

Another method of stealing cash from ATMs

By Timothy Tion

A report dated 25 March 2017 by *Sahara Reporters*¹ published an e-mail that illustrates that the banks in Nigeria are increasingly required to deal with a new form of theft by employees from ATMs. Apparently, 'The management of United Bank for Africa (UBA) Plc. has ordered nine of the bank's employees to refund N1,551,000 before March 30, 2017; these were monies they stole via Automated Teller Machine (ATM) transactions.' Furthermore, the report states that the order to refund the monies was allegedly conveyed through an internal e-mail, which included the following:

'Sequel to the huge ATM shortage of N 1,551,000 (One Million, five hundred and fifty-one thousand naira only) in your BO, which was as a result of your negligence to assigned tasks, you are hereby required by Executive Management to pay the amount listed against your name to recoup this loss.'²

It is not clear from the *Sahara* report if the loss was a result of theft or negligence. Whether it is negligence or theft by the employees, the report did not state how the monies were lost, just that they stole the monies via an ATM. There is no explanation as to how the cash was stolen via the ATM.

The case of *Ajiboye vs. Federal Republic of Nigeria* (2014) LPELR-24325 (CA) illustrates how thefts occur by members of staff. In that case, the appellant was ATM custodian and employee of GT Bank Plc, GRA, Ilorin branch. He was convicted and sentenced for theft and criminal breach of trust of the sum of N 25,000,000.00 belonging to his employers, entrusted to him and meant for loading and dispensing at ATMs in the bank. He appealed against conviction and sentence. His appeal was found to be lacking in merit and consequently dismissed. He stated how he carried out his criminal acts in his confessional statement. This is reproduced at page 48 of the judgement thus:

'My modus operandi.

I will go to office with the pretext to load cash into ATM and at this point I will take money into the cash bag that contain the keys of the ATM. I will take the cash into my car parked outside the branch. Also during weekdays I took part of the cash unload, from the machine and deposit them into my sister account and wife account.'

Of interest is what Ajiboye meant when he said: '...Also during weekdays I took part of the cash unload, from the machine...' He could be referring to cash that failed to dispense or 'unload' as a result of the ATM failing to dispense cash, or only partially dispensing cash. It is not clear.

As part of his duties, the ATM custodian verifies cash in the ATM by checking the available cash balance against ATM Electronic Journal records. The Electronic Journal is usually an accurate historical data of transactions that are executed on the ATM, because it is programmed to record every aspect of a withdrawal transaction from the beginning to the close of the record. If there are discrepancies between the physical cash in the machine and the Journal, the physical cash should be removed and kept in a separate account. Discrepancies occur when the ATM fails to dispense cash because of a system failure, error or physical problem with the dispensing mechanism, but the ATM Electronic Journal records that cash was dispensed during a withdrawal transaction.

For instance, assume 10 million Naira was loaded into the ATM. At the end of the day, when reconciling and verifying the physical cash in the ATM, it is observed in the Electronic Journal that 9 million Naira was dispensed. This should leave a balance of 1 million Naira. However, the physical cash verification shows that 1.2 million Naira is left in the ATM. This discrepancy means that certain withdrawals failed, but the Electronic Journal did not record them as failed or unsuccessful, rather, the Journal recorded the transaction as a successful withdrawal. The question then is whether the ATM custodian is honest enough to report such a discrepancy, or whether he takes the excess cash in the ATM cassette, knowing

¹ This is an online community of international reporters and social advocates that provide commentaries, features, and news reports from a Nigerian-African perspective.

² Available at <http://saharareporters.com/2017/03/25/united-bank-africa-orders-9-staff-refund-stolen-money-atms-redeem-church>.

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that the Electronic Journal is falsely showing that all withdrawal transactions were successful and cash was dispensed. The Electronic Journal provides evidence about the transactions that occurred in the ATM, and is relied upon by the bank when a customer complains that they experience a non-dispense error from the ATM.

It appears from the records in the case of *Ajiboye* that he was dishonest and regularly took the excess cash (probably this is what Ajiboye meant by 'unload cash') in the ATM cassette, and deposited the money in the accounts of his sister and wife. It is interesting to speculate whether this is the method through which the employees of UBA Plc. allegedly stole monies from ATM as reported by *Sahara Reporters*.

When cash does not get dispensed due to the mechanical failure of the ATM, the cash is collected in a separate cassette or tray in the ATM. After a periodical physical balancing by the ATM custodian, the money is kept in a sundry account of the acquiring bank (the bank whose ATM has been used). Once a chargeback is raised by the issuing bank (the customer's bank) on receipt of a complaint from the customer, the amount is reversed and the customer should be credited with the amount in dispute. Simply put, a chargeback in this instance is a reversal of an ATM transaction that is usually initiated by the bank that issued the ATM card as requested by the cardholder (the customer of the issuing bank).

However, this does not occur all the time. For this reason, many bank customers have suffered from a failure of the ATM to dispense cash or a partial dispense error when withdrawing money from an ATM. When an ATM non-dispense error occurs, the customer performs an ATM withdrawal, and their account is debited. However, cash is not dispensed. In the case of a partial dispense error, cash is dispensed, but not all of the cash the ATM user requested. In the majority of cases these errors are reversed automatically, or reversed within a few days after occurrence.

There are also instances where no reversal is made, as occurred in the case of *Kume Bridget Ashiemar vs. Guaranty Trust Bank Plc (GTB) and United Bank for Africa (UBA) Plc*, Suit No: MHC/198/14, among other cases. In this case, the plaintiff attempted to withdraw money via an ATM, and the ATM did not dispense the cash. Nevertheless, her account was debited, and all efforts to get the defendants to reverse the debit and refund her money proved unsuccessful. To prove her

claim, the plaintiff tendered in evidence her statement of account, which showed that her account was debited even though the ATM failed to dispense cash. The second defendant tendered ATM camera footage and the ATM Electronic Journal in a bid to disprove the plaintiff's claim.³

In a news report⁴ of a case with similar facts as that of Kume Bridget Ashiemar, the customer of Guaranty Trust Bank Plc tried to withdraw money from the ATM of UBA, but the ATM failed to dispense cash. Nevertheless, his account was debited. The bank customer is reported to have said:

'I went to the GT Bank branch at CBD, Abuja to lodge a report when the money did not revert after an hour. The bank's operative asked me to go and await (sic) for the reversion within the next 24 hours.

As the situation remained the same, I went back to further lodge complaint (sic) but the GTBank's operatives, after several visits thereafter to make the bank revert the money which UBA claimed was dispensed to me, then placed a request to UBA, owner of the ATM machine (sic) in question, to do a photo footage of the transaction.

I was embarrassed and disturbed when the footage came out and still insisted that the said N20,000.00 was dispensed to me. The analysis of the footage showed me standing by the said ATM machine as I was making the request but did not in any way, showed (sic) cash being dispensed and I collecting such cash.'

Owing to bank customers in Nigeria suffering from the failure of ATMs to dispense cash or a partial dispensing of cash, the Central Bank of Nigeria issued a circular in 2014 directing all deposit money banks to refund to customers all monies trapped in ATMs due to the failure of an ATM to dispense cash or where

³ Since the case is currently being tried at the High Court of Justice of Benue State sitting in Makurdi, it would be improper to discuss the merits or otherwise of the plaintiff's claim and evidence in support, and the defendant's defence.

⁴ Segun Adebawale, 'ATM fraud: Customer threatens to sue GTBank, demands N100m damages' *The Eagle Online*, 4 May 2015, <http://theeagleonline.com.ng/atm-fraud-customer-threatens-to-sue-gtbank-demands-n100m-damages/>.

there is a partial dispense error.⁵ Furthermore, the Central Bank of Nigeria also requires acquiring banks to undertake the following:⁶

‘v. Acquirers shall reconcile and refund all funds in their possession, belonging to customers as a result of ATM’s non-dispense and partial dispense errors.

w. Acquirers shall also install appropriate mechanism to immediately initiate refunds without the prompting of the issuing bank or the customer.’

Concluding comments

It is commendable that the bank in *Ajiboye’s* case investigated the loss of customers’ monies and was able to initiate appropriate action to deal with the thefts. Given the high level of banking and ATM fraud in Nigeria⁷, it is recommended that all banks take this approach to ensure that employees found stealing customers’ monies are prosecuted to serve as a deterrent and to retain the confidence of bank customers.

Also, the Guidelines on Operations of Electronic Payment Channels in Nigeria, 2016 provide that:

‘Every ATM shall have cameras which shall view and record all persons using the machines and every activity at the ATM including but not limited to: card insertion, PIN entry, transaction selection, cash withdrawal, card taking, etc. However, such cameras should not be able to record the key strokes of customers using the ATM.’

Given that some 53 per cent of people in Nigeria have bank accounts, according to a Report by Ericsson,⁸ and the levels of fraud are high in Nigeria, it is therefore recommended that, in trying to resolve the type of complaints addressed in this article, that an ATM camera and possibly closed circuit television (CCTV) footage should be presented to show cash has been dispensed and retained by a person performing an ATM withdrawal transaction.

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⁵ BPS/DIR/CIR/01/008 ‘Non-refund of Monies to Customers Shortchanged by ATMs’ Non-Dispense or Partial Dispense Error’, published 16 June 2014, available at <http://www.cbn.gov.ng/documents/circulars.asp?endrec=1759>.

⁶ Guidelines on Operations of Electronic Payment Channels in Nigeria (Central Bank of Nigeria, April 2016), 1.3 (v) and (w), available at <https://www.cbn.gov.ng/out/2016/bpsd/approved%20guidelines%20on%20operations%20of%20electronic%20payment%20channels%20in%20nigeria.pdf>

⁷ In 2015 out of the 12,279 fraud cases reported by the banks, 425 cases were attributed to employees of the banks. See Nigerian Deposit Insurance Scheme (NDIC) Report, 2015 available at <http://ndic.gov.ng/ndic-releases-2015-annual-report/>. See also ‘Banking fraud is costing the Nigerian economy dearly’, *The Conversation*, 21 November 2016, <https://theconversation.com/banking-fraud-is-costing-the-nigerian-economy-dearly-68869>

⁸ ‘Financial services for everyone Bridging the gap between the banked and the unbanked in Sub-Saharan Africa’, An Ericsson Consumer Insight Report (February 2016), available at <https://www.ericsson.com/assets/local/networked-society/reports/ericsson-consumerlab-financial-services-for-everyone-sub-saharan-africa.pdf>.