

The complaint

Miss L complains Campbell & Associates Independent Financial Advice Ltd (“Campbell”) failed to invest £40,000 she transferred to her advisor.

What happened

Miss L had a portfolio of investments, some of which were held on a platform I’ll refer to as “Platform A”. Over the years she’d taken advice on her various investments from her advisor at Campbell.

On 20 November 2017, Miss L transferred the sum of £20,000 to her advisor at Campbell. She recalls doing so on the understanding her money would be used to top up her existing investments with Platform A. On 6 December 2017, Miss L sent the advisor another £20,000 with the same expectation.

In the years following this, Miss L has received updates directly from her advisor at Campbell which suggested the money had been invested as expected. On 27 February 2023, the advisor sent Miss L a text message which explained they were unable to continue as Miss L’s advisor due to an intervention by the FCA.

In March 2023 a friend of Miss L’s who was also a Campbell customer, directed her attention to an article suggesting the advisor was being investigated for fraud. Miss L spoke with Platform A and came to understand the £40,000 she’d paid to her advisor was missing. So she followed the matter up with the advisor at Campbell.

The advisor explained the money was in fact in a holding account and that it would be paid to Miss L presently. But the payment never materialised. Miss L sent Campbell a complaint about what’d happened on 3 April 2023. In this complaint Miss L noted the investment updates the advisor gave accounted for her missing money. But that Platform A had confirmed the money in question was never received, suggesting the investment updates weren’t accurate.

Campbell did not reply to Miss L’s complaint, so she referred the matter to our service.

Our investigator made efforts to contact Campbell and obtain its response to Miss L’s complaint. One of our investigators spoke to a solicitor working on behalf of the advisor. The solicitor confirmed Campbell and its advisor were aware of the complaints made against it. In the absence of any formal response from Campbell, our investigator upheld Miss L’s complaint. They felt she should be compensated for her financial losses, and for the distress and inconvenience she’d suffered due to Campbell’s actions.

To date, our service has received no explanation for, or defence of the issues Miss L has raised in her complaint against Campbell. Because of this, the matter has been passed to me to make a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

At the outset, I'd observe that given the subject matter and implications of Miss L's complaint, it's quite extraordinary that Campbell has failed to respond in any meaningful way. I'm satisfied however that it's appropriate for me to proceed with my decision on Miss L's complaint.

Our rules, outlined in DISP 3.5.9 R explain that I may “*reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested*”. And that is what I intend to do in Miss L's case.

As a regulated firm, when dealing with its customers, Campbell is required at all times to uphold a series of high-level principles set by the FCA. Amongst other things, the principles outlined in PRIN 2.1.1 R require that:

“A firm must conduct its business with integrity... A firm must conduct its business with due skill, care and diligence... A firm must observe proper standards of market conduct... A firm must pay due regard to the interests of its customers and treat them fairly... A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading...”.

Where investments are concerned, these principles are further bolstered by the rule in COBS 2.1.1 R, which requires that:

“A firm must act honestly, fairly and professionally in accordance with the best interests of its client”.

Miss L has evidenced she paid two amounts of £20,000 to her advisor at Campbell. One on 20 November 2017, and the other on 6 December 2017. Miss L recalls doing this following a discussion with her advisor. And that the payment was made on the understanding her money would be invested in Platform A, where she held a model portfolio product called “Active Managed Portfolio 6”. I've seen copies of Miss L's authentic statements from Platform A which clearly name Campbell as being her financial advisor.

Following this, Miss L's provided copies of investment updates she claims to have been sent by Campbell. These updates appear to show both her investment in Active Managed Portfolio 6, and a separate holding, also with Platform A, to the value of slightly less than the £40,000 she'd paid Campbell's advisor. Miss L says she'd understood this was the money she'd paid to Campbell across November and December of 2017.

Our investigator has attempted to locate the holding shown on Campbell's investment updates that Miss L's identified as being her £40,000 deposit. The investigator communicated directly with Platform A and another of Miss L's investment providers. Neither business has been able to account for the money shown on Campbell's investment update. And whilst Campbell's investment updates label the deposit as a Platform A investment, it cannot be seen on any statements provided by Platform A. This means there's no evidence to suggest the money was ever invested in the way Miss L recalls agreeing with the advisor at Campbell.

When Miss L challenged her advisor on the whereabouts of her £40,000 deposit, they assured her the money would be with her shortly. But since that date, Miss L hasn't received any payments from either Campbell or her advisor.

I've seen no evidence that would give me pause to doubt Miss L's submissions on these points.

In my opinion, if Campbell and its advisor had accepted Miss L's money in the course of legitimate business, it would be relatively straightforward for it to refute her complaint. As a firm that's authorised to give advice and arrange investments for its customers, I would reasonably expect Campbell to provide evidence of:

- Arrangements and recommendations for any investments it's sold.
- Paperwork substantiating the appropriateness or suitability of those investments.
- Diary notes or phone calls recording occasions those investments were discussed.

The fact Campbell has failed to provide any such evidence is extremely concerning. As is the fact that according to the FCA register, Campbell doesn't appear to have ever been authorised to hold client money. Mindful of this, and in the absence of any counter-narrative defending itself, I'm persuaded that Campbell has failed invest Miss L's money as it should have. And by doing so, it's failed to uphold the principles and requirements I referenced earlier in my decision. I'm satisfied that Campbell has failed to treat Miss L fairly.

It remains for me to fairly and reasonably decide what Campbell must do to address the impact its actions have had on Miss L.

Putting things right

As I've understood it, it was Miss L's expectation that the £40,000 she'd paid to Campbell was to be invested into Platform A's "Active Managed Portfolio 6". But this did not happen. Campbell has declined to say what it did with the money it accepted from Miss L. And by not investing the money as it should have, Campbell has caused Miss L to miss out on the growth Platform A's "Active Managed Portfolio 6" has made since 2017. This loss flows from Campbell's failure to treat Miss L fairly, and so I'm satisfied it should compensate her accordingly.

Firstly, I direct that Campbell must pay Miss L the sum of £40,000.

Next, I direct that Campbell must calculate the growth Miss L's two deposits of £20,000 would have made, had they both been promptly invested in Platform A's Active Managed Portfolio 6. For the purposes of this calculation, I think it's fair and reasonable to expect that Campbell ought to have invested these deposits the same day they were received, so on 20 November 2017, and 6 December 2017 respectively. Campbell should calculate growth on these investments up until the date it settles this complaint. Completing this calculation will leave Campbell with a monetary figure I'll refer to as "Figure X". Campbell must provide a breakdown of its calculations for Miss L in a clear and simple format.

Once it has completed this calculation, I direct that Campbell must pay Figure X to Miss L.

Finally, I've considered what Campbell must fairly and reasonably do to compensate Miss L for the significant trouble and upset the events of her complaint have caused her. From the historic correspondence available to me, Miss L appears to have enjoyed a relatively informal relationship with Campbell's advisor. I have no doubt that the realisation she'd been deceived by the advisor as to the whereabouts of her money, combined with the anxiety of not knowing what had happened to her funds will have had a significant impact on her.

Miss L has described the time she was forced to spend calling around between her investment providers and her advisor at Campbell. And the time she's spent compiling

information for this service and the FCA's investigation into Campbell's actions here. All the while, not knowing whether her money, a not insignificant sum, would ever be returned to her. And I have no doubt that this will have caused her significant distress and inconvenience.

Because of this, I direct that Campbell must pay Miss L the sum of £750 in recognition of the impact its actions have had on her.

My final decision

My final decision is that for the reasons given above I uphold Miss L's complaint. I direct that Campbell & Associates Independent Financial Advice Ltd must now:

- Pay £40,000 to Miss L
- Calculate Figure X (as directed above)
- Give Miss L a breakdown of its calculations in a clear and simple format
- Pay Figure X to Miss L

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 13 December 2023.

Marcus Moore
Ombudsman