

complaint

Mr and Mrs J complain that Cabot Financial (Europe) Limited pursued them for a debt they didn't owe, and failed to tell them it had bought that debt from the original creditor.

background

In March 2015 Mr and Mrs J were contacted by Cabot's solicitors about a debt of around £1,400. Mr and Mrs J said they didn't recognise the debt. Cabot explained that it was a loan they had taken out with a third party in 2000. Cabot said it had bought the debt in June 2013, and Mr and Mrs J had been making monthly repayments on it until November that year, when they stopped. Mr and Mrs J said they had agreed a debt management plan for their other debts with Cabot through a debt charity, so this debt should also have been included in the plan. Cabot's solicitors asked them for proof that the debt charity was still paying this debt. When this was not provided, the solicitors began court proceedings against them.

Mr and Mrs J complained to our service. They said that Cabot had never told them it had bought the debt, or written to them at all between 2013 and 2015. And they now said they didn't recognise the debt. They denied having made the repayments on it, and said the debt was time-barred. So Cabot agreed to suspend court action so that our service could look into this complaint.

Our adjudicator obtained evidence from Cabot and from the original debtor, including the signed credit agreement from 2000 and the notice of assignment Cabot had sent in 2013. She was persuaded that Mr and Mrs J did owe the debt and had been making repayments until November 2013. That meant it wasn't time-barred. However, she recommended that Cabot end the court proceedings and allow the debt to be added to the debt management plan. She also suggested that Cabot should pay Mr and Mrs J £250 for some delays and poor service in dealing with this matter.

Cabot agreed to follow the adjudicator's recommendations. But Mr and Mrs J want the debt to be written off. They also say that they have paid £75 more than Cabot says they have, and want this to be deducted from the debt if it's not written off. So I have considered their complaint.

my findings

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

I have seen the credit agreement, which is signed by both Mr and Mrs J. It has a reference number on it which matches the number on a letter Cabot sent them in August 2013. That letter explains that Cabot has bought the debt from the original creditor. It was sent to the right address, so it's not Cabot's fault if Mr and Mrs J didn't receive it. I'm satisfied that the debt is theirs, and that Cabot sent them a proper assignment notice.

I have also seen Cabot's records which indicate that it sent Mr and Mrs J another ten letters between November 2013, when payments stopped, and December 2014. I have no reason to doubt that they were also sent to the correct address. I do doubt that Mr and Mrs J didn't receive a single one of them. And they did not provide any evidence, when Cabot's solicitors asked them, that the debt was included in their debt management plan. So I'm not surprised that the solicitors began court proceedings. I'm only surprised that it took as long as it did.

Speaking of the repayments, the original creditor has provided evidence that Mr and Mrs J had been paying £5 a month since early 2002, until the debt was sold in June 2013. Cabot has provided evidence that those payments continued until the last one in November. That means the debt isn't time-barred. At one stage of their complaint Mr and Mrs J denied making any of those payments, but later on Mrs J said that Cabot had failed to credit £75 which they had paid by direct debit in sums of £2 and £3. She refused to provide bank statements to verify this when our adjudicator asked for them. No reason has been given for this, but I think the reason is obvious. And Cabot can find no trace of the £75 being paid, or of the direct debits. I think that's because those direct debits never happened.

I find it very implausible that somebody else would have made repayments on Mr and Mrs J's debt for them, without their knowledge, for 11 years. I don't accept it. And I don't accept that Mr and Mrs J then set up a direct debit to Cabot when the debt charity was supposed to be paying all of their debts for them via the debt management plan. If they thought the debt was included in the plan, they would not have set up a separate direct debit. And if they knew it wasn't included in the plan, then it would mean they were not being honest when they said it was.

Mr and Mrs J seem to change their story whenever it suits them to. I can't accept what they say. All of the evidence suggests that they owe Cabot this money. And I can't see that Cabot has done anything wrong, except for the service issues which led the adjudicator to suggest that Cabot pay them £250. I think that was a little generous myself, but as Cabot has agreed to pay it I won't reduce the amount. But Cabot may pay that compensation by off-setting it against the outstanding debt.

my final decision

My decision is that I uphold this complaint only to the extent that I order Cabot Financial (Europe) Limited to do what it has agreed to do, which is:

- to recall the outstanding debt from its solicitors and add it to the existing repayment plan in such a way that the repayments are not increased by more than an additional £5 per month; and
- to either (at Cabot's discretion) pay Mr and Mrs J £250 or reduce the outstanding debt by that amount.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs J to accept or reject my decision before 1 April 2016.

Richard Wood
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