

## **complaint**

Mr W complains that Santander UK plc is unfairly asking him to repay a debt under a personal guarantee that he says should have been cancelled some time ago. Mr W wants the bank to release him from any responsibility for the debt and pay him compensation for the way it has handled the complaint. Santander has offered Mr W £260 compensation but is asking him to repay the debt.

## **background**

Mr W was a director of a limited company. He and a co-director took out a loan for the company and signed personal guarantees to support the loan. That was in early 2011. Mr W says he agreed to this on the basis that he was also a shareholder, which was never formalised by the company. Instead Mr W resigned as a director in February 2012 and wrote to the bank telling it this in early March.

Mr W says that the bank has largely ignored his position and instead insisted that he repay the debt. He says that if it had acted when he first told it, the company would have had the funds to repay the loan, whereas now it does not.

The bank says that it is unable to release Mr W from his liabilities as a personal guarantor but that it accepts that it did not record his status as a director or shareholder correctly. It has offered to pay £260 for this.

The adjudicator did not recommend that this complaint should be upheld. She concluded that Mr W had signed the personal guarantee and his earlier letter to the bank only removed him from the account, not from his liability. She also noted that Mr W had offered to make nominal payments towards the debt which suggested he had accepted liability for it.

Mr W responded to say, in summary, that he disagreed. He said he had not acknowledged his responsibility for the debt but offered to discuss this with bank, which had been bullying him. He pointed out that the bank had at one point told him that there was no loan in his name and asked for an ombudsman's review.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I have looked at the loan offer from the bank to the limited company, which included within it the terms of personal guarantees to be given by the two directors. And I can see that the letter advised the signatories to take independent advice before they signed. I do not see anything that says that this happened, but I am satisfied that this was advised and Mr W had the opportunity to check what signing such a guarantee meant.

Mr W signed the loan offer as a director of the company and also the acknowledgement that he agreed to the terms of the personal guarantee. I am satisfied that this was done correctly.

Whether Mr W was led by his co-director to believe that he would be a shareholder in the business is a private matter and not one that the bank was involved in. I have noted that the bank's records were not very well kept on this point, but Mr W's status as shareholder does not impact on his personal guarantee. Mr W gave that as a private individual as did his co-director.

Mr W wrote to the bank in early 2012 to say he had resigned as a director. The bank says that this did not remove him as a guarantor, nor did Mr W ask to be removed. I consider that this letter should have put the bank on notice that the security for the loan should be reviewed, although this did not take place. But I do have to say that the bank would not have been obliged to release Mr W from his liability if such a review had happened. Although Mr W says the company had the money to repay the debt, there is no way of knowing whether it would have done so, or whether the remaining director would have agreed to take sole responsibility for the loan. And if Mr W had been allowed to crystallise his liability, that would still mean that he was jointly liable for the debt outstanding at that point - which would have been about £10,000. So I am satisfied that the bank is entitled to ask him to repay the outstanding loan. And I am satisfied that the £260 compensation offered is a fair response to the way the bank handled his enquiries.

I have also considered the correspondence between Mr W and the bank and that he has made some nominal payments towards the debt. They do indicate to me that Mr W has accepted responsibility, although I acknowledge that Mr W says not. I can see that Mr W is experiencing financial difficulties and would urge him to talk to the bank about this. And I would remind the bank that it is expected to respond sympathetically and positively in such circumstances.

#### **my final decision**

Santander had offered to pay some compensation to Mr W. My decision is that Santander UK plc should pay Mr W £260 in full and final settlement of this complaint.

Susan Peters  
**ombudsman**