

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

COMMISSIONER OF BANKS
FOREIGN TRANSMITTAL
AGENCY LICENSING
Docket No.: 2016-001

In the Matter of
POAPAY, LLC.
Birmingham Alabama

Foreign Transmittal Agency License No.:
FT1071851

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)
) ORDER TO SHOW CAUSE
) AND
) NOTICE OF RIGHT
) TO A HEARING
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ADMINISTRATIVE COMPLAINT

The Commonwealth of Massachusetts Division of Banks (Division), by and through the Commissioner of Banks of the Commonwealth of Massachusetts (Commissioner), for its Order to Show Cause and Notice of Right to a Hearing (Order and Notice), alleges as follows:

1. The Division brings this action under Massachusetts General Laws chapter 169, section 12 to revoke POAPAY, LLC'S (PoaPay or the Company) foreign transmittal agency license FT1071851, and to obtain other equitable relief as may be necessary due to PoaPay's failure to comply with the provisions of Massachusetts General Laws chapter 169 and the Company's failure to maintain and exercise the financial responsibility, character, reputation, integrity and general fitness to command the confidence of the public and to warrant the belief that its business will be operated lawfully, honestly and fairly, in violation of Massachusetts

General Laws, chapter 169, sections 2, 3 and 10 and the Division's regulation 209 CMR 44.00 *et seq.*

JURISDICTION AND VENUE

2. The Division is an agency of the Commonwealth of Massachusetts with jurisdiction over matters relating to the licensing and regulation of those persons and entities engaged in the business of a foreign transmittal agency pursuant to Massachusetts General Laws chapter 169, and its implementing regulation 209 CMR 44.00 *et seq.*

3. At all relevant times, PoaPay has been engaged in the business of a foreign transmittal agency in the Commonwealth.

RESPONDENT

4. PoaPay is, and at all relevant times has been, a foreign corporation conducting business in the Commonwealth with its main office located at 1900 21st Avenue South Birmingham, Alabama.

5. PoaPay is currently licensed as a foreign transmittal agency under Massachusetts General Laws chapter 169, section 6, with license number FT1071851. According to records maintained on file with the Division, and as recorded on the Nationwide Multi-State Licensing System and Registry (NMLS), the Commissioner initially issued a foreign transmittal agency license to the Corporation on September 24, 2014.

6. PoaPay maintains a foreign transmittal license and remits money exclusively to Kenya. It operates solely through its website PoaPay.com and has no office or agent locations in Massachusetts.

7. PoaPay is a money services business within the meaning of The Bank Secrecy Act (BSA), 31 U.S.C. 5311-5330, and its implementing regulation at 31 CFR Chapter X.

8. Management is, and at all relevant times has been comprised of John Kagochi, chief executive officer, Stanley Mgugi, operations manager and Martin Wanjiru, compliance manager/compliance officer.

REGULATORY BACKGROUND

9. Pursuant to Massachusetts General Laws chapter 169, section 10, the Division is authorized to inspect the books, accounts, and records of foreign transmittal agencies transacting business in Massachusetts to determine compliance with the provisions of Massachusetts General Laws chapter 169 and any rule, or regulation issued thereunder, and with any law, rule, or regulation applicable to the conduct of the business of a foreign transmittal agency.

10. On July 2, 2015, pursuant to the authority granted under Massachusetts General Laws chapter 169, section 10 the Division commenced an examination of the books, accounts, and records, maintained by PoaPay to evaluate the Company's compliance with the laws and regulations applicable to the conduct of the foreign transmittal agency in Massachusetts (2015 Examination). The Division's Report of Examination (2015 Report), alleges non-compliance with applicable state and federal statutes, rules, and regulations governing the conduct of those engaged in the business of a foreign transmittal agency in Massachusetts.

11. The 2015 Report was issued on the effective date of this Order and Notice and alleges significant failures to comply with applicable state and federal laws, rules, and regulations governing the conduct of those engaged in the business of a foreign transmittal

agency in Massachusetts. The findings and conclusions of the 2015 Report are incorporated herein in their entirety by reference.

FINDINGS OF FACT

A. Failure to Demonstrate the Financial Responsibility, Character, Reputation, Integrity, and General Fitness to Maintain a Foreign Transmittal Agency License.

12. Massachusetts General Laws chapter 169, section 6, relevant to the licensing of foreign transmittal agencies states in part:

Said commissioner may reject an application for a license or an application for a renewal of a license if he finds that the financial responsibility, character, reputation, integrity and general fitness of the applicant and the members thereof if such applicant is a partnership or association, and of the officers and directors if the applicant is a corporation are not such as to warrant belief that the business will be operated in accordance with law and in the public interest.

13. Massachusetts General Laws chapter 169, section 12 states in part:

The commissioner may suspend or revoke any license issued pursuant to this chapter if he finds that: (a) the licensee has violated any provision of this chapter or any rule or regulation adopted hereunder or any other law applicable to the conduct of such business; or (b) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the commissioner to refuse to issue such license.

14. The Division's regulation at 209 CMR 44.04(2) states in part:

(a) The Commissioner may deny an application to engage in the business of a foreign transmittal agency, if the Commissioner upon review of the application and other relevant information, determines that the Applicant has not satisfied the requirements of M.G.L. c. 169 or 209 CMR 44.03.

(b) The Commissioner may also deny such an application if the Applicant has:

1. violated any provision of M.G.L. c. 169 or 209 CMR 44.00;
2. violated or engaged in a pattern of violations of any state or federal law applicable to the conduct of the business of a foreign transmittal

agency and any rule, regulation or administrative order or directive promulgated thereunder;

3. conducted, or will conduct, its business in an unsafe and unsound manner...

15. Books and records reviewed by the Division's examiners during the 2015 Examination revealed that PoaPay had knowingly engaged in unlicensed activity; failed to implement and execute an adequate compliance program; failed to establish an effective AML program as required by the Bank Secrecy Act's (31 CFR Chapter X) implementing regulatory requirements; failed to maintain an escrow account in a federally insured bank; commingled client and operating/personal funds; failed to ensure adequate bond coverage; failed to maintain books and records; failed to provide a disclosure in compliance with the Consumer Financial Protection Bureau's (CFPB) foreign remittance rule; and failed to disclose its license number on its website, as more specifically enumerated in this Order and Notice and in the Review and Findings section of the 2015 Report.

B. Unlicensed Activity

16. Massachusetts General Laws chapter 169, section 3, relevant to the licensing of foreign transmittal agencies states in part:

Upon notice of such approval by the state treasurer, the commissioner shall issue a license authorizing said person to carry on the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries. Such license shall be for a period of one year from July first. No person shall engage or become financially interested or continue to engage or be financially interested in the aforesaid business without such authority.

17. Books and records provided by PoaPay to the Division's examiners during the 2015 Examination revealed that PoaPay had knowingly engaged in unlicensed activity for over one year prior to obtaining a license.

18. From July 17, 2013 through September 23, 2014 PoaPay made over 30,000 unlicensed transactions- transmitting over eleven million dollars (\$11,000,000.00) in funds received from Massachusetts consumers and collecting over a quarter of a million dollars (\$250,000.00) in fees from Massachusetts consumers. The Division is unable to determine the full extent of the unlicensed activity based on the records reviewed but has some evidence that the unlicensed activity may have even started as far back as 2006.

19. The Company's chief executive officer, John Kagochi, acknowledged in an email to the Division that PoaPay started conducting transactions in Massachusetts prior to it receiving a license and provided the Division documentation of the unlicensed activity.

C. Failure to Implement an Effective Anti-Money Laundering/Compliance Program

20. The BSA's implementing regulation at 31 CFR §1022.210 states, in part:

(a) Each money services business . . . shall develop, implement and maintain an effective anti-money laundering program . . . that is reasonably designed to prevent the money services business from being used to facilitate money laundering and the financing of terrorist activities.

(b) The program shall be commensurate with the risks posed by the location and size of, and the nature and volume of the financial services provided by, the money services business.

21. The BSA's implementing regulation at 31 CFR §1022.210 (d) requires all money services businesses including but not limited to a foreign transmittal agency such PoaPay to implement written anti-money laundering policies and procedures that, at a minimum: (1)

incorporate policies and procedures and internal controls reasonably designed to assure compliance with this part, including requirements verifying customer identification, filing reports, creating and retaining records, and responding to law enforcement requests; (2) designate a person to assure day to day compliance with the program; (3) provide for education and/or training of appropriate personnel, including training in the detection of suspicious transactions; and (4) provide for independent review to monitor and maintain an adequate program.

I. Policies, Procedures and Internal Controls

22. Books and records reviewed by the Division's examiners during the 2015 Examination, indicated that the PoaPay's anti-money laundering program was seriously deficient as the Company failed to implement effective internal controls; and effectuate integral policies and procedures related to which resulted in numerous federal and state compliance violations as more specifically enumerated in this Order and Notice and in the Review and Findings section of the 2015 Report.

23. The Division's examiners determined that the failure to establish an effective anti-money laundering program resulted in the Company's failure to identify, and adequately respond to a pattern of suspicious activity, that would have been identified had the Company established a reasonable anti-money laundering program outlined in BSA's implementing regulations.

i. Failure to Identify, Report and File Suspicious Activity Reports (SARs)

24. The BSA's implementing regulation at 31 CFR 1022.320(a)(1), states in part:

Every money services business... shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation.

25. The BSA's implementing regulation at 31 CFR 1022.320 (a)(2) states, in part:

A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through a money services business, involves or aggregates funds or other assets of at least \$2,000... and the money services business knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):... (ii) Is designed, whether through structuring or other means, to evade any requirements of this chapter or of any other regulations promulgated under the Bank Secrecy Act; or; or (iii) Serves no business or apparent lawful purpose, and the reporting money services business knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction. (iv) Involves use of the money service business to facilitate criminal activity.

26. Books and records reviewed by the Division's examiners during the 2015 Examination identified suspicious transactions that would have required the filing of Suspicious Activity Reports ("SARS"), had PoaPay's written policies been appropriately implemented.

27. Books and records reviewed by the Division's examiners during the 2015 Examination revealed that PoaPay filed only two SARs during the period under review. PoaPay filed one of these SARs only after receiving a subpoena for information relating to a specific transaction. No other SARs were filed during this time period, despite several other instances of apparent suspicious transmittal patterns. In one example, a couple transmitted approximately \$1,500,000 over the course of eight months, but was unable to fully document where that money was coming from with tax documents and/or bank statements. Other examples of potentially suspicious activity that were not properly investigated included: separate high dollar amount transactions being sent on the same day, or in close succession, or multiple people who appear to be unrelated sending high dollar amounts to the same beneficiary within a short time period.

Not only did the Company fail to file SARs, it also could not provide adequate information on potentially suspicious transactions supporting its decision not to file SARs. PoaPay should have had reason to suspect that the transactions were designed to evade the reporting requirements of the BSA. The transactions identified by the examiners are specifically set forth in the 2015 Report and are incorporated herein by reference.

II. Designated Compliance Officer

28. The BSA's implementing regulation at 31 CFR §1022.210(d)(2), states in part

A money services business's anti-money laundering program shall, "(2) Designate a person to assure day to day compliance with the program and this part. The responsibilities of such person shall include assuring that (i) The money services business properly files reports, and creates and retain records, in accordance with applicable requirements of this part; (ii) The compliance program is updated as necessary to reflect current requirements of this part, and related guidance issued by the Department of the Treasury; and (iii) The money services business provides appropriate training and education in accordance with paragraph (d)(3) of this section.

29. PoaPay has designated a compliance officer; however, the 2015 Examination revealed that the compliance officer failed to effectively perform the required duties necessary for that position by failing to develop an effective Anti-Money Laundering (AML) program, failing to ensure the creation and retention of necessary records and failing to ensure that appropriate training and education was conducted.

III. Education and Training

30. The BSA's implementing regulation at 31 CFR §1022.210 (d)(3) states:

The money services business' anti-money laundering program shall [p]rovide education and/or training of appropriate personnel concerning their responsibilities under the program, including training in the detection of suspicious transactions to the extent that the money services business is required to report such transactions under this part.

31. According to information provided to the Division's examiners during the 2015 Examination, the Division's examiners determined that PoaPay's employee training is limited to a general review of the employee manual and an attestation that it was read, no testing is conducted. Ongoing training is provided; however, it is only on internal systems and policies and it does not satisfy the requirements of 31 CFR 1022.210(d)(3). Training on AML/BSA or industry best practices is not conducted. The trainings have been ineffective as there are numerous significant violations.

32. The findings of the 2015 Examination indicate that, in practice, the training program purportedly established by PoaPay did not effectively ensure that all personnel were adequately trained as evidenced by the Company's failure to comply with the minimal BSA anti-money laundering program requirements as more specifically noted in this Order and Notice and the 2015 Report.

IV. Independent Review

33. The BSA's implementing regulation at 31 CFR §1022.210(d)(4), states in part

The money services business' anti-money laundering program shall [p]rovide for independent review to monitor and maintain an adequate program. The scope and frequency of the review shall be commensurate with the risk of the financial services provided by the money services business. Such review may be conducted by an officer or employee of the money services business so long as the reviewer is not the person designated in paragraph (d)(2) of this section.

34. Books and records reviewed by the Division's examiners during the 2015 Examination revealed that while an independent review for PoaPay was conducted, the independent review did not reveal any of the significant violations discovered during the 2015 Examination, therefore calling into question the effectiveness of the independent review.

D. Failure to Implement Controls to Ensure Compliance with OFAC Requirements

35. The United States Treasury's Office of Foreign Assets Control's (OFAC) regulation 31 CFR 500 *et seq.* prohibits money services businesses from transmitting funds to or from individuals/organizations that have been placed upon OFAC's "Specially Designated Nationals" (SDN) list to ensure that no transactions are being processed to or from a sanctioned or blocked person or organization. A licensee must have an effective screening process in place to ensure that no transaction was processed in violation of OFAC's sanction.

36. During the 2015 Examination, the Division's examiners discovered that the Company's OFAC screening process was set up to flag exact matches, but could not catch high percentage matches for further investigation. An effective OFAC screening process should flag likely matches for further investigation to ensure that no persons or entities on the SDN list are allowed to conduct transactions through a licensee's system.

E. Failure to Maintain a Dedicated Escrow Account with a Federally Insured Bank and Comingling of Funds

37. The Division's regulation at 209 CMR 44.07 states in part:

All funds of clients deposited with a Licensee for transmittal to a foreign country shall be deposited in one or more trust accounts maintained at a federally insured bank. Said account(s) shall contain only those funds collected for transmittal...No person licensed as a foreign transmittal agency shall commingle money collected for transmission abroad from clients with its own funds or use any part of a client's money in the conduct of the Licensee's business.

38. PoaPay does not maintain an escrow account in its own name for Massachusetts transmittal services despite indicating that said account was already set-up during the Licensing

process. Consumers deposit cash or checks used for transfers directly into PoaPay's operating account.

39. Further, the operating account has also been used to fund personal transactions. Examples of personal transactions are credit card payments in Mr. Kagochi's name, as well as a payment for \$18,850 to an affiliated business, Wananchi, LLC, which is under common ownership of Mr. Kagochi. Additionally, there was a check card payment to "Remington College of NU FL" for \$10,500 in May 2015, as well as charges for a car wash in April 2015, and charges in March 2015 for "Denny's" and "Nathan's Famous".

40. There has been no effort by the Company to segregate customer funds from operating/personal funds and this places Massachusetts consumer funds at risk of being used to pay operating/personal expenses.

F. Failure to Acquire Adequate Bond Coverage

41. Massachusetts General Laws Chapter 169, section 2 states in part:

[B]efore engaging or becoming financially interested or continuing to engage or be financially interested in the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries, shall make, execute and deliver to the state treasurer a bond in a sum equal to twice the average weekly amount of money or equivalents thereof transmitted to foreign countries by such person... but in no event shall the sum of the bond be less than fifty thousand dollars...

42. PoaPay was licensed for 14 weeks during 2014 and reported \$4.5 million in remittances during that time. Therefore, weekly average amount of transactions during 2014 was \$322,501, which requires minimum bond coverage of \$645,002. However, PoaPay only maintained a bond of \$50,000 through the end of 2014. PoaPay reported \$20.2 million in remittances during 2015. The weekly average amount of transactions during 2015 was

\$388,181, which requires minimum bond coverage of \$776,362. However, PoaPay only maintained a bond of \$200,000 through the end of 2015.

43. The Company's bond is severely deficient, which could lead to grave consumer harm.

44. To date, PoaPay has failed to maintain the appropriate bond coverage

G. Failure to Maintain Books, Records and Accounts

45. Massachusetts General Laws, Chapter 169, section 10 states in part:

A licensee shall keep such books, accounts and records as will enable the commissioner to determine whether such licensee is in compliance with the provisions of this chapter and rules and regulations made pursuant thereto and any other law, rule and regulation applicable to the conduct of such business..."

46. The Division's regulation 209 CMR 44.05(1) states:

Each Licensee shall keep and use within the Commonwealth its books, records and accounts in a manner which will allow the Commissioner to determine whether the Licensee is complying with the provisions of M.G.L. c. 169 and applicable state and federal laws and regulations.

47. Bank Secrecy Act's regulation 31 CFR 1022.312 states in part:

Before concluding any transaction with respect to which a report is required... a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of any person or entity on whose behalf such transaction is to be effected.

48. The Financial Crimes Enforcement Network's (FinCEN) implementing regulation 31 CFR 1010.410(e)(1)(i)(A) states in part:

For each transmittal order [in the amount of \$3,000 or more] that it accepts as a transmittor's financial institution, a financial institution shall obtain and retain either the original or a microfilm, other copy, or electronic record of the following information relating to the transmittal order:...

A. The name and address of the transmittor;...

49. During the 2015 Examination, the database of transactions submitted to the examiner in response to the initial examination request was riddled with errors.

50. Even when asked to review the information for accuracy, the Company again provided information with many inaccuracies. Many of the errors included wrong or inconsistent state and zip code pairings. Some examples include a transaction for \$23,000 with the sender giving an address of Ramsey, MA 55303. Another customer transmitting \$7,000, listed an address of “Raleigh, North Carolina” MA, 27604. Another sender, also sending \$7,000, has “Cottage Grove, mn” MA 55016 as the listed address. In total, almost 13 percent of transactions had obvious errors in their data fields.

51. The Company also could not produce documentation to show that it adequately investigated apparently suspicious transactions.

52. The Company’s failure to maintain appropriate books and records impeded and delayed the Division’s examination. At times, the examiner had to make multiple requests for the same information because the records provided were incomplete or incorrect.

H. Failure to Maintain Compliant Transactional Receipts.

53. The CFPB’s regulation 12 CFR 1005.31(b)(1), states in part:

A remittance transfer provider must disclose to a sender, as applicable:

- ii. Any fees imposed and any taxes collected on the remittance transfer by the provider, in the currency in which the remittance transfer is funded, using the terms “Transfer Fees” for fees and “Transfer Taxes” for taxes, or substantially similar terms;
- vii. The amount that will be received by the designated recipient, in the currency in which the funds will be received, using the term “Total to Recipient” or a substantially similar term...

54. The CFPB's regulation 12 CFR 1005.31(b)(2) states in part:

A remittance transfer provider must disclose to a sender, as applicable:

- i. The disclosures described in paragraphs (b)(1)(i) through (viii) of this section;
- ii. The date in the foreign country on which funds will be available to the designated recipient, using the term "Date Available" or a substantially similar term. A provider may provide a statement that funds may be available to the designated recipient earlier than the date disclosed, using the term "may be available sooner" or a substantially similar term;

55. The CFPB's regulation 12 CFR 1005.31(e)(i) states:

Except as provided in § 1005.36(a), a pre-payment disclosure required by paragraph (b)(1) of this section or a combined disclosure required by paragraph (b)(3) of this section must be provided to the sender when the sender requests the remittance transfer, but prior to payment for the transfer.

56. The Division's regulation 209 CMR 44.10 states:

Grounds for license revocation under M.G.L. c. 169, § 12 and the issuance of cease and desist orders under M.G.L. c. 169, § 13 shall include...failing to disclose the type and number of its license(s) to all clients in writing at the time deposits for transmittal abroad are accepted or to fail to disclose the type and number of its license(s) in all advertisements.

57. During the 2015 Examination, the Division's examiners reviewed customer transaction receipts for compliance with the CFPB's foreign remittance rule and state-specific disclosure requirements. The Company provided several different types of receipts that they provide to a consumer, depending on how the consumer initiates the transaction with the Company or if the consumer requests a more detailed receipt.

58. None of the various items identified as receipts meet all of the requirements of the regulations.

59. None of these “receipts” contains the type and number of PoaPay’s Massachusetts license as required by the Division’s regulation.

60. Upon review of the Company’s receipts, the Division’s examiners noted that PoaPay has failed to provide consumers with the Combined Disclosure prior to receiving payment for the transfers.

I. Failure to Disclose License Number

61. The Division’s regulation 209 CMR 44.10:

Grounds for license revocation under M.G.L. c. 169, § 12 and the issuance of cease and desist orders under M.G.L. c. 169, § 13 shall include...failing to disclose the type and number of its license(s) to all clients in writing at the time deposits for transmittal abroad are accepted or to fail to disclose the type and number of its license(s) in all advertisements.

62. PoaPay’s website does not disclose the foreign transmittal license number issued by the Division as required. The Licensee’s website is viewed as a form of advertisement, thus PoaPay is in direct violation of the regulation.

J. Other Violations

63. In addition to the violations specifically set forth in this Order and Notice, the 2015 Report to be provided in conjunction with the issuance of this Order and Notice describes other violations observed during the 2015 Examination.

VIOLATIONS

NOW THEREFORE, the Division sets forth the following charges against PoaPay:

64. The Division hereby re-alleges, and incorporates by reference Paragraphs 1 through 63 of this Order and Notice as though fully set forth.

65. **CHARGE ONE:** PoaPay has failed to demonstrate and maintain the financial responsibility, character, reputation, integrity, and general fitness that would warrant the belief that the foreign transmittal agency business will be operated honestly, fairly, and soundly in the public interest in violation of Massachusetts General Laws chapter 169, section 6 and the Division's regulations 209 CMR 44.03 and 209 CMR 44.04.

66. **CHARGE TWO:** By knowingly engaging in the foreign transmittal business in Massachusetts prior to obtaining a license, PoaPay violated Massachusetts General Laws chapter 169, section 3.

67. **CHARGE THREE:** By failing to implement an effective Anti-Money Laundering program commensurate with the risks posed by the location and size of, and nature and volume of the financial services provided by the Company, in violation, PoaPay is in violation of the Bank Secrecy Act's implementing regulation 31 CFR §1022.210.

68. **CHARGE FOUR:** By failing to implement and maintain effective policies and procedures to ensure compliance with The Bank Secrecy Act's requirements, PoaPay is in violation of the Bank Secrecy Act's implementing regulation 31 CFR §1022.210(d)(1).

69. **CHARGE FIVE:** By failing to identify, report and file Suspicious Activity Reports when presented with instances of apparent suspicious transmittal patterns, PoaPay is in violation of the Bank Secrecy Act's implementing regulation 31 CFR §1022.320(a)(1).

70. **CHARGE SIX:** By failing to ensure that the Company's designated compliance officer effectively performed the duties required to ensure compliance with the Bank Secrecy Act's requirements, PoaPay is in violation of the Bank Secrecy Act's implementing regulation 31 CFR §1022.210(d)(2).

71. **CHARGE SEVEN:** By failing to ensure that the appropriate personnel had received the education and/or training required to ensure compliance with the Bank Secrecy Act's requirements, PoaPay is in violation of the Bank Secrecy Act's implementing regulation 31 CFR §1022.210(d)(3).

72. **CHARGE EIGHT :** By failing to ensure that an adequate independent review was conducted to ensure compliance with the Bank Secrecy Act's requirements, PoaPay is in violation of the Bank Secrecy Act's implementing regulation 31 CFR §1022.210(d)(4).

73. **CHARGE NINE:** By failing to implement and maintains controls to ensure that effective system had been created that flagged transactions for further investigation of names that are high percentage matches to names on the "Specially Designated Nationals" list, creating a high potential that it would violate OFAC's implementing regulation, PoaPay has violated 31 CFR 500 *et seq.*

74. **CHARGE TEN:** By failing to maintain an adequate bond coverage, PoaPay is in violation of Massachusetts General Law chapter 169, section 2.

75. **CHARGE THIRTEEN:** By failing to maintain adequate books, records and accounts, PoaPay violated Massachusetts General Laws, Chapter 169, section 10, the Division's regulation 209 CMR 44.05(1), Bank Secrecy Act's regulation 31 CFR 1022.312, and FinCEN's regulation 31 CFR 1010.410.

76. **CHARGE FOURTEEN:** By failing to maintain compliant transactional receipts, PoaPay is in violation of the Consumer Financial Protection Bureau's regulation 12 CFR §1005.31, as well as Division's regulation 209 CMR 44.10.

77. **CHARGE FIFTEEN:** By failing to provide its license number on its website, PoaPay violation the Division's regulation 209 CMR 44.10.

78. **CHARGE SIXTEEN:** Had the foregoing existed or been known to the Division at the time of PoaPay's foreign transmittal agency license application, the Commissioner would have been warranted in refusing to issue such license. Further, the facts and conditions set forth in Paragraphs 1 through 63 present sufficient grounds for the revocation of PoaPay's foreign transmittal agency license pursuant to Massachusetts General Laws chapter 169, section 12.

PRAYER FOR RELIEF

79. WHEREFORE, the Division, by and through the Commissioner, prays for a final decision as follows:

- i. For a final Agency decision awarding temporary and preliminary injunctive relief, and any other ancillary relief, as may be necessary to protect the public interest during the pendency of this matter.
- ii. For a final Agency decision in favor of the Division and against PoaPay for each Charge set forth in this Order and Notice.
- iii. For a final Agency decision revoking PoaPay's foreign transmittal agency license to conduct business as a foreign transmittal agency in Massachusetts.
- iv. For a final Agency decision requiring PoaPay to reimburse all fees paid by Massachusetts consumers on unlicensed transfers.
- v. For a final Agency decision imposing an administrative penalty against PoaPay in the amount of \$500 per unlicensed transaction.
- vi. For costs and fees of the Division's investigation of this matter; and

- vii. For such additional equitable relief as the Presiding Officer may deem just and proper.

NOTICE OF RIGHT TO A HEARING

80. PoaPay or their authorized representative are required to file an Answer or otherwise respond to the Charges contained in this Order and Notice within twenty-one (21) days of its effective date, pursuant to the Standard Adjudicatory Rules of Practices and Procedures, 801 CMR. 1.01 (6)(d). Failure to do so will result in a default judgment against you. The Answer, and any subsequent filings that are made in conjunction with this proceeding, shall be directed to the Administrative Hearings Officer, Division of Banks, with a copy to Prosecuting Counsel. All papers filed in regards to this matter shall be addressed to the attention of:

Administrative Hearings Officer
Division of Banks
1000 Washington Street, 10th Floor
Boston, Massachusetts 02118

Prosecuting Counsel for this matter is:
Amanda B. Loring
Division of Banks
1000 Washington Street, 10th Floor
Boston, Massachusetts 02118

81. You are further advised that PoaPay has the right to be represented by counsel or another representative, to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who testify against PoaPay and to present oral arguments. The hearing will be held at a date and time to be determined and will be conducted according to Massachusetts General

Laws, chapter 30A, sections 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03.

82. PoaPay or their representative may examine any and all Division records relative to this case prior to the date of the hearing, during normal business hours, at the office of the Prosecuting Counsel. If you elect to undertake such an examination, please contact the Prosecuting Counsel, Amanda Loring at 617-956-1544 in advance to schedule a time that is mutually convenient.

BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS.

Dated at Boston, Massachusetts, this 28th day of April, 2016.

By: _____
Cynthia A. Begin
Chief Risk Officer
Commonwealth of Massachusetts