

26 April 2024

## **Final report by the Complaints Commissioner**

### **Complaint number 202300685**

#### *The complaint*

1. You submitted a complaint to my office about the FCA on 16 January 2024.

#### *Your complaint to the FCA*

2. The FCA summarised your complaint as follows:

##### “Part One

You are unhappy with how the investigation into Richard Faithfull was managed.

##### Part Two

You allege the FCA decisions (the charging decisions: what offence, the time period of the offences 1 June 2017 and 1 August 2018, and the relevant bank accounts) have had a negative financial impact on you”.

#### *What the regulator decided*

3. The FCA applied a time bar on your complaint saying that: “Paragraph 3.3 of the Scheme explains that ‘complaints should be made within 12 months of the date on which the complainant first became aware of the circumstances giving rise to the complaint. Complaints made later than this will be investigated under the Scheme only if the complainant can show reasonable grounds for the delay’. Noting the information you provided in your complaint, the circumstances giving rise to this complaint would appear to be matters you were first aware of February 2021 for Part One of the complaint and August 2022 for Part Two of the complaint, yet this complaint was not submitted until more than 12 months later”.

4. For the reasons above, the FCA declined to investigate your complaint.
5. It also said that your complaint was not upheld, which is technically incorrect given that it was determined to be out of time. I **recommended** the FCA take care in issuing decision letters so that the outcome is clear and accurate. The FCA has accepted my recommendation.

*Why you are unhappy with the regulator's decision*

6. You have written in detail about how you have been affected as investors by the fraudulent activities of Berkely Trading Corporation.

My analysis

7. You have not provided a clear and reasonable explanation as to why you delayed submitting your complaint to the FCA. You say you contacted the FCA in 2017. I have a great deal of sympathy with your situation but I agree with the FCA decision that your complaint is time barred under the Complaints Scheme, as you did not follow up on your contact with the FCA until 1 September 2023.
8. Nevertheless, I am aware that the substance of your complaint has been subject to a concluded FCA investigation because other complainants have raised these issues in the past. Given that the FCA has already looked into the matter, I **recommended** that the FCA provide you with information about its findings. Although you are out of time to make a complaint, I hope that this information will provide you with insight into the FCA's position on the matter, and possibly other information which may be useful to you. The FCA has accepted my recommendation and will provide you with the information.

Rachel Kent

Complaints Commissioner

26 April 2024