

## The complaint

Mr T has complained that because of the lack of action taken by Interactive Investor Services Limited ('II') and the delays he experienced, between August 2022 and May 2023, he lost access to one of his shareholdings during an in-specie transfer. To put the matter right he would like financial compensation.

## What happened

Mr T instructed the transfer of his shareholdings from his predecessor platform provider, who I shall refer to as 'Company A' in my decision, to II in August 2022. One of the holdings – Berkshire Hathaway 'B' shares valued at around £50,000 – took approximately nine months to be transferred. Mr T said it was only after he made contact with II that action was taken. Mr T raised a complaint with II about the transfer delays. In its response of 30 May 2023, it said;

- The transfer for an international holding such as Berkshire Hathaway required a different process than Mr T's other investments.
- It accepted that it had caused the original initial error regarding the trade date for settlement and upheld this element of the complaint.
- But since 24 August 2022, when it had re-arranged a new trade date, anything further was out of its control as it was between Company A and its custodian. It had chased every week for the transfer. As it had done everything it could it didn't uphold this element of the complaint.
- Due to the delay and inconvenience caused, it credited Mr T's bank account with £900.

Mr T remained unhappy with the outcome to his complaint and brought it to the Financial Ombudsman Service. Our investigator who considered the complaint thought that II didn't need to do anything more. He said;

- He outlined what had happened during the transfer, and the cause of the delays for which II was responsible.
- Mr T had said that he had wanted to sell the shares to pay for building work done on his house and the investigator accepted that Mr T hadn't been able to trade the shareholding if he had wanted to during the period of transfer. He also acknowledged that Mr T had chased II several times for updates which had caused him trouble and upset.
- But Mr T hadn't been financially disadvantaged during the transfer period as the shares had gone up in value. The investigator could only consider what happened and not a hypothetical scenario of Mr T's wish to sell the shares.
- II had accepted it had caused the initial administrative transfer error and had chased Company A and its custodian once this was recognised.
- He thought the offer of £900 was fair and reasonable in the circumstances taking account of the stress Mr T had been caused, his age and his inability to access the

shareholding during the period of transfer.

Mr T didn't agree with the investigator and made several points in response;

- He had been advised the transfer would take between four and six weeks. He hadn't said he was financially disadvantaged, so this point was a red herring.
- He didn't think it was fair to say that once the error had been recognised that II had attempted to resolve the issue by being in regular contact with Company A and its custodian. He had received 27 emails between the end of August 2022 and May 2023 saying the 'next action is required from [Company A]' so how did it not recognise there was problem. And he questioned why Company A's custodian couldn't provide records of the shareholding. It was illegal not to keep such financial records.
- There was a total of 97 emails during the period and 37 from him to Company A and II which using a rate of £100 per hour for his time would cost around £4,850. There were also many phone calls so II's offer wasn't 'fair'.
- The error had only come to light because of his actions.

As the complaint remains unresolved, it has been passed to me for a 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.

After doing so, I've reached the same conclusion as the investigator and broadly for the same reasons. I shall explain why.

It's accepted by the parties that there was an error made by II which caused the delay in the in-specie transfer of Mr T's holding of Berkshire Hathaway shares. So, in my consideration of this complaint, I have reviewed how II responded once it became aware of the error in order to put that right and what the impact of that error was on Mr T.

#### The initial error

I've reviewed the timeline of events provided by II about the transfer request.

II received the transfer form from Company A on 11 August and began processing that request. It received the necessary valuation of Mr T's portfolio of 28 shareholdings from Company A on 15 August and on 18 August II asked Company A to agree to a transfer date of 24 August. Company A agreed to the request on 19 August. On 24 August Company A informed II that the trade date hadn't been input and in response this was updated on the same day. All of the shareholdings settled on 24 August with the exception of the Berkshire Hathaway shares.

II contacted Company A on 31 August to re-arrange the trade and settlement dates of the missing shareholding. Thereafter I can see there was daily and weekly messages and correspondence between II and Company A (and its custodian) – over 70 in total. And I can see that Mr T phoned II on 31 October and was becoming involved with the transfer. It appears that the stock hadn't been returned after the initial failed trade/settlement, Company A's custodian was being chased plus there were subsequent trade/settlement queries.

From the information recorded in the above timeline I'm satisfied that II was aware of the problem with the transfer of the holding on 24 August and then went about resolving the

issue from 31 August onwards. And I'm satisfied those further and regular attempts to put the matter right was an appropriate response and what I would expect to see in such circumstances. II recognised there was a problem and sought to put the matter right. It was vigorous in its attempts to do so. And it cannot be held responsible with any of the issues caused by Company A or its custodian.

Taking all of the above into account, I'm satisfied that II recognised there was an error and immediately sought to put it right and continued to do so. So, I've gone onto the award payment II has made because of this.

#### The impact on Mr T and the award

II has said that the award it made – the £900 – was because of the number of times Mr T had contacted II.

With regard to Mr T's request for £14,300, which I understand was based on a bank's unauthorised overdraft charge on the value of the asset, II didn't agree this was a reasonable request. It acknowledged that Mr T hadn't had access to the shareholding or been able to trade if he had wanted to, but during the period of the delay, the value of the shareholding had increased so there was no financial loss. Any award due to Mr T was because of the distress and inconvenience he had been caused.

This service recognises that a complainant can be inconvenienced because of the extra effort or trouble they have had to go to as a result of a business's mistake and this can include the time someone has spent. We don't make awards based on a someone's hourly rate for the time taken in attempting to resolve a complaint. We look at the overall impact the business's mistake has had on the complainant.

Under the normal course of events when there is an in-specie transfer between two platform providers – as in this case – once the consumer has given the transfer instruction, I wouldn't usually expect to see any involvement with the consumer. The transfer itself should generally be a business-to-business process. Clearly though Mr T was involved, as evidenced by the emails and phone calls, so he has been inconvenienced and caused more than the levels of frustration and annoyance you might reasonably expect from day-to-day life.

So, while I accept Mr T's point about his involvement during the transfer process, I don't agree he should be awarded for the time taken for each individual email written or phone call he made. Rather it's the overall impact that I have considered. And I've looked at the amount already offered and paid by II in light of this and the level of awards we might make in such circumstances. And the amount of £900 would be the sort of award this service would make for 'substantial distress, upset and worry' which I am satisfied has been incurred by Mr T during the time it took for the transfer to be completed.

I'm aware that Mr T has said he wasn't financially disadvantaged because of the delays – the shares went up in value in any event – but Mr T said that he was having some building work carried out on his house and that if he had wanted to sell the shareholding to finance that work, he wouldn't have been in the position to do so. However, I haven't seen any evidence that Mr T formed a firm intention to carry out any particular sale of this shareholding during the period of the transfer. He may have potentially suffered a loss of expectation if he had wanted to carry out such a sale, but I do not think it would be fair or reasonable to make any award for Mr T not having been able to carry out a sale. While Mr T may have liked to have the option to do so I haven't enough to conclude that it was more likely than not that Mr T would have carried out the sale and lost out because of the delay in the transfer of this shareholding.

I very much recognise the loss of peace of mind for Mr T during the delayed transfer. Clearly, he was very concerned about the whereabouts of his shareholding valued at around £50,000 and understandably felt it necessary to intervene in order to chase for the transfer. It must have been distressing for him when Company A was unable to locate the returned shares and they 'disappeared' after the failed transfer in August 2022. But bearing in mind the level of awards this service makes in similar situations, overall, and taking all of the above into consideration, I am satisfied that the award already made is fair and reasonable in the particular circumstances of this complaint. So, I don't think that that II needs to do anything more.

I fully appreciate that Mr T will be disappointed with my decision. It's clear he feels strongly about his complaint, and I'd like to thank him for the efforts he has made in bringing it. But I hope that I have been able to explain to Mr T how and why I have reached the decision that I have.

### **My final decision**

My final decision is that I don't uphold Mr T's complaint about Interactive Investor Services Limited. It doesn't need to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 8 March 2024.

Catherine Langley  
**Ombudsman**