

## **The complaint**

Mr M complains that Vanquis Bank Limited (“Vanquis”) have held him responsible for two credit card transactions he didn’t make.

## **What happened**

Mr M’s partner received two packages, a week apart from each other, from an online business I’ll refer to as C. Neither of the packages were expected and Mr M’s partner contacted C to tell them about the deliveries. She was told that C would investigate the matter and in the meantime she could keep or dispose of the items as she wished.

A short time later, Mr M received his credit card statement from Vanquis that contained two charges he didn’t recognise from C. These corresponded with the two deliveries that had been received earlier. Mr M said a review had been posted to C’s website for one of the purchases, which was linked to his account with C, which he didn’t write.

Mr M told Vanquis about the charges and explained that neither he or his partner had ordered anything from C and asked for the charges to be removed from his account. Vanquis investigated the claim and contacted C to dispute the transactions.

C produced evidence that the order had been made in Mr M’s partners name and had used Mr M’s credit card to make both transactions, the evidence also showed it was delivered to the home address of the cardholder – Mr M and had used Mr M’s email address.

Vanquis accepted the evidence from C and told Mr M they’d be adding both payments back onto the account. Mr M was unhappy with how Vanquis had dealt with the matter and brought his complaint to our service for an independent review.

C’s evidence included Internet Protocol address data (IP) which corresponds to a physical location. Both transactions were shown to be made from areas of the UK that weren’t near to Mr M’s home.

Mr M confirmed that he couldn’t identify a return address to send the items back and get a refund and he still has both items. He said that C weren’t very helpful when he tried to sort the matter out. Mr M said he hadn’t received any emails from C about the order or delivery arrangements.

Mr M told the investigator that both himself and his partner had accounts with C and that he didn’t use his Vanquis card for payments to C. He also said that he kept his card in his wallet, which was usually in a drawer at home, but no one else in the household would use it without his permission. Mr M also said that his account with C was protected with a password and that he didn’t save his credit card details on his account with C.

One of our investigators looked into the complaint and thought that it was appropriate for Vanquis to hold Mr M responsible for the transactions.

Mr M disagreed with the outcome and asked for an ombudsman to make a final decision. Mr M was particularly concerned that his partner was being accused of lying.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

The relevant law surrounding authorisations are the Payment Service Regulations 2017 and the Consumer Credit Act 1974. The basic position is that Vanquis can hold Mr M liable for the disputed payments if the evidence suggests that it's more likely than not that he made them or authorised them.

Authorisation is in two parts – authentication and consent. Authentication is usually described as the technical evidence about the transaction. In this case both payments used Mr M's card details and were recorded as "card not present" payments. That means the parties weren't present when the transactions were carried out. Because Vanquis have shown that the correct card details and billing address were used to make both transactions I'm satisfied they were authenticated.

Consent is the second stage of authorisation and is the means by which Mr M and Vanquis agreed to recognise a legitimate payment instruction from the credit card when the account was opened. Vanquis's terms state:

*A purchase transaction may be authorised by using the card or security details or both (for example, inserting the card into a card reader and entering the PIN, or by using the card details to make a purchase online or by telephone).*

Vanquis showed the correct card details were used to make the transactions and the address data matched the billing information. C have provided evidence that both orders used Mr M's card details/billing address and the same email address they have recorded for his account. So, I'm satisfied both authentication and consent have been demonstrated.

But, Mr M has denied he was responsible for the payments here and so I need to consider if it was more than likely, or not, that Mr M authorised or allowed his card to be used.

The information supplied by Vanquis showed several purchases from Mr M's credit card to C in 2019. Mr M had initially said that he had never used his card, but when told about the records from Vanquis, Mr M told us that he couldn't remember these earlier purchases but was certain that any other transactions were authorised by him. It's understandable that Mr M forgot these transactions as they were a few years old, but they do show the Vanquis card had been used to purchase items from C before.

Mr M has explained that he didn't have his credit card details linked to his account with C, so whoever made these payments would have needed access to the card. I've thought about the possibility of an unknown third party using the card details. These transactions were made in such a way that an unknown third party wouldn't likely be able to easily get access to the goods that were purchased, because they were delivered to Mr M's home. Also, if an unknown third party had the card details – I would have expected to see other transactions made, or attempted to maximise the use of the card before the misuse was reported to Vanquis.

In this case the two transactions were made a week apart without any other reported disputed transactions. Mr M stated only he had access to his account with C and it was password protected.

So, in order for someone to carry out these transactions they would need:

- access to the home,
- the password to the account with C, and
- access to the credit card.

Mr M has told us that no one else had access to his home, password or card, other than those people already at home. In these circumstances, I can't see how someone unknown to Mr M was able to access his home, take his credit card and then use it on his account with C to make purchases that were delivered to his address. I realise that'll be a difficult message for Mr M – but it's what the evidence leads me to conclude when looking at all the circumstances objectively here.

In considering all the evidence, I've taken into account that amongst the information supplied by C was internet protocol (IP) address data. C told Vanquis that the payments were made from two different locations, neither were in the vicinity of Mr M's home address. IP address data isn't always reliable and as far as the question of authorisation goes, the information from the card can be used from any location to make the purchases, not necessarily at Mr M's home address. Viewed in the context of the other evidence here, I don't think the IP address data adds weight to whether Mr M authorised the payments or not.

Mr M also told us that a review was posted to C about one of the items that was delivered, and that he didn't write it himself. Whilst the review isn't tied directly to the authorisation of the goods, it does seem unusual for an unknown third party to go to the trouble of writing a review for an item they couldn't possess.

Mr M told us that he hadn't received any emails from C about either order and they weren't very helpful when he was trying to deal with this matter and he still has the items in his possession. My decision here has to focus on Vanquis' involvement, as the regulated financial business that provides Mr M's credit card. But, my understanding of how C's emails work is that emails are sent to the account holder when orders are made and when the packages dispatched. The only email address I've seen that C held for these orders is the same one we hold for Mr M. So while I understand the point that Mr M makes here, what he's said doesn't change my view of whether it's fair for Vanquis to hold him liable for these payments.

Mr M said he couldn't identify a return address for the companies that supplied both items to send them back and organise a refund. C would have been responsible for the return process, as they took both payments through their business, on behalf of the sellers. I can't say what the specific options for the return and refund would have been, but it seems that this could have been a realistic option to deal with the problem at the time.

It's not in question that someone ordered two items from C and paid for them using Mr M's credit card. Those items were delivered to Mr M's home address. But I can't think of any reason why an unknown third party would order items with Mr M's card, but then arrange for them to be delivered to his address. If anyone else had access to the card details and the account with C, a different delivery address could have been added to receive the items. There were no other disputed transactions reported by Mr M, which supports my view the transactions weren't as a result of any unknown third party. So, taking everything into account, I find it unlikely the transactions were made by anyone using Mr M's card without his authorisation.

While I'm sure Mr M will disagree with me, the evidence that I've considered leads me to the conclusion that, on the balance of probabilities, it was more likely than not that Mr M authorised or allowed his card details to be used to make the payments. So, taking everything into account, I think it is fair and reasonable for Vanquis to hold Mr M responsible for both transactions.

### **My final decision**

My final decision is that I don't uphold this complaint against Vanquis Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 October 2021.

David Perry  
**Ombudsman**