

10 August 2016

Dear Complainant,

Complaint against the Financial Conduct Authority (FCA)
Reference Number: FCA00140

Thank you for your email of 16th February 2016. I have now completed my review of your request to consider the decision of the FCA – as set out in its letter of 4th February 2016 – to reject your complaint.

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.fsc.gov.uk. If you need further information, or information in a special format, please contact my office at complaintscommissioner@fsc.gov.uk, or telephone 020 7562 5530, and we will do our best to help.

What we have done since receiving your complaint

I have now considered all the information you and the regulator have sent us. I have also considered the comments which you and the FCA made in response to my provisional decision. My final decision on your complaint is explained below.

Your complaint

You are complaining on behalf of an Appointed Representative (AR) of your firm (the Principal firm). Your complaint is that the Financial Services Register's (the Register) landing page, under the heading "*Trading / brand names*", displayed a **former** trading name of the AR, which was suspended, without making it clear that the suspension related to a firm with which the AR is no longer associated and is therefore no longer relevant. You allege that the consequence of this is that the average consumer would assume that the AR is currently suspended and decide not to do business with the AR as they would be unlikely to

investigate further by clicking into the “*Firm Details*” page, scrolling down to the “*Trading/brand names*” and clicking on the “*Previous names*” section to establish what period this suspension applied to. The FCA was asked to remove the entry in November 2015, but did not do so. You then made a complaint on behalf of your AR to the FCA Complaints team, who had a second opportunity to acknowledge and rectify the problem, but again, they did not do so.

The FCA, in their original response to your complaint, stated that “*I note that the reference to the suspension does not appear next to the actual name, which appears in the first column with the hyperlink. I am satisfied that on review of the record of the firm an average reader would be able to distinguish between the current and previous trading/brand names of the firm.*”

My findings

I have reviewed the record of the AR on the Register, including what information is displayed on the landing page when the AR is searched for by name and the information available on the Firm Details page, once one clicks on the name hyperlink.

It is a fact that the Register has to display all the relevant information about a firm, current and past.

However, the suspended name was displayed under the “*Trading/brand names*” heading and it was not at all clear that this is a previous trading name. In fact, at face value, it appeared to be a current trading name. A consumer would have had to look deeper into the information about the AR in order to establish that the suspended trading name is a former one. Not all consumers may go into such length when reviewing a financial adviser’s standing with the FCA.

It is my view that the information displayed on the landing page of the Register for your AR was likely to give consumers the misleading impression that the firm is currently suspended. It cannot and should not be assumed that all consumers would take the additional steps to clarify this information. I have therefore recommended that the FCA amend the Register to rectify how past trading names are displayed for this AR, so that consumers are not misled and the AR’s ability to trade is not inadvertently damaged.

I can confirm that the FCA have accepted my recommendation, and the Register has now been amended so that no misleading information is displayed in relation to your AR, although the relevant information about the past suspension can still be found in the “*Previous names*” section. That seems reasonable, as it reflects the information correctly.

The FCA have also confirmed that they are reconsidering the way in which this information is displayed for all ARs in order to prevent a recurrence of this problem.

Conclusion

For the reasons I have given, I uphold your complaint. The AR in this case was a victim of an unusual set of circumstances which were not envisaged when the on-line Register was designed. While I accepted that the FCA entered the information on its Register in good faith, the fact is that the way it was displayed was obviously misleading, and the FCA did not

correct it despite being given two opportunities. I am pleased to see that the regulator has now accepted this position and has taken steps to rectify the matter.

In your comments on my Preliminary Decision, you included a request for compensation for your AR and for the time you have spent assisting her to resolve this matter.

I agree that your AR has suffered as a result of this system error by the FCA, and I sympathise with her in relation to her fears about her reputation potentially being damaged. I also take into account the fact that you had to approach me in order get the matter rectified: this would not have been necessary had the FCA accepted the problem earlier.

I believe that your AR's fears about the risks to her reputation and as such to the viability of her business were reasonable while the Register was displaying misleading information and she should be compensated for this, especially in light of the fact that the FCA had two opportunities to resolve the issues. However, we are unable to compensate you for the time you spent assisting your AR. As the Scheme makes clear, complainants should seek advice or assistance in the knowledge that this will be done at their own expense.

In all the circumstances, I make the following recommendations:

- a. The FCA should apologise for not having rectified this matter more promptly, and pay £500 to reflect the distress and inconvenience caused;
- b. The FCA should pay £5839.29 in recognition of the loss of business. I arrived at this figure by taking the AR's average annual (new business) income over a five-year period; calculating the income for five and a half months, the time it took the FCA to rectify the Register, based on the annual figure; reducing it by 25% to account for the fact that she is returning to work with a new Principal and there is likely to be a reduction in her income; and finally applying 8% interest.

I hope that your AR will now be able to continue trading in the knowledge that the information on the FCA Register is correct.

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