

## **The complaint**

Mr C complains that Revolut Ltd will not refund him money he says he lost as a result of an investment scam.

Mr C is represented by CEL Solicitors in this matter.

## **What happened**

The circumstances of this complaint are well known to both parties, so I will not repeat them all again here in detail. But I will provide an overview of events below.

Mr C says he lost £30,500 due to an investment scam. These were all card payments which were made to a cryptocurrency exchange I will refer to as B: £500 (17 May 2022); £9,500 (18 May 2022); £500 (18 May 2022); £10,000 (19 May 2022); and £10,000 (19 May 2022).

As Revolut refused to refund the above payments to Mr C, he raised a complaint which he referred to our Service

One of our investigators considered the complaint and upheld it in part. He directed that Revolut refund Mr C £30,000, so from the £9,500 payment he made to B on 18 May 2022. The investigator thought that Revolut should have intervened in this payment and spoken to Mr C before releasing it. Mr C accepted the investigator's findings, but Revolut did not, and suggested, amongst other things, that Mr C should share some liability for his losses. Because an agreement could not be reached, this matter has been passed to me to make a decision.

**On 7 June 2023, I issued a provisional decision upholding this complaint in part. For completeness, I repeat my provisional findings below:**

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

*Having done so, I disagree with the outcome reached by the investigator for reasons I will set out below.*

*But first, I would like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint.*

*Based on Mr C and Revolut's response to our investigator's findings, it is not necessary for me to make a finding on whether Revolut should have intervened in Mr C's £9,500 payment on 18 May 2022; or whether such an intervention would have made a difference. Further, there does not appear to be a dispute about intervening in the £500 payment to B on 17 May 2022.*

*Although Revolut accepts it should issue a refund to Mr C, it has argued that liability should be split between itself and Mr C by 50%. That is, it is willing to refund half of the £30,000 the investigator has directed due to, ‘... many elements of contributory negligence that should be taken into consideration.’ Having considered this argument, I am inclined to agree.*

*When assessing Mr C’s conduct in this matter and deciding whether he is also partly to blame for his losses, I have considered – what a reasonable person would be expected to have done in Mr C’s circumstances?*

*Mr C says, amongst other things, ‘The scammer also said the bank will probably stop this [payment] but make sure you do not say anything. The scammer said to invest smaller amounts so the transactions will not get stopped by the bank and was very familiar with the bank procedure.’ I think it is fair to say, objectively, that a reasonable person in Mr C’s circumstances ought to have had some suspicions about what the broker was suggesting, and questioned things further before making the payments concerned. I find that a reasonable person would have seen red flags if they were told to effectively lie to their bank about payments which were meant to be for legitimate purposes.*

*I also find that the scam website Mr C viewed suggested returns which were too good to be true: ‘The website would also have examples of successful clients, such as a **boy** who invested a small amount of money and was returned £50,000 6 months later’ **[my emphasis added]**. Again, I find that a reasonable person would have seen red flags here and acted accordingly.*

*Taking all the above points together, I find that Mr C should bear some responsibility for his losses.*

## **Responses to my provisional decision**

Revolut has not responded to my provisional findings. However, Mr C has responded disagreeing with them and arguing that he should not share liability with Revolut for his losses. Mr C’s position, broadly, is that:

- The scammer ‘*merely*’ suggested to him to make ‘*payments in smaller chunks*’, but did not advise him to misdirect Revolut about the purpose of the payments.
- Scammers ‘*groom*’ consumers into believing, ‘... *the banks are corrupt and to avoid providing information to them in order to remain vague.*’ They also use various techniques to persuade unwitting victims to make payments.
- I (the ombudsman) have relied on a ‘*hypothetical possibility*’ that he would have lied to Revolut.

## **What I have 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.

I do not accept that the scammer only suggested to Mr C that he make small payments. I say this because in Mr C’s initial submissions to our Service, he said the scammer told him, amongst other things, that the bank will likely stop your payment, ‘... *but make sure you don’t say anything.*’ To my mind, this reads as if the scammer was suggesting to Mr C that he should not reveal the true nature of his payments if Revolut intervened in them. I am inclined to accept Mr C’s initial submissions, rather than his response to my provisional

findings. Further, I cannot see that any satisfactory reasons have been provided to explain why Mr C was being told to mislead Revolut.

Based on the above, I am satisfied that the scammer asked Mr C to mislead Revolut if it intervened in his payments.

I take Mr C's point that Revolut never actually intervened in his payments, so I have erred by relying on a scenario which never came to fruition. However, this is not the point which needs to be considered. The fundamental point is – what a reasonable person would be expected to have done in Mr C's circumstances? As I stated in my provisional findings, I take the view that a reasonable person in Mr C's circumstances ought to have had some suspicions about what the 'broker' was suggesting, and questioned things further before making the payments concerned. That is, Mr C should have had reasonable suspicions about why the broker told him, '*... but make sure you don't say anything [to Revolut]*'. I have reached this view in particular given the fact that at the time, Mr C thought he was engaging in something that was legitimate, so he should have questioned why he was being asked to mislead Revolut.

I also take Mr C's point that scammers 'groom' their consumers and use different techniques to deceive them into making payments. However, I take the view that a reasonable person in Mr C's position ought to have seen red flags when considering the scammer's website, which suggested a boy made a small investment that resulted in a £50,000 return six months later. I am especially persuaded by this point when taken together with the fact the scammer told Mr C to mislead Revolut (see above).

For the above reasons, and the fact Revolut has not responded to my provisional findings – I am not persuaded to depart from them.

### **My final decision**

For the reasons set out above, I uphold this complaint in part. I therefore direct Revolut Ltd:

- Pay Mr C the money he lost, **totalling £30,000** (so, starting from the first payment made on 18 May 2022 – see above); including any transaction fees (if applicable) – but subject to a 50% deduction for contributory negligence: within 28 days of receiving notification of his acceptance of my final decision.

*As Mr C says the source of the funds concerned came from his premium bonds, I do not find that making an interest award would be appropriate in the circumstances.*

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 July 2023.

Tony Massiah  
**Ombudsman**