

~~TENNESSEE~~**COLLECTION SERVICE BOARD
MINUTES**

DATE: July 13, 2010

PLACE: Andrew Johnson Tower – 3rd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler, Vice Chairman
James Mitchell

ABSENT: Elizabeth Dixon
Shannon Polen

PRESENT: Staff Members:
Donna Hancock, Executive Director
Terrance Bond, Assistant General Counsel
Laura Betty, Assistant General Counsel
Susan Lockhart, Executive Administrative Assistant

CALL TO ORDER: Chairman Howard called the meeting to order at 10:10 a.m. and the following business was transacted:

Director Hancock called the roll. Three (3) Board members were present and two (2) were absent.

Ms. Hancock advised that Board Member Worrick Robinson's term expired on June 30, 2010 and Elizabeth Dixon of Memphis has been appointed as his replacement. She further advised that Ms. Dixon was unable to attend the meeting due to the short notice but she does plan to attend the meeting scheduled in September 2010.

AGENDA: Ms. Trinkler made a motion to adopt the meeting agenda, seconded by Mr. Mitchell. **MOTION CARRIED.**

MINUTES: Ms. Trinkler made a motion to approve the minutes of June 15, 2010, seconded by Mr. Mitchell. **MOTION CARRIED.**

ADMINISTRATIVE REPORT – DONNA HANCOCK, DIRECTOR

Complaint Status Report: Ms. Hancock presented a comparison of the complaints pending as of June 12, 2010 to the complaints pending at the same time last year. She advised that there are currently one hundred fifty-one (151) open complaints and ninety (90) of them have been open more than one hundred eighty (180) days. Mr. Bond advised that since January 1, 2010 that sixty-one (61) complaints were received, one hundred forty-six were closed, and \$74,000 has been received in civil penalties. Ms. Hancock further advised that Assistant Commissioner

~~Majchrzak continues to hold monthly complaint meetings with each board's director and legal counsel and that he was pleased with the turn around with the Collection Services Board's open/closed complaint ratio.~~

Chairman Howard stated that he plans to attend the July 21, 2010 meeting between the board chairs and Assistant Commissioner Majchrzak.

Diversified Adjustment Service, Inc. - Ms. Hancock presented information from Diversified Adjustment Service, Inc. for the Board's consideration. The Board advised that the information provided appears to reflect a change in ownership and would require a new application. Mr. Bond reminded the Board that he plans to present a rule next year regarding ownership changes.

Wealthbridge Mortgage Corp. - Ms. Hancock presented information from Wealthbridge Mortgage Corp. for the Board's consideration. The Board advised that the information provided appears to reflect a change in ownership and would require a new application.

Credit Management LP - Ms. Hancock presented information from Credit Management LP for the Board's consideration. The Board advised that the information provided appears to reflect restructuring of the company and would not require a new application.

Executive Trustee Services, LLC - Ms. Hancock presented information from Executive Trustee Services, LLC for the Board's consideration. The Board advised that a name change does not constitute a new application as long as the owners have not changed.

GMAC Mortgage, LLC - Ms. Hancock presented information from GMAC Mortgage, LLC for the Board's consideration. The Board advised that a name change does not constitute a new application as long as the owners have not changed.

LOCATION MANAGER APPLICATION REVIEW:

Tomara Bradley: Mr. Mitchell made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Ms. Trinkler. **Motion Carried.**

Matthew Shawn Buchanan: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

Jon David Costa: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

Philip Wayne Livingston: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

Joshua Paul Molenaar: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

Tami-Lyn Mary O'Hara: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

Rene Francisco Paez: Ms. Trinkler made a motion to approve the application, seconded by Mr. Mitchell. **Motion Carried.**

Leon Potter: Mr. Mitchell made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Ms. Trinkler. **Motion Carried.**

Charles F. Reynolds, II: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

James Carroll Rogers: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

Sonya Scruggs: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

Amber Dawn Smart: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

Timothy Ray Tripp: Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Mitchell. **Motion Carried.**

The following Location Manager Applications were tabled at the previous meeting pending more information:

Sandra Brown: Ms. Trinkler made a motion to approve the application, seconded by Mr. Mitchell. **Motion Carried.**

William Francis Durso: Ms. Trinkler made a motion to approve the application, seconded by Mr. Mitchell. **Motion Carried.**

COLLECTION AGENCY APPLICATION REVIEW:

Accounts Recovery Bureau, Inc.: The Board advised Ms. Hancock to request additional information regarding the "other liabilities" listed on the application for their consideration.

Global Payments Check Recovery Services, Inc.: Ms. Trinkler made a motion to approve the application, seconded by Mr. Mitchell. **Motion Carried.**

Laura Betty joined the meeting at 11:10 a.m.

LEGAL REPORT – TERRANCE BOND, STAFF ATTORNEY

Mr. Bond presented the following Legal Report for the Board's consideration:

1. **L09-CSB-RBS-200901746-1**

The Complainant alleges that the Respondent failed to provide oral or written notice that his allegedly past due account would be reported as such on his credit report prior to taking such action. According to the Respondent, the Complainant was mailed notice of pending adverse action prior to reporting. In addition, the Respondent's account notes show two (2) conversations with the Complainant wherein the Complainant denied the account and stated that he intended to file suit against the Respondent for its alleged failure to notify of him of a negative entry on his credit report.

Recommendation: Close with no action.

2. L10-CSB-RBS-201001546-1

Consumer complaint alleges that the Respondent is engaged in unlicensed activity in this state. Respondent provided a copy of its collection service license, which shows its corporate name and does not list its "dba" name. The administrative office shows no record of the dba name on any of the Respondent's filings.

Recommendation: Close with a letter of warning/ORDER to CEASE and DESIST using an unlicensed agency name in its correspondence.

3. L10-CSB-RBS-201001549-1

Complainant alleges that the Respondent is attempting to collect an alleged debt from her that arose from an unauthorized and/or fraudulent purchase. The Complainant also provided a copy of the Respondent's collection notice, which does not provide a past due amount. The Respondent states it will close the Complainant's account and return it to its client if a dispute arises.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$500.00 civil penalty.

4. L10-CSB-RBS-201001551-1

Complainant copied the board office on correspondence submitted to the Respondent demanding validation of an alleged debt. The correspondence does not allege a violation of the Tennessee Collection Service Act or applicable federal law.

Recommendation: Close with no action.

5. L10-CSB-RBS-201001554-1

Complainant alleges that the Respondent has unlawfully inflated the amount of his past due account. The Respondent accepted service of the complaint on May 28, 2010, but failed to submit a written response.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$1,000.00 civil penalty.

6. L10-CSB-RBS-201001559-1

Complainant alleges that the Respondent's initial notice of collection did not contain required state law disclosures (i.e., the fact that the agency was licensed by the board). The Respondent accepted service of the complaint on May 27, 2010, but failed to submit a written response.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$1,000.00 civil penalty.

7. L10-CSB-RBS-201001561-1

The Complainant sent to notice to the board office that he disputed the Respondent's claim. The Respondent states that the Complainant never directly disputed the debt and that, upon receiving the complaint, it has ceased collection efforts and requested validation of the debt from its client. The Respondent advises that validation documents will be sent to the board office if such are received from the client.

Recommendation: Close with no action.

8. L10-CSB-RBS-201001570-1

The complaint alleges that the Respondent, whose business office is located in Memphis, Tennessee, placed several calls to an Arizona resident attempting to collect an unpaid medical account. The Respondent states in its response the following: 1) That the Complainant does not have standing to complain to the board because he is not the alleged debtor; 2) That the Complainant is not a licensed attorney and cannot represent the debtor's interests before the board; and, 3) That the complaint is too vague to warrant review. In addition, the Respondent admits that it enters into contracts with pharmacy clients to perform collections of unpaid prescriptions accounts on behalf of the pharmacies, but that such collections are performed in the "ordinary course of business" because the Respondent actually "owns" the accounts.

Recommendation: Authorize formal hearing with authority to settle by Consent Order, payment of a \$1,000.00 civil penalty and instructions to CEASE and DESIST performing collection services in this state without a license.

9. L-10-CSB-RBS-201000377-1

Complainant alleges that Respondent 1 and Respondent 2 attempted to collect a debt from him that should be the responsibility of Sullivan County, as he was in state's custody at the time the charges arose. Respondent 1 states that the County denies responsibility for the charges, stating all charges were the responsibility of the Complainant as he was not in state custody at the time the charges arose. Respondent 1 also provided a copy of account notes showing that its client advised that all charges were the Complainant's responsibility when the account was assigned.

Respondent 2 failed to respond to the complaint, despite accepting service of same on May 27, 2010.

Recommendations:

[Respondent 1] : Close with no further action.

[Respondent 2] : Authorize formal hearing with authority to settle by Consent Order and payment of a \$1,000.00 civil penalty.

10. L10-CSB-RBS-201001555-1

Complainant advises that he sent the Respondent a cease and desist letter regarding a past due account that he alleged was beyond the statute of limitations for collection. Respondent states that statutes of limitation do not bar collection activity in Tennessee.

Recommendation: Close with no action.

11. L10-CSB-RBS-201001553-1

Complainant alleges that the Respondent refused to provide him with a receipt or a letter showing his payment history relative to his past due account. The Complainant provided a dunning notice from the Respondent, which shows that the amount owed is the same amount that the Complainant calculated in his request for a receipt or proof of payments. The Respondent states that it did provide the Complainant with an accounting prior to the time the complaint was received and included a copy of same with its response.

Recommendation: Close with no action.

12. L10-CSB-RBS-201001550-1

The Complainant alleges that the Respondent unfairly garnished her wages pursuant to an allegedly defaulted student loan obligation when she had legal grounds to have the garnishment set aside or delayed. The Complainant admits that she was unable to timely submit all documents necessary to process the garnishment stoppage. Respondent states that the Complainant's request for garnishment stoppage was denied by the lender, resulting in the garnishment of several of the Complainant's paychecks. According to the Respondent, the Complainant's account was recalled prior to the filing of the complaint.

Recommendation: Close with no action.

13. L10-CSB-RBS-201001674-1

The Complainant alleges that the Respondent, by filing civil suit in Tennessee through a licensed attorney to collect an alleged past due account from him, is engaging in unlicensed activity in this state. The Respondent alleges that it is a "passive" debt buyer and that it assigns all collection functions to Tennessee-licensed attorneys.

Recommendation: Close with no action.

14. L10-CSB-RBS-201000257-1

The Complainant asserts that the reason that her medical account was forwarded for collection was due to the negligence of her insurer. The Respondent states that the Complainant's dispute is with the insurer not the agency and that the agency is unable to facilitate any communication between the Complainant and the insurer. The Respondent did state that account will remain in a "hold" status until the issue between the Complainant and the insurer could be resolved.

Recommendation: Close with no action.

MOTION: ~~Ms. Trinkler recused herself. Mr. Mitchell made a motion to accept Legal's recommendation regarding complaint 201000257-1, seconded by Mr. Howard. MOTION CARRIED.~~

15. L10-CSB-RBS-201000285-1

The Complainant states that the Respondent sent an initial communication relative to an alleged debt from an unlicensed branch location. The Respondent states that the location was previously licensed, but that it opted to surrender the license upon the advice of former director Betty Hughey, who stated that branch locations would not need to license so long as the corporate entity held a license. Respondent states that it has now filed an application to re-license the branch location, which is confirmed by administrative records.

Recommendation: Close with no further action.

16. L10-CSB-RBS-201000190-1

Complainant alleges that the Respondent failed to give prior notice or provide validation of alleged unpaid items on his credit report. The Respondent states that it obtained validation of the debt and reported the items as disputed after being so notified by the Complainant, but that it is was unable to send the documents to the Complainant after he sent several letters to cease communication regarding the debts. The Respondent was able to transmit the documents to the Complainant after he sent a letter requesting documentation without a cease communication demand.

Recommendation: Close with no action.

17. L10-CSB-RBS-201000142-1

Complainant alleges that the Respondent failed to give notice of board licensure on an initial communication. In addition, the Complainant advises that she requested extensive validation from the Respondent. The Respondent states that it is its client's policy to recall all accounts

where a regulatory complaint has been filed and that no further action will be taken to collect the Complainant's account.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$500.00 civil penalty pending a supplemental response.

FINAL: Obtain supplemental response from the Respondent regarding validation and represent.

18. L10-CSB-RBS-201000188-1

Complainant provided a copy of a notice mailed to the Respondent requesting validation of an alleged debt.

Recommendation: Close with no action.

19. L10-CSB-RBS-201000189-1

Complainant alleges that the Respondent has engaged in unlicensed activity in this state. A copy of a dunning notice that the Respondent mailed to the Complainant was provided with the complaint.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$1,000.00 civil penalty and instructions to CEASE and DESIST conducting collection service business in this state.

MOTION: *Chairman Howard recused himself.* Mr. Mitchell made a motion to accept Legal's recommendation regarding complaint 201000189-1, seconded by Ms. Trinkler. MOTION CARRIED.

20. L10-CSB-RBS-201000782-1

Complainant's counsel provided a copy of correspondence sent to a creditor disputing a past due balance on an account.

Recommendation: Close with no action.

21. L10-CSB-RBS-201000375-1

Complainant alleges that the Respondent failed to send her an itemized statement relative to an alleged past due account. The Respondent states that it contacted its client and requested same but was unable to obtain the document prior to the deadline for response to the complaint. Ultimately, the Respondent was informed by its client that the past due account arose from a "facility charge" that should not have been billed to the Complainant. As a result, the Respondent has ceased all collection efforts and closed the previous account.

Recommendation: Close with no action.

22. L10-CSB-RBS-201000558-1

Complainant alleges that she has received repeated calls from the Respondent that she does not know and provided a list of telephone numbers allegedly used by the Respondent to contact her. Only one (1) of the listed telephone numbers belongs to the Complainant. The Respondent states that it removed the Complainant's telephone number after one (1) contact.

Recommendation: Close with no action.

23. L10-CSB-RBS-201000187-1

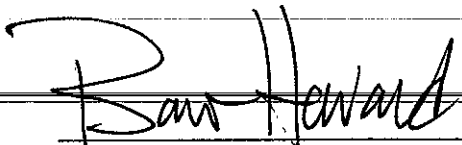
Complainant provided a copy of written correspondence to the Respondent disputing an alleged debt.

Recommendation: Close with no action.

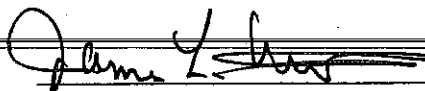
MOTION: Ms. Trinkler made a motion to approve the legal report as amended (with the exception of #14 and #19 that were previously voted on), seconded by Mr. Mitchell. MOTION CARRIED.

NEW BUSINESS OR UNFINISHED BUSINESS: There was no new or unfinished business presented for discussion.

AJOURN: Being no further business to discuss, the meeting adjourned at 11:40 a.m.



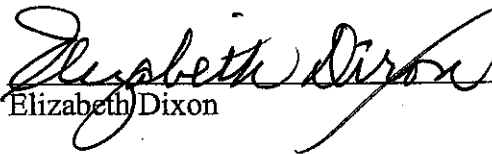
Bart Howard, Chairman



James Mitchell



Elizabeth Trinkler, Vice Chairman



Elizabeth Dixon

Shannon Polen