

The complaint

Mr A complains that Nationwide Building Society suspended and then closed his account with it. He complains too that it has not returned funds held in the account and that it has logged information with CIFAS, the UK's fraud alert service.

Mr A has been represented by lawyers, and so where I refer to his arguments and submissions, I include those made on his behalf.

What happened

Mr A owns and runs a business which I'll call "W". At the relevant time W held at least two bank accounts through other providers.

On 31 March 2022 Mr A received a payment of US\$799,950 (equivalent to just under £600,000) to his account with Nationwide. The payment came from a US company, G. His account statements indicate that Mr A made two cash transfers totalling £68,000 to individuals over the following few days, but otherwise continued to use the account for day-to-day spending.

On or about 21 April 2022, however, Nationwide blocked the account. It said it had received a fraud claim in respect of the payment on 31 March 2022. At that point, the account balance was nearly £530,000; all but a small sum, apparently in respect of a payment made immediately before closure, was returned, ultimately to the source of the 31 March payment. I note that Nationwide's response to Mr A's claim says that the account was suspended on 11 April, but I believe that is an error; the account remained active for 10 days after that.

Mr A complained to Nationwide. He said that the payment had been a legitimate one and that, if the funds had been fraudulently paid, he was not involved and had not been aware of that. He referred the matter to this service.

In the course of our consideration of this complaint, Mr A has provided, amongst other things:

- invoices addressed to G, the sender of the funds, by W, and which he says show that the payment (and others) were for work carried out for G;
- an affidavit from an individual connected to G; and
- court papers filed in respect of proceedings in Texas for the forfeiture of more than US\$12million obtained by fraud.

I'll discuss those documents later, but the investigator who considered Mr A's complaint was not minded to uphold it. He thought Nationwide had acted fairly in suspending the account and then closing it and in returning the funds held to its credit. He did not recommend that the CIFAS marker be removed.

Mr A didn't accept the investigator's assessment and asked that an ombudsman review the complaint.

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.

For context, I should say that W's accounts with other providers were also suspended and closed. They are the subject of separate complaints, which I won't discuss here. Where relevant to Mr A's complaint, however, I have considered documents submitted by or on behalf of W.

I should mention too that it is not for me to say whether Mr A was involved in any type of fraud. What I must do is to decide what, in my opinion, is a fair and reasonable resolution to his complaint.

The allegations which led to the suspension and closure of Mr A's account are set out in the court papers. In summary, it is alleged that a US company made two payments, totalling more than \$12million, as a result of a business email compromise (or BEC) scam. A BEC scam occurs when fraudsters "spoof" or intercept the email account of someone who is making a payment and provide different payment details. The intended recipients of the payments from the US company did not receive them.

Around \$5million of the US\$12million was paid to two individuals and of that US\$2.4million was then credited to the account of a US law firm, which I'll call "L". It was then transferred to G, and G made the payment to Mr A.

The maker of the affidavit in which these allegations are made is a US Special Agent, and they appear to be based on information provided by investigators within the various banks within the chain of payments. The agent acknowledges that the account holders through which the funds passed may be "money mules" – which I take to mean individuals or businesses whose accounts have been used without their knowledge or who knew about the payments but did not appreciate the reasons why their accounts were being used.

In my view, the court papers are more likely than not to be an accurate record of the source of the funds paid to Mr A.

The affidavit sworn by the individual linked to G confirms that G received the funds from L. He says that the funds were "of clean origin" and verified by L. He sent them to Mr A for the development of software in three separate payments.

The three invoices were all in the name of W and were all addressed to G. Two indicated that payment should be made to W's business accounts, but one directed payment to be made to Mr A's personal account with Nationwide. All are dated 28 March 2022.

As I have indicated, I think it very likely that the ultimate source of the funds which Mr A received was the BEC scam. He has provided a copy of G's US bank statement, showing the only credit as a transfer of US\$2.4million from L. That's consistent with the statements in the court papers.

That does not mean of course that Mr A knew about the BEC scam or that he stood to profit from it. There are however a number of features which I think support Nationwide's decisions here.

The three invoices to which I have referred totalled nearly \$2.4million, all of the funds received by G from L. That represents a substantial contract for a company of the size of W and which, Mr A says, had just come out of dormancy. The invoices however refer simply to

“Software / Application Development and Sale”. I would expect to see very much more to show, for example, what services were provided and over what period, as well as a detailed written set of terms and conditions.

It is also not clear to me why payments were made to three separate accounts, one of them a personal account. None of this is dealt with in Mr A’s evidence or in the affidavit from G’s officer.

It is notable too that the affidavit does not seek to explain why G received US\$2.4million into what appears to have been an otherwise unused bank account from a firm of lawyers. Indeed, that affidavit does little more than state facts about the transfers – which are in any event verifiable from other sources.

As I have said, it’s not for me to decide whether or to what extent Mr A was involved in or knew about the original BEC scam. I do note however that he does not appear to have tried to move most of the funds out of his account. That might be an indication that he did not in fact have a full understanding of what was happening. That said, I don’t find his subsequent explanations of the reasons for the payment at all persuasive.

For these reasons, I think that Nationwide acted reasonably in suspending the account and then closing it, returning the funds and placing a CIFAS marker against Mr A’s name.

My final decision

For these reasons, my final decision is that I do not uphold Mr A’s complaint and do not require Nationwide Building Society to do anything more to resolve it.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr A to accept or reject my decision before 20 December 2023.

Mike Ingram

Ombudsman