
*
IN THE MATTER OF: *
*
ALIPAY US, INC. *
NMLS # 1277102 *
*
(“Alipay”) *
*

CONSENT ORDER

WHEREAS, the Banking Commissioner (“Commissioner”) is charged with the administration of Part V of Chapter 668, Sections 36a-595 to 36a-612, inclusive, of the Connecticut General Statutes, “Payment Instruments. Money Transmission”;

WHEREAS, Alipay is a Delaware corporation with its main office located at 400 S. El Camino Real, 4th Floor, San Mateo, California;

WHEREAS, on October 19, 2017, Alipay filed an application with the Commissioner on the Nationwide Multistate Licensing System and Registry (“NMLS”) to obtain a license to engage in the business of money transmission in Connecticut, which application is currently pending;

WHEREAS, the Commissioner, through the Consumer Credit Division of the Department of Banking (“Department”), conducted an investigation pursuant to Sections 36a-17 and 36a-600 of the Connecticut General Statutes into the activities of Alipay to determine if it had violated, was violating or was about to violate the provisions of the Connecticut General Statutes within the jurisdiction of the Commissioner;

WHEREAS, as a result of such investigation, the Commissioner alleges that from at least January 2016 to December 2017, Alipay engaged in the business of money transmission in this state by providing merchant payment processing services (“Services”);

WHEREAS, Alipay asserts that it was acting as an agent of a payee in connection with providing the Services;

WHEREAS, on October 24, 2017, the Commissioner issued a memorandum to all Connecticut money transmission, small loan, consumer collection agency, student loan servicer and mortgage servicer licensees stating that the Department will take a no-action position concerning the absence of money transmission licensure for persons engaging in money transmission pursuant to an agent of payee relationship, in accordance with the criteria set forth in such memorandum;

WHEREAS, the Commissioner alleges that Alipay was not acting as an agent of payee in accordance with the requirements of the memorandum and, therefore, did not fall within the purview of the Department’s no-action position;

WHEREAS, as a result, the Commissioner alleges that Alipay’s engaging in the business of money transmission in this state without a license violated Section 36a-597(a) of the Connecticut General Statutes;

WHEREAS, the Commissioner believes that such allegation would support the initiation of enforcement proceedings against Alipay, including, without limitation, proceedings to issue a cease and desist order pursuant to Section 36a-608(c) of the Connecticut General Statutes and Section 36a-52(a) of the 2018 Supplement to the General Statutes, to issue an order to make restitution pursuant to Section 36a-608(c) of the Connecticut General Statutes and Section 36a-50(c) of the 2018 Supplement to the General Statutes, and to impose a civil penalty of up to one hundred thousand dollars (\$100,000) per violation pursuant to Section 36a-608(c) of the Connecticut General Statutes and Section 36a-50(a) of the 2018 Supplement to the General Statutes;

WHEREAS, initiation of such enforcement proceedings would constitute a “contested case” within the meaning of Section 4-166(4) of the Connecticut General Statutes;

WHEREAS, Section 4-177(c) of the Connecticut General Statutes and Section 36a-1-55(a) of the Regulations of Connecticut State Agencies provide that a contested case may be resolved by consent order, unless precluded by law;

WHEREAS, both the Commissioner and Alipay acknowledge the possible consequences of formal administrative proceedings, and Alipay voluntarily agrees to consent to the entry of the sanctions imposed below without admitting or denying the allegation set forth herein, and solely for the purpose of obviating the need for formal administrative proceedings concerning the allegation set forth herein;

WHEREAS, the Commissioner and Alipay now desire to resolve the matters set forth herein;

WHEREAS, Alipay specifically assures the Commissioner that the violation alleged herein shall not occur in the future;

WHEREAS, Alipay acknowledges that this Consent Order is a public record and is a reportable event for purposes of the regulatory disclosure questions on NMLS, as applicable;

AND WHEREAS, Alipay through its execution of this Consent Order, voluntarily agrees to waive its procedural rights, including a right to a notice and an opportunity for a hearing as it pertains to the allegation set forth herein, and voluntarily waives its right to seek judicial review or otherwise challenge or contest the validity of this Consent Order.

CONSENT TO ENTRY OF SANCTIONS

WHEREAS, Alipay, through its execution of this Consent Order, consents to the Commissioner’s entry of a Consent Order imposing the following sanctions:

1. Alipay shall cease and desist from engaging in the business of money transmission in this state without a license, in violation of Section 36a-597 of the Connecticut General Statutes;
2. No later than the date this Consent Order is executed by Alipay, it shall remit to the Department of Banking by wire transfer, cashier’s check, certified check or money order, made payable to “Treasurer, State of Connecticut”, the sum of Ten Thousand Dollars (\$10,000) as a civil penalty; and

3. No later than the date this Consent Order is executed by Alipay, it shall remit to the Department of Banking by wire transfer, cashier's check, certified check or money order made payable to "Treasurer, State of Connecticut", the sum of Two Thousand Five Hundred Fifty Dollars (\$2,550) as payment for back licensing fees.

CONSENT ORDER

NOW THEREFORE, the Commissioner enters the following:

1. The sanctions set forth above be and are hereby entered;
2. Upon issuance of this Consent Order by the Commissioner, this matter will be resolved and the Commissioner will not take any future enforcement action against Alipay based upon the allegation set forth herein; provided that issuance of this Consent Order is without prejudice to the right of the Commissioner to take enforcement action against Alipay based upon a violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms herein is not being observed or if any representation made by Alipay and reflected herein is subsequently discovered to be untrue;
3. Alipay shall not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation referenced in this Consent Order or create the impression that this Consent Order is without factual basis;
4. Upon issuance of this Consent Order by the Commissioner, and so long as this Consent Order is promptly disclosed by Alipay and their control persons on NMLS, as applicable, nothing in the issuance of this Consent Order shall adversely affect the ability of Alipay to apply for or obtain a license or renewal license under Part V of Chapter 668, Sections 36a-595 *et seq.*, of the Connecticut General Statutes, provided that all applicable legal requirements for such licenses are satisfied and the terms of this Consent order are followed;
5. This Consent Order shall be binding on Alipay and its successors and assigns; and
6. This Consent Order shall become final when issued.

Issued at Hartford, Connecticut
this 9th day of October 2018.

_____/s/_____
Jorge L. Perez
Banking Commissioner

I, Victoria Edison, state on behalf of Alipay US, Inc., that I have read the foregoing Consent Order; that I know and fully understand its contents; that I am authorized to execute this Consent Order on behalf of Alipay US, Inc.; that Alipay US, Inc., agrees freely and without threat or coercion of any kind to comply with the sanctions entered and terms and conditions ordered herein; and that Alipay US, Inc., voluntarily agrees to enter into this Consent Order, expressly waiving the procedural rights set forth herein as to the matters described herein.

By: _____/s/_____

Name:

Title: Chief Compliance Officer

State of: _____

County of: _____

On October _____, 2018, before me, _____, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of Alipay US, Inc., a corporation, and that he/she as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as _____.

In witness whereof I hereunto set my hand.

_____/s/_____

Notary Public

Date Commission Expires: