

The complaint

Mr H complains, through his representative, that he was given unsuitable advice to invest in unlisted shares by Charles Street Securities Inc or its appointed representative CSS Partners LLP.

What happened

Charles Street Securities Europe LLP is now responsible for complaints against Charles Street Securities Inc or its appointed representative CSS Partners LLP. The complaint has hence been set up against Charles Street Securities Europe LLP; and I will refer to all three entities as “CSS” in this decision.

Mr H entered into a private client agreement with CSS in October 2003. Following this Mr H and his wife, Mrs H, invested in various unlisted companies through CSS between 2004 and 2006.

One of the investments made by Mr H through CSS was in the shares of Gastrodome PLC (“Gastrodome”). He purchased 30,000 shares for £7,500 on 14 April 2004.

Mr H made a complaint to CSS about his investment in Gastrodome in 2007. He said he thought he had been given misleading information about the investment by CSS. CSS sent its response to Mr H on 25 October 2007. In that response it said it did not accept Mr H had been given incorrect information. It did not provide Mr H with the right to refer his complaint to this service.

Mr and Mrs H’s representative then wrote to CSS in 2022 complaining about the sales of all the shares they had bought through CSS. CSS sent a brief response to this complaint, which said the complaint, in its view, had been made too late.

Unhappy with CSS’s response, Mr H referred his complaint to this service. One of our investigators concluded it had not been made too late, because the complaint Mr H had made in 2007 had been made in time and the response that CSS provided did not constitute a Final Response Letter under the relevant rules and therefore did not put any time limit on a subsequent referral to our service.

CSS did not accept this view. An ombudsman then considered whether the complaint had been made in time, and concluded we could only consider a complaint about the Gastrodome investment, as the 2007 complaint related to that investment only, and a complaint made in 2022 about the other investments was out of time.

Our investigator’s view

Our investigator then considered the merits of Mr H’s complaint about the Gastrodome investment. He concluded the complaint should not be upheld. He said, in summary:

- He was satisfied CSS gave advice to Mr H to make the investment.

- From the evidence available, it seems Mr H had no expertise in investments of this type, although it is likely he had some understanding of stocks and shares, and understood he was investing in shares which were yet to be listed on an exchange.
- So, it is likely Mr H understood the investment was high risk. It did not follow he wanted significant exposure to high risk. But he was not persuaded the recommended investment resulted in an excessive exposure to high risk.
- He also did not think there was sufficient evidence to say CSS had given Mr H misleading information about the shares.
- Overall, from the available evidence, he was not persuaded Mr H was given unsuitable advice to make the investment.

Responses to the investigator's view

The representative, on Mr H's behalf, did not accept the investigator's view. It said, in summary:

- CSS had breached the 30% limit on high risk set out in the client agreement within four months of Mr H entering into the agreement with CSS, when Mr H's portfolio reached £20,050 following his third investment.
- By the time he invested in Gastrodome, Mr H had already agreed to invest a total of £33,550 in high risk investments through CSS in just six months.
- There is no evidence to conclude that Mr H's capacity for loss was any greater than 30% of his investments with CSS.
- Mr H did raise concerns about his exposure to high risk investments during the advisory period.
- CSS did provide misleading information regarding the companies Mr H was investing in.

Our investigator, having considered the representative's response, made the following additional points:

- As an ombudsman had made a decision on the question of time limits, the scope of his investigation was limited to the investment in Gastrodome.
- From the information he had seen, his view remained that Gastrodome was the first investment Mr H made with CSS.
- Whilst other investments may have been promoted to Mr H before to his investment in Gastrodome, investments had not been made in them until after the Gastrodome investment had been made.
- In any event, even if he considered the advice dates as opposed to the date of the investment, Mr H would have had invested/agreed to invest £33,550 in high risk investments with CSS after having made the Gastrodome investment – which was within 30% of Mr H's overall assets.
- So, his view remained that the investment in Gastrodome was suitable as it did not exceed Mr H's capacity for loss.

As an agreement could not be reached, the complaint was referred to an ombudsman for consideration. Following this, CSS made further submissions. It said, in summary:

- CSS would never under any circumstances state the risk associated with the investment was low. Mr H was very aware of the high risk nature of the investment.
- In every communication CSS highlighted that the investment has potential for positive gains but that it was inherently high risk nonetheless.
- CSS has always provided investors with a high level of information. CSS raises development capital for early-stage private companies with ambitious growth plans. All investments through CSS are high risk and investors could lose all capital invested.
- Mr H indicated his investment objectives were primarily to maximise capital growth (rather than income or a mix of income and capital growth) and he was prepared to accept a high level of risk. This is in line with the service explained and offered by his broker.
- Mr H would have been in no doubt that the 30% of “my investments” in the client agreement referred to the percentage of his overall portfolio that he was willing to invest through CSS in high risk investments.
- The 30% limit thus also acted as an indicator for Mr H's capacity for loss and it concurs with the investigator's interpretation of this.
- All the information provided by brokers to Mr H on target valuations, expected listing and capital raises would have come directly from placing documents or from company updates to shareholders post fund-raising. It has always been its approach for brokers only to relay such verified information and as such deliver a financial promotion rather than advice, although it agrees that prior to 2007 this was not reflected in its agreements.

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 should confirm that, like the investigator, I am only looking at one investment that Mr H made through CSS; the investment in the shares of Gastrodome. I appreciate Mr H's representative remains of the view we should consider all the investments Mr H and Mrs H made through CSS. But its arguments on this point have already been considered by another ombudsman, and my focus here is on the merits of the complaint we can consider i.e. the complaint about the shares of Gastrodome. I have therefore only considered the representative's submissions to the extent they relate to the investment in the shares of Gastrodome.

Turning now to that complaint, I appreciate that Mr H will be disappointed by this but, having considered it, I have reached the same conclusion as the investigator, for the same reasons.

Like the investigator, I am satisfied advice was given to Mr H in relation to the Gastrodome investment.

The agreement between Mr H and CSS, signed in October 2003, clearly envisages CSS providing an advisory service. In the agreement CSS is referred to as the “Client Adviser”,

and there are several references to “advisory”, “investment advice”, “financial adviser” and “recommend”, in the context of the service CSS was to provide.

An annex to the agreement also asked Mr H for information about his investment experience, financial circumstances and investment objectives. And it contained a section which put restrictions on the types of investments Mr H wished to be recommended.

Otherwise, as the investigator noted, the only evidence contemporaneous to the Gastrodome investment is Mr H’s handwritten notes, which he says he took at the time of his conversations with CSS’s brokers, and Mr H’s recollections. The notes and recollections both suggest advice was given.

I therefore think it is more likely than not CSS recommended an investment in Gastrodome to Mr H. And CSS therefore had to ensure that the investment was suitable for Mr H.

A lot of consideration has been given to the reference to a 30% high risk exposure in the client agreement, and whether that meant a high level of risk in respect of 30% of the investments Mr H made with or through CSS, or 30% overall. However, like the investigator, I think deciding what is fair and reasonable in the circumstances of this complaint ultimately comes down to a general question of suitability.

When considering the suitability of the Gastrodome investment, I am satisfied Mr H’s overall assets should be taken into account. It also needs to be considered that I am only looking at one of a number of investments here; it is not the case that the Gastrodome investment, in isolation, was intended to meet Mr H’s investment objective and overall attitude to risk.

I think it is also important to keep in mind why CSS was engaged. The client agreement sets out that CSS would offer investments in “*private equity and private debt*” and that such investments involve a high degree of risk. And some of the subscription offers Mr H has provided copies of pages from describe investments in the shares concerned as speculative and carrying a high degree of risk. I therefore think it likely Mr H had an appetite to receive recommendations of high risk investments, and understood the investments being recommended to him by CSS were high risk.

So, considering all the above, is there sufficient evidence to show an investment of £7,500 in Gastrodome was unsuitable for Mr H? I do not think there is.

In my view, the available evidence suggests Mr H had a capacity for some high risk investment. It was recorded he had £241,000 worth of assets held across quoted shares/bonds, liquid savings, ISAs and unquoted shares. And, as mentioned, I think Mr H had some tolerance for high risk.

As the investigator noted, the £7,500 investment in Gastrodome was the first one Mr H made through CSS. So, it was his first exposure to high risk. I do not therefore think it could be reasonably said the investment resulted in an excessive exposure to high risk for Mr H, given the assets he otherwise held.

I note other high risk investments had been recommended by CSS before Gastrodome and investments were later made in some of those investments, with the next one following a few weeks on from the Gastrodome investment. However, even if the investments recommended before Gastrodome but made after it are taken into account, I do not think that amounts to sufficient evidence to say the Gastrodome investment was unsuitable. Mr H was still within a level of high risk investment he appears to have had the tolerance and capacity for.

Turning to the question of whether Mr H was provided with misleading information, like the

investigator, I do not think there is sufficient evidence to demonstrate that is the case. There is no contemporaneous evidence of the sale of the shares. I have carefully considered Mr H's recollections and, whilst I do not doubt CSS expressed a view the shares would float, I think it unlikely it told Mr H they were certain to do so. I also think it likely CSS was positive about the opportunity the investment presented; but unlikely Mr H was led to believe the investment was guaranteed to be a success.

Overall, for the reasons given, I do not think there is sufficient evidence to uphold this complaint.

My final decision

For the reasons given, I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 3 September 2025

John Pattinson
Ombudsman