

29 August 2017

Dear Complainant

**Complaint against the Financial Conduct Authority
Reference Number: FCA00370**

Thank you for your email of 7 July 2017. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into your complaint, and I have carefully considered the points you have made in response to the preliminary decision which I sent to you.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA's Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

Your complaint

The FCA has charged you administrative fees for late filing of your firm's GABRIEL return. You dispute this, as you believe you asked the FCA to cancel your permissions but it did not do so.

My findings

You were authorised by the FCA in November 2015 and you were sent an email which explained you had to register with GABRIEL. This wasn't done.

Your returns became due in June and the FCA sent you reminders, and when you did not submit the returns, eventually you were issued with a penalty fee in August 2016.

The FCA emailed you to tell you about the penalty on 22 August 2016. You responded to that email on 26 August 2016 saying you had never heard of Gabriel but would call the Connect Team as soon as you could.

In your subsequent correspondence with the Revenue Team in October 2016 and the Customer Contact Centre in November 2016 you claim you had informed the FCA in March 2016 that the business had ceased trading. Unfortunately, there is no record of this contact with the FCA that I can see. I note that when you wrote to the FCA via email on 24 July 2017 you said this:

FCA00370

'I am not sure exactly when it occurred to me that I needed to inform the FCA about the business closing, in truth it wasn't a good time and I can't recall much from that period. I do recall though having a conversation with someone around June, they said I owed money'

From the evidence available to me I am unable to be sure that any contact occurred between you and the FCA on March 2016. However, even if it had, that does not change the fact that you would have had to fill in a cancellation form which you did in 2017 by which time the June 2016 returns were overdue and the late return fee had been issued.

It seems to me that you have been treated like other firms in your position, and that the FCA took reasonable steps to remind you of your obligations. While I have no doubt that your error in not submitting your returns was unintentional, the fact remains that you did not meet your regulatory obligations, and those obligations had been made clear to you at the time that you applied for authorisation. The late returns fee is designed to cover the FCA's costs in pursuing late returns (so that firms who complete their returns on time do not subsidise those which do not).

In your complaint to me, and in your comments on my preliminary decision you explain that last year you were suffering from a mental breakdown, and that this seriously affected your ability to deal with the FCA. I am sorry to hear that, and I have sympathy with the position in which you find yourself. I am afraid that I cannot disagree with the FCA's decision not to uphold your complaint, since I consider that they have operated their procedures correctly. I am, however, copying the emails you sent to me to the FCA so that they can consider whether, in the light of the circumstances you have described, they wish to reconsider whether to pursue the outstanding fee. I must emphasise, however, that that is a matter for them.

Conclusion

For the reasons given above, I am afraid that I cannot uphold your complaint.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner