

**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

DATE: September 14, 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
C.B. (Chip) Hellmann

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

GUESTS: Frank Springfield (in audience)
Alan Cameros and Tawyna Anderson (via teleconference)

CALL TO ORDER: Chairman Howard called the meeting to order at 9:35 a.m. and the following business was transacted:

Roll Call - Director Hancock called the roll. All four (4) board members were present including the newest member, C.B. (Chip) Hellmann, who Ms. Hancock introduced as the replacement for Mr. Mitchell, whose term recently expired.

AGENDA: Ms. Trinkler made a motion to accept the agenda as amended, seconded by Ms. Dixon. **Motion Carried.**

Minutes – Mr. Mitchell made a motion to approve the minutes of the July 13, 2011 meeting, seconded by Ms Dixon. **Motion Carried.**

TAWNYA ANDERSON AND ALAN CAMEROS (VIA TELCONFERENCE) –

Ms. Hancock reminded the Board that they tabled a discussion regarding the business practices and license requirement questions concerning FAN Distributing, LLC during their last meeting and asked that FAN's representatives be invited to participate via teleconference. She advised that Ms. Anderson and Mr. Cameros were present via telephone and would like to discuss whether "passive debt buyers" meet the definition of a collection agency requiring licensure. After some discussion, Ms. Dixon made a motion to again table the discussion to allow Mr. Bond to research the issue and possibly request an opinion from the Office of the Attorney General. The motion was seconded by Mr. Hellmann. **Motion Carried.**

LEGAL REPORT – TERRANCE BOND, ASSISTANT GENERAL COUNSEL

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

**1. 201002382-1
[RE-PRESENT]**

The Complainant alleges that the Respondent continued to pursue collection of an allegedly past due account from him despite his repeated denials of responsibility for the past due balance and demand for validation of the alleged debt. The Respondent initially failed to respond to the complaint, despite being duly served with notice of same, which caused the Board to authorize a formal hearing against the Respondent with authority to settle by Consent Order and payment of a \$3,000.00 civil penalty. Upon receipt of notice from the Office of Legal Counsel of the Board's intent to institute disciplinary proceedings and offer of informal settlement, the Respondent promptly responded, stating that its failure to respond was due to a temporary employee's failure to properly route the complaint. Relative to the substantive allegations in the complaint, the Respondent provided documentation showing that the Complainant made payments toward the allegedly past due obligation prior to delinquency. Relative to the Respondent's failure to respond, it has provided a statement in defense of its actions and has requested that same be read into the record.

Recommendation: Close with no action.

Mr. Bond requested an immediate vote in this matter. **Mr. Hellmann made a motion to accept Legal's recommendation, seconded by Ms. Dixon. MOTION CARRIED.**

2. 201100850-1

The Complainant's allegations against the Respondent, a licensed collection service, appear to arise from the Complainant's prior employment relationship with the Respondent's client. According to the Complainant, the Respondent's client wrongfully assessed him equipment fees (which were ultimately delegated to the Respondent for collection) for equipment that he allegedly failed to return at the end of his employment relationship with the client.

Recommendation: Close with no further action.

3. 201100851-1

The Complainant, a business entity, alleges that the Respondent wrongfully attempted collection of a debt arising from its prior business relationship with the Respondent's client. The Respondent indicates that its client has resolved the issue with the Complainant and that the alleged account is now closed in its office.

Recommendation: Close with no action.

4. 201100927-1

A complaint filed by the Board's administrative office alleges that the Respondent, a licensed collection agency, conducted business in the state of Tennessee without applicable surety bond coverage, in violation of Tenn. Code Ann. §62-20-110. The Respondent admits that it conducted business in this state without such coverage for less than thirty (30) days. According to the Respondent, the lapse was due to an oversight. Evidence of the Respondent's current coverage is now on file with the Board office.

Recommendation: Close with a letter of warning.

5. 201101062-1

The Complainant alleges that the Respondent, who identifies itself as a commercial collection entity that intends to seek licensure in the state of Tennessee, initiated collection activity against him relative to an allegedly past due commercial account. The Respondent states that it has now ceased collection activity relative to the Complainant's account and is now engaged in the licensure process. According to the Board office, no record of a licensure application exists in the Board's records, although the Respondent has submitted an application on behalf of a location manager candidate.

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

6. 201101156-1

The Complainant alleges that the Respondent made repeated demands for her to pay an allegedly past due account that she did not owe. According to the Complainant, the Respondent made at least seven (7) attempts (including an initial notice of communication) to collect the alleged debt from her after the Complainant denied knowledge of the account. The Complainant also states that during some collection attempts, the Respondent initially requested to speak to an unfamiliar individual, asking to speak to [Complainant] only after she stated that the person requested was unfamiliar and did not reside with her.

The Respondent admits that it contacted the Complainant on two occasions attempting to reach a debtor (who was not the Complainant). According to the Respondent, after the Complainant verbally denied knowing the debtor twice, the Complainant's name was removed from its records. Thereafter, one of the Respondent's agents performed skip tracing to obtain location information for the debtor—the Complainant's information was returned as potential contact information for the debtor. According to the Respondent, the agent failed to verify the status of the Complainant's information before contacting her (along with several other agents) and disclosing information relative to the debt to her and demanding that she pay the debt. According to the Respondent, the responsible agent has been disciplined.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$3,500.00 civil penalty.

7. 201101604-1

The Complainant alleges that the Respondent failed to respond to her request for validation of an allegedly past due account of which she denies being aware. According to the Complainant, she received a partial payment/settlement letter from the Respondent on April 11, 2011 to which she responded with a validation demand/notice of dispute on April 22, 2011. The Respondent states that it has owned the alleged account, which shows the plaintiff's social security number and addresses as listed on the Complainant's credit report, since September 2000 and that an initial notice of collection was sent to the Complainant at her then-current address in October 2000. According to the Respondent, no request for validation was received with thirty (30) days of the notice and it considered the Complainant's April 22nd request untimely. However, in light of the Complainant's insistence that she is unfamiliar with the alleged account and her filing of a complaint with the Board, the Respondent has elected to close the alleged account.

Recommendation: Close with no action.

8. 201101605-1

A complaint opened by the Board's administrative office alleges that the Respondent engaged in unlicensed collection activity. The allegation arises from a new agency application from the Respondent, which indicated that the Respondent held amounts in trust for Tennessee clients prior to its license application date. Upon further investigation, it was determined that the Respondent held a valid collection service license under a different name, and that the new application was submitted as a precautionary measure by the company after undergoing certain corporate structural changes, including a name change.

Recommendation: Close with no action.

9. 201101606-1

The Complainant alleges that the Respondent's agents made abusive and demeaning statements to her concerning her mental health after she requested that her agreement to make monthly payments toward her past due balanced be confirmed in writing. The Respondent vehemently denies making such statements, stating that the Complainant was advised upon each of her requests that the agency does not provide such statements, but would send her a "payment due" reminder showing her remaining balance each month. The Respondent extensively documented its conversations with the Complainant. According to the Respondent's records, the Complainant was extremely argumentative and accusatory during conversations, and on several occasions made repeated calls to the Respondent, ultimately causing the Respondent to disable two of its incoming call lines to prevent her from further disrupting its business operations.

Recommendation: Close with no action.

10. 201101610-1

The Complainant alleges that the Respondent is harassing him concerning an alleged debt that is now "dead", as it originated more than thirteen (13) years ago. The Respondent failed to file its response to the complaint, despite being served with notice of same.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$250.00 civil penalty.

11. 201101612-1

The Complainant alleges that the Respondent contacted her regarding an allegedly past due account that she denies owing—apparently, the alleged debtor has the same name as the Complainant, and the Complainant alleges that the Respondent may have obtained her name using internet search records, as she holds public office and her contact information is available electronically. The Respondent states that it contacted the Complainant by letter once, and immediately ceased communication with the Complainant once it received a letter from her denying responsibility for the debt and knowledge of the debtor.

Recommendation: Close with no action.

12. 201101613-1

The Complainant states that the Respondent, who appears to be an unlicensed collection service conducting business in this state, contacted her regarding an allegedly past due account that she denies owing—apparently, the alleged debtor has the same name as the Complainant, and the Complainant alleges that the Respondent may have obtained her name using internet search records, as she holds public office and her contact information is available electronically. The Respondent failed to file its response to the complaint, despite being duly notified of same.

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

13. 201101621-1

The Complainant states that the Respondent, who appears to be an unlicensed collection service conducting business in this state, contacted her regarding an allegedly past due account that she denies owing—apparently, the alleged debtor has the same name as the Complainant, and the Complainant alleges that the Respondent may have obtained her name using internet search records, as she holds public office and her contact information is available electronically. The Respondent states that it contacted the Complainant by letter once, and immediately ceased communication with the Complainant once it received a telephone call from her denying responsibility for the debt and knowledge of the debtor.

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

14. 201101622-1

The Complainant states that the Respondent contacted her regarding an allegedly past due account that she denies owing—apparently, the alleged debtor has the same name as the Complainant, and the Complainant alleges that the Respondent may have obtained her using internet search records, as she holds public office and her contact information is available electronically. The Respondent failed to file its response to the complaint, despite being duly notified of same.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$250.00 civil penalty.

15. 201101626-1

The Complainant submits allegations against a first-party lender.

Recommendation: Close with no action.

16. 201101629-1

The Complainant alleges that the Respondent made an adverse entry on her credit report without providing her adequate notice of the entry. The Respondent failed to submit its answer to the Complainant's allegation, despite being duly served with notice of same.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$250.00 civil penalty.

17. 201101660-1

The Complainant alleges that the Respondent continues to demand payment from her of a past due account balance on an account that she alleges has been satisfied in full. The Respondent failed to submit its answer to the Complainant's allegation, despite being duly served with notice of same.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$250.00 civil penalty.

18. 201101661-1

The Complainant alleges that the Respondent's agent threatened to send notice of [Complainant's] alleged debt to [Complainant's] employer if the Complainant did not tender immediate payment of the debt. According to the Complainant, she advised the agent that notification of her employer might cause her to lose her professional licenses and employment, to which the agent responded that only an immediate payment would forestall dispatch of the notice. Before the Complainant made payment on the account, the Respondent (or its agent)

mailed a copy of a dunning notice (addressed to the Complainant) to the Complainant's place of employment, which was opened by an agent of the Complainant's employer. The Complainant states that she paid the debt out of fear of losing her job if her employer became aware of her past due account.

The Respondent states that the alleged events giving rise to the complaint occurred in 2009, while the complaint was filed in 2011. According to the Respondent, the delay in filing puts the Respondent at a disadvantage because the employee no longer works for the Respondent and the Respondent was not on notice to preserve any documents relative to the Complainant's allegations. The Respondent requests that the complaint be dismissed due to the Complainant's "untimely" filing.

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

19. 201101726-1

The Complainant alleges that the Respondent acted in violation of applicable law by refusing to remove a delinquent item from his credit report after he paid the item in full. According to the Complainant, he understood, based on information he obtained from third parties, that he would be entitled to deletion of the credit entry in exchange for payment in full, although both the creditor and the Respondent advised him that they were unwilling to take such action, notwithstanding his payment in full. The Respondent states that its position, as communicated to the Complainant, has consistently been that it cannot remove the item from the Complainant's credit report in light of a payment; however, it did update the credit entry to reflect payment in full on the account.

Recommendation: Close with no action.

20. 201101727-1

The Complainant alleges that the Respondent sent two dunning notices to him in violation of a "cease communication" request. According to the Complainant, he received an initial communication from the Respondent on June 16, 2008, to which he responded on June 29, 2008 requesting that the Respondent cease communicating with him relative to the debt due to the creditor's failure to comply with a material provision of the Fair Credit Billing Act. The Complainant documented receipt of two (2) dunning notices sent by agents of the Respondent after transmission of his cease communication request by certified mail. The Respondent enclosed documents purporting to be provide validation of the Complainant's account and states that it "every effort is made to ensure compliance with state and federal regulations."

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

21. 201102242-1

The Complainant, an Alabama resident, makes allegations against the Respondent, a licensed collection service with principal place of business in Minnesota.

Recommendation: Close with no action.

22. 201102256-1

The Complainant alleges that he received four (4) collection calls from the Respondent, who appears to be an unlicensed collection service conducting business in this state, in an effort to collect a debt arising from a commercial transaction. The Respondent failed to respond to the Complainant's allegations, despite being duly served with notice of same.

**Recommendation: Authorize formal hearing with authority to settle by Consent
Order and payment of \$4,000.00 civil penalty.**

23. 201102382-1

The Complainant alleges that the Respondent, a law firm, has acted as an unlicensed collection service in this state by contacting her one at least one (1) occasion relative to an alleged past due account. The Respondent acknowledges that it contacted the Complainant on one (1) occasion in pursuit of a debtor, and that it has now removed the Complainant's contact information from its records.

Recommendation: Close with no action. Issue written notice to the Respondent that continued activity in this state may be subject to review by other legal authorities.

MOTION: Ms. Trinkler made a motion to accept Legal's recommendation on all of the complaints presented with the exclusion of the first complaint 201002382-1 that was previously approved, seconded by Mr. Hellmann. **MOTION CARRIED.**

Location Manager Examination Contract – Mr. Bond advised that the emergency rules approved by the Board at the last meeting to file a provision to allow the examination contractor to set the exam fees had been approved by the Office of the Attorney General. He further advised that the contract process would begin soon and an emergency rulemaking hearing must be held within six months of the file date of the emergency rule. After some discussion, the Board agreed to authorize one of its members to review and approve any bids for the contract on their behalf. Mr. Bond said he hoped to have a contract approved and in place in order to have an exam by the end of the year.

The Board recessed at 10:45 a.m. for break and reconvened at 10:55 a.m.

ADMINISTRATIVE REPORT – DONNA HANCOCK, EXECUTIVE DIRECTOR

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

2012 Meeting Schedule – Ms. Hancock presented a copy of the 2012 meeting schedule for Board's consideration. Being no objections, the schedule was accepted.

COLLECTION AGENCY APPLICATIONS REVIEW

The following Collection Agency Applications were presented for consideration:

~~**DI Rec Management, Inc.** – Ms. Trinkler made a motion to approve the application, seconded by Ms. Dixon. **MOTION CARRIED.**~~

Takhar Collection Services, LTD – Ms. Dixon made a motion to approve the application, seconded by Ms. Trinkler. **MOTION CARRIED.**

LOCATION MANAGER APPLICATION REVIEW

The following Location Manager Applications previously reviewed by the Board including the additional information requested were presented for consideration:

Kirk Wilson Duggan – Ms. Trinkler made a motion to approve the application, seconded by Mr. Hellmann. **MOTION CARRIED.**

David H. Newman – Ms. Trinkler made a motion to approve the application, seconded by Mr. Hellmann. **MOTION CARRIED.**

The following Location Manager Application was presented to the Board at the applicant's request to waive retesting:

Karen Louis Nelson – Mr. Hellmann made a motion to approve the applicant's request, seconded by Ms. Trinkler. **MOTION CARRIED.**

The following Location Manager Applications were presented to the Board for their consideration:

Leigh Cole Fairbank, IV – Ms. Dixon made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Hellmann. **MOTION CARRIED.**

~~**Aaron Charles Goodman** – Ms. Trinkler made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Hellmann. **MOTION CARRIED.**~~

Mujib Nayebkhel – Ms. Dixon made a motion to request a current credit report from the applicant and that the application be approved if there appears to be no significant changes from

the report previously submitted. Furthermore, the motion included authorizing one member of the Board to review and approve the application pending any concerns noted by Administration upon receipt of the new credit report. The motion was seconded by Ms. Trinkler. **MOTION CARRIED.**

Ashish Gordhan Tahilramani – Ms. Dixon made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Hellmann. **MOTION CARRIED.**

The following Location Manager Applications previously denied by the Board were presented for reconsideration at the applicants' requests:

~~**Ronald Perry Bay** – Ms. Trinkler made a motion to request a current credit report from the applicant to validate the information provided and that the application be approved if there appears to be no discrepancies. Furthermore, the motion included authorizing one member of the Board to review and approve the application pending any concerns noted by Administration upon receipt of the new credit report. **MOTION CARRIED.**~~

Julie Ann Erickson – Ms. Trinkler made a motion to approve the application, seconded by Mr. Hellmann. **MOTION CARRIED.**

~~**James Ronald Levy** – Ms. Trinkler made a motion to approve the application, seconded by Mr. Hellmann. **MOTION CARRIED.**~~

~~**Kevin McKenzie** – Mr. Hellmann made a motion to request a current credit report from the applicant for the Board's consideration, seconded by Ms. Trinkler. **MOTION CARRIED.**~~

~~**Paul Mitchell Mora** – Mr. Hellmann made a motion to request additional information, seconded by Ms. Trinkler. **MOTION CARRIED.**~~

Max Nieves – Ms. Trinkler made a motion to approve the application, seconded by Mr. Hellmann. **MOTION CARRIED.**

Jerry A. Spiegelhauer – Ms. Dixon made a motion to approve the application, seconded by Ms. Trinkler. **MOTION CARRIED.**

Jimmy Townsley – Ms. Trinkler made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Hellmann. **MOTION CARRIED.**

Roy Briseono, Jr. – Ms. Dixon made a motion to request a current credit report for the Board's consideration, seconded by Ms. Trinkler. **MOTION CARRIED.**

Aditya Kashyap – Ms. Trinkler made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Hellmann. **MOTION CARRIED.**

Veen Jacinta Nazareth – Mr. Hellmann made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

Hinshaw & Culberson, LLP - Question Re: Out of Country Call Center (addition to agenda) - Ms. Hancock presented a question regarding an out-of-country call center from a representative of Hinshaw & Culberson, LLP for the Board's review. After some discussion, Mr. Hellmann made a motion advising the business practices described in the letter presented would require a collection agency license, seconded by Ms. Trinkler. **MOTION CARRIED.**

NEW BUSINESS OR UNFINISHED BUSINESS:

AJOURN: Being no further business to discuss, the meeting adjourned at 12:15 p.m.



Bart Howard, Chairman