

complaint

Mr B complains that Cabot Financial (Europe) Limited, ("CFL"), is pursuing him for a credit card debt that he doesn't recognise.

background

CFL say that Mr B entered into a credit card agreement with a credit card provider ("P") in November 2009. The card was sold to him by phone and Mr B had signed the credit agreement. He made two balance transfers to the card in November 2009 and February 2010 of £900 and £379 respectively. These were both from another credit card provided by another credit card company, ("Z"). Both P's and Z's cards were included in a list of debts which Mr B provided to a debt management company, ("D"), in May 2010. Mr B then appointed another debt management company, ("E"). E has been making payments to CFL since November 2016. Mr B said that E didn't have authority to make these payments. P sold the debt to a debt purchaser in January 2016. CFL is administering the account for that debt purchaser. Mr B says that the card application in November 2009 was fraudulent, he knew nothing about the debt and he already had a credit card with P which he'd obtained in March 2009.

The adjudicator didn't recommend that the complaint should be upheld. She concluded that it was likely that Mr B knew about the account and the debt in question. She could see that the credit card agreement was signed by Mr B and the statements for the account were sent to his current address. She noted that Mr B had said that he'd never received these in the post but she couldn't hold P responsible if the post was lost in transit. She also noted that Mr B had received statements from other accounts held with P. So, on balance, she was satisfied he'd received some statements for this particular account. She also noted that D had a signed authorisation from Mr B to make payments towards this account, and that the account was listed as part of his list of credit commitments. She also noted that Mr B had said that P had told him that the credit card was used to transfer funds to Z. Mr B disputed this as he said that he'd never had a credit card with Z. But the adjudicator noted that there was an account with Z listed under his credit commitments.

Mr B disagreed and responded to say, in summary, that the credit agreement didn't make a note of his credit card number and maybe P had got it mixed up with his other credit card with P. He also thought that P had got his signature from his other credit card. He also said that he didn't know why D had added this account to his credit commitments. He also hadn't given details of the account to E, and didn't understand why E was paying CFL as E didn't have his instructions to do so.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I believe I'll disappoint Mr B further as I've come to the same overall conclusions as the adjudicator for broadly the same reasons.

As some of the evidence is either incomplete or contradictory, I've made a decision on what I think is most likely to have happened – based on what's available.

I have seen copies of the credit card agreements signed by Mr B in March 2009 and November 2009 respectively for his two credit cards with P. I note that they were both for

“Platinum Mastercards”. I can also see that both cards had a balance transfer offer for three months, the second card with a more beneficial 0% interest rate. Mr B queried why he would have taken a second card with P. But, I can see that a second application might have been made to benefit from the 0% offer. I can see that two balance transfers were made from Z’s credit card to P’s credit card. I note that Z’s credit card appears on the respective lists of creditors provided by D and E. So, I don’t think there’s any doubt that Z’s credit card belongs to Mr B, and that he would have benefited from transferring a balance from Z’s card to P’s card, thereby paying 0% interest on the balance transferred.

Mr B also said that the credit card numbers didn’t appear on the agreements, and P might have got them mixed up. But, I believe that it’s not usual for credit card numbers to appear on agreements as these are usually issued afterwards. And I can see that the respective agreements had different reference numbers and different interest rate offers.

With regard to the signature on the credit agreement, I note that P had verified the signature on this with the signature on another of Mr B’s accounts, and it said that they are of the same hand.

I have seen copies of statements for the second card which were sent to Mr B’s home address. Three payments were made on the account before the account defaulted in September 2010.

I also note that both cards were listed on D’s list of creditors and I think it’s likely that details of these were provided by Mr B to D.

I have also seen P’s contact notes which detail several conversations with Mr B. In one conversation in November 2009, he discusses transferring a balance from a store card he held. P told Mr B to obtain the card number to action the transfer. He never got back to P about this. But I can see that the store card he referred to appears on the list of Mr B’s creditors.

So, from everything I’ve seen, and on balance, I agree with the adjudicator that it’s likely that Mr B knew about the account and the debt in question.

I note that Mr B said that E didn’t have his authority to pay CFL. Whilst E has been paying CFL since November 2016, it’s not clear if E did have authority to pay CFL and E was looking into this. I also note that CFL’s debt wasn’t listed in E’s original list of creditors. I can see that Mr B thinks this supports his claim that the debt was not his. But I can equally see that this may be because he simply forgot about the debt.

Mr B has also queried that it took seven years for the debt to be chased and whether this was legal. I note the last payment to P was made in November 2011, less than six years ago. But in any event, this service can’t decide if an agreement is legally enforceable – this is a matter for the courts.

I appreciate Mr B will be very disappointed with the decision I have come to here but for the reasons explained I don’t think I can uphold the complaint. Mr B may wish to continue his dispute with CFL, but if he does, he will need to do so through other means as this decision represents the last stage in our process.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 August 2017.

Roslyn Rawson
ombudsman