

summary of complaint

Mr and Mrs K's daughter, Miss K, is making this complaint on their behalf. The complaint is that Cane Cohen Ltd gave them unsuitable investment advice to invest in a discretionary managed portfolio.

background to complaint

An adjudicator considered the complaint and recommended that it should not be upheld. In summary he said that:

- Mr and Mrs K were advised to keep a reasonable amount of funds on deposit which could have been used in an emergency.
- Mr and Mrs K were assessed as having a 'medium' attitude to risk. He did not consider this to be unsuitable for them, based on their circumstances.
- Whilst he acknowledged Mr and Mrs K's disappointment with the performance of the portfolio he did not see any evidence that Cane Cohen guaranteed that a specific return would be achieved.
- He did not consider that Cane Cohen's complaint handling was unreasonably poor.

Miss K did not agree. She said, in summary, that:

- Mr and Mrs K were persuaded to opt for the medium risk category rather than their preferred choice of cautious.
- Mr and Mrs K were not warned by the adviser of the risks involved in this strategy.
- The recommendation to place some of their capital in adventurous funds was a gamble which cannot be justified.
- Mr and Mrs K had limited knowledge of the risks and rewards of the types of investments which they were recommended to take.
- Cane Cohen made a number of false statements.

Miss K told the adjudicator she was going to make some further comments. However, this was many months ago and nothing more has been heard from Miss K.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have come to the same conclusions as the adjudicator and for the same reasons.

It is clear that during the advice process there was a discussion between the firm and Mr and Mrs K about whether a cautious, or a balanced (medium risk) portfolio would be more suitable for them. It was, however, agreed that the portfolio would continue to be managed on the basis of a balanced or medium level of risk.

These discussions were summarised in the firm's report of October 2007 which said the following:

'They (the discretionary fund manager) have included proposals for both a Balanced portfolio, which is broadly similar to that which has been created for you currently, and one which is slightly more cautious.'

When however we bring into consideration your other investments (Building Society savings and the AXA investment bond) their proposed Balanced portfolio would likely see you with a relatively cautious investment approach overall.

The advantage of this approach is that it is relatively straightforward to move from a Balanced to a Cautious position in the future, or indeed the reverse.

Assuming that you remain comfortable with the previously agreed investment risks the Balanced portfolio proposal remains broadly within those agreed parameters.'

Mr and Mrs K had been investing with a balanced level of risk for a number of years and their portfolio immediately before this switch was being run on the basis of this level of risk. I am therefore satisfied that Mr and Mrs K's decision to invest in a balanced risk portfolio was an informed choice on their part.

I have also considered Mr and Mrs K's overall financial circumstances and agree with the adjudicator that a medium risk portfolio was not obviously unsuitable for them.

A medium risk portfolio can contain both investments that are lower than medium risk as well as those which are higher risk. This was made clear to Mr and Mrs K in their agreement with the discretionary fund manager. This said the following:

'For example, a well diversified 'medium risk' portfolio containing a number of 'low risk' investments may also contain 'high risk' investments.'

For the reasons given above my conclusion is that a medium risk portfolio was suitable for Mr and Mrs K.

final decision

For the reasons given above my final decision is that I do not uphold this complaint.

Michael Stubbs
ombudsman