

Case No. LD/0144/01/10

July 7, 2010

Vanadzor, Republic of Armenia

VERDICT

IN THE NAME OF THE REPUBLIC OF ARMENIA

COMMON JURISDICTION COURT IN LORI REGION OF THE REPUBLIC OF ARMENIA

Presided by: Judge, M. Harutyunyan
Assisted by: R. Tamaryan
Participated by: Prosecutor, A. Amirzadyan
Representative of victim, A. Shirinyan

An open-court hearing in Vanadzor, Republic of Armenia on July 7, 2010 of the criminal case on charges against Loris Ghazaryan: born on June 22, 1980 in Noyemberyan, Republic of Armenia; Armenian by nationality; citizen of the Republic of Armenia; with secondary education; single; with no prior convictions; with poor health, suffering from stomach ulcer and logo neurosis; registered at KSHH-4, Taron-2 57/11, Vanadzor, Republic of Armenia; resided at 83/15 Aghayan Str., Vanadzor, Republic of Armenia; under detention since February 16, 2010; charges pressed, pursuant to Clause 2, Part 2, Article 181 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

Judicial background of the case

Charges were pressed by the preliminary investigation authority against Loris Ghazaryan, pursuant to Clause 2, Part 2, Article 181 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia, for the following reasons:

Loris Ghazaryan paid 2-10 US dollars at www.cvv.me and www.visaveryfai.ru and bought stolen bank card information (cardholder first and last names, 16-digit card number, card expiry and validity dates, 3-digit CVV code) on 10 MasterCards issued by banks in the United States of America and belonging to citizens of this country. Afterwards, Loris Ghazaryan registered electronic purses under the names of third parties with www.tandem.am in order to transfer funds from the cards with stolen information to these electronic purses. By means of using the bank cards with stolen information, Loris Ghazaryan transferred the funds available on these cards to active electronic purses with www.tandem.am. Afterwards, Loris Ghazaryan registered more electronic purses under the names of other third parties with www.edram.am, a website specialized in accepting payments for utilities and other purposes. By means

of using the payment system “ArCa”, Loris Ghazaryan furtively thieved the funds accumulated on his electronic purses with www.tandem.am, transferred these funds to his other electronic purses with www.edram.am, and started to look for ways to withdraw these funds in cash. With an intention to conceal the illicit origin of these funds, Loris Ghazaryan used the search engine of www.yandex.ru and got acquainted with an Armenian national living in Moscow, named Armen, from the total list of natural and legal persons specialized in withdrawing illicit proceeds in cash. Loris Ghazaryan came to an agreement with Armen, who agreed to receive the illicit proceeds to be transferred to him by means of the payment system “WebMoney”, to withdraw these funds for a 3% stake from the total amount, and to wire transfer the remaining amount back to Vanadzor. The first transaction was in the amount of 158,000 Armenian drams, in equivalence of 400 US dollars, which Armen withdrew in cash in Moscow and wire transferred the funds to Loris Ghazaryan’s sister, Lilit Ghazaryan, in Vanadzor by means of “Unibank” CJSC. The latter received the funds in Vanadzor and provided the funds to her brother. Afterwards, with the same scheme, another transaction was conducted in the amount of 395,000 Armenian drams, in equivalence of 1,000 US dollars. In January of 2010, Loris Ghazaryan, burdened with certain financial issues, decided to withdraw funds in cash in Vanadzor. For this purpose, he transferred 138,000 Armenian drams from his electronic purse with www.edram.am to the bank account of his uncle, Ghazaros Ghazaryan, with “ACBA-Credit Agricole Bank” CJSC and personally withdrew 80,000 Armenian drams in cash. Afterwards, Loris Ghazaryan transferred another 103,000 Armenian drams to the bank account of his father, Mukuch Ghazaryan, with “Armbusinessbank” CJSC, and asked the latter to withdraw these funds in cash and hand them to him. Mukuch Ghazaryan did what his son had asked him to do. Thus, by means of using computer equipment, Loris Ghazaryan thieved a large amount of 794,000 Armenian drams and legalized 736,000 Armenian drams from the total proceeds of theft.

Examination and assessment of evidence

Loris Ghazaryan pleaded guilty in the charges pressed against him and confessed that he paid 2-10 US dollars at www.cvv.me and www.visaveryfai.ru and bought stolen bank card information (cardholder’s first and last names, 16-digit card number, card expiry and validity dates, 3-digit CVV code) on 10 MasterCards issued by banks in the United States of America and belonging to citizens of this country. Afterwards, he registered electronic purses under the names of third parties with www.tandem.am in order to transfer funds from the cards with stolen information to these electronic purses. By means of using the bank cards with stolen information, he transferred the funds available on these cards to active electronic purses with www.tandem.am. Afterwards, he registered more electronic purses under the names of other third parties with www.edram.am, a website specialized in accepting payments for utilities and other purposes. By means of using the payment system “ArCa”, he furtively thieved the funds accumulated on his electronic purses with www.tandem.am, transferred these funds to his other electronic purses with www.edram.am, and started to look for ways to withdraw these funds in cash. With an intention to conceal the illicit origin of these funds, he used the search engine of www.yandex.ru and got acquainted with an Armenian national living in Moscow, named Armen, from the total

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Case pages 33-34, 48, 90, and 120

The crime committed by Loris Ghazaryan is also proved with the following evidences obtained with the criminal case:

The representative of the victim, Andranik Shirinyan, testified that he worked as a senior specialist in the legal department of "Armbusinessbank" CJSC. Banks in the United States of America had presented chargeback claims to "Armbusinessbank" CJSC on the funds thieved from their customers, as a result of which, the funds thieved by the offenders in the amount of 10,451,349.77 Armenian drams were returned to the banks in the United States of America. As a result of the actions committed by Loris Ghazaryan, a total loss of 794,000 Armenian drams was caused to "Armbusinessbank" CJSC; however, the father of the accused recovered 450,000 Armenian drams of losses in the course of the court examination and promised to repay the remaining amount as well. A civil petition was filed claiming an amount of 344,000 Armenian drams.

Case pages 199-200

The witness, Garnik Titanyan, testified that he had been working as an executive director at "Tandem Payments" LLC since October 1, 2009. The company was specialized in accepting all kinds of utility payments, providing its services online through www.tandem.am and by means of numerous terminals installed in Yerevan and the regions of the Republic of Armenia. The information required for registration was not verified anyhow, since the system did not have such resources, and it was possible for customers to present wrong information. Fraudulent transactions were conducted by means of using the international payment system "MasterCard" through www.tandem.am starting from November 27, 2009. The company was informed about these transactions by the bank servicing its bank accounts, "Armbusinessbank" CJSC.

Case pages 75-76

The witness, Karen Khachatryan, testified that he had been working as a head of plastic cards department at “Armbusinessbank” CJSC since July of 2006. The bank received chargeback claims from international counterparts in the amount of 9,577,000 Armenian drams, related to the fraudulent transactions conducted with international MasterCard in the period from November 30, 2009 to February 18, 2010. Part of this total amount, 3,253,525 Armenian drams, was charged from the bank account of “Tandem Payments” LLC with their bank.

Case pages 77-78

The witness, Ghazaros Ghazaryan, testified that he was Loris Ghazaryan’s uncle. The latter was engaged in the business of selling and repairing cell phones. In the beginning of April of 2009, Loris Ghazaryan asked him to open a bank account with “ACBA-Credit Agricole Bank” CJSC under his name and to take out a loan for personal expenses. At that time, Loris Ghazaryan was residing in Noyemberyan, and since he was not a resident of Noyemberyan, the latter asked him to take out a loan under his name. He gave his consent and they went to the branch of “ACBA-Credit Agricole Bank” CJSC in Noyemberyan, where they submitted his documents for taking out a loan. On April 17, 2009, he received a phone call from the bank, saying that his loan was approved and he was invited to receive it; they went and took out the loan. The loan was provided on a bank card, in the amount of 1,000 US dollars. After walking out of the bank, he provided the bank card to Loris Ghazaryan and never saw the latter again. He was not aware of the transfer made to his bank account at “ACBA-Credit Agricole Bank” CJSC.

Case pages 120-121

The witness, Armen Mkrtchyan, testified that he was the director of “Maylan” LLC, which was engaged in the business of providing internet in Vanadzor. In 2009, the company had 150-300 customers, including Loris Ghazaryan. As a rule, all customers had to pass a probation period of 6 months, and then an agreement was signed with them; they had not signed such an agreement with Loris Ghazaryan. The compact disc they provided to the preliminary investigation includes all the webpages visited by Loris Ghazaryan. The first column of the table includes the name of the website, the second column includes the date of visiting the website, and the third column includes the exact time of visiting the website. Upon becoming an internet customer, an identification code is assigned, which in the case of Loris Ghazaryan was “10.9.0.39”.

Case pages 170-171

The letter No. 151-02, sent by “Armbusinessbank” CJSC to the principle of the National Security Service of the Republic of Armenia on January 22, 2010, included the chargeback claims presented to the bank and the amounts recovered by the bank.

Case pages 7-10

The letter, received from the Central Bank of Armenia on February 10, 2010, included the list of fraudulent transactions and the amounts of funds thieved.

Case pages 11-13

The letter, sent by “Tandem Payments” LLC to the principle of the National Security Service of the Republic of Armenia on January 20, 2010, included information on the nature of losses incurred by the company, the corresponding methods and amounts.

Case pages 14-16

The letter, sent by “Tandem Payments” LLC to the Principle of the National Security Service of the Republic of Armenia on February 1, 2010, included information on the suspicious transactions: dates, hours, information on the customer and operator, addresses of websites, from where requests were received.

Case pages 37-50

A compact disc was provided by “Maylan” LLC, and a corresponding examination record was compiled.

Case pages 172-174

The letter, received from the Central Bank of Armenia on April 9, 2010, included an analysis of transactions conducted in 2009 (through the banks in the Republic of Armenia) by the persons involved in the investigation.

Case pages 182-184

The letter No. 1560-2, sent by “Armbusinessbank” CJSC on April 16, 2010 to the head of the department of investigations of the National Security Service of the Republic of Armenia, indicated the amount of losses incurred by the bank and the fact of acting in the capacity of a victim in the scope of the criminal case.

Case pages 207-207

Legal analysis by the Court

The Court establishes that the charges pressed against Loris Ghazaryan, pursuant to Clause 2, Part 2, Article 181 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia, are rightfully identified, which is proved by the evidences obtained with the criminal case. In particular, Loris Ghazaryan confessed that he paid 2-10 US dollars at www.cvv.me and www.visaveryfai.ru and bought stolen bank card information (cardholder’s first and last names, 16-digit card number, card expiry and validity dates, 3-digit CVV code) on 10 MasterCards issued by banks in the United States of America and belonging to citizens of this country. Afterwards, he registered electronic purses under the names of third parties with www.tandem.am in order to transfer funds from the cards with stolen information to these electronic purses. By means of using the bank cards with stolen information, he transferred the funds available on these cards to active electronic purses with www.tandem.am. Afterwards, he registered more electronic purses under the names of other third parties with www.edram.am, a website specialized in accepting payments for utilities and other purposes. By means of using the payment system “ArCa”, he furtively thieved the funds accumulated on his electronic purses with www.tandem.am, transferred these funds to his other electronic purses with www.edram.am, and started to look for ways to withdraw these funds in cash. With an intention to conceal the illicit origin of these funds, he used the search engine of www.yandex.ru and got

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The witness, Garnik Titanyan, testified that he had been working as an executive director at "Tandem Payments" LLC since October 1, 2009. The company was specialized in accepting all kinds of utility payments, providing its services online through www.tandem.am and by means of numerous terminals installed in Yerevan and the regions of the Republic of Armenia. The information required for registration was not verified anyhow, since the system did not have such resources, and it was possible for customers to present wrong information. Fraudulent transactions were conducted by means of using the international payment system "MasterCard" through www.tandem.am starting from November 27, 2009. The company was informed about these transactions by the bank servicing its bank accounts, "Armbusinessbank" CJSC.

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The letter, received from the Central Bank of Armenia on February 10, 2010, included the list of fraudulent transactions and the amounts of funds thieved.

The letter, sent by “Tandem Payments” LLC to the principle of the National Security Service of the Republic of Armenia on January 20, 2010, included information on the nature of losses incurred by the company, the corresponding methods and amounts.

The letter, sent by “Tandem Payments” LLC to the Principle of the National Security Service of the Republic of Armenia on February 1, 2010, included information on the suspicious transactions: dates, hours, information on the customer and operator, addresses of websites, from where requests were received.

A compact disc was provided by “Maylan” LLC, and a corresponding examination record was compiled.

The letter, received from the Central Bank of Armenia on April 9, 2010, included an analysis of transactions conducted in 2009 (through the banks in the Republic of Armenia) by the persons involved in the investigation.

The letter No. 1560-2, sent by “Armbusinessbank” CJSC on April 16, 2010 to the head of the department of investigations of the National Security Service of the Republic of Armenia, indicated the amount of losses incurred by the bank and the fact of acting in the capacity of a victim in the scope of the criminal case.

Thus, Loris Ghazaryan committed criminal actions, specified under Clause 2, Part 2, Article 181 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

There are no factors aggravating the liability of the accused.

In determining the punishment, as factors mitigating the liability of Loris Ghazaryan, the Court takes into consideration the facts that: Loris Ghazaryan regretted his actions; had poor health, suffering from stomach ulcer and logo neurosis; from the total amount of losses caused, an amount of 450,000 Armenian drams was recovered by the father of the accused in the course of court examination, undertaking an obligation to repay the remaining amount as well. These factors decrease the severity of social ramifications of the crime, and the Court considers the conjunction of these factors an extraordinary situation, thus establishing that a punishment shall be imposed on the accused with the application of Article 64 of the Criminal Code of the Republic of Armenia.

The civil petition filed by the representative of the victim in the amount of 344,000 Armenians drams shall be satisfied.

Based on the foregoing and guided by Articles 357-375 of the Criminal Procedure Code of the Republic of Armenia, the Court:

DECIDES

To declare Loris Ghazaryan guilty, pursuant to Clause 2, Part 2, Article 181 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

To sentence (with the application of Article 64 of the Criminal Code of the Republic of Armenia) Loris Ghazaryan to imprisonment for a term of 8 (eight) months, pursuant to Clause 2, Part 2, Article 181 of the Criminal Code of the Republic of Armenia.

To sentence (with the application of Article 64 of the Criminal Code of the Republic of Armenia) Loris Ghazaryan to imprisonment for a term of 6 (six) months, without confiscation of assets, pursuant to Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

To impose a final punishment in the form of imprisonment for a term of 1 (one) year, without confiscation of assets, by means of partially adding (with the application of the principle of partially adding the punishments, pursuant to Article 66 of the Criminal Code of the Republic of Armenia) 4 (four) months from the punishment imposed, pursuant to Part 1, Article 190 of the Criminal Code of the Republic of Armenia, to the punishment imposed, pursuant to Clause 2, Part 2, Article 181 of the Criminal Code of the Republic of Armenia. The punishment shall be served in the corresponding penitentiary institution under the Ministry of Justice of the Republic of Armenia, and the term of punishment shall count from February 16, 2010.

To maintain the provisional measure imposed until this Verdict has entered into force.

To confiscate a total of 344,000 Armenian drams from Loris Ghazaryan for the benefit of “Armbusinessbank” CJSC, as compensation of losses caused as a result of the crime.

To keep the compact disc considered material evidence with the criminal case.

This Verdict may be appealed to the Criminal Court of Appeals of the Republic of Armenia within a month from its publication.

JUDGE, M. HARUTYUNYAN