

complaint

Mr H complains that Cabot Credit Management Group Limited is chasing him for a debt he says was statute barred when it was made subject of a County Court Judgment (CCJ) in 2014. He denies all liability. He wants the judgment removed and compensation

background

Mr H tells us he considers the debt to which this CCJ relates was statute barred having dated back to 2003 or before. He wants to know how Cabot was able to obtain the CCJ on a statute barred debt. He says he wants the judgment removed and £1,000 compensation.

Cabot originally told us it didn't think we had jurisdiction to deal with this complaint. It said Mr H claimed the debt was statute barred and the CCJ had been obtained incorrectly. Neither of which it said were within our jurisdiction.

The investigator did not recommend the complaint should be upheld. She found a payment had been made in 2009 - and the application for the CCJ was in 2014. This was within the six year time period allowed by the Limitation Act 1980. As the court had issued the CCJ she felt Cabot was entitled to enforce it.

Mr H wasn't satisfied and raised further issues in relation to whether the debt was legally enforceable. He wanted an ombudsman to make the final decision.

my findings

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

I understand Mr H's concern about having a CCJ recorded particularly if he's unable to recall various aspects of the financial agreement which led to this situation. And I accept he feels the CCJ was obtained incorrectly and at a time when the debt was statute barred. But for reasons I'll explain I'm not going to be able to assist him in achieving his aim of removing the judgment or obtaining compensation.

This service provides an informal resolution service which means I don't apply the law but I do take it into account in deciding what's fair and reasonable. And as I don't apply the law it would never be for me to decide if a debt was statute barred - only a court could do that.

And in this case there's already been a CCJ which decided Mr H did owe the debt. It's not within my power to overrule or set aside a judgment of the court. Nor to question the basis on which that judgment was reached - including whether legal formalities were met.

If Mr H believes the CCJ was wrongly obtained then he is entitled to make application to have the judgment set aside. It's not for me to say if he has any grounds to do so - although based on what I've seen payments were made against the account in both 2008 and 2009. So whilst it's not for me to decide, I agree with the investigator's view the application appears to have been made within the period prescribed by the Limitation Act 1980. I also agree with her conclusion that Cabot is entitled to enforce that judgment and has dealt with the complaint reasonably.

I'm aware this will come as a disappointment to Mr H but I believe it's a fair and reasonable outcome.

my final decision

For the reasons given above my final decision is I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 7 May 2018.

Stephen D. Ross
ombudsman