Financial Ombudsman Service

complaint

Mr A has complained about how TD Direct Investing (Europe) Limited ("TD Direct") managed his online trading account for a period between 2014 and 2015. He has also complained about how TD Direct handled his concerns, and then his complaint.

In particular Mr A says that TD Direct, on numerous occasions, prevented him from trading in the manner that he wanted to by failing to ensure his account showed the correct personal trading level ("PTL") balance.

Mr A has provided six examples of where, in his view, TD Direct's mismanagement caused him to suffer losses totalling £9,132.56. He would like this sum, together with a further sum to be decided for other occasions he was unable to trade as he would have liked, paid to him.

background

This complaint was considered by one of our adjudicators who came to the view that TD Direct had dealt with it fairly, having offered £400, and that he wasn't minded to ask it to do anything more.

Mr A disagreed so the matter has been passed to me for review and decision.

my findings

I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. This includes listening to the telephone call recordings provided by TD Direct.

I can also confirm that in coming to this decision I've taken into account the relevant law and regulations, regulator's rules, guidance and standards, and codes of practice and, where appropriate, what I consider to have been good industry practice at the time.

However, having done so, I agree with the adjudicator. There's also not a great deal I can add to what's already been said.

It's clear Mr A has strong feelings about TD Direct's actions. He has provided detailed submissions in support of his complaint which I can confirm I've read and considered in their entirety. However, I trust that he will not take the fact that my findings focus on what I consider to be the central issues, and that they are expressed in considerably less detail, as a discourtesy. The purpose of my decision isn't to address every point raised in detail, but to set out my conclusions and reasons for reaching them.

Mr A says that TD Direct, on numerous occasions, prevented him from trading in the manner that he wanted to by failing to ensure his account showed the correct PTL balance. On the other hand TD Direct says that Mr A's account showed, at the relevant times, the correct PTL balance, regardless of what Mr A might have understood it had told him previously. I've considered TD Direct's submissions in this respect, which were outlined in the adjudicator's view, and I can confirm that I find them to be both plausible and persuasive.

But even if I wasn't of the above view, I'm satisfied that Mr A's claim for losses (both quantified and unquantified) still shouldn't succeed. I say this for the following reasons:

- Regardless of how long Mr A has had a PTL and regardless of how he understands this has operated in the past, or is operating now, the provision of such a facility is a concession. Therefore any 'reporting' error by TD Direct of Mr A's PTL doesn't constitute a breach of his account terms and conditions.

- TD Direct doesn't undertake to provide its clients, whether they have a PTL or not, with a continuous and uninterrupted internet trading service.

- Mr A is aware, and would have been aware at the relevant times, that in the event he was unable to trade online he had the option to trade over the phone. I appreciate that Mr A would rather not trade by phone, and his reasons for not wanting to do so. But in my view it would be neither fair nor reasonable to hold TD Direct responsible for Mr A's decision in this respect.

However I accept that TD Direct could have handled Mr A's concerns and his complaint better than it did. I note everything that Mr A has said, including that TD Direct failed to provide contact details for a number of its senior staff, insisted he raise his concerns in writing and that it responded, in October 2014, on paper not headed "TD Direct Investing". But I'm satisfied that TD Direct's offer of £400 represents an appropriate sum for it to pay Mr A in this respect.

my final decision

My final decision is that TD Direct Investing (Europe) Limited must pay Mr A £400.

I appreciate Mr A will be disappointed by my conclusions. My final decision, however, represents the last stage of this service's dispute resolution procedure. Mr A doesn't have to accept my decision and if he doesn't do so, he will be free to pursue legal action against TD Direct Investing (Europe) Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 15 February 2016.

Peter Cook
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