

## Before the Arbiter for Financial Services

Case ASF 141/2024

PA

(‘the Complainant’)

vs

Papaya Limited

Reg. No. C-55146

(‘the Service Provider’)

### Sitting of 03 April 2025

#### The Arbiter,

Having considered in its entirety the Complaint filed on 04 July 2024, including the attachments filed by the Complainant,<sup>1</sup>

#### The Complaint

Where, in summary, the Complainant claimed that in February 2024, he transferred €500 from his account with AN POST MONEY IRELAND, through the mobile app, to his BLACKCATCARD account with the Service Provider, Papaya Ltd.

However, the funds were neither credited to his latter account nor returned to the remitting account with AN POST MONEY IRELAND.

Since the Complainant has made several payments from the account with AN POST MONEY IRELAND to accounts in different countries, he believes he has no reason to doubt the reliability of this company.

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<sup>1</sup> Complaint Form from page (p.) 1 - 5 and attachments p. 6 - 19

The Complainant stated that he contacted BLACKCATCARD's chat support numerous times and, at first, they explained that the delay in the refund was due to the transition to a new SEPA provider and that the funds will be returned once the transition was completed. However, it seemed that BLACKCATCARD changed its position over time, as they subsequently claimed to not having received any payment at all.

AN POST MONEY IRELAND's support confirmed to the Complainant that the funds were transferred from his account and, although they had requested a refund, the money was not returned.

By way of remedy, the Complainant is requesting immediate action to locate and return his funds of a total of €500 back to his AN POST MONEY IRELAND's account.

#### The Reply of the Service Provider<sup>2</sup>

*"Our compliance department has received information about the complaint filed by [Complainant] against Papaya Ltd.*

*We apologize for the delay in responding to the received complaint and regret any inconvenience this may have caused to the Client. We have reviewed all the documents and information provided by the Client and can offer the following response to their request.*

- 1. The transfer of the amount of 500 EUR was made by the client [Complainant] on February 23, 2024, to their account with Papaya Ltd. via a SEPA transfer through the correspondent bank - The Central bank of Lithuania. Papaya Ltd. can confirm that this payment was never received on our end.*
- 2. We can assume that the funds transferred by the Client may have remained either with the sending bank of the Client or the receiving bank. Unfortunately, Papaya Ltd. is unable to verify this information, as we do not have the authority to act on behalf of the client.*
- 3. We would also like to note that the scan of response from An Post Money dated July 1, 2024, provided to us by the Client [Complainant], is of very*

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<sup>2</sup> P. 25 - 26

*poor quality, lacking a signature and without any indication of the person or department that issued the response. It is impossible to determine from the provided copy of the response which division of An Post Money provided it and whether it can be relied upon as an authentic and credible response from this financial institution.*

- 4. Regarding the confirmation provided by the client from An Post Money, as the sending party, it is likely that An Post Money can provide the client with information confirming that they sent the funds. However, it does not seem credible that they can confirm Papaya Ltd. has received this payment.*
- 5. We do not have any relationship with the financial organization An Post Money; therefore, the client should handle this matter directly. Regarding the current situation, we can advise the client [Complainant] to contact the sending bank with an official request for the transaction status and a demand to resolve this matter.*

*If any additional information or documents are required, we would be pleased to provide them to the Office of the Financial Arbiter."*

## **Hearing**

During the hearing on the 11 March 2025, the Complainant submitted:

***"Last year, on 23 or 26 February (I do not remember the exact date), I sent €500 from my account in An Post, a financial company in Ireland to my account in the company, Blackcatcard which is managed by Papaya Ltd.***

***Unfortunately, it was not calculated or put into my account. A few days after I sent the money, I communicated with Support of Blackcatcard. They informed me that in the period I sent the money, they changed the SEPA provider.***

***For this reason, they are not able to put the money into my account, and that I should wait. They never provide me with an answer on how long I should wait.***

***I say that, normally, this situation in this process does not take more than one or two days. I had the same situation in AIB bank, an Irish bank, and with another bank and they switched in one day without any issues.***

***After a few weeks, I contacted them again and I always received the same answer, that I should wait because they switched the provider. At that time, they did not inform me that they sent my money back. They insist that the issue lies with the SEPA provider.***

***Maybe on June or July, I understood that four months are too long for resolving these issues because of the SEPA providers. At that time, I decided to make an application to the Maltese Arbiter.***

***Since then, we have been trying to negotiate and resolve this issue.***

***The representative of Papaya insists that the money was sent back. I believe that this SEPA issue ... the money was not calculated back to my account, as I understood that the problem was that the money which they sent did not go directly to my account but was sent between Papaya and An Post. And as I understood, this bank is going down and, for this reason, An Post cannot receive back my money.***

***I am surprised by Papaya's position. Papaya says that the responsibility lies with An Post. But, An Post cannot manage this situation because the intermediary bank is going down. It went from Lithuania Bank to the intermediary bank, which went down, and then, after this bank, the money should be sent to An Post but this did not happen.***

***When Papaya insists that the responsibility lies with An Post, I sent two or three letters with the same text and the answers were the same: 'We did not receive your money and it is the responsibility of Papaya.'***

***Papaya insists that it is the responsibility of An Post and we are trying to figure out where the money is and who is responsible to find a solution to this issue."***<sup>3</sup>

The Arbiter pointed out that Papaya Limited replied late to the complaint. Normally, in court, contumacy rules apply.

The Arbiter has already issued several rulings on this matter stating, *inter alia*, that contumacy rules would only be applied where:

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<sup>3</sup> P. 27 - 28

- a. There is clear evidence of disrespect towards the Arbiter or his Office;
- or
- b. Service Provider not only replies late (or does not reply) but fails to be present for the first hearing;
- or
- c. Service Provider's reply is registered late in a manner which the Arbiter considers exaggerated.

This in view of the following:

1. Chapter 555 does not oblige the Arbiter to enforce contumacy where this would go against the provisions to deal with complaints in a procedurally fair, informal, economical and expeditious manner in terms of Article 19(3)(d).
2. Article 19(3)(b) of Chapter 555 obliges the Arbiter to adjudicate complaints by reference to what, in his opinion, is fair, equitable and reasonable in the particular circumstances of the case.
3. Arbiter feels that the duty to hear both sides of the complaint with equal opportunities is superior to technical inhibitions that may apply in Court but require more liberal interpretation in Arbitration obliged to procedures of informality.

Consequently, it was decided not to apply contumacy rules and to allow the Service Provider full opportunity to present their evidence.

The Arbiter asked the parties to confirm whether the money was received by the Service Provider and was refunded to the Complainant or whether the Service Provider never received the Complainant's funds and thus, could not refund it back to him.

On behalf of the Service Provider, Ing. Marianna Luzanová replied:

***"We have already confirmation from the Central Bank of Lithuania that this money was received by Central Bank of Lithuania. But, because at this time,***

**money was received from An Post, Papaya did not have the account any longer with the Central Bank of Lithuania. So, they could not go to the account of the complainant.**

**We have the confirmation from the Central Bank of Lithuania that it had been returned to the sending bank. The problem is that the complainant has complained to the Maltese regulator instead of complaining to the Irish regulator.**

**Actually, we have the confirmation from our former partner, the Central Bank of Lithuania, that the money was sent back; and that, actually, An Post does not see this money. This is not an issue that Papaya can solve.**

**We have done the investigation. We have done a formal enquiry to the Central Bank of Lithuania asking them to provide us with information about this transaction. They have provided us with this information that this money had originally fallen into the Central Bank of Lithuania's banking system but since Papaya did not have their account – this was 26 February – as Papaya broke its relationship with the Central Bank of Lithuania on 24 February, two days before this money arrived.**

**So, in this case, this money was not settled on our account and was sent back to the sending bank.”<sup>4</sup>**

The Arbiter requested evidence on the information that this money has been sent to AN POST MONEY.

Ing. Luzanová is going to present a copy of this evidence to the Arbiter through a notification.<sup>5</sup>

The Arbiter asked the Complainant whether he has at any time recently asked AN POST MONEY whether or not they have received the money back. The Complainant replied:

**“I have asked many times; I have asked a minimum of five times.**

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<sup>4</sup> P. 29

<sup>5</sup> P. 31 - 35

***I had a whole conversation with Support. I wrote them a letter and I always received the same answer: that it is the responsibility of the other side.***

***I say that I have sent them the evidence, but they say that they could not do anything in this case.”<sup>6</sup>***

The Arbiter asked whether the Complainant has a copy of the AN POST MONEY’s reply.<sup>7</sup>

Ing. Luzanová intervened to clarify:

***“It seems that this is Support answering, so this is always the same message. Every time that the complainant writes to them, it is always the same message.”<sup>8</sup>***

The Complainant continues to explain:

***“Unfortunately, I do not have a contact of their treasury or the inside departments. I have only one email address for Support. And, as I understood, Support, Customer Care, should send a letter to the investigation saying that they cannot manage this process. I am a former bank officer and I understand the process. But I cannot say to them what they should do in this case.***

***I just ask them to reply to my question, that’s all.”<sup>9</sup>***

### **Analysis and consideration**

From the evidence provided, this is a clear case where the money was never sent to PAPAYA as in the journey of the money, the account and SEPA arrangements that they had with the Central Bank of Lithuania (CBL) were shut off or closed.

The issue is where this money presently lies, whether it is still with the CBL or with AN POST. Being a small amount, it is not improbable that the payment has fallen between the cracks for failure of clear identity of the supposed recipient.

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<sup>6</sup> P. 30

<sup>7</sup> P. 19

<sup>8</sup> P. 30

<sup>9</sup> *Ibid.*

As the funds never reached PAPAYA, there is not much they can do to trace the funds especially as evidence has been provided that CBL never sent them the funds and they claim having returned it to the remitter bank.

In circumstances when funds do not reach their destination, it is the remitter bank that has the obligation to trace the funds.

However, the Arbiter has no jurisdiction on the remitter bank which is registered in Ireland, and nor, for that matter, over CBL.

## **Decision**

For reasons explained above, the Arbiter is dismissing this complaint and orders parties to carry their own expenses for these proceedings.

However, the Arbiter takes the opportunity to recommend that the Complainant considers seeking assistance to unblock the situation from the Financial Services and Pensions Ombudsman (FSPO) in Ireland<sup>10</sup> who has jurisdiction over the remitter bank.

## **Alfred Mifsud Arbiter for Financial Services**

### *Right of Appeal*

The Arbiter's Decision is legally binding on the parties, subject only to the right of an appeal regulated by article 27 of the Arbiter for Financial Services Act (Cap. 555) ('the Act') to the Court of Appeal (Inferior Jurisdiction), not later than twenty (20) days from the date of notification of the Decision or, in the event of a request for clarification or correction of the Decision requested in terms of article 26(4) of the Act, from the date of notification of such interpretation or clarification or correction as provided for under article 27(3) of the Act.

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<sup>10</sup> <https://www.fspo.ie/>



Any requests for clarification of the award or requests to correct any errors in computation or clerical or typographical or similar errors requested in terms of article 26(4) of the Act, are to be filed with the Arbiter, with a copy to the other party, within fifteen (15) days from notification of the Decision in terms of the said article.

In accordance with established practice, the Arbiter's Decision will be uploaded on the OAFS website on expiration of the period for appeal. Personal details of the Complainant(s) will be anonymised in terms of article 11(1)(f) of the Act.