

## **The complaint**

Mr B complains that Santander UK Plc (Santander) is refusing to refund him the amount he lost as the result of a scam.

Mr B is being represented by a third party. To keep things simple, I will refer to Mr B throughout my decision.

## **What happened**

Mr B had seen advertisements for cryptocurrency investments and was interested in this type of investment. So, Mr B searched online and found the business called 365 Falcon (X). X's website was very professional and appeared legitimate, he checked online reviews which he found to be positive before filling in his personal information on X's website.

X called Mr B and explained their history in finance and the type of investment they offered. X often spent long periods of time on calls with Mr B building his trust. Satisfied X was a legitimate business he decided to open an account with it providing identification documents as requested.

Mr B downloaded the screen sharing application AnyDesk as X told Mr B this was required for X to place trades on Mr B's behalf. Mr B also opened an account with the cryptocurrency exchanges as instructed by X.

In December 2021 Mr B started investing relative low amounts and could see via the online platform provided by X that he was making reasonable returns.

In January 2022, following several small successful investments X explained that Mr B could make more profit if he invested more. Having now even greater confidence in X, Mr B agreed and made larger payments on X's request.

In March 2022 X contacted Mr B again explaining he could make further profits due to events happening around the world affecting the values of currencies etc. Mr B was able to see he had made a reasonable profit from his past investments and agreed again sending large payments as requested by X.

Following this investment Mr B could see that he had yet again made a good return and tried to make a withdrawal from his account with X. X explained that Mr B would have to make a payment equal to 25% of the profit he had made before he could make a withdrawal. Mr B tells us he had concerns, but X was very persuasive that this was a standard process and managed to put him at ease.

Mr B tells us that to raise the funds for the payment X had requested he had to use money from his pension, but Mr B was still unable to make a withdrawal after he made the payment. X then requested further payments in relation to tax before the profits could be released. Mr B agreed to make these payments, but again was unable to make a withdrawal.

X again asked for further payments to be made in relation to "*mining*", but by this stage Mr B

had no further funds available and couldn't make the payments that were being requested. Mr B tried to negotiate with X to recover his money but was unsuccessful. Mr B realised at this time he had fallen victim to a scam.

Mr B made payments into the scam using both his Santander bank account and another account at a different bank. The payments listed below are those Mr B made from his Santander account via Coinbase:

Date	Payee	Payment Method	Amount
10 February 2022	Londonlink	Transfer	£5,000.00
24 February 2022	Coinbase Mr B	Transfer	£7,500.00
7 March 2022	Coinbase Mr B	Transfer	£20,000.00
10 March 2022	Coinbase Mr B	Transfer	£44,000.00
11 March 2022	Coinbase Mr B	Transfer	£44,000.00
11 March 2022			- £44,000.00
11 March 2022	Coinbase Mr B	Transfer	£44,000.00
14 March 2022	Coinbase Mr B	Transfer	£12,200.00
14 March 2022	Coinbase Mr B	Transfer	£22,000.00
14 March 2022	Coinbase Mr B	Transfer	£15,800.00
15 March 2022			- £15,800.00
15 March 2022	Coinbase Mr B	Transfer	£15,800.00
15 March 2022	Coinbase Mr B	Transfer	£15,800.00
16 March 2022	Coinbase Mr B	Transfer	£13,000.00
17 March 2022	Coinbase Mr B	Transfer	£15,000.00
17 March 2022	Coinbase Mr B	Transfer	£11,000.00
17 March 2022	Coinbase Mr B	Transfer	£2,000.00
18 March 2022	Coinbase Mr B	Transfer	£3,000.00
18 March 2022	Coinbase Mr B	Transfer	£1,000.00
18 March 2022	Coinbase Mr B	Transfer	£2,000.00
5 April 2022	Coinbase Mr B	Transfer	£15,000.00

Our Investigator considered Mr B's complaint but didn't think it should be upheld. Mr B disagreed, so this complaint has been passed to me to decide.

### **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.

It has not been disputed that Mr B has fallen victim to a cruel scam. The evidence provided by both Mr B and Santander sets out what happened. What is in dispute is whether Santander should refund the money Mr B lost due to the scam.

#### *Recovering the payments Mr B made*

Mr B made payments into the scam via transfer. When payments are made by transfer Santander has limited recovery options available to it. I can see that Mr B made payments into the scam via an account in his own name with cryptocurrency exchanges, and when Santander attempted to recover the payments, the funds had already been moved on.

With the above in mind, I am satisfied Santander had no options available to it to recover the payments Mr B made in relation to the scam.

#### *Should Santander have reasonably prevented the payments Mr B made?*

It has been accepted that Mr B authorised the payments that were made from his account with Santander, albeit on X's instruction. So, the starting point here is that Mr B is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Santander should have been aware of the scam and stepped into question Mr B about the payments he was making. And if it had questioned Mr B, would it have been able to prevent the scam taking place.

Mr B was making large payments from his account with Santander on a regular basis into the scam, often making several payments on the same day, so I think it would be reasonable for Santander to have concerns about the payments and for it to have questioned Mr B about them. I can see that it did this on several occasions.

On 10 February 2022 the first payment for £5,000 was blocked, and a call took place between Mr B and Santander. During this call Santander gave a generic scam warning. Mr B confirmed no one had asked him to make the payment and he had researched the company he was making a payment to. But Mr B had given false information to Santander, he was being asked to make this payment by X. Had Mr B been honest with Santander there is a likely it would have asked further questions which may have uncovered the scam.

On 7 March 2022 a payment for £20,000 was blocked, and a call took place between Mr B and Santander. During this call Santander explained that scams often occur when scammers offer high returns on crypto investments over the phone, or by customers allowing access to their devices. Customers are then shown fake returns which encourage them to invest more. Mr B was also told that it could be a scam and he should not proceed if he had been asked to setup an online account while someone was connected to his device, or a third party had access to his investment account.

Mr B was in fact experiencing a very similar situation to that detailed by Santander in this call, yet he confirmed that nothing he was warned about above was relevant to the payment he was making. Santander even asked a second time for him to confirm that no third party was involved, no one had called him and that it was his choice to make the payment, to which he agreed.

On 15 March 2022 a payment for £15,800 was blocked, and a call took place between Mr B and Santander. Mr B confirmed he had not completed any forms online, downloaded any apps and that he had not been approached by a financial advisor or broker.

Mr B had again given false information to Santander. He had completed an initial online form with his details, he had downloaded an app and he was using a broker that was giving him advice.

On 16 March 2022 a payment for £12,500 was blocked, and a call took place between Mr B and Santander. Mr B confirmed that no third party was involved, no calls or emails about the payments had taken place, and he had not been told what to say to the bank. Again, Mr B was giving Santander false information. A third party was involved, he had received communication about the payments, and I think it's possible Mr B was being coached about what to say to Santander when he was attempting to make high value payments.

It's clear from the numerous times Santander intervened, that Mr B was willing to give false information to get the payments processed. So even if I was to say Santander should have

intervened with more of the payments Mr B made into the scam, I think it's fair to say it's unlikely Mr B would have provided honest answers to the questions Santander would have asked.

With the above in mind, I don't think Santander missed an opportunity to prevent the scam taking place, and it is not responsible for Mr B's loss.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 February 2024.

Terry Woodham  
**Ombudsman**