

WHEREAS, PaymentsFirst advertises a payment service to colleges and schools on its website, located at www.paymentsfirst.com; and

WHEREAS, the website specifically provides that "One check to Payments First and we will pay officials and home game/event personnel"; and

WHEREAS, the website further states, "No more vouchers or forms to fill out including W-9's; Officials paid bi-weekly; 800 help line to have your questions answered by the Payments First Staff; Checks include the date and College officiated so there is no confusion; 1099 issued by Payments First"; and

WHEREAS, on April 21, 2009 the Department received a complaint from a representative of Bowdoin College located in Brunswick, Maine; and

WHEREAS, Bowdoin College had entered into an agreement with PaymentsFirst to pay officials, referees, for the 2008-2009 men's lacrosse season; and

WHEREAS, on October 7, 2008 PaymentsFirst sent Bowdoin College an invoice for its services; and

WHEREAS, the invoice was in the amount of \$5830, which included \$5630 for "Estimated Game Fees" and \$200 for "Administration Fee"; and

WHEREAS, Bowdoin College remitted \$5830 on January 15, 2009 to PaymentsFirst in response to the invoice; and

WHEREAS, the officials did not receive payment for games that they had officiated for Bowdoin College during the lacrosse season; and

WHEREAS, as part of its investigation, the Department ascertained that the University of Mary Washington ("Mary Washington") also had an agreement with PaymentsFirst to pay officials to officiate basketball games; and

WHEREAS, on October 13, 2008, PaymentsFirst provided Mary Washington with an invoice for women's basketball and an invoice for men's basketball for the 2008-2009 season; and

WHEREAS, the invoice for women's basketball was in the amount of \$5200, which included \$250 for "Administrative Fees" and \$4950 for "Game Fees"; and

WHEREAS, the invoice for men's basketball was in the amount of \$3850, which included \$250 for "Administrative Fees" and \$3600 for "Estimated Game Fees"; and

WHEREAS, Mary Washington remitted payment for the invoices to PaymentsFirst; and

WHEREAS, the officials did not receive payment for the basketball games that they had officiated for Mary Washington; and

WHEREAS, there are approximately fifty-three (53) colleges and universities that had contracted with PaymentsFirst to pay officials during lacrosse season; and

WHEREAS, additionally, there are numerous colleges and universities that contracted with PaymentsFirst to pay for officiating in other sports including, but not limited to, wrestling, gymnastics, football and volleyball; and

WHEREAS, on April 22, 2009, the Bureau contacted PaymentsFirst to ascertain the nature and extent of payment program to determine if monies are being transmitted; and

WHEREAS, through counsel, PaymentsFirst admitted to the Bureau that it operates a system that transfers monies on behalf of colleges and universities to contracted officials for sporting events; and

WHEREAS, 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); and

WHEREAS, the MTA defines a transmittal instrument as “any check, draft, money order, or personal money order or method for the payment of money or transmittal of credit. . . .”

7 P.S. §6101; and

WHEREAS, PaymentsFirst’s payment service is a “method for the payment” of money to officials on behalf of colleges and universities and, thus, is a transmittal instrument as defined under the MTA; and

WHEREAS, by accepting monies from colleges and universities and then dispersing the monies to contracted officials via checks, PaymentsFirst engaged in the business of transmitting money by means of a transmittal instrument under the MTA; and

WHEREAS, PaymentsFirst is engaged in the business of transmitting money in Pennsylvania although it is not licensed to do so; and

WHEREAS, the MTA provides, in relevant part, that

Any 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; and

AND NOW THEREFORE, because PaymentsFirst was engaging in the business of money transmission in Pennsylvania when it was not licensed to do so, the Bureau hereby imposes the following Order (“Order”). Upon the effective date of this Order:

1. Within thirty (30) days of the Effective Date of this Order, PaymentsFirst shall reimburse the colleges and universities the monies that were received by PaymentsFirst which

were not dispersed to the contracted officials. Proof of reimbursement 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; and

2. PaymentsFirst, Inc. shall cease and desist from transmitting money as set forth in the MTA unless and until PaymentsFirst is licensed or otherwise authorized to engage in such business in Pennsylvania; and

3. Nothing in this Order shall prevent the Bureau from taking any further administrative action as deemed necessary.

IT IS SO ORDERED.

Ryan Walsh, Administrator
Department of Banking,
Bureau of Compliance, Investigation and Licensing

April 24, 2009
Date

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

2009 APR 24 PM 4:05

COMMONWEALTH OF PENNSYLVANIA	:	PA DEPT OF BANKING
DEPARTMENT OF BANKING, BUREAU	:	
OF COMPLIANCE, INVESTIGATION AND	:	
LICENSING	:	
	:	Docket No.: 09 <u>0069</u> (ENF-C&D)
v.	:	
	:	
PAYMENTSFIRST, INC., and	:	
ASSIGNBYWEB, INC. and	:	
ROGER SHEFTEL, individually	:	

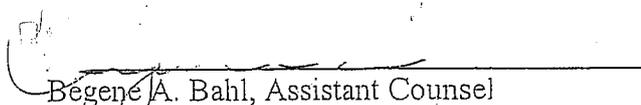
CERTIFICATE OF SERVICE

I hereby certify that on this day, April 24, 2009, I have served a copy of this Cease and Desist Order, upon those named below in accordance with the requirements of 1 Pa. Code §33.31:

CERTIFIED MAIL RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL:

Roger Sheftel, President
PaymentsFirst, Inc.
Assignbyweb, Inc.
414 Barclay Rd
Bryn Mawr, PA 19010-1218

Gary L. Schoenbrun
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