

Banking on marijuana: not yet

Medical marijuana sellers in Pennsylvania will have to deal in cash for now

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Pennsylvania's nascent medical marijuana trade has would-be entrepreneurs queuing up to cash in. What few of them know is they won't have anywhere safe to put the cash. Banks cannot take it as deposits because of a conflict between state and federal law.

Since 1970, growth or sale of marijuana has been a federal crime. That is still true, even as states have liberalized their laws. As a result, legal marijuana growers and sellers must limit their business to the state where they live and work. When the activity crosses state lines, it is subject to federal law as interstate commerce and so becomes illegal.

Credit card transactions, money orders, PayPal and similar money transfer service transactions, wire transfers and other electronic payments all employ interstate financial networks, so those payment methods have been off limits to legal marijuana businesses. That leaves cash, which is how the trade has been conducted in states like Colorado, which legalized marijuana production and sale in 2012.

Banks in Colorado have refused to accept marijuana-trade cash deposits because federal laws govern banks. So pot industry promoters in 2014 chartered The Fourth Corner Credit Union in Colorado as a destination for pot sale proceeds. Colorado granted the charter.

Fourth Corner CU applied to the Federal Reserve Bank of Kansas City for a "master account," the means by which it would exchange funds with other depository institutions. The Fed turned down the application and Fourth Corner sued the Fed to compel it to issue the master account.

The federal district court in Colorado heard the case and ruled in favor of the Fed. The judge wrote in his opinion that he took an oath to uphold federal law and that he could not honor that oath and rule in favor of Fourth Corner CU. Congress, he said, needs to change the law if credit unions and banks are to handle funds from marijuana sales.

For marijuana growers and sellers, the unavailability of banks as a business resource is a serious dilemma. The business cannot achieve critical mass without banks and other financial intermediaries.

In the American system, banks are subject to both state and federal laws. So it is not enough for state legislators to enact laws that permit banks to handle marijuana money.

Eventually, the financial interests behind the marijuana legalization movement are likely to win congressional action to permit the marijuana trade and the financial transactions associated with it. Until then, marijuana entrepreneurs act at their peril when handling the cash their business generates.

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