

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU
OF COMPLIANCE, INVESTIGATION AND
LICENSING

PA DEPT OF BANKING

Docket No.: 08 0187 (ENF-C&D)

v.

PAY 'N' GO OF AMERICA, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance, Investigation and Licensing ("Bureau") has reviewed the business practices of Pay 'N' Go of America, Inc. ("Pay 'N' Go"), and its officers, employees and directors. Based on the results of its review, the Department alleges that Pay 'N' Go is in violation of the act popularly known as the Money Transmitter Act, 7 P.S. §6101 *et. seq.* ("MTA"). The parties to the above captioned matter, in lieu of litigation, 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 agree to the terms of this Consent Agreement and Order ("Order").

BACKGROUND

1. The Department is the Pennsylvania state governmental administrative agency authorized and empowered to administer and enforce the MTA.
2. The Bureau is primarily responsible for administering and enforcing the MTA.

3. Pay 'N' Go of America, Inc. ("Pay 'N' Go") is a corporation with its principal place of business located at 231 West 29th Street – Suite 402a, New York, NY 10001.

4. Pay 'N' Go is not licensed as a money transmitter in Pennsylvania pursuant to the provisions of the MTA.

5. The Bureau received a complaint that Pay 'N' Go was engaging in unlicensed money transmitter activities in Pennsylvania.

6. As a result of the complaint, on or about February 9, 2006, the Bureau contacted Pay 'N' Go to ascertain the nature and extent of its money transmitter activities.

7. Pay 'N' Go disclosed to the Bureau that it operates a system that transfers monies for Pennsylvania consumers, through its agents, to bill payees such as utilities, cellular phone service providers and other retail establishments, for a fee.

8. From January 2005 through March 2007, Pay 'N' Go provided its bill transmission services to consumers through over 25 agents and engaged in approximately 10,278 transactions.

9. Currently, Pay 'N' Go is only using one agent, Anthracite Newsstand located at 1 E. Market St., Wilkes-Barre, Pennsylvania.

10. Pay 'N' Go voluntarily ceased soliciting other agents when the Department initially notified it that it was investigating its possible unlicensed activity under the MTA.

11. To use the Pay 'N' Go services, a consumer must go to the location of a Pay 'N' Go agent.

12. The consumer presents his or her bill with the money for payment and a processing fee to the agent.

13. The agent inputs the bill payment information into to Pay 'N' Go system and prints out a receipt which is given to the consumer.

14. Pay 'N' Go then transfers the money to the bill payee either the same day or the next day on behalf of the consumer.

15. After the bill is paid, Pay 'N' Go makes a withdrawal from the agent's account to cover the bill and processing fees.

16. As a result of the transactions, Pay 'N' Go has earned approximately \$5,480 in annual gross fees.

17. There is no evidence that any Pennsylvania consumer has been harmed as a result of the unlicensed activity.

18. Pay 'N' Go has been cooperative with the Department by fully disclosing its activities to the Department.

19. Section 2 of the Money Transmitter Act provides 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 nor shall any person engage in such business as an agent except as an agent of a person licensed or exempted under this act.

7 P.S. §6102 (emphasis added).

20. The MTA defines a transmittal instrument is "any check, draft, personal money order or *method for the payment of money* or transmittal of credit. . . ." 7 P.S. §6101 (emphasis added).

21. Pay 'N' Go's bill payment service is a "method for the payment" of money through its agent to bill payees on behalf of Pennsylvania consumers and, thus, is a transmittal instrument as defined under the MTA.

22. By transferring Pennsylvania consumers' monies from its agent to a bill payee for a fee, Pay 'N' Go is engaging in the business of transmitting money by means of a transmittal instrument under the MTA.

23. Thus, Pay 'N' Go is engaging in the business of transmitting money in Pennsylvania although it is not licensed to do so.

FINE AUTHORITY

24. The MTA provides, in relevant part, that "[a]ny person, whether licensed or not licensed under the provisions of this act, or any director, officer, employee or agent of any such person, who shall violate the provisions of this act or shall direct or consent to such violations shall be subject to a fine levied by the Department of Banking of up to two thousand dollars (\$2,000) for each offense." 7 P.S. §6116.

VIOLATION

25. By transmitting money for Pennsylvania consumers from its agent to bill payees without a money transmitter license, Pay 'N' Go is in violation of Section 2 of the MTA.

RELIEF

26. Fine. Within thirty (30) days of the Effective Date of this Order, Pay 'N' Go shall pay to the Department a fine in the amount of \$2,500. Payment shall be remitted by certified check or money order and made payable to the "Department of Banking" and shall be sent to the attention of Non-Depository Institutions, Bureau of Compliance, Investigation and Licensing located at 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

27. Corrective Action. Pay 'N' Go shall immediately cease and desist from transmitting any monies from its agents to any bill payees on behalf of Pennsylvania consumers

or otherwise transmitting money as set forth in the MTA until Pay 'N' Go is licensed or otherwise authorized to engage in such business in Pennsylvania.

FURTHER PROVISIONS

28. Consent. Pay 'N' Go 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. Pay 'N' Go, 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.

29. Publication and Release. Pay 'N' Go consents to the publication and release of this Order.

30. 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 Pay 'N' Go.

31. Binding Nature. The Bureau, Pay 'N' Go, and all officers, owners, directors, employees, heirs and assigns of Pay 'N' Go intend to be and are legally bound by the terms of this Order.

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

33. Effectiveness. Pay 'N' Go hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

34. 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 Pay 'N' Go in the future regarding all matters not resolved by this Order.

(b) Pay 'N' Go 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.

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

36. Counterparts. This Order may be executed in separate counterparts.

37. 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 Bureau and Pay 'N' Go intending to be legally bound do hereby execute this Consent Agreement and Order.

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

James Keiser, Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: July 29, 2008

PAY 'N' GO OF AMERICA, INC.

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 6/12/2008