UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ABREZIEL HOLDINGS AG, Plaintiff, v. PASSO SYNC, INC., STEPHEN GRAY II, and ERAN EYAL, Defendants.	Civil Action No. 17-cv-3712 **COMPLAINT**

Plaintiff Abreziel Holdings AG ("Abreziel"), by its undersigned attorney, for its Complaint against defendants Passo Sync, Inc. ("Passo"), Stephen Gray II ("Gray") and Eran Eyal ("Eyal"), alleges as follows:

NATURE OF THE ACTION

1. Abreziel brings this action to enforce a settlement agreement.

2. In February 2017, Abreziel transferred funds totaling $350,000 to defendant Passo and received convertible notes of Passo in return.

3. Shortly after transferring the funds to Passo, Abreziel learned that Passo had made material, false representations during Abreziel's due diligence of the company. Accordingly, Abreziel demanded return of its $350,000.

4. The parties eventually agreed to a settlement agreement, executed as of March 29, 2017 (the "Settlement"). Passo, Gray, and Eyal are all parties to the Settlement and agreed explicitly agreed to be jointly and severally liable for the payment obligations under the Settlement.

5. One of the terms of settlement was that the defendants had pay Abreziel $100,000 by wire transfer to be sent on or before March 29, 2017. On April 28, 2017, nearly a month past

due, Abreziel finally received a wire from the defendants for $25,000. However, the remaining $75,000 was never sent.

6. The balance of $250,000 was due from the defendants on May 5, 2017. Abreziel never received the required confirmation, and as of the date of the filing of this action, had not received the funds.

PARTIES

7. Abreziel is a corporation (*Aktiengesellschaft*) organized under the laws of Switzerland, with its principal place of business in Luzern, Switzerland. Abreziel is an investment company focusing on worldwide venture opportunities.

8. Passo is a corporation organized under the laws of Delaware. Its principal offices and executives are in New York, New York.

9. Defendant Stephen Gray II is the Chief Executive Officer and Co-Founder of Passo. On information and belief, he resides in Brooklyn, New York.

10. Defendant Eran Eyal is the Chief Operating Officer, Head of Product, and Co-Founder of Passo. On information and belief, he resides in the state of New York.

JURSDICTION AND VENUE

11. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a)(2) because the plaintiff corporation is a citizen of a foreign state, the defendants are all citizens of the United States, and the amount in controversy exceeds $75,000.

12. This Court has personal jurisdiction over the defendants, because, on information and belief, Passo has its principal place of business within the State, and Gray and Eyal both physically reside in the State. In addition, Defendants explicitly consented to the exercise of the jurisdiction of this Court in the Settlement.

13. Venue exists in this district because Passo has its principal place of business in the Southern District of New York, and Gray and Eyal both are residents of the State of New York.

FACTUAL ALLEGATIONS

14. On December 16, 2016, Eyal approached Abreziel concerning a potential investment into Passo.

15. Passo is in the business of providing personal on-line shopping profiles. The key to the business is Passo's ability to contract with popular and high-profile retailers willing to integrate with customer "Passo profiles." In discussing a potential investment with Abreziel, Defendants touted their contracts with major retailers.

16. On or about December 20, 2016, Passo provided Abreziel access to its electronic due diligence materials, including the material contracts with retailers.

17. The due diligence materials contained a critical misrepresentation. One of the key retailer contracts was a fake.

18. Abreziel relied on the due diligence materials in making its investment decision. It particularly relied on the phony retailer contract, because as a large, well-known brand, its presence gave the Passo venture credibility and critical mass going forward.

19. On or about January 6, 2017, Abreziel invested an initial $50,000 into Passo in exchange for a promissory note.

20. Defendants Eyal and Gray continued to press Abreziel to invest additional amounts into Passo.

21. On or about February 3, 2017, Gray executed an amendment to the promissory note held by Abreziel, increasing the total amount to $350,000. Abreziel did not execute the amendment, but did permit the additional $300,000 to be wired to Passo.

22. Only after the $300,000 was transmitted to Passo, did Abreziel learn about the misrepresentation in the due diligence materials.

23. On February 15, 2017, Abreziel sent an email demanding the return of its investment.

24. Although Passo refused the original demands, over following weeks, the parties eventually agreed to the Settlement (attached hereto as Exhibit A).

25. The Settlement requires Passo to transmit two payments to Abreziel, totaling $350,000. The first payment in the amount of $100,000 was supposed to be transmitted on or before March 29, 2017. The second payment in the amount of $250,000 was supposed to be transmitted on or before May 5, 2017. In each case, a confirmation of payment must also be transmitted on the date of the payment.

26. On March 29, 2017, Passo failed to transmit a confirmation of the $100,000 wire payment.

27. On March 30, 2017, Passo's counsel sent an email to undersigned counsel for Abreziel. The email forwarded a message dated March 29, 2017, purporting to be from Bank of America, and noting the receipt of a $100,000 wire transfer request scheduled to go out to Abreziel. However, no confirmation of the transmission of the wire was attached.

28. As of April 6, 2017, Abreziel still had not received the $100,000 wire transfer, as required by the terms of the Settlement. On that date Gray sent an email claiming: "Funds have been sent. Will send confirmation in separate message."

29. Gray never sent the required confirmation.

30. On April 27, 2017, counsel for Passo sent an email to undersigned counsel, forwarding a communication from Mr. Gray. Mr. Gray contended that the $100,000 had been

sent in two installments of $50,000 each, but that "there was an issue with the Swift and IBAN." Mr. Gray's claim to have sent the $100,000 in two $50,000 contradicts the message from Bank of America he circulated March 29, 2017, supposedly showing an instruction to wire a single $100,000 payment.

31. Mr. Gray also represented that "[o]ur bank can and will verify this [the two $50,000 payments] if called upon." However, the defendants refused to respond to Abreziel's request for a contact at the bank who could verify Mr. Gray's story.

32. Finally, Mr. Gray represented that "I sent $25,000 this morning" to Abreziel "as a sign of good faith. The remainder will be resent the same day it posts back in our account (processing today)."

33. Abreziel did receive a $25,000 wire payment from Passo the next day, demonstrating that Passo was fully capable of transmitting a wire to Abreziel. However, it did not receive the remaining $75,000. As of the date of the filing of this complaint, that $75,000 remains unpaid.

34. On May 5, 2017, Passo failed to transmit a confirmation of the second $250,000 wire payment.

35. As of the date of the filing of this complaint, the entire $250,000 second payment, due to be transmitted on May 5, 2017, remains unpaid.

36. Gray and Eyal each executed the Settlement as individuals, as well as on behalf of Passo. The Settlement provides that Gray and Eyal agree that they are jointly and severally liable along with Passo for the obligation to make payments under the Settlement.

37. Abreziel also seeks its legal fees pursuant to the terms of the Settlement.

FIRST CAUSE OF ACTION

(Breach of Settlement Against all Defendants)

38. Abreziel repeats and realleges the allegations above as if fully set forth herein.

39. The Defendants, individually and collectively executed the Settlement, dated as of March 29, 2017.

40. The Defendants agreed to be jointly and severally liable for the payment obligations of the Settlement.

41. Paragraph 1(a) of the Settlement required the Defendants to transmit a $100,000 wire payment to Abreziel on or before March 29, 2017, and to transmit confirmation of the wire to Abreziel on or before March 29, 2017.

42. Defendants never transmitted a confirmation that the wire had been sent.

43. On April 28, 2017, Abreziel received a wire payment from Passo in the amount of $25,000. The remaining $75,000 was never received.

44. Paragraph 1(b) of the Settlement required the Defendants to transmit a $250,000 wire payment to Abreziel on or before May 5, 2017, and to transmit confirmation of the wire to Abreziel on or before May 5, 2017.

45. Defendants never wired the $250,000 to Abreziel, and never transmitted a confirmation that the wire had been sent.

46. Paragraph 1(c) of the Settlement provides that the defendants each agree that the obligation to make the two payments would be joint and several and that any finding of liability would be joint and several as to all of them.

47. By reason of the foregoing, Abreziel is entitled to judgment against the Defendants, jointly and severally, in the amount of $325,000, plus interest, costs, and attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court:

a) Enter judgment against the Defendants and in favor of Plaintiff;

b) Award compensatory damages to Plaintiff in the amount of $325,000

c) Award Plaintiff interest, reasonable costs, attorney's fees, and disbursements; and

d) Grant such other relief as it deems necessary and proper.

Dated: New York, New York
May 17, 2017

Respectfully submitted,

KORAL LAW FIRM PLLC

By: /s// Jason M. Koral

Jason M. Koral
jkoral@koralfirm.com

825 Third Avenue, Second Floor
New York, NY 10022
Phone: (212) 520-8270

Attorney for Plaintiff Abreziel Holdings AG

EXHIBIT A

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into as of March 29, 2017 (the "Effective Date") set forth below, by and between Abreziel Holdings AG ("Abreziel"), Passo Sync. Inc. ("Passo"), Steven Gray II ("Gray"), and Eran Eyal ("Eyal"), on the other hand. Passo, Gray, and Eyal are collectively referred to as the "Passo Parties," and along with Abreziel, the "Parties."

WHEREAS, on or about January 6, 2017, Abreziel paid $50,000 to Passo and in return received a certain Passo convertible promissory note (the "Initial Note"); and

WHEREAS, on or about February 1, 2017, Abreziel sent an additional $300,000 by wire transfer to Passo; and

WHEREAS, on or about February 6, 2017, Passo executed an amendment to the Initial Note reflecting the receipt of a total of $350,000 from Abreziel (the "Amended Note"); and

WHEREAS, a dispute arose between the parties relating to the Initial Note and the Amended Note (the "Dispute");

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenants, promises, and terms contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Payments to Abreziel Relating to the Amended Note**

(a) The Passo Parties shall transmit payment and confirmation of payment to Abreziel of the lump sum of $100,000 by wire transfer on or before March 29, 2017 (the "First Payment").

(b) The Passo Parties shall transmit payment and confirmation of payment to Abreziel of the lump sum of $250,000 by wire transfer on or before May 5, 2017 (the "Second Payment", and together with the First Payment the "Payments").

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(c) The Passo Parties each agree that the obligation to make the Payments is joint and several, and that in the event of breach of this agreement, any finding of liability shall be joint and several as to each of them.

(d) The Payments shall be made using the following wire instructions:

Company Name: Abreziel Holding AG
Address: Haldenstrasse 22
Luzern, 6006
Switzerland

Bank: Credit Suisse AG
Address: Schwanenpl. 8
Luzern, 6002
Switzerland

Account: CH5204835170807781000
BIC/SWIFT: CRESCHZZ80A

2. **Abreziel Covenant Not to Sue**

In the event the First Payment is received by Abreziel on or by March 29, 2017, Abreziel covenants not to sue the Passo Parties (and any and all of Passo's agents, representatives, officers, directors, shareholders, employees, attorneys, successors, parents, assigns, subsidiaries, divisions, affiliates, and related entities, and all others in privity with them) from the Effective Date up, until and including May 5, 2017.

3. **Abreziel Release**

Subject to the terms of the Agreement, including and not limited to obligations of the Passo Parties to make the Payments, Abreziel discharges and releases the Passo Parties, and any and all of Passo's agents, representatives, officers, directors, shareholders, employees, attorneys, successors, parents, assigns, subsidiaries, divisions, affiliates, and related entities, and all others in privity with them (collectively, the "Passo Released Parties"), from any and all actions, claims, suits, liens, debts, damages, judgments, executions, claims, demands, accounts,

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reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, trespasses, compensation, expenses, or causes of action of whatever nature, at law or in equity, arising out of or relating to the subject matter of the Dispute, provided, however, that Abreziel does not release the Passo Released Parties from any of their obligations under this Agreement, and provided further that this Release is strictly conditional on the timely satisfaction of the obligations of the Passo Parties to transmit the Payments pursuant to Paragraph 1 of this Agreement. For the sake of clarity, the Parties agree that this Abreziel release shall be void and of no effect if the Passo Parties fail to either transmit the First Payment on or before March 29, 2017, or transmit the Second Payment on or before May 5, 2017.

4. **Passo Parties Release**

Subject to the terms of the Agreement, including but not limited the obligation of Abreziel to honor its covenants not to sue set forth in Paragraph 2, the Passo Parties (individually and collectively) discharge and release Abreziel, and any and all of Abreziel's agents, representatives, officers, directors, shareholders, employees, attorneys, successors, parents, assigns, subsidiaries, divisions, affiliates, and related entities, and all others in privity with them (collectively, the "Abreziel Released Parties"), from any and all actions, claims, suits, liens, debts, damages, judgments, executions, claims, demands, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, trespasses, compensation, expenses, or causes of action of whatever nature, at law or in equity, arising out of or relating to the subject matter of the Dispute, provided, however, that the Passo Parties do not release the Abreziel Released Parties from any of their obligations under this Agreement.

5. **Notices**

Any notices required to be made under this Agreement shall be made as follows:

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(a) To any or all of the Passo Parties: Adam Snukal, Esq., Greenberg Traurig, P.A., snukal@gtlaw.com.

(b) To Abreziel: Jason Koral, Koral Law Firm PLLC, jkoral@koralfirm.com.

Either Abreziel or the Passo Parties can change their respective notice addresses by giving seven days' prior notice to the other Parties.

6. **Confidentiality**

Except as otherwise provided in this Agreement, the Parties agree to keep the terms and conditions of this Agreement confidential and agree not to disclose (except as required by applicable law, regulation, or legal process) the terms of this Agreement to third parties, unless such Party (a) reasonably believes that such disclosure is required by applicable law, (b) is compelled to disclose by judicial or administrative process, or (c) makes such disclosure in any action or proceeding brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement; provided, however, that in the case of disclosure pursuant to (a) or (b) above, the disclosing Party shall only disclose such information that it believes it is required to disclose and gives the other Party advance written notice of such intended disclosure so that such Party may seek a protective order. Notwithstanding the foregoing sentence, the Parties agree that may disclose the terms of this Agreement to their respective financial advisors, lenders, attorneys, accountants and actuaries, and that Abreziel may further disclose the terms of this Agreement to Delphine Brass.

8. **Non-disparagement**

The Parties agree that they will not do or say anything that criticizes or disparages the other, with respect to the subject matter of the Dispute. The Parties agree that this foregoing provision does not apply: (a) in connection with any action or proceeding brought by a Party in

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pursuit of its rights or in the exercise of its remedies under this Agreement, or (b) if any Party is subpoenaed or ordered by a court or other governmental authority to testify and give evidence.

9. **Choice of Law and Forum, Consent to Jurisdiction**

This Agreement shall be interpreted, governed and construed in accordance with the laws of the State of New York. The Parties agree that the state or federal courts of New York shall have exclusive jurisdiction over any disputes arising from or related to this Agreement. The Parties each individually and jointly submit to the jurisdiction of the state and federal courts of New York for the purposes of adjudicating any disputes arising from or related to this Agreement.

10. **Fees and Expenses**

In any action at law or equity to enforce this Agreement or otherwise relating to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

11. **Amendment**

No provision of this Agreement may be modified except by a writing duly signed and delivered by all the Parties hereto.

12. **Entire Agreement**

The provisions contained herein constitute the entire Agreement between the Parties with respect to the subject matter hereof, and supersede all previous communications or representations, whether verbal or written, between the Parties with respect to the subject matter hereof.

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13. **Execution by Counterparts**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date. 08/05/17

ABREZIEL HOLDINGS AG

By: Johannes Amadeo Raymond Brenninkmeijer, CEO amadeo@abreziel.ag

PASSO SYNC, INC.

Signature:

Email: steven@mypasso.com

By: Steven Gray II, President & CEO

STEVEN GRAY II

Signature:

Email: steven@mypasso.com

EYAN EYAL

Signature: Eran Eyal (Mar 30, 2017)

Email: eran@mypasso.com