



# ANATOMY OF A CONSENT ORDER: "GIZMO" CASE STUDY

*Presentation to:*

*ACI Emerging Payments Systems  
Conference*

*March 26, 2015*

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Payment Systems*

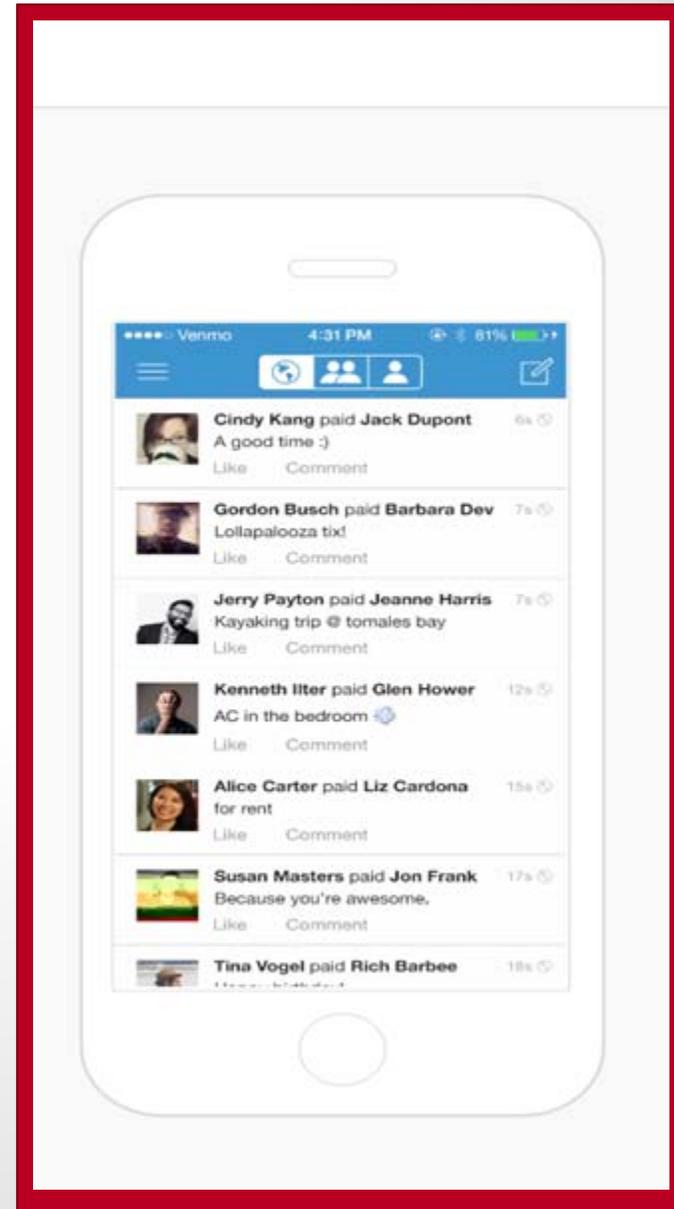
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# “Gizmo”: P2P Payments With a Social Twist



- Free\* Digital Wallet:
  - Link ACH or debit card
  - Free to receive money from other users
  - Free to send money if funded by:
    - Gizmo Account
    - ACH transfer
    - Major Debit Card
    - Overnight Cash Out to Bank Account
- Transactions broadcast to “Transaction Feed”:
  - Similar to Facebook or Instagram Activity Feeds
  - “Find Friends” feature to increase social network
  - Belief that many payments are inherently social



# But “Gizmo” is a money transmitter...



...With Money Transmitter Issues:

- MT License Application Filed 6.30.11
- MT License Application Approved: 3.14.2012
- MT License Issued: 12.12.12
- Parent Co. applies to gain control of “Gizmo”: 10.11.13
- “Conditions of Approval” Issued 12.12.2013
- Received Final Order 7.21.2014

EXHIBIT A

STATE OF CALIFORNIA

DEPARTMENT OF BUSINESS OVERSIGHT

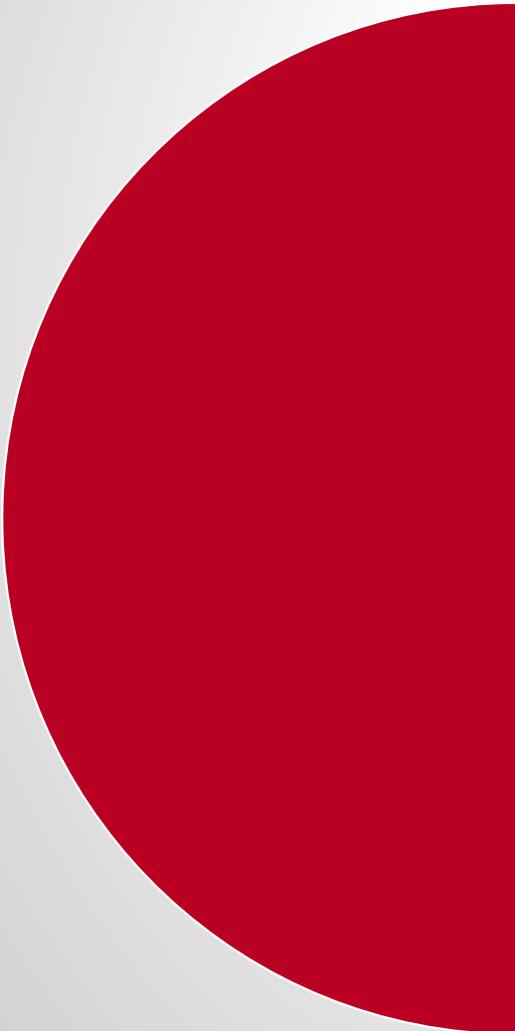
In the Matter of )  
 )  
 GIZMO, INC. ) ) FINAL ORDER  
 ) (Financial Code Section 2148)  
 Respondent )

Pursuant to Financial Code §2148, the Commissioner of Business Oversight (Commissioner) hereby orders:

1. Gizmo Inc. (Respondent) shall discontinue all unsafe practices as follows:

- Within sixty (60) days of this Order, Respondent shall develop and implement a capital plan to maintain tangible shareholders' equity (TSE) of not less than \$1 million or 10% of total assets, whichever is higher, at all times. Moreover, for calculating TSE to total assets ratio, the composition of TSE shall include no more than 50% in the form of deferred tax assets. The capital plan shall also include timelines for the injection of capital.
- Within sixty (60) days of this Order, Respondent shall file with the Commissioner a formal consumer assistance policy as required in the Conditions of Approval dated December 12, 2013.
- Respondent shall commission a special outside audit of its Bank Secrecy Act (BSA), Anti-Money Laundering (AML), Office of Foreign Asset Control (OFAC), and USA



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## **Broad Enforcement Powers under CA statute:**

- DBO may direct licensee pursuant to final order "to comply with law or to discontinue the unsafe or injurious practices." Cal. Fin. Code § 2148(b)

# California DBO Enforcement Authority



**DBO may revoke or suspend license or place in receivership if licensee (among other things):**

- Violates law, regulation, condition of approval, or order;
- Does not cooperate with DBO;
- Engages in fraud, intentional misrepresentation;
- Employs person(s) in control who are not fit to provide money transmission;
- Engages in unsafe or unsound practices Cal. Fin. Code § 2149(a)(1)-(9)
- **Civil Penalties:** \$1000 per violation, \$1000 per day if continuing, plus attorney's fees Cal. Fin. Code § 2151.2
- **Criminal Penalties:** Felony charges for intentional false statement, misrepresentation, false certification, false entry, or omits a material entry in records required by DBO Cal. Fin. Code § 2151.2



# “Gizmo” Final Order (July 2014)



## “Gizmo” Ordered to Discontinue 19

## “Unsafe Practices” including:

- Maintain tangible assets of no less than \$1M/10% of Total Assets (no more than 50% from deferred tax assets)
- File formal consumer assistance policy with DBO
- Submit to external BSA/AML/OFAC audit
- Submit monthly financial statements
- **Establish “arms-length” inter-company transaction policy**
- Comply with licensee annual audit requirement
- **Establish AML policy, enhance KYC policy**
- **Designate board-appointed chief compliance officer**
- Implement SAR compliance system; devote additional resources to turnaround of SARs

# "Gizmo" Final Order (July 2014)



Enhance OFAC monitoring and detection, perform and document weekly OFAC reviews of all customers

Correct Call Report deficiencies: "[R]ead and follow the ...Instructions."

Implement control procedures to ensure accurate financial reporting; minimize repeat errors; appoint individual to oversee controls

Establish procedures for acting as agent of PreCash

Establish daily average transaction liability reports (ADTLs) – **"supported by transaction data"** (separate deficiency)

# “Gizmo” Final Order (July 2014)(cont.)



Establish  
escheatment  
policy;  
**establish  
procedures to  
prevent  
unclaimed  
property from  
being  
claimed as  
business  
income**

**Establish “vital  
company  
policies”**  
regarding  
accounting,  
consumer  
privacy,  
information  
technology,  
etc.

**Establish  
“crucial  
business  
plans”**  
(succession,  
DR, strategic,  
emergency  
preparedness  
plans)

Improve and  
formalize  
corporate  
governance  
by  
documenting  
corp actions  
in written  
minutes

# Disclaimer

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# Questions?

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