

The complaint

Ms B's complained that USAA S.A. UK Branch unfairly declined a theft claim she made on her policy.

What happened

For many years, Ms B has had a policy covering a valuable ring ("Ring 1"). In 2023, she added a second ring to the policy ("Ring 2").

Also in 2023, Ms B decided to sell the rings to raise funds. She contacted someone she believed to be a jewellery dealer to deal with the sale on her behalf and handed over the rings. Unfortunately, it turned out that the dealer was a fraudster. Despite reporting the matter to the police, Ms B's rings weren't recovered. So she made a claim on the policy.

USAA assessed the claim and settled the claim for Ring 1. But they declined the claim for Ring 2. They said initially this was because the policy excluded items added for the purpose of selling – and Ms B had already decided to sell when it was added to the policy. They later said Ms B hadn't told them she'd already passed it to the fraudster when she added it to the policy. USAA said this was a misrepresentation.

Ms B complained. She said she wasn't aware she wasn't dealing with a legitimate dealer until after Ring 2 had been added to the policy and the rings remained her property. USAA didn't change their position. So Ms B brought her complaint to the Financial Ombudsman Service. She told us that she was also concerned about the length of time USAA had taken to investigate and settle the claim for Ring 1. And she was unhappy with correspondence she received, which she felt was mocking in tone.

Our investigator reviewed all the information provided by the parties and concluded USAA didn't need to do any more to resolve Ms B's complaint. He was satisfied that their decision that Ms B had made a misrepresentation was reasonable and made in line with the policy and relevant legislation.

And he thought USAA had handled Ms B's claim in a timely manner, bearing in mind the need to investigate the circumstances of her loss. He hadn't identified any disparaging or mocking comments about Ms B. And he said he couldn't consider a complaint that Ms B was still being charged premiums, because USAA hadn't had the chance to address that themselves.

Ms B didn't agree with our investigator's view. So the matter's been passed to me to make a 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 that, I'm not upholding Ms B's complaint. I know she'll find that unwelcome news and I'm sorry about that. I hope it will if I explain the reasons why I've made that decision.

Misrepresentation

We expect insurers to deal with claims fairly, and in line with the policy terms and any relevant law. They are entitled to investigate to ensure that the policy terms have been complied with - even in the upsetting circumstances Ms B experienced.

Ms B's policy says:

"We do not provide coverage for any insured who, whether before or after loss, has:

(a) intentionally concealed or misrepresented any material fact or circumstance...."

There is also law relevant to cases where misrepresentation is being considered. That law is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies - provided the misrepresentation is what CIDRA describes as a "qualifying misrepresentation". For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

USAA say Ms B made a misrepresentation when she added Ring 2 to the policy because, by that time, she'd already handed it over to the fraudster. Ms B disputes this. She says Ring 2 remained her property and she had passed it to her agent (who she only later found out was a fraudster) to sell or return to her. I've thought about this.

USAA have provided screenshots of what Ms B had to complete to add Ring 2 to her policy. As part of this process, she was asked about its location. The form says:

"To make sure your policy is accurate, please verify the following information:

Location of your Valuable Personal Property

Property in the custody of you, your spouse, your dependent child, or your fiancée (only if an engagement ring) is eligible for coverage.

Property in a safety deposit box is also eligible for coverage. This policy extends worldwide coverage for your property"

One of these options has to be checked.

I think the form makes it clear that property can only be added in these circumstances. And I don't think either statement was true for Ring 2 at the time Ms B added it to the policy. I accept she may have retained ownership of the ring. But it wasn't in her custody. Nor was it in the custody of any of the other individuals listed, or in a safety deposit box. So I'm satisfied that she made a misrepresentation.

And I'm satisfied this is a qualifying misrepresentation within the terms of CIDRA, because USAA have provided our service with evidence which shows that, had they known the ring wasn't in Ms B's custody, they wouldn't have added it to the policy.

I've thought about how the misrepresentation was categorised. That's relevant because the remedial steps a business should take where there's been a misrepresentation vary depending on how it's categorised. If the misrepresentation is deliberate or reckless, they may cancel the policy and keep the premiums paid. But, if it's careless, the insurer's remedy depends what they would have done had no misrepresentation been made.

In this case, USAA have evidenced that they wouldn't have offered the policy in respect of Ring 2 on any terms. So CIDRA says they may void the policy and refuse the claim. But they must refund any premiums Ms B paid.

It's not clear how USAA have categorised the misrepresentation. But our investigator has said that it was careless. I think that's fair. And USAA have confirmed the premium Ms B paid to insure Ring 2 has been credited to her member's account – which is what they should do where a careless misrepresentation is made. So I'm satisfied they've dealt with the misrepresentation as set out in CIDRA.

Other issues

In relation to Ms B's complaint that USAA delayed in dealing with the claim, I agree with our investigator it was reasonable for USAA to investigate the circumstances of the loss before agreeing to pay out. The claim was an unusual one to investigate, but I haven't seen there were any periods of avoidable delay. I can also see, after the claim for Ring 1 was accepted, its valuation was the subject of considerable negotiation between USAA and a solicitor Ms B instructed to represent her. While it was Ms B's right to challenge the settlement offered, I can't say that means USAA delayed the claim.

Finally, I've thought about Ms B's complaint that USAA made disparaging or mocking comments about her. I appreciate that Ms B was duped by a fraudster. But those were the circumstances in which she asked USAA to consider a claim and which they considered before declining it. Having carefully read the correspondence, I accept it explains why USAA don't think Ms B took sufficient care of her property. But I can't agree that they have mocked her. So I don't think USAA need to do anything more in relation to this aspect of the complaint.

My final decision

For the reasons I've explained, I'm not upholding Ms B's complaint about USAA S.A. UK Branch.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 24 July 2025.

Helen Stacey
Ombudsman