

RECEIVED

MAR 04 2014

DIFS/OGC

STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES  
Before the Director of the Department of Insurance and Financial Services

In the matter of:

TouchPay Holdings, LLC  
7801 Mesquite Bend Drive, Suite 101  
Irving, Texas 75063

Enforcement Case No. 13-11774

Respondent

\_\_\_\_\_ /

Issued and entered,  
on March 21, 2014,  
by Rhonda J. Fossitt,  
Senior Deputy Director

CONSENT ORDER

I.  
BACKGROUND

On or about October 30, 2012, the Office of Financial and Insurance Regulation<sup>1</sup> received an application from TouchPay Holdings, LLC (Respondent) for a money transmission services provider license under the Money Transmission Services Act (MTSA), Act 250 of 2006, MCL 487.1001 *et seq.* Respondent is not presently licensed by the Department of Insurance and Financial Services (DIFS) pursuant to the MTSA to provide money transmission services in the state of Michigan. In reviewing the past practices of Respondent, DIFS staff determined that contrary to the MTSA, Respondent conducted money transmission services without a license from the Director of DIFS. DIFS and Respondent have now conferred for purposes of resolving this matter and determined to settle this matter pursuant to the terms set forth below.

II.  
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times pertinent to the matter herein, Respondent was not licensed by DIFS to engage in money transmission services.
2. The Director of DIFS has jurisdiction and authority to adopt and issue this Consent Order, pursuant to the Michigan Administrative Procedures Act (MAPA), MCL 24.201 *et seq.*
3. Respondent is a limited liability company with its principal office located at 7801

<sup>1</sup> On March 18, 2013, the Governor, by Executive Order 2013-1, transferred the authority, powers, duties, functions, and responsibilities of the Commissioner of Financial and Insurance Regulation to the Director of the Department of Insurance and Financial Services (Director).

DB

Mesquite Bend Drive, Suite 101, Irving, Texas 75063.

4. Respondent provides money transmission services to correctional facilities through the Web, interactive voice response, and self-service kiosks that allow electronic payments for inmate accounts that may be used for commissary, phone services, or other permissible uses.
5. Respondent has applied to be licensed to provide money transmission services in the state of Michigan.
6. During DIFS's investigation of Respondent's application for licensure under the MTSA, DIFS staff found that from January 19, 2011, to January 12, 2012, Respondent conducted money transmission services in the state of Michigan.
7. Respondent subsequently became an authorized delegate of Softgate Systems, Inc., a licensed money transmissions service provider in the state of Michigan, and consequently did not require a license to conduct money transmission services under the MTSA. Respondent was an authorized delegate of Softgate Systems, Inc. from January 13, 2012 to January 12, 2013.
8. At the expiration of its authorization on January 12, 2013, Respondent conducted money transmission services transactions without a license under the MTSA from January 13, 2013, to May 14, 2013.
9. Section 3(c) of the MTSA, MCL 487.1003(c), states, "Money transmission services' means selling or issuing payment instruments or stored value devices or receiving money or monetary value for transmission...."
10. Section 11(1) of the MTSA, MCL 487.1011(1), states, "Except as otherwise provided in this section and subject to section 4, a person shall not provide money transmission services in this state after December 31, 2006 without a license under this act or a class I license issued under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072."
11. Respondent is not exempt from licensure under the MTSA.
12. Respondent conducted money transmission services without the required license to engage in money transmission services in the state of Michigan pursuant Section 11(1) of the MTSA.

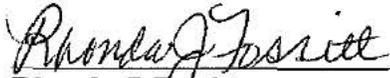
### III. ORDER

Therefore it is ORDERED that:

1. Respondent shall comply with Section 11(1) of the MTSA.

2. Respondent shall pay to the state of Michigan, through DIFS, a civil fine in the amount of \$28,900. The fine shall be paid in four installment payments. The first installment payment in the amount of \$7,900 shall be paid, in the form of a cashier's check payable to the state of Michigan, immediately upon execution of the Stipulation by Respondent. Respondent shall pay the remaining installment payments by submitting a cashier's check to DIFS payable to the state of Michigan on or before the following dates:
  - (a) \$7,000 is due on or before May 1, 2014.
  - (b) \$7,000 is due on or before June 1, 2014.
  - (c) \$7,000 is due on or before July 1, 2014.
3. Respondent's failure to pay the civil fine as set forth in paragraph 2 above shall result in the revocation or continued revocation of all licenses held by Respondent, including the revocation or continued revocation of all licenses held by any entity(ies) in which Respondent directly or indirectly owns or controls 10% or more of its ownership interest, and the denial of any license or registration or renewal of any license or registration of Respondent and said entity(ies) until compliance is made with the terms of this Stipulation and Order. Unless otherwise specified in this Stipulation and Order, the requirements imposed on Respondent must be fulfilled in accordance with the terms of this Stipulation and Order.
4. Respondent's failure to timely pay any of the installments described above will result in automatic suspension of Respondent's licenses and registration issued by DIFS, including the suspension of licenses and registrations of entity(ies) in which Respondent directly or indirectly owns or controls 10% or more of its ownership interest. The suspension of the licenses and registrations as a result of Respondent's failure to timely pay the installments set forth above shall continue until the fine is paid in full or the revocation of the licenses or registrations whichever is earlier.
5. Respondent shall maintain a program to monitor and ensure compliance with the MTSA.
6. Respondent shall educate its officers and appropriate employees with respect to all state and federal consumer laws and regulations, including the MTSA.
7. Respondent shall maintain a compliance officer to ensure that Respondent is in compliance with applicable state and federal laws, rules, and regulations. Respondent has provided written notification to DIFS of the compliance officer's name and business address. Respondent shall notify DIFS of any change in designation of the compliance officer within 30 days of such re-designation.
8. The Stipulation is incorporated herein by reference and made a part of this Order.
9. The Director retains jurisdiction over the matters contained herein and has the authority to issue such further Order(s) as he shall deem just, necessary, and appropriate in accordance with the provisions of the MTSA. Failure by the Respondent to abide by the

terms and provisions of this Order may result in the commencement of additional proceedings.

  
Rhonda J. Fossitt  
Senior Deputy Director

#### IV. STIPULATION

Respondent understands the proposed Consent Order above. The Senior Deputy Director may, in her sole discretion, decide to accept or reject the Stipulation and Consent Order. If the Senior Deputy Director accepts the Stipulation and Consent Order, Respondent waives the right to a hearing in this matter and consents to the entry of the Consent Order. Further, in consideration of the terms and conditions set forth herein, if and when the Consent Order is entered, Respondent voluntarily waives and gives up any and all right that it may now or hereafter have to administrative or judicial review concerning entry of the Director's Order in this matter. If the Senior Deputy Director does not accept the Stipulation and Consent Order, Respondent waives any objection to the Director holding a formal administrative hearing and making her decision after such hearing. The Senior Deputy Director has jurisdiction and authority under the provisions of the MAPA to accept this Stipulation and to issue a Consent Order resolving these proceedings. Respondent agrees to abide by the terms and provisions of the Consent Order. Respondent admits to the Findings of Fact and Conclusions of Law of the Order. Respondent has had an opportunity to review this Stipulation and the accompanying Consent Order. Respondent's legal counsel has also reviewed the Stipulation and Consent Order.

TouchPay Holdings, LLC

Dated: 3/11/2014

  
By: Daniel B Burgess  
Its: Manager

DIFS staff approve this Stipulation and recommend that the Senior Deputy Director issue the Consent Order above.

Dated: 3/11/2014

  
Marlon F. Roberts, Staff Attorney