

complaint

Mr S complains that Lowell Portfolio I Ltd pursued him for a debt that was not his.

background

In October 2015, Mr S says he received a letter from Lowell about an outstanding debt relating to goods purchased. The letter said that previous owner of the debt had made attempts to recover the debt.

On 6 November 2015, Mr S emailed Lowell to say he had never had dealings with the previous debt owner and requested that it took no further action and withdrew its allegation. He says that it took a number of emails before Lowell said it would close the account as a gesture of goodwill. He says the process was delayed as Lowell used data protection as a reason for not acting on his complaint.

Mr S says he followed up on this issue with the original debt owner which looked into the account and gave the view that a fraud had been committed.

Mr S says he wants a full written apology and compensation for libel and the time he has spent dealing with this issue.

Lowell says that the account was assigned to it in May 2015. It says it was provided with information at that time regarding the account owner including the last known address. It then undertook a tracing procedure via a credit reference agency which provided Mr S' address. Based on this it sent correspondence to Mr S.

It says it received an email from Mr S on 6 November and because this was from an email address that was not on its records it required further verification and requested Mr S provide his date of birth. It says that an email exchange took place as Mr S did not want to provide this information. It says that had he done so this issue could have been resolved sooner.

Lowell says that following Mr S' emails a complaint was logged and a final response sent in February 2016. Mr S' account was closed on 24 February. It says it was contacted in April 2016 by the original account owner to say the account had been obtained by fraudulent means.

The adjudicator said that Lowell had acted in good faith. He said after an investigation which showed the account was opened fraudulently Lowell apologised, closed the account and ensured any information regarding this was removed from Mr S' credit file. He said that it was reasonable that Lowell asked for Mr S to provide personal details before discussing the account with him and that while he understood why Mr S did not wish to do this Lowell wasn't responsible for any delay this caused. The adjudicator did not recommend that Lowell do anything further to settle this complaint.

Mr S said that the apology issued by Lowell lacked sincerity and that the tone of the letter suggested it did not believe that the debt was not his. He said they had a duty of care to ensure it was contacting the correct person after acquiring the debt. Mr S did not accept that Lowell were correct to insist on him providing personal data before dealing with him. He also said that Lowell had committed libel by telling a third party that he did not pay his debts.

my findings

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

Mr S was the victim of fraud and I can understand the trouble and upset this has caused him. However my role is to consider whether Lowell acted reasonably in initially contacting Mr S for the debt and in its actions after Mr S said the debt was not his.

Lowell was assigned the debt in question on May 2015. At that time it was provided with information about the account holder. It followed up on this information and used a credit reference agency to try to locate a current address based on the information it had been provided. I do not find this approach unreasonable.

Information from the tracing service gave Mr S' address. Based on this I accept that Lowell contacted Mr S in good faith believing him to be the account holder based on the information it had been provided with.

Mr S then contacted Lowell to say he was not the account holder and had not received letters from the previous debt holder. I have seen the email exchange that followed. While I do understand Mr S' reluctance to provide personal data I do not find it unreasonable that Lowell requested information to verify Mr S' identity.

Overall I do not find that Lowell has acted unreasonably.

That said Mr S was contacted about a debt that was not his due to an account being fraudulently opened. Because of this he should be put back in the position he would have been had this not happened.

Lowell closed the account in February 2016 and I understand that all information has been removed from Mr S' credit file. I find this does put Mr S back in the position he would have been had this issue not occurred.

I appreciate Mr S' comment about adverse information being recorded with the credit reference agencies. However, because I find that Lowell did not do anything wrong by acting on the information it was provided and as I understand any information has been removed, I find this resolves this issue.

Mr S has said he wants compensation from Lowell. However in this case I find that by closing the account and ensuring any information is removed from Mr S' credit file, Lowell has done enough to settle this complaint.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 21 July 2016.

Jane Archer
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