

5th January 2015

Dear Complainant,

**Complaint against the Financial Conduct Authority
Reference Number: FSA01613**Thank you for your letter of 1st December 2014.As the rules of the scheme under which I consider complaints can be found on our website at www.fsc.gov.uk, I shall not repeat them here.**Your complaint**

From your letter of 1st December 2014 I understand that you are unhappy with the outcome of the FCA's investigation into your complaint regarding the conduct of the previous regulator (the FSA) during your Court proceedings. Specifically you say that you believe "that the FSA did not disclose evidence which would have been vital to the defence during my trial. I believe that they acted in bad faith in this regard and more specifically:

- a) The FSA have made mistakes and were guilty of a lack of care in the preparation of documents that should have been disclosed.
- b) The FSA were guilty of unprofessional behaviour
- c) The FSA was unfairly biased in their disclosure activities
- d) The FSA has shown a lack of integrity in these court proceedings".

My position

In considering this case, I have carefully reviewed both your complaint and the regulator's arguments for not considering it under the scheme.

In arriving at its decision, the FCA has drawn your attention to paragraph 6.15(a) of the Complaints Scheme which states:

6.15 In the investigation of a complaint by either the relevant regulator(s) or the Complaints Commissioner, any finding of fact of:

- a) a court of competent jurisdiction (whether in the UK or elsewhere);

[.....]

Which has not been set aside on appeal or otherwise, shall be conclusive evidence of the facts so found, and any decision of that court or tribunal shall be conclusive.

As I am sure you will appreciate neither I nor the FCA can overturn the judgment of the Court. For that reason, even if I or the FCA were to undertake an investigation into your concerns, our findings would not affect the decision made by the Court. .

The FCA also drew your attention to paragraph 3.6 of the Complaints Scheme which states:

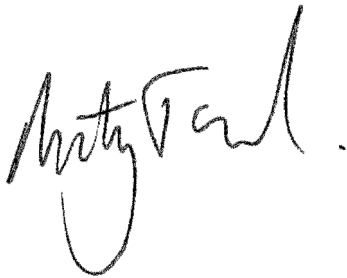
3.6 The regulators will not investigate a complaint under the Scheme which they reasonably consider could have been, or would be, more appropriately dealt with in another way (for example by referring the matter to the Upper Tribunal or by the institution of other legal proceedings).

The FCA's conclusion was that the appropriate way to challenge what amounts to an alleged miscarriage of justice would be to approach the Criminal Cases Review Commission (CCRC).

Having considered all the arguments, I agree with the FCA's analysis that the underlying issue is that you are unhappy with the regulator's disclosure during your trial (and your belief that this incomplete disclosure resulted in your conviction). While this does not preclude further investigation, for the reasons set out above I agree with the FCA that this matter would be better resolved by consideration by the CCRC. Details for the CCRC including contact details, can be found on their website at: www.justice.gov.uk/about/criminal-cases-review-commission.

In conclusion, I consider that the FCA's response to your complaint was correct, and I do not therefore uphold your complaint to me. 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