

Before the Arbiter for Financial Services

Case ASF 182/2024

RN

(‘the Complainant’)

vs

Lawsons Equity Limited

(C 49564) renamed as

Aventis Financial Planning Limited

(‘the Service Provider’ or ‘the Company’)

Sitting of 22 July 2025

The Arbiter,

PRELIMINARY

As outlined in its decree of 9 June 2025,¹ the Office of the Arbiter for Financial Services (‘OAFS’) has discovered, through its own research, that *Lawsons Equity Limited* changed its name to *Aventis Financial Planning Limited* (‘the Service Provider’). This results from the records filed with the Malta Business Registry relating to the change in name effective from 21 May 2025.²

No notification was made by the Service Provider to the OAFS regarding such material development, but following the Arbiter’s decree of 9 June 2025, the Service Provider confirmed the change in name.³

For all intents and purposes, the records of this case have accordingly been updated to reflect the change in the name of the Service Provider.

¹ Page (P.) 153

² https://register.mbr.mt/app/query/get_company_details?auto_load=true&uuid=40c63f13-1ca2-58a1-a533-f4abe6039168

³ P. 156

The Case in question

The Complaint relates to the investment advisory services provided by the Service Provider to the Complainant. It involves the substantial loss claimed to have been suffered by the Complainant on his pension, with the Complainant, in essence, claiming that the Service Provider advised a high-risk investment instead of a balanced one which was not reflective of his needs, wishes and profile.

The Complainant further claimed that the sale of investments and withdrawals made from his pension scheme were undertaken without his knowledge and questioned where his pension had gone.

The Complaint⁴

The Complainant questioned why everything was placed into one high-risk basket instead of a balanced investment, with safer funds being disposed of.

He explained that he transferred his pension in 2013 and was to receive his retirement in about 10 years, but when he tried to get his funds, he was told it would take a year, with the receipt of funds never materialising.

He questioned why the investments in *BMIFML O/S Multi Strat Growth Strat*, *BMIFML O/S High Income*, and *Alquity Africa Fund B GBP* were sold, as he had neither requested nor had knowledge of such sales, and he also did not receive any funds.

The Complainant also listed various annual withdrawals made from his pension scheme which he claimed he had never requested nor received.

He explained that while he did receive a lump sum withdrawal in 2015, this lump sum did not reflect all the withdrawals from his pension.

The Complainant claimed that he was not financially astute and left his pension to be run by the Service Provider with little to no input from himself, believing that they knew what they were doing. He submitted that the figures provided by the Service Provider were wildly inaccurate and he questioned what was done with his funds.

⁴ Complaint Form on Page (P). 1 - 6 with extensive supporting documentation on P. 7 - 114

The Complainant noted that he was not a financial expert, but it appeared to him that the Service Provider moved everything into a high-risk fund, leaving the overall investment portfolio anything but balanced. He claimed that had he been able to get his funds when he expected and asked for it to be withdrawn, he would have received at least a reasonable amount back.

He further noted that the last annual payment he received since 2021 was from *Baker Tilly* in the Isle of Man, and he did not know why these had the funds when it was left in the hands of the Service Provider.

The Complainant reiterated that the Service Provider was entrusted with his pension to keep it safe in a balanced fund. He claimed that the Service Provider, however, invested in risky ventures and lost all of his pension fund.

Remedy requested

The Complainant requested the return of his pension. He indicated that this stood at GBP 30,713.90 when he first requested it to be returned in March 2020.⁵

Having considered, in its entirety, the Service Provider's reply,⁶

Where the Service Provider explained and submitted the following:

- That on a general note, the Service Provider is a duly MFSA-licensed financial services company as an Enrolled Insurance Broker under the Insurance Intermediaries Act and authorised to provide Investment Services under the Investment Services Act.
- That the allegations brought forward by the Complainant are unfounded both in fact and in law, while the remedies sought have no foundation at law and should be refuted by the Arbiter.
- That it categorically denies being in breach of its fiduciary obligations towards the Complainant. It submitted that, on the contrary, the Complainant was well aware of the risks involved and, moreover, the funds in question performed well. It pointed out that, in any case, it was always forthcoming with the Complainant and provided as much information and

⁵ P. 4

⁶ P. 123 - 125

supporting documentation as possible. It argued that this is also clear from the final response provided to the Complainant on 12 September 2024.

- That, contrary to the allegations put forward in the Complaint, the Service Provider did not move everything in high-risk investments.

Facts claimed by the Service Provider

- That the Complainant, a retail client, approached it in 2013 to provide him with pension transfer advice and investment advice. As evidenced in the Complaint itself, a client fact find⁷ was duly conducted in terms of law. The Complainant's risk attitude was categorised as Balanced and the Complainant himself confirmed such attitude with his signature.

- That the risk attitude was also clearly defined as follows:

'I wish to invest in investments whose overall volatility and riskiness, that is size of movements, up or down, is broadly equivalent to the UK stock market e.g. a mainstream UK equity fund or similar'.⁸

- That the Complainant ultimately chose the following funds:
 - i. *BMIFML O/S Multi Strategy Growth Strategy* – sum invested GBP15,000. The Service Provider explained that this investment was suggested because it was a very large and stable fund with potential for growth.
 - ii. *BMIFML O/S High Income* – sum invested GBP15,000. This was suggested because it was a very large and stable fund invested across many asset classes to increase diversification.
 - iii. *Alquity Africa Fund B GBP* – sum invested GBP6,949. The Service Provider explained that this smaller investment provided further diversification against the *BMIFML O/S Multi Strategy Growth Strategy* and the *BMIFML O/S High Income* ('the Lloyds Funds') which were rather conservative.

⁷ P. 16 - 30

⁸ P. 21 & 124

- iv. *Prestige Alternative Fund* – sum invested GBP12,275. This was suggested because it was asset-based providing so much lower volatility and steady growth.
- That, as it will be corroborated by documentary evidence, *BMIFML O/S Multi Strategy Growth Strategy* saw a growth of 33% while there were no losses from the *BMIFML O/S High Income*. It submitted that the Complainant himself instructed the sales over the years as already indicated in its response to the formal complaint.
- That the losses only occurred in the *Alquity Africa Fund B GBP* and the *Prestige Alternative Fund*.

With respect to the *Alquity Africa Fund B GBP*, this was sold in September 2015 to avoid further losses. It was sold at GBP4,843.58.

With respect to the *Prestige Alternative Fund*, it noted that this performed well till November 2021, with a price growth of 43.2% but the pandemic in 2020 brought about challenges which certainly could not have been foreseen back in the year 2013.

The Service Provider submitted that, in fact, during the years 2018 to 2020, the fund units kept increasing in value and there were no apparent material restrictions on redemptions as subsequently becoming evident in the Investment Manager's Report for the year ended December 2021.

- The Service Provider reiterated that the funds invested perfectly fit the risk profile of the Complainant and that no responsibility should be borne by the Service Provider vis-à-vis the losses incurred. Moreover, the decision by the Prestige Fund to delay redemptions for any period is not a matter within the Service Provider's control.
- For the reasons stated, the Service Provider requested that the Complaint be refuted, and the requests and remedies indicated therein be thrown out with costs against the Complainant.

Preliminary

Pleas raised by the Service Provider

It is noted that certain pleas were only raised by the Service Provider in its final submissions. These pleas relate to the nature of the Complaint, the date of first knowledge, and the claim that the Service Provider is not the proper defendant for this case. The said pleas are, however, outrightly dismissed by the Arbiter not only because they were raised at a very late stage of the proceedings, but also if one had to consider other factors as further outlined below:

(a) Nature of the Complaint

The Service Provider argued in its final submissions that *'throughout the proceedings the Complainant made contradictory comments on the nature of his complaint'*.⁹ It pointed out that in his last submissions, *'he complains of mis-selling and mismanagement but when examining his testimony in examination and cross-examination it is clear that his complaints should have been directed to the trustee ...'*.¹⁰

Cognisance needs, however, to be made of the fact that this is a complaint filed by a retail client¹¹ who described himself as not being *'financial astute'*.¹² The Complaint with the OAFS was filed without professional assistance and the Complainant was not assisted professionally during his testimony and in his submissions.

One needs to also take into consideration the explanations provided by the Complainant regarding his Complaint against the Service Provider, as particularly outlined in the Complaint Form,¹³ his letter of formal complaint dated 23 August 2024,¹⁴ his testimony and cross-examination,¹⁵ as well as the Company's replies to the Complainant's complaint.¹⁶

⁹ P. 149

¹⁰ *Ibid.*

¹¹ As confirmed by the Service Provider in its reply/submissions (p. 124 & 149) and the Service Provider's Client Fact Find (P. 16)

¹² P. 4

¹³ P. 3 - 4

¹⁴ P. 8

¹⁵ P. 127 - 131 (particularly the explanations provided on p.127-128)

¹⁶ P. 9 - 14 & 123 - 125

The Arbiter observes that as outlined above, the Complaint can, in essence, be summarised as involving the following key allegations and failures with respect to the investment advisory services provided to the Complainant by the Service Provider regarding his pension scheme which he claimed was reduced to no value:

- (i) That the Company advised a high-risk investment not reflective of his needs and wishes of a balanced investment and his profile;
- (ii) That the sale of investments and withdrawals undertaken from his pension were done without his knowledge, where he also questioned where these withdrawals from his pension had gone.

The above mentioned are considered the subject matter of this case as shall be further elaborated on later in this decision.

(b) *Date of knowledge*

The Service Provider also raised the plea *'that the Complainant was not truthful when claiming to have first had knowledge of the matters complained about on the 14th September, 2024'*.¹⁷

This aspect is particularly relevant in case of a plea related to the competence of the Arbiter under Article 21(1)(c) of the Arbiter for Financial Services Act (Chapter 555 of the Laws of Malta) ('the Act'). Given that no plea of prescription was raised in terms of such article and taking into consideration also the proviso to Article 19(3) of the Act,¹⁸ the Arbiter considers that there is no relevance and need to consider this aspect any further, and this plea is dismissed accordingly.

(c) *Not the Proper Defendant*

In its final submissions, the Service Provider also claimed that it is not the proper defendant arguing that *'his complaints should have been directed to the trustee, Baker Tilly'*.¹⁹ It submitted in this regard:

¹⁷ P. 149

¹⁸ This provides that *'... the financial services provider may only raise the plea of prescription in the first written submissions provided for by article 22(3)(c) unless otherwise authorised by the Arbiter giving reasons for that authorisation'*.

¹⁹ *Ibid.*

*‘That the Respondent Company is not the rightful defendant in relation to the claims brought forward and it is blatantly clear the Complainant is complaining about the conduct of a third party, namely the trustee, Baker Tilly and henceforth the request for compensation cannot be directed to the exponent’.*²⁰

Apart from the fact that this matter was only raised in the final submissions, it is amply clear that the Complaint involves claims about the investment advisory services provided by the Service Provider for which the Service Provider is the proper and legitimate defendant. There is accordingly no basis on which the said plea could be upheld, and the Arbiter shall proceed to consider the merits of the case next.

The Merits of the Case

The Arbiter will decide the Complaint by reference to what, in his opinion, is fair, equitable and reasonable in the particular circumstances and substantive merits of the case.²¹

The Arbiter is considering all pleas raised relating to the merits of the case together to avoid repetition and to expedite the decision as he is obliged to do in terms of Chapter 555²² which stipulates that he should deal with complaints in *‘an economical and expeditious manner’*.

Background

Complainant’s profile, objective and wishes

The Service Provider’s Confidential Client Fact Find (‘CCF’) dated 30 August 2013, signed by both parties and completed in respect of the investment advisory services provided by the Company to the Complainant, classifies the Complainant as a *‘Retail Client’*.²³

The CCF identifies the Complainant as a British national born in 1962, having no *‘financial related qualification’*.²⁴ His gross income and that of his spouse were

²⁰ P. 152

²¹ Cap. 555, Art. 19(3)(b)

²² Art. 19(3)(d)

²³ P. 16 - 30

²⁴ P. 17 - 18

indicated as GBP15,500 and GBP12,000 respectively.²⁵ The CCF further outlines that the Complainant had no other investments at the time.²⁶

His risk profile and attitude to risk was furthermore indicated as 'Balanced' (from a scale ranging from 'Cautious', 'Defensive', 'Balanced', 'Adventurous' to 'Speculative'). The term 'Balanced' was described as follows:

'I wish to invest in investments whose overall volatility and riskiness, that is size of movements, up or down, is broadly equivalent to the UK stock market e.g. a mainstream UK equity fund or similar'.²⁷

The Complainant was indicated as not satisfying the criteria to be treated as a 'Professional Client' under the MiFID Directive.²⁸

Decree of 9 June 2025

Given that certain documentation and clarifications requested during the hearing of 18 March 2025 remained pending even after the parties' final note of submissions, the Arbiter issued a decree on 9 June 2025, listing the documentation and clarifications that remained outstanding and requesting them to be produced accordingly by the Service Provider.²⁹ The information subsequently provided enabled the Arbiter to obtain a clearer and more comprehensive picture of the issues at hand.

The Scheme, its underlying Policy and investment portfolio

The Complainant joined the retirement scheme (a Self-Invested Pension Plan, 'SIPP') issued by *Baker Tilly Isle of Man Group* on 9 September 2013.³⁰ His pension scheme then acquired the *Universal Personal Portfolio* issued by *Hansard International* – this being 'a whole-of-life unit-linked insurance contract that allows for the investment of lump-sum contributions'.³¹

²⁵ p. 18

²⁶ *ibid.*

²⁷ p. 21 - 22

²⁸ p. 23

²⁹ p. 153 - 154

³⁰ p. 32

³¹

<https://www.aesinternational.com/hubfs/Independent%20Reviews/Hansard%20International/Universal%20Personal%20Portfolio%20Key%20Information%20Document.pdf>

The Hansard policy that was acquired for the Complainant commenced on 13 November 2013, with an initial investible premium of GBP 51,272.20.³²

The following four investments were then purchased during November-December 2013 and held within the said Hansard policy:³³

- GBP 15,000 (consisting 29.3% of the initial investible premium) into *BMIFML O/S Multi Strat Growth Strat*;
- GBP 15,000 (consisting 29.3% of the investible premium) into *BMIFML O/S High Income*;
- GBP 6,949 (consisting 13.6% of the investible premium) into *Alquity Africa Fund B GBP*;
- GBP 12,275 (consisting 24% of the investible premium) into *Prestige Alternative Finance GBP*.

The Service Provider indicated a total of GBP 23,767.67 as having been paid in fees from the Complainant's pension scheme.³⁴ It also indicated the Complainant as having withdrawn the sum of GBP 20,271.71 from his pension.³⁵

This data is summarised (for ease of reference) in Table A below.

Table A – Overview of Transfer, fees and withdrawals

	GBP
Complainant's pension initial transfer	51,272.20
Total Fees paid overall from the SIPP & Hansard policy ³⁶	(23,767.67)
Withdrawal by Complainant	(20,271.71)
Difference	7,232.82
Loss experienced on his pension (inclusive of fees paid)	31,000.49

The figures provided by the Service Provider were analysed further and compared with the data emerging from official Cash Statements that were

³² p. 181

³³ *Ibid.*

³⁴ p. 136

³⁵ p. 135

³⁶ p. 136

requested by the Arbiter to be produced in respect of the Hansard policy (covering mainly the period 13 Nov 2013 to 30 Sept 2024).³⁷

According to the said Cash Statements, a total of over GBP 16,000 emerges to have been paid in fees on the underlying Hansard policy alone as per the summarised breakdown provided in Table B below.³⁸

Table B – Breakdown of the fees charged on the Hansard policy

	Adm. Fee	Dealing charge	Establishment fee	Investment Advisor Fee	Management Fee	Bank charges	Interest paid	Mandated Fee
2013	70.49	144	170.91	124.82	103.25	-	-	
2014	134	37	256.36	124.03	192.27	10	2.27	
	134		256.36	123.63	192.27			
	137		256.36	124.69	192.27			
	137		85.45	122.96	192.27			
2015	137	37		125.32	192.27	10	2.56	
	137	25		119.37	192.97		3.53	
	138			112.61	192.27		0.74	
	138			113.86	192.27			
2016	138			114.3	192.27	10		
	138			115.1	192.27			
	139			118.59	192.27			
	139			117.86	192.27			
2017	139			119.26	192.27	10	0.58	
	139			118.86	192.27			
	142			116.4	192.27			
	142			117.64	192.27			
2018	142	50		80.07	192.27	10		
	142			81.03	192.27	10		
	147			78.68	192.27			
	147			74.59	109.73			
2019	147	25		76.21	38.11	10	0.64	
	147			77.44	38.72			
	151			75.58	37.79			
	151			75.98	37.99			
2020	151	25		68.7	34.35	10	3.12	
	151	25		72.37	36.18		5.2	
	156			72.08	36.04		7.76	
	156			72.13	36.07		4.22	
2021	156	50		72.58	36.29	10	0.35	

³⁷ Arbiter's decree of 9 June 2025 - P. 154

³⁸ The breakdown in the Table omits certain fees applicable from 13 Nov 2023 to Dec 2023 and from 1 Jan 2024 to 11 Feb 2024 given that such data did not feature in the Cash Statements provided (P. 181 – 213)

	Adm. Fee	Dealing charge	Establishment fee	Investment Advisor Fee	Management Fee	Bank charges	Interest paid	Mandated Fee
	156			67.18	33.59		0.4	
	159			67.16	32.73		2.53	
	159			67.38	33.69			
2022	159	50		64.89	32.44	10	0.71	
	159	25		58.59	29.3	10	1.88	
	166			57.69	28.84	10	5.23	
	166			45.9	22.95		3.95	
2023	166	25		45.34	22.67	10	0.48	
	166			37.56	18.78		2.14	
	175			34.91	17.45			
2024	175	25			16.9	10	5.55	33.32
	175	25			14.99			29.5
	182							0.72
Totals	6,385.49	568.00	1,025.44	3,553.34	4,502.68	140.00	53.84	63.54

In addition to the fees paid on the Hansard policy, a total of over GBP 7,000 was also paid separately to the trustee, Baker Tilly, in respect of the SIPP as indicated by the Service Provider.³⁹

The total fees paid on the Hansard policy (as emerging from Hansard's Cash Statements) and the fees paid to Baker Tilly (in respect of the SIPP) reflect the figure of over GBP 23,000 in fees paid overall on the Scheme's structure as listed by the Service Provider.

With respect to the four investments underlying the Hansard policy, the following transactions and current status were indicated by the Service Provider:⁴⁰

- *BMIFML O/S Multi Strat Growth Strat* fully redeemed after various partial sales occurring over a period of time, yielding an overall net gain of GBP 5,303.15;
- *BMIFML O/S High Income* sold in 2018 yielding a net gain of GBP 2,707.46;
- *Alquity Africa Fund B GBP* sold in 2015 yielding a net loss of GBP 2,105.42;

³⁹ P. 136

⁴⁰ P. 133 - 134

- *Prestige Alternative Fund* (partial sale in 2020) with an ‘*approximate unrealised loss*’ as at 2024 of -GBP 11,941.35.⁴¹

The transactions undertaken in respect of the said investments as listed according to the official Cash Statements issued by Hansard are summarised in Table C below:⁴²

Table C – Investment Transactions

	Date	Purchase GBP	Date	Sale GBP	Income/ Dividends GBP	Net gain/loss GBP
<i>BMIFML O/S Multi Strat Growth Strat</i>	21/11/13	15,000	11/11/14 01/06/15 15/01/18 28/08/19 19/11/20 26/04/21 12/05/21 14/01/22 04/04/22 14/11/22 28/04/23 12/02/24 21/05/24	660 640 3,000 1,000 2,125 2,500 420 1,060 1,300 2,015.57 1,917.28 1,576 1,279.27	810.03	5,303.15
<i>BMIFML O/S High Income</i>	21/11/13	15,000	15/01/18	14,603.67	3,103.79	2,707.46
<i>Alquity Africa Fund B GBP</i>	26/11/13	6,949	22/09/15	4,843.58	-	-2,105.42
<i>Prestige Alternative Fund</i>	02/12/13	12,275	30/09/20	331.15	-	*
<i>Total</i>						-6,038.66

*Unrealised loss of GBP 11,943.85

The Policy Value statement issued by Hansard International as at 31 July 2024, indicates the *Prestige Alternative Fund* valued at zero.⁴³ It is clear that there are material issues on this investment and it is unclear whether the investor will receive any funds, if at all, following the completion of the ‘*managed sell-down process*’ on this investment as reflected in the communication of 17 July 2024.⁴⁴

⁴¹ P. 134

⁴² P. 181 - 213

⁴³ P. 232

⁴⁴ P. 78

This aspect will be duly taken into consideration in the conclusion reached in this decision.

As to encashments, the Cash Statements issued by Hansard indicate various encashments done from the Hansard Policy throughout the years. These withdrawals as well as the encashments paid to the Complainant as listed by the Service Provider are summarised in Table D below.

Table D – Breakdown of Encashments

Encashments emerging from the Hansard Policy (GBP) ⁴⁵			Encashments paid to Complainant as indicated by the Service Provider (GBP) ⁴⁶	
08-Oct-14	Encashment	900		
28-Sep-15	Encashment	913.2		
17-Aug-16	Encashment	903.83		
25-Aug-17	Encashment	903		
01-Feb-18	Encashment	14,036	05/02/ 2018	14,032.18
08-Sep-18	Encashment	909		
03-Sep-19	Encashment	917		
15-Dec-20	Encashment	889		
24-May-21	Encashment	2500	16/06/2021	1,322.78
25-Jan-22	Encashment	150		
06-Apr-22	Encashment	1560	27/05/2022	1,653.48
15-Nov-22	Encashment	901		
04-May-23	Encashment	1654	30/05/2023	1,653.48
29-May-24	Partial Surrender	1280.99	03/06/2024	1,279.09

Out of the encashments emerging from Hansard's Cash Statements, only six payments were listed by the Service Provider to have been paid to the Complainant – namely, £14,032.18 in February 2018, £1,322.78 in June 2021, £1,653.48 in May 2022, £1,653.48 in May 2023 and £1,279.09 in June 2024 apart from a payment of £330.70 indicated as reclaim of tax on 27/05/2022).⁴⁷

Various other encashments of around £900 annually appear to have been made to settle fees payable under the SIPP to Baker Tilly.^{48, 49}

⁴⁵ p. 181 - 213

⁴⁶ p. 135

⁴⁷ p. 135

⁴⁸ p. 242-243

⁴⁹ Apart from an 'Establishment fee' of £350, the fees of Baker Tilly included an 'Annual trustee, consultancy, administration & accountancy fee' of '£750 plus disbursements' (P. 170). An email dated 10/25/2024 issued by

As at 31 June 2024, the Hansard Policy indicated a remaining cash balance of GBP 471.57.^{50, 51}

Request to fully withdraw his pension

It is noted that in his Complaint to the OAFS, the Complainant requested, as remedy, the return of his pension where he indicated that this stood at GBP 30,713.90 at the time he had first requested his pension to be returned to him in March 2020.⁵²

In his final submissions, the Complainant reiterated that:

*‘Finally, as originally stated even with all this overcharging and mismanagement, had I been able to withdraw funds when I requested it, there was £30,000 still in the fund’.*⁵³

A Benefit Statement issued by Baker Tilly, Isle of Man, indicated the Complainant’s scheme valued at GBP 30,724.93 as at 30 June 2019.⁵⁴

It is noted that despite the Complainant’s initial request to withdraw his pension was indicated as being in March 2020, the properly completed form for the full withdrawal of his pension was only received by the SIPP’s trustee a year later in March 2021. In an email dated 9 March 2021, sent to the Complainant, Baker Tilly *inter alia* explained that:

‘We received a request from you in March 2020 in relation to withdrawing funds from the pension scheme. We responded to you in March 2020, via email, along with the retirement form and fully outlined all options available to you in respect of your pension. We then resent your retirement options to you in December 2020 following a phone call from you requesting this information again. We received your retirement form at our offices in January 2021.

Baker Tilly explained that, *‘With regards to the encashments for Baker Tilly fees ... His annual fee is £750 + vat + disbursements at cost’* (P. 278).

⁵⁰ P. 231

⁵¹ No details are available of any cash balances remaining in the SIPP of Baker Tilly.

⁵² P. 4

⁵³ P. 147

⁵⁴ P. 32

*Upon receipt of your form, I contacted you in respect of the retirement options you had chosen advising that you had completed the incorrect sections and had already withdrawn your maximum tax free cash, as advised in 2020. Therefore, you couldn't withdraw this lump sum again. Further to an exchange of emails, my colleague reiterated **how to complete the form in order to withdraw your full pension balance.***

*We received a second form from you in February 2021, however, this was not completed in accordance with the exchange of emails you had with our team in January. We have fully outlined your options and confirmed how the form should be completed, however, the forms received to date from you have not been correctly completed **on the basis you wish to withdraw all your funds ...**'.⁵⁵*

In a subsequent email of 17 March 2021, Baker Tilly confirmed to the Complainant that they 'have received the fully completed form and this is currently being processed'.⁵⁶

Instructions to redeem the remaining full holding of the *Prestige Alternative Finance GBP* was made on 1 April 2021.⁵⁷ It is noted that in an email dated 22 March 2021, Baker Tilly had however informed the Complainant that:

'Please note that Hansard have advised us that although the Prestige fund isn't a yearly dealing fund, they are aware that all deals placed lately for this asset have settlements date of a year or more and that this now means that although we can place a request to sell 100% of the holding, you should be aware of the dealing timeframe involved meaning that you have to wait until the asset had sold before we could pay your fund remnant lump sum'.⁵⁸

The Complainant replied to Baker Tilly on 22 March 2021, stating:

'The timescale is annoying but we have no choice, please go ahead and sell the assets and release the funds to us, as soon as you can'.⁵⁹

⁵⁵ P. 74 – Emphasis added by the Arbiter

⁵⁶ P. 73

⁵⁷ P. 253 - 256

⁵⁸ P. 72

⁵⁹ P. 71

Observations & Conclusions

(a) *Claim of a high-risk investment not reflective of his needs, wishes, profile*

It is noted that during the first hearing of 24 February 2025, the Complainant elaborated on his Complaint and testified as follows:

'I gave them the money to be invested in a balanced manner until I took the money out for my pension a few years later.

...

I put my investment in a balanced fund; I do not know why I was put in something that was so risky

After I asked for the money back, they said that this fund was for experienced investors only. That's not me. That is the only investment I have. I have no other monies.

... I don't believe that it was originally put where it should have been put; accessible when I got to 60 and where the money was safe and would earn around the rate of the UK stock market ...'.⁶⁰

On the aspect of not being an experienced investor, the Complainant further pointed out the following in his final submissions:

'In the letter from prestige I received once I was told my pension value was nothing, the following paragraph shows how risky prestige was:

PALTF is an experienced investor fund and not for retail investors. In the UK PALTF is for professional investors and not for retail investors. Potential investors should seek professional independent financial advice prior to making any decision to invest. Please also refer to the Information Memorandum of PALTF before making any final investment decisions.

In no way am I a professional Investor'.⁶¹

⁶⁰ P. 127 & 128

⁶¹ P. 146

On its part, the Service Provider rejected the allegations and claimed *inter alia* that no responsibility should be borne by it for the losses incurred, given that the issues with the Prestige fund were not within its control and that ‘*the funds invested perfectly fit the risk profile of the Complainant*’.⁶²

In its final submissions, the Service Provider submitted *inter alia* that the investment portfolio was balanced and that there were external factors (like ‘*the pandemic of Covid-19 and the negative interest rates in 2021*’)⁶³ which affected the value of the Prestige fund and the SIPP’s ability to entertain the withdrawal request.

As outlined above, the Complainant suffered losses on two investments within his investment portfolio. The two investments were the *Alquity Africa Fund B GBP* and the *Prestige Alternative Finance GBP* (ISIN Code KYG722711283),⁶⁴ the latter being the main investment disputed by the Complainant during his Complaint filed with the Arbiter.

No details were provided by the parties in respect of the *Alquity Africa Fund B GBP* investment (which constituted the smallest investment within the portfolio, with the amount invested being 13.6% of the investible premium as outlined above). A general internet search yielded a prospectus which indicated this as a UCITS fund based and regulated in Luxembourg, classified as a retail fund (with a minimum initial subscription amount of GBP 5,000).

According to the sourced Prospectus, the *Alquity Africa* fund mainly invested in equities (listed on regulated markets of African countries or exposed to the African continent).⁶⁵ It is noted that the said prospectus indicated the following with respect to the target investor:

‘PROFILE OF THE TYPICAL INVESTOR:

⁶² p. 125

⁶³ p. 151

⁶⁴ p. 80, 83 & 236

⁶⁵ Pages 52 & 72 of the Prospectus of the *Alquity SICAV*

<https://www.fundsquare.net/download/dl?siteId=FSQ&v=089yK+J0/8sNJytj8/oslocK4/Jfx5z7nNOxXh177KOghZD9RXdJuGMIZP2XQ36NcPrnq83V/UV6Os4dsPBbvUCE6rVfCTzNB8bC35+MT8L3C6Zw+pw+bQs9yhz7yn5mVvM7gLOMUCR/YrF2kpw4Mw==>

*The sub-fund is suitable **for investors who are prepared to accept a high level of risk** and who plan to maintain their investment over a medium to long term period.’⁶⁶*

The Service Provider presented a Fact Sheet (dated 08/2011), in respect of the *Prestige Alternative Finance GBP* (which fund constituted a higher portion, 24% of the investible premium at the time of investment). The Arbiter notes the following factors which emerge with respect to this investment:

- a. The provided Fund Fact Sheet stated that this fund is:

*‘an **experienced investor, asset-based lending strategy**, which invests in a highly diversified portfolio of rural, commercial and industrial loans and leasing agreements in the United Kingdom’.⁶⁷*

- b. This fund was further described as follows:

*‘... is **an experienced investor fund** and potential investors should seek professional independent advice prior to making any decision to invest. Furthermore as **the fund is domiciled within the Cayman Islands it is classified as an Unregulated Collective Investment Scheme (UCIS)**. UCIS are classified as higher risk investments and are therefore **not suitable for all types of investor**. If you are uncertain with regards to your eligibility you should seek professional advice ...’.⁶⁸*

- c. It is also noted that this fund had a high entry limit (that is, minimum investment) of GBP 60,000.⁶⁹ This is further reflective of the non-retail nature of this fund.

Whilst the Complainant was eligible to invest in the *Alquity Africa Fund* - albeit one could question the elevated risk and concentration to the African sector brought by the exposure to this fund which was, however, relatively smaller - it is clear and evident that the *Prestige Alternative Finance GBP*

⁶⁶ Page 73 of the Prospectus of the Alquity SICAV – Emphasis added by the Arbiter

⁶⁷ P. 235 – Emphasis added by the Arbiter

⁶⁸ P. 236 – Emphasis added by the Arbiter

⁶⁹ *Ibid.*

was outrightly not a suitable investment for the Complainant for which he was eligible.

The Complainant, a retail investor who had no other investments (as indicated in the Confidential Client Fact),⁷⁰ and who thus lacked experience, was indeed not eligible to invest in the *Prestige Alternative Finance* fund in the first place. It is noted that the Prestige fund also had a minimum entry limit (of GBP 60,000), a limit which was even higher than the Complainant's overall total pension (of GBP 51,272.20).

Furthermore, the Prestige fund, a specialised fund focused on direct lending, was a '*higher risk investment*' by its very nature, as also described in the Fund Fact Sheet. The nature and type of this fund indeed clearly contrasted with and went against the Complainant's '*Balanced*' attitude to risk and his wish for a '*mainstream UK equity fund*' specified in his Client Fact Find.⁷¹

The extent invested into this fund (nearly one fourth of the investible premium at the time of investment), was also quite high on its own in the context of the pension portfolio with a 'Balanced' risk profile, even more so when coupled with the particular risk element of the Alquity Africa Fund as mentioned above.

In one of its notes of submissions, the Service Provider claimed that:

'When advising the Complainant it conducted a suitability test to ascertain that:

- a. It meets the investment objectives of the client in question;*
- b. It is such that the client is able financially to bear any related investment risks consistent with his investment objectives;*
- c. It is such that the client has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of his portfolio'.⁷²*

⁷⁰ P. 18 & 23

⁷¹ P. 21

⁷² P. 150

It is amply clear that the investment in the *Prestige Alternative Finance GBP* failed each of the above-mentioned criteria for the reasons mentioned. This is when considering the Complainant's profile, risk attitude and investment objective as outlined in his Confidential Client Fact Find.

Furthermore, the very fact that somehow the minimum investment limit (GBP 60,000) meant to present a barrier to entry by non-professional investors, was somehow circumvented and the customer was allocated a position of GBP 12,275, being just 20% of the entry threshold, indicates how inappropriate this investment was in relation to the Complainant's risk profile.

The Service Provider's argument that notwithstanding the investment allocated to Prestige being clearly unsuitable for a retail investor, the portfolio overall still honoured the balanced risk profile of the investor is refuted.

A balanced risk portfolio is meant to include a spread of diversified investments with different risk scores but must respect the retail profile of the investor even at the individual component level.

The fact that following withdrawals and encashments to finance charges, the portfolio was left totally exposed to a sole unsuitable investment shows the undue risks incurred by including a professional type of investment in a retail portfolio.

- (b) *Claim that the sale of investments and withdrawals were undertaken without his knowledge and the question of where his pension had gone*

The Complainant's signature is not apparent in a number of Hansard's withdrawal/redemption forms that were produced during the proceedings of the case.⁷³

It has, however, emerged that the cash held within the Complainant's SIPP and policy was, on various occasions, insufficient to provide for the settlement of ongoing fees. Redemptions from investments were made on various occasions, with such redemptions providing for the settlement of outstanding fees and the negative balances that regularly accumulated in

⁷³ P. 238 – 262, 270 & 273

the Hansard policy. This is evident from the Hansard's Cash Statements starting from late 2014 onwards.⁷⁴

It is noted that in an email dated 25 October 2024 from Baker Tilly Isle of Man to the Service Provider, Baker Tilly indeed explained that:

'With regards to the encashments for Baker Tilly fees, they were done in line with the fee schedule to which the member agreed to at outset. His annual fee is £750 + vat + disbursements at cost. At the time the invoice was raised, if there was sufficient cash in the Hansard account, a withdrawal would have been completed. If there was insufficient cash on account then we would have contacted Lawsons to determine funding ...

...

*Some of the sales quoted in the spreadsheet were keyed by Hansard themselves to cover fees and the 2015 and January 2018 sales were keyed directly by the advisor; Peter Hardy.'*⁷⁵

As to the question where his pension had gone, it is clear that, as emerging from the information provided, over 46% of the Complainant's initial pension was taken in fees within eleven years (from 2013 to 2024).⁷⁶

The remaining balance on his pension involves the overall losses arising from his investment portfolio and the withdrawals made by the Complainant as summarised in the tables above, as well as any cash balances potentially remaining in his SIPP and underlying policy.⁷⁷

It is noted that, during the hearing of 24 February 2025, the Complainant testified:

'... And there were some charges. They told me that they were £675 a year and yet about £23,000 have gone out in 10 years so that would be like £7,500/£8,000. They did not advise me of that, otherwise, I would

⁷⁴ Example: Oct 2014 - P.183; June 2015 - P.186; Jan 2018 - P.195; Nov 2020 - P. 204; April 2021 - P.205; Jan 2022 - P. 207; Nov 2022 - P. 210; April 2023 - P. 211.

⁷⁵ P. 173

⁷⁶ GBP 23,767.07 in fees of his initial premium of GBP 51,272.20

⁷⁷ No full details were provided to determine the remaining cash balances exactly.

*not have put the money in knowing they would have taken half the money out in ten years’.*⁷⁸

On the subject of fees, the Complainant further testified the following during his cross-examination:

*‘So, it is being said, that I was aware of what the charges were going to be. I say that it was £750 a year but then, in ten years, it came to £23,000 not £7,500’.*⁷⁹

The Complainant again noted in his final submissions that:

*‘... I never knew the extent of fees, at the original meeting I was told £750.00 per year in fees, I was never given an updated figure. However, I appear to have been charged closer to £2500 per year’.*⁸⁰

The Complainant also referred to various annual withdrawals and redemptions from the BMIFML O/S Multi Strat Growth Strat and reiterated that:

‘... I never received it or instructed the withdrawals.

...

Once again, I never received these funds, what were they for, now I believe to pay fees.

*I was never informed that there would be 3 companies involved all taking fees’.*⁸¹

As outlined in the hearing of 18 March 2025, the Service Provider was requested by the Arbiter to clarify the fees that the Complainant had signed for (not just those payable to the Service Provider, but also those charged and applicable to his SIPP, as well as the underlying Hansard Policy).⁸²

This information was not produced after the hearing, nor in the parties’ final submissions. The Arbiter accordingly issued a decree on 9 June 2025,

⁷⁸ P. 128

⁷⁹ P. 130

⁸⁰ P. 146

⁸¹ P. 146 - 147

⁸² P. 137 - 145

requesting, *inter alia*, such information to be provided by the Service Provider.⁸³

Despite the Arbiter's additional decree, the Service Provider just produced the contract signed by the Complainant with Lawsons Equity for the provision of investment advisory services and the form signed with Baker Tilly. No contract or form signed in respect of the Hansard policy was produced.

The form signed by the Complainant with Baker Tilly included the schedule of fees applicable to the SIPP. This schedule listed the annual trustee fee of '*£750 plus disbursements*'.⁸⁴

As to the Hansard policy, the Service Provider failed to produce the signed contractual agreement in respect of such policy, but only attached an extract thereof outlining the schedule of fees on the policy (with such schedule bearing no signatures).⁸⁵

The Arbiter observes that the lack of disclosure of and/or consent to the fees charged on the Hansard policy was an aspect that the Complainant only specifically mentioned and highlighted during the sittings and not in his original formal complaint with the Service Provider and with the OAFS.⁸⁶

However, the Arbiter notes that his original complaint included queries of several drawings (which, according to him, were never explained and never received), and it results that by implication, these drawings were related to charges which he claims were unauthorised.

Whilst the Arbiter understands and sympathises with the Complainant that the extent of fees he was charged within the overall structure of his pension was remarkably high and unreasonable for the very small size of his pension, the Arbiter does not consider that, in the case before him, there are sufficient and strong grounds on which compensation could be granted with respect to the subsequent claimed lack of disclosure/consent of fees on the Hansard policy. The Hansard Policy documents seem to have been

⁸³ P. 153 - 154

⁸⁴ P. 170

⁸⁵ P. 237

⁸⁶ P. 3 - 4 & 8

signed on Complainant's behalf by Baker Tilly who must have committed themselves to these charges considering them as 'disbursements' signed for by the Complainant.

The Arbiter shall thus focus his decision on the alleged lack of suitability of the chosen investments, as was raised in the Complaint filed by the Complainant.

Conclusion

As a remedy to his Complaint, the Complainant requested that the money remaining in his pension fund (indicated as GBP 30,724) as of 2019 be returned to him.

It is noted that, in its submissions, the Service Provider identified certain withdrawals that were paid to the Complainant in subsequent years after 2019 (with these payments not being contested during the proceedings).⁸⁷

Given the shortcomings identified by the Arbiter with respect to the *Prestige Alternative Finance* fund investment as amply explained above, the Arbiter shall thus calculate the amount of compensation which, in his opinion, is fair, just and reasonable in the particular circumstances of this case, taking into consideration the loss experienced in this specific investment and the damages attributed by the Arbiter as arising from this investment to the Complainant's pension.

As to the damages, it is noted that the lack of redemption possibility for the *Prestige Alternative Finance GBP* fund in 2021, (this being the time when the Complainant had validly requested his pension to be withdrawn), and thereafter, effectively ended up prolonging the existence of the prohibitively expensive pension structure further on his even smaller pension pot. The Complainant continued to incur multiple fees in the process to his detriment.⁸⁸

⁸⁷ Example – Income indicated as paid to the member of GBP 1,322.78 on 16/06/2021; GBP 1,653.48 on 27/05/2022; GBP 330.70 on 27/05/2022; GBP 1,653.48 on 30/05/2023; GBP 1,279.09 on 03/06/2024 – P. 135

⁸⁸ It is considered that the *Prestige Alternative Finance* fund was the main stumbling block for the closure altogether of his pension scheme as per the communications exchanged between the Complainant and Baker Tilly in March 2021 – P. 71 - 72

This aspect shall accordingly be reflected in the amount of compensation awarded in this case.

Decision

For the reasons amply stated in this decision, the Arbiter considers the Complaint to be fair, equitable and reasonable in the particular circumstances and substantive merits of the case,⁸⁹ and is accepting it in so far as it is compatible with this decision.

The Arbiter concludes that *Aventis Financial Planning Limited* should compensate the Complainant for the losses and damages suffered by him on his pension as a result of the inadequate investment, the *Prestige Alternative Finance* fund recommended by the Service Provider.

The amount of compensation is calculated as follows:

- a) An amount of GBP 11,944 for the unrealised loss suffered on the *Prestige Alternative Finance GBP* fund in order to put him back to his original position on this investment; AND
- b) An amount of GBP 7,000 reflective of the fees applicable to his pension structure overall (that is, involving both the Self-Invested Pension Plan and the Hansard policy), starting from the period 2021 onwards. This period is the time when the Complainant submitted the correct, completed forms to withdraw his remaining funds from his pension, as earlier considered in this case.

The amount of fees in this regard is approximated and rounded up by the Arbiter to GBP 7,000 for the purpose of this decision.⁹⁰

The Arbiter further considers that, given the particular status of the *Prestige Alternative Finance GBP* as outlined above, any future proceeds that may be derived from such investment are to be allocated fully to the Service Provider who thus gain practical control of this investment and permits closure of the pension fund to avoid further accumulation of charges.

⁸⁹ Cap. 555, Article 19(3)(b)

⁹⁰ The fees charged on the Hansard Policy as from March 2021, calculated to be around GBP 3,500, together with the yearly annual trustee of approx. GBP 900 p.a. from 2021.

Therefore, in accordance with Article 26(3)(c)(iv) of Chapter 555 of the Laws of Malta, the Arbiter orders *Aventis Financial Planning Limited* to pay the amount of GBP 18,944 (eighteen thousand, nine hundred and forty-four pounds sterling), whilst future proceeds (if any) in respect of the *Prestige Alternative Finance GBP* are assigned to the Service Provider as stipulated above.

With interest at the rate of 4.25% p.a.⁹¹ from the date of this decision till the date of payment.⁹²

The costs of these proceedings are to be borne by the Service Provider.

Alfred Mifsud
Arbiter for Financial Services

Information Note related to the Arbiter's decision

Right of Appeal

The Arbiter's Decision is legally binding on the parties, subject only to the right of an appeal regulated by article 27 of the Arbiter for Financial Services Act (Cap. 555) ('the Act') to the Court of Appeal (Inferior Jurisdiction), not later than twenty (20) days from the date of notification of the Decision or, in the event of a request for clarification or correction of the Decision requested in terms of article 26(4) of the Act, from the date of notification of such interpretation or clarification or correction as provided for under article 27(3) of the Act.

Any requests for clarification of the award or requests to correct any errors in computation or clerical or typographical or similar errors requested in terms of article 26(4) of the Act, are to be filed with the Arbiter, with a copy to the other party, within fifteen (15) days from notification of the Decision in terms of the said article.

⁹¹ Equivalent to the current Bank of England Bank Rate.

⁹² It is to be noted that in case this decision is appealed, should this decision be confirmed on appeal, the interest is to be calculated from the date of this decision.

In accordance with established practice, the Arbiter's Decision will be uploaded on the OAFS website on expiration of the period for appeal. Personal details of the Complainant(s) will be anonymised in terms of article 11(1)(f) of the Act.

Costs of the proceedings

In terms of article 26(3)(d) of Cap. 555 of the Laws of Malta ('the Act'), the Arbiter has adjudicated by whom the costs of the proceedings are borne and in what proportion, taking into consideration the particular circumstances of the case.

The costs of the proceedings are not limited to the payment of any applicable cost of filing the Complaint with the Office of the Arbiter for Financial Services (previously Eur25) but may also include any reasonable lawful professional and legal fees paid by the Complainant limited to the acts filed during the proceedings of the case. Such professional fees should not include any contingency judicial fees and charges.

The extent of tariffs and fees in respect of professional or consultancy services rendered to customers in relation to the claims or proceedings under the Act, that may be lawfully and reasonably requested as part of the said costs of proceedings, are not defined in the current provisions of the Act. However, the Arbiter expects these to be benchmarked on tariffs and fees as stipulated and applicable for Civil Court proceedings in Malta under the Code of Organisation and Civil Procedure.