

TRUSTEE UPDATE 12 JUNE 2017

US District Court Case Dismissed

The case filed in the US District Court in Houston, Texas by MyAdvertisingPays (MAP) Limited (“MAP”) and Michael Deese against VX Gateway has been dismissed.

As we had predicted in an earlier Trustee Update, the Court ruled that disputes relating to the service agreement between VX Gateway Inc., in dissolution (“VX Gateway”) and MAP, must be heard in Panama; it specifically recognized Panama jurisdiction and the venue selection clause requiring such disputes to be decided by arbitration in Panama.

Many have been left wondering why MAP pursued a frivolous case in the US? Possibly it was because MAP had no credible or complete financial records and thus could not substantiate a claim to VX Gateway in the dissolution claims procedure; in this regard, it should be pointed out that although invited to do so, MAP never filed a claim in the dissolution. Let's state that again: MAP intentionally failed to file a claim (for itself or its members) in the dissolution proceeding for what it contended was \$60 million; why?

Similarly, lacking such financial records, MAP may not have been physically able to set forth a viable claim to an Arbitrator in Panama as required by the service agreement. Or perhaps, as we have said in an earlier Trustee Update, the case was filed by MAP in the US simply to buy time? Time to start a new company, or time to avoid facing authorities perhaps?

Our Legal Counsel in Panama feels that the burden of proof is higher in Panama for arbitration than in the US. In arbitration in Panama MAP will be required to support any claim with its own internal audited financial statements. They will not be able to rely on the financial records of third parties, which they have done so far.

The most recent “audit” put forth by MAP was not an audit made in the manner that will be required in such arbitration. Describing it as an audit in that sense of the term is deceptive and misleading. While it purported to be a “top-to-bottom study of the VX draws, and finally gross receipts to MAP”, it completely failed to take into account “withdraws and disbursements to MAP members, VX draws, and finally gross receipts to MAP”.

In fact, MAP’s auditor, Alpha Performance Verification Services, in its so-called “audit”, did nothing more than use Excel to summarize the financial statements of the processors. It excluded (omitted) any MAP financial transactions, processor fees or VX Gateway fees. Common sense and basic accounting tells us that, if the processor financial statements were incomplete or erroneous, the “audit” would likewise be incomplete or erroneous. This is commonly described as “garbage in ...garbage out”. Surely congratulations are in order for Alpha Performance Verification Services' fine work (not).

VX Gateway stands ready to participate in arbitration in Panama. We have had a complete and accurate audit conducted by CSB. Review of the CSB audit will leave no doubt that the lawsuit in Houston was specious and possibly intended by MAP or its legal counsel to mislead its members and the public.

The \$60 million Was Never Stolen or Missing

While the case in the US was dismissed for improper venue and lack of the jurisdiction, the claims made in the case by MAP had no merits. The \$60 million was never stolen. It is not even missing; it can be found in the CSB audit without difficulty.

MAP's claim that these funds are "missing" or "stolen" is clearly erroneous. MAP admits it arrived at the \$60 million dollar amount by simply deducting the dollar amount of "credit card sales" from "total sales", that is, by using simple math as follows:

Total Sales
– Credit Card Sales
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Missing Amount

However, as is obvious to anyone familiar with the facts, sales were made not just via credit card transactions **but also by payments directly from VXLOOP Accounts that were funded directly by customers from their bank accounts.** The simple correct math then is:

Total Sales
– Credit Card Sales, **and**
– VXLOOP Account Sales
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Correct Amount zero. Nothing missing

Interestingly, as reflected in the CSB audit on file as part of the discovery provided by VX Gateway, the dollar amount of VXLOOP Account Sales, that is, the entry that is missing in MAP's math, almost exactly matches the amount MAP claims as "missing" or "stolen" (subject to fees and final audit).

Was this omission a simple mistake by MAP or deliberate deception? MAP was well aware of the substantial amount of sales paid by VXLOOP Account balances, as opposed to just the sales paid by card. This information was available in real time at the VX Gateway merchant back office to which MAP had 24/7 access prior to its breach of the contract. No company whose existence is based upon sales would simply ignore sales figures. MAP must be presumed to have made and kept copies of such records covering total sales. **Put simply, the CSB Audit indicates that there is not and never was a missing \$60 million.**

Anyone can file a lawsuit in the USA; merely filing lawsuit is not evidence of the legality of the plaintiff's business, nor evidence of an illegal act, nor proof of the merits of the case filed. A lawsuit is simply one party's claim against another party; it is just a claim, nothing more. All it takes to file a lawsuit is to be able to pay the legal fees.

A Formal Complaint Against GPN Data Has Been Made to the Mauritius Financial Services Commission

Now that the distraction of the frivolous US lawsuit is behind us, we have submitted a formal complaint against GPN Data to the Mauritius Financial Services Commission.

VX Gateway's complaint can be summarized as follows:

- GPN Data misrepresented itself as being a Mauritius licensed Payment Service Provider.
- Bank One Mauritius, which provided card processing for GPN Data, participated in the deception.
- GPN Data deliberately and systematically falsified financial statements, understating processing by USD \$5,103,817.71 and EUR €307,479.89 and thereby underpaying VX Gateway.
- GPN Data also falsified payment records, asserting payments to VX Gateway that had not actually been paid, a total of USD \$941,347.57.
- As set forth in the CSB audit, these intentional underpayments, combined with significant unjustified holdbacks by GPN Data, total USD \$12,456,331.51 and EUR €1,272,465.69, as detailed in the Trustee Report.

As we have consistently stated, when and if money is received from GPN Data, VX Gateway will then pass through whatever share is then due to each of the respective entities or parties.

VX Gateway in dissolution prepared this statement based on the information available to it, including information derived from public sources that have not been independently verified. No representation or warranty, express or implied, is provided in relation to the fairness, accuracy, correctness, completeness or reliability of the information, opinions or conclusions expressed herein. The financial information included in this presentation is preliminary, unaudited and subject to revision upon completion of the Company's closing and audit processes, as well as independent third party audits. This presentation is not a legal opinion, but general discussion, not intended to deal with or disclose particulars of any specific issue, legal, business, or otherwise. All applicable statutes and regulations control.