



The Danish Financial Complaint Board  
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DK-1264 Copenhagen K

Finansiel Stabilitet  
Sankt Annæ Plads 13, 2nd floor left  
DK-1250 Copenhagen K  
CVR no. 30515145

6 April 2022

**Case no. 505/2021 – [REDACTED] complaint against FS Finans VI A/S (formerly Københavns Andelskasse under kontrol)**

Referring to [REDACTED] brief dated 17 February 2022, Finansiel Stabilitet issues the following statement on behalf of FS Finans VI A/S (formerly Københavns Andelskasse under kontrol):

**Plea**

Primary plea: Dismissal of the complainant's claim

Alternative plea: Dismissal of the case

**Supplementary statement of defence and submissions:**

Re Dismissal of the complainant's claim

In support of the plea for dismissal of the complainant's claim, it is submitted – in addition to what is stated in the brief dated 26 January 2022 submitted by FS Finans VI A/S (formerly Københavns Andelskasse under kontrol) – that Andelskassen did not fail to fulfil any obligations under anti-money laundering legislation vis-à-vis [REDACTED] who has not been a customer of the bank. It is further noted that violation of anti-money laundering legislation does not *per se* provide a basis for Andelskassen being liable vis-à-vis [REDACTED]

Andelskassen could not and was not required to have acted any differently as a reversal could only have been effected with the consent of Andelskassen's customer, and such consent had not been given.

Andelskassen cannot be held liable for its customers' acts/transactions, and [REDACTED] has failed to provide evidence showing that the conditions for damages are satisfied, including evidence showing a causal connection between the alleged loss and Andelskassen's establishment of the bank accounts to which [REDACTED] made money transfers.

Furthermore, Andelskassen was not able to ascertain from the deposit/transfer that an error had been made or that fraud had allegedly been committed, and Andelskassen could consequently not have acted differently. It is submitted that the loss is too remote.

[REDACTED] co-contractors are the "investment companies" and not Andelskassen. As a consequence, George William Barton must bring any claim for repayment/damages against the investment companies based on the contractual basis which may exist between George [REDACTED] Barton and those companies.



It is further noted that, [REDACTED] made the transfers on 6 April 2018 and 18 May 2018. On the basis of the information available, it must be taken for a fact that the period of limitation of a potential claim for repayment/damages runs from a date earlier than three years before the date when [REDACTED] filed his complaint in late 2021. It is submitted that a claim, if any, must be deemed to be time-barred.

If FS Finans VI A/S (formerly Københavns Andelskasse under kontrol) is held liable in damages, it is submitted that [REDACTED] was contributorily negligent by not checking the recipient prior to making the transfer and that damages should therefore not be awarded or be reduced.

#### Re Dismissal of the case

Should the Complaint Board not decide the case on the basis of the information relied on by FS Finans VI A/S (formerly Københavns Andelskasse under kontrol) in support of the plea for dismissal of the complainant's claim, it is submitted that the case may be decided solely on evidence in the form of examination and calling of witnesses.

In this context, reference is made to what George William Barton states in his brief of 17 February 2022: "[REDACTED] fell victim to the Kayafx scam. A vast cybercrime network around Traderox, Kayafx and Libramarkets which got busted by the German law enforcement, together with Europol and Eurojust and the support of their fellow agencies in Spain, Bulgaria, and Israel in May 2021."

Finally, it is submitted that [REDACTED] allegations in that regard effectively concern the question of whether an actionable wrong has been committed and whether FS Finans VI A/S (formerly Københavns Andelskasse under kontrol) is liable in damages as a result of the alleged acts by the companies/individuals referred to by [REDACTED] the consideration of which should solely be for the general courts of law to make based on e.g. evidence given by the parties and, possibly, witness statements, and that the complaint must therefore be dismissed. See article 5.3.4 of the Complaint Board's statutes.

Finansiel Stabilitet reserves the right to present additional submissions and comments.

Yours faithfully

[REDACTED]  
Attorney