

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

090022 (ENF-CO)

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

v. :

E - TIME SYSTEM, 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 E - Time Systems, Inc. ("E - Time"), and its officers, employees and directors. Based on the results of its review, the Department believes that E - Time is in violation of the act popularly known as the Money Transmitter Act, 7 P.S. §6101 *et. seq.* ("MTA").

E-Time denies that its actions violate the MTA. The parties to the above-captioned matter, seeking to resolve this matter amicably, in lieu of litigation, and intending to be legally bound, hereby stipulate to the following information and 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. E - Time System, Inc. ("E - Time") is located at 37 York Rd., Willow Grove, PA 19090-3416.

4. E - Time is not licensed as a money transmitter in Pennsylvania pursuant to the provisions of the MTA.

5. E - Time was accepting money from consumers to participate in E-Time's express bill payment program.

6. On October 16, 2006, the Bureau contacted E - Time to ascertain the nature and extent of its activities.

7. E - Time disclosed to the Bureau that it operates a system that allows the transfer of money from Pennsylvania consumers, through E-Time's agents, to bill payees such as utilities, cellular phone service providers and other retail establishments, in exchange for a system processing fee.

8. E - Time voluntarily ceased soliciting new agents and ceased all other operations when the Department notified it that it was investigating its possible unlicensed activity under the MTA.

16. E - Time has been cooperative with the Department by fully disclosing its activities to the Department.

17. 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).

18. 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).

19. The Department believes that E – Time'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.

20. The Department believes that by transferring Pennsylvania consumers' monies from its agent to a bill payee for a fee, E – Time is engaging in the business of transmitting money by means of a transmittal instrument under the MTA.

21. The Department alleges that E – Time is engaging in the business of transmitting money in Pennsylvania although it is not licensed to do so.

22. E-Time denies that its actions constituted money transmission as defined by the MTA.

FINE AUTHORITY

23. 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

24. The Department alleges that by transmitting money for Pennsylvania consumers from its agent to bill payees without a money transmitter license, E – Time is in violation of Section 2 of the MTA.

25. The Department alleges that by transmitting money for Pennsylvania consumers from its agent to bill payees without a money transmitter license, E – Time is in violation of the Bank Secrecy Act. (31 CFR 103).

26. E-Time denies that its actions violated the MTA, the Bank Secrecy Act or any other relevant law, regulation or statute.

27. E-Time alleges that it sought guidance from the Department of Banking in May of 2007 regarding the lawfulness of its services and fees.

RELIEF

28. Fine. Within thirty (30) days of the Effective Date of this Order, E – Time shall pay to the Department a fine in the amount of \$2000. 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. 26.

29. Corrective Action. E – Time shall refrain from engaging in the activities described in paragraph 7 above, until it has consulted with the Department of Banking and developed a business plan consistent with the Department’s interpretation of the MTA and Bank Secrecy Act and will seek solutions that are accepted by DOB and E-Time within 60 days.

30. Withdrawal. The parties enter into this Order in resolution of the matters raised in the Cease and Desist Order, docket no. 090315 (ENF-C&D) and the Bureau withdraws that Cease and Desist Order by execution of this Order.

FURTHER PROVISIONS

31. Consent. E – Time 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. E – Time, 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.

32. Publication and Release. 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).

33. 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 E – Time.

34. Binding Nature. The Bureau, Gil Barzeski, E – Time, and all officers, owners, directors, employees, heirs and assigns of E – Time intend to be and are legally bound by the terms of this Order.

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

36. Effectiveness. E – Time hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (“Effective Date”).

37. 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 E – Time in the future regarding all matters not resolved by this Order.

(b) E – Time 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.

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

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

40. 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 E – Time 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**

Brian Crossland
Chief of Compliance
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 1/21/09

FOR E - TIME SYSTEM, INC.

Officer Signature) _____

(Print Officer Name)

CEO

(Title)

Date: 1/21/2009