

complaint

Mr F complains that Capquest Debt Recovery Limited has been pursuing him for a debt which he does not owe.

background

Capquest obtained a County Court Judgment (CCJ) against Mr F. He says he only found out when he was later alerted by a credit reference agency. In 2015 he got the judgment set aside and the claim was dismissed. The debt arose originally in respect of a credit card issued in 2006. Mr F has raised a number of issues including about the original credit card application, the assignment of the debt to Capquest, lack of earlier contact from Capquest, and the fees and balance shown on the account.

Our adjudicator didn't think some points were relevant and that others were for the courts. But said that, without adequate evidence about where the debt came from, when the last statement provided showed a zero balance, she thought the debt should be written off, related information should be removed from Mr F's credit file and Mr F should be paid compensation of £600.

Capquest said it would close the account and clear the credit record, but thought £300 to £400 compensation would be more appropriate.

Mr F raised a number of detailed points about the assignment of the debt, whether it was statute-barred, late fees and the account statements. He accepted the recommendation about writing off the debt and regarding his credit file. He said £600 would not come close to compensating him for the number of hours he had spent preparing for courts and complaining. Capquest should make things right to a level as if no CCJ had been recorded. Considering the length of time he had been disputing the debt, the damage to his credit profile for 21 months, the harassment distress and inconvenience caused he thought it would be fair for Capquest to pay him £15,000. He said that during the relevant time he had been rejected for a business loan, mortgage and a personal car loan because of the CCJ record.

my findings

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

Both parties seem to agree with the adjudicator's recommendation that the debt involved is written off and Mr F's credit record is cleared. While I have noted the detailed points Mr F raised, they do not affect that. So I shall say no more about that recommendation, except that I agree with it for the same reasons as the adjudicator.

The key remaining issue at dispute is the amount of any compensation. The court consent order setting aside the original judgment and dismissing the case included a specific term making no order for costs. In all the circumstances, I cannot see that it would be appropriate for me now to expect CapQuest to pay compensation in respect of matters directly related to the court action.

Having a CCJ recorded about this debt clearly would adversely affect Mr F's credit rating. However Mr F's credit file from November 2014 also included three entries relating to

defaults on other accounts. Mr F also provided a summary sheet from his credit reports in August and October 2015 - before and after the CCJ record was removed. Even in October his overall score was only fair (up from just below the boundary of very poor and poor). And in October he had two negative score factors compared to four in August: suggesting that another negative factor as well as the CCJ had been eliminated. So it appears it was probably not just the removal of the CCJ which had improved his score.

Overall I do not think that difficulties Mr F had in getting credit can be attributed entirely to this debt and the associated CCJ: his credit record was not good in any event and it seems likely that he would have had some difficulty getting credit anyway.

But it remains the position that Mr F has been put to some significant trouble and difficulty because of a debt which, in the end, CapQuest was unable to provide adequate evidence about. So I do think compensation is appropriate and I think the £600 recommended by the adjudicator is fair and reasonable.

my final decision

My final decision is that I uphold the complaint. In full and final settlement I order Capquest Debt Recovery Limited to:

- write off the debt and remove all related information from Mr F's credit file;
- pay Mr F £600.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 18 January 2016.

Hilary Bainbridge
ombudsman