

## **The complaint**

Mr B has complained that Santander UK Plc registered a marker against him at CIFAS, the national fraud database.

## **What happened**

Both sides are most familiar with the case, so I'll summarise things in brief.

In spring 2020, Mr B received a series of payments from another individual, which were found to be the proceeds of fraud. Mr B acted quickly to move the money on, using cash withdrawals, bank transfers, and some card spending.

Mr B told Santander that this was money his friend owed him, though he couldn't provide any evidence of lending the money. Santander pointed out that while Mr B had paid this friend in the past, those amounts were far less than what this person was sending Mr B. Santander closed Mr B's account and registered a marker against him at CIFAS.

In 2022, Mr B discovered the marker and came to our service. He now says the funds were profits from selling t-shirts. He and his friend had had the t-shirts printed in a store, then ran a social media account, where he spoke with customers directly and received payments for the goods. Mr B said they may have got some orders wrong, so customers may have made fraud claims when their items didn't arrive. He said he'd since lost access to the social media account and didn't keep any record of having the t-shirts printed, so he couldn't evidence this story either.

Our adjudicator looked into things independently and didn't uphold the complaint. They explained Mr B had received fraudulent funds, passed them on quickly, had not provided any evidence he was entitled to the money, and had given contradictory testimony.

Mr B didn't agree. He insisted he'd been truthful. He pointed out that Santander hadn't told him about the CIFAS marker at the time. The complaint's been passed to me to decide.

## **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.

In order to register this marker, Santander were not required to prove beyond all reasonable doubt that Mr B had done something wrong. They did need to have reasonable grounds to believe that he'd misused his account, which went beyond a suspicion or concern, and which had appropriate supporting evidence. Having carefully considered everything that both sides have said and provided, I think Santander did have sufficient grounds to register this marker. I'll explain why.

Mr B received money which has been confirmed to be the proceeds of fraud. Mr B then acted very quickly indeed to forward the money on – often paying it out within just minutes or even seconds of receiving it. This meant that the money couldn't be recovered once the fraud was reported. This would be most unusual behaviour if the funds were just money Mr B was owed or his profits from selling t-shirts – he would have no good reason to move it on so quickly. But it fits very well with the behaviour I'd expect if Mr B was either a participant in the fraud or was willingly acting as a money mule.

Mr B told Santander he moved the money on quickly because he doesn't keep money in his bank account, he only keeps it in cash. But I can see that's not the case, as before this incident he frequently kept a healthy balance in his account.

Mr B told Santander that this was money his friend owed him. But he couldn't provide any evidence of lending the friend this money. While Mr B had made payments to that friend in the past, those payments were just a fraction of the money he received. Mr B said this was because he lent the money in cash. But even if we add up all of Mr B's cash withdrawals from before this incident, and assume that he gave every single cash withdrawal to his friend, they're still only a fraction of the money he received. So I don't find this explanation to be likely or plausible.

Mr B then told our service that the money was from selling t-shirts. But if that were the case, he should be able to evidence this quite straightforwardly. For example, with invoices or receipts from the printing shop he used, or other evidence of paying the printing shop, messages with customers, proof of posting goods, and so on. Yet Mr B has not been able to provide any evidence at all that he ever made or sold these t-shirts, let alone that they were the source of these funds. Mr B said the incident was too long ago for him to still have evidence, but it wasn't that long ago. And he told Santander at the time that the money was from a debt his friend owed him – he didn't mention selling any t-shirts. It wouldn't make sense for Mr B to tell Santander his first story if he could've evidenced that the money was from legitimate sales at the time. And again, the payments were officially reported as resulting from fraud, not from the legitimate sale of clothes. I don't find Mr B's second explanation to be likely or plausible either.

I'm afraid I do also need to point out that Mr B has told Santander and our service two substantially different versions of events. So I cannot reasonably rely on his testimony – it has been too inconsistent and contradictory.

I note that a previous bank also closed Mr B's account for misusing his facility, some time before this incident. They chose not to register a CIFAS marker, and this is only a more minor point. But it does indicate that this was not an isolated incident.

In summary, Mr B received funds which have been confirmed as fraudulent. He acted quickly to move these on, such that they couldn't be recovered. He's not been able to evidence he was entitled to this money, even when such evidence should be straightforward to provide. His testimony has been contradictory and implausible. And the way he used his account is consistent with the actions of a willing money mule or a participant in the fraud. So it seems reasonable that Santander closed the account and registered a marker at CIFAS. This is a difficult message for me to give, and I know it's a difficult message for Mr B to receive. But given the evidence I have, and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

Lastly, I understand Mr B may be unhappy that Santander didn't tell him they were going to register the marker. But they didn't have to tell him.

### **My final decision**

For the reasons I've explained, I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 June 2023.

Adam Charles  
**Ombudsman**