

**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

DATE: March 9, 2011

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

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

ABSENT: Shannon Polen

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

CALL TO ORDER: Chairman Howard called the meeting to order at 9:45 a.m. and the following business was transacted:

Roll Call - Director Hancock called the roll. Four (4) board members were present and one (1) was absent.

AGENDA: Ms. Trinkler made a motion to accept the agenda, seconded by Mr. Mitchell.
Motion Carried.

Minutes – Ms. Trinkler made a motion to approve the minutes of the January 12, 2011 meeting, seconded by Mr. Mitchell. **Motion Carried.**

The Board took a short recess from 9:46 a.m. until 9:48 a.m.

LEGAL REPORT – TERRANCE BOND, ASSISTANT GENERAL COUNSEL

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

1. Case No. 2010027421

The Complainant alleges that the Respondent's agent made unlawful threats during a telephone call relative to a past due account in her name. The Respondent states that it does not have sufficient information to confirm or deny the Complainant's allegations. The Respondent submitted its account notes in support of its response; the notes and the response show that the

Complainant spoke to two (2) of the Respondent's agents; neither agent entered account notes reflecting the conversation between them and the Complainant. This complaint was originally presented at the January business meeting, where the board voted to authorize a formal hearing against the Respondent with authority to settle by Consent Order and payment of a \$2,000.00 civil penalty. The Respondent, through counsel, has requested that the proposed civil penalty be reduced to \$1,000.00.

Recommendation: Discuss.

MOTION: Ms. Dixon made a motion to authorize a formal hearing with authority to settle by Consent Order and payment of a \$2,000 civil penalty, seconded by Ms. Trinkler. **Motion Carried.**

2. 2010025781

The Complainant alleges that the Respondent is unlawfully adding a flat fee to accounts collected on behalf of governmental entities. The Respondent denies that the added fees are unlawful, stating that such fees are authorized by Tenn. Code Ann. 40-24-105, which addresses collection of criminal proceeding costs, fines and litigation taxes. After reviewing and researching the relevant law, it is the opinion of counsel that the provision cited by the Respondent does not authorize the addition of a flat fee to costs collected incident to a criminal proceeding; rather, the statute allows the Respondent to be paid a certain percentage of the total costs, fines or taxes collected.

Recommendation: Issue a CEASE and DESIST letter.

MOTION: Mr. Howard recused himself from the discussion and vote. Mr. Mitchell made a motion to accept Legal's recommendation, seconded by Ms. Trinkler. **Motion Carried.**

3. 2010029131

The Complainant asserts that the Respondent continued collection efforts against him relative to a past due after he transmitted two (2) requests for validation/notices of dispute to the Respondent, both of which the Respondent denies receiving. The Respondent states that it did receive an alleged third request/notice from the Complainant, and that validation of the alleged debt was sent to the Complainant's address via certified mail, return receipt requested. According to the Respondent, the Complainant failed to accept service of the validation documents, which is supported by an electronic return mail record stating that the Respondent's attempted delivery was re-delivered to the Respondent's business location.

Recommendation: Close with no action.

4. 2010030311

The Complainant states that the Respondent mistakenly issued a letter advising that he has tendered "settlement in full" on a past due account, when the Complainant actually issued "payment in full" on the subject account. The Complainant demands that any inaccurate credit

reporting made as a result of the Respondent's error be updated to reflect his payment in full on the account. The Respondent acknowledges the error and states that it promptly updated its records upon receipt of verbal notice from the Complainant. The Respondent states that all credit reporting relative to the account was done by the client and that the Complainant would need to contact the client to ensure accuracy of reporting.

Recommendation: Close with no action.

5. 2010030331

The Complainant states that the Respondent continued to call his telephone number after he confirmed with the Respondent that his contact information does not exist in the Respondent's records and that he does not have an account with the Respondent. The Complainant alleges fifteen (15) calls from the Respondent to his telephone. The Respondent states that the Complainant's telephone numbers were not found in its records and that the Complainant's number was previously removed.

Recommendation: Close with a letter of warning.

6. 2010030341

Administrative office complaint alleges that the Respondent failed to provide evidence of a valid surety bond upon request. The Respondent states that it ceased doing business in this state and was purchased by a licensed agency four (4) months prior to the expiration of the surety bond. The Respondent's notice of surrender is recorded in board office records.

Recommendation: Close with no action.

7. 2010030351

Administrative office complaint alleges that the Respondent failed to provide evidence of a valid surety bond upon request. The Respondent states that it ceased doing business in this state and transferred all business prior to the expiration of the surety bond. The Respondent's notice of surrender is recorded in board office records.

Recommendation: Close with no action.

8. 2010030361

Administrative office complaint alleges that the Respondent failed to provide evidence of a valid surety bond upon request. The Respondent failed to respond to the board's request, despite accepting service of same on Oct 4, 2010. The Respondent's collection service license is now non-renewable.

Recommendation: Close upon issuance of a CEASE and DESIST letter.

9. 2010031181

The Complainant alleges that the Respondent engaged in unlicensed activity by contacting him while its collection service license application was still in process. The Complainant references calls placed prior to September 28, 2010, the complaint filing date. The Respondent states that the Complainant's telephone number was removed from its records after it determined it was dialing an incorrect number.

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

10. 2010031191

The Complainant alleges that the Respondent engaged in unlicensed activity by reporting an allegedly unpaid item on his credit report. The Complainant states that he sent a validation request to the Respondent after discovering the entry on his credit report, to which the Respondent answered by letter, stating that it had no duty to respond to his request for validation. The Respondent admits that its licensure application was still in process when it made the entry on the Complainant's credit report and responded to his validation demand. According to the Respondent, it has taken measures to ensure future compliance and has voluntarily settled the Complainant's alleged obligation as a professional courtesy.

Recommendation: Close with a letter of warning.

11. 2010031201

The Complainant alleges that the Respondent engaged in deceptive collection practices by mailing him a dunning notice relative to a past due account and then attempting to collect from him on an unrelated account when he called to inquire about the account referenced in the dunning notice. The Respondent states that it did not engage in deceptive collection practices, and that it was legally authorized to collect on both accounts. According to the Respondent, when the Complainant contacted them (eight months following the date of the dunning notice on the first account), the subject account had been recalled by its client and the second account had been assigned by a different client. The Respondent's account notes appear to substantiate its claims that both accounts were legitimately assigned and recalled by its clients.

Recommendation: Close with no action.

12. 2010031911

The Complainant alleges that the Respondent continued to demand payment of an alleged past due account after she sent three (3) notices, including one via certified mail, return receipt requested (which was delivered to the respondent prior to its dispatch of the third dunning notice) stating that she did not owe the claimed balance and requesting that the Respondent cease collection efforts relative to the balance. The Respondent states that the account has been recalled by its client and that it has closed its collection file on the Complainant and requested that its entries on the Complainant's credit report be removed.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$3,000.00 civil penalty.

13. 2010031931

The Complainant alleges that the Respondent continued to demand payment of a past due account that she had previously satisfied in full. According to the Complainant, the Respondent contacted her by phone in January 2010 and February 2010, and by letter in July, September and October of 2010 relative to two (2) unpaid accounts. In response to each contact from the Respondent, the Complainant gave verbal or written notice that the accounts had been paid in full. The Respondent states that, as an "accommodation", it has closed the Complainant's accounts by application of a payment tendered by the Complainant on January 19, 2007. The Respondent became owner of the subject accounts in 2002.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$5,000.00 civil penalty.

14. 2010031941

The Complainant alleges that the Respondent, a debt collection law firm, is harassing her concerning an alleged past due account, even though she is currently receiving credit counseling. The Respondent states that it has coded its communications system to prevent further contact with the Complainant.

Recommendation: Close with a letter advising the Complainant of alternative filing options.

15. 2010031961

The Complainant alleges that the Respondent, who appears to be an unlicensed collection agency, made harassing and threatening statements to her during repeated telephone calls in an effort to collect an alleged debt. The Respondent acknowledges brief collection efforts on two (2) allegedly unpaid accounts that were asserted to be owed by the Complainant. The Respondent indicates that both accounts have now been cancelled.

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

16. 2010031971

The Complainant alleges that the Respondent refuses to provide proof that he agreed to act as a credit grantor for a third party whose account is allegedly past due. The Respondent states that it has no record of the Complainant's request and enclosed the requested documentation with its response to the complaint, which was forwarded to the Complainant.

Recommendation: Close with no action.

17. 2010031991

The Complainant alleges that she is receiving harassing calls from the Respondent relative to an alleged debt that she disputes. The Respondent states that the amount in collection represents a purchase (plus accrued interest) that the Complainant made subsequent to her last account balance statement. The Respondent states that, while it believes the debt to be valid, it has elected to close the Complainant's account and cease collection activity in the interest of resolving the complaint.

Recommendation: Close with no action.

18. 2010032001

The Complainant alleges that the Respondent made an unlawful third party disclosure to his father concerning the existence of an allegedly unpaid student loan debt, harassed him at his workplace and threatened to take legal action without intent to initiate such action. According to the Complainant, the Respondent threatened to garnish his wages after he failed to make arrangements to pay the alleged student loan debt and disclosed the existence of the debt to his father, indicating that his father was listed as a contact on the account. The Respondent denies improper disclosure and harassment, stating that the Complainant's father was contacted in order to acquire location information on the the Complainant and that the existence of the debt was not disclosed. Further, the Respondent states that it did not threaten the Complainant, but did advise him that federal law permits to filing of an Administrative Wage Garnishment (AWG) upon an obligor's non-compliance with repayment terms on a federally guaranteed student loan.

Recommendation: Close with no action.

19. 2010032031

The Complainant alleges that the Respondent is taking advantage of him by continuing to assess interest on a past due account that he believes has been paid in full. The Respondent states that the subject account was reduced to judgment after efforts to reach a payment arrangement with the Respondent fails, and that the amount remaining in collections represents unpaid attorneys fees and court-assessed post-judgment interest added to the principal balance.

Recommendation: Close with no action.

MOTION: Ms. Trinkler recused herself from the discussion and vote. Mr. Mitchell made a motion to accept Legal's recommendation, seconded by Ms. Dixon. **Motion Carried.**

20. 2010032041

The Complainant alleges that the Respondent referred to him as a "terrorist" after he indicated to the Respondent that an individual the Respondent was seeking did not live in his home. The

Respondent denies the allegation, stating that it was the Complainant who used profane language and made derogatory references to the families of several agency employees. The Respondent indicates that the Complainant's telephone number was removed from its records within forty-eight (48) hours of the Complainant's statement that he was not the responsible party and that the responsible party could not be contacted using his information.

Recommendation: Close with no action.

21. 2010032081

The Complainant alleges that the Respondent continued calling him after he advised the Respondent on three (3) occasions that the individual sought was not reachable using his contact information. According to the Complainant, he documented receipt of six (6) calls from the Respondent after he informed the Respondent that it was dialing an incorrect number. The Respondent states that it only received one (1) request from the Complainant to remove his number from its records, and that it immediately complied with the request once received.

Recommendation: Close with a letter of warning.

22. 2010033831

Administrative office complaint alleges that the Respondent failed to provide evidence of a valid surety bond upon request. The Respondent, through counsel, provided evidence that it maintained a valid surety bond for the relevant period.

Recommendation: Close with no action.

23. 2010034241

The Complainant alleges that the Respondent engaged in unlawful collection tactics relative to a past due account that she owed. The Complainant documented three (3) telephone calls to her place of employment from the Respondent wherein the Respondent allegedly continued speaking to her after she informed the Respondent that she could not receive such calls at her place of employment. During two (2) of the calls, the Respondent allegedly stated to the Complainant that her wages would be garnished if she failed to make a satisfactory payment arrangement. The Respondent states that its records do not support the Complainant's account and that it only has one (1) documented request to cease contacting the Complainant, which it honored. In addition, the Respondent states that its agent was never rude to the Complainant, but rather, the agent was "informative and assertive", according to its records. The Respondent states that it has documented the matter involving the Complainant in the agent's records.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$5,000.00 civil penalty.

24. 2010036251

The Complainant alleges that the Respondent has called him “at least twenty (20) times” and “at all hours of the day and night” relative to a past due account that he disputes. According to the Complainant, when he purchased the collateral that is now the subject past due account, the creditor assured him that the purchase would be subject to similar terms as his then-existing credit card account (which he used to purchase the collateral), i.e., he would not be liable for any unpaid account balance if he became disabled. After the Complainant notified the creditor that he had been deemed “completely and permanently” disabled, the creditor allegedly notified him that a disability exemption did not exist and that he would be liable for the remaining balance. Ultimately, the account was placed with the Respondent. The Respondent states that it has agreed to cease collection efforts relative to the account in order to resolve the dispute with the Complainant. It is the opinion of counsel that the Complainant’s actual dispute lies with the creditor.

Recommendation: Close with no action.

25. 2011001931

Administrative office complaint alleges that the Respondent failed to provide evidence of a valid surety bond upon request. The Respondent ultimately provided evidence that it maintained a valid surety bond for the relevant period.

Recommendation: Close with no action.

26. 2011002641

The Complainant alleges that the Respondent unlawfully threatened her with a civil suit relative to an unpaid debt and that the Respondent sent her misleading correspondence relative to the subject account. According to the Complainant, the Respondent sent her a validation notice dated September 1, 2010 setting forth her right to request validation of the subject account. The Complainant received a second letter, dated September 14, 2010, stating that she would be required to contact the Respondent’s office within three (3) days or it would be assumed that she did not intend to pay the debt. The Complainant received two (2) additional letters from the Respondent referencing potential for garnishment and a filing of a civil suit if she did not pay the subject account. The Respondent denies any unlawful action, stating that the Complainant was correctly advised of the possibility of civil suit filing and garnishment, as it actively sought authorization to file suit against the Complainant. Further, the Respondent’s agent provided a lengthy, sworn affidavit of her contacts with the Complainant. According to the affidavit, the Respondent attempted on several occasions to make satisfactory payment arrangements with the Complainant and was finally able to reach a mutual agreeable resolution of the account with the Complainant.

Recommendation: Close with a letter of warning: misleading correspondence.

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

MOTION: Mr. Mitchell made a motion to accept Legal's recommendation on all of the complaints presented as amended that were not previously voted on. The motion was seconded by Ms. Dixon. **MOTION CARRIED.**

Report – Paid and Unpaid Consent Orders for 2010 – Mr. Bond gave an oral report regarding the Consent Orders paid since January 2010. He also advised that there are currently fifty-five (55) outstanding Consent Orders and six (6) of the related complaints are being prepped for formal charges.

ADMINISTRATIVE REPORT – DONNA HANCOCK, EXECUTIVE DIRECTOR

Complaint Status Report - Ms. Hancock presented a comparison of the complaints pending in February 2010 to those currently pending.

National Patient Account Services, Inc. – Collection of Non-Delinquent Accounts – Ms. Hancock presented a request for information from National Patient Account Services. After some discussion, the Board asked Ms. Hancock to request additional information for their consideration.

INFOSYS BPO, Limited, Inc. – Replacing Location Manager – Ms. Hancock presented a request on behalf of INFOSYS to extend the deadline for replacing their location manager and to authorize a special testing date for the new location manager. After some discussion, Ms. Trinkler made a motion to deny the request, seconded by Mr. Mitchell. **MOTION CARRIED.**

COLLECTION LOCATION APPLICATIONS REVIEW

The following Collection Agency Application was presented for consideration:

Paladin Commercial Group, LLC – After some discussion, Ms. Trinkler made a motion to accept the financial report submitted and approve the application, seconded by Ms. Dixon. **MOTION CARRIED.**

The May meeting of the Board was mentioned and Ms. Hancock asked that the Board reconsider their request to meet in Memphis as she did not feel it was an appropriate time to request travel not deemed necessary. The Board agreed to rescind their request.

LOCATION MANAGER APPLICATION REVIEW

The following Location Manager Applications were presented consideration:

Bret Allen Crandall: Ms. Dixon made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

Jeffrey Michael DeBates: Mr. Mitchell made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

John Lane Fahrlender: Ms. Trinkler made a motion to deny the request to waive the exam, seconded by Mr. Mitchell. **MOTION CARRIED.**

Bruce Godwin: Mr. Mitchell made a motion to approve the request to waive the exam, seconded by Ms. Trinkler. **MOTION CARRIED.**

Daniel Scott Kirkman: Ms. Dixon made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

Roy Jones: After some discussion, the Board tabled the application until it is complete, including all fees and any other supporting documents.

Richard Mann: Mr. Mitchell made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Dixon. **MOTION CARRIED.**

Patreek Pannu: Ms. Trinkler made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Mitchell. **MOTION CARRIED.**

Jerome Andrew Peer: Ms. Dixon made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

Bethany Rouch: Ms. Trinkler made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

Michael Gene Snow: Mr. Mitchell made a motion to table the application, request additional information, and authorize Mr. Bond to determine if the request to waive the exam can be approved. The motion was seconded by Ms. Trinkler. **MOTION CARRIED.**

Chetna James Tauro: Ms. Mitchell made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Dixon. **MOTION CARRIED.**

Freddie Patterson: Ms. Dixon made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Mitchell. **MOTION CARRIED.**

NEW BUSINESS OR UNFINISHED BUSINESS:

There was no new or unfinished business.

AJOURN: Being no further business to discuss, the meeting adjourned at 11:30 a.m.

Bart Howard, Chairman