

**DELIVERED BY EMAIL**

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24 March 2023

Dear Sir

**SHOPRITE CHECKERS GROUP & OMNI HR CONSULTING / KAMOHELO MOKETELI**

- 1 We act on behalf of the Shoprite Group of Companies, which for purposes of this response, includes Shoprite Checkers Development Trust (Pty) Ltd ("**the Trust**") and Shoprite Checkers (Pty) Ltd ("**Shoprite Checkers**").
- 2 We are instructed to respond to your letter of demand dated 30 January 2023, and received by our client on 6 March 2023 ("**your letter**").
- 3 At the outset we wish to advise that our client does not intend to respond to each and every allegation contained in your letter, and our client's failure to do so should not be construed as an admission of the correctness of any such allegations or concession of any kind. Our client expressly reserves the right to respond more fully to any such allegations at the appropriate time and in the appropriate forum, should it be required.



- 4 After receiving your letter, our client contacted Omni HR Consulting (Pty) Limited ("**Omni HR**") to obtain information with regard to subject matter thereof and was furnished with copies of the following emails, copies of which are attached, which our client has now had sight of for the first time -
  - 4.1 an email dated 9 October 2017 sent by your client to Dorothy Fernandez of Omni HR (who is referred to in paragraph 6.3 of your letter), from which it can be noted that your client apologises for cancelling the presentation of his "idea" to our client due to other commitments which he needed to attend to (marked as annexure "**A**");
  - 4.2 an email dated 4 July 2017 which purports to set out your client's "ideas" (marked as annexure "**B**").
- 5 Our client's instructions are that it did not receive any proposal or information which your client may have presented or provided to Omni HR at that time and that it has only now had sight of the emails referred to above. It is apparent from paragraphs 5, 6 and 10 of your letter that your client presented his "ideas" to Omni HR and not to our client.
- 6 We do however record that the items listed in paragraph 7 of your letter and as contained in the email of 4 July 2017, in respect of which your client alleges to somehow have a protectable proprietary interest, are in no manner or means unique and are adopted and used by retailers not only in South Africa but elsewhere, and are as a result unquestionably in the public domain.
- 7 We refer to paragraph 7 of your letter of demand and comment below.
  - 7.1 Paragraph 7.1
    - 7.1.1 With regard to the allegation that your client developed an idea of including basic banking services as part of the Money Market offering, our instructions are that our client has been working on a banking service or a mobile wallet for almost 10 years which can only be offered by a party which holds a banking licence.
    - 7.1.2 A banking service has been in the pipeline of our client's services and which has not been implemented due to the stringent regulatory and compliance requirements. As a result, to the extent that your client can claim any proprietary rights to the inclusion of a banking service, which is denied can ever be the case, our client will be in a position to show that



this was part of its pipeline products and which it will be able to prove if this may be necessary.

7.1.3 Our client's Money Market counter has facilitated money transfers since 2006 which can also not be regarded as unique to any retailer.

7.2 Paragraph 7.2

7.2.1 If your client has regard to our client's rewards programme it would know that it does not operate on a points system, like Pick n Pay's Smart Shopper Programme but a straight cash discount on promoted products offered to XTRA Saving Rewards members. The cash discount is activated by members swiping their XTRA Savings Rewards cards at pay points or linking the XTRA Savings Rewards Card to online purchases via the Sixty60 platform.

7.2.2 No points system is utilised.

7.3 Paragraph 7.3

7.3.1 The issuing of electronic vouchers is nothing new and cannot be claimed by a single party.

7.4 Paragraph 7.4

7.4.1 This paragraph relates to "Advertising through the said platforms".

7.4.2 It goes without saying that our client advertises by various means including at pay points, digital (TV screens at Money Market counters), gondola ends, social media platforms, via email, via USSD, WhatsApp, in-store radio, newspapers, leaflets, magazines, national TV and radio.

7.4.3 No exclusivity can be claimed.

7.5 Paragraph 7.4

7.5.1 Our client does not sell groceries on credit.



7.6 Paragraph 7.5

7.6.1 Our client does not utilise a points system.

8 As a result, our client fails to understand as to how your client can allege that it has used its "ideas" where for the most part, none of which have been used and which if it were to be used is undoubtedly in the public domain and to which no third party would be in a position to claim exclusivity.

9 Even if such ideas constitute proprietary information, which is denied, our client has never had access to any information from your client with Omni HR not providing your client's emails to it until after it received the letter of demand.

10 In conclusion -

10.1 the features listed as your client's "ideas" in your letter and as contained in the email referred to in 4.2 above are certainly not novel, including in relation to the retail industry, and as a result cannot constitute proprietary information to which your client can claim a proprietary interest to the exclusion of all others;

10.2 in any event and not detracting from the above, on your client's own version and as verified by our client, such "ideas" were conveyed to Omni HR and not to our client with our client verifying that it only recently received copies of the emails referred to in 4 above from Omni HR after carrying out investigations subsequent to receiving your letter;

10.3 for the most part, the features (although not proprietary to your client) are not even used by our client.

11 In the circumstances we do not believe that your client's matter has any merits and any legal proceedings will be defended, which we trust will not be necessary.

Yours faithfully

**WERKSMANS ATTORNEYS**

**PER: JG CLOETE AND J HOLLESEN**

**Henriëtte Goldie**

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**Subject:** FW: TELEPHONIC DISCUSSION**From:** Kamo Mokoteli4 [mailto:kamo.mokoteli4@gmail.com]**Sent:** 09 October 2017 05:33 PM**To:** Dorothy Fernandez <dot@omnihrc.com>**Subject:** TELEPHONIC DISCUSSION

Hi Dorothy,

I'm really sorry to say this but I've decided to cancel my proposal of presenting my idea to Shoprite. Reason is I have other commitments which I need to attend to because I have been working on this idea for almost 2 years now and its been over 7 months since ive waited for an opportunity to present the idea to Shoprite. I have been posponing on fulfilling my other project for far too long now which is delaying me and putting a negative effect between me and my partner.

Thank you very much for helping me. I really appreciate it from the bottom of my heart.

Kind Regards.

Kamo Mokoteli

**Henriëtte Goldie**

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**Subject:**

FW: TELEPHONIC DISCUSSION

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**From:** Kamo Mokoteli4 [mailto:kamo.mokoteli4@gmail.com]

**Sent:** 04 July 2017 09:10 PM

**To:** Dorothy Fernandez <dot@omnihrc.com>

**Subject:** Re: TELEPHONIC DISCUSSION

Hi Dot,

As per our telephonic discussion;

In 2016 February - March, I was part of the Shoprite Checkers Development Trust in partnership with Omni HR Consulting for the operating a small business in the retail environment skills programme. I attended classes at the Pretoria, Arcadia branch and the store that I went to was Checkers the village in Morelete View.

While at the store, I worked at the Money Market, the skills that I've learned from the programme has helped me identify innovative technologies that will help Shoprite Checkers improve their services and customer experiences.

I identified that Shoprite Checkers is not taking the advantage of rewarding their customers and at the same time benefiting from it. I started researching about what other retailer's rewards programs looks like and how do they present them to their customers. Since well we live in a digital century, smartphones have become a part of our life's and has changed/improved industries immersive.

Rewards are a very unique business model that corporates use to create more revenues for themselves. If for example, I used to buy groceries for R2000 and now Shoprite Checkers offers people gift points every time they buy groceries, it means that I'm going to now spend R3000 instead of R2000 and will now only use Shoprite Checkers because of I get rewarded for buying groceries with them. Because we live in the technology era where mobile Apps are changing industries through innovation, instead of Shoprite Checkers offering gift points through cards, they can use the advantage of creating a gift point mobile App which I have innovated for them from the user interface, payment system and more advanced features for their customers.

The first innovation is; for every groceries that people buy they will receive gift points using their smartphones through the app and not through cards like the way other retailers are doing it.

The second innovation is; customers can also send someone money using the app, the person whom is the money been send to, will receive the m-number and the password through an sms and since well Shoprite Checkers charges R10 for this, they can also offer people rewards through gift points for sending someone money through the mobile App. On the sms that people will receive for their m-number and password, Shoprite Checkers can take the advantage of advertising products that they sell underneath the m-number and password on the sms. If 200 000 people send money through the app then it means that Shoprite Checkers will have the advantage of advertising a product to those people and that is one of the benefits of digital advertising using technology.

The third innovation is; e-grocery voucher, Let's say my younger brother is studying in Cape Town, instead of me sending him money to buy food, I can just send him an e-grocery voucher using the mobile app and he will receive the voucher number and password through an sms. They can also offer people rewards through gift points for sending someone an e-grocery voucher through the mobile App. Shoprite Checkers will benefit twice from this; If I send my younger brother a R2000 e-grocery voucher for the whole month and he uses only R1000 from it, Shoprite Checkers will make money by deducting R5 from the e-grocery voucher if it is still active and the money has not all been used. The last benefit is; on the sms that people will receive for their e-grocery voucher and password, Shoprite Checkers can take the advantage of advertising a product that they sell underneath the e-grocery voucher and password on the sms. If 1 million people send an e-grocery voucher through the app then it means that Shoprite Checkers will have the advantage of advertising products to those people and that is one of the benefits of digital advertising using technology.

The fourth innovation is credit; Shoprite Checkers can offer people credit to buy groceries. People will only be able to use their credit account through the mobile app and they can also receive gift points for buying groceries using their credit account. Credit is an innovation that helps people when they are having financial problems and Shoprite Checkers can benefit from this through interests that they will charge for this service.

The benefits of digital advertising using technology that Shoprite Checkers will bebenefit from also is; when people are collecting gift points, the mobile app using algorithms will calculate how many gift points a person has collected and converts them into how much they are worth and will automatically send people an advertisement using notifications of what they can buy using their gift points.

Shoprite Checkers can also have a competition of where by at the end of the year, the person who has collected a lot of gift points will receive an award like a brand new car or smartphone and this model will attract people to use the above mentioned services more and at the end of the day, Shoprite Checkers since they are a listed company on the JSE, their stock will climb high because of new a innovation that they make more money from and customers benefiting from it as well.

I have included all the information about the technology innovation. The user interface and all other functions I can only be able to show you them when we meet up as they are on paper.

Thank you.

Kind Regards

Kamo Mokoteli