



<u>Decision Ref:</u>	2022-0110
<u>Sector:</u>	Banking
<u>Product / Service:</u>	Lodgements
<u>Conduct(s) complained of:</u>	Non-receipt of money
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

This complaint arises from the contention that the Provider holds residual funds for the Complainant in a number of bank accounts.

The Complainants' Case

The Complainant and his late spouse (who died in November 2017) held a number of bank accounts with the Provider. The Complainant's spouse held three accounts in her own name: *514, *042, and *325.

The Complainant's name was added to his spouse's account *514 in **March 2017**, and accounts *042 and *325 were closed. The Complainant held an account with the Provider in his own name, *771.

The Complainant calculated that the total balance of the Complainants' accounts in **2017** amounted to €115,048 (one hundred and fifteen thousand and forty-eight Euro). He calculated that balance as follows:

“ *Balance*

[*042] €25934.40

Savings Acc Dec Dorm don't know when

[*325] €18097

6/10/17

[*514] 12,716-23

Lodgments to Accounts

27/2/17 *Not included balance? 13734.03*

6/10/17 *AP 28600-00*

1/3/17 *AP 29700-97*

Dep 25.934-40

-18.097-00

-12.716-23

Total €115048-50

Less withdrawal €100000-00

This is what I am claiming 15048.50”

The Complainant queried whether a lodgement of €13,737 (thirteen thousand, seven hundred and thirty-seven Euro) had been made to account *514 on **27 February 2017**.

The Complainant is concerned about inconsistencies in the account in and before **2017** but he submitted that he was not able to make enquiries with the Provider until **2020**, due to his ill health. On **5 October 2020**, the Complainant visited the Provider's branch to seek information on the remaining funds. He submitted that there was a “*five figure sum*” that remained in the accounts. The Provider advised him that it no longer held funds in either his, or his late spouse's name. The Complainant does not believe that this is correct.

In response to the Provider's final submissions to this Office, the Complainant stated that he was insulted by the offer of €500 (five hundred Euro). He rejected this, noting that he was “*not senile*”.

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The Provider's Case

The Provider notes that the Complainant's spouse held two savings accounts in her own name with the Provider: *325 and *042. On foot of her instructions, these accounts were closed on **1 March 2017**, and the remaining funds were transferred to two accounts held jointly by her and the Complainant: *771 and *514.

The figure of €30,299.01 (thirty thousand, two hundred and ninety-nine Euro and one Cent) was sent to account *771, and €13,734.03 (thirteen thousand, seven hundred and thirty-four Euro and three Cent) was sent to account *514. As a result, the Provider submitted that this latter figure had been included in the balance of the account.

The Provider says that the reason for the split was to accommodate instructions for the balance of *771 to be €60,000 (sixty thousand Euro). This was completed with the addition of €29,700.97 (twenty-nine thousand, seven hundred Euro and ninety-seven Cent) from the Complainant and his spouse. It suggests that the Complainant's confusion may have arisen from this split of funds.

The provider says that account *514 was closed on **21 November 2018**, and account *771 remains open with a balance of €0.20 (twenty Cent). The Provider states that none of the relevant accounts were designated dormant at any time.

In response to the Complainant's contentions that an issue occurred with the account balances in or before **March 2017**, the Provider submits that it is satisfied that the transactions were conducted in accordance with the Complainant's spouse's instructions. It has provided account statements for the accounts dating back to **2013** to support its submission in that respect.

The Provider states that on **17 May 2017**, the amount of €60,000 was transferred out of account *771 via bank draft. Due to the accumulation of interest, €0.20 (twenty Cent) remains in the account.

The Provider also says that €40,000.50 (forty thousand Euro and fifty Cent) was transferred out of account *514 via bank draft on **21 November 2018**. The account was subsequently closed.

In its Final Response Letter, dated **20 October 2020**, the Provider submitted that the Complainant had been shown a copy of the withdrawal docket for the relevant accounts, and that he had agreed that they showed his signatures.

The Provider states that it holds no other funds for the Complainant or his late spouse.

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The Provider submits that it failed to issue a five-day acknowledgement letter on receipt of the Complainant's complaint, in line with the **Consumer Protection Code 2012**. It offered €500 (five hundred Euro) to the Complainant in full and final settlement, in light of this oversight.

The Complaint for Adjudication

The complaint is that on 5 October 2020 and 20 October 2020 the Provider failed to furnish the Complainant with the correct information regarding the final balances on his and his late spouse's bank accounts.

The Complainant wants the Provider to return any remaining monies from the disputed bank accounts, estimated to be approximately €15,000 (fifteen thousand Euro).

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision, I have carefully considered the evidence and submissions put forward by the parties to the complaint. Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on **4 March 2022**, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter. In the absence of additional submissions from the parties, within the period permitted, the final determination of this office is set out below.

The Complainant believes that funds should remain in his and his late spouse's joint accounts with the Provider.

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The Provider submits that the remaining funds, barring €0.20 (twenty cent) have been long since removed from those accounts, in line with the Complainant's instructions.

I have reviewed the bank statements for the relevant accounts, and I note that this evidence supports the Provider's submission that it no longer holds funds for the Complainant. The Complainant has not disputed the veracity of the bank's statements, nor has he challenged any individual transactions.

The Complainant's calculation includes the figure of €12,716.23 (twelve thousand, seven hundred and sixteen Euro and twenty-three Cent) but this figure is not present in any of the Complainant's or his spouse's bank statements. As a result, there is no evidence to support the Complainant's contention that this figure was deposited into his account with the Provider.

I accept from reviewing the account statements that a balance of €25,934.40 held in account *042 was transferred out of that account into account *812 on 1 March 2017. Similarly, on the same date, a figure of €18,098.66 was transferred from account *325, into account *811, as a result of which account *325 was closed.

I note that on 15 May 2017, a balance of €60,000 was debited under the description "DFT" reducing the account balance to €0.20.

I also note from the statement for account *514 that the balance on 6 October 2017, stood at €41,316.23. A year later on 21 November 2018, cash of €908.92 was withdrawn, together with a debit of €40,000.50 by bank draft on the same date, reducing the account balance to zero, following which the account was closed. I note that the Complainant does not dispute that these transactions occurred.

I am also conscious that in a Final Response Letter issued to the Second Complainant on 20 October 2020, the Provider noted that copies of the withdrawal documents had been shown to the Second Complainant when he visited the branch on 5 October 2020, at which time he agreed that the signatures appearing on the dockets were his.

In the above circumstances, I do not accept that the Provider failed to furnish the Complainant with the correct information regarding the final balances on his and his late spouse's bank accounts. Accordingly, and in the absence of evidence of any wrongdoing by the Provider, I do not consider it appropriate to uphold this complaint.

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Conclusion

My Decision, pursuant to **Section 60(1)** of the *Financial Services and Pensions Ombudsman Act 2017*, is that this complaint is rejected.

The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.



MARYROSE MCGOVERN
Financial Services and Pensions Ombudsman (Acting)

30 March 2022

PUBLICATION

Complaints about the conduct of financial service providers

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will **publish legally binding decisions** in relation to complaints concerning financial service providers in such a manner that—

- (a) ensures that—
 - (i) a complainant shall not be identified by name, address or otherwise,
 - (ii) a provider shall not be identified by name or address,and
- (b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.

Complaints about the conduct of pension providers

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will **publish case studies** in relation to complaints concerning pension providers in such a manner that—

- (a) ensures that—
 - (i) a complainant shall not be identified by name, address or otherwise,
 - (ii) a provider shall not be identified by name or address,and
- (b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.