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PNC Bank Loses Bid for Release From Suit Over Fraud Against 76-Year-Old Man

By Charles Toutant

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A judge in Essex County, New Jersey has denied PNC Bank's motion for dismissal from a suit that stems from a fraud scheme against a 76-year-old who lost his life savings.

The ruling is a reminder that banks can face liability where their own conduct enables the foreseeable exploitation of vulnerable customers, said the attorney for the fraud victim.

On two occasions, employees of a PNC branch in West Orange, New Jersey failed to intercede when the plaintiff, Jeffrey Maas, made withdrawals totaling $390,000—nearly all his money—and gave it to scam artists. Maas was taking instructions by phone from the scammer when he was at the bank, the suit alleges.

PNC Bank said it is not liable for the incident because Maas' negligence claim is preempted by the uniform commercial code and because PNC owed no duty of care to Maas. But Maas' lawyer argued that the bank is liable because it took on a fiduciary duty. Judge Aldo Russo of Essex County Superior Court agreed and denied PNC's motion to dismiss on June 18.

PNC had a fiduciary duty because a bank employee told Maas that gold was a good investment, said the lawyer for Maas, Steve Cohen of Pollock Cohen in New York.

Photo: Diego M. Radzinschi/ALM

PNC bank location in Baltimore, MD. August 20, 2020.

"Then, in their papers, the bank said something that was very telling. They asked the court to take judicial notice of fact that the price of gold had doubled. If you just held on to the gold, not give it away to the scammer, you would have made a lot of money. So they were saying, see, our advice to the customer was good advice," Cohen said.

Maas was drawn into the scam in June 2024 after receiving an email appearing to be from Symantec that acknowledged a $691.85 payment for Norton Antivirus software he had never purchased. When he called the number in the email to dispute the charge, the person answering offered a refund and asked for his bank information, allegedly giving scammers remote access to his computer.

During the refund process, a man identifying himself as Jason Green claimed he had accidentally deposited $300,000 into Maas' account. Using remote access, the scammers displayed a falsified PNC bank statement showing the funds. Green directed Maas to call a number for PNC, but the person who answered, identifying himself as Edward Cullen, was also part of the scheme, according to the lawsuit. Cullen told Maas the only way to correct the error was to withdraw the money and purchase gold coins.

Maas went to a PNC branch in West Orange, where he met with employee Jorge Vera while remaining on the phone with Green throughout the transaction. The lawsuit alleges Vera failed to question why Maas was withdrawing large sums, buying gold or speaking with someone during the entire meeting. Instead, Vera reportedly remarked that gold was a good investment, processed the wire transfer to American Coin and told Maas the funds would clear within an hour.

Vera, the bank employee, "asked no questions of Mr. Maas," Cohen said.

"He did not ask if Mr. Maas had a problem with PNC Bank or a particular financial need or investment objective that was driving him to deplete his long-held savings in order to purchase gold. He did not ask why Mr. Maas was on a call during the entire interaction or who was on the other end of the call. He did not try to assess if Mr. Maas was being unduly influenced by the person or persons on the other end of the phone call."

Later, as instructed, Maas handed the gold coins to someone who arrived at his home. The next day, Green claimed another mistake had occurred, saying $100,000 had been deposited into Maas' account instead of $10,000. After again showing him a falsified bank statement, Green instructed Maas to withdraw another $100,000 and buy more gold coins.

Maas returned to the PNC branch, where employee Nia Dubourg assisted him. The lawsuit says Dubourg, like Vera, completed the transaction without asking questions that might have revealed Maas was being manipulated or acting out of character.

Maas again, as instructed, handed the coins to a man who came to his house. Maas took a photo of the man's license plate, and he was identified as Jaynesh Patel of Bensalem, Pennsylvania. In addition to PNC, Maas' suit names Patel and the coin dealer, American Coin and Stamp Co., as defendants.

According to Cohen, guidance from FinCEN, the Treasury Department's Financial Crimes Enforcement Network, advises bank employees to watch for older customers engaging in unusual transactions or appearing to be under another person's influence.

"I think this judge really wants to do justice. This is a major, major issue affecting senior citizens across the country. I'm hoping that the judge sees that we've got to hold people or hold institutions accountable when senior citizens are being taken advantage of and scammed as frequently as they are, and to do what the Department of Treasury said to do, which is be on the lookout for these red flags and slow things down," Cohen said.

Stephanie Malone-Zeitz and Thomas F. Burke of Ballard Spahr represent PNC. Burke declined to comment and referred a reporter to the bank. Jason Beyersdorfer, a PNC spokesman, also declined to comment.