

## **complaint**

Mr K complains that he's been pursued for a debt, wrongly, in respect of debit balances that exist on several current and credit card accounts that were opened in June 2008 with Santander UK Plc.

He doesn't want to be held liable for the repayment of those debts.

## **background**

Our adjudicator reviewed evidence submitted by Santander which showed that the accounts were opened, in branch, with identification verification provided by production of a passport. And she didn't find it plausible that a person other than Mr K could've opened these, as all applications were made 'face to face'. The person presenting themselves would've, facially, had to match the picture on the passport.

The adjudicator also noted, from credit card statements, that payments were made to reduce the debit balance on the account. And this didn't seem the likely behaviour of an unknown fraudster who might reasonably be expected solely to spend on such an account, not fund it.

She also noted that Mr K's address on the accounts was changed on 22 June 2009 to a new – correct – address. And it seemed to the adjudicator that the customer of the accounts was most likely to have done this. She found it unlikely that a fraudster, unknown to Mr K, would've known the new address and provided it to the bank at the appropriate time.

Finally, it was noted that Mr K complained to Santander that the accounts weren't his in July 2009 and November 2009. And no further activity occurred on the accounts after he approached Santander. The bank's notes also showed that it asked Mr K to provide a copy of his passport and a police report but these weren't provided so an investigation couldn't take place. And Mr K only referred his complaint here recently. This all, also, didn't seem to the adjudicator to appear to be a situation where fraud had taken place.

On balance, the adjudicator considered it more likely than not that Mr K opened the accounts and was responsible for spending on them. She said Santander had been entitled to act as if that was the case.

Mr K has asked for his complaint to be reviewed. He's produced various letters, from over time, that have been sent to him about the intention to seek recovery of the debts. He's also provided copies of letters sent, on his behalf, to explain that the debts weren't his. And he's shown that another bank has written off monies it had said were owed by him.

Mr K has also explained how he believes that accounts were opened in his name. He describes circumstances of renting a room and giving his passport to his landlord who kept it for about 20 days. He then says that when he moved home, his landlord asked him for his new address and, he alleges, continued to fraudulently act as if he was Mr K.

He then explained how Santander pursued him for repayment of the debts, which he denied he owed, and he contacted the police. He says he appointed solicitors and other organisations accepted he was a victim of fraud. He then explained how he had some contact with Santander and subsequently assumed it was accepted he didn't owe the debts.

Later, of course, he was pursued for repayment of the debts again and he referred a complaint here. He's most recently said that he wasn't living at the address that was named as his, when the accounts were opened.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've come to the same findings and conclusions as the adjudicator and a second adjudicator who has also reviewed the file. As has been explained previously, I can't ever now know with certainty what happened with these accounts. So, where evidence is incomplete, inconclusive, or contradictory, I have to reach a decision on the balance of probabilities; that is, what I consider is most likely to have happened, given the evidence that is available and the wider surrounding circumstances.

And, given all the evidence – including the basis on which the accounts were opened; their operation, including with repayments being made; the change in address details and how Mr K says this came about; and Mr K simply not providing a sufficiently persuasive version of events – I don't consider I can fairly and reasonably say the bank should take any action that would lead to Mr K not being further pursued for payment of the debts.

Of course, ultimately, as regards the issue of whether repayment of the debts is legally enforceable against Mr K, him being contractually liable with the debts recoverable in law, these are all matters for a court to decide, not me. This service exists to informally resolve disputes. And I'm required to determine a complaint by reference to what I consider to be fair and reasonable in all the circumstances.

But, as I've alluded to, if there are legal arguments Mr K wants to present as to why he shouldn't have to repay the debts, these can be considered in the more formal surroundings of court where, for instance, third party evidence can be properly tested. And the court can decide as to the legal ability to enforce repayment of the debts by him.

### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 27 November 2017.

Ray Neighbour  
**ombudsman**