

**HONGKONG INVESTMENT ADVISOR TAKEN TO TASK:
ELDERLY HANDICAPPED LADY SUES FOR \$HK5.69 MILLION**

A 70-year-old, physically handicapped lady of the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) has launched an Action in the HKSAR High Court in an attempt to recover \$US729,955.36 (about \$HK5.69 million) from a Corporate Investment Advisor and its Directors, alleging, inter alia, fraud, deception and breaches of duties of fidelity.

Ms Marguerite P. Gonsalves is the Plaintiff in High Court Action Number 2385 while the Defendants are:

Towry Law (Asia) Hongkong Ltd	First Defendant
William Paul Heathcote Tatham	Second Defendant
Paula Aiken	Third Defendant
Lee Shurney	Fourth Defendant
Robert William Bull	Fifth Defendant

The Statement of Claim, attached to the Writ of Summons, tells the following story:

The Background

In 1993, when Ms Gonsalves was about 60 years old, she *'came to know the 2nd Defendant, the then Managing Director to Towry Law International Limited situated in Suite 808, Asia Pacific Finance Tower, Citibank Plaza, 3 Garden (Road), Hong Kong and a consultant in financial and investment advices (sic).'* (Paragraph 2)

In February of that year, *'acting as the financial advisor of the Plaintiff'*, Mr William Paul Heathcote Tatham advised her to invest her life savings in a manner whereby there would be no risk to the investment capital and to *'produce a small to modest income.'* (Paragraph 3)

Ms Gonsalves, acting on the advice, invested \$US350,000 (about \$HK2.73 million) in Wealthbuilder Plan, issued by Clerical Medical International (CMI), *'which was a 5 years plan providing an annual bonus and interest, maturing in February 1998.'* (Paragraph 4)

Things went along swimmingly, during the period 1993 to 1998, and, then, in February 1998, it is alleged that Mr William Paul Heathcote Tatham suggested to Ms Gonsalves that she consider a *'further investment'* upon the maturity of the Wealthbuilder Plan.

At that time, Ms Gonsalves had about \$US800,000 (about \$HK6.24 million) available to her, that sum of money, representing her entire life savings. (Paragraph 6)

Mr William Paul Heathcote Tatham is alleged to have advised Mr Gonsalves to invest in the CMI Guaranteed Growth Funds (GGF(I)), *'which was a 5-years investment plan, was a suitable investment plan to the Plaintiff.'* (Paragraph 9)

Whereupon, Mr Gonsalves invested all of her money in GGF(I).

Then, at Paragraph 12, it is alleged:

‘By March 1999 the Plaintiff had a value of about USD875,000 worth of GGF(I) in the Premier Account.’

The Geared Fund

In that same month, Mr William Paul Heathcote Tatham, then, suggested to Ms Gonsalves that she should consider to gear up her investment by *‘securing a loan of up to 300% of the value of the plaintiff’s GGF(I) from SG Hambros Bank and Trust (Guernsey) Limited (Hambros Bank) as an additional investment ...’*. Paragraph 13 (1)

It was, allegedly, stated by Mr William Paul Heathcote Tatham that *‘High Court Judge Mr Justice Mortimer had subscribed to the said program and/or policy and/or plan’* and that the new plan *‘would give the Plaintiff an extra profit.’* (Paragraph 13(2) (c) and (d))

Mr William Paul Heathcote Tatham is, also, alleged to have stated that he would be monitoring, personally, Mr Justice Mortimer’s funds as well as Ms Gonsalves’ and that he would be issuing quarterly reports. (Paragraph 13 (2) (g))

It was expressed, Mr Gonsalves attests, that the investment that had been recommended by Mr William Paul Heathcote Tatham was *‘protected’* and *‘a secure means of providing a high return, well in excess of the normal bonus rates payable, which are already approximately 13% per annum.’* (Paragraph 13 (3))

The cost of the loan from Hambros Bank would be about 6.50 percent per annum while the growth from the investment would be between 10 percent and 12 percent. (Paragraph 13(4)(a))

In March 1999, a contract was drawn up between Hambros Bank and Mrs Gonsalves *‘for a Geared Guaranteed Growth Funds which provides, inter alia, that the Plaintiff would obtain a loan for an amount of USD2,650,000 (hereinafter “Geared Fund”) from Hambros Bank secured on the GGF(I) which was worth approximately USD875,000 as an additional investment;’* (Paragraph 14(1))

Then, in March 2000 and April 2001, Ms Gonsalves withdrew, in aggregate, \$US55,000 in 2 tranches. (Paragraph 17 (1) and (2))

Paragraph 19, then, alleges:

‘19. The advice given by the 1st Defendant, through the 2nd Defendant, to the Plaintiff in respect of the Geared Fund was negligent and they were in breach of the agreement as pleaded in paragraph 18 hereinbefore and/or duty of care as follows:

Particulars of negligence and breach of agreement

(1) The 1st and/or 2nd Defendant failed to advise the Plaintiff:

- (a) that the Plaintiff had to subscribe to another investment fund in the Premier Account, namely GGF(II), with the Geared Fund;*
- (b) that the “gearing up” involved applying the loan from Hambros Bank to Subscribe to another fund in the name of GGF(II) in addition to the GGF(I);*
- (c) the extent of risk and/or the full implications upon GGF(I) of subscribing to GGF(II);*

- (d) *alternatively, the effect of any loss in GGF(II) upon the Principal;*
- (e) *that the annual withdrawal was a loan from the 1st Defendant an interest rate at 9-10%;*
- (f) *that termination of the Geared Fund could substantially increased the risk to the Principal in times of adverse market movements;*
- (g) *any loss caused by adverse market movements would be multiplied by 3 times and therefore the exposure to risk to the Principal would be multiplied by 3 times; and*
- (h) *alternatively, the mechanism and/or operation of the Geared Fund upon GGF(I).'*

Negligence Statements/Misrepresentation

Under Paragraph 20, it is alleged that Mr William Paul Heathcote Tatham and the company, which he represented, Towry Law (Asia) Hongkong Ltd, *'was negligent in making the representations as pleaded in paragraph 13 which were false, inaccurate and misleading.'*

The particulars of the alleged negligence and misrepresentations were given ... [CLICK TO ORDER FULL ARTICLE](#)

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