

Order No. 2022-004

IN THE MATTER OF:	§	BEFORE THE BANKING
	§	
TEXAS G & S INVESTMENTS, INC. DBA	§	
TEXAS MONEY EXCHANGE DBA RANCHO	§	
EL OJIVAL	§	
MONEY TRANSMISSION LICENSE NO. 11	§	COMMISSIONER OF TEXAS
	§	
	§	
MCALLEN, HIDALGO COUNTY, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

CONSENT ORDER

On this day in the matter of Texas G & S Investments, Inc. dba Texas Money Exchange dba Rancho El Ojival (“Respondent”) was submitted to me, Charles G. Cooper, Banking Commissioner (“Commissioner”) of the State of Texas, for consideration and action.

1. Respondent holds money transmission license number 11 issued by the Texas Department of Banking (“Department”) pursuant to Texas Finance Code (“Finance Code”) Chapter 151 (“Chapter 151”) and operates a money transmission business headquartered in McAllen, Texas.

2. The Department has jurisdiction over Respondent and the subject matter of this proceeding pursuant to Chapter 151. The Commissioner has the authority to issue this Consent Order (“Order”) pursuant to Finance Code § 151.706.

3. Respondent has been properly notified of its right to an administrative hearing under Chapter 151.

4. The undersigned representative of Respondent has full authority to enter into and bind Respondent to the terms and conditions of this Order.

5. The statutory provisions at issue in this matter include, but are not limited to, Finance Code §§ 151.202, 151.207, 151.502, 151.503, 151.601, 151.602, 151.603, 151.604, 151.703, 151.706, and 151.707.

6. Any violation of this Order could subject Respondent to additional regulatory or enforcement actions authorized by Chapter 151 and other provisions of Texas law.

7. 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.

8. This Order does not restrict the Department, the Commissioner, or the Finance Commission of Texas with respect to any enforcement action or other recourse regarding any past, current, or future violations by Respondent that come to the attention of the Department to the extent those violations are not existing and not actually known by the Department as of the effective date of this Order.

9. This Order does not restrict the Department, the Commissioner, or the Finance Commission of Texas from considering any relevant facts in determining the financial and business experience, competence, character, and general fitness of a current or future license holder or applicant under Chapter 151 or each principal of, person in control of, principal of a person in control of, and proposed responsible individual of any such license holder or applicant.

10. 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.

11. Respondent and the Commissioner agree to this Order solely for the purpose of this proceeding, and without Respondent admitting or denying any violations of law or regulations. Respondent is voluntarily agreeing to the conditions contained in this Order. This Order does not constitute an admission by Respondent that Chapter 151, a rule adopted or order issued under Chapter 151, the Bank Secrecy Act, the USA PATRIOT ACT, or applicable federal regulations (31 C.F.R. chapter X.) has been violated by Respondent.

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

I. Findings

13. Respondent is owned 75% by President Guillermo Solis Jr. and 25% by Secretary Sherri L. Solis.

14. The Department conducted examinations of Respondent pursuant to Finance Code § 151.601 in February and November 2020, and May 2021. In connection with these exams, the Department required that Respondent provide certain financial and operational information regarding its operations, which include domestic and international money transmission, and currency exchange.

15. The February 2020 and May 2021 examinations were full-scope. The May 2020 examination was limited in scope to Respondent's efforts to correct deficiencies and violations identified in the February 2020 examination. Some, but not all, of these deficiencies and violations are stated below.

16. The Department determined during the February 2020, November 2020, and May 2021 examinations that Respondent was not maintaining an accurate general ledger containing all

asset, liability, capital, income, and expense accounts as required by Finance Code § 151.602(a)(2). Problems such as inaccurate underlying journal entries, inaccurate bank reconciliations, improper or unsupported reporting relating to income, expenses, assets, and liabilities, and aggregated journal entry adjustments contributed to the inaccuracy of Respondent's general ledger during all of these examinations.

17. The Department determined during the May 2021 examination that Respondent violated Finance Code § 151.601(c) by failing to provide the Department with full and complete records required to conduct a complete examination. In some instances, Respondent provided the required records late or provided inaccurate records. In other instances, Respondent never provided the required records prior to the conclusion of the examination, including accurate financial statements, trial balance and mapping documents supporting the financial statements that were provided, documents relating to personal expenses of insiders attributed to Respondent, and reports from Respondent's auditor containing findings relating to internal control related matters.

18. The Department determined during the February 2020, November 2020, and May 2021 examinations that Respondent violated Finance Code § 161.602(a)(5), 7 Tex. Admin. Code § 33.23(b), and 7 Tex. Admin. Code § 33.35(b)(1)(C) by failing to properly calculate and report average outstanding transmission liabilities and thereby failing to maintain records sufficient to enable Respondent to file accurate and complete reports as required by the Department. Respondent failed to accurately and fully record customer transactions into its transaction database and failed to implement an adequate system of controls to ensure that all outstanding transmission liability was properly reported.

19. The Department determined during the May 2021 examination that Respondent violated § 151.603(b)(2) of the Finance Code by filing its March 31, 2021 quarterly interim

financial statement and report regarding the permissible investments late. Also, the Department determined during the during the February 2020 and November 2020 examinations that the financial statements being provided were inaccurate due to Respondent's inaccurate general ledger as discussed in paragraph 16.

20. The Department determined during the February 2020, November 2020, and May 2021 examinations that Respondent violated applicable federal anti-money laundering regulations with respect to its anti-money laundering program as required by 31 C.F.R. § 1022.210 by failing to implement policies, procedures, and internal controls reasonably designed to assure compliance with certain federal anti-money laundering regulations. Respondent's risk assessments for customers and other counterparties have been insufficient. Respondent did not conduct proper diligence for foreign correspondents despite the Department's repeated instructions to do so. Respondent also did not make adequate necessary adjustments to its know-your-customer/customer identification programs despite the Department's prior instructions to do so.

21. The Department determined during the February 2020 and November 2020 examinations that Respondent violated applicable federal anti-money laundering regulations at 31 C.F.R. § 1010.306(a)(1) by failing to file reports of transactions in currency in a timely manner.

22. The Department determined during the February 2020 and November 2020 examinations that Respondent violated applicable federal anti-money laundering regulations at 31 C.F.R. § 1010.410(e)(2) by failing to obtain and retain required information for transmitters who are not established customers.

23. The Department determined during the February 2020 and May 2021 examinations that Respondent violated applicable federal anti-money laundering regulations at 31 C.F.R. § 1022.320 by failing to file a limited number of suspicious activities reports in a timely manner.

24. The Department determined during the February 2020, November 2020, and May 2021 examinations that Respondent failed to conduct adequate risk assessments and due diligence regarding foreign agents/foreign counterparties that are used to pay out beneficiary funds in foreign countries, which does not conform with applicable anti-money laundering regulatory guidance including Department Supervisory Memorandum 1040, Recommended File Documentation for Money Services Business License Holders that Conduct Business through Authorized Delegates, Foreign Agents and Counterparties, and Gateway Agents (Oct. 29, 2015) and Financial Crimes Enforcement Network Release 2004-1, Anti-Money Laundering Program Requirements for Money Services Businesses With Respect to Foreign Agents or Foreign Counterparties, 69 F.R. 74439 (Dec. 14, 2004).

25. The Department determined during the February 2020 examination that Respondent did not adequately communicate information about the relationship of Respondent and its insiders with such foreign payers for several years.

26. The Department determined during the February 2020 examination that Respondent had not conducted adequate assessments regarding laws and regulations that may apply to Respondent's business activities in all other jurisdictions in which Respondent conducts business, including its activities relating to money services or other potentially regulated financial services, as required for ensuring the safety and soundness of Respondent. The Department determined during the November 2020 and May 2021 examinations that Respondent had not taken adequate measures to ensure compliance with applicable laws and regulations.

27. The Department reported all of these determinations to Respondent following each applicable examination.

28. The Commissioner has considered the matter and finds that, based on credible evidence, that Respondent has:

- a. not timely cooperated with an examination authorized by Chapter 151;
- b. engaged in unsafe and unsound acts and practices;
- c. failed to provide to the Department timely, complete, and accurate reports and other documents as required; and
- d. failed to prepare and maintain records required by Chapter 151.

29. As of the effective date of this Order, Respondent has remediated many, but not all, ongoing violations. Respondent has provided additional assurances to the Department regarding extensive further efforts to cease ongoing violations. These assurances, which the Department has neither confirmed nor refuted, include an overhaul of its accounting and transaction reporting software systems as well as its policies, procedures, and internal controls.

30. As required by Finance Code §151.707(d), the Commissioner has considered the seriousness of the violations, Respondent's compliance history, and Respondent's good faith in attempting to comply with Chapter 151 and finds that a penalty of \$250,000 is appropriate.

II. Order

It is hereby ORDERED, ADJUDGED, and DECREED that:

31. Respondent must ensure that it maintains an accurate general ledger, including but not limited to:

- a. Respondent must have clear written legal documentation reflecting the terms and conditions of all insider and affiliate transactions, including without limitation use of Respondent's property by insiders or affiliates for non-business purposes.
- b. All insider and affiliate transactions, including without limitation use of

Respondent's property by insiders or affiliates for non-business purposes, must be on fair, arms'-length terms and conditions.

- c. Respondent must retain documents establishing the propriety of business-related expenses, including professional fees.
- d. For any oral property leases or other agreements that are not with insiders or affiliates, Respondent must make reasonable best efforts to obtain written agreements to replace all oral agreements, and Respondent must retain all communications and documents relating to the terms of such oral agreements and performance thereunder.
- e. Respondent must properly calculate and report all outstanding money transmission liabilities as outstanding until the applicable money or monetary value is delivered as designated by the customer to an intended beneficiary or returned to the customer.
- f. Respondent must establish and implement accounting policies, procedures, and controls to ensure accurate and timely financial reporting.
- g. As of the effective date of this Order, Respondent must commence recording individual transactions on its general ledger containing detail of each underlying business activity.

32. Respondent must send this Order and financial findings in the Department's report of examination for the May 2021 examination to the auditor engaged to perform the audit for the 2021 and 2022 fiscal years.

33. Respondent must, through at least March 31, 2025:

- a. forward to the Department, upon such report being provided to Respondent,

and no later than March 31 of each year, any audit planning report for the upcoming annual audit detailing considerations in developing the audit plan, areas of audit emphasis, and planned audit approach; and

- b. after issuance of any audit report, obtain a management letter from its auditor detailing exceptions to internal control, adequacy and appropriateness of policies and procedures established in accordance with Paragraph 31, and other entity weakness and recommendations. Respondent must forward to the Department upon such report being provided to Respondent, and forward to the Department any written response to such report from Respondent upon such response being provided by Respondent.
34. Respondent must ensure that it complies with applicable anti-money laundering laws and regulations and prudent practices, including but not limited to:
- a. Respondent must conduct adequate risk assessments for all customers to (i) establish appropriate transaction thresholds, including thresholds based on individual transactions as well as aggregated transactions over a set period of time not more than three months and thresholds based on appropriate category of customer, and (ii) periodically review the customer's expected transmission volume versus actual volume.
 - b. For customers whose transmission volume exceeds the thresholds established above, and for customers whose transmission volume exceeds expected volume, Respondent must collect and retain documentation from the applicable customer sufficient to verify the source of the funds received from such customer.

- c. Respondent must, for customers deemed to be high volume or risk, request and review financial statements or tax returns and ensure that such documents support the level of activity conducted by such customers.
- d. Respondent must, if it utilizes any foreign correspondents, conduct appropriate due diligence regarding such correspondents and retain related documentation.
- e. Respondent must implement policies and procedures to ensure timely review of suspicious activity and timely filing of suspicious activity reports no later than 30 calendar days after the date of the initial detection by Respondent of facts that may constitute a basis for filing a report.
- f. Respondent must comply with all instructions from the Financial Crimes Enforcement Network (FinCEN) related to the filing of currency transaction reports for the cross-border transport of foreign currency by Respondent, and Respondent retain any such instructions from FinCEN and related communications or documentation with FinCEN and provide such information to the Department upon request.
- g. To the extent that Respondent uses any foreign agents/counterparties to pay out beneficiary funds in foreign countries, it must conduct adequate risk assessments in accordance with all applicable laws and regulations, including the regulatory guidance referenced in paragraph 24. Pursuant to such guidance, this assessment must be conducted for all foreign agents and foreign counterparties regardless of their location or jurisdiction of organization, chartering, or licensing.

- h. Respondent must conduct adequate assessments regarding laws and regulations that may apply to Respondent's business activities in all other jurisdictions, including its activities relating to money services or other potentially regulated financial services, and ensure compliance with applicable laws and regulations.
35. Respondent must implement and maintain a due diligence program for third-party vendors, including vendors that have access to personally identifiable information or business proprietary and confidential information. Such due diligence programs must include a process for adequately assessing and addressing the specific risks posed by each vendor.
36. Upon request from the Department, Respondent will promptly provide accurate English translations of any agreements with vendors, foreign correspondents, and other business partners and of any documents relating to such agreements or performance thereunder.
37. Respondent must pay an administrative penalty to the Department totaling \$250,000, with \$100,000 due no later than March 15, 2022, and \$25,000 due no later than the first day of each month commencing June 1, 2022.

III. Effective Dates

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

Signed on this 11th day of February, 2022.

/s/ Charles G. Cooper
Charles G. Cooper
Commissioner, Department of Banking

AGREED AS TO FORM AND SUBSTANCE:

Texas G & S Investments, Inc.

/s/ Guillermo Solis Jr.

Guillermo Solis Jr., President

Date: February 10, 2022

Texas G & S Investments, Inc.

/s/ Sherri L. Solis

Sherri L. Solis, Secretary

Date: February 10, 2022

APPROVED AS TO FORM:

/s/ Daniel Wood

Daniel Wood

Pillsbury Winthrop Shaw Pittman

Counsel for Texas G & S Investments, Inc.

Date: February 10, 2022

/s/ Jesse T. Moore

Jesse T. Moore

Assistant General Counsel

Texas Department of Banking

Date: February 10, 2022