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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

VIVEK SHAH,
Plaintiff,

v.

PAYPAL, INC., and DANIEL H.
SCHULMAN,
Defendants.

Civil Action No. **1:22-CV-00795**

**JUDGE NORGLE
MAGISTRATE JUDGE HARJANI
RANDOM**

VERIFIED COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff VIVEK SHAH alleges for his Verified Complaint against Defendants PAYPAL, INC. and DANIEL H. SCHULMAN, based upon personal knowledge as to himself and his own acts and experiences, and, as to other matters, upon information and belief, as follows:

PRELIMINARY STATEMENT

1. If it looks like a duck, swims like a duck, and quacks like a duck, then it probably is a duck.

2. To receive deposits in the United States, a bank must be chartered or be given permission to operate by the federal or a state government. 12 U.S.C. § 378(a)(2). For over two decades, Defendant PayPal, Inc. (“PayPal”) has been engaging in unlawful taking of deposits by an entity not regulated as a bank and that it, in essence, was illegally operating as an unlicensed bank in violation of the criminal provisions of the Glass-Steagall Act. The transmission of such criminally derived deposits, in turn, violate 18 U.S.C. §§ 1956(c)(3)(A) and 1960(a), since PayPal is an unlicensed money transmitting business, as defined by the federal law; violations of which form the predicate acts of racketeering activity under the Racketeering Influenced and Corrupt Organizations (“RICO”) Act, 18 U.S.C. § 1961 et seq.

3. This action stems from Defendants' widespread business practice of unilaterally seizing funds from its clients' financial accounts, without cause and without any fair or due process.

4. PayPal places a "hold" on Plaintiff's own funds in his own PayPal account. PayPal has failed to inform him of the reason(s) for the actions it has taken and denying Plaintiff access to his own money.

5. PayPal excuses its unlawful seizure based on an alleged violation of its Acceptable Use Policy ("AUP")¹ without stating in what way Plaintiff's use of his PayPal account violates the AUP.

6. PayPal's application of an unlawful and unenforceable liquidated damages clause, which is a contract of adhesion, without any causal connection to any damages PayPal actually suffered, as a justification for its wholesale seizure of the entire balance of Plaintiff's PayPal account, and transferring said balance to PayPal's own account, for PayPal's own use, is inequitable and unconscionable, amounting to nothing less than a conversion of funds which do not belong to PayPal. Moreover, PayPal then blatantly invests the money and earns interest on it.

7. Defendants operate the immensely popular PayPal online payment platform. As part of this platform, users such as Plaintiff maintain account balances which includes funds the users have deposited into the PayPal platform as well as money sent to the users by customers and other users. These funds belong to the users, not Defendants.

8. Nevertheless, Defendants have adopted a business practice of unilaterally seizing some or all of its users' funds when Defendants merely suspect the user in question violated

¹ <https://www.paypal.com/us/webapps/mpp/ua/acceptableuse-full>

Defendants' AUP, which is a set of restrictions Defendants place on certain transactions made through the PayPal platform.

9. Upon information and belief, Defendants seizes these funds without first obtaining any conclusive determination of actual breaches by the users of the AUP – indeed, Defendants do so without even conducting a reasonable investigation to determine whether any violation occurred.

10. Rather, Defendants have adopted a business policy of “shooting first and asking questions later” – taking the money for itself and only afterwards, and occasionally, interacting with the users to determine whether the seizure was appropriate.

11. Moreover, the amounts that Defendants seize bear no relationship to any actual damages suffered by them. Rather, Defendants arbitrarily seize amounts based on a liquidated damages provision buried in their User Agreement which has no connection to the actual damages suffered by them – indeed, which is often used where Defendants have suffered no damages whatsoever.

12. The Agreement requires PayPal to, at a minimum, provide notice to such users of any hold placed on their accounts that includes both the reason for the hold and an opportunity to request restoration of access to the held funds. PayPal's "notice" falls far short of what is required. As a result, Plaintiff has no idea why his money was "held" by PayPal.

13. PayPal often seizes the money permanently after the 180-day hold period ends, without notice and without explanation.

14. PayPal's User Agreement and AUP cannot be used as a “license to steal.”

15. Most egregious of all, Defendants criminally receive deposits from its customers in the first place.

16. Plaintiff, proceeding *pro se*, brings this suit against Defendants under the civil remedies provided by RICO and the Illinois Consumer Fraud and Deceptive Business Practices Act (“CFA”) to redress the harm Plaintiff has suffered as a direct result of Defendants’ conduct.

17. Plaintiff seeks injunctive, monetary, and declaratory relief against Defendants for engaging in illegal banking, operating an unlicensed money transmitting business, laundering money, and deceptive business practices.

PARTIES

18. Plaintiff Vivek Shah is a citizen of the United States and a resident of the State of Illinois. His principal place of residence is 236 Woburn Ln, Schaumburg, IL 60173.

19. PayPal, Inc. is an American multinational financial technology company operating an online payments system in most countries that support online money transfers and serves as an electronic alternative to traditional paper methods such as checks and money orders. The company operates as a payment processor for online vendors, auction sites and many other commercial users, for which it charges a fee. Its parent company, PayPal Holdings, Inc. (“PayPal Holdings”), is a publicly traded company listed on the NASDAQ. Its headquarters are located at 2211 N 1st St, San Jose, CA 95131 and is registered to do business in Illinois as a foreign corporation with the Secretary of State.

20. Daniel H. Schulman (“Schulman”) is the president and Chief Executive Officer (“CEO”) of PayPal and PayPal Holdings. He has held this position since around 2014. He is responsible for managing PayPal’s overall operations, including, but not limited to, delegating and directing agendas, driving profitability, managing its organizational structure, strategy, and communicating with the board. His principal place of conducting business is 2211 N 1st St, San Jose, CA 95131.

21. In acting or omitting to act as alleged herein, PayPal was acting through its employees and/or agents and is liable on the basis of the acts and omissions of its employees and/or agents.

22. In acting or omitting to act as alleged herein, each employee, officer or agent of PayPal was acting in the course and scope of his or her actual or apparent authority pursuant to such agencies, or the alleged acts or omissions of each employee or officer as agent were subsequently ratified and adopted by PayPal as principal.

JURISDICTION AND VENUE

23. This Court has subject-matter jurisdiction over this action under 18 U.S.C. § 1964, 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

24. This Court has supplemental jurisdiction over the state laws claim in this action under 28 U.S.C. § 1367(a) because it is also related to the federal claims asserted against PayPal so that it forms part of the same case or controversy under Article III of the U.S. Constitution.

25. This Court has authority to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202 and Rule 57 of the Fed. Rules of Civ. P.

26. Venue is proper in this district under 18 U.S.C. § 1965 and 28 U.S.C. § 1391(b) because Defendants are subject to personal jurisdiction in this judicial district and the Defendants conduct substantial business in this district. PayPal is registered as a foreign corporation to do business in the State of Illinois. Schulman has agents through which he conducts his business affairs in this district. Plaintiff is a resident of Schaumburg, IL.

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