

21 November 2017

Dear Complainant,

Complaint about the Financial Conduct Authority
Reference Number: FCA00406

Thank you for your email of 6 November 2017. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into your complaint. My decision on your complaint is explained below.

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. You can find full details of how I deal with complaints at www.frccommissioner.org.uk. If you need further information, or information in a special format, please contact complaints@frccommissioner.org.uk, or telephone 020 7562 5530, and we will do our best to help.

What the complaint is about

On 30 August 2017, you complained to the FCA about a Final Notice its predecessor body, the Financial Services Authority (FSA), had issued against a firm (the Firm) in December 2004. You said that the notice was misleading because the name of the Firm, which you had founded, still contained your surname although you had not been an owner of the company since 2002 and had no personal liability. You said that this had caused you recent problems with a client who had associated you with the regulatory breaches identified. You asked the FCA to correct what you considered to be the resulting anomalies: that the Final Notice did not disclose it was the Firm's parent company that was fined and that their name was not published anywhere within the statement. You also said that the notice did not disclose that there had only been one case where compensation was paid. You wished the FCA to make it clear that no personal liability attached to you.

What the regulator decided

The FCA Complaints Team declined to investigate your complaint because it said that paragraphs 3.2 and 3.3 of the Complaints Scheme (the Scheme) applied. Paragraph 3.2 states that to be eligible to make a complaint you must be directly affected by the way in which the regulators have carried out their functions. The FCA said this did not apply in your case because the Final Notice was issued against the Firm and not individuals. Paragraph 3.3 requires complaints to be made within 12 months of the date on which you first became aware of the circumstances giving rise to the complaint. The FCA said that as you continued to be involved with the Firm in various senior roles until March 2005, you must have been aware of the Final Notice at the time.

Why you are unhappy with the regulator's decision

Your complaint to me broadly repeats the complaint you made to the FCA. You have explained that a client of a different business you now own has used it against you personally. Having re-read the statement, you consider that, because it contains numerous references to your surname as a short form for the name of the Firm, it could be misconstrued that the notice does indeed refer to you personally as opposed to the Firm.

My decision

I have reviewed all the records you and the regulator have sent me. Although I appreciate that you have provided reasons why this situation is affecting you now, I am afraid they do not explain why you did not raise similar concerns at the time. I am satisfied that the wording of the Final Notice makes it clear that it is referring to the Firm and not to any individual. I should add that it is clear from the record that the notice was issued against the Firm which you founded, not against the parent company.

I am also satisfied that it is not any act or omission of the FCA that has led to the current behaviour of your client. It is possible that you may have other legal recourse against that person, should he or she continue to make untrue statements about you that are harming your professional reputation. The Final Notice was issued well over 12 years ago and there is clear evidence that you could, or should, have been aware of it at the time. In all the circumstances, I consider that it was reasonable for the FCA to exclude your complaint.

For these reasons, frustrating though it must be for you, I am afraid that there are no further options for you to pursue under the Scheme.

Conclusion

Although I understand that you are unhappy with the outcome of your complaint to the FCA, I believe its decision to exclude your complaint was correct for the reasons stated. I am therefore unable to help you under the Complaints Scheme. I appreciate that you will be disappointed with my decision but hope that you will understand why I have reached it.

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