

The complaint

Miss S complains that Madison CF UK Limited (Madison) is holding her liable for a loan which was taken out fraudulently.

What happened

In November 2021, a £5,000 loan was taken out in Miss S's name with Madison (trading as 118 118 Money). The funds were paid into her bank account and then promptly transferred on.

Miss S has explained that, at the time, she was dealing with a company (P) who she understood to be helping her with cryptocurrency trading – but were actually scammers. She has explained P got her to download remote access software, allegedly to help with her trading account. And she provided P with personal details to set up her trading account. She thinks P used that access and information to apply for the loan, and move on the funds, without her consent.

Madison hasn't agreed with Miss S's complaint and has held her liable for the loan. It pointed out she had been sent emails about it. Unhappy with its response, Miss S referred her complaint to our service. She said she thought the first email was spam, but realised a loan had actually been taken out shortly after – at which point she contacted Madison.

Our investigator thought the complaint should be upheld. In summary, they thought Miss S had a credible explanation, with supporting evidence, for how P could have taken out the loan, and moved on the funds, without her consent. In the circumstances, they didn't consider it fair for Madison to pursue Miss S for the debt.

Despite the investigator receiving automated acknowledgments from Madison in response to their emails, it hasn't responded to the investigation outcome by the deadlines set. So, as we have notified both parties, the case has been escalated to me for a final decision.

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.

Having done so, I've reached the same conclusions as our investigator. I think there is credible evidence to suggest the loan was taken out without Miss S's consent, and that she didn't knowingly pass on the loan funds. In the absence of any further evidence or arguments from Madison in response to the investigator's view, I consider that to be the more persuasive explanation.

Here are the key reasons why I don't consider it fair for Madison to hold Miss S liable for the lending:

- Miss S has provided supporting evidence of her interactions with P to back up her assertion that they scammed her. There is also information online about P which

supports her allegation, as there are other suggestions of P acting improperly.

- As part of P's scam, Miss S says they directed her to download remote access software. She says she also had to provide personal information as part of the onboarding process to start trading with them. That fits with what we often see happening in these types of scams.
- Miss S has provided further records showing enquiries she made to try and establish whether/what software had been downloaded. What she has been able to provide supports her assertion that software was found which could have given the scammers remote control of her device. I therefore consider Miss S's explanation for how the loan could have been taken out without her consent to be credible.
- There is an indication Miss S's bank accepted the onward payments (which were ultimately lost to the scam) were unauthorised. They refunded her for the loss which originated from her own funds – so everything but the £5,000 funded by this lending. She also says, even when she saw the account activity, she thought it was proceeds from her trading; she didn't realise it was a loan. How the funds show up on her statement don't make that immediately clear. Overall, I'm not persuaded Miss S knowingly moved on the loan funds.
- Miss S does acknowledge receiving the initial email about the loan being taken out, but says she disregarded it as spam. But from what I've seen, she did realise she had been scammed, and reported what had happened to Madison (as well as the other entities involved, such as her bank) very shortly after. That fits what you would expect someone to do if they found out an unauthorised loan had been taken out. And I don't consider the small gap reporting/realising the scam so implausible as to appear suspicious.
- Miss S has also provided a letter from Action Fraud to show she reported the scam to the police. Overall, I've found her explanation of what happened to be broadly consistent and supported by the evidence she has provided.

I appreciate none of these points are conclusive. But taking them altogether, I think they do create substantial doubt that Miss S agreed to the loan contract or knowingly utilised the funds. Madison's lack of response to the investigator's findings means no further or arguments have been presented to change my view on this.

As the loan was applied for online, using many of Miss S's genuine details, I am mindful it probably wasn't obvious to Madison that the application was fraudulent. But it wouldn't be fair to hold Miss S liable for a loan she didn't agree to and didn't use/benefit from. I'm therefore upholding this complaint.

My final decision

For the reasons given above, I uphold this complaint. To put things right, Madison CF UK Limited must write off the loan, including removing any reference to it from Miss S's credit file, and it must stop pursuing her for the debt.

Madison CF UK Limited should refund any repayments made – and pay 8% simple interest per year on the repayments, running from the date they were taken to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 8 December 2023.

Rachel Loughlin
Ombudsman