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Hewitt Associates LLC
Crown Centre
5005 Rockside Road
Independence, OH 44131
Tel (216) 573-9700
Fax (216) 573-9953
www.hewitt.com

January 10, 2008

Chief Counsel
Division of Labor Standards Enforcement
P.O. Box 420603
San Francisco, CA 94142

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Dear Sir or Madam:

Subject: Request for Opinion Letter

Hewitt Associates LLC (Hewitt) respectfully requests the opinion of the Chief Counsel of the Labor Commissioner on the proposed use of paycards in the State of California as described in this letter. We have actively researched the subject matter of this request on the Division of Labor Standards Enforcement (DLSE) website¹, including the DLSE Enforcement Policies and Interpretations Manual found on the website, and there is no California decision or prior DLSE opinion on point. Prior DLSE opinions 1994.02.03-1 and 1997.10.21 are relevant but do not squarely address the proposal described in this letter.

Hewitt provides payroll services to a number of employers, including employers with employees in the State of California. Our proposal is to provide employees of an employer who enters into an agreement with Hewitt a Chase Payroll Visa™ Card (paycard) issued by JPMorgan Chase Bank, N.A. Such paycards would be issued pursuant to an agreement between Hewitt and JPMorgan Chase. JPMorgan Chase Bank, N.A. is an established place of business in the State of California with offices located in the State.

Each payday, an employee who chooses to receive the paycard would have his or her entire pay for the pay period added to the paycard. The employee would be entitled to at least one free (i.e., without the application of any charges, fees, or discounts) over-the-counter withdrawal per pay period and could make the withdrawal at any Visa™ member financial institution. Each paycard holder would be furnished a booklet showing the locations of all or most ATMs throughout the state. In addition, the paycard could be used free to the employee at any merchant who accepts a Visa™ debit card.

We believe that the paycard described in this letter satisfies the requirements of California Labor Code §212(a) to pay wages by means of an instrument that "is negotiable and payable in cash, on demand, without discount, at some established place of business in the state, the name and address of which must appear on the instrument, and at the time of its issuance and for a reasonable time thereafter, which must be at least 30 days, the maker or drawer has sufficient funds in, or credit, arrangement, or

¹ http://www.dir.ca.gov/dlse/DLSE_OpinionLetters.htm

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understanding with the drawee for its payment." DLSE opinion letter 1994.02.03-1 supports this conclusion. Further, as the drawee is a bank, JPMorgan Chase's address need not appear on the instrument and will be honored at any place of business of JPMorgan Chase in the State of California, in accordance with California Labor Code §212(c).

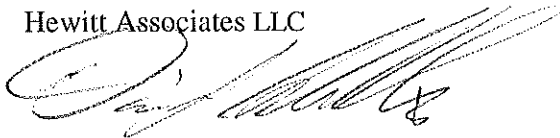
As an alternative to receiving a paycard, an employee could voluntarily authorize deposit of his or her wages directly in an account in any bank, savings and loan association or credit union of the employee's choice in the State of California, as permitted under California Labor Code §213(d). An employee who does not authorize direct deposit would receive a paycard as described previously in this letter. An employee could at any time authorize direct deposit of future wages. An employee who revokes a direct deposit authorization would receive a paycard. We respectfully submit that §212 of the California Labor Code does not require that wages be paid by means of a paper check.

Whether an employee authorizes direct deposit or receives a paycard, the employee's wage statement would be available and printable free via the internet, or the employee could request a free paper copy be mailed to the employee's home address. Electronic provision of wage statements would conform to the requirements described in DLSE opinion 2006.07.06. Paycard transaction information would be available free via the internet or by telephone. If an employee using a paycard wishes a paper transaction statement, there would be a minimal cost to offset production and mailing (initially \$1 per month, subject to changes in costs).

We respectfully request your opinion whether the payment of wages by means of the paycard described in this letter as the sole alternative to the payment of wages through an employee-authorized direct deposit described in this letter complies with California law. Please let us know if you would like additional information. We look forward to your reply and thank you for your time and consideration in this matter.

Sincerely,

Hewitt Associates LLC



Daniel P. Schwallie

DPS:mmr