DRN-5425385

The complaint

Mr B complains that Solium Capital UK Limited, trading as Shareworks by Morgan Stanley, made a number of errors when handling the sale of some of his shares and their subsequent transfer to his new provider.

Mr B would now like Morgan Stanley to recompense him for his losses.

What happened

On 21 June 2023, Morgan Stanley wrote to Mr B in their capacity as the administrator of his previous employer's employee share scheme. Mr B had recently left his employer, at a firm that I shall call 'Bank A' and as part of the leaver's process, Morgan Stanley explained to Mr B that he had 30 days to remove the 2,475 shares that he'd acquired as an employee at Bank A. Morgan Stanley set out to Mr B that he could either sell his shares and transfer the monies to his current account or transfer the shares to another provider.

Given the nature of Mr B's holdings, Morgan Stanley also explained to him that income tax and national insurance (NIC) were due on his partnership and matching shares that were withdrawn from the plan trust as they'd been held for less than five years. The intention being that the appropriate number of shares would be sold to cover the tax due, which would be returned to Bank A, who would then settle the liability with HMRC.

On 4 July 2023, Mr B made a request to transfer his Bank A shares to a new broker, who I shall call 'Broker C'. As Mr B had elected to transfer his shares, this triggered a sale of 657 shares to cover the tax liability. Morgan Stanley then provided details of the remaining 1,818 shares to Broker C. But, on 10 July 2023, Broker C wrote to Morgan Stanley explaining that they didn't recognise the account number that Mr B had provided. Consequently, a week later, Morgan Stanley cancelled the transfer whilst they awaited further instructions.

Mr B contacted Morgan Stanley for an update on 20 July 2023. The call handler explained that the transfer had been cancelled but it wasn't immediately clear why. So, to expediate matters, Mr B asked Morgan Stanley to just cancel the transfer and sell his shares in Bank A instead. Mr B was informed that further instructions would follow via email.

After not hearing anything back, Mr B recontacted Morgan Stanley for an update on 25 July 2023. Morgan Stanley explained that the status was showing as 'in progress' and he should contact Broker C. Morgan Stanley also said that they'd speak to the relevant department and arrange for the transfer to be cancelled to allow Mr B to sell his shares.

After making no progress, Mr B decided to formally complain to Morgan Stanley. At the same time, he also raised his concerns to this service as well - prior to Morgan Stanley being given the opportunity to respond. In summary, he said that he felt Morgan Stanley had mishandled his share dealing account. Mr B went on to say that he wasn't informed when the original transfer instruction failed and was surprised to learn that only 1,818 shares were in his dealing account and wanted to know what had happened to the balance of his shares.

Mr B explained that when he attempted to sell the 1,818 shares and close the account, he discovered that income tax and national insurance obligations were still outstanding. Mr B explained that he'd made multiple calls to Morgan Stanley but made little progress in trying to put things right. In order to resolve matters, Mr B said that he wanted Morgan Stanley to:

- Reinstate the 657 shares that had gone missing from his account and provide an explanation of why they'd failed to sell them.
- Liquidate the 2,475 shares at the current market price (as of 15 September 2023).
- Provide an explanation for the delay in addressing his complaint.
- Pay compensation for the distress and inconvenience caused.

After reviewing Mr B's complaint, Morgan Stanley concluded they were satisfied they'd done nothing wrong. They also said, in summary, that they'd been unable to undertake the share transfer because Broker C didn't recognise Mr B's trading account.

The complaint was then considered by one of our Investigators. He concluded that Morgan Stanley hadn't treated Mr B fairly because from the evidence that he'd seen, there were avoidable delays. As Morgan Stanley didn't provide any response to our Investigator's findings, the case automatically comes 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.

I have summarised this complaint in less detail than Mr B has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Mr B and Morgan Stanley in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm upholding Mr B's complaint and it's largely for the same reasons as our Investigator - I'll explain why below.

<u>The missing 657 Bank A shares</u>

As Mr B left his employment at Bank A prior to holding his shares for at least five years, this meant that his shares (which came about through his employee share scheme) became subject to income tax and national insurance.

When Mr B asked Morgan Stanley to move his Bank A holding to Broker C, Morgan Stanley needed to liquidate some of his shares to cover the tax liability. From what I've seen, Morgan Stanley sold 657 shares on 4 July 2023 to cover Mr B's income tax liability of £799.66 and his national insurance liability of £139.08. After Morgan Stanley's fees were debited, that left net proceeds of £18.08. However, when Morgan Stanley attempted to remit the remaining shares to Broker C, they were unable to do so because of an incorrect account number.

So, from the evidence that I've seen, I'm satisfied that the 657 shares that Mr B says have gone missing from his account haven't gone astray, and were sold in a timely manner. It's clear to me that those shares were liquidated in accordance with the need to settle Mr B's tax liability for extracting the shares prior to their fifth anniversary. As I've seen no evidence that the tax had been settled either prior to or again following this transaction, I can't conclude that Morgan Stanley have done anything wrong in respect of those 657 shares.

<u>The delay in transferring / selling Mr B's shares</u>

After receiving Mr B's 4 July 2023 request to move his Bank A shares to his broker, on 17 July 2023, Morgan Stanley cancelled the transfer because Broker C said the account number provided was inaccurate.

And, when Mr B contacted Morgan Stanley for an update on 20 July 2023, he was advised that the transfer had been delayed because of a missing email address. Mr B explained to Morgan Stanley that he'd shortly be taking up a new regulated role and holding the shares might prove problematic. So, Mr B asked Morgan Stanley to cancel the transfer so he could just sell his shares in Bank A instead. Mr B was informed that his instruction would take two to three business days for them to action and then further instructions would follow via email. At that point, the shares would be returned to his dealing account and then he'd be able to sell them.

After not hearing anything back from Morgan Stanley within the three days previously promised, Mr B telephoned again on 25 July 2023. During that discussion, Mr B explained that he'd logged into his Morgan Stanley account and saw that the transfer was still showing as pending. He repeated his wishes for the transfer to be cancelled and he explained that he just wanted his shares to be liquidated. It wasn't until 17 October 2023 that Morgan Stanley telephoned Mr B, leaving him a message explaining that they'd placed the shares into his dealing account after receiving confirmation that no further tax was due. Morgan Stanley went on to say that the shares could be sold; they then followed this up in an email to him on 18 October 2023.

It seems to me that Morgan Stanley's helpline operative didn't have all the information that they needed when Mr B telephoned on 20 July 2023 when he asked for the transfer to be cancelled, but they did commit to providing answers to Mr B within three business days which never came. I think by the time that Mr B called again on 25 July 2023, Morgan Stanley should've been in a position to resolve matters for him as I think it would've been clear by this point that the transfer had been cancelled and the tax already settled. I'm of the opinion that Morgan Stanley should have been in a position to put Mr B through to their dealing helpline to facilitate the sale. It wasn't until some 84 days later that Mr B was informed that he was able to sell his shares by going into his dealing account and initiating the trade himself.

Therefore, I'm of the view that Morgan Stanley caused unreasonable delays in resolving matters for Mr B. Particularly when the evidence I've seen makes clear that the tax had already been paid on the shares in early July 2023, meaning that he was able to sell the balance of his shareholding following the 4 July 2023 transaction. As the evidence demonstrates that Mr B was prevented from selling his Bank A shares when he had wished to do so, I require Morgan Stanley to undertake a comparison calculation to determine if he has lost out financially as a consequence of their delays. I therefore require Morgan Stanley to take the following steps to put things right for Mr B:

Putting things right

Morgan Stanley needs to take the following actions:

1. Carry out a loss calculation by comparing the price that Mr B would have achieved had he sold his 1,818 Bank A shares on 25 July 2023 versus the price that he actually achieved when he sold them. 25 July 2023 is the point at which Morgan Stanley should have reasonably known that Mr B's remaining shares were available for sale.

2. Morgan Stanley should use the average daily share price for 25 July 2023 in their calculation.

3. If the comparison shows that Mr B could have achieved a higher price by selling his shares on 25 July 2023, a financial loss has occurred, and Morgan Stanley should pay that loss to him.

4. If there is a financial loss, add 8% simple interest per annum from 25 July 2023 to the date of settlement.

5. Morgan Stanley can deduct income tax from any interest payment if required to do so by HMRC.

6. Provide details of the calculation to Mr B in a clear, simple format.

Using financial services won't always be hassle free and sometimes mistakes occur. But, having looked at the various interactions that Mr B had with Morgan Stanley in trying to resolve matters, I think it's clear that he had to invest a considerable amount of his time in telephone calls and emails. I'm therefore of the view that Morgan Stanley needs to recompense Mr B for the trouble and upset caused and as such, they should pay him £200 for the inconvenience.

I'm satisfied that the redress I've set out above is fair and reasonable in all of the specific circumstances and allows for a prompt resolution of the case.

My final decision

I'm upholding Mr B's complaint and require Solium Capital UK Limited, trading as Shareworks by Morgan Stanley, to put things right for him in the manner that I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 11 May 2025.

Simon Fox
Ombudsman