

## **complaint**

Ms H complains that Santander UK Plc allowed payments to be made out of her account, which she says she didn't make – or allow anybody else to make on her behalf. She's looking for Santander to refund the money.

## **background**

Early in 2014, several payments were made from Ms H's Santander account to an investment trading scheme (ITS). These were claimed using a continuous payment authority (CPA) the ITS provider says it held from Ms H. This meant the ITS provider had Ms H's debit card number and security details. The total amount taken out of Ms H's account was over £50,000.

Some requests for payments from the ITS provider were declined. They were picked up by Santander's fraud prevention system. In April 2014 the ITS provider made a (relatively small) payment into Ms H's account.

In May 2015 Ms H contacted Santander about another matter. Once that had been sorted out, she mentioned the payments to the ITS. Ms H said she hadn't signed a contract with the ITS provider – so the payments weren't valid. She said that when she got the contract her details had been entered on it fraudulently. Ms H didn't know when – or if – she'd get her money back.

The Santander staff member spoke to colleagues in the bank's fraud team. But by the time she got back to Ms H, she'd hung up. Santander did look into what had happened but didn't think the payments had been taken fraudulently. And it was now too late for the bank to try and get Ms H's money back using the 'chargeback' arrangements covering her debit card.

Ms H wasn't happy with Santander's response, so she contacted us. She thought the ITS provider had got her details from a third party.

One of our adjudicators looked into Ms H's complaint. But he didn't think Santander had done anything wrong. He thought Ms H had been the victim of a scam by the ITS provider.

The adjudicator listened to the call Ms H had made to the bank. It seemed clear Ms H had entered into a relationship with the ITS provider – so it was most likely Ms H had given her card (and security) details and set up a CPA. And he noted the relationship with the ITS provider had continued for some months – as it had made a payment to Ms H in April 2014.

He also said it was a matter for Santander to decide how its fraud prevention systems work and what payments were subject to additional checks. But it was clear those systems were working – as some payments claimed by the ITS provider had been declined.

So the adjudicator didn't recommend Santander refund the money.

Ms H didn't agree with the adjudicator's view. So her complaint's been passed to an ombudsman to review and issue a final decision on.

Ms H now realises that she's probably been the victim of a scam. But she's adamant she didn't give any of her card or security details to the ITS provider. And she thinks Santander's systems should have spotted the unusual activity on her account. Ms H has also mentioned she was in hospital and (possibly separately) that somebody had taken her debit card from her bag. So that might be how the ITS provider got her details.

### **my findings**

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

I can see Ms H feels very strongly about what's happened here. That's clear from what she's said to the adjudicator. And that's not surprising. The amount Ms H has 'lost' to the ITS provider is very large. And I'm aware of the personal difficulties Ms H has had to deal with over recent times. The problems here won't have helped. So she's bound to be concerned about what happened.

There's quite a bit of media coverage to suggest the ITS is a scam. The actions of the ITS provider here support those views. I think that's what's happened here – Ms H's been taken advantage of by the ITS provider. Unfortunately, we see quite a lot of similar issues raised by people.

Here, I'm looking at the actions of Santander – not the ITS provider. Clearly it isn't fair if Ms H has been the victim of a scam. But that doesn't necessarily mean it'd be fair for Santander to suffer the loss.

So I'm afraid I have to tell Ms H that I think the adjudicator's reached the right outcome here. I don't think Santander has to refund the money that's been taken out of her account. Indeed, there's very little I can add to what the adjudicator's already said to Ms H. I think he set out the position quite clearly.

That's not to suggest I don't sympathise with the position Ms H now finds herself in – far from it. But the adjudicator's right – it is a matter for Santander to decide how its fraud prevention systems work; including what transactions it might stop for additional checks.

Given the length of time before Ms H queried the payments to the ITS provider, Santander isn't able to confirm exactly what checks might have been carried out. That's not surprising. But it thinks it's most likely the larger payments would have been picked up – and checked with Ms H (probably over the phone). I don't know for certain – but the bank's reasoning seems right here.

Santander says that Ms H was querying other matters throughout 2014 – but didn't mention the large reduction in her account balance. This suggests she knew about, and probably authorised, the payments to the ITS provider. And given that she's raised queries over other payments in the past, Santander says it's odd Ms H didn't query those to the ITS provider much earlier. I agree – but I'll return to this a bit later.

There were other payments made using Ms H's debit card around the time of those taken by the ITS provider. And Ms H hasn't queried those. So I think it's unlikely anybody else had great use of her card at the time.

And – in any event – it's hard to see any benefit to an unknown third party as the investment with the ITS provider was in Ms H's name and linked to her Santander account. As with the payment in April 2014, withdrawals from the ITS would be paid into that account and unlikely to benefit anybody other than Ms H.

When I add this to the comments made by Ms H in the call to Santander in June 2015, I'm satisfied she did have a relationship with the ITS provider. While I have no reason to doubt Ms H when she says she didn't realise the full extent of what was involved with the ITS, I don't think it'd be fair to blame Santander for that.

I'm also aware Ms H has referred to being in hospital at the time of the (first) payments to the ITS provider. I've looked at the letter Ms H has provided from the hospital. But this refers to her being visited at home, rather than being admitted to hospital. So I'm afraid this issue doesn't really come into play.

I accept it's possible somebody close to Ms H might have been involved in contacting the ITS provider and giving it her card and security details. But I think that's unlikely. I think it's more likely that Ms H did this – without realising the full extent of what was involved. And this wouldn't be surprising given all the other things going on in her life at the time. But – as I said earlier – that doesn't mean Santander should bear the loss she's suffered.

Given how strongly Ms H feels about this, she may want to take the matter further through other routes. But my decision brings to an end what we – in trying to resolve her dispute with Santander informally – can do for her. I'm sorry to disappoint Ms H.

### **my final decision**

For the reasons I've given, my final decision is that Santander UK Plc doesn't have to refund the money Ms H says was taken out of her account without her authority.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 8 April 2016.

Andrew Davies  
**ombudsman**