

complaint

Mr T complains about how Cabot Credit Management Group Limited responded to his request to remove a charging order.

background

Mr T told us that he jointly owned a property with his ex-partner. He said that there was a declaration of trust in place that meant he was only entitled to 5% of the property. Mr T also told us that there was a charging order over the property, which had been obtained to secure his debts.

Mr T's ex-partner wanted that order to be removed, so he got in touch with Cabot in November to find out what the debt was. He said that it told him it would cost £2,227. So he said that his ex-partner had agreed to pay this from his equity in the house, but when he tried to pay Cabot, it said that the debt was actually just under £13,000.

Mr T said that his debt was never that high, and he wanted proof of this. He said his partner had since offered Cabot £3,600 which he thought should be enough to settle the debt.

Cabot said that when Mr T rang, he'd only been told about one of the debts secured on his property. But there were three, and Cabot said that he would have to pay the full amount of all of them to have the charge removed. Cabot said it was sorry for this mistake, and it had removed £100 from each of the outstanding debts to apologise for that. But it said that it wouldn't accept a lower offer to settle the debts.

Mr T said that all negotiations with his ex-partner were based on the assumption that £2,227 would settle the debt. He said that the settlement figure would've been higher if he'd known that the debt was really almost £13,000. He said that his legal costs were more than the settlement that Cabot had now offered.

Our investigator didn't uphold this complaint. She said that we couldn't comment on the parts of this complaint that questioned issues already decided by a court. But we could look at Cabot's recent mistake. Our investigator said that Cabot had made a mistake, and it must've been very shocking for Mr T to find out that his debt was much higher than he thought. But she thought that Cabot had done enough, by apologising and removing £300 from Mr T's total debt, to make up for what had gone wrong in this case.

Mr T didn't agree with that. He said that all negotiations with his ex-partner were based on the lower settlement amount. And he said that he would've negotiated a higher settlement figure if he had known how much he really owed. He said we hadn't looked at that.

Our investigator said that it wouldn't be fair to hold Cabot responsible for that. But Mr T didn't agree. He said that Cabot would've purchased this debt for a tiny fraction of the money owed, but wouldn't accept a reasonable compromise now to make up for its mistake. He said that what Cabot was doing wasn't fair and shouldn't be allowed.

Because Mr T didn't agree with our investigator, the case was passed to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've reached the same overall conclusion on this case as our investigator.

Mr T has complained about incorrect information that he was given in late 2018 about the amount he owed Cabot. He's also said he thinks it's wrong for Cabot to be able to purchase this unsecured debt and then secure it on property. He thought that the charging order over a jointly owned property should never have been granted. Our investigator has explained to Mr T that our service wouldn't look at the issues in this complaint which have already been considered by a court, like the grant of the charging order in favour of Cabot. So those points won't form part of my considerations here.

There's no dispute that Cabot made a mistake when it first told Mr T how much he owed it. It made that mistake in late November 2018. It corrected its mistake in late December 2018. I know Mr T thinks Cabot should accept something closer to the first figure it gave him. But I don't think that Cabot has to accept the lower figure now, just because it made a mistake.

Mr T said that he'd relied on the first settlement figure that Cabot gave him, when he reached an agreement with his ex- partner to remove all his interest in the property that was subject to the charging order. He said that he would've negotiated a much higher settlement if he'd been properly advised of how much he owed.

We asked Mr T for further information on how this settlement was negotiated. He showed us a letter dated 14 December which offered him a settlement of £50,000 if he paid off the Cabot debt. I understand that Mr T has now entered into this settlement agreement with his former partner, and paid off the Cabot debt. It looks, from the documents he's sent us, as if this settlement wasn't actually final before Mr T found out about Cabot's mistake. So I think that Mr T had an opportunity to reopen the settlement, to take account of the actual amount he owed, if his ex-partner was willing to pay more. He has told us that she wouldn't reopen the negotiations.

We also asked Cabot to show us what it had sent Mr T, to make him aware of his debt. Before Mr T asked it how much he owed in 2018, the last time Cabot seems to have discussed this debt with Mr T, and referred to the whole amount, seems to have been in 2010. Cabot hasn't shown us any letters which referred to the whole amount and which were sent to Mr T after 2010 but before late 2018. So it's possible that Mr T may simply have forgotten how much he owed.

I accept that it must've been extremely disappointing for Mr T to discover that he would get to keep a small portion of the proposed settlement. He said that he'd tried to renegotiate this, but failed. But, because Mr T knew how much he really owed Cabot well before this settlement was finalised, and because that didn't change the settlement amount, I don't think that the settlement Mr T eventually entered into was affected by what Cabot did.

But, as I've said, it must've been disappointing for Mr T to realise that he would have to pay Cabot just under £13,000, not a little over £2,000, if he wanted to get the £50,000 settlement from his ex-partner. That meant that less of that money would be left for him. I think it's reasonable for Cabot to take some steps to compensate Mr T for this disappointment. But Cabot did do something. It reduced his overall debt by £300. And I note that Mr T directly

and promptly benefitted from that, as the payment he made to Cabot from the settlement he received was £300 less as a result.

I think that provides a fair and reasonable outcome to this complaint. I don't think Cabot has to do more than that. So, although I know that Mr T will be disappointed, I don't think this complaint should be upheld.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 28 June 2019.

Esther Absalom-Gough
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