Don't make excuses if you've been dudded by bad financial advice

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COMMENT

The Australian Securities and Investments Commission has published research about why people who have lost money because of bad financial planning advice do not make a complaint.

One reason is that some blame themselves. They think that because they acted on the advice from their financial planner the loss is their fault. This is wrong. Clients go to a financial planner because they don't know anything about investing in the same way that you go to a doctor because you don't know anything about medicine. If you act on bad medical advice, no one would say that your resulting health problems were your fault.

Others believe that their losses were caused by some particular event, like the global financial crisis. These clients believe that they were provided with good advice but their loss was caused by some unusual and, therefore, unforeseeable event.

In reality, all sorts of unusual events happen and might cause you to lose money on an investment. Often the worst losses are caused by events that are not unusual at all, such as stockmarket crashes.

Investing involves making guesses about events such as whether the price of a share will go up or down. As part of this, a skilled investor accepts that the future is uncertain and that things like a war or the Japanese tsunami could and probably will happen. This investor also accepts that it is very likely that financial market-related events such as the global financial crisis will happen. They guard against things happening that might cause them to lose money by, for example, not borrowing too much or spreading their investments across of different types of assets.

When you invest you cannot avoid taking on the risk that something unusual might happen and, if it does, that you will lose money. In fact, what you are doing is taking on the risk that quite normal events, such as a stockmarket crash, will happen.

Your financial planner should be warning you about the particular risks that you face and be coming up with strategies about how those risks can be managed. The warning part of this process is very important as, in the case of many clients, if they fully understood the risks that they were taking, they never would have invested.

If you got advice that assumes that markets will continue to rise and doesn't tell you how much you could lose if they don't, you have been provided with bad advice.

That advice is even worse if you've been told to borrow money to invest but haven't been warned about the consequences if things don't turn out as you had hoped.

If your financial planner tells you that you suffered a loss because the global financial crisis happened, you shouldn't accept what you are being told. You lost money because you weren't warned about the risks and proper strategies were not put in place to manage those risks.

Many clients think they have no options when they have lost money as a result of bad financial advice. In fact, you have extensive legal rights against your financial planner to recover that loss.

Some understand that they have extensive legal rights but don't do anything because they think that taking legal action will be too difficult or expensive.

For many reasons court proceedings are probably not a suitable option for many. However, your financial planner will be a member of the Financial Ombudsman Service. This is a dispute resolution scheme that offers a number of important advantages compared with court proceedings. If you've lost money as a result of bad financial advice it may well be that the Financial Ombudsman Service offers you a realistic chance of getting your money back.

David Huggins is a lawyer who specialises in resolving disputes about poor financial advice