

complaint

Mr T complains that Lloyds Bank PLC is pursuing him for a debt that he says is not his.

background

Mr T was a partner in a business, from which he resigned in 2009. Lloyds says that it has no record of Mr T's resignation and, as a partner, it considers that he remains jointly and severally liable for the partnership's borrowings. The partnership has now failed and in October 2012 the bank called upon Mr T to repay the partnership's debt. It has instructed a debt collection agency.

The adjudicator did not recommend that this complaint should be upheld. He concluded that if Lloyds had been told about Mr T's resignation this would mean the partnership had been dissolved, and it would have sought repayment of the debt at that time. Each of the partners therefore remained jointly and severally liable and it was reasonable for Lloyds to pursue Mr T for recovery of the amount owed.

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 (as some of it is here), 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.

In March 2009 Mr T resigned as a partner, and he says that the other partners agreed to take responsibility for all of the partnership's debt. Mr T's accountants wrote to Lloyds to tell it that Mr T had resigned and I am satisfied that the letter was correctly addressed. Lloyds says that it does not have any record of receiving this. However, it has not been able to provide copies of any of its lending notes for the partnership at or around that time.

Lloyds has said that, if it had received the letter telling it that Mr T had resigned, it would have sought the repayment of the outstanding debt at that time and closed the existing accounts. It would also have needed to take a new mandate from the remaining partners. This did not happen. Whilst I accept that Mr T may not have known the implications of his resignation, he was being professionally advised at that time. There was no follow up with the bank and he did not receive confirmation that he had been released from his liabilities. Consequently, I am not persuaded that Lloyds did receive notification of Mr T's resignation and therefore all partners remained jointly and severally liable for the partnership's debts.

On balance, and after careful consideration, I am satisfied that Lloyds is entitled to ask Mr T to repay the partnership's debts.

The remaining partner has confirmed that Mr T resigned in 2009 and has told Lloyds that he wants to take sole responsibility for the debt. Lloyds has therefore said that, if it agrees an acceptable repayment plan with him, it will ask its debt collection agents not to seek repayment from Mr T. I find that this is a reasonable response to this complaint. In the event that Lloyds cannot set up a repayment plan with the remaining partner, and seeks recovery from Mr T, he can take advice on any legal remedies available to him given his resignation from the partnership.

my final decision

My final decision is that I do not uphold this complaint.

Karen Wharton
ombudsman