

Georgia cannabis payment processor folds amid \$500M legal fight

FP Omni Technologies blames downfall on subsidiary of Atlanta-based Global Payments

LOCAL NEWS

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A Peachtree City business that processes payments for cannabis merchants has closed its doors, but it is continuing to seek \$500 million in a contract dispute with a subsidiary of a major Atlanta financial technology company.

FP Omni Technologies Inc. claimed in a Dec. 27 press release that its downfall “arises out of its inability to continue with the payment processing services promised” by TSYS Acquiring Solutions LLC, a subsidiary of payment processing giant Global Payments Inc.

FP Omni offers debit card-based payments for cannabis companies. At issue is a 2019 contract through which TSYS helped process payments for FP Omni’s merchants. In its February 2022 complaint against TSYS, FP Omni claimed the Global Payments subsidiary falsely represented its ability to provide the contracted services through October 2024.

TSYS denies the allegations. It sought to dismiss FP Omni’s complaint, but that request was denied in late September by a judge in Gwinnett County.

Global Payments told The Atlanta Journal-Constitution that FP Omni’s lawsuit “is wholly without merit and is immaterial to us.” It said FP Omni’s merchants were recently shut out of major card networks, whose prohibitions on cannabis transactions must be followed by all payment processors.

Georgia is a hub for the payments industry and home to tens of thousands of financial technology jobs and some of the largest players in the business. Though many states have legalized or loosened laws on medical and recreational uses of marijuana, cannabis remains an illegal drug under federal law. As a result, credit card networks and payment processors generally do not service cannabis companies, though some dispensaries are able to accept debit cards and other electronic payments.

Mastercard told the AJC it doesn’t allow cannabis transactions on its network as “the federal government considers cannabis sales illegal.” It publicly confirmed the ban in relation to debit cards in July.

Visa, which declined to comment on FP Omni’s case against TSYS, has also been open about its bar on cannabis purchases. Records in FP Omni’s case show Visa sought to block cannabis transactions on its network in 2021.

FP Omni claims that TSYS promised in 2019 it had control over a payment processing gateway to service FP Omni's merchants, and didn't need approval from card companies.

TSYS also assured FP Omni that it wasn't bound by any agreements that would interfere with the arrangement, which proved to be "wildly successful," said **Richard L. Robbins**, FP Omni's lead attorney.

"We didn't have to deal with Visa or Mastercard policies," Robbins told the AJC. "TSYS said they could make it happen and they did for a few years."

FP Omni alleged it was surprised to learn in late 2021 that Visa — and not TSYS — controlled the gateway used for its merchants. FP Omni claimed it would not have contracted with TSYS if the Global Payments subsidiary expressed from the outset that Visa could derail the venture.

In response, TSYS argued it cannot override card companies' policies on cannabis transactions.

"This case, at bottom, is nothing more than an attempt by (FP Omni) to ignore the reality of the payments ecosystem with which it is intimately familiar," TSYS said in a November court filing. "(FP Omni) has known of the risks associated with its activity for years, and it cannot avoid those risks through this lawsuit."

FP Omni said it scrambled to seek an alternate payment processor to help service its merchants, as TSYS wouldn't provide a different gateway or challenge Visa.

Robbins said FP Omni, which has 100 or fewer employees, served about 1,500 merchants in states where cannabis is legal. He said TSYS drove FP Omni out of business, though both were profiting through their contract by processing millions of dollars in cannabis transactions each month.

TSYS collected millions of dollars in fees through the venture, FP Omni alleged.

In its press release, FP Omni said it intends to recover from TSYS the full value of its business, which exceeds \$500 million. It said it also plans to "pursue evidence that will shed further light on the actions of TSYS and others in shutting down a legal, competitive cannabis payment processing business."

Joe Radest, FP Omni's co-founder and CEO, claimed the company's point-of-purchase system requiring buyers to use a debit card PIN ensured greater regulatory compliance and transparency than alternatives commonly used by cannabis merchants such as cashless ATMs.

Robbins said he believes TSYS, Visa, Mastercard and other companies are developing their own systems for processing cannabis payments in expectation of federal law changes that would open up the multibillion-dollar cannabis industry. He said it appears as though FP Omni was squashed because it posed a threat as a competitor.

Zachary R. Kobrin, a Florida-based attorney who specializes in cannabis law, said while the drug remains federally illegal, payment processors will continue to use workaround systems for dispensaries. Kobrin, who is not involved in the fight between FP Omni and TSYS, said all cannabis transaction systems "skirt the line of what is technically legal."

"You have to understand that there is an inherent risk, in that you are facilitating the sale of what is otherwise a federally illegal product," Kobrin told the AJC. "The branded card networks have openly said multiple times over multiple years they will not allow their branded card, or to facilitate those sales."