



CASE STUDY

Kenyan Domestic
Migrant Workers in
Hong Kong





Overview

This case study was written in collaboration with Migrasia. We thank Migrasia for their ongoing work in this field, and their support in providing vital information for our members.

A Hong Kong-based employment agency has recruited at least 200 Kenyan domestic migrant workers into Hong Kong. While using a loosely-knit network of Kenya-based “recruiters” and “agents”, the agency promises the prospective workers that an employer can be found for them. They also recruit workers by using exaggerated misrepresentations of the job opportunity, claiming high salaries, adequate freedom/mobility, abundant annual leave and training. These advertisements can be identified on the agency’s *Facebook* pages. Once the agency identifies an employer, the workers are then subsequently told that they will need to pay a USD 50 application fee and other fees including those relating to visas, flights, medical check-ups, recruitment and training. These fees were not clearly communicated to the workers previously¹ and can add up to at least KES 150,000 (HKD 10,737)². The fees are usually paid to a Kenya-based lawyer who colludes with the agency and who likely ensures that the funds are ultimately transferred to the agency. These fees are meant to be paid by the employers, rather than the employees, as stipulated by standard Hong Kong employment contracts. Furthermore, the training never occurs despite the worker having paid for it.

If the fees cannot be paid up front, the workers are sometimes asked to sign documents pertaining to wage deductions and to a loan agreement with the agency in order to pay off the fees³. The agency then arranges for the workers to be transported to Hong Kong and upon their immediate arrival, the workers’ passports and documents (such as agreements relating to the fees and a loan) are confiscated by handlers of the employment agency. The workers will be escorted immediately to a bank near the agency’s office. The handlers will open bank accounts using the workers’ names and the application process is conducted entirely in Cantonese, a language that the worker is not familiar with. The worker

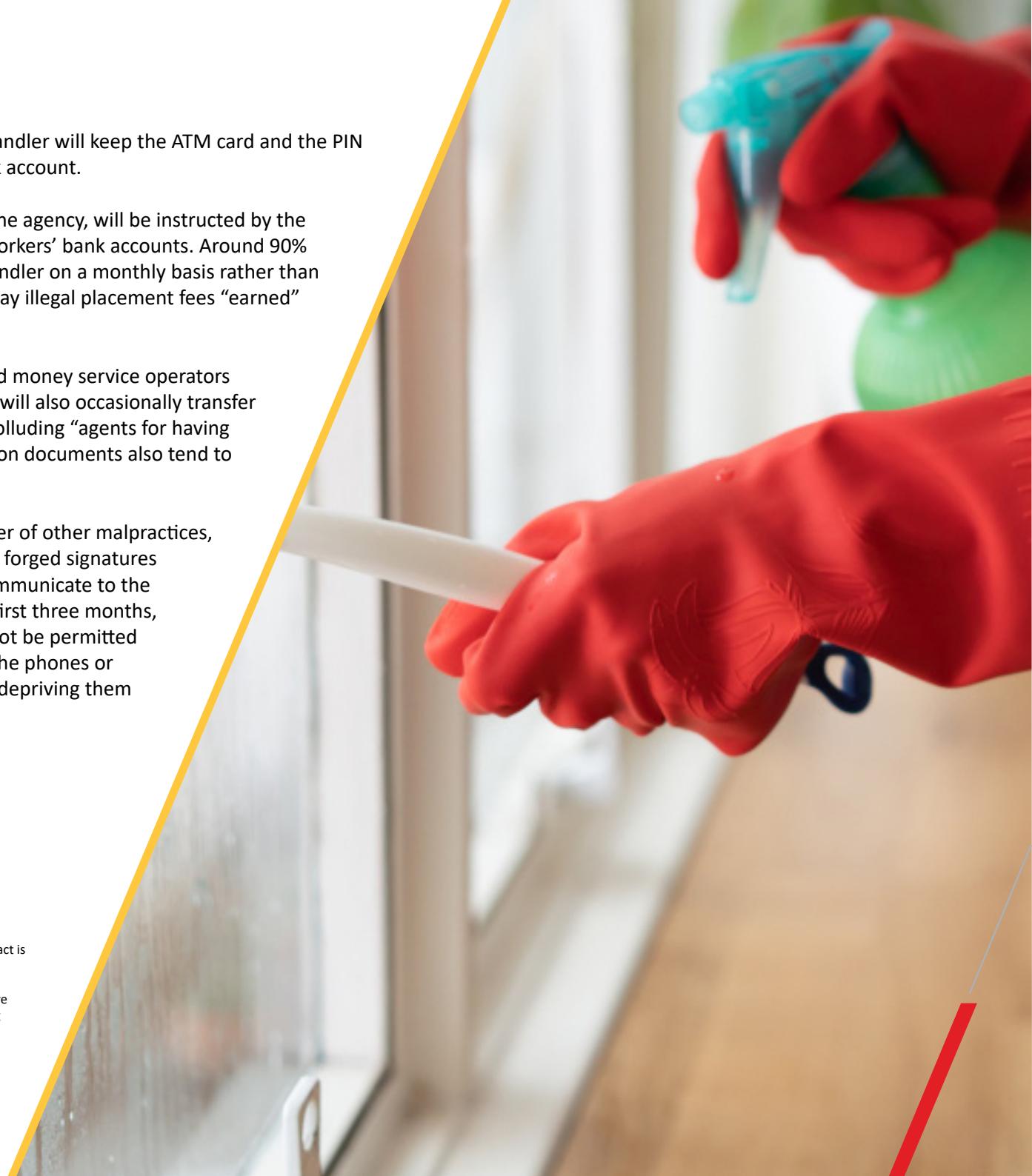
will then sign the account opening documents and the handler will keep the ATM card and the PIN number memorised in order to retain control of the bank account.

The employers, who are suspected to be colluding with the agency, will be instructed by the employment agency to deposit monthly salaries in the workers' bank accounts. Around 90% of each salary payment will then be withdrawn by the handler on a monthly basis rather than by the workers themselves. These funds will be used to pay illegal placement fees "earned" by the agency.

Moreover, the agency habitually uses multiples banks and money service operators ("MSOs") in order to launder their proceeds. The agency will also occasionally transfer parts of the salaries back to the Kenya-based lawyer or colluding "agents for having recruited the workers. Signatures on remittance instruction documents also tend to be forged by the agency.

These migrant workers are typically subjected to a number of other malpractices, such as false imprisonment, theft of belongings and their forged signatures on any number of official documents. The agency will communicate to the employers that the workers are under probation for the first three months, meaning that the workers will have no days off and will not be permitted to use mobile phones. The agency will either confiscate the phones or instruct the employer to do so. This is an illegal practice, depriving them of rest days entitled to them under Hong Kong law.

1. The fees are usually communicated to the workers only after an employment contract is signed, visas are arranged and flights are booked to Hong Kong.
2. Currency conversion as of 2 September 2020
3. According to the Hong Kong Code of Practice for Employment Agencies, agencies are prohibited from becoming involved in the financial affairs of job seekers (i.e. issuing loan agreements).





Domestic migrant workers from Kenya recruited by Hong Kong-based employment agency

1



Recruited by agency and pays fees (at least KES 150,000; HKD 10,737) to the agency



Kenya-based lawyer (collects fees on behalf of the agency and remits funds to agency)



5

Some of the salaries/funds are remitted back to the Kenya-based lawyer by the agency



Employment agency in Hong Kong



Employers are instructed by the agency to pay salaries directly into worker's bank accounts



Employer



2

Migrant workers arrive in Hong Kong and are brought to a bank near the agency by a handler



4

Handler withdraws 90% of each monthly salary deposit. Money withdrawn then becomes illegal placement fees "earned" by the agency



3

Local bank branch Bank accounts are opened under the names of the workers and handler retains control of ATM cards and accounts



Salary



Indicators and red flags that financial institutions should look out for. Some of which can be observed by frontline bank employees:

- An obvious foreign national, such as one from an African country, that is led by a Cantonese speaker/handler who is opening a bank account on his/her behalf. Handlers generally do not hide their identities as employment agency professionals. If necessary, bank account managers should separate the worker from the handler during the account opening process. The account opening process should also be done in a language familiar to the worker.
- The same handler conducting repeated bank account openings on behalf of foreign nationals. These openings are usually executed at the same bank branch with the same bank account managers/tellers. When monthly salaries are paid into the trafficked individuals' accounts, an amount that is usually close to 90% of the monthly salary will be withdrawn immediately. Handlers will usually do this just hours after the funds are deposited and will be withdrawn consistently on a monthly basis.
- These withdrawals tend to happen during working hours each month, which is an unusual time for withdrawals as the workers are at work.
- Migrant workers' monthly salaries tend to be around HKD 4,000. As such, banks should be able to classify these accounts as likely belonging to a domestic migrant worker, meriting further regulatory scrutiny.
- Handlers tend to hold multiple ATM cards at the same time and will withdraw the aforementioned funds from several accounts held by the Kenyan nationals in quick succession at an ATM machine.
- Financial institutions should compare signatures across a variety of official documents held by the migrant worker. These include signatures on their passports, overseas identification cards and account opening documents and contrasting those with employment contracts and remittance instructions. Discrepancies in signatures across these documents generally signify that signature fraud has been committed by the employment agencies. The agencies typically forge signatures on employment contracts (including those of the worker as well as non-existent witnesses) before the migrant workers arrive in Hong Kong in order to expedite the visa application process at the Immigration Department.

The employment agency has committed numerous indictable offenses under several Hong Kong ordinances. These offenses include but are not limited to: fraud (i.e. recruitment fees obtained through deceptive job advertisements to the workers), theft (i.e. misappropriating salaries/money of the workers), forgery and use of a false instrument (i.e. use of forged signatures and employment contracts) as well as money laundering.

About Migrasia:

Migrasia Global Solutions Limited (Migrasia) is a Hong Kong tax-exempt incubator that fosters solutions relating to migration in Asia. Every year throughout Asia, millions of men and women migrate for work to support their families. This migration process is fraught with challenges ranging from non-transparent placement practices to abuse and modern slavery. Migrasia endeavors to end bonded labour and migrant exploitation in Asia by supporting a range of innovative, data-driven, technology, investigation, and research projects.

Appendix A: Other Indicators Applicable


Common red flag indicators for Hong Kong employment agencies that may be involved in illegal and clandestine activities:

- Official registered address is the same as that of a Trust or Company Service Provider (“TCSP”).
- Official registered address is the same as that of a MSO.
- Having regular changes in their TCSP or corporate secretaries, which can be found the company’s corporate filings.
- Putting false residential addresses of directors/shareholders of the companies in corporate filings (particularly in annual returns).
- Sharing an office space with other employment agencies, debt collectors, money lenders or other migration-related entities.
- Same directors/shareholders across the employment agency and migration-related companies.






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