

**ORDER NO. 2018-005**

<b>IN THE MATTER OF:</b>	§	<b>BEFORE:</b>
	§	
<b>GOVERNMENT PAYMENT SERVICE,</b>	§	<b>THE BANKING</b>
<b>INC. d/b/a GOVPAYNET</b>	§	<b>COMMISSIONER OF TEXAS</b>
	§	
<b>INDIANAPOLIS, INDIANA</b>	§	<b>AUSTIN, TRAVIS COUNTY, TEXAS</b>

**CONSENT ORDER**

On this day, in the matter of Government Payment Service, Inc. d/b/a GovPayNet (GPS or Respondent) was submitted to me, Charles G. Cooper, Banking Commissioner (Commissioner) of the State of Texas, for consideration and action.

1. GPS is a corporation organized under the laws of the State of Delaware and is headquartered in Indianapolis, Indiana.
2. The Texas Department of Banking (Department) has jurisdiction over GPS and the subject matter of this proceeding pursuant to Texas Finance Code (Finance Code) Chapter 151 (Chapter 151). The Commissioner has the authority to issue this Consent Order (Order) and to assess administrative penalties pursuant to Finance Code §§ 151.706 and 151.707.
3. GPS has been properly notified of its right to an administrative hearing under Chapter 151.
4. The undersigned representative of GPS has full authority to enter into and bind GPS to the terms and conditions of this Consent Order.
5. The statutory provisions at issue in this matter include, but are not limited to, Finance Code §§ 151.301, 151.302, 151.702, 151.706, and 151.707.
6. Any violation of this Order could subject GPS to additional regulatory or enforcement actions authorized by Chapter 151 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, GPS knowingly and voluntarily waives:
  - a. Service upon GPS 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. GPS and the Commissioner agree to this Order solely for the purpose of this proceeding, and without GPS admitting or denying any violations of law or regulations. This Order does not constitute an admission by GPS that Chapter 151 or a rule adopted or order issued under Chapter 151 has been violated.
9. The Commissioner has considered this matter and finds as follows:
  - a. GPS enables individuals to make payments using debit, credit, and prepaid cards to government agencies, including court fines and fees, traffic and parking tickets, real estate and property taxes, and bail payments. In a typical transaction, a consumer accesses GPS's services either online via its website or via a toll-free call to the GPS Call Center. Regardless of the method used, GPS charges the consumer's credit, debit, or prepaid card and then uses a third-party gateway services provider to send the funds to its settlement bank, who then sends it to the entity designated by the consumer. In conducting the transaction, GPS makes a promise to the consumer to take his or her

funds and make them available in a different location. Additionally, GPS collects a fee from the consumer per transaction.

- b. In 2016, the Department became aware that GPS has been offering its services to Texas residents since at least 2010.
- c. Under Finance Code § 151.301(b)(4), money transmission means “the receipt of money or monetary value by any means in exchange for a promise to make the money or monetary value available at a later time or different location.” The Finance Code defines engaging in the business of money transmission as receiving compensation or expecting to receive compensation, directly or indirectly, for conducting money transmission. Finance Code § 151.302(b). In receiving consumers’ funds and compensation for a promise to make the funds available to various third-party entities, GPS is engaging in the business of money transmission.
- d. Finance Code § 151.302(a) provides that “a person may not engage in the business of money transmission or advertise, solicit, or hold itself out as a person that engages in the business of money transmission” without a license unless it is an authorized delegate of a license holder, is excluded from licensure under Chapter 151, or has been granted an exemption under Chapter 151.
- e. As described above, GPS is conducting money transmission in Texas. The Department has not licensed GPS; GPS is not an authorized delegate of a license holder; GPS is not excluded from licensure under Chapter 151; and GPS has not been granted an exemption under Chapter 151. Consequently, the Commissioner finds that GPS is in violation of Finance Code § 151.302.

- f. Based on these findings and based on the representations made by GPS 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 a penalty of \$94,000 is appropriate.
10. GPS has agreed to comply with the terms that are set out in the Order below.
11. Nothing in this Order shall prohibit GPS from obtaining a money transmission license from the Department in the future.
12. GPS has stated it will apply for a temporary license and subsequently obtain a permanent license pursuant to Chapter 151.
13. This Order does not restrict the Department with respect to any enforcement action or other recourse regarding any past, current, or future violations by GPS that come to the attention of the Department. However, nothing herein shall be construed to limit GPS's right to contest any future finding or determination of non-compliance.

### **ORDER**

It is hereby ORDERED, ADJUDGED and DECREED that:

1. Within 10 days of the Effective Date of this Order, GPS will cause to be delivered to the Department a check or wire transfer made payable to the Texas Department of Banking in the amount of \$94,000 as payment of the administrative penalty and within 15 days submit a complete temporary license application.
2. GPS will fulfill all of the requirements to obtain a license to conduct money transmission in Texas as detailed in Chapter 151. In the event that GPS's license application is suspended pursuant to Finance Code § 151.204, determined abandoned pursuant to 7 Texas

Administrative Code § 33.13(g)(1), or denied pursuant to Finance Code § 151.205, GPS will do the following:

- a. Within 15 days of the Department's notification to GPS of said suspension, abandonment or denial, notify its existing Texas customers that it will cease providing money transmission services to them. This notification must be made in writing, and a copy of the notice must be sent contemporaneously to the Department;
- b. Within 60 days of the Department's notification to GPS of said suspension, abandonment or denial, cease and desist from engaging in the unauthorized business of money transmission in Texas and have returned to its customers all customer funds held by GPS; and
- c. Within seven days of achieving full compliance with this paragraph, GPS must confirm to the Department in writing that it has ceased all unlicensed activities in Texas.

#### **EFFECTIVE DATES**

This Order against GPS is effective on the date signed by the Commissioner and is final and non-appealable as of that date.

Signed on this 29th day of January, 2018.

/s/ Stephanie Newberg for  
Stephanie Newberg  
Deputy Commissioner, Department of Banking

**AGREED AS TO FORM AND SUBSTANCE:**

Government Payment Service, Inc.

Mark E. McKenzie

By: /s/ Mark E. McKenzie  
Managing Director

Date: January 24, 2018

**APPROVED AS TO FORM:**

/s/ Felix Shipkevich  
Felix Shipkevich  
Shipkevich PLLC  
Counsel for Government Payment Service, Inc.

Date: January 24, 2018

/s/ Ryan P. McCarthy  
Ryan P. McCarthy  
Assistant General Counsel  
Texas Department of Banking

Date: January 29, 2018