

## **summary of complaint**

Mr Z complains that Cabot Financial (Europe) Limited is pursuing him for debts which he does not owe.

## **our initial conclusions**

Our adjudicator recommended that this complaint should be upheld. He was satisfied that Cabot Financial had not conducted a thorough enough investigation to establish if Mr Z is the debtor as it is required to do. He noted that a third party has confirmed that the two debts with the references ending \*2402 and \*8323 were not Mr Z's debts. Further, he considered it was likely that the two remaining debts were statute barred; in any event Mr Z has not acknowledged these debts in the last six years. On this basis he considered that Cabot Financial should cease pursuing Mr Z for all of the debts, write off the outstanding balances and remove any information it may have registered about these debts on Mr Z's credit file. For completeness he noted that Cabot Financial has said no further action will be taken in respect of the debt with the reference ending \*8235.

Further, our adjudicator considered that its actions in trying to recover the debt from Mr Z are likely to have caused him to experience distress and inconvenience. He recommended that Cabot Financial pay Mr Z £250 to reflect this.

Cabot Financial did not accept this recommendation. It says it took appropriate action with regards to the debts with the references ending \*2402 and \*8323. It acknowledges that a third party business has now confirmed that Mr Z did not owe these debts but it says this information was not available to it when it began to pursue him for the debt. In any event it considers £250 is too much compensation.

Cabot Financial asked that the complaint be referred to an ombudsman.

## **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 necessary and/or appropriate, 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.

### *the debts with the references ending \*8323 and \*2402*

It appears that Cabot Financial now accepts that these are not Mr Z's debts. But it says that it did take appropriate action to establish if these were Mr Z's debts and it could not have known that the third party business would subsequently say Mr Z was not the debtor. It is not clear why the third party business did not appear to give it this information. But I consider it should have waited until it got a response from the third party business. In the circumstances, I am satisfied that in pursuing Mr Z for these debts before it had received the relevant information from the third party business - it did cause Mr Z distress and inconvenience and it is appropriate for it to pay Mr Z compensation.

*The debts with the references ending \*1367 and \*0998*

Mr Z says these debts are not his. It appears there has been no payment towards the debts in the last six years. It also appears Mr Z was not contacted about this debt between 2004 and 2011. It may be that the debt is therefore statute barred. The Office of Fair Trading's Debt Collection Guidance says where debt is statute barred it may be considered unfair or improper practice to pursue a debtor in these circumstances. I am persuaded that there were sufficient grounds for Cabot Financial to have investigated whether the debt was statute barred before it contacted Mr Z. It appears it did not. This leads me to conclude that its attempts to recover the debt and suggestions that it would take further action were unfair.

For these reasons I consider that Cabot Financial should stop pursuing Mr Z for all of the debts about which he has brought his complaint. It should also if necessary, remove any adverse information it has registered about these debts with any credit reference agencies. I also consider it is appropriate to award him compensation of £250 for distress and inconvenience.

**my final decision**

My final decision is the Cabot Financial (Europe) Limited should:

- Cease pursuing Mr Z for the debts which he has brought his complaint about.
- If necessary, remove any adverse information it has registered about these debts with any credit reference agencies
- Pay Mr Z £250 compensation for distress and inconvenience.

Joyce Gordon  
**ombudsman**