

ORDER NO. 2015-012a

IN THE MATTER OF:	§	BEFORE:
	§	
	§	THE BANKING
INTELLIPAYMENT LLC	§	COMMISSIONER OF TEXAS
	§	
NEW YORK, NEW YORK	§	AUSTIN, TRAVIS COUNTY, TEXAS

SECOND CONSENT ORDER

On this day, the matter of IntelliPayment LLC, a New York limited liability company whose principal address is New York, New York (Respondent), was submitted to me, Charles G. Cooper, Banking Commissioner of the State of Texas (Commissioner), for consideration and action.

1. Respondent is a New York limited liability company, with its principal address listed as 350 Fifth Avenue, 59th Floor, New York, New York 10118.
2. The undersigned representative of Intellipayment LLC has full authority to enter into and bind Intellipayment LLC to the terms and conditions of this Consent Order.
3. The Texas Department of Banking (Department) has jurisdiction over Respondent and the subject matter of this proceeding pursuant to Texas Finance Code Chapter 151. The Commissioner has the authority to issue this Consent Order (Order) and to assess administrative penalties pursuant to Texas Finance Code §§ 151.702, 151.705, 151.706, and 151.707.
4. Respondent has been properly notified regarding its right to an administrative hearing under Texas Finance Code Chapter 151 (Chapter 151). Respondent is represented in this matter by Bryan Cave LLP.
5. The statutory provisions relevant to this matter include Texas Finance Code §§ 151.301 - 151.302 and 151.706 - 151.707.
6. Any violation of this Order could subject Respondent to additional regulatory or enforcement actions authorized by Texas Finance Code § 151.701, and other provisions of Texas law. Nothing in this Order diminishes the regulatory or enforcement powers of the Department, the Commissioner, or the Finance Commission of Texas under Chapter 151 or other applicable law.
7. For purposes of this proceeding, Respondent knowingly and voluntarily waives:

- a. Service upon Respondent of this Order;
 - b. The right to present defenses to the allegations in this proceeding;
 - c. Notice and hearing prior to imposition of this Order;
 - d. The filing of proposed findings of fact and conclusions of law;
 - e. The issuance of a proposal for decision by an administrative law judge;
 - f. The filing of exceptions and briefs with respect to such proposal for decision;
 - g. Any review of this Order by the Texas Finance Commission; and
 - h. Judicial review of this Order as provided by Texas Government Code § 2001.171 et seq., and any other challenge to the validity of this Order.
8. Respondent agrees to this Order solely for the purpose of this proceeding, and without admitting or denying any violations of law or regulations. This Order does not constitute an admission by Respondent that Chapter 151 or a rule adopted or order issued under Chapter 151 has been violated.
9. Respondent agreed to a prior Consent Order (First Order), which was issued on May 18, 2015. The First Order required Respondent to cease and desist from conducting unlicensed money transmission business for any new customers in Texas and to take other steps, including paying a penalty of \$43,780 for conducting unlicensed money transmission business in Texas.
10. The administrative penalty imposed by the First Order was based on Respondent's representations regarding the amount of unlicensed money transmission business it had done in Texas and that it began conducting money transmission in Texas in 2012.
11. On October 5, 2015, Respondent informed the Department that it had actually done business in Texas since 2010 and that the volume of unlicensed money transmission business it has done in Texas was higher than the amount it stated previously.
12. The Commissioner has considered the matter and finds as follows:
 - a. The Commissioner incorporates by reference as if fully set forth herein the findings stated in paragraph 9(a)-(f) of the First Order.
 - b. Additionally, the Commissioner finds Respondent's prior compliance history unsatisfactory because, when providing information to the Department for the First Order, it failed to accurately represent both the

volume of unlicensed money transmission business it conducted in Texas and the length of time it conducted an unlicensed money transmission business in Texas.

- c. Based on these findings and based on the representations made by Respondent as to the volume of transactions and length of time it has been conducting an unlicensed money transmission business in Texas, the Commissioner finds that an additional penalty of \$15,030 is appropriate.

13. Respondent has agreed to comply with the terms that are set out in the Order below.

ORDER

It is hereby ORDERED, ADJUDGED and DECREED that:

14. Respondent will pay the Department an additional administrative penalty of \$15,030. The \$15,030 penalty will be due by a check made payable to the Texas Department of Banking and delivered to the Department by 5:00 p.m. on June 2, 2016.
15. This Order does not restrict the Department with respect to any enforcement action or other recourse regarding any other past, current, or future violations by Respondent that come to the attention of the Department.

Effective Date

This Order against Respondent is effective on the date signed below, and subject to its terms, Respondent may not appeal.

Signed on this 1st day of June, 2016.

/s/ Stephanie Newberg for

Charles G. Cooper

Banking Commissioner of Texas

AGREED AS TO FORM AND SUBSTANCE:

IntelliPayment LLC

By: /s/ Mickey Cavuoti

Mickey Cavuoti

Manager

State of New York

§

§

County of New York

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Sworn to and subscribed before me on the 20th day of May, 2016, by Mickey Cavuoti.

/s/ Charles M. Goldsmith

Notary Public's signature

APPROVED AS TO FORM:

/s/ Judith Rinearson

Judith Rinearson

Bryan Cave LLP

Counsel for In

Date: May 20, 2016

/s/ Deborah H. Loomis

Deborah H. Loomis

Deputy General Counsel

Texas Department of Banking

Date: June 1, 2016