

complaint

Mr G complains that HSBC Bank Plc did not settle his companies' debts in accordance with his wishes. As a result he is being chased for payment under a personal guarantee. He asks that the debt is written off.

background

Mr G was a director of two limited companies. He gave personal guarantees, each limited to £10,000, to HSBC for each company's debts in 2006. The two companies ceased trading. In 2008 HSBC asked Mr G for payment under his personal guarantees for money owed to it by the two companies.

Mr G asked HSBC to accept £10,000 in full and final settlement of his liability, which totalled £20,000. He thought this was agreed and was upset to find HSBC had taken £10,000 from his bank account to repay one company's debts. It then pursued Mr G under his personal guarantee for £10,000 of the other company's debts.

Mr G says he would have preferred to repay part of each debt as this would have looked better on his credit file. As he was working with HSBC, he says it should have taken his wishes into account.

The adjudicator recommended that the complaint should be upheld in part. She said:

- HSBC had not told Mr G that it would accept £10,000 in full and final settlement.
- HSBC was entitled to ask Mr G for payment under the guarantee.
- HSBC had not communicated well with Mr G about his liability under the personal guarantees. It had not notified him before taking £10,000 from his bank account. While it was entitled to use its right of set off, it should have notified him before doing so. She recommended that HSBC pay compensation of £100.

Mr G did not agree.

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 the evidence is incomplete, inconclusive or contradictory, 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 available evidence and the wider circumstances.

While Mr G hoped HSBC would accept his offer of £10,000 in settlement of his liability, it was not obliged to do so. I am not persuaded from the evidence that HSBC did agree to the settlement.

HSBC did not tell Mr G it would use its right of set off. I can understand Mr G was worried when he found that £10,000 had been taken from his account. I also appreciate that Mr G would have like to discuss how the £10,000 was allocated between the debts. I am not persuaded though this resulted in any financial loss. I find that £100 compensation for the upset caused is reasonable.

I am satisfied that HSBC is entitled to ask Mr G for payment under his personal guarantee. I am not persuaded it would be fair and reasonable to ask HSBC to write off or reduce the amount owed.

my final decision

My decision is that I uphold this complaint. In settlement of it, I order HSBC Bank Plc to pay £100 to Mr G.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr G to accept or reject my decision before 10 April 2015.

Ruth Stevenson
ombudsman