

complaint

Mr C and Ms D complain that Bank of Scotland plc opened a partnership account for them in 2003 when they wanted an account for a limited company.

background

Mr C and Ms D signed a partnership account opening form in 2003. They then set up a limited company but their bank account was not changed and the business continued to trade using the partnership account until it stopped trading in 2013. Bank of Scotland then sought to recover the business's debt from Mr C and Ms D. They complained to Bank of Scotland but were not satisfied with its response so complained to this service.

The adjudicator did not recommend that this complaint should be upheld. He concluded that Bank of Scotland provided account facilities to Mr C and Ms D on the basis that the account had been opened as a partnership and that it was not wrong to seek repayment from them.

Mr C says, in summary, that they were misled into signing the partnership agreement, that they were not aware that they had signed up to such an agreement until the business stopped trading and that there are flaws in the partnership agreement presented by the bank.

my findings

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

Bank of Scotland has produced a copy of the partnership agreement that was signed by Mr C and Ms D in March 2003. Section 4 of that agreement concerning the authorised signatories has been completed separately by each of Mr C and Ms D so I am satisfied that they are both authorised signatories.

Bank of Scotland has provided banking facilities to Mr C and Ms D's business on the basis of that agreement since 2003. I have seen no evidence to persuade me that it agreed to provide banking facilities to a limited company that had been set up by Mr C and Ms D. If it had agreed to provide banking facilities to a limited company, I consider it to be more likely than not that it would have required personal guarantees from Mr C and Ms D for the company's debts and that they would now be personally liable for those debts in the same way that they are liable for the business's debts under the partnership agreement.

I am not persuaded that there is enough evidence to show that Bank of Scotland has acted incorrectly in its dealings with Mr C and Ms D. I therefore consider it to be fair and reasonable for it to seek repayment of the business's debts from Mr C and Ms D under the partnership agreement to the extent that it is entitled to do so.

my final decision

For these reasons, my decision is that I do not uphold Mr C and Ms D's complaint.

Jarrold Hastings
ombudsman