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PUBLIC RECORDS AND INFORMATION:
Disclosure of Names of Licensees
Under Currency Exchange Act

Shinae Chun, Director
Department of Financial Institutions
100 West Randolph, Suite 15-700
Chicago, Illinois 60601

Dear Director Chun:

I have your letter wherein you inquire whether the Department of Financial Institutions is required to disclose the names of licensees and applicants for licenses issued under "AN ACT in relation to the definition, licensing and regulation of community currency exchanges and ambulatory currency exchanges, and the operators and employees thereof, etc." (Ill. Rev. Stat. 1987, ch. 17, par. 4801 et seq.) [hereinafter "Illinois Currency Exchange Act"] pursuant to a request for

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disclosure under The Freedom of Information Act (Ill. Rev. Stat. 1987, ch. 116, par. 201 et seq.). For the reasons hereinafter stated, it is my opinion that the names of licensees and applicants for licenses under the Illinois Currency Exchange Act, including the names of partners of partnerships and offices and shareholders of corporations which are licensed or have applied for a license, are public information which must be disclosed upon public request.

Pursuant to section 2 of the Illinois Currency Exchange Act (Ill. Rev. Stat. 1987, ch. 17, par. 4803), no person or business entity may engage in the business of a community currency exchange or ambulatory currency exchange without first being licensed to do so by the Director of the Department of Financial Institutions. Section 4 of the Illinois Currency Exchange Act (Ill. Rev. Stat. 1987, ch. 17, par. 4808) provides, in pertinent part:

"Application for such license shall be in writing under oath and in the form prescribed and furnished by the Director. Each application shall contain the following:

(a) The full name and address (both of residence and place of business) of the applicant, and if the applicant is a partnership or association, of every member thereof, and the name and business address if the applicant is a corporation;

(b) The county and municipality, with street and number, if any, where the community currency exchange is to be conducted, if the application is for a community currency exchange license;

(c) If the application is for an ambulatory currency exchange license, the name and address of the employer at each location to be served by it; and

(d) The applicant's occupation or profession; a detailed statement of his business experience for the 10 years immediately preceding his application; a detailed statement of his finances; his present or previous connection with any other currency exchange; whether he has ever been involved in any civil or criminal litigation, and the material facts pertaining thereto; whether he has ever been committed to any penal institution or admitted to an institution for the care and treatment of mentally ill persons; and the nature of applicant's occupancy of the premises to be licensed where the application is for a community currency exchange license. If the applicant is a partnership, the information specified herein shall be required of each partner. If the applicant is a corporation, the said information shall be required of each officer, director and stockholder thereof.

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The Illinois Currency Exchange Act is silent with respect to whether the names of licensees or applicants for licenses issued under the Act may be disclosed.

Section 3 of The Freedom of Information Act (Ill. Rev. Stat. 1987, ch. 116, par. 203) provides:

"(a) Each public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of this Act.

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It is clear that the Department of Financial Institutions is a "public body", and that the records of the Department containing the names of licensees or applicants for licenses are

"public records", for purposes of section 3 of The Freedom of Information Act. (See, Ill. Rev. Stat. 1988 Supp., ch. 116, par. 202.)

Section 7 of The Freedom of Information Act (Ill. Rev. Stat. 1988 Supp., ch. 116, par. 207, as amended by Public Acts 86-251, effective August 15, 1989, and 86-870, effective September 8, 1989) provides, in pertinent part:

"The following shall be exempt from inspection and copying:

* * *

(b) Information which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless such disclosure is consented to in writing by the individual subjects of such information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to: (i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies; (ii) personal files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for such positions; (iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body engaged in professional or occupational registration or licensure; (iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute; and (v) information revealing the identity of persons who file complaints with

or provide information to administrative,
investigative, law enforcement or penal agencies.

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For the purposes of this opinion, I have considered only the question of whether the names of licensees or applicants for licenses constitute "personal information", as that term is used in subsection 7(b)(iii) of The Freedom of Information Act, which is therefore exempted from disclosure under that Act. Consequently, this opinion does not address the issue of whether other information in the records of the Department might be subject to disclosure under that Act.

Initially, it is my conclusion that a license to operate a currency exchange is an "occupational license" within the purview of subsection 7(b)(iii), and that the Department therefore is engaged in professional or occupational licensure for purposes thereof. In the absence of a contrary statutory definition, words used in a statute are to be given their popularly understood meaning. (Bowman v. Armour and Company (1959), 17 Ill. 2d 43, 52.) The term "occupation", as it is popularly understood, is a generic term which encompasses all forms of vocations or trades. (Schuchardt v. People (1881), 99 Ill. 501, 505-6.) A license to operate a currency exchange, since it relates to an occupation, is an occupational license, and, consequently, personal information concerning licensees or applicants for licenses may be disclosed only in accordance with subsection 7(b)(iii).

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That conclusion, however, does not necessarily mean that the names of licensees or applicants for licenses may not be disclosed by the Department without the consent of the licensees or applicants. Subsection 7(b)(iii) of The Freedom of Information Act must be interpreted and construed with consideration for the predominant purpose of governmental licensing of professions or occupations, that being to protect the safety of the public by assuring that the occupation will be practiced with honesty and integrity, and that those who are incompetent or unscrupulous will be excluded. (Ranquist v. Stackler (1977), 55 Ill. App. 3d 545, 551.) The public interest in being able to monitor the activities of public bodies when undertaking the critical duties of licensing and regulation, must also be considered.

The general purpose of subsection 7(b) of The Freedom of Information Act is to prevent unwarranted invasions of personal privacy by access to sensitive, personal information in the records of public bodies. It is obvious that subsection 7(b)(iii) is intended to exempt from disclosure certain "personal information" which licensees and applicants for licenses are required to provide to regulatory bodies, the disclosure of which could be deemed to violate personal privacy.

The mere disclosure of the name of a licensee or applicant for a license, which information is neutral and

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denotes only that a license has been issued or an application for a license made, cannot be deemed to constitute an invasion of personal privacy. It is inconceivable that the General Assembly could have intended that such fundamental information be withheld from public knowledge, thereby depriving the public of any ability to monitor or independently evaluate the functioning of public bodies which are engaged in licensing, where no invasion of personal privacy would result, and no other legitimate purpose would be served.

It is axiomatic that statutes must be construed in a manner which will avoid absurd or mischievous results. (Goldblatt v. City of Chicago (1961), 30 Ill. App. 2d 211, 220.) A construction should be adopted which it is reasonable to presume was contemplated by the General Assembly. (Reynolds v. City of Tuscola (1971), 48 Ill. 2d 339, 342.) In accordance with these canons of construction, as well as the General Assembly's direction that the exceptions to The Freedom of Information Act's policy of liberal public access to public records be narrowly construed (Ill. Rev. Stat. 1987, ch. 116, par. 201), it is my opinion that subsection 7(b)(iii) of The Freedom of Information Act does not exempt the names of licensees or applicants for licenses under the Illinois Currency Exchange Act from disclosure.

Moreover, it is also my opinion that the duty to disclose extends to the names of partners of partnerships, and

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officers and shareholders of corporations, which are licensed or have applied for a license. This information is expressly required to be furnished by all partnership or corporate applicants for licenses by section 4 of the Illinois Currency Exchange Act. The General Assembly apparently considered that information to be critical to the licensing process for business entities, presumably so that the qualifications of principals could not be hidden behind the veil of the business entity. That information is equally important to the public generally, but has no greater impact upon personal privacy than the disclosure of the name of a natural person who has applied for a license. Consequently, there is no basis upon which to distinguish between the disclosure of the names of individuals who are licensed or apply for a license, and the principals or other interested persons who comprise a business entity, whether a partnership, corporation or other association.

I note that a similar conclusion was reached in American Broadcasting Companies, Inc. Siebert (S. Ct. NY, 1981), 442 N.Y.S. 2d 855, a case with facts strikingly similar to those presented here. At issue in that case was whether the plaintiff was entitled, under New York's Freedom of Information Law, to the names and addresses of applicants for licensure by the State Banking Department as check cashers. It was argued that the disclosure of the identities of the principals of

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check cashing licensees would be an invasion of their personal privacy. The court ordered the disclosure of the names of officers, directors, stock holders and other persons interested directly or indirectly in those businesses, concluding that the licensees were seeking the patronage of the public at large, and had no reasonable expectation that such information would be "shrouded from disclosure". (American Broadcasting Companies, Inc. v. Siebert (S. Ct. NY, 1981), 442 N.Y.S. 2d 855, 858-9.) The same reasoning is applicable to the question you have posed.

To reiterate, it is my opinion that the Department of Financial Institutions is required to disclose the names of licensees and applicants for licenses under the Illinois Currency Exchange Act, including the names of partners, shareholders or other principals of business entities, when that information is requested pursuant to the provisions of The Freedom of Information Act. That information does not constitute "personal information", the disclosure of which could be deemed an invasion of personal privacy.

Very truly yours,



A T T O R N E Y G E N E R A L