

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

| | | |
|--------------------------------|---|---------------------------------|
| | X | |
| In re PAYMENT CARD INTERCHANGE | : | MDL No. 1720(MKB)(VMS) |
| FEE AND MERCHANT DISCOUNT | : | |
| ANTITRUST LITIGATION | : | Civil No. 05-5075(MKB)(VMS) |
| | : | |
| | : | RULE 23(b)(3) CLASS COUNSEL’S |
| This Document Relates To: | : | MONTHLY REPORT REGARDING THIRD- |
| | : | PARTY ENTITIES |
| ALL ACTIONS. | : | |
| | : | |
| | X | |

I. INTRODUCTION

This is the second monthly report regarding third-party claims filers following the Court's request.

As Rule 23(b)(3) Class Counsel ("Class Counsel") reported in October, with the claims process ramping up, there has been a small, but noticeable increase in class member calls. In addition, we have become aware of several law firms recently advertising services related to claims filing in this case. And, as discussed below, we recently became aware of a website that attempts to mirror the official Court-authorized website. This website is highly misleading and possibly fraudulent.

Class Counsel expects more new entrants as the claims process moves forward. To that end, we are increasing our monitoring efforts and Epiq Systems, Inc. ("Epiq" or the "Class Administrator") continues to alert Class Counsel to new issues as they arise in addition to the monthly reporting process already in place.

Class Counsel has updated the current call center scripts to add additional information regarding third parties. As part of other education and outreach programs, we are working on messaging regarding third-party claims filers as well.

II. CURRENT THIRD-PARTY ISSUES

A. Marketing Issues

On October 30, 2023, Class Counsel was alerted to a website and marketing campaign that is highly suspicious. The website, settlement2023.org, is privately registered according to the WHOIS domain database so detailed contact information has so far been limited to an "info@" address. *See* Ex. 1. The website has copied the home page of the official website in many respects, including Epiq's P.O. Box. The website states: "All businesses processing Visa/Mastercard transactions from

January 1, 2004 to January 25, 2019 must participate in the settlement case.” *See* Ex. 2. There is a button that then leads to a calculator page that purports to show a “[s]ettlement [a]mount [e]stimator.” *See* Ex. 3. Then there is a button that says “[p]rocess [s]ettlement.” *See id.* This then leads to another page that states: “[g]et [s]ettlement in 2 [s]imple [s]teps.” *See* Ex. 4 at 1. Step one states: “Speak with a settlement specialist to go over your documents and get your confirmed disbursement amount.” *Id.* Then an appointment must be booked. *See id.* at 1-2. This website was brought to our attention because another company received a voicemail purportedly from rap legend Snoop Dogg that promotes the settlement and leads to the settlement2023.org website. *See* Ex. 5 (voicemail transcript).

Epiq has filed a report of abuse with the host of the website (GoDaddy.com) and it is expected the website will soon be taken down. As of 3:00 p.m. Eastern Time today, the website remains accessible. Class Counsel set-up an “appointment” with the company to hopefully get in touch with the business operators and have them cease their misleading conduct. *See* Ex. 4 at 1-2. After setting up an appointment, counsel received an email with additional questionable statements. *See* Ex. 6. That email included an email contact address as well directions to upload merchant processing statements. *See id.* Class Counsel wrote a letter to the email address provided noting the false and misleading statements and requesting the company cease and desist. *See* Ex. 7. Class Counsel also uploaded the text of the letter following the directions regarding uploading merchant processing statements. *See* Exs. 8-9. Another email was sent October 31, 2023 with no response received. Three additional emails were sent to the contact address on November 1, 2, and 3, 2023. No responses have been received.

Class Counsel will continue to try to reach a representative of the company. Class Counsel requests the Court issue an Order to show cause, based on the materials provided here. The email

addresses found to date related to this entity have not bounced back so any Order to show cause would be sent to the addresses discovered and could also be uploaded to the portal the company promotes on its site.

Additionally, Class Counsel has continued to see an increase in questions and concerns from class members regarding other third-party claims filers. In the past two weeks Class Counsel has reached out to several third-party claims filers to request changes to marketing materials that were either incorrect, misleading, or both. Class Counsel has had detailed back and forth communications with four separate entities (law firms and third-party claims filers) regarding incorrect or misleading materials that have come to our attention. In each case, the corrections were swiftly made and at this time no Court intervention is requested. Class Counsel has seen a number of law firms recently getting involved in the third-party claims filing business and had contact with three firms that had incorrect or misleading materials as part of their marketing materials. All 3 firms made the requested changes within 24 hours.

Class Counsel has planned a conference call for all known third-party claims filers and law firms involved in claims filing on November 17, 2023 to go over issues, answer questions, and provide updated disclaimer language.¹

The new proposed disclaimer language (to be required by December 1, 2023) is set forth below:

1. Claim forms are being delivered and are available online beginning December 1, 2023.

¹ The conference call invitation was sent to more than 190 email addresses. The call will be held November 17, 2023, at 11:00 a.m. Pacific Time / 2:00 p.m. Eastern Time. The call-in information is as follows: 1-800-504-8071; access code 7444955#.

2. Class members need not sign up for a third-party service in order to participate in any monetary relief.

3. No-cost assistance is available from the Class Administrator and Class Counsel during the claims-filing period.

4. Information directing class members to the Court-approved website www.paymentcardsettlement.com for additional information.

B. Outreach to Third Parties

As Class Counsel reported in October, since August 18, 2023, Epiq has been performing specific outreach efforts to known third-party claims filers. An email was sent to 134 third-party claims filers. As of the end of October, Epiq has been in communication with 60 third-party claims filers following the outreach that took place on August 18, 2023. Of those 60 third-party claims filers, Epiq has received client lists from 31 third-party claims filers which claim representation of 121,058 Tax Identification Numbers (“TINs”)/Legal Entities. These client lists also include multiple rows for a single TIN, and multiple rows that lack TINs. Of those 31 third-party claims filers, Epiq has received 29,025 documents from 25 third-party claims filers. Several third-party claims filers have combined their documentation into a single .pdf that covers multiple clients, so the true number is likely higher than the document count can substantiate. Work continues, including the development of processes to efficiently handle the expected increase in third-party claims.

III. CONCLUSION

Class Counsel will continue to apprise the Court regarding issues with third-party claims filers via monthly reports and will bring urgent matters to the Court's attention via letter or other means should the Court wish a different method to be used. The next monthly report will be filed on December 8, 2023.

DATED: November 3, 2023

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ALEXANDRA S. BERNAY

s/ Alexandra S. Bernay

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MICHAEL J. KANE
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Philadelphia, PA 19103
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215/875-4604 (fax)

Co-Lead Counsel for Plaintiffs

EXHIBIT 1



Search the WHOIS Database

settlement2023.org

WHOIS search results

Domain Name: settlement2023.org
 Registry Domain ID: 2f0ad2032b564d82ad3ce1efc73965ee-LROR
 Registrar WHOIS Server: whois.godaddy.com
 Registrar URL: https://www.godaddy.com
 Updated Date: 2023-07-26T21:20:23Z
 Creation Date: 2023-07-26T21:20:23Z
 Registrar Registration Expiration Date: 2024-07-26T21:20:23Z
 Registrar: GoDaddy.com, LLC
 Registrar IANA ID: 146
 Registrar Abuse Contact Email: abuse@godaddy.com
 Registrar Abuse Contact Phone: +1.4806242505
 Domain Status: clientTransferProhibited https://icann.org/epp#clientTransferProhibited
 Domain Status: clientUpdateProhibited https://icann.org/epp#clientUpdateProhibited
 Domain Status: clientRenewProhibited https://icann.org/epp#clientRenewProhibited
 Domain Status: clientDeleteProhibited https://icann.org/epp#clientDeleteProhibited
 Registry Registrant ID: CR668252264
 Registrant Name: Registration Private
 Registrant Organization: Domains By Proxy, LLC
 Registrant Street: DomainsByProxy.com
 Registrant Street: 2155 E Warner Rd
 Registrant City: Tempe
 Registrant State/Province: Arizona
 Registrant Postal Code: 85284
 Registrant Country: US
 Registrant Phone: +1.4806242599
 Registrant Phone Ext:
 Registrant Fax:
 Registrant Fax Ext:
 Registrant Email: Select Contact Domain Holder link at
<https://www.godaddy.com/whois/results.aspx?domain=settlement2023.org>
 Registry Admin ID: CR668252266
 Admin Name: Registration Private
 Admin Organization: Domains By Proxy, LLC
 Admin Street: DomainsByProxy.com
 Admin Street: 2155 E Warner Rd
 Admin City: Tempe
 Admin State/Province: Arizona
 Admin Postal Code: 85284
 Admin Country: US
 Admin Phone: +1.4806242599
 Admin Phone Ext:
 Admin Fax:

Find your Domain

Find your perfect domain



Take a look at these alternate options

settlement2023.com **\$11.99**
~~\$21.99~~
 for the first 2 years



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Tech Street: 2155 E Warner Rd
Tech City: Tempe
Tech State/Province: Arizona
Tech Postal Code: 85284
Tech Country: US
Tech Phone: +1.4806242599
Tech Phone Ext:
Tech Fax:
Tech Fax Ext:
Tech Email: Select Contact Domain Holder link at
<https://www.godaddy.com/whois/results.aspx?domain=settlement2023.org>
Name Server: NS1.DNS-PARKING.COM
Name Server: NS2.DNS-PARKING.COM
DNSSEC: unsigned
URL of the ICANN WHOIS Data Problem Reporting System: <http://wdprs.internic.net/>
>>> Last update of WHOIS database: 2023-10-30T21:02:23Z <<<
For more information on Whois status codes, please visit <https://icann.org/epp>
TERMS OF USE: The data contained in this registrar's Whois database, while believed by the registrar to be reliable, is provided "as is" with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose is expressly forbidden without the prior written permission of this registrar. By submitting an inquiry, you agree to these terms and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise support the dissemination or collection of this data, in part or in its entirety, for any purpose, such as transmission by e-mail, telephone, postal mail, facsimile or other means of mass unsolicited, commercial advertising or solicitations of any kind, including spam. You further agree not to use this data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including mining this data for your own personal or commercial purposes. Failure to comply with these terms may result in termination of access to the Whois database. These terms may be subject to modification at any time without notice.

[See Underlying Registry Data](#) [Contact Domain Holder](#)

[Report Invalid Whois](#)

Info displayed in public WHOIS is limited for privacy reasons. You can learn more about access to non-public domain contact information [here](#).

2 year registration
settlement2023.info \$3.99
\$31.99 for the first year

PREMIUM
pra2023.org \$5.00
+\$22.99/yr

Get our newsletter, join the community:

Email Address

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EXHIBIT 2

Update April 25, 2023: All businesses processing Visa/Mastercard transactions from January 1, 2004 to January 25, 2019 must participate in the settlement case. Access the platform below for an estimation of potential refund amounts.

Retrieve Settlement Estimate
(<https://Settlement2023.Org/Settlement-Amount-Estimator>)

- [Settlement Long-Form Notice \(https://onspot.cc/wp-content/uploads/2023/07/Notice.pdf\)](https://onspot.cc/wp-content/uploads/2023/07/Notice.pdf)
- [Superseding and Amended Definitive Class Settlement Agreement – Filed September 18, 2018 \(https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7257-2_Settlement-Agreement.pdf\)](https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7257-2_Settlement-Agreement.pdf)
- [Superseding and Amended Definitive Class Settlement Agreement Appendices A through J – Filed September 18, 2018 \(https://onspot.cc/wp-content/uploads/2023/07/Settlement-Agreement-Appendices-A-J.pdf\)](https://onspot.cc/wp-content/uploads/2023/07/Settlement-Agreement-Appendices-A-J.pdf)
- [Memorandum & Order re: Preliminary Approval \(https://onspot.cc/wp-content/uploads/2023/07/Memo-and-Order-re-Preliminary-Approval.pdf\)](https://onspot.cc/wp-content/uploads/2023/07/Memo-and-Order-re-Preliminary-Approval.pdf)
- [Order Regarding Third-Party Claims Filing Services – Filed September 26, 2018 \(https://onspot.cc/wp-content/uploads/2023/07/Order-Regarding-Third-Party-Claims-Filing-Services.pdf\)](https://onspot.cc/wp-content/uploads/2023/07/Order-Regarding-Third-Party-Claims-Filing-Services.pdf)
- [Settlement Order and Final Judgment \(https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7832_Settlement-Order-and-Final-Judgment.pdf\)](https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7832_Settlement-Order-and-Final-Judgment.pdf)
- [Order on Motion for Settlement – Class Representative Awards \(https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7823_Order-on-Motion-for-Settlement.pdf\)](https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7823_Order-on-Motion-for-Settlement.pdf)
- [Order on Motion for Attorney Fees \(https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7822_Order-on-Motion-for-Attorney-Fees.pdf\)](https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7822_Order-on-Motion-for-Attorney-Fees.pdf)

On March 15, 2023, the Court of Appeals for the Second Circuit upheld the majority of the District Court’s final approval order. However, it directed the district court to reduce service awards to class representatives if their size was increased by time spent in lobbying efforts that would not enhance the recovery of damages. It is currently uncertain whether any party will seek further appeals, and additional information will be provided as it becomes available.

The lawsuit revolves around allegations that merchants paid excessive fees to accept Visa and Mastercard cards due to violations of antitrust laws by Visa, Mastercard, and their respective member banks.

The settlement establishes the Rule 23(b)(3) Settlement Class, which includes all individuals, businesses, and other entities that accepted Visa-Branded Cards and/or Mastercard-Branded Cards in the United States between January 1, 2004, and January 25, 2019, with certain exceptions. These exceptions consist of the Dismissed Plaintiffs, the United States government, the named Defendants in the lawsuit, including their directors, officers, or family members, and financial institutions that issued or acquired Visa-Branded Cards or Mastercard-Branded Cards or their transactions during the specified period. The Dismissed Plaintiffs refer to those who previously settled and dismissed their own lawsuit against a Defendant, along with related entities. If you are unsure whether you qualify as a Dismissed Plaintiff, you can view the list of Dismissed Plaintiffs here (https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7257-2_Exhibit-1-Part-B.pdf).

The Notice (<https://onspot.cc/wp-content/uploads/2023/07/Notice.pdf>) contains crucial information for merchants who accepted Visa and Mastercard cards since January 1, 2004. It provides an explanation of the settlement in the class action lawsuit, as well as details about your rights and options in this case. The court has also issued a "Notice of Exclusion" (<https://onspot.cc/wp-content/uploads/2023/07/A4586-4598-Notice-of-Exclusion-from-Class-Action-Settlement.pdf>) to the Dismissed Plaintiffs and an additional notice (<https://onspot.cc/wp-content/uploads/2023/07/A7254-7255-Notice-Regarding-Class-Action-Settlement.pdf>) to those merchants, outlining their right to file claims once claim forms become available.

For complete terms of the Settlement, you should refer to the Superseding and Amended Definitive Class Settlement Agreement of the Rule 23(b)(3) Class Plaintiffs and the Defendants, along with its Appendices (the "Class Settlement Agreement"), accessible here (https://onspot.cc/wp-content/uploads/2023/07/Dkt-No.-7257-2_Settlement-Agreement.pdf). In case of any discrepancies between the terms of the Notice or this website and the Class Settlement Agreement, the terms of the Class Settlement Agreement will prevail.

Please visit this website for any updates regarding the settlement or the settlement approval process.

Current Status

The Settlement received final approval by the district court. The Second Circuit Court of Appeals heard oral arguments and affirmed all aspects of the District Court's final approval order save one. At this time, it is unknown if any party will pursue further appeals. Additional details will be provided as they become available.

Important Dates

January 1, 2004 to January 25, 2019

Class Period

July 23, 2019

Deadline to exclude yourself from the settlement has passed

July 23, 2019

Deadline to object to the settlement has passed

December 16, 2019

District Court granted final approval to settlement

March 16, 2022

Oral argument in appeal of final approval order

March 15, 2023

Second Circuit opinion issued

TBD

Claim Filing Deadline

P.O. Box 2530, Portland, OR 97208-2530

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EXHIBIT 3

Settlement Amount Estimator

Average Volume Processed Per Month *

\$30,000

How many months have you been processing *

65

Estimated Settlement Amount Due:

\$ 0.00

PROCESS SETTLEMENT

A settlement of as much as \$6.24 Billion and not less than \$5.54 Billion will provide payments to merchants that accepted Visa and Mastercard since 2004.

P.O. Box 2530, Portland, OR 97208-2530

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EXHIBIT 4

Few Slots Left !!

Get Settlement in 2 Simple Steps

Step 1

Speak with a settlement specialist to go over your documents and get your confirmed disbursement amount.

Book Appointment Now!

Pick a Date and Time

Available Starting times for **Thu, Nov 2, 2023**

November 2023

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
| | | | 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | | |

| AM | PM |
|----------|----------|
| 10:45 AM | 04:00 PM |
| 11:45 AM | 04:15 PM |
| | 04:45 PM |

GMT-07:00 America/Los_Angeles (PDT) ▼

By Scheduling the appointment, I agree to receive text messages and/or phone calls until I request to opt out via phone or by sms. By providing my mobile, I also agree to the privacy policy, which has been provided on our website. Message & data rates may apply. We do not sell or share SMS opt-in information with any third parties.

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EXHIBIT 5

EXHIBIT 5
(Transcription of purported voicemail from Snoop Dogg)

Hey man Snoop Dogg, dropping in with some knowledge for all you business hustlers out there. Listen up, 'cause this is some real talk. Check it. If your business been dealing with Visa and Mastercard transactions from 2004 to 2019, I got some news for you. There's a federal lawsuit settlement case going down and you might be part of it. Here's the deal. All businesses in that timeframe got a shot at this settlement. It's like a chance to get what's rightfully yours, ya feel me? So if you wanna know how much you might be looking at for a potential refund, all you gotta do is visit settlement2023.org. Yea that's right, settlement2023.org is where you wanna be to get the low down on those potential refund amounts. It's all about keeping it fair, and you know your main man, Snoop's always got your back! So hit up that website and see what's up, settlement2023.org. Thanks for listening and remember, keep those businesses rolling and those Visa/Mastercard transactions flowing. Stay real ya'll!

EXHIBIT 6

Xan Bernay

From: info@mail.settlement2023.org on behalf of Settlement2023
<info@mail.settlement2023.org>
Sent: Monday, October 30, 2023 4:16 PM
To: Xan Bernay
Subject: Thank You for Booking an Appointment!

EXTERNAL SENDER

Dear Alexandra Bernay,

I hope this email finds you well. We are pleased to confirm that your appointment for participating in the settlement suit has been tentatively scheduled. Our team at settlement2023 will be handling your case, and a case manager will be assigned shortly to help throughout the process.

In order to keep our upcoming meeting on November 3, 2023 at 11:30 AM, we kindly request your cooperation in providing us with the **last 2 months credit card processing statements 24 Hours prior to your appointment.** These statements will assist us in efficiently processing the settlement refund, ensuring a seamless and timely resolution for you.

To maintain confidentiality and security, please share the 2 months requested credit card statements through the secure channel: [Click Here to Upload Docs](#)

All personal and financial information will be handled in compliance with all data protection regulations.

If you have any concerns or questions regarding the document submission process or the settlement suit in general, please do not hesitate to reach out to us at info@settlement2023.org

We appreciate your cooperation and look forward to assisting you with the settlement suit.

Thank you for choosing settlement2023.org.

Best regards,

settlement2023.org
info@settlement2023.org

EXHIBIT 7

To whom it may concern

I am co-lead counsel in the above case. Please have this email shared with your legal counsel, if possible.

I have been alerted to messages your company has been sending via voicemail as well as your website, settlement2023.org

There are numerous issues with the message and website and we demand that you cease and desist your conduct.

To be specific, your website copies the home page of the official court-approved website, even including the address of the settlement administrator. We have sought a takedown order from your web hosting company.

In addition, there are numerous false and misleading statements that your company has on the site and other pages associated with your company. It falsely states that: "All businesses processing Visa/Mastercard transactions from January 1, 2004 to January 25, 2019 must participate in the settlement case." There is a button that then leads to a calculator page that purports to show a "settlement amount estimator." Then there is a button that says "process settlement." These statements are also false.

This then leads to another page that states "get settlement in 2 simple steps." Step one is "Speak with a settlement specialist to go over your documents and get your confirmed disbursement amount." Your company cannot provide a "confirmed disbursement amount." This is false.

Further, once an "appointment is made an email is sent requesting two months of processing statements", purportedly to "assist us in efficiently processing the settlement refund," This also appears false and/or misleading.

We also note that every page of your site fails to include the Court-ordered disclaimer language. We plan to alert the Court to your highly suspect business operations and will seek an order to show cause as to why your company should be allowed to have anything to do with the settlement in this matter. We will also seek to cancel any contracts you may have entered into based on these false and misleading actions.

Please call me as soon as possible at 619 231 -1058 to discuss how you can come into compliance.

Best

Xan Bernay

EXHIBIT 8

Upload Statement

Please upload the Credit Card Processing statements from the last two months. Please make sure that the statements are uploaded at least 24 hours before your scheduled appointment.

Step 2

Upload your credit card processing statements here. If you do not have your statement ready, you can follow the instructions sent to your email to come back and upload.


Why do we need this?

"We request this information to establish a baseline of your recent charges and calculate an average. It's important to note that not all fees are related to the lawsuit."

Where to Find Statement?

"Login to your merchant account and download your last 2 months of credit card processing statements."

Upload Your Statement *



Submit

P.O. Box 2530, Portland, OR 97208-2530

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EXHIBIT 9

Xan Bernay

From: info@mail.settlement2023.org on behalf of Settlement2023.org
<info@mail.settlement2023.org>
Sent: Monday, October 30, 2023 4:33 PM
To: Xan Bernay
Subject: Appointment Confirmation - Zoom Booking Confirmed!

EXTERNAL SENDER

Dear Alexandra Bernay,

Thank you for uploading the required document. We are pleased to confirm your booking and provide you with the details for your upcoming Zoom Appointment

Booking Details:

Date: November 3, 2023

Time: 11:30 AM PDT

Zoom Link: <https://us05web.zoom.us/j/87368765910?pwd=jjqP3cBwke4WSV5yLHaqIcyMtEwl3j.1>

In case your plans change and you need to cancel or reschedule the meeting, you can do so by using the following links:

To cancel the booking, please click [Cancel](#).

To reschedule the booking, please click [Reschedule](#).

Please make sure to mark your calendar for the scheduled time. If you have any questions or need further assistance, please feel free to reach out to us at info@settlement2023.org.

We look forward to meeting you on Zoom and discussing the matters at hand. Should you require any additional information, please do not hesitate to get in touch.

Thank you for choosing our services.

Best regards,

Jeff Russell
Settlement2023.org