

**SCHWARTZ & BALLEN LLP**

1990 M STREET, N.W. • SUITE 500

WASHINGTON, DC 20036-3465

WWW.SCHWARTZANDBALLEN.COM

**TELEPHONE**

(202) 776-0700

**FACSIMILE**

(202) 776-0720

**MEMORANDUM**

June 3, 2019

To Our Clients and Friends

Re: Pennsylvania Commonwealth Court Opinion Regarding Money Transmission

The Pennsylvania Commonwealth Court has ruled that Givelify, a developer of a smartphone app enabling users to donate to charities, did not require a money transmission license for activities it conducted in Pennsylvania.<sup>1</sup> The Court found that Givelify was not engaged in transmitting money under the Pennsylvania Money Transmitter Act (“MTA”) because it merely connected donors and recipients to a third-party payment processor and did not handle the actual transmission of money. The Court’s opinion reversed a decision from the Pennsylvania Department of Banking and Securities finding Givelify had engaged in unlicensed money transmission.

The Court applied the MTA in effect in 2016, which is when the activity at issue occurred. The MTA was later amended in 2016 to define money transmission as including transmitting money “with or on behalf of an individual.” The Court noted that the revised definition may have “enlarged the class of individuals/entities that may be liable for transmitting money without a license,” but expressed no view as to whether Givelify’s activities run afoul of the MTA’s current definition.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Heidi Wicker, or Victor Razon at (202) 776-0700.

---

<sup>1</sup> *Givelify LLC et al. v. Pa. Dep’t of Banking and Sec.*, No. 329 CD 2018 (Pa. Commw. Ct. 2019).