requiring a license (Vantiv model) and that it was transitioning to a new business model (Vanco model) which also was not money transmission.

19. On July 22, 2015, Givelify was informed by the Compliance Office, through its counsel, that Vanco was unlicensed and not authorized to conduct money transmission in

Pennsylvania and that federal law is not applicable to the issue of money transmission for purposes of Pennsylvania law. (Exhibit E).

20. On July 31, 2015, counsel for Givelify was again advised that we are enforcing state law, not federal law; that Vanco does not have a money transmission license, nor it is acting as an agent for a licensed money transmitter or exempt bank; and that there is no bond in place to protect Pennsylvania consumers. (Exhibit F).

21. At no point did Givelify or its counsel inform the Department that Givelify was withdrawing its twice affirmed voluntary agreement to abstain from offering services in Pennsylvania.

22. On or about August 17, 2016, despite the numerous communications with Givelify, and its counsel that a license is required for such activity, the Compliance Office discovered that Givelify has continued to engage in the money transmission business in Pennsylvania, in association with Vantiv, by collecting money from donors and forwarding it to a non-profit third party for a fee, and by soliciting other non-profits to do the same, holding itself out as a money transmitter.

23. Redacted Church, Inc. located at Redacted, Pennsylvania and Redacted Church located in Redacted, Pennsylvania are among those churches for which Givelify is creating transmittal instruments used for money transmission. (Exhibit A).

24. By engaging in the business of money transmission while not licensed by the Department nor being an agent of a person licensed or exempted from licensure, Givelify LLC are in violation of Section 2 of the MTA.

**Penalties**

25. Tayo Ademuyiwa, Walle Mafolasire, and Givelify LLC, jointly and severally, shall pay a \$176,000 fine for violating the MTA. The fine shall be paid within thirty days of the date of this order by certified check or money order payable to the "Department of Banking and Securities" unless stayed by the filing of an Answer and Petition for Hearing. The fine shall be sent to the attention of the Department of Banking and Securities, Compliance Office, 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

26. Tayo Ademuyiwa, Walle Mafolasire, and Givelify LLC, shall immediately cease and desist from engaging in money transmission in Pennsylvania by creating transmittal instruments for the collection of money from donor account and transmitting it to the bank account of a non-profit recipient donee.

**IT IS SO ORDERED.**

Redacted

\_\_\_\_\_  
Ryan Walsh, Director  
Department of Banking and Securities  
Compliance Office

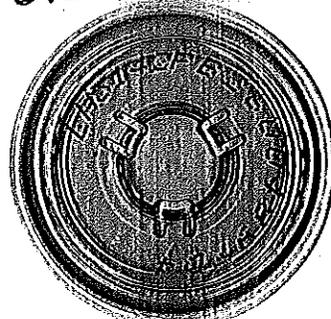


September 19, 2016

(Date)

## **Exhibit A**

Givelify  
Exhibit "A"



Givelify  
Exhibit "A"

## **Exhibit B**

March 20, 2015

Department of Banking and Securities  
Compliance Division  
17 North Second Street, Suite 1300  
Harrisburg, PA 17101  
Attn: Theresa L. Jones

*RE: Money Transmitter License*

Dear Ms. Jones:

This letter is in response to your concerns that Givelify is engaged in money transmission in the Commonwealth of Pennsylvania without a license. As an initial matter, please understand that Givelify understands and respects the Department's concerns and is working to complete all required steps to become licensed.

Until such time as the money transmitter application is successfully completed and submitted, Givelify hereby agrees to voluntarily cease doing business in the Commonwealth of Pennsylvania.

In order to cease doing business in Pennsylvania, there are several internal steps that are required to disable the functionality of the software platform for the Givelify mobile app. As of today, Givelify has initiated those steps and is working as quickly as possible to ensure the mobile app is fully disabled within Pennsylvania.

We will also be submitting our money transmitter application as soon as possible. Thank you for your patience in this matter. If you have any further question, please do not hesitate to call me at 317.663.3088.

Respectfully yours,

GIVELIFY, LLC

Redacted

Walle Mafolasire

cc: Linda Carroll

## **Exhibit C**

## Carroll, Linda

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**From:** Altman, Haley <Haley.Altman@icemiller.com>  
**Sent:** Wednesday, April 08, 2015 4:52 PM  
**To:** Jones, Theresa L  
**Cc:** Carroll, Linda  
**Subject:** RE: Givelify Letter  
**Attachments:** Givelify Integration Partner Agreement-c.docx

Theresa,

Thanks for keeping in touch. The Company is continuing to finalize all the information for the application process. They ran into some delays with the federal number and the completion of the bond process. They are working through those to be able to submit one application.

As I mentioned previously, they have also been considering switching payment processors. As part of that process, they have been looking to actually integrate their technology in with a payment processor. At this time, they have received a contract from a new potential payment processor. The contract would have Givelify license its technology to the payment processor, which will be integrated into the payment processor technology. Givelify would be paid a royalty from the processor for the use of its technology, but would receive no other compensation from the consumer and would pay nothing to the processor.

We wanted to submit the contract for review for by you and Linda to see if it would meet the criteria of an agency relationship before the Company entered into it and shifted payment processors.

We are trying to move as quickly down both the licensing and contract paths as we can to make sure we end up in a place that is acceptable to the State of Pennsylvania. Please let me know if you would like to discuss this further. Thanks.

Haley

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**From:** Jones, Theresa L [mailto:thejones@pa.gov]  
**Sent:** Tuesday, April 07, 2015 11:01 AM  
**To:** Altman, Haley  
**Cc:** Carroll, Linda  
**Subject:** RE: Givelify Letter

Haley,

Good morning. I'd like to follow-up with you to ascertain where your client is in the application process? I haven't seen a completed application remitted to date, and want to keep abreast of the progress to provide assistance warranted and facilitate processing of the application. Please advise at your earliest convenience. Thank you. – Theresa

**Theresa L. Jones** | Non Depository Financial Institutions Examiner 2  
PA Department of Banking and Securities | Compliance Division  
17 North Second Street, 13th Floor | Hbg PA 17101  
Phone: 717.772.3889 | Fax: 717.787.8773  
[thejones@pa.gov](mailto:thejones@pa.gov) | <http://www.dobs.pa.gov>

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**From:** Altman, Haley [mailto:Haley.Altman@icemiller.com]  
**Sent:** Friday, March 20, 2015 3:46 PM

## **Exhibit D**

# ADAM ATLAS

## ATTORNEY AT LAW

May 11, 2015

Via email:

[licarroll@pa.gov](mailto:licarroll@pa.gov)

[thejones@pa.gov](mailto:thejones@pa.gov)

Linda Carroll  
Deputy Chief Counsel  
PA Department of Banking and Securities  
Office of the Chief Counsel  
17 N. Second Street, Suite 1300  
Harrisburg, PA 17101

Theresa L. Jones  
Non Depository Financial Institutions Examiner 2  
PA Department of Banking and Securities  
Compliance Division  
17 N. Second Street, 23th Floor  
Harrisburg, PA 17101

RE: Givelify LLC ("Givelify")

Dear Ms. Carroll and Ms. Jones,

This letter is to inform you that Givelify has engaged our firm to assist it with your concerns regarding the conduct of money transmission in the State of Pennsylvania. We are money services business practitioners with knowledge of money transmission law.

We have been informed by Givelify that it has ceased doing business in Pennsylvania in accordance with its letter to you dated March 20, 2015. Givelify also hereby withdraws any previous application materials submitted with respect to any Pennsylvania money transmitter license application.

Givelify has instructed us to inform you that its voluntary agreement to cease doing business in Pennsylvania will remain in effect.

As a matter of information only, Givelify is negotiating with other potential parties who could operate some or all of its business which parties would assume responsibility for the payments transactions and also, potentially, relieve the whole business of exposure to the possible requirement for licensure were it to resume operations in Pennsylvania. When such alternative model is drafted, Givelify will enquire as

to whether, for that model, a license in Pennsylvania is required, prior to offering it to residents of Pennsylvania.

We trust that this letter is fully responsive to all outstanding correspondence in the Givelify file and we thank you on behalf of Givelify for your continued consideration.

Very Truly Yours,

Redacted

Adam Atlas, Esq.  
Of the Bar of the State of New York

Cc: Walle Mafolasire, Givelify by email.

## **Exhibit E**

**Carroll, Linda**

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**From:** Carroll, Linda  
**Sent:** Wednesday, July 22, 2015 2:29 PM  
**To:** Adam Atlas  
**Subject:** RE: Givelify Follow-up

Mr. Atlas: I have received you e-mails. While I will review them, please understand that Vanco is also engaging in money transmission without a license. Vanco believes it does not need a license because the federal government has concluded that they are not violating their statute, however, they are violating our statute. One does not excuse the other. Further, when Vanco engages in ACH transactions for the purchase of goods and services, through its contract with Wells Fargo, they are not engaging in money transmission. However, when the product being sold is the movement of money from one party to another, that is the essence of money transmission and that is what is occurring here.

**Linda Carroll** | Deputy Chief Counsel  
PA Department of Banking and Securities | Office of Chief Counsel  
17 N. Second Street, Suite 1300 | Harrisburg, PA 17101  
Phone: 717.787.1471 | Fax: 717.783.8427  
[www.dobs.pa.gov](http://www.dobs.pa.gov)

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**From:** Adam Atlas [mailto:[atlas@adamatlas.com](mailto:atlas@adamatlas.com)]  
**Sent:** Wednesday, July 22, 2015 12:34 PM  
**To:** Carroll, Linda  
**Subject:** Fwd: Givelify Follow-up

Dear Ms Carroll,

This email might also have not made it to you.

Kind regards,

Adam

---

Adam Atlas Attorney at Law  
5585 Monkland Avenue, Suite 150  
Montreal, QC H4A-1E1, Canada  
Direct: 514-842-0886  
or: 646-583-3248  
[atlas@adamatlas.com](mailto:atlas@adamatlas.com) Skype: adam.atlas  
[www.adamatlas.com](http://www.adamatlas.com)  
Of the Bar of New York

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Ideas and compliance for payments

## **Exhibit F**

**Carroll, Linda**

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**From:** Carroll, Linda  
**Sent:** Friday, July 31, 2015 10:15 AM  
**To:** 'Adam Atlas'  
**Subject:** RE: Givelify Follow-up

Mr. Atlas: What you need to understand is that we are enforcing our money transmitter statute, not the federal law concerning the Bank Secrecy Act (and the definition of money services business that imposes that act.) These are separate laws, and the federal law does not preempt the state law. The goals of each are different. Our law is intended to protect consumers when money is moved from a consumer to a third party. That Vanco can process payments for goods and services is not relevant to the issue. Vanco falls short because it does not have a money transmission license, nor is it acting as an agent for a licensed money transmitter (Givelify), or the bank. The money moved from the consumer to the recipient is not protected with a bond or with agency to a bank. Particularly when it is moved from a bank account.

**Linda Carroll** | Deputy Chief Counsel  
PA Department of Banking and Securities | Office of Chief Counsel  
17 N. Second Street, Suite 1300 | Harrisburg, PA 17101  
Phone: 717.787.1471 | Fax: 717.783.8427  
[www.dobs.pa.gov](http://www.dobs.pa.gov)

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**From:** Adam Atlas [mailto:atlas@adamatlas.com]  
**Sent:** Wednesday, July 29, 2015 4:59 PM  
**To:** Carroll, Linda <licarroll@pa.gov>  
**Subject:** Re: Givelify Follow-up

Dear Ms Carroll,

Thank you for the clarification concerning Vanco.

Our argument concerning Vanco was that it is a payment processor acting as agent for payee in receipt of payment from payers (donors). Like Vantiv, Vanco is not serving the payer. Vanco serves the payee. Perhaps Pennsylvania does not have an exemption for payment processors to the general MSB rule or perhaps Vanco's implementation of its model has not met the threshold for the exemption. We thought it did, but we defer to your opinion on the matter and look forward to reading how it is that Vanco has fallen short.

We are grateful for the initial clarification concerning Vanco. Please note that I do not represent Vanco.

We are also hopeful that the Department will be able to comment on (i) the Vantiv model; and (ii) Givelify's exemption from licensure in respect of the Vanco model on account of it being only a software licensor to the various parties.

Kind regards,

Adam

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And WALLE MAFOLASIRE, an individual, :  
jointly and severally :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **Order to Cease and Desist and Pay a Fine** upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35 and 33.36:

BY CERTIFIED, FIRST CLASS MAIL, AND ELECTRONIC MAIL

Walle Mafolasire  
Tayo Ademuyiwa  
Givelify LLC  
47 South Pennsylvania Street  
Suite 902  
Indianapolis, IN 46204

walle@givelify.com  
tayo@givelify.com

Dated this 19<sup>th</sup> day of September, 2016.

Redacted

\_\_\_\_\_  
Linda Carroll  
Deputy Chief Counsel  
Attorney I.D. # 35868  
FOR: Commonwealth of Pennsylvania  
Department of Banking and Securities  
17 North Second Street, Suite 1300  
Harrisburg, PA 17101  
(717) 787-1471