

## **The complaint**

Mr and Mrs N complain Campbell & Associates Independent Financial Advice Ltd ("Campbell") failed to invest £90,000 they transferred to it to top up their portfolios in May 2022.

## **What happened**

Mr and Mrs N held a series of investments across a number of different providers. Their investments were managed by an advisor at Campbell that the couple knew well.

In May 2022, Mr and Mrs N transferred Campbell a total of £90,000 across five separate payments. Of which, the couple recall £40,000 was to be divided between their ISAs. And the remaining £50,000 was to be used for a standalone investment, held jointly by Mr and Mrs N.

The couple were led to understand all of the above payments were credited to their investments. And on the one occasion where they needed access to it, Campbell paid Mr and Mrs N £15,000 of this money in November 2022.

The couple had cause to doubt that Campbell had properly invested their money when they were contacted by the FCA, who'd begun an investigation into the firm's conduct. This prompted them to speak to a number of their investment providers. And Mr and Mrs N came to realise Campbell hadn't invested their money as it'd told them it would. Their money was inexplicably missing.

Mr and Mrs N complained to Campbell. They demanded that it return their money with interest. Campbell didn't reply to Mr and Mrs N's complaint, so they referred the matter to our service.

Our investigator made efforts to contact Campbell and obtain its response to Mr and Mrs N's complaint. One of our investigators spoke to a solicitor working on behalf of the advisor. The solicitor confirmed Campbell and its advisor were aware of the complaints made against it. In the absence of any formal response from Campbell, our investigator upheld Mr and Mrs N's complaint. They felt the couple should be compensated for their financial losses, and for the distress and inconvenience they'd suffered due to Campbell's actions.

To date, our service has received no explanation for, or defence of the issues Mr and Mrs N have raised in their complaint against Campbell. Because of this, the matter has been passed to me to make a decision.

Mr and Mrs N have other similar complaints about different deposits they made with Campbell. But my decision here will focus solely on the £90,000 the couple paid Campbell in May 2022.

I wrote to all parties to explain that, provisionally, it was my intention to uphold Mr and Mrs N's complaint. This is what I said:

*“At the outset, I’d observe that given the subject matter and implications of Mr and Mrs N’s complaint, it’s quite extraordinary that Campbell has failed to respond to it in any meaningful way. I’m satisfied however that it’s appropriate for me to proceed with my decision on this complaint.*

*Our rules, outlined in DISP 3.5.9 R explain that I may “reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested”. And that is what I intend to do in Mr and Mrs N’s case.*

*As a regulated firm, when dealing with its customers, Campbell is required at all times to uphold a series of high-level principles set by the FCA. Amongst other things, the principles outlined in PRIN 2.1.1 R require that:*

*“A firm must conduct its business with integrity... A firm must conduct its business with due skill, care and diligence... A firm must observe proper standards of market conduct... A firm must pay due regard to the interests of its customers and treat them fairly... A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading...”.*

*Where investments are concerned, these principles are further bolstered by the rule in COBS 2.1.1 R, which requires that:*

*“A firm must act honestly, fairly and professionally in accordance with the best interests of its client”.*

*Mr and Mrs N have evidenced they made payments totalling £90,000 to Campbell. This figure is comprised of a series of smaller amounts that were paid to the firm between 10 May 2022 and 18 May 2022.*

*From the evidence available, it’s not been possible to establish that this money was invested as Mr and Mrs N recall agreeing to. The couple have identified that £50,000 of it was due to be held as a joint investment, and the remaining £40,000 was intended to be divided equally between their ISAs for that year’s subscription. Our investigators have spoken to Mr and Mrs N’s investment providers and there’s no evidence that any of this money was paid to where it was supposed to be. Their ISAs show no credits during the tax year in question. And the firm supposedly responsible for the joint investment claims that it does not exist.*

*I note that, seemingly on demand, Campbell was able to produce £15,000 of Mr and Mrs N’s money when they requested it in November 2022. But from the evidence available to me, there’s no evidence that would suggest Campbell ever invested the couple’s money as it should have. I have seen no evidence that would give me pause to doubt Mr and Mrs N’s submissions on these points.*

*In my opinion, if Campbell and its advisor had accepted the couple’s money in the course of legitimate business, it would be relatively straightforward for it to refute their complaint. As a firm that’s authorised to give advice and arrange investments for its customers, I would reasonably expect Campbell to provide evidence of:*

- Arrangements and recommendations for any investments it’s sold.*
- Paperwork substantiating the appropriateness or suitability of those investments.*
- Diary notes or phone calls recording occasions those investments were discussed.*

*The fact Campbell has failed to provide any such evidence is extremely concerning. As is the fact that according to the FCA register, Campbell doesn’t appear to have ever been authorised to hold client money. Mindful of this, and in the absence of any counter-narrative*

*defending itself, I'm persuaded that Campbell has failed to invest Mr and Mrs N's money as it should have. And by doing so, it's failed to uphold the principles and requirements I referenced earlier in my decision. I'm satisfied that Campbell has failed to treat Mr and Mrs N fairly.*

*It remains for me to fairly and reasonably decide what Campbell must do to address the impact its actions have had on the couple.*

### **Putting things right**

*As I've understood it, Mr and Mrs N's expectations were that the money they'd paid to Campbell and its advisor was to be invested in their ISAs, and one other standalone investment.*

*From the evidence available, I can see the couple's ISAs were held with a firm I'll refer to as Platform A. Within each ISA, Mr and Mrs N both invested in a model portfolio product provided by Platform A called "WealthSelect Managed Active 5". So by failing to invest their money as it should have, I'm satisfied Campbell has caused Mr and Mrs N to miss out on the growth that £40,000 of their money would've made had it been properly invested in Platform A's model portfolio, via their ISAs.*

*Campbell appears to have told Mr and Mrs N that the remaining £50,000 of their money was to be invested in a joint product with one of the firms the couple understood they held investments with. It's not clear what this investment was meant to be however. And having spoken to the investment provider directly, we understand the investment never actually existed. So Campbell has caused Mr and Mrs N to lose out on growth they could've made on this £50,000, albeit it's not clear where this money should have been invested instead. I've therefore considered what Campbell must fairly and reasonably do to address the financial loss it's caused the couple in this respect.*

*In the circumstances, I think it's fair of me to use Platform A's "WealthSelect Managed Active 5" portfolio as a benchmark for gauging the couple's loss on their £50,000. Mr and Mrs N have held this same investment within their ISAs for some time. It appears to me to be a reasonably diversified product which is broadly in keeping with what they consider their attitude to risk as being. I'm persuaded therefore that it's broadly reflective of the kinds of returns they're likely to have achieved, if Campbell had invested their money properly as I'm satisfied it should have done.*

*I've kept all of the above in mind when deciding what Campbell must fairly and reasonably do to return Mr and Mrs N as close as possible to the position they would've been in, had it treated them fairly and invested their money as it should have.*

*Firstly, I direct that Campbell must pay Mr and Mrs N the sum of £75,000. This figure encompasses all of the deposits Mr and Mrs N made in May 2022, less the £15,000 they were paid by Campbell in November 2022.*

*Next, I direct that Campbell must calculate the growth Mr and Mrs N's May 2022 deposits would have made, had they all been promptly invested in Platform A's "WealthSelect Managed Active 5" portfolio. For the purposes of this calculation, I think it's fair and reasonable to expect that Campbell ought to have invested these deposits the same day they were received. So on 10 May 2022, 11 May 2022, 13 May 2022, 16 May 2022, and 18 May 2022 respectively. Campbell should calculate growth on these investments up until the date it settles this complaint. Campbell should also factor in that a £15,000 withdrawal would've been made from this investment in November 2022. Completing this calculation will*

*leave Campbell with a monetary figure I'll refer to as "Figure X". Campbell must provide a breakdown of its calculations for Mr and Mrs N in a clear and simple format.*

*Once it has completed this calculation, I direct that Campbell must pay Figure X to Mr and Mrs N.*

*Finally, I've considered what Campbell must fairly and reasonably do to compensate Mr and Mrs N for the significant trouble and upset the events of their complaint have caused them. In coming to my decision here, I've considered that:*

- Mr and Mrs N recall having a relatively informal relationship with their advisor, and the realisation they'd been deceived as to the whereabouts of their money will have been upsetting for them.*
- The couple have been distressed by the realisation their portfolio had around £75,000 less in it than it should have. And will've been left in this anxious state for months, not knowing if there'd ever be given their money back.*
- The couple have suffered the inconvenience of having to prepare submissions for both the FCA and our service, all as a result of Campbell's failure to properly invest their money as it fairly and reasonably should have.*

*Because of this, I'm satisfied it's fair and reasonable to direct Campbell to pay Mr and Mrs N the sum of £450 in recognition of the impact its actions have had on them".*

Mr and Mrs N accepted my decision. Campbell did not reply.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As neither party objected to the findings I made, I see no reason to depart from the outcome I reached in my provisional decision. All that remains is for me to make my decision final, which I shall now do.

### **My final decision**

My final decision is that, for the reasons given above, I uphold Mr and Mrs N's complaint against Campbell & Associates Independent Financial Advice Ltd.

I require that the firm must now:

- Pay £75,000 to Mr and Mrs N
- Calculate Figure X (as directed above)
- Give Mr and Mrs N a breakdown of its calculations in a clear and simple format
- Pay Figure X to Mr and Mrs N
- Pay Mr and Mrs N £450

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N and Mrs N to accept or reject my decision before 10 January 2024.

Marcus Moore  
**Ombudsman**