

complaint

Ms W is unhappy that Bank of Scotland plc (trading as Halifax) has fraudulently claimed mortgage payments from her. Ms W says that she deposited a promissory note which Halifax deposited as its asset and stole the cash value from her. Ms W cancelled her direct debits in June 2018 as she believes her obligation to pay Halifax has been extinguished. To settle the complaint Ms W wants her mortgage written off and for Halifax to pay her the value of her promissory note.

I am aware Ms W does not use a prefix with her name. But we are required to publish our decisions in such a way that consumers will not be identified. In the circumstances, I will refer to Ms W throughout this decision.

background

In 2004 Ms W (and her then partner) granted a mortgage to Halifax to secure a loan on a property. In 2010 the mortgage account was transferred into the sole name of Ms W. From the information on file it appears Ms W isn't living in the property. She told Halifax in August 2018 that she thought she had consent to rent it out. Halifax says there is no record of this.

In July 2018 Ms W complained to Halifax about the mortgage. She said she believed the mortgage had been mis-sold in 2004, and that Halifax had since sold on the mortgage to investors. As a result, Ms W was querying the validity of the mortgage and whether or not Halifax was entitled to ask her to make repayments.

Halifax didn't uphold the complaint, so Ms W brought it to us. A casework manager looked at the complaint. He explained that we don't have the power to determine whether or not a mortgage is valid – only a court can do so. But he had seen nothing in the evidence to suggest Halifax wasn't entitled to claim the mortgage repayments from Ms W.

Ms W didn't agree with this and asked for an ombudsman to review the complaint. After receiving a copy of the title entries, Ms W has made another point. She said that the title entries show that Halifax, solicitors and the Land Registry changed her legal status because the form was completed in capital letters. As a result, Ms W suggests that this "*is not me*" but is a "*legal entity corporation*". Ms W says that at no point during the mortgage process did the "*fiduciaries*" provide full disclosure and that she didn't agree to securitisation of her mortgage.

my findings

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 have some disappointing news for Ms W; I'm not upholding the complaint.

I'm familiar with the suggestion that, by signing a mortgage document, the signatory "*creates money*". There is no factual or legal basis to this notion. I can understand why it is a popular argument on internet forums which promulgate "Freeman on the Land" theories; if it were true in this case, then Ms W would have the benefit of owning the property, but without any obligation to pay back the money she borrowed to buy it.

I'm required to decide what's fair and reasonable in all the circumstances of the case. Because I'm satisfied Ms W borrowed the money from Halifax, it's fair and reasonable for

her to repay it, via her bank account in accordance with the terms and conditions of the mortgage contract she entered into.

Likewise, there is no evidence Halifax has securitised this mortgage. But Halifax is entitled to do so if it wishes – and it doesn't have to tell Ms W if it does. Bank of Scotland Plc remains as registered proprietor of the legal charge. This means it's entitled to collect payment from Ms W for the mortgage loan.

I've noted the points Ms W has made about her name being written in capital letters. I know it will be disappointing news for Ms W, but there is no significance in a name being written in capital letters. There is, however, a myth around this which has been spread on the internet, on forums and websites that deal with "Freeman on the Land" beliefs.

The belief is that each person is composed of two "entities". One is the living, breathing man or woman; the other is a "strawman" created by the Government. It does this by writing the name on the birth certificate in capital letters.

The theory is that in 1933 the Government went bankrupt when it stopped using the gold standard to back its currency. Needing a new type of collateral to back sterling, 'Freemen on the Land' think the Government pledged the future earning power of its citizens. As a result, they believe that at birth each individual has a secret "strawman" account at the Bank of England or the Treasury which contains several million pounds to represent their future earnings. The suggestion is that in order to access the capital in the account, the name must be written in capital letters.

So for their "real" living person Freemen on the Land use variations of upper and lower case and punctuation, such as "John:Smith" or "John of the Family Smith" and might even include a thumbprint as a signature – sometimes in red ink to signify the "flesh and blood living man". To access the capital in their "secret government account" they'll use "JOHN SMITH". The argument is that all debts, obligations, and legal duties belong to the "strawman" individual, whereas all the rights and legal protections belong to the flesh-and-blood "natural person" or "freeman on the land" living person.

The suggestion is that if someone takes out a mortgage and the name is written in capital letters this means the bank has accessed the "secret" account and already been paid the full amount of the loan from the "strawman" account associated with the name written in capital letters. I am sorry to disappoint Ms W, but this is untrue.

The reality is that, by not making the mortgage repayments, Ms W is at risk of losing the property. If she's renting it out, she is putting her tenants' home at risk. Halifax has suspended legal action while we look at the complaint. If Halifax decides to continue with legal action, Ms W is free to raise in court all the points she's made to us. But I'm unaware of any case which has succeeded by a borrower arguing that their signature created the money to pay off the mortgage at inception.

Ultimately, it's up to the court to decide if Ms W's mortgage is valid or not. Ms W might find it helpful to take legal advice from a qualified solicitor before trying to raise in court any of the arguments she's put to us about this. Advice is also available through Citizens Advice and Shelter. We can provide Ms W with contact details for those organisations, if she'd like us to.

my final decision

I appreciate Ms W will be disappointed, but my decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 1 March 2019.

Jan O'Leary
ombudsman