

13 June 2018

Final report by the Complaints Commissioner**Complaint number FCA00454***The complaint*

1. On 7 April 2018 you asked me to consider a complaint against the FCA.

What the complaint is about

2. You allege that an employee of the FCA gave a false statement to a Crown Court earlier this year. Allegedly, the employee said: ‘despite numerous requests being made, we understand that [you] and [Mr X] have been unwilling to provide an explanation as to how the property came to be sold in breach of terms of the restraint order’. You claim not to have received any request for such information from the FCA.

What the regulator decided

3. The FCA declined to investigate your complaint, citing paragraph 3.6 of the Complaints Scheme, which provides that the FCA will not investigate complaints which it reasonably considers could have been, or would be, more appropriately dealt with in another way (for example by referring the matter to the Upper Tribunal or by the institution of other legal proceedings).

Why you are unhappy with the regulator’s decision

4. You feel the FCA ought to investigate the conduct of its employee rather than you having to refer it to the Upper Tribunal, as you do not have access to the FCA’s records to verify whether the employee did in fact make numerous requests for you to provide the information being required.

My analysis

5. I understand your complaint arises from an application by a purchaser of a property to vary the restraint order made against you. That application has not yet been resolved. It is the FCA’s view that your complaint is best raised and dealt with before the Crown Court when this application is considered. The FCA has told me that it intends to provide the Court with the relevant background to the application, which will include details of the requests made to you for the explanation.
6. The FCA has informed me that the Court will decide the application at a hearing. However, those representing you have told the FCA that you will not attend the hearing and will not be represented. The FCA’s position is that it will raise the substance of the complaint at the hearing. If you choose not to attend or be

represented, the FCA will take the view that you are taking the opportunity to air your grievance.

My decision

7. Under the circumstances, I am satisfied that the FCA intends to provide an answer to your complaint during the continuing legal proceedings, and in the circumstances it is better that the matter should be resolved in that way.

Antony Townsend

Complaints Commissioner

13 June 2018