TENNESSEE
COLLECTION SERVICE BOARD
MINUTES

DATE: September 11, 2013

PLACE: Davy Crockett Tower – Conference Room 1-B
500 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler, Vice-Chairman
Elizabeth Dixon
Steve Harb *(via teleconference)*

ABSENT: Chip Hellmann

PRESENT: Staff Members:
Donna Hancock, Executive Director
Chris Whittaker, Assistant General Counsel
Susan Lockhart, Administrative Services Assistant 4

GUESTS: Robyn Ryan, Terrance Bond and Erin Bennett

CALL TO ORDER: Chairman Howard called the meeting to order at 9:40 a.m. and the following business was transacted:

Roll Call – Ms. Hancock then called the roll. Four (4) of the five (5) board members were present. Mr. Hellmann was absent and Mr. Harb participated via teleconference.

Agenda –Ms. Dixon made a motion to adopt the agenda, seconded by Ms. Trinkler. **MOTION CARRIED.**

Minutes – Ms. Dixon made a motion to approve the minutes of the May 15, 2013 meeting, seconded by Ms. Trinkler. **MOTION CARRIED.**

CHRIS WHITTAKER, ASSISTANT GENERAL COUNSEL

Mr. Whittaker advised the following Legal Report had been emailed to Mr. Harb just prior to the meeting for his reference to allow him the opportunity to participate in any related discussions/votes and then he presented copies to the other board members for discussion dn consideration:

1. 2013003131

Year License Issued: 05/11/2004
License Expiration Date: 07/24/2014

The complaint alleges that the Respondent failed to timely provide proof of surety bond coverage to the Board as required by law. The investigation revealed that the Respondent did timely provide proof of surety bond coverage to the Board in the form of a continuation certificate. It appears that Board staff simply misread the document and thought that it was another copy of the Respondent's surety bond coverage certificate for 2012.

Recommendation: Dismiss the complaint.

2. 2013005901

Year First Licensed: 02/02/1979
License Expiration: 12/31/2014

The complaint alleges that the Respondent attempted to collect a debt that the Complainant does not owe. The investigation revealed that the Respondent investigated and validated the debt multiple times, and its client states that the account remains due and owing. It appears that the Complainant had two accounts (including this one) which were placed at another agency prior to placement with the Respondent. It appears that the Complainant is making payments on the other account which has not been placed with the Respondent and is under the mistaken impression that those payments are being applied to both accounts. The Complainant has made one small payment on the account at issue, but has made no further payments in the last several months. The phone number listed by the Complainant is now disconnected (so the Board has no way of contacting her), and the Respondent has now closed this account in its system.

Recommendation: Dismiss the complaint.

3. 2013005911

Year First Licensed: N/A
License Expiration: N/A

The complaint alleges that the Respondent, a non-licensee, engaged in harassment by placing numerous phone calls to the Complainant regarding a debt that the Complainant believes to be settled and paid off. The Complainant states that the Respondent has not contacted him since this complaint was filed, and that he now considers the matter closed so long as the Respondent does not contact him again. As such, and given that this is the first complaint received by the Board against this entity, a Cease and Desist Letter is recommended.

Recommendation: Close this complaint upon the issuance of a Cease and Desist Letter.

4. 2013006341

Year First Licensed: 10/29/2007
License Expiration: 10/28/2014

The complaint alleges that the Respondent engaged in harassment by placing numerous phone calls to the Complainant regarding a debt that the Complainant does not owe. The investigation revealed that the Respondent did place numerous phone calls to the Respondent, but that such calls were compliant with the FDCPA. Additionally, immediately upon being notified that the Complainant's phone number did not belong to the correct debtor, the Respondent immediately blocked and removed the Complainant's phone number from its computer system and stated that it will place no further calls to the Complainant's phone number. The complaint further alleges that the Respondent violated federal law by calling her when her phone number was listed on the national "Do Not Call" registry. It appears that the "Do Not Call" statute and associated regulations apply to telemarketers, and as such, the Board has no jurisdiction to sanction a collection agency for any alleged violations of federal law related to the "Do Not Call" registry.

Recommendation: Dismiss the complaint.

5. 2013006351

Year First Licensed: 06/25/1997
License Expiration: 12/31/2014

The complaint alleges that the Respondent engaged in harassment by placing numerous phone calls to the Complainant regarding a debt that the Complainant does not owe. The investigation revealed that the Respondent did place numerous phone calls to the Complainant, but that such calls were compliant with the FDCPA. Additionally, immediately upon being notified that the Complainant's phone number did not belong to the correct debtor, the Respondent immediately blocked and removed the Complainant's phone number from its computer system and stated that it will place no further calls to the Complainant's phone number. The complaint further alleges that the Respondent violated federal law by calling her when her phone number was listed on the national "Do Not Call" registry. It appears that the "Do Not Call" statute and associated regulations apply to telemarketers, and as such, the Board has no jurisdiction to sanction a collection agency for any alleged violations of federal law related to the "Do Not Call" registry. Finally, the complaint alleges that representatives of the Respondent agency refused to provide certain information relative to the agency and/or its employees to the Complainant. As such, a Letter of Warning is recommended to admonish the agency that meaningful disclosure of the agency's identity when attempting to collect a debt is required by the federal Fair Debt Collection Practices Act ("FDCPA").

Recommendation: Close this complaint upon the issuance of a Letter of Warning.

6. 2013006361

Year First Licensed: 01/27/2005
License Expiration: 12/31/2014

The complaint alleges that the Respondent improperly credit reported an account to all three credit bureaus which had been paid in full by the Complainant. The investigation revealed that the Complainant's payment was received less than thirty (30) days before the date the

account was credit reported. As such, a Letter of Warning is recommended to admonish the agency that the federal Fair Credit Reporting Act ("FCRA") requires the agency, as a furnisher of information to credit bureaus, to provide accurate information to the credit bureaus.

Recommendation: Close this complaint upon the issuance of a Letter of Warning.

7. 2013006371

Year First Licensed: 02/06/2012
License Expiration: 02/15/2014

The complaint alleges that the Complainant made a payment to the Respondent for which she never received credit from the creditor (the Respondent's client). The investigation revealed that, by the time the Complainant's payment made it to the Respondent's offices, the Respondent had already closed the Complainant's account in its system. Because the Respondent no longer had the legal right to process the Complainant's payment or to take a commission on said payment, the Respondent forwarded the Complainant's payment to its client. As such, the Complainant should contact the creditor in order to ensure that she receives credit for her payment.

Recommendation: Dismiss the complaint.

8. 2013006381

Year First Licensed: 06/05/2009
License Expiration: 06/04/2015

The complaint alleges that the Respondent harassed the Complainant by placing numerous phone calls to the Complainant regarding an alleged debt. The investigation revealed insufficient evidence to substantiate the Complainant's allegation, and the Respondent stated that no further phone calls have been made to the Complainant since it closed this account in its system several months ago. However, it does not appear that the Respondent provided a timely sworn response to this complaint to the Board as required by law. An operations supervisor for the Respondent stated that it appears that the response initially appears to have simply fallen through the cracks, that the Respondent apologizes for any inconvenience, and that it is reviewing its processes for incoming mail to determine how this happened and to prevent it from happening again. Because this is the first such complaint against the Respondent, a Letter of Warning is recommended.

Recommendation: Close this complaint upon the issuance of a Letter of Warning.

9. 2013006521

Year First Licensed: 09/27/2005
License Expiration: 06/07/2015

The complaint alleges that the Respondent engaged in harassment by placing numerous phone calls while attempting to collect money that the Complainant does not owe. The investigation revealed that, immediately upon being notified that the Complainant's phone number did not belong to the correct debtor, the Respondent immediately blocked the Complainant's phone number in its computer system, stated that it will place no further calls to the Complainant's phone number, and apologizes for any inconvenience to the Complainant.

Recommendation: Dismiss the complaint.

10. 2013006531

Year First Licensed: 12/14/2006
License Expiration: 12/13/2014

The complaint alleges that the Respondent engaged in harassment by placing numerous phone calls to the Complainant regarding two separate alleged debts. One of the debts in question is a credit card loan, and the debt at issue is a vehicle loan. The investigation revealed that the vehicle loan debt is past the statute of limitations for the Respondent to file a lawsuit. The Respondent had difficulty attempting to collect on the vehicle loan debt because the Complainant frequently hung up the phone or refused to identify himself when the Respondent's representatives called. As such, the Respondent closed the vehicle loan in its system and will not make any further attempts to collect that debt. Conversely, the credit card debt is still within the statute of limitation, and the Respondent referred this debt to a law firm to file suit in an attempt to collect the debt. It appears that the Respondent did secure a judgment against the Complainant, but has so far been unable to collect any money because all funds within the Complainant's account which is known to the Respondent are protected and exempt from collection under federal law. In summary, there is no evidence in the file to substantiate the legal violation(s) claimed by the Complainant.

Recommendation: Dismiss the complaint.

11. 2013006891

Year First Licensed: 10/23/2012
License Expiration: 10/23/2014

The complaint alleges that the Respondent failed to provide information requested by the Complainant relative to the debt in question, which is a mortgage loan. The investigation revealed that the Respondent did provide a large amount of documentation to the Complainant and his representative regarding the Complainant's loan and payment history. It further appears that the Complainant filed for Chapter 13 bankruptcy in an attempt to prevent his home from being foreclosed, but the bankruptcy petition was dismissed because the Complainant failed to provide the necessary documentation to the court for the bankruptcy to proceed. Finally, neither the Respondent nor the company that previously represented the Complainant in his attempt to prevent foreclosure have heard from the Complainant in several months.

Recommendation: Dismiss the complaint.

12. 2013006921

Year First Licensed: 03/07/2001
License Expiration: 12/31/2014

The complaint alleges that the Respondent engaged in harassment by continuing to contact him after the Complainant sent the Respondent a letter requesting that it cease communication with him. The investigation revealed that the Respondent only sent one letter to the Complainant after receiving his cease communication letter, and that the Respondent's letter simply acknowledged the Complainant's letter and stated that the Complainant's letter does not prevent involuntary collection efforts (i.e., garnishment, etc.) This letter appears to be permissible under the federal Fair Debt Collection Practices Act ("FDCPA").

Recommendation: Dismiss the complaint.

13. 2013007091

Year First Licensed: 09/26/2006
License Expiration: 09/25/2014

The complaint alleges that the Respondent engaged in harassment by placing numerous phone calls to the Complainant regarding a debt that the Complainant does not owe. The investigation revealed that the Respondent did place one phone call to the Complainant after being verbally notified that the Complainant's phone number did not belong to the correct debtor. However, the Respondent stated that this phone call was accidental and was placed before it was able to block the Complainant's phone number in its system. Other than the above-referenced phone call, immediately upon being notified that the Complainant's phone number did not belong to the correct debtor, the Respondent immediately blocked and removed the Complainant's phone number from its computer system and stated that it will place no further calls to the Complainant's phone number. The complaint further alleges that the Respondent violated federal law by calling her when her phone number was listed on the national "Do Not Call" registry. It appears that the "Do Not Call" statute and associated regulations apply to telemarketers, and as such, the Board has no jurisdiction to sanction a collection agency for any alleged violations of federal law related to the "Do Not Call" registry. Finally, the complaint alleges that representatives of the Respondent agency refused to provide certain information relative to the agency and/or its employees to the Complainant. Given that the agency did place one phone call, albeit accidentally, to the Complainant after being verbally notified that the Complainant's phone number did not belong to the correct debtor, a Letter of Warning is recommended.

Recommendation: Close this complaint upon the issuance of a Letter of Warning.

14. 2013007101

Year First Licensed: 06/29/1983
License Expiration: 12/31/2014

The complaint alleges that the Respondent engaged in harassment by placing numerous phone calls to the Complainant regarding a debt that the Complainant does not owe. The investigation revealed that the Respondent left one answering machine message for the Complainant, and that the Complainant called the Respondent back the same day and verbally advised the Respondent that her phone number did not belong to the correct debtor. It further appears that the Respondent did place one phone call to the Complainant after being verbally notified that the Complainant's phone number did not belong to the correct debtor. However, the Respondent stated that this phone call was accidental and was placed before it was able to block the Complainant's phone number in its system. Other than the above-referenced phone call, immediately upon being notified that the Complainant's phone number did not belong to the correct debtor, the Respondent immediately blocked and removed the Complainant's phone number from its computer system and stated that it will place no further calls to the Complainant's phone number. The complaint further alleges that the Respondent violated federal law by calling her when her phone number was listed on the national "Do Not Call" registry. It appears that the "Do Not Call" statute and associated regulations apply to telemarketers, and as such, the Board has no jurisdiction to sanction a collection agency for any alleged violations of federal law related to the "Do Not Call" registry. Finally, the complaint alleges that representatives of the Respondent agency refused to provide certain information relative to the agency and/or its employees to the Complainant. Given that the agency did place one phone call, albeit accidentally, to the Complainant after being verbally notified that the Complainant's phone number did not belong to the correct debtor, a Letter of Warning is recommended.

Recommendation: Close this complaint upon the issuance of a Letter of Warning.

15. 2013007501

Year First Licensed: 09/14/2009
License Expiration: 09/13/2015

The complaint alleges that the Respondent is attempting to "extort" her by attempting to collect money from her that is related to a credit card debt she allegedly paid and closed over 20 years ago. The investigation revealed that the Complainant filed a written dispute of the debt with the Respondent, and that, immediately upon receiving the Complainant's dispute, the Respondent closed the account in its system and states that it will not engage in any further attempts to collect on this account.

Recommendation: Dismiss the complaint.

16. 2013007711

Year First Licensed: 03/30/1998
License Expiration: 12/31/2014

The complaint alleges that the Respondent attempted to collect a debt that the Complainant does not owe. The investigation revealed that, upon the Complainant's request for validation, the Respondent was unable to validate the debt, and as such, that it has discontinued all collection efforts relative to this account.

Recommendation: Dismiss the complaint.

17. 2013007791

Year First Licensed: 05/11/2004
License Expiration: 07/24/2014

The complaint alleges that the Respondent has violated the federal Fair Debt Collection Practices Act ("FDCPA") by attempting to collect on a mortgage note that the Complainant claims the Respondent is unable validate because it does not "own" the debt. The investigation revealed that, upon the Complainant's request for validation, the Respondent provided a large amount of information to the Complainant, including the process by which the Complainant could obtain a copy of his note and mortgage. The Complainant appears not to have requested such information, and it further appears that the Complainant is more than three years behind on his mortgage payments. Further, the Complainant's mortgage originated with a bank that is now bankrupt, that the mortgage is now part of a mortgage portfolio run by a trust, and that the Respondent has a contractual agreement with the trust to service the mortgages in the portfolio. Moreover, the Complainant has filed a civil lawsuit in state court alleging that the Respondent has violated various state and federal laws applicable to the servicing of the Complainant's mortgage. Absent additional evidence, it appears that civil court is the most appropriate place for the Complainant's allegations to be addressed because many of the Complainant's claims are outside the scope of the Board's authority and because the file contains insufficient evidence at this time to substantiate the Complainant's allegations that are within the scope of the Board's authority.

Recommendation: Dismiss the complaint.

18. 2013008041

Year First Licensed: 03/30/1998
License Expiration: 12/31/2014

The complaint alleges that the Respondent attempted to collect a debt that the Complainant does not owe. The investigation revealed that the Respondent spoke to the Complainant by phone one time, that the Complainant advised the Respondent during that phone call that she was not the correct debtor and that her phone number did not belong to the correct debtor, and that the Respondent immediately removed the Complainant's phone number from its system and did not contact the Complainant again. Additionally, the Respondent apologized for any misunderstanding and inconvenience to the Complainant as a result of its single erroneous phone call. The complaint further alleges that the Respondent violated federal law by calling her when her phone number was listed on the national "Do Not Call" registry. It appears that the "Do Not Call" statute and associated regulations apply to telemarketers, and as such, the Board has no jurisdiction to sanction a collection agency for any alleged violations of federal law related to the "Do Not Call" registry.

Recommendation: Dismiss the complaint.

19. 2013008051

Year First Licensed: 06/29/1983
License Expiration: 12/31/2014

The complaint alleges that the Respondent somehow violated federal law by failing to provide the Complainant with a "paid in full" letter within ten days of receipt of the Complainant's payment of a debt. Such conduct, even if true, does not constitute a violation of applicable state or federal law, and it should be noted that the Respondent did ultimately provide the Complainant with a "paid in full" letter. However, it does not appear that the Respondent provided a timely sworn response to this complaint to the Board as required by law. The Respondent stated that it received two complaints from the same Complainant very close in time to one another and did not recognize that the two complaints were separate. The Respondent apologizes for any inconvenience and states that, as a matter of policy, it makes every effort to respond to Board complaints in a timely manner. Because this is the first such complaint against the Respondent, a Letter of Warning is recommended.

Recommendation: Close this complaint upon the issuance of a Letter of Warning.

20. 2013008801

Year First Licensed: 06/04/2007
License Expiration: 06/03/2015

The complaint alleges that the Respondent attempted to collect a debt that the Complainant does not owe and that the alleged debt in question was wrongfully reported to the three credit bureaus. The investigation revealed that the Complainant never disputed the validity of the debt, that the Complainant did ultimately pay the debt, and that, as a courtesy, the Respondent removed the item in question from the Complainant's credit report.

Recommendation: Dismiss the complaint.

21. 2013009391

Year First Licensed: 09/27/2007
License Expiration: 09/26/2014

The complaint alleges that the Respondent harassed the Complainant by placing numerous phone calls to the Complainant, including one or more phone calls after the Complainant verbally advised the Respondent that she was not the correct debtor and that her phone number did not belong to the correct debtor. The investigation revealed that the Respondent's phone calls placed after initially being verbally advised that the Complainant was not the correct debtor and that her phone number did not belong to the correct debtor were placed relative to another debt owed by another debtor. Upon receipt of this complaint from the Board, the Respondent stated that it should have blocked the Complainant's phone number in its system after the phone calls placed relative to the first alleged debt, but that it simply failed to do so.

However, the Respondent has now blocked the Complainant's phone number in its system, it apologized for any misunderstanding and inconvenience, and it has not and will not contact the Complainant again. A Letter of Warning is recommended to admonish the agency that it the federal Fair Debt Collection practices Act ("FDCPA") prohibits collection agencies from engaging in harassment while attempting to collect a debt.

Recommendation: Dismiss the complaint.

22. 2013009611

Year First Licensed: 05/11/2004
License Expiration: 07/24/2014

The complaint does not allege any violation of state or federal law over which the Board has jurisdiction. The investigation revealed that the true nature of the Complainant's dispute with the Respondent was over what he believed to be insufficient insurance payments received as a result of weather damage to his property. Additionally, the Respondent does appear to have made some payments to the Complainant as a result of the above-referenced property damage. Finally, it appears that the Complainant previously filed a complaint with the Insurance Division of the Department of Commerce and Insurance. The Insurance Division declined to take any action on the Complainant's claims and sent him a letter stating that his complaint was and is more appropriately addressed (if any action is necessary and/or possible) by the Department of Financial Institutions, which regulates issues arising from the servicing of mortgage loans.

Recommendation: Dismiss the complaint.

23. 2013010681

Year First Licensed: 12/14/2006
License Expiration: 12/13/2014

The complaint alleges that the Respondent somehow violated applicable law by failing to honor a verbal settlement agreement and by failing to reduce the verbal settlement agreement to writing. The investigation revealed that the Respondent did enter into a settlement agreement with the Complainant, but that each payment made by the Complainant under that agreement was returned because the checks by which the Complainant made the payments all bounced. Despite the Complainant's repeated non-payment due to multiple bounced checks, the Respondent entered into a subsequent payment agreement with the Complainant. The Complainant made one payment under the new agreement, but has made no payments in the last several months. The Respondent will likely continue its attempts to collect the debt in question.

Recommendation: Dismiss the complaint.

MOTION: Ms. Trinkler made a motion to accept Legal's recommendations as presented, seconded by Ms. Dixon. **MOTION CARRIED.**

ADMINISTRATIVE REPORT – DONNA HANCOCK, EXECUTIVE DIRECTOR

Complaint Comparison Report - Ms. Hancock presented a comparison of the complaints pending in September 2012 to those currently pending.

Budget Report – Ms. Hancock presented a budget report of the expenditures and revenues for the last three fiscal years along with the preliminary year-to-date report for the fiscal year ending June 30, 2013. Ms. Trinkler asked if the civil penalties were reflected in the miscellaneous revenue totals and whether or not they could be listed separately in the future. Mr. Whittaker advised a separate report regarding complaints, discipline or an adjustment to the current report could be made to reflect the information requested.

2014 Meeting Calendar – Ms. Hancock presented a proposed meeting calendar for 2014 Collection Service Board's regular business meetings. Ms. Trinkler made a motion to adopt the calendar, seconded by Ms. Dixon.

Ms. Hancock then read the following statement for the record, "This meeting's date, time and location have been noticed on the Tennessee Collection Service Board's website, included as part of this year's meeting calendar since September 24, 2012. Additionally, the agenda for this month's meeting has been posted on the Tennessee Collection Service Board's website since August 27, 2013.

NEW BUSINESS OR UNFINISHED BUSINESS:

No new or unfinished business was discussed.

AJOURN: Being no further business to discuss, the meeting adjourned at 10:05 a.m.

Bart Howard, Chairman