

## **complaint**

Miss G complains she has lost money after being given the wrong investment advice by Jones Financial (Norwich) Limited.

## **background**

An adjudicator looked into Miss G's complaint and explained to the business why she thought its advice to Miss G had been wrong.

She thought Miss G shouldn't have been recommended any investment at all, and she suggested that the business should compensate her by assuming that her money had been placed on deposit in a savings account instead.

Jones Financial disagreed with the adjudicator. It said:

- The adjudicator had based her conclusions on hindsight and had been persuaded by Miss G 'pulling at her heartstrings' by emphasising the severity of her illness.
- The evidence showed Miss G was in remission from her illness when she was given advice, and she'd told the business her illness was treatable but not curable.
- It was unfair to assume that Miss G couldn't have invested for a period of five years or more at that time of the advice.
- It had discussed the prospect of deposit accounts but Miss G didn't want those because she wanted to bequeath as much as possible to her chosen beneficiaries.
- There was a concern that funding for care fees might have been required in the future, which appeared to have been ignored by the adjudicator.
- It was incorrect to say Miss G didn't have any knowledge of investments given her previous role as a Deputy appointed by the Court of Protection, and she would have seen investment statements each year relating to the third party.
- Miss G was given relevant sales documentation and provided with adequate opportunity to query any concerns about the advice. The business thought that clients had to take some responsibility.
- Comments made during discussion between the business and the adjudicator had been misrepresented.
- The adjudication appeared to focus more on what Miss G had said, rather than on the documentary evidence which the business had provided.

Miss G was asked if she had any further comments to make about the business's response. She said:

- She didn't know, and had never met, the business's representative who wrote the response to the adjudicator's assessment. She found his comments unprofessional and hurtful. If he'd known her personally he wouldn't have used the language he did.

- Her life expectancy was limited by her illness, and Miss G didn't believe that the representative was qualified to judge such things. His statements showed a lack of knowledge of her condition.
- Throughout her interviews with the firm's adviser, she expressed her anxieties about the proposed recommendation, but she was assured by him it was the best thing to do. The adviser had apologised many times for the loss of her capital and had said he would have replaced it himself if he could have afforded to.
- Miss G didn't have any investment knowledge. She did know that investments could go up or down because that statement was constantly appearing in the media.
- She was a competent, intelligent woman who had arranged everything regarding a family member's care before that person's death, but she found the annual return for the Court of Protection daunting. The adviser was recommended by an agent of the Court as someone who could help her. She paid the adviser for his services each time he helped with the return.
- It was the adviser who had contacted her repeatedly when he knew she'd received her inheritance. She was guided by him, at a time when she was particularly vulnerable, to make investments she now realised were completely wrong for her circumstances.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I'm sorry to disappoint Jones Financial but I too think the complaint succeeds.

Turning first to the language used by Jones Financial when responding to the adjudicator's assessment, while of course I accept that a business is entitled to defend itself and argue its case forthrightly and robustly, I think it's regrettable the business used the phrase 'pulling at heartstrings' and the sentiment which accompanied it, when referring to how Miss G had presented her case to us. I hope the business will on reflection apologise to Miss G for this.

Apart from that, some of the business's points have force. The paperwork seems to be in order. Miss G replied to questions in a way that appeared to justify the attitude to risk the business assigned to her. The recommended investment appeared to fit the assigned attitude to risk. And in the paperwork Miss G appeared to declare she wouldn't be overly concerned if the value of the investment fell by much more than it in fact fell by.

And yet that can't be all that's relevant to look at. How did it come about that a person nearing 70 years of age with a substantial pension income, who'd never held any investments and who was suffering from a life-threatening illness, placed around half a million pounds (nearly all of her assets) in one open-ended investment company which exposed around 50% of that money to the vicissitudes of the world's stock markets?

I haven't found a satisfactory answer. I don't see why Miss G, with so much money and no dependants, and with a life-threatening illness, would wish to subject herself to the as yet untried, the unfamiliar and potentially nerve-racking experience of watching her fund value – which comprised nearly all of her assets in one place – rise and fall in line with the world's

stock markets. And indeed when Miss G found herself subjected to that experience, it was too much for her.

The business has put forward various reasons why Miss G should wish to do this: more income to treat herself while her health still permitted; potential future care costs; maximising her bequests to her chosen beneficiaries. But my finding is that none of these reasons, individually or collectively, justified subjecting Miss G's assets to the degree of risk, or Miss G herself to the degree of worry, to which Jones Financial's advice subjected them.

As for the remedy, I have considered the adjudicator's proposals and I think they are appropriate.

### **my final decision**

I uphold Miss G's complaint and I direct Jones Financial (Norwich) Limited to pay the compensation described below.

### **the wrong advice**

In respect of the wrong advice to invest, Jones Financial (Norwich) Limited should calculate what the difference in value would be if Miss G's capital had been invested instead using a rate equivalent to Bank of England Base Rate plus 1%, from the date of investment to the date her actual holdings were surrendered.

For the purpose of the calculation, each withdrawal Miss G received should be treated as deducted at the date it occurred, including the large capital withdrawal of £20,000.

If there is a difference between the surrender value Miss G received, and the assumed value used in the formula, which shows her money would be worth more using the formula, then the difference should be paid to Miss G, along with 8% simple interest per annum on the loss from the date of surrender to the date settlement is made to her.

### **fees**

Jones Financial (Norwich) Limited should also pay Miss G the difference in fees on the basis she'd not been advised to invest as she did, but instead the adviser had helped her find the most appropriate interest-paying deposit accounts.

It should explain clearly in writing to Miss G how the amended fee has been calculated.

Interest at 8% per annum simple should be added to the fee refund from the date the fee was originally paid to the date of settlement.

### **compensation for worry**

Jones Financial (Norwich) Limited should also pay Miss G £100 as compensation for the worry she was subjected to as a result of its advice.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 1 July 2016.

Roger Yeomans  
**ombudsman**