

28 November 2019

Final report by the Complaints Commissioner**Complaint number FCA00643***The complaint*

1. On 7 September 2019 you asked me to investigate a complaint about the FCA. I have carefully reviewed the papers sent to me by you and the FCA. My preliminary report was issued on 4 November 2019 and both you and the FCA have provided comments.

What the complaint is about

2. On 11 February 2019 you complained to the FCA about the way it had handled two applications for you to hold a CF30 role at different firms and your continued presence on the FCA register for a third firm, which you said should have been removed as from 17 May 2017.

What the regulator decided

3. The FCA's complaint response dated 25 July 2019 did not uphold your complaint about the CF30 applications but partly upheld your complaint about the Register entry and offered an apology. The FCA advised you that the Register had been updated with the correct removal date of 17 May 2017, on 12 April 2019.

Why you are unhappy with the regulator's decision

4. You have told me that you are unable to use your qualifications or experience, due to the FCA's "*unfair treatment*" and that you "*have evidence which shows the FCA has acted in Bad Faith and has breached article 11 of the UN's declaration of Human Rights, and English law, in which an Individual is Innocent until proven guilty*". You have also provided me with your annotated comments on the FCA's complaint response.

My analysis

5. The FCA did not uphold Part One of your complaint about applications from two separate firms for you to hold a CF30 role. The FCA's complaint response provided you with a detailed explanation about both applications. Although I note your continued dissatisfaction, expressed again in response to my preliminary report, the FCA's explanation accords with the file supplied to me by the FCA, which shows that the Complaints Team undertook a thorough investigation of your complaint, and that the records show that the FCA's processes were followed. The problems which arose in the applications were the result of problems in the firms making the applications. There is no evidence of bad faith or unfair treatment of you by FCA staff. I am therefore satisfied that the FCA's decision not to uphold this aspect of your complaint was reasonable in the circumstances.
6. Part Two of your complaint was about the delayed removal of your name from the FCA's Register after another firm for which you had held a CF30 role entered special administration on 17 May 2017. The Special Administrators wrote a letter dated 16 January 2018 confirming that you ceased to hold that role from that date. However, the FCA had no record of receiving from the Special Administrators a required 'Form C' for the removal of your name. The FCA's complaint response explained that this meant another process had to be followed before your name could be removed. This process was activated after your phone calls to the FCA's Customer Contact Centre (now Supervision Hub) and your name was then removed.
7. This aspect of your complaint was partly upheld by the FCA because there was a delay in putting the correct date against the removal entry. The FCA apologised to you for this error. I consider that this was a reasonable response.
8. However, in responding to you the FCA's Complaints Team said: *I note that you attached a Form C to your email of 11 February 2019, however, the form is not signed by the joint Special Administrators, is undated, and the document properties state that the form was created and modified on 08/11/2018 08:54.40 and the author is [you].* In your comments on the complaint response you have said: *I am not sure if the FCA is implying I had in some way created or doctored*

the Form C document... I would have thought they could have spoken with [the Special Administrators] to corroborate my claim about the form C submission, rather than falsely accuse me of doctoring or worse the attached file.

9. I agree with you that this wording was unfortunate and might have left you with that impression. There was no basis for this as the FCA's files show that the relevant internal team advised the Complaints Team that: *They do not have any evidence that the Form C submitted is not genuine, as there may be an alternative explanation for the discrepancies identified.* Although I do not think this has affected the outcome of your complaint, and the statement made was factually correct, it is important that the Complaints Team shows that it has acted fairly and has not taken into account irrelevant considerations. I **recommend** that the FCA offers you an apology for any unintended implication of the words used.

10. In response to my preliminary report the FCA has said:

our view is that we set out the facts pertaining to the allegation without implication or insinuation, and concluded that the allegation was partially upheld. As such, we do not agree that an apology is required in this instance.

However, this misses the point that you were upset by the (unintended) implication and the internal evidence shows that there could have been another explanation for the apparent discrepancies in the Form C. I therefore repeat my recommendation.

My decision

11. I have concluded that the FCA was correct not to uphold Part One of your complaint and to partly uphold Part Two. I have partly upheld your complaint to me as set out in paragraph 8 above and I have **repeated my recommendation** that the FCA offers you an apology for any unintended implication of the words used in its complaint response.

12. Although I have not upheld the whole of your complaint, for the reasons stated, I recognise that this has been a difficult and stressful time for you, both personally and professionally. My Annual Reports have highlighted the FCA's need to continue to pursue its programme to improve its systems, and to be more prepared to accept responsibility for the consequences for individuals. I will

continue to draw attention to these matters in my reports and publications and in providing systemic feedback to the FCA.

Antony Townsend
Complaints Commissioner
28 November 2019