

complaint

Mr E complains that HSBC Bank Plc failed to remove his name from a business account when he told it to do so. As a consequence he's now being pursued for repayment of an outstanding debt on the account. Mr E feels this is unfair.

background

In May 2009, Mr E resigned as a director of a company. Shortly after, Mr E says he notified HSBC of this by hand-delivering a letter into a branch asking it to remove his name from the business account he held with it. The business account was in joint names with another director of the company.

In 2010 the company went into liquidation. Mr E says he told HSBC about this and the account was stopped.

Sometime later in 2013 Mr E received letters from debt collectors pursuing him for the outstanding debt on the account. This prompted Mr E to complain to HSBC.

Mr E says it isn't fair he's being pursued for the debt. He says the debt was associated with the company and was created after he'd resigned as a director of it. He also says he told HSBC to remove his name from the account back in 2009.

HSBC says it has got no record of being asked to remove Mr E from the account. It says the business account was set up as a partnership account. And further procedures would've been required to remove Mr E from it. It concludes the two named partners – one of which is Mr E – are therefore both jointly and severally liable for the debt. So it can pursue Mr E for it.

The adjudicator who considered the complaint didn't uphold it. He said he'd seen evidence that the account was set up as a partnership account and not a limited company. But not enough evidence to show HSBC did receive a request to remove Mr E's name from it. He concluded HSBC wasn't wrong to pursue him for the outstanding debt.

Mr E disagrees with the adjudicator. So the complaint has been passed to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where there's a dispute about what happened, I've based my decision on what I think's most likely to have happened in light of the evidence.

I'm sorry to disappoint Mr E, but I think the adjudicator has reached the right outcome here. And there's little I can add to what he's already said.

I think there are two key things to decide: the basis on which the business account was held with HSBC; and whether HSBC failed to act on an instruction to remove Mr E's name from it.

Firstly HSBC's records show the bank account was set up on a partnership basis with Mr E and one other director of the company. This is supported by information HSBC provided on request to the liquidator of the company - it said the account was *not* held in the name of a limited company.

On this basis as a *joint* account holder, I'm happy that Mr E is jointly and severally liable for any debt on the account. While Mr E says the debt occurred after he resigned as a director of the company, I don't think when the debt was created is important. I say this because the bank account – a partnership account – was and continues to be held jointly with Mr E. So I think he's liable for the outstanding debt on it.

But did HSBC fail to act on an earlier instruction to remove him from the account?

I don't think it did. Mr E has produced a copy of a letter – it isn't addressed - he says he hand delivered to a HSBC branch in 2009. This asked for his name to be removed from the account following his resignation as a director of the company. But HSBC hasn't got any record of receiving this.

It's also the case that Mr E got no response to his request - he heard nothing more from HSBC about it. And HSBC took no further action, which I would've expected it to do if it had received this type of request. Mr E didn't follow it up with them either. This is despite the fact that he received several bank statements on the account. And these were addressed to both him and the other partner.

I can also see he told the liquidator in 2010 he was aware of the debt on the account and that he received all correspondence on it. So it seems he was both aware of and happy with his continued involvement in the account. If he wasn't why didn't he question whether his name had been removed when statements arrived addressed to him?

So based on the information I've seen, I don't think HSBC did receive an instruction to remove Mr E's name from the account. So I can't say it's done anything wrong.

Because of this, I think HSBC is entitled to ask Mr E to repay the outstanding partnership account debt.

my final decision

For the reasons above, I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr E to accept or reject my decision before 15 June 2015.

Paul Featherstone
ombudsman