

From: Lukas Baumgaertner lukas.baumgaertner@luther-lawfirm.com
Subject: Re: Blandine's Case
Date: 16 April 2021 at 12:01
To: Blandine Le Magnen b.lemagnen@gmail.com
Cc: Fabian Lorenz fabian.lorenz@luther-lawfirm.com

LB

Dear Blandine,

Thank you very much for your email.

Our team in Thailand tried to send the documents to Vietnam, but their acceptance was refused and DHL sent them back to Bangkok. We could try to send them again via our partner firm in Vietnam, asking them to deliver them as registered post (if available) instead by courier.

You mentioned that the Myanmar branch was closed in February, so sending them there would most likely be futile.

While the email we sent to Boris should in general be sufficient, we can at least try to send them again to the Myanmar office. This should also help in case you want to file a law suit against your previous employer or want to file a complaint with the labour office. As a foreign law-firm, we cannot engage in litigation, but can recommend local law firms (e.g. Michael U Min Sein) to represent you.

Should you have any questions, please do not hesitate to contact us.

Best regards

Lukas Baumgärtner

Lukas Baumgärtner, LL.M.

Rechtsanwalt / Attorney-at-Law (Germany)

Luther Law Firm Limited

Luther Corporate Services Limited

Level 8, Unit #1, Uniteam Marine Office Building

No. 84, Pan Hlaing Street

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From: Blandine Le Magnen <b.lemagnen@gmail.com>
To: Lukas Baumgaertner <lukas.baumgaertner@luther-lawfirm.com>
Cc: Fabian Lorenz <fabian.lorenz@luther-lawfirm.com>
Date: 14.04.2021 16:53
Subject: Re: Blandine's Case

Dear Lukas,

Could you please let me know if there is any update on this case? Were you able to deliver the letter?

Best regards,
Blandine

On 22 Mar 2021, at 15:29, Blandine Le Magnen <b.lemagnen@gmail.com> wrote:

Hi Lukas,

Thanks for the update!

I learnt few days ago from the Burmese partner that Boris has decided to close the branche of Myanmar on 24th February (without paying suppliers, debts and severances obviously...) so the office there is closed and the Burmese partner is looking at his option to clear the mess.

I am sure about the address I provided for Vietnam, I assume it is another trick from Boris to refuse to sign to ignore the issue.

I don't know if that is possible for your but his assistant is Ms Hoang Ly and the receptionist is Ms Nguyen Thi Ngoc Quyen (033 610 3380 - vivablast@vivablast.com)

Otherwise, Boris' personal address is:
146 Nguyen Van Huong,
Phuong Thao Dien, Quan 2,
TP. Ho Chi Minh
Vietnam.

Hope this helps,

Best regards,
Blandine

On 22 Mar 2021, at 08:29, Lukas Baumgaertner <lukas.baumgaertner@luther-lawfirm.com> wrote:

Dear Bladine,

I hope you doing well!

Please allow me to provide you with a brief update on your case:

Our attempt to deliver the legal notice by courier to the Vivablast office in Vietnam was not successful and it was returned back to us. We then sent the document by registered mail to the Yangon office where no one was present to acknowledge the receipt. We assume, that because of the civil disobedience movement Vivablast employees are currently not attending the office and we will attempt to resend it again at a later point.

Should you have any questions, please do not hesitate to contact us.

Kind regards, mit freundlichen Grüßen

Lukas Baumgärtner

Lukas Baumgärtner, LL.M.

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From: Fabian Lorenz/LAW/LUTHER
To: Blandine Le Magnen <b.lemagnen@gmail.com>
Cc: Lukas Baumgaertner <lukas.baumgaertner@luther-lawfirm.com>
Date: 23.02.2021 07:33
Subject: Re: Blandine's Case

Hi Blandine,

Thanks a lot!

We will send everything out today and keep you posted.

Stay safe and best regards

Fabian

Fabian Lorenz

Rechtsanwalt / Attorney-at-Law (Germany)

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From: Blandine Le Magnen <b.lemagnen@gmail.com>
To: Fabian Lorenz <fabian.lorenz@luther-lawfirm.com>,
Cc: Lukas Baumgaertner <lukas.baumgaertner@luther-lawfirm.com>
Date: 22.02.2021 19:36
Subject: Re: Blandine's Case

Hi Fabian,

Thanks for your answer, the final document is ok for me, I just updated the final amount in the excel file to match the final amount requested in your letter.

Looking forward to see their reply!

Best regards,

Blandine

[attachment "210216_Blandine Le Magnen_Payables.xlsx" deleted by Fabian Lorenz/LAW/LUTHER]

On 22 Feb 2021, at 16:36, Fabian Lorenz <fabian.lorenz@luther-lawfirm.com> wrote:

Dear Blandine,

Thank you very much for your email. I hope you are doing well.

Sorry for the delay, please find attached the final document, which we will send by email with supporting documents to

jacques@vivablast.com; boris@vivablast.com; vivablast@vivablast.com.

We will courier the originals to Boris. Let us wait for their lawyer to reply.

Should you have any questions, please do not hesitate to contact us.

Best regards

Fabian

Fabian Lorenz

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From: Blandine Le Magnen <b.lemagnen@gmail.com>
To: Fabian Lorenz <fabian.lorenz@luther-lawfirm.com>,
Cc: Lukas Baumgaertner <lukas.baumgaertner@luther-lawfirm.com>
Date: 15.02.2021 18:31
Subject: Re: Blandine's Case

Dear Fabian,

Thanks for sending the draft! Please see my comments as track changes in the attached document.
Please let me know if you are sending it directly to Vivablast or to their lawyer first? Or both?

Please note if you sent it to Vivablast, could you please send to the emails: jacques@vivablast.com;
boris@vivablast.com; vivablast@vivablast.com.

Their courier address is: Vivablast Vietnam, Binh Chieu IZ, Street 2, Thu Duc District, HCMC, Vietnam

Many thanks in advance,

Best regards,

On 15 Feb 2021, at 16:53, Fabian Lorenz <fabian.lorenz@luther-lawfirm.com> wrote:

Dear Blandine,

I hope you are doing well!

Please find attached the draft legal notice for your review and comments.

Should you have any questions, please do not hesitate to contact us.

Best regards / Mit freundlichen Grüßen

Fabian Lorenz

Fabian Lorenz

Rechtsanwalt / Attorney-at-Law (Germany)

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From: Blandine Le Magnen <b.lemagnen@gmail.com>

To: Fabian Lorenz <fabian.lorenz@luther-lawfirm.com>

Date: 09.02.2021 18:35

Subject: Re: Blandine's Case

Hi Fabian,

Following our call today, please find attached:

- the official notification for non extension of contract I sent to HR with cc to Boris the day after sending the email I shared earlier with you on Signal;
- the breakdown of the money injected, with the amounts included in my contract (local salary, airplane ticket, rent) highlighted in green.

Best regards,
Blandine

Le lun. 8 févr. 2021 à 17:45, Fabian Lorenz <fabian.lorenz@luther-lawfirm.com> a écrit :
Hi Blandine,

Super, speak tomorrow!

Should you have any questions, please do not hesitate to contact us.

Best regards / Mit freundlichen Grüßen

Fabian Lorenz

Fabian Lorenz

Rechtsanwalt / Attorney-at-Law (Germany)

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From: Blandine Le Magnen <b.lemagnen@gmail.com>
To: Fabian Lorenz <fabian.lorenz@luther-lawfirm.com>,
Date: 08.02.2021 18:05
Subject: Re: Blandine's Case

Hi Fabian,

Tomorrow at 4pm is perfect. I will contact you on Signal, which is the app working the best at the moment.
My phone number is +95 9 776 077 369.

Best regards,
Blandine Le Magnen

Le lun. 8 févr. 2021 à 17:31, Fabian Lorenz <fabian.lorenz@luther-lawfirm.com> a écrit :
Dear Blandine,

Thank you very much for your email.

We can try to connect tomorrow afternoon around 4pm via WhatsApp (+95 9 261 033 679) or Signal or Telegram (+66 6 1420 4049). I can also send an invite for MS Teams.

Should you have any questions, please do not hesitate to contact us.

Best regards / Mit freundlichen Grüßen

Fabian Lorenz

Fabian Lorenz

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From: Blandine Le Magnen <b.lemagnen@gmail.com>
To: Fabian Lorenz <fabian.lorenz@luther-lawfirm.com>,
Date: 08.02.2021 17:48
Subject: Re: Blandine's Case

Hi Fabian,

Thanks for your answer! I'm available both tomorrow and Wednesday, please let me know what day and time is more convenient for you!

Network and communication are not very reliable these days but I hope it will be enough for a call.

Best,
Blandine

Le lun. 8 févr. 2021 à 17:12, Fabian Lorenz <fabian.lorenz@luther-lawfirm.com> a écrit :
Dear Blandine,

Thank you very much for your email and attachments.

I will go through this again in detail and would suggest a call tomorrow or Wednesday to discuss the next steps.

Should you have any questions, please do not hesitate to contact us.

Best regards

Fabian

Fabian Lorenz

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From: Blandine Le Magnen <b.lemagnen@gmail.com>
To: Fabian Lorenz <fabian.lorenz@luther-lawfirm.com>,
Date: 05.02.2021 10:10
Subject: Blandine's Case

Hi Fabian,

Sorry for the long email, I provide you all information that I seem necessary to get the full picture on my case. As discussed on LinkedIn, you can find attached the contracts I have with Vivablast (there were exactly the same for 2018, 2019 and 2020) and the amount of money I am claiming to them.

To give you a brief summary:

Vivablast is a group that was founded in Vietnam in 1994 by Jacques Vivares and his son Boris Vivares. Today, Jacques is over 70 years old, I have heard since I joined the company in 2017 that this year was his last year but is still chairman today. Jacques has no interest over the Myanmar branche, so it is his son Boris with whom I was always in contact. Boris created the company VB Asia to be a company to provide payroll services for offshore activities, and this is through this company that I was hired and receiving part of my salary. VB Myanmar shareholders are Jacques, Boris, and since 2019, the Burmese partner, Htein Linn. He is also sales manager at Vivablast.

Lynn UU, who is also sales manager at Vivablast.

I joined VB in January 2017 as Quality manager, hired by the former GM Thibault Perraudin. In November 2017, he announced he was resigning in December as he could no longer stand Boris. Boris looked for someone to replace him and couldn't find anybody on time, so he told me I could either take over the position of GM or he would close the branche. At that time, we had a big industrial contracts running in Thilawa so I accepted the position. The beginning of 2018 went well as we were finishing the industrial contracts but we started struggling with cash flow during rainy season as construction slows during this time. The year 2019 was also bad as the major contract I was chasing (YCP project with BYMA) was constantly delayed (we finally got the project in December after a year and half of negotiations but that was not really running before May 2020).

Boris was usually coming twice per year, once around March and once around October. His visits were 3 to 4 days maximum. Apart from these visits, we had semi regular exchange by emails mostly from our side seeking technical advice. Boris was telling me that the Myanmar branche should be financially independent and was not sending any money in. If I was to ask for cash, he was saying this is my problem as I'm the manager but was denying to send support from Vietnam branch (which is very profitable and doing an annual 12 million turnover). In 3 years, he sent only one time 6,500 USD for salaries after I begged him and we had to refund 2,200 UDS the next 3 following months.

I had two contracts with Vivablast: one with VB Asia that mentioned my full salary of 3,750 USD, which was divided into 2,500 USD paid into my French account, 900 USD paid at MMK equivalent that month locally by VB Myanmar and the VB Myanmar was also paying the 350 USD for my rent directly to my landlord.

In July 2018, the Myanmar branch didn't have enough cash so I started to not take my local salary, thinking it would be temporary and that I will take it later. However, the cash flow never got really better so since then I was regularly not taking the local part, prioritising the employees and suppliers payment. In 2019, at the time of renewing my rental contract, the Myanmar branche also didn't have the cash so I started paying my own rent. the Myanmar branch was also often short of few thousand dollars to pay workers salaries or suppliers so I was making payments on behalf of the company, to be refunded to me later.

In 2018, Boris offered me to become a shareholder of the company, proposition that I accepted as I really loved my job and my team, knows there is a huge potential for growth in Myanmar and because I had really friendly relationship with Boris when we were not talking about money. When we discussed about the salaries I was not receiving in his last visit of 2018, he told me it could be converted into shares. In early 2019, he sent me a proposal, but said I would need to make a transfer to VB SEA (the group holding, HQed in Singapore) to receive the shares. I explained him I was not able to do so at the moment considering the money was not in my bank account but already in the company, so nothing happened and the discussion was postponed. I honestly did not worried because I had long term vision with this company, was trusting Boris and believing these were the early days of the Myanmar branche that would reach Vietnam levels in the years to come.

In his last visit in Myanmar in November 2019, Boris said he was very happy about my work and was happy to count me soon as a shareholder of the company, he was disappointed by the financial results of the company but was confident the situation would improve and was mostly blaming the lack of support I was receiving from our local team for the low results.

In 2020, our relationship started deteriorating when I decided to close down the company on 27th March following the panic after the discovery of the first Covid cases, the logic behind it being that all our workers are staying at the same hostel, so if one of them would get cover on a construction site, he would contaminate everybody. Boris was implying I did that because I was lazy and wanted some holidays, telling me that in VN they were still going to work everyday. On 17th April, he sent a notice to all expats, saying that they would now have to work one day on, one day off until the situation stabilised. I started again working on 27th April after Thingyan, and asked my team to work alternatively. To compensate their time off, I was working full time and had to take care of all kind of tasks within the company. Boris cut my overseas salary for April, May and June by half. In July, he threatened me to not pay me my salary on time as I was few days late to send him one document. I answered him that few days would be fine, but I was expecting to be back to full overseas salary payment as I was back to full work, that I was accepting 3 months of cut but not further (I learnt later that all expats in Vietnam and even the other Vietnamese expat in Myanmar got only 1 month cut). He started answering then that due to the poor performance of the company it was not a big deal to cut my salary. I reminded him that my contract was not performance based and that I was already not taking my local part, but he still cut my July salary by half. I told him I would stop working if the salary was not back to full, and in August and September I received my full overseas salary.

At the end of September, the government announced a second lockdown. When I informed Boris, he told me to still follow up with all pending topics during the lockdown. I answered I might not have enough workload so would either work or take my holidays days. I learnt receiving the notification from my banking app of transfer receipt that my salary of October was again cut by half. When I confronted Boris about it and asked for explanation, he told me he was not responsible for it and that I should contact the HR in Vietnam. When contacted, the HR told me they did accept my timesheet and the cut was not coming from them. Boris stopped answering my mails on this subject and kept saying that I was responsible for the poor performance of the company. After one week without answer, I informed him I would not extend my contract beyond 31st December 2020 in these circumstances and work environment.

After one month of negotiation and threatening him to take him to court, he finally paid the two missing halves for July and October of my overseas salary at the same time as my last December salary. When asking him about the remaining amount composed of local salary + housing allowance + cash invested in the company, he told me he had done his part and had no business to do with me anymore, that I should speak with the relevant persons (without mentioning any names). I then wrote to the new general manager of Vivablast Myanmar, Mr Aziz, who answered that as per Mr Boris instructions, Vivablast Myanmar will not refund me as there was "no agreement, no MOU, no instruction from higher management for me to put the money in the company and that I decided by myself not to take my salaries and housing allowance". I answered to Boris that the we actually do have a contract where the company has to pay me a local salary and a housing allowance, and that all the money to be refunded for cash invested has been documented according to the company process and approved by the accounting department. To this email, he told me he was not responsible and that I should contact his father and the accountant in Vietnam. I therefore sent them on email on Friday 22nd, another the following week, as they were not answering I sent WhatsApp and Skype messages but I still have no answer as of today.

For information, I had offered them in December to repay me in 13 instalments from December 2020 till

December 2021, as I understood it was a big sum to disburse at once during the current situation. This was not accepted. For comparison, when the previous GM resigned, he also had invested a lot of cash in the company, and VB Asia made a transfer for all invoices he could provide, which is also why I was not worried about putting in cash as I was sure they would be honest and do the same this time. Both the local partner, Htein Lynn Oo and the Operations Manager (who is the Vietnamese expat in Myanmar and is temporarily in charge of the finance) confirmed I should receive the repayment and are shocked by Boris' behaviour.

I am not sure whether you will send the letter to the Vivares directly or to their lawyer, but they are represented by Audier and Partners.

Let me know if you have more questions or need any other information.

I have all invoices and cash book records of all money injected in the company, and have printed all emails of my exchanges with Boris (I have not access anymore to my vivablast mail box)

Best,

Blandine

[attachment "CONTRACT 2019 – BLANDINE.pdf" deleted by Fabian Lorenz/LAW/LUTHER] [attachment "Local Contract Blandine 2019.pdf" deleted by Fabian Lorenz/LAW/LUTHER] [attachment "Payable to Blandine.xlsx" deleted by Fabian Lorenz/LAW/LUTHER]

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[attachment "Payable to Blandine.xlsx" deleted by Fabian Lorenz/LAW/LUTHER] [attachment "Notification for Non Extension of Contract.pdf" deleted by Fabian Lorenz/LAW/LUTHER]

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<210212_Blandine Le Magnen_DRAFT Legal Notice (Blandine Review).doc><210222_Blandine Le Magnen_FINAL Legal Notice.doc><210216_Blandine Le Magnen_Payables.xlsx>

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