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## Bitcoin trader has cash 'wrongly' seized by police



Picture Nick Ponty 30/7/15 Max Flores who is a trader of bitcoins (33872990)

Judith Duffy / Sunday 2 August 2015 / News

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A TRADER in the digital currency bitcoin has told how he had thousands of pounds of cash seized under legislation usually used to target drug dealers.

Max Flores, 27, was told by his bank that his account had been frozen while they investigated an issue. He was subsequently told his account was being closed and asked to come and collect his money at a specific time and date.

But when Flores left the bank in May this year, he was stopped by police and told his

cash was being seized under proceeds of crime legislation.

A court then granted permission for prosecutors to hold the money for three months to allow investigations, with allegations of behaviour that pointed to money laundering.

His money was handed back at the beginning of July after his solicitor appealed the decision, pointing out Flores traded in bitcoins. However he has lost around £1,200 out of his original £5,500 in legal fees trying to get the money back.

It is believed to be the first case of its kind in Scotland involving bitcoin. The digital currency was launched in 2009 and can be bought using traditional money from a bitcoin exchanger.

Flores, from Glasgow, said he first became interested in bitcoin in 2011 and decided to trade occasionally to help people get access to the digital currency.

He believes problems arose when his bank filed a "suspicious activity report" against him – but has never been given an explanation of what happened.

He said: "The bank only told me I couldn't use my account and said it had been frozen until we investigate something. They then said your account is getting closed and asked me to come in and get my money at a specific time and date.

"I was stopped by the police when I left the bank – they said you are not under arrest, but we are taking your money.

"When they took me to the station I asked do you know anything about me? When they said no, I told them if you try googling me you will find out that I am a bitcoin trader.

"It never even got to the second (court) hearing – as soon as I could explain everything, the court gave me my money back to me straight away.

"The police made claims such as I had been claiming housing benefit – which was completely false information and I have no idea where that came from."

Flores said his money totally £5,500 was held for a total of around four months while the bank and police investigated.

He added: "I have probably lost around £1200 trying to get it back, through costs such as solicitor's fees. Surely they should have to prove there is a crime before they take the proceeds?

"I have no idea if I have been left with a black mark on my credit rating or anything as a result, I just don't know."

Laura Irvine, of Edinburgh-based bto solicitors, who represented Flores, said his money had been seized under the Proceeds of Crime Act 2002. This allows police to seize money if they have 'reasonable grounds' for suspecting that it is the proceeds of crime.

Irvine said: "The legislation tends to be used typically for drug dealers who there is maybe not enough evidence to convict them of any criminal offence, but there is plenty of intelligence in the background which suggests that is what they are up to.

"When money is found in their possession that they have no other explanation for then the default is that it is the proceeds of crime and the Crown can take it.

"However when you look at the circumstances of Flores case it may be a slightly less justified approach

"There was evidence of money going through his bank accounts and it is correct to say that is typical of money laundering, and it is correct to say Max didn't have an income at that point - so it may look on the face of it to be strange.

"But they certainly knew that bitcoin trading was in the background. That to me was the most disturbing aspect of this – there was no real identification of what the criminal conduct was."

Pol Clementsmith, Scotland officer with the Open Rights Group (ORG), which campaigns on digital rights, said: "ORG Scotland are pleased with the outcome of this appeal because it illustrates that currencies like bitcoin have a positive role to play in our society in the digital age.

"Unfortunately, in banking and law enforcement circles, there is a suspicion that digital currencies are de facto illegitimate because they are mainly used to perpetrate illegal proceeds of crime transactions - but this is simply not true.

"Digital money is no more likely to be criminal than the cash you have in your pocket.

"Currency isn't illegal in and of itself; it's what people choose to do with that currency which may be illegal."

He added: "Thankfully Mr Flores has been vindicated in the first case of its kind in Scotland and it is hoped that in future cases where digital currencies are involved that the authorities will learn from the mistakes made in this case."

A spokesman for the Crown Office said: "Trading in bitcoins is perfectly legal.

"In this case, however, suspicions were raised about the specific nature of some transactions

“The cash was seized, pending an inquiry that was hampered by the individual’s initial refusal to provide any information about its source.

“Once the investigation was complete and no basis for forfeiting the cash had been established, it was handed back.”