

**TENNESSEE  
COLLECTION SERVICE BOARD  
MINUTES**

**DATE:** January 9, 2013

**PLACE:** Andrew Johnson Tower – 2<sup>nd</sup> Floor Conference Room  
710 James Robertson Parkway  
Nashville, Tennessee

**PRESENT:** Board Members:  
Bart Howard, Chairman  
Elizabeth Trinkler, Vice Chairman (*arrived after roll call*)  
Elizabeth Dixon  
Chip Hellmann

**ABSENT:** Steve Harb

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

**GUESTS:** Terrance Bond, Robyn Ryan

**CALL TO ORDER:** Chairman Howard called the meeting to order at 9:32 a.m. and the following business was transacted:

**Roll Call** – Ms. Hancock called the roll. Three (3) of the (5) board members were present. Mr. Harb was absent and Ms. Trinkler arrived later in the meeting.

**Agenda** – The agenda was approved by the Board.

**Minutes** – Mr. Hellmann made a motion to approve the minutes of the November 14, 2012 meeting, seconded by Ms. Dixon. **MOTION CARRIED.**

**Roberts Rules of Order** – Mr. Hellmann made a motion to adopt Roberts Rules of Order, seconded by Ms. Dixon. **MOTION CARRIED.**

*Ms. Trinkler arrived at 9:38 a.m.*

**CHRIS WHITTAKER, ASSISTANT GENERAL COUNSEL**

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

**1. 2012023211**

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

The complaint alleges that the Respondent engaged in unlicensed conduct by attempting to collect a consumer debt without proper licensure to do so, that the Respondent engaged in rude, abusive behavior while attempting to collect the debt in question, and that the Respondent continued to place collection phone calls after being advised by the Complainant that the Respondent did not have a Tennessee collection license (and as such, could not lawfully engage in consumer debt collection in Tennessee). The investigation revealed that the Respondent does not have a valid Tennessee collection service license, and there appears to be sufficient evidence to substantiate the Complainant's allegations. Additionally, the Respondent signed for the certified mail package containing a copy of the complaint and requesting a response to the complaint, but the Respondent did not respond to the complaint in any way.

**Recommendation:** Formal hearing with authority to settle by Consent Order upon payment of a \$ 4,000.00 civil penalty by the Respondent.

**2. 2012020031**

License Status: Active  
Year First Licensed: 2010  
License Expiration: 01/27/2014

The complaint alleges that the Respondent failed to provide timely proof of adequate surety bond coverage as required by law. The investigation revealed that both of the Respondent's phone numbers have been disconnected, that all certified mail to the Respondent has come back marked "refused", and that the Respondent's website is no longer functional. It appears that the Respondent may have ceased doing business.

**Recommendation:** Close the complaint with a Cease & Desist Letter stating that the Respondent may no longer lawfully engage in the collection service business in Tennessee until it has provided proof of adequate surety bond coverage to the Board. If the Respondent fails to provide proof of surety bond coverage before its license expires, the Respondent will be required to submit a new license application in order to continue doing business in Tennessee.

**3. 2011029951**

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

The complaint alleges that the Respondent engaged in unlicensed conduct and attempted to collect a debt that the Complainant does not owe. The investigation revealed that, immediately upon receiving a letter from the Complainant disputing the debt, the Respondent ceased all collection attempts, the Complainant has not heard from the Respondent in over a

year, and that the disputed debt was never placed on her credit report. The Complainant states that she is satisfied with the outcome and considers this matter closed. However, the Respondent must be notified that it is required to hold a Tennessee collection service license if it wishes to collect debts in Tennessee.

**Recommendation:** Close this complaint upon the issuance of a Letter of Warning including language instructing the Respondent to cease and desist conducting any collection service business in Tennessee until it obtains proper licensure..

#### 4. 2012008591

License Status:	Active
Year First Licensed:	1975
License Expiration:	12/31/2014

The complaint alleges that the Respondent engaged in harassing conduct while attempting to collect a debt by contacting the Complainant's family members. The Respondent stated that it only spoke with the Complainant one time, and that, immediately upon the Complainant's request, the Respondent blocked the Complainant's phone number in its system and has not contacted the Complainant since. The Complainant also alleged that the Respondent called other members of his family numerous times at all hours of the day for approximately a year in an attempt to locate a debtor. Although the investigation revealed insufficient evidence of the Complainant's allegations to proceed to a formal hearing, a Letter of Warning is recommended in order to impress upon the Respondent the seriousness of complying with the FDCPA requirements relative to frequency of contact with debtors and/or a debtor's family members.

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

#### 5. 2012013251

License Status:	Active
Year First Licensed:	1996
License Expiration:	12/31/2014

The complaint alleges that the Respondent attempted to collect more money than the Complainant owed on an otherwise valid debt and that the Respondent had the Complainant's wages garnished in order to collect the alleged debt. The investigation revealed that the alleged debt in question is a federal student loan debt, and that federal law provides student loan debtors the opportunity for an administrative hearing prior to having their wages garnished. The Complainant requested such an administrative hearing to contest the Respondent's attempt to garnish her wages. It appears that the Respondent complied with applicable federal law during the administrative hearing process. At the Complainant's administrative hearing, she raised all of the claims she asserted in her complaint to the Board to the presiding hearing officer. After considering all available evidence, the hearing officer found that the Complainant had not met her burden of proof to lawfully object to the wage garnishment, and as such, the wage garnishment was allowed to go forward. Additionally, there appears to be no evidence of any violation(s) of applicable state or federal collection law by the Respondent in this case.

**Recommendation:** Dismiss the complaint.

**6. 2012014071**

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

The complaint alleges that the Respondent engaged in unlicensed conduct by attempting to collect a debt from the Complainant without a license. The investigation revealed that the Respondent is an outsourced, back office, first party vendor that collects only in the name of the creditor (a local governmental entity) both on the phone and in any correspondence. Additionally, any delinquent accounts that require collection efforts are sent to a licensed collection service agency by the Respondent's client.

**Recommendation:** Dismiss the complaint.

**7. 2012023061**

License Status: Active  
Year First Licensed: 1975  
License Expiration: 12/31/2014

The complaint alleges that the Respondent engaged in harassing conduct while attempting to collect two student loan debts and that the Respondent failed to validate the debts upon request by the Complainant. The investigation revealed that neither the Complainant's complaint nor the Respondent's response contained evidence of the written validation request required by the FDCPA. Despite the lack of written validation request by the Complainant, the Respondent did request copies of the promissory notes from its client and sent them to the Respondent. Additionally, the Respondent provided copies of the promissory notes for the underlying debts in question. Both notes are signed by the Complainant and both notes provide the names of two relatives as references for the loan, thereby granting the Respondent permission to contact the Complainant's references if the loans became delinquent. Once the Complainant sent a cease and desist communication letter to the Respondent, the Respondent closed both accounts and returned them to its client.

**Recommendation:** Dismiss the complaint.

**8. 2012021711**

License Status: Active  
Year First Licensed: 2000  
License Expiration: 12/31/2014

The complaint alleges that the Respondent is attempting to collect a debt that the Respondent does not owe because the Complainant allegedly paid the underlying debt in full

many years ago. The investigation revealed that the Respondent purchased the right to attempt to collect on the debt. However, the Complainant provided proof to the Respondent that the debt had been paid. Upon receiving proof of payment of the original debt, the Respondent closed its account, marked it as disputed, did not contact the Complainant again regarding the debt, and the debt was never reported to the credit bureaus.

**Recommendation:** Dismiss the complaint.

**9. 2012021791**

License Status: Active  
Year First Licensed: 1998  
License Expiration: 12/31/2014

The complaint alleges that the Respondent failed to validate a debt despite a validation request from the Complainant. The investigation revealed that neither the Complainant's complaint nor the Respondent's response contained evidence of the written validation request required by the FDCPA. Despite the lack of written validation request by the Complainant, the Respondent did receive validation of the debt from its client. However, instead of providing the validation documents to the Complainant, the Respondent elected to close the account, cease all collection efforts on the account, and return it to the client, which is permissible under the FDCPA.

**Recommendation:** Dismiss the complaint.

**10. 2012023051**

License Status: Active  
Year First Licensed: 1998  
License Expiration: 10/18/2014

The complaint alleges that the Respondent attempted to collect money that the Complainant does not owe. The investigation revealed that the Complainant did submit a timely written validation request to the Respondent as required by the FDCPA. Upon receiving the validation request from the Complainant, the Respondent marked the debt as disputed, ceased all collection efforts, and returned the account to its client.

**Recommendation:** Dismiss the complaint.

**11. 2012023611**

License Status: Delinquent  
Year First Licensed: 2008  
License Expiration: 11/18/2012

The complaint alleges that the Respondent failed to timely provide proof of adequate surety bond coverage to the Board as required by law. The investigation revealed that the

Respondent did provide timely proof to the Board of surety bond coverage reflecting no lapse in coverage at any time. However, if the Respondent fails to renew its license within the time period allowed by law, it will have to submit a new application if it wishes to continue doing business in Tennessee.

**Recommendation:** Dismiss the complaint.

**12. 2012023871**

License Status: Active  
Year First Licensed: 1975  
License Expiration: 12/31/2014

The complaint alleges that the Respondent engaged in harassment by contacting him regarding a debt owed by the Complainant's estranged son. The investigation revealed that, immediately upon receiving a request from the Complainant to not contact him regarding this debt, the Respondent blocked the Complainant's phone number in its system and has not contacted the Complainant since that time.

**Recommendation:** Dismiss the complaint.

**13. 2012023981**

License Status: Active  
Year First Licensed: 2012  
License Expiration: 09/19/2014

The complaint alleges that the Respondent attempted to collect a debt that the Complainant does not owe. The investigation revealed that the Respondent validated the debt in question, received a response from its client that the debt remained due and owing, and provided proof of same to the Complainant. The Complainant advised the Respondent that he was supposed to have been "excused" from paying the debt, but he could not provide any evidence to support his claim. Additionally, according to the Respondent's location manager, the Complainant has stated to her that if he makes enough noise, eventually the creditor will just give up trying to collect the debt. At the Complainant's request, the Respondent has placed his account in "cease communication" status, and has not contacted the Complainant since receive his request not to be contacted any further regarding this debt.

**Recommendation:** Dismiss the complaint.

**14. 2012024971**

License Status: Active  
Year First Licensed: 1997  
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, immediately upon learning that the alleged debt might be fraudulent, the Respondent's client ordered the Respondent to close the account, and the Respondent closed the account.

**Recommendation:** Dismiss the complaint.

**15. 2012024991**

License Status: Active  
Year First Licensed: 2001  
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 a customer service representative employed by the Respondent's client had agreed to write off the full balance of the alleged debt, but that the write off did not make it into the Respondent's system. Once the Respondent was notified of the write off, it closed the account and returned it to the client.

**Recommendation:** Dismiss the complaint.

**16. 2012025371**

License Status: Active  
Year First Licensed: 1975  
License Expiration: 12/31/2014

The complaint alleges that the Respondent attempted to collect a debt the Complainant does not owe. The investigation revealed that the Respondent sent an initial letter notifying the debtor of her rights under the FDCPA. In response to the initial letter, the Complainant sent a letter to the Respondent disputing the debt and requesting that the Respondent cease and desist communication with her regarding the debt. The Respondent notified its client of the dispute, closed the account, returned it to the client, and has not contacted the Complainant since receiving the cease and desist letter. Additionally, the alleged debt in question was never reported to the credit bureaus.

**Recommendation:** Dismiss the complaint.

**17. 2012026421**

License Status: Active  
Year First Licensed: 2012  
License Expiration: 01/08/2014

The complaint alleges that the Respondent failed to timely provide proof of adequate surety bond coverage to the Board as required by law. The investigation revealed that the Respondent did provide timely proof to the Board of surety bond coverage reflecting no lapse in

coverage at any time, but that the bond coverage was inadvertently applied to an incorrect license number.

**Recommendation:** Dismiss the complaint.

**MOTION:** Ms. Dixon made a motion to approve the Legal Report and accept Legal's recommendations, seconded by Ms. Trinkler. **MOTION CARRIED.**

Mr. Whittaker advised the Board that a formal hearing is currently scheduled on January 22, 2013 and will be heard by an Administrative Law Judge on their behalf as previously authorized.

### **ADMINISTRATIVE REPORT – DONNA HANCOCK, EXECUTIVE DIRECTOR**

**Conflict of Interest Statements** – Ms. Hancock advised the Board that the conflict of interest statements (forms) to be signed at the beginning of each year is in their booklets and she asked them to submit their signed copies before the end of the meeting.

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

**Budget Report** – Ms. Hancock presented a budget report for the closure of FY 11/12 with a comparison for the last three fiscal years. She also presented year-to-date totals indicating current fiscal year revenue and expenditure amounts. Mr. Hellmann made a motion to accept the budget report, seconded by Ms. Trinkler. **MOTION CARRIED.**

**Information for Website** – Ms. Hancock presented a draft of the recommended changes from Chairman Howard regarding information for the Board to consider posting to their website for general consumer information. Mr. Bond requested a copy of a draft to present to the industry's association for review before it is posted to the Board's website. Ms. Trinkler made a motion to table this matter and approve Mr. Bond's request until the next meeting. The motion was seconded by Ms. Dixon. **MOTION CARRIED.**

**Branch License Question** – Ms. Hancock presented a letter to the Board requesting an opinion as to whether or not an agency with two (2) separate offices within the same business park would require separate licenses. After some discussion, Ms. Trinkler made a motion for Ms. Hancock to respond on the Board's behalf stating it is their opinion that each location must have a licensed location manager on staff in accordance with TCA 62-20-108. The motion was seconded by Mr. Hellmann. **MOTION CARRIED.**

**Agency Violation in another State – Board Decision** – Ms. Hancock presented copies of a disclosure recently provided by an agency indicating they were assessed a civil penalty by another state licensing agency as the result of a recent audit. Ms. Trinkler made a motion that no action is due on this issue at this time, seconded by Mr. Hellmann. **MOTION CARRIED.**

**Trust Account – Acceptability Decision** – Ms. Hancock presented a recent renewal application for an agency including the balance sheet and written explanation as to why the funds in the trust account were less than the amount owed to clients. The letter stated that the agency never actually handles any client funds so there would never be any amounts due any clients. The

report went on to say that any funds collected are only paid by the debtor directly to the agency's clients, never to the collection agency. After some discussion, the Board requested Ms. Hancock to draft a letter on their behalf advising the agency that the trust account must meet or exceed the amount owed to clients and to ask them to resubmit a balance sheet only as it relates to the collections portion of their business.

**CPA/PA U.S.A. License Requirement – TCA 62-20-122(b)(3) – Acceptability Decision** – Ms. Hancock presented a renewal application with a balance sheet indicating that the CPA or PA was a CGA Member in Vancouver, BC, Canada. An explanation accompanied the balance sheet saying that in Canada the CGA designation is similar to the CPA designation in the USA. After some discussion, Mr. Hellmann made a motion to advise the agency that the public accountant or certified public accountant completing the financial statement must be licensed in the United States pursuant to TCA 62-20-112(b)(3). The motion was seconded by Ms. Dixon. **MOTION CARRIED.**

Chairman Howard inquired about the status of the backlog of location manager examinations. Ms. Hancock advised she would present a report at to present at the next meeting regarding the number of applicants pending, number who have tested, and the pass/fail rate since the new contract was implemented.

*The Board took a break at 11:03 a.m. and reconvened at 11:10 a.m. Ms. Dixon did not return to the meeting.*

## **LOCATION MANAGER APPLICATION REVIEW**

Ms. Hancock presented the following Location Manager Applications for the Board's consideration:

**John Michael Davis** – Mr. Hellmann made a motion to table the application pending additional information requested by the Board. The motion was seconded by Ms. Trinkler. **MOTION CARRIED.**

**Donalynn Kristen Johnson** – Ms. Trinkler made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Mr. Hellmann. **MOTION CARRIED.**

**Christopher M. Jones** – Mr. Hellmann made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

**Naomi Kathleen Kyser** – Mr. Hellmann made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

**Stanley Kevin Moore** – Ms. Trinkler made a motion to approve the application, seconded by Mr. Hellmann. **MOTION CARRIED.**

**Audra Newton** – Ms. Trinkler made a motion to table the application pending additional information requested by the Board. The motion was seconded by Mr. Hellmann. **MOTION CARRIED.**

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

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

**Ryan Patrick Edmonds** – Ms. Trinkler made a motion to approve the application, seconded by Mr. Hellmann. **MOTION CARRIED.**

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

**Christopher Robert Allen** – Mr. Hellmann made a motion to deny the application pursuant to TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

#### **COLLECTION AGENCY APPLICATION REVIEW**

Ms. Hancock presented the following Collection Agency Applications for the Board's consideration –

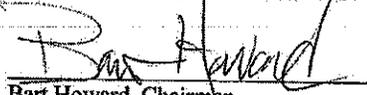
**Unifin, Inc.** – Mr. Hellmann made a motion to approve the application upon receipt of a sufficient six (6) month projected operation budget including both revenues and expenditures. The motion was seconded by Ms. Trinkler. **MOTION CARRIED.**

**Professional Account Management, Inc.** – Mr. Hellmann made a motion to approve the application, seconded by Ms. Trinkler. **MOTION CARRIED.**

#### **NEW BUSINESS OR UNFINISHED BUSINESS:**

Ms. Hancock stated that the General Assembly is back in session and that she will inform the board if and when legislation is brought to her attention regarding changes to TCA Title 62, Chapter 20.

**AJOURN:** Being no further business to discuss, the meeting adjourned at 11:45 a.m.

  
Bart Howard, Chairman