

## **The complaint**

Mr and Mrs N complain Campbell & Associates Independent Financial Advice Ltd ("Campbell") failed to invest £95,000 they transferred it to top up their portfolios across 2016.

## **What happened**

Mr and Mrs N held a series of investments across a number of different providers. Their investments were managed by an advisor at Campbell that the couple knew well.

In 2016, the couple made a series of payments to Campbell. They recall these payments were intended to be added to their ISAs and a joint investment, held with companies which I'll refer to throughout as "Platform A" and "Platform B".

They allege that Campbell provided them with a spreadsheet which tracked the balances of their various investments. They say the spreadsheet appeared to them to show the correct balances, mindful of the various payments they'd made to Campbell.

The couple had cause to doubt what they'd been told about their investments when they were contacted by the FCA, who'd begun an investigation into Campbell's conduct. This prompted them to speak to a number of their investment providers. And Mr and Mrs N came to realise Campbell hadn't invested their money as it said it had. Their money was, contrary to what Campbell's spreadsheet appeared to show, inexplicably missing.

Mr and Mrs N have made a series of complaints to Campbell since the FCA's intervention. Having reviewed their paperwork, they've found multiple years where money they'd paid to Campbell had not been deposited into their investments as they'd expected. This complaint shall focus on the £95,000 worth of payments Mr and Mrs N made to Campbell in 2016.

Campbell has not responded to this, or any other complaint Mr and Mrs N have thus far raised about their missing funds.

Our investigator made efforts to contact Campbell and obtain its response to Mr and Mrs N's complaint. One of our investigators spoke to a solicitor working on behalf of Campbell's 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 Mr and Mrs N's complaint. They felt the couple should be compensated for their financial losses, and for the distress and inconvenience they'd suffered due to Campbell's actions.

To date, our service has received no explanation for, or defence of the issues Mr and Mrs N have raised in their complaint against Campbell. Because of this, the matter has been passed to me to make 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.

Prior to giving my decision on the merits of this complaint, I will first assert that I'm satisfied it falls within our service's jurisdiction to consider it. Our time limits, outlined in DISP 2.8.2 R, explain our service cannot decide the merits of a complaint that's referred to us more than six years after the event complained about, or more than three years after the complainant ought reasonably to have been aware of their cause to complain.

Here, Mr and Mrs N are complaining about payments they made to Campbell in 2016 and its failure to invest that money in line with their expectations. Their complaint therefore is out of time under the first limb of DISP 2.8.2 R. I am however satisfied that they've complained within three years of when they ought reasonably to have been aware of their cause to complain.

I've seen no evidence, prior to the FCA's contact with them in 2023, that Mr and Mrs N would've had any cause to doubt their money was being invested in line with their expectations. It seems it's only through the process of comparing the information they were given by Campbell, with information from their investment providers that they've proactively obtained, that they've developed an awareness that their money isn't where they believed it should be. And I'm satisfied that as per the relevant rule, their complaint to Campbell has been made within three years of this realisation. As a result of this, I do not require Campbell's consent to proceed with my decision here. I will now give my decision on the merits of their complaint.

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

Mr and Mrs N have provided bank statements which show them making the following individual payments to Campbell in 2016:

- £5,000 on 15 March 2016
- £5,000 on 15 March 2016
- £10,000 on 21 March 2016

- £10,000 on 23 March 2016
- £10,000 on 29 June 2016
- £10,000 on 14 July 2016
- £9,500 on 7 November 2016
- £500 on 7 November 2016
- £5,000 on 8 November 2016
- £20,000 on 5 December 2016

Mr and Mrs N recall that the money they paid to Campbell was to be distributed between their ISAs with Platform A, and a joint investment they held with Platform B. Having studied the authentic statements from these investment providers which cover the period in question, I cannot see any evidence of Campbell transferring Mr and Mrs N's money across in line with their expectations.

On the other hand, Mr and Mrs N have provided a spreadsheet they say they received from Campbell, which accounts for some of the payments listed above. This document seems to give a false impression that their money was invested in the way they'd expected. But in reality, there's no evidence of what Campbell actually did with the money Mr and Mrs N transferred to it. The money remains unaccounted for, and Campbell has declined to give any commentary on its whereabouts.

From the evidence available to me, I'm satisfied Campbell has failed to invest Mr and Mrs N's money in the manner they recall agreeing to. I have seen no evidence that would give me pause to doubt Mr and Mrs N's submissions on these points.

In my opinion, if Campbell and its advisor had accepted the couple's money in the course of legitimate business, it would be relatively straightforward for it to refute their 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 to invest Mr and Mrs N'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 Mr and Mrs N fairly.

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

### **Putting things right**

As I've understood it, Mr and Mrs N had made the 2016 payments to Campbell on the understanding they'd be used to invest in their ISAs with Platform A and their joint investments with Platform B.

From the evidence provided, I can see both Mr and Mrs N used their ISAs to invest in Platform A's model portfolio product, titled "*WealthSelect Managed Active 5*". Their holding with Platform B was a joint investment bond. So by failing to invest their money as it should

have, I'm satisfied Campbell has caused Mr and Mrs N to miss out on the growth that their £95,000 could've made, had it been invested across their ISAs and their bond.

Mindful of all of this, when deciding what would be fair compensation, I consider that my aim should be to put Mr and Mrs N as close to the position they would probably now be in, if their money had been invested in the way they'd expected it to be.

To begin with, I direct that Campbell must pay Mr and Mrs N the sum of £95,000.

Next, I direct that Campbell must calculate the growth Mr and Mrs N's deposits across 2016 would've made, had they been promptly invested in Platform A's "*WealthSelect Managed Active 5*" up to the relevant ISA limit in the tax years 2015/2016 and 2016/2017, with any remainder invested in their bond with Platform B. 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.

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 Mr and Mrs N in a clear and simple format.

Once it has completed this calculation, I direct that Campbell must pay Figure X to Mr and Mrs N.

Finally, I've considered what Campbell must fairly and reasonably do to compensate Mr and Mrs N for the trouble and upset the events of their complaint have caused them. Having already suffered the shock and upset of realising their other deposits were missing, Mr and Mrs N have been further upset by what they've learnt about the payments they made to Campbell in 2016. As a result of this, I think it is fair and reasonable in the circumstances for me to direct Campbell to pay Mr and Mrs N £300 to address the impact of its actions.

### **My final decision**

My final decision is that, for the reasons given above, I uphold Mr and Mrs N's complaint against Campbell & Associates Independent Financial Advice Ltd.

I require that the firm must now:

- Pay £95,000 to Mr and Mrs N
- Calculate Figure X (as directed above)
- Give Mr and Mrs N a breakdown of its calculations in a clear and simple format
- Pay Figure X to Mr and Mrs N
- Pay Mr and Mrs N £300

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N and Mrs N to accept or reject my decision before 3 April 2024.

Marcus Moore  
**Ombudsman**