

complaint

Mr T complains that Capquest Debt Recovery Limited ('Capquest') is trying to recover a debt from him which he does not remember. In summary, he says that he has paid off his debts and he would like this account taken off his record and any adverse information removed from his credit file.

our initial conclusions

Our adjudicator did not recommend that the complaint should be upheld. He said that Capquest had bought the debt from a third party ('Bank A') and the bank's records show that it is Mr T's debt. He added that Mr T has not provided any evidence to show that he has repaid the debt. Overall, he was satisfied that Capquest is rightfully entitled to pursue Mr T for the debt.

Mr T says that he does not doubt that the debt was sold by Bank A to Capquest, but he has not seen any evidence to prove that it is his debt (such as a signature). He does not accept the adjudicator's conclusions and has asked for an ombudsman to review his complaint.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where evidence is in dispute or unclear I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened in light of the evidence that is available and the wider surrounding circumstances.

It appears that Capquest bought the debt from Bank A in November 2011, and from December 2011 it began contacting Mr T for the repayment of the money. I can see that Mr T immediately questioned the debt and Capquest tried to obtain information from Bank A to prove that it was Mr T's debt. That included copies of their internal notes and account statements.

I have inspected what has been sent to this service by Bank A and I can see that it has provided information that shows that the debt relates to two defaulted accounts which Mr T had with it. It has provided what appear to be credible historic account statements dated up to 2009 and containing Mr T's name. And system notes connected to the accounts containing Mr T's full name, current address and birth details. Also, Bank A's internal contact notes linked to these accounts show that up to 2010, and before the debt was sold to Capquest, Mr T had been in contact with it to organise a reduced repayment plan due to his financial difficulties.

Mr T has suggested that Bank A has made the information 'fit' the situation – however, I find the information it has provided to be credible and I am not persuaded it has likely been tampered with. Mr T has said that he has no recollection of the debt, but as there was a gap in collections activity of over a year (until Capquest bought the debt and resumed collections in December 2011) I consider that there is a possibility that he did genuinely forget about it, especially if he had multiple debts (as appears to be the case here).

I understand that at a later stage Mr T has told our adjudicator that he recognised he had an account with Bank A but believed that the debt was one he cleared. However, although Mr T has provided some paperwork in connection with the settlement of his debts I am not satisfied that the information shows that the debt in question has been repaid.

Mr T has said that no signed documents have been produced to show the debt is his. Because of the age of the accounts which the debt relates to, I do not consider it unusual that the original application forms cannot be located. However, despite the absence of the signed paperwork, from the credible information provided by Bank A, on balance I consider that the debt is Mr T's. And that Capquest, having bought the debt from Bank A, would be entitled to pursue him for its repayment. If Mr T wishes to argue that the debt is unenforceable due to the absence of signed paperwork then this would be a matter better suited to court.

Because I consider it likely that the debt is Mr T's I am unable to fairly conclude that any connected information should be removed from his credit file. I understand that this is not the outcome which Mr T wants –I do sympathise with his personal circumstances and wish him well. I should remind Capquest that it is required to treat his financial difficulties positively and sympathetically.

my final decision

In light of the above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr T to accept or reject my decision before 12 January 2015.

Mark Lancod
ombudsman