

11th August 2015

Dear Complainant

**Complaint against the Financial Conduct Authority
Reference Number: FCA00081**

Thank you for the letter you sent to us on behalf of your mother. I have now completed my inquiries, and this is my final decision. In reaching this decision, I have taken account of the representations which you made to me on 15th July in response to my provisional decision.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA's Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

You can find full details of how I deal with complaints at www.fsc.gov.uk. If you need further information, or information in a special format, please contact my office at complaintscommissioner@fsc.gov.uk, or telephone 020 7562 5530, and we will do our best to help.

What we have done since receiving your complaint

We have now reviewed all the papers you and the regulator have sent us. My decision on your complaint is explained below.

Your complaint

Your mother invested, and lost, a considerable amount of money (around £25,000) with a company CP Brokers which she later found to be the fraudulent clone of the EEA authorised firm CP Brokers SP Z.oo.

Your complaint can be summarised as follows:

- That there was insufficient warning from the FCA that this was a fraudulent firm and that had a warning appeared on the Financial Services Register (the 'Register') your mother would not have invested the money.

- That had the Clone Firm website been disrupted earlier, your mother would not have been able to make the payments via the clone website and consequently lost her investment money.

The background to the complaint is as follows:

- Your mother sought out and approached the Clone Firm on or around 13th May 2014. On that same day she received a prospectus from the clone firm for John Lewis bonds.
- A warning alert about the Clone Firm was published on the FCA's website on 21st May 2014.
- On 22nd May 2014 your mother invested £9,901 for ten John Lewis bonds.
- On 22nd May 2014 the FCA notified the City of London Police National Fraud Intelligence Bureau (NFIB) on the understanding that they would disrupt the website, telephone and fax number.
- On 30th May 2014 your mother invested £10,000 for a further ten John Lewis bonds.
- On 9th July 2014 your mother invested £5,000 for 356 Alibaba shares.
- Following several calls to the Consumer Contact Centre (CCC) (on 2nd, 11th and 19th December 2014), you submitted a complaint on behalf of your mother, expressing concern that the Clone Firm website was still up and that the FCA register entry for CP Brokers SP Z.oo did not indicate that a warning had been issued about the clone firm

My position:

As part of my investigation into your concerns I have obtained and reviewed the FCA's investigation file. I have also considered the comments you have made when corresponding with the FCA.

First, it may be useful if I comment generally on the manner in which those running 'boiler room' operations operate. As consumers are becoming more aware of potential scams, the perpetrators of 'boiler rooms' often now look to giving their 'firm' an appearance of authenticity. From the cases I have seen this often results in the 'boiler room' operation cloning some or all of the details of a genuinely authorised firm (specifically its name and FCA registration number, albeit it will operate from a different address), which may or may not be based in the United Kingdom, and which has received approval to conduct regulated activity within the United Kingdom.

The dangers of these boiler rooms have been known for several years, and the FCA website contains guidance on how consumers should protect themselves, including the need to use the contact details on the FCA's register to check the identity of the firm.

It is clear from the papers presented to me by the FCA that the perpetrators of the 'boiler room' scam in this instance had produced a website and literature which cloned some of the details of CP Brokers SP Z.oo.

In this particular instance, the FCA issued a clone alert about the existence of a Clone Firm on 21st May 2014. However, your mother had already begun a relationship with the Clone Firm a week before the alert was issued.

One of the FCA's statutory obligations is consumer protection, but the FCA is only able to offer consumers a certain amount of protection. Consumers must also look to protect themselves by acting with care at all times. I have sympathy with your mother's predicament, since she has been the innocent victim of what appears to be criminal activity, but it does not follow that the FCA is at fault.

In this instance, your mother invested in a firm with which she had no previous business arrangements or dealings. The firm claimed to be in the UK but the FCA register (which I gather she consulted) clearly shows its address as being in Poland, and its authorisation is for insurance mediation purposes only. The name of the genuine firm is also not identical to the bogus one. I note also that Mrs Williams was asked to send money to a bank account which had a different name from the firm's. All of those factors might have alerted her to the need to make further checks.

I recognise the point you have made about the fact that there is no direct link on the FCA's website between the register of genuine firms and warning notices about scams. The FCA's Complaints Team has already explained to you that the FCA are considering whether there could be a link between the scam alerts and the Register. This would clearly be an improvement, though given the timing of the events set out above it seems unlikely that it would have made a difference in your mother's case, since she had undertaken her inquiries and established the relationship with the clone firm before the scam alert was issued.

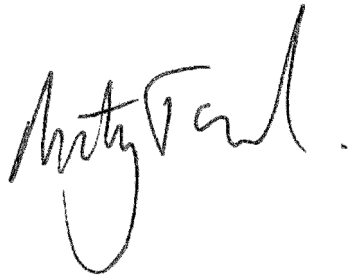
I now turn to your point about the bogus website continuing to operate after the scam alert had been issued. It is regrettable that this occurred, but in this case the FCA followed its own internal procedures and promptly notified the NFIB about the scam on the understanding that they would attempt to disrupt the website. Despite this, the website was not disrupted, but that was not the fault of the FCA. The FCA has now enhanced its procedures to include notification of the relevant web provider as well as the enforcement agencies (though the FCA has no power to compel a web provider to co-operate). This is a welcome addition to current procedures although I recommend that the FCA also consider a system under which they check the bogus website shortly after they have sent the notifications, to ensure that the authorities have closed it down. I am pleased to report that they have adopted this.

Conclusion

I have sympathy for the position your mother finds herself in, but from the information presented to me by both you and the FCA, there is nothing to suggest that the FCA acted inappropriately: the fault lies clearly with the fraudsters who cloned the firm. I have carefully considered your point that an enhanced system might have limited the losses your mother suffered. While – as I have indicated above – there are further improvements that can be made to help protect consumers, I am afraid that it does not follow that the FCA should be held liable for your mother's losses given that, as I have explained above, I believe that they acted appropriately. It is my Final Decision that I see no grounds to make a recommendation that the FCA should offer your mother any form of redress.

In the light of this case, I invite the FCA to continue to improve the information available to consumers, and to introduce a follow-up check to check that referrals to the enforcement authorities and website providers result in the prompt closure of fraudulent websites.

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