

REPUBLIC OF KENYA
IN THE SMALL CLAIMS COURT AT NAIROBI
SCCCOMM/E17173/2024

MARA NOMADS LIMITED.....CLAIMANT

VERSUS

DENNIS OHURU.....RESPONDENT

THE CLAIMANT'S SUPPLEMENTARY LIST OF WITNESSES

1. Esther Wambui Njuguna

DATED at NAIROBI this 05th day of December 2024



ONYANGO & TARUS
ADVOCATES FOR THE CLAIMANT

DRAWN & FILED BY:

ONYANGO & TARUS
ADVOCATES,
SUITE 4.1, 4TH FLOOR,
BLOCK E, KMA CENTRE,
MARA & CHYULU ROADS,
P.O. BOX 29107-00100,
NAIROBI.

ADM NO: P.105/16414/19
PRACTICE NO: LSK/2024/01903
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PHONE: (+254) 736 557 914

TO BE SERVED UPON:

JAVIER GEORGIADIS & SYLVESTER LAW LLP,
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THE CLAIMANT’S SUPPLEMENTARY WITNESS STATEMENT – EDGAR RUTTO TARUS

I, **EDGAR RUTTO TARUS**, of P.O. Box Number 29107-00100, Nairobi, being duly sworn, hereby state as follows in response to the Respondent’s Reply.

1. I am the co-founder and Managing Director of the Claimant herein. I am well-apprised of the facts surrounding this case and I am competent to make this statement.
2. This statement supplements my initial witness statement filed in Court. It specifically addresses the contents of the Respondent’s reply.
3. Save for what is expressly admitted in the Claimant’s Pleadings, all other claims made by the Respondent against the Claimant are denied and the Respondent is put to strict proof thereof.
4. The Claimant categorically denies the existence of such an oral agreement that the AdSense revenue from the Claimant’s AdSense Account was part of the Respondent’s remuneration and reaffirms that the funds were to be held in trust by the Respondent for the sole purpose of purchasing a company laptop, as mutually agreed by both parties.
5. I have reviewed the Respondent’s purported monetization plan and categorically state that it was never agreed upon by the Claimant. The document presented as the “*Mara Nomads YouTube Monetization Plan*” is a purported proposal that was neither accepted nor implemented by the Claimant.
6. The Respondent’s own words in the purported proposal refer to it as a ‘proposal’, clearly indicating that it was not a binding agreement. There is no evidence of acceptance or any formal communication between the parties consenting to this purported proposed arrangement.
7. The Claimant’s relationship with the Respondent was strictly that of a freelance engagement for video editing services. The Claimant never authorized the Respondent to retain AdSense revenue for his personal benefit under any circumstances.
8. The agreement for the use of the AdSense funds were to be used for the purchase of a laptop for the benefit of the Claimant’s operations. The Respondent has not provided any evidence of compliance with this directive.
9. To date, the Respondent has failed to:
 - i. Transfer the funds to the Claimant for the agreed laptop purchase;

- ii. Provide any account or detailed record of how the funds were utilized.
10. The Respondent's unilateral actions in retaining the funds constitute a breach of trust and a violation of the terms of the agreement between the Claimant and the Respondent.
11. The Respondent was engaged as an independent contractor for video editing services. His role did not extend to managerial or financial control over the Claimant's YouTube channel or its earnings.
12. The Claimant did not authorize the Respondent to make unilateral decisions regarding the use of AdSense revenue. Any such decisions required the Claimant's express consent, which was never given.
13. The Respondent's invitation to access the Claimant's YouTube channel as an editor, attached in his evidence, does not grant him financial control, it was strictly related to his role as a video editor for the channel. Editor permissions are limited to content management and do not confer authority over earnings or monetization decisions. The Respondent has been fully paid for his video editing services and is not owed anything.
14. The Respondent has retained AdSense earnings from the Claimant's YouTube channel. He has failed to provide:
 - i. Any documentation or receipts justifying the use of these funds;
 - ii. Any explanation as to why the funds were not transferred to the Claimant for the agreed purpose of purchasing a laptop.
15. The Claimant reiterates that these funds were to be held in trust by the Respondent and used solely for the benefit of the Claimant's business.
16. The Respondent's actions in retaining the funds without authorization are unjustifiable and amount to wrongful enrichment at the expense of the Claimant.
17. I humbly urge this Honourable Court to find in favor of the Claimant and grant the relief sought.
18. That is all I wish to state.


Signed

Date: 05th Day of December 2024

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THE CLAIMANT'S WITNESS STATEMENT – ESTHER WAMBUI NJUGUNA

I, ESTHER WAMBUI NJUGUNA, of P.O. Box Number [REDACTED] Nairobi wish to state as follows,
THAT:

1. I am an Accountant of the Claimant and I hereby provide this statement in connection with the payments made by the Claimant to the Respondent for video editing services.
2. As an Accountant of the Claimant, I am responsible for maintaining financial records, processing payments and ensuring accurate documentation of all transactions related to service providers and other expenditures.
3. The purpose of this statement is to provide clarity on the Safaricom Plc M-Pesa statement covering the period from 01 January 2021, to 05 December 2024, which reflects the payments made to the Respondent for video editing services.
4. The attached M-Pesa statement clearly shows the following:
 - i. All payments made to the Respondent for his video editing services.
 - ii. The amounts were transferred from the number [REDACTED] to the Respondent's M-Pesa account number [REDACTED]
5. I confirm that the M-PESA account used to facilitate the payments reflected in the provided statement is registered in my name because, as per Safaricom regulations, a company such as the Claimant is not permitted to register an M-PESA account directly; the account must be registered under a natural person.
6. The payments were consistent with the agreed rate and timelines for completed projects as per the arrangement between the Claimant and the Respondent.
7. The M-Pesa statement has been verified and stamped by Safaricom at I&M Retail Shop on 05 December 2024, confirming its authenticity. The payments documented in the statement were processed by me in my capacity as an Accountant for the Claimant.
8. I confirm that these payments were made solely for services rendered by the Respondent as an independent contractor to the Claimant. The respondent is now owed anything by the Claimant.
9. That is all I wish to state.

Signed



Date: 05th Day of December 2024

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THE CLAIMANT'S SUPPLEMENTARY LIST OF DOCUMENTS

1. Copy of M-Pesa Statements showing payments Made by the Claimant to the Respondent for Video Editing Services
2. Any other documents to be availed with the leave of this Honourable Court.

DATED at NAIROBI this 05th day of December 2024



ONYANGO & TARUS
ADVOCATES FOR THE CLAIMANT

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Email info@jgslaw.co.ke/gmajimbo@jgslaw.co.ke/majimbog@jgslaw.co.ke

FILTERED M-PESA STATEMENT

Filtered on: 703782560

Customer Name: Esther Wambui Njuguna
Mobile Number: XXXXXXXXXX
Statement Period: 1st January 2021 - 5th December 2024
Request Date: 5th December 2024

APPROVED - 5TH DECEMBER 2024

SAFARICOM CUSTOMER CARE

M-PESA STATEMENT PERIOD:

1st Jan 2021 - 5th Dec 2024

www.safaricom.co.ke

P.O. BOX 66827 - 00800, NAIROBI

Simple - Emergency - M-Pesa FOR YOU

Safaricom



SUMMARY

TRANSACTION TYPE	PAID IN	PAID OUT
Send Money	0.00	0.00
Received Money	0.00	0.00
Agent Deposit	0.00	0.00
Agent Withdrawal	0.00	0.00
Lipa na Mpesa (PAYBILL)	0.00	0.00
Lipa na Mpesa (Buy Goods)	0.00	0.00
Others	0.00	260,468.00
Total	0.00	260,468.00

Safaricom

05 DEC 2024

I & M RETAIL SHOP

Email: imescalation@safaricom.co.ke

P.O. Box 66827 - 00800, NAIROBI

www.safaricom.co.ke

DETAILED STATEMENT

Total Transactions: 49

Receipt No.	Completion Time	Details	Transaction Status	Paid In	Withdrawn	Balance
SJ12JB4IUK	2024-10-18 16:34:52	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	7,287.00	51,626.50
SJD8YHI702	2024-10-13 18:22:15	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	20,185.00	40,340.50
SHQ7EKAZWV	2024-08-26 20:19:06	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	14,617.00	24,031.50
SG41IT3PAB	2024-07-04 09:56:57	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	7,237.00	696.50
SFD1CG8G7R	2024-06-13 12:16:02	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	6,187.00	7,060.00
SEE394EADX	2024-05-14 18:13:29	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	13,867.00	17,481.00
SDF880UPDM	2024-04-15 03:24:36	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	7,437.00	45,115.00
SD311M61R9	2024-04-03 17:20:40	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	5,637.00	43,124.00
SBT5JJUDDDB	2024-02-29 16:23:15	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	13,367.00	26,520.00
SAV5LXS5WB	2024-01-31 09:43:53	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	5,069.00	29,715.00
SAM7RDV0AB	2024-01-22 16:40:27	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	9,765.00	21,107.00
RLO2423SK0	2023-12-24 15:23:19	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	6,087.00	8,304.00
RL15W4VQAR	2023-12-01 17:20:33	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	7,865.00	41,441.00
RKH4L4AFCM	2023-11-17 13:37:29	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	4,619.00	23,048.00

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Statement Verification Code

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RK91V8EQ57	2023-11-09 17:14:28	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	9,115.00	21,825.00
RJC9B2M1BH	2023-10-12 16:30:55	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	7,087.00	11,920.00
RIS2ZSSRBS	2023-09-28 19:57:32	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	3,052.00	13,857.00
RIF9V4U5UT	2023-09-15 20:40:47	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	3,052.00	36,165.00
RIB0GVDEDS	2023-09-11 10:21:22	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	5,837.00	32,496.00
RHO5WSZDCF	2023-08-24 14:16:26	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	16,630.00	26,464.00
RF73H8TM7F	2023-06-07 18:46:36	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,528.00	29,666.00
RET8PEN786	2023-05-29 15:10:20	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	527.00	1,695.00
REG3P74499	2023-05-16 18:40:03	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	4,067.00	22,023.00
RDR45XEKF2	2023-04-27 14:24:35	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	4,967.00	7,946.00
RBK23NSJBI	2023-02-20 15:57:43	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	3,400.00	46,814.00
RBE1MVU5GR	2023-02-14 14:04:46	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,528.00	9,045.00
RB723X6SCO	2023-02-07 09:46:46	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	5,584.00	14,949.00
QLE75GLA4V	2022-12-14 12:59:30	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	1,028.00	20,471.00
QKO0K9XKTO	2022-11-24 13:02:10	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	1,028.00	20,218.00
QKL9DO6K5B	2022-11-21 16:02:48	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,028.00	48,387.00
QJL7CCM3KN	2022-10-21 17:39:55	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	5,884.00	34,154.00
QJL6BJWOI2	2022-10-21 11:43:10	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	277.00	44,656.00
QGA57R9OUX	2022-07-10 10:29:57	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,900.00	18,036.00
QG873I53TT	2022-07-08 10:18:32	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	227.00	36,807.00
QFT1JLR7QB	2022-06-29 10:39:10	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	6,384.00	24,733.00
QEN8HZ6654	2022-05-23 19:51:36	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	1,878.00	45,728.00
QEG84ZMAG6	2022-05-16 22:41:00	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,528.00	1,623.00
QE49FV2ZAL	2022-05-04 17:19:24	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,800.00	6,208.00
QDS54H3EY3	2022-04-28 16:12:40	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,528.00	2,873.00
QBN2M00SXE	2022-02-23 13:47:53	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,128.00	17,923.00
QB93VE3JHJ	2022-02-09 11:44:34	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	4,050.00	31,580.00

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QAL7XHQS7V	2022-01-21 18:47:03	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	5,250.00	15,194.00
QAJ6U62MAG	2022-01-19 19:18:08	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	1,350.00	21,189.00
PLF25YXY2O	2021-12-15 12:14:04	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	3,700.00	47,045.00
PL74RIUJ46	2021-12-07 17:48:58	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	1,000.00	14,475.00
PKU4EF14VE	2021-11-30 11:42:31	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	10,000.00	26,527.00
PKF8OOQFJ0	2021-11-15 14:52:14	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,000.00	36,059.00
PK4772G86N	2021-11-04 15:30:37	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	1,700.00	22,437.00
PJQ4RA2SFC	2021-10-26 16:43:21	Customer Transfer to 254*****2560 - DENNIS OHURU	Completed	0.00	2,200.00	47,624.00



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