

29th January 2015

Dear Complainant,

**Complaint against the Financial Conduct Authority
Reference Number: FCA00039**Thank you for your email of 7th January 2015.As the rules of the scheme under which I consider complaints can be found on our website at www.fsc.gov.uk, I shall not repeat them here.**Your complaint**

From your email I understand that you are unhappy with the outcome of the FCA's investigation into your complaint. Specifically you feel that, neither Bank R nor its appointed receiver Firm G are operating with integrity in their dealings with you. As the FCA has failed to intervene in this matter and stopped Bank R from continuing with the repossession process, you feel that the FCA is failing to supervise adequately Bank R.

My position

Before I address the substance of your complaint I must first address an issue which you raised with my Senior Investigator. In your email exchanges you indicated that you had raised a complaint with the Royal Institution of Chartered Surveyors (RICS), where I chair the UK and Ireland Regulatory Board, about the conduct of Firm G and two of its employees. Given this ongoing complaint and my position within RICS you suggested that I may feel that I am conflicted.

Although I can appreciate your views, having carefully consider the matter I do not believe that I am conflicted. I hold this view as my role within RICS is as the chair of the UK and Ireland Regulatory Board: I do not investigate or become involved in the investigation of complaints against RICS members. I would add I do not have any knowledge of complaints which have been made against RICS members or contribute to any investigation that RICS may undertake or in the RICS complaint decision making process. Other than the information which you have yourself provided to me, I have no knowledge of any RICS involvement in this matter, nor will I become involved. Furthermore, the issue which has been referred to this office considers only the FCA's actions, inactions and conduct in relation to its supervision and regulation of Bank R in respect of how it carries out commercial repossessions. The investigations I undertake cannot consider the conduct of Bank R, Firm G or the two individuals who Bank R has appointed as its Joint Receiver under provisions contained within the Law of Property Act 1925.

FCA00039

- 1 -

In considering this case, I have carefully reviewed both your complaint and the regulator's arguments for not considering it under the scheme. From your correspondence with the regulator I understand that you are unhappy with the conduct of Bank R, specifically in relation to the manner in which it has acted both when providing you with commercial finance and appointing and directing two employees of Firm G to act as its Joint Receivers and repossession agents. From this, and the correspondence you have exchanged with my office, it is clear that your complaint about the regulator can be summarised as it will not intervene in your dispute with Bank R and instruct Bank R to stop its repossession proceedings (and will also not instruct Bank R not to review your other business' overdraft facility).

I know that you are disappointed that the regulator will not investigate your complaint and take the action you have requested (by instructing Bank R to stop its repossession proceedings). However, the FCA has no power to intervene in this way.

Having reviewed the FCA's file I understand that it felt that it could not investigate your complaint as your complaint is in essence a dispute between you and a regulated firm. The FCA does not intervene in individual disputes between regulated firms and consumers. In arriving at its decision, the FCA has drawn your attention to paragraph 3.5 of the Complaints Scheme which states:

3.5 Circumstances where the regulators will not investigate

The regulators will not investigate a complaint under the Scheme which they reasonably consider amounts to no more than dissatisfaction with the regulators' general policies or with the exercise of, or failure to exercise, a discretion where no unreasonable, unprofessional or other misconduct is alleged.

In this case I believe that the FCA can correctly rely upon paragraph 3.5 of the Complaints Scheme as your complaint to both the FCA and my office is really about the FCA's general policy of not assisting consumers with an individual complaint they may have with a regulated firm. Such complaints are generally, in the case of retail investor, a matter for the Financial Ombudsman or, in the case of a business/commercial customer, for the Courts.

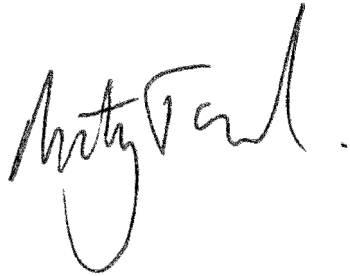
As the FCA has explained, although it will not intervene in individual disputes between regulated firms and consumers it does expect all regulated firms to treat customers fairly. Whilst the arrangement you had with Bank R was on a commercial basis (and therefore not a regulated activity) the FCA nonetheless expects regulated firms to treat their business customers fairly. The FCA Complaints Team has confirmed to you that it has raised your concerns about Bank R's conduct with the area responsible for the supervision of Bank R's conduct.

This is, in my opinion, the correct procedure for the FCA to have followed, given that Bank R has, through the Courts, appointed individuals from Firm G to act as its Joint Receivers under provisions in the Law of Property Act 1925. I would however stress that although the relevant Supervision Team will consider whether further action is needed, any further action the FCA may take will be in relation to the Bank R's conduct when dealing with consumers and business clients generally, rather than in relation to your specific case.

I would also add that although you have raised concerns with the FCA over the conduct of the individuals from Firm G, the FCA does not have any jurisdiction over their conduct. Whilst Firm G is regulated by the FCA this is in relation to a specific (investment) activity. The role the individuals are undertaking on behalf of Bank R is to recover monies owed (to Bank R) under a secured commercial debt. As this is not a regulated activity as defined by the Regulated Activity Order 2001 (as amended) or any subsequent legislation, this is not something which the FCA can consider under its statutory powers.

In conclusion, I consider that the FCA's response to your complaint was correct, and I cannot recommend that the FCA intervene in your dispute with Bank R. I appreciate that you will be disappointed with my decision but hope that you will understand why I have reached it.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner