

complaint

Mr L complains on behalf of his company about an administrative error by The Share Centre Limited which he says has caused financial loss.

background

Mr L held shares in an overseas company, having originally invested £29,977.

The Share Centre contacted Mr L to explain that if he wanted to remain a shareholder he'd have to re-register the shareholding into certificate form.

Mr L put in a request, but the business made an administrative error which led to the request not being put through.

As a result the overseas company bought back the shares at 0.000007 pence a share, amounting to around £47.60. Once this had happened Mr L's company could no longer be a shareholder.

Mr L wants to know how this has happened, and is very concerned about the losses he's sustained investing in the overseas company.

The Share Centre upheld the complaint. In summary, it said:

- It accepts that it made an administrative error.
- Although it received Mr L's request ahead of its deadline, it didn't select the current certificate held for the overseas company in the name of Share Nominees Limited to be changed, separating the holdings for Mr L and other customers that wanted to re-register into certificate form.
- Instead it mistakenly requested a re-registration using an electronic system used for holding financial securities known as '*Certificates Registry for Electronic Share Transfer*' (CREST).
- But CREST couldn't be used to arrange re-registrations into certificates because earlier in 2016 the overseas company's shares were withdrawn from CREST, so no action was taken following the request. Unfortunately, the error wasn't realised until after the deadline had passed.
- By way of redress it offered to pay Mr L twice the value of what the overseas company bought the shares back with amounting to £95.20.
- It also offered to pay Mr L £100 compensation for the trouble and upset caused.

One of our investigators considered the complaint but didn't think it should be upheld. In summary, she said:

- Upon discovering the error the Share Centre notified Mr L immediately, it also contacted the registrar, to try to have the certificates registered, and the overseas company, to get the shares back. Although it was unsuccessful it did everything it reasonably could do to get the shares back.
- The value of Mr L's shares in the overseas company had already fallen sharply and that's why he'd intended to remain a shareholder to see if he could recover any losses and realise any potential gains. It's likely this is what Mr L would've done, and therefore lost this opportunity. But notwithstanding this, the Share Centre wasn't responsible for the loss in value of the original shares.

- It's difficult to know what would've happened if the error hadn't occurred.
- The overseas company de-listed from the Alternative Investment Market in 2015, and hasn't been listed since. From reviewing its published accounts, its last annual report was in 2016.
- Taking into account that the overseas company has been in difficulty for some time, and the Share Centre has done as much as it reasonably could to rectify the situation and get Mr L's shares back. There was no guarantee that Mr L would recover his losses on the company.
- The Share Centre also offered to pay twice the cash value of his shares and £100 compensation for the trouble and upset is broadly fair and reasonable.

Mr L disagreed with the investigator's view and asked for an ombudsman's decision. In summary, he said:

- The investigator's view concentrates on the sorry state of the situation and ignores any future potential, which is what the administrative error has taken away from him.

The investigator having considered the additional points wasn't persuaded to change her mind.

As no agreement has been reached the matter has been passed to me for review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I agree with the investigator's conclusions for much the same reasons. I'm not going to uphold this complaint.

Because the Share Centre accepts that it made an error, the only issue left for me to consider is redress.

On the face of the evidence, and on balance, despite what Mr L says, I think the business' offer of redress is broadly fair and reasonable in the circumstances.

But before I explain further why this is the case, I think it's important for me to note I very much recognise Mr L's strength of feeling about this matter.

He has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope he won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. My role is to consider the evidence presented by Mr L and the Share Centre, and 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, but perhaps unlike a court or tribunal I'm not bound by this. It's for me to decide, based on the information I've been given, what's more likely than not to have happened.

I think the Share Centre quite rightly accepts that it made an error. I don't think it did that on purpose or to cause Mr L a loss. It simply hadn't realised that it couldn't put the request through CREST.

Given the financial state of the overseas company there's no guarantee that Mr L was going to be able to realise any potential gains or that he wasn't going to sustain further losses. So on balance I'm unable to safely say that Mr L's been deprived of a future potential.

I agree with the investigator that the Share Centre isn't responsible for the loss in value of the shares that Mr L has with the overseas company, or its potential inability to recover. That's a separate matter altogether and not linked to the administrative error.

Despite what Mr L now says I'm also not satisfied that he's suffered an actual financial loss caused by the error. Our service doesn't compensate for future hypothetical losses so I'm unable to offer any compensation for this.

In the circumstances the Share Centre's offer to pay twice the price of what the shares were bought by the overseas company is fair and reasonable. And the additional £100 compensation for trouble upset caused is in my opinion also fair and reasonable in the circumstances. .

Although the error wasn't discovered until after the deadline had passed the Share Centre did everything it reasonably could to let Mr L know and to try and fix the situation as soon as it could. I also think it has given a reasonable explanation of how the error occurred as requested by Mr L.

Notwithstanding the above, I appreciate Mr L will be thoroughly unhappy I've reached the same conclusion as the investigator, and I realise my decision isn't what he wants to hear. Whilst I appreciate his frustration, I'm not going to ask the Share Centre to do anything other than the redress it has already offered.

On the face of the available evidence, I'm unable to uphold this complaint and give Mr L what he wants.

my final decision

For the reasons set out above, I don't uphold this complaint.

I think the offer made by The Share Centre Limited is broadly fair and reasonable in the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 19 January 2020.

Dara Islam
ombudsman