

**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

DATE: November 13, 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
Chip Hellmann

PRESENT: Staff Members:
Chris Whittaker, Assistant General Counsel
Kimberly Whaley, Accountant 3
Susan Lockhart, Administrative Services Assistant 4

GUESTS: Steve Tyde, Michael Yaffe, Leslie Sharpe, Terrance Bond, T.O. Helton,
John Lucas, Kim Millsaps, Brent Rowell, Mike Hamlin, Erin Bennett, Joe
Procheska, John Phillips, Bill Giannini, Michael Driver, Sam Payne, and
Judy Elmore

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

Roll Call – Ms. Whaley then called the roll. All five (5) board members were present.

Notice of Meeting – Ms. Whaley 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 October 25, 2013. This meeting was also noticed on tn.gov’s public meeting calendar.

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

Minutes – Mr. Harb made a motion to approve the minutes of the September 11, 2013 meeting, seconded by Ms. Dixon. **MOTION CARRIED.**

LEGAL REPORT - CHRIS WHITTAKER, ASSISTANT GENERAL COUNSEL

Mr. Whittaker presented the following legal report for the Commission's consideration:

1. 2013007081

Year License Issued: 2005
License Expiration Date: 06/07/2015

The complaint alleges that the Respondent engaged in deceptive and misleading practices and while attempting to collect a debt because the Respondent failed to perform a sufficiently detailed investigation as to whether the Complainant, whose first and last name are extremely common, was the correct debtor. The Respondent stated that, as soon as it learned that the Complainant was not the correct debtor, it took all steps necessary to discontinue the legal process and make the necessary corrections to the Complainant's credit report. The investigation revealed insufficient evidence to substantiate any violation(s) of applicable state and/or federal law. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

2. 2013010691

Year First Licensed: 2007
License Expiration: Voluntarily Surrendered 06/28/2013

The complaint alleges that the Respondent failed to timely provide an accurate balance sheet upon request by Board staff. It appears that, after the complaint was opened, the agency surrendered its license and advised the Board in writing that it no longer intended to do business in Tennessee.

Recommendation: Dismiss the complaint.

3. 2013010711

Year First Licensed: 2011
License Expiration: 03/09/2015

The complaint alleges that the Respondent failed to submit all financial information required as part of the agency's license renewal application. The investigation revealed that the Respondent, in its initial timely response to the Board, supplied the required information and that the Board staff's follow-up request for information was based on an incorrect math calculation which appeared to show that the Respondent had more liabilities than assets. At all relevant times, the Respondent had more assets than liabilities and timely responded to the Board staff's inquiries. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

4. 2013010721

Year First Licensed: 2000

License Expiration: 12/31/2014

The complaint alleges that the Respondent failed to submit all financial information required as part of the agency's license renewal application. The investigation revealed that the Respondent did ultimately supply the required information. However, a Letter of Warning is recommended to admonish the Respondent to submit all necessary financial information to the Board as part of its license renewal application in a timely manner.

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

5. 2013010731

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

The complaint alleges that the Respondent failed to submit all financial information required as part of the agency's license renewal application. The investigation revealed that the Respondent timely responded to the Board, but that the submitted documentation was not located by the Board staff until after a complaint had been opened. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

6. 2013010741

Year First Licensed: 2011
License Expiration: 02/16/2015

The complaint alleges that the Respondent failed to submit all financial information required as part of the agency's license renewal application. The investigation revealed that, to date, the requested information has not been received.

Recommendation: Formal hearing for the revocation of the Respondent's license with authority to settle via Consent Order upon payment of a civil penalty of Two Hundred and Fifty Dollars (\$ 250.00) and a requirement that, as part of the settlement, the Respondent provide the additional financial information requested by the Board that is necessary to complete its application.

7. 2013010771

Year First Licensed: 2011
License Expiration: 03/09/2015

The complaint alleges that the Respondent failed to submit all financial information required as part of the agency's license renewal application. The investigation revealed that the Respondent did ultimately supply the required information. However, a Letter of Warning is recommended to admonish the Respondent to submit all necessary financial information to the Board as part of its license renewal application in a timely manner.

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

8. 2013010781

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

The complaint alleges that the Respondent failed to submit all financial information required as part of the agency's license renewal application. The investigation revealed that the Respondent did ultimately supply the required information. However, a Letter of Warning is recommended to admonish the Respondent to submit all necessary financial information to the Board as part of its license renewal application in a timely manner.

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

9. 2013010791

Year First Licensed: 1996
License Expiration: 09/26/2014

The complaint alleges that the Respondent failed to submit the updated surety bond coverage information required as part of the agency's license renewal application. The investigation revealed that the Respondent did ultimately supply the required information. However, a Letter of Warning is recommended to admonish the Respondent to submit all necessary information to the Board as part of its license renewal application in a timely manner.

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

10. 2013010801

Year First Licensed: 2002
License Expiration: 10/27/2014

The complaint alleges that the Respondent failed to submit the updated surety bond coverage information required as part of the agency's license renewal application. The investigation revealed that the Respondent timely provided that information to the Board, but that the submitted documentation was not located by the Board staff until after a complaint had been opened. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

11. 2013010811

Year First Licensed: 2012
License Expiration: 06/13/2015

The complaint alleges that the Respondent failed to submit all financial information required as part of the agency's license renewal application. The investigation revealed that the Respondent timely responded to the Board and that the required financial information was included with another letter sent by the Respondent advising the Board of a minor change in organizational structure (which did not require a new license), but that the submitted

documentation was not located by the Board staff until after a complaint had been opened. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

12. 2013011051

Year First Licensed: 2013
License Expiration: 05/09/2013

The complaint alleges that the Respondent failed to validate the alleged debt in question despite receiving a written request from the Complainant for validation. The investigation revealed that the Respondent did attempt to validate the debt with its client, that it was unable to do so, and as a result, that the Respondent closed the account and deleted all adverse entries related to the account from the Complainant's credit report. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

13. 2013012131

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

The complaint 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. However, it appears that the Respondent was required to have submitted to the Board a written response to the complaint within twenty (20) days of the complaint being sent, and the Respondent appears to have submitted its response twenty-three (23) days after the complaint was sent. As such, a Letter of Warning is recommended.

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

14. 2013012641

Year First Licensed: 2011
License Expiration: 01/11/2015

The complaint alleges that the Respondent failed to credit payments made to the Complainant's account, that the Respondent failed to agree to payment terms offered by the Complainant on the alleged debt in question, and that the Respondent falsely communicated information to the Complainant's doctor which resulted in the doctor dropping the Complainant and his wife as patients. The investigation revealed that the Respondent did properly credit the payments made by the Complainant to the Complainant's account. Further, failure by the Respondent to agree to payment terms offered by the Complainant is not a violation of applicable state or federal law for which the Respondent may be disciplined. The Complainant's final allegation is that the Respondent falsely reported to the police and to his doctor's office that he made threats against an employee of the agency and/or against the agency itself, thereby resulting in the Complainant's doctor dropping the Complainant and his wife as patients. The

Complainant admits that he was upset during one or more of his phone calls to the agency, but states that he made no such threats and that he does not know why the agency said that he did. In response, the agency offered affidavits from the employee in question and the owner of the agency to the effect that the Complainant asked for the Respondent's address, stated that he had a gun, and said that he would come to the agency's office with his gun. The agency further offered the police report it filed and a letter from the doctor's office discharging the Complainant and his wife as patients out of concern for the safety of the doctor's office staff. Additionally, the agency advised that, while all phone calls to and from the phones of its collectors are recorded, the Complainant called the agency's general switchboard number which does not record phone calls. Therefore, it appears that no recording of the phone call(s) in question exists. It is noteworthy that the agency has been in business for many years and that it has never even encountered a situation like this one until now. In summary, there appears to be insufficient proof on file, in existence, and/or otherwise available such that the Complainant could substantiate any violation(s) of applicable law even if this matter were to proceed to a formal hearing. As such, dismissal is recommended. Board member Elizabeth Trinkler recused herself from the consideration of and the voting on this matter due to her potential personal knowledge of the facts and circumstances surrounding this complaint.

Recommendation: Dismiss the complaint.

15. 2013012931

Year First Licensed: 2002
License Expiration: Voluntarily Surrendered 08/08/2013

The complaint alleges that the Respondent has engaged in harassing phone calls by continuing to call the Complainant even after the Complainant notified the Respondent that she was not the correct debtor. The investigation revealed that the Respondent, immediately upon being notified that the Complainant was not the correct debtor, removed the Complainant's phone number from its system, closed the account in question, and stated that it will not engage in any further attempts to collect on this account. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

16. 2013013151

Year First Licensed: 2011
License Expiration: 03/22/2015

The complaint alleges that the Respondent has engaged in harassing phone calls by continuing to call the Complainant even after the Complainant notified the Respondent that she was not the correct debtor. The investigation revealed that the Respondent, immediately upon being notified that the Complainant was not the correct debtor, removed the Complainant's phone number from its system, closed the account in question, and stated that it will not engage in any further attempts to collect on this account. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

17. 2013013671

Year First Licensed: 1993

License Expiration: 12/31/2014

The complaint alleges that the Respondent violated the Fair Credit Reporting Act by placing adverse entries on the Complainant's credit report regarding debts that the Complainant states that she paid in full. The investigation revealed that the Respondent validated the debt with its client twice, and each time, the Respondent's client advised that the debt had not paid and was still owed. However, since the Respondent could not determine the full truth and accuracy of the situation, it elected to close the account in question, return the account to its client, and delete all adverse credit entries placed on the Complainant's credit report. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

18. 2013013681

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

The complaint alleges that the Respondent attempted to collect a debt that the Complainant does not owe. The investigation revealed that the Respondent, upon request by the Complainant, validated the debt and found that the debt was legitimate and still owing. However, because the Complainant and Respondent disagreed as to the exact time at which the debt in question became due and owing from the Complainant, the Respondent elected to close the account, write off the entire balance, and not to attempt to collect the alleged debt from the Complainant. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

19. 2013013851

Year First Licensed: 1988
License Expiration: Voluntarily Surrendered 10/29/2013

The complaint alleges that the Respondent violated the terms of an agreed upon payment plan by withdrawing more than the agreed upon amount of money from the Complainant's account on more than one occasion. The Respondent investigated the Complainant's allegations and determined that it had, in fact, double debited more than one payment on accident due to an apparent technical glitch in its new software system. As such, the Respondent immediately refunded all of the money it had wrongfully withdrawn and apologized to the Plaintiff for any inconvenience. The Complainant submitted a letter stating that she was satisfied with the Respondent's handling of the situation and that she now considers the matter closed. Additionally, the Respondent voluntarily surrendered its license on 10/29/2013. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

20. 2013013861

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

The complaint alleges that the Respondent attempted to collect a debt that the Complainant (a doctor) does not owe because the debt in question belonged to a patient of the Complainant, not to the doctor himself. The investigation revealed that the Respondent received a cease and desist communication request from the Complainant and that it complied with that request. Further, the Respondent did attempt to validate the debt in question with its client, but the client never provided the Respondent with the requested validation information. Therefore, the Respondent closed the account and returned it to the client, has not attempted collection of the account since then, and did not report the account to the credit bureaus. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

21. 2013014571

Year First Licensed: 2008
License Expiration: 11/19/2014

The complaint alleges that the Respondent failed to submit all financial information required as part of the agency's license renewal application. The investigation revealed that the Respondent did timely supply the required information to the Board staff via e-mail, but that the e-mail in which the required information was submitted was inadvertently not included in the legal complaint file which was opened and sent to Board counsel. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

22. 2013015011

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

The complaint alleges that the Respondent failed to submit all financial information required as part of the agency's license renewal application. The investigation revealed that the Respondent did ultimately supply the required information. However, a Letter of Warning is recommended to admonish the Respondent to submit all necessary financial information to the Board as part of its license renewal application in a timely manner.

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

23. 2013015021

Year First Licensed: 2007
License Expiration: 04/29/2013

The complaint alleges that the Respondent failed to submit all financial information and proof of surety bond coverage as required as part of the agency's license renewal application. The investigation revealed that the Respondent, to date, has not submitted the requested information. Moreover, the Respondent's license expired on 4/29/13, which means that the Respondent could have late renewed its license on or before 6/28/13 (60 days from the date of

the expiration of its license). Because the Respondent did not submit all required license application information before the expiration and late renewal deadlines, it must submit a new application if it wishes to do business in Tennessee in the future. Given the severity of the sanction requiring a new license, dismissal of this complaint is recommended.

Recommendation: Dismiss the complaint and flag the Respondent's licensing file to indicate that it must submit a new application and obtain a new license if it wishes to do business in Tennessee in the future.

24. 2013015151

Year First Licensed: 2008
License Expiration: 08/13/2014

The complaint alleges that the Respondent engaged in harassment while attempting to collect a debt. The investigation revealed that the Complainant's issue was mostly with another unaffiliated company, that there is insufficient evidence to substantiate the Complainant's allegation of harassment, and that the Respondent agreed to and did accept the Complainant's offer of settlement (less than 10% of the amount owed) as payment in full. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

25. 2013015721

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

The complaint alleges that the Respondent, a non-licensee, attempted to collect a debt without proper licensure to do so. The Respondent admitted that it attempted to collect the debt in question but did not believe it was required to obtain a license based on an erroneous legal interpretation. Upon receiving the Board's complaint, the Respondent immediately closed the account in question, returned the account to its client, submitted a license application to the Board, and agreed not to attempt to collect any debts in Tennessee until it obtains a license.

Recommendation: Close this complaint upon the issuance of a Letter of Warning with Cease and Desist language stating that the Respondent may not collect debts in Tennessee until and unless it obtains proper licensure to do so.

MOTION: Mr. Hellmann made a motion to accept the Legal Report as amended, seconded by Ms. Dixon. Ms. Trinkler recused herself from voting on this matter. **MOTION CARRIED.**

FINANCIAL REVIEW – BILL GIANNINI, ASSISTANT COMMISSIONER OF THE DIVISION OF REGULATORY BOARDS

Mr. Giannini presented a copy of the closing budget for the 2012-2013 fiscal year and the previous three fiscal years for comparison. He advised the number of collection agency applications have increased since the recent elimination of the location manager license requirements. He advised it would require some time to monitor the applications received to

identify a trend but he speculates the fiscal impact will certainly be less than anticipated. After some discussion, Ms. Dixon made a motion to approve the budget report as presented. The motion was seconded by Ms. Trinkler. **MOTION CARRIED.**

ADMINISTRATIVE REPORT – KIMBERLY WHALEY, ACCOUNTANT 3

Complaint Comparison Report - Ms. Whaley presented a comparison of the complaints pending in November 2012 to those currently pending. She also advised the Department's performance measure for complaint processing sets a benchmark requiring at least seventy-five percent (75%) of complaints to receive formal action by the Board within one hundred eighty (180) days of receipt. She further advised the Collection Service Board's current performance measure of ninety percent (90%) exceeds the benchmark.

Nationwide Cooperative Agreement for State Governance for Non-Depository Supervision

– Ms. Whaley advised the North American Collection Agency Regulators Association (NACARA), of which the Tennessee Collection Service Board is a member, recently voted to approve a nationwide cooperative agreement for state governance of non-depository supervision. Mr. Whittaker advised the agreement passed although Tennessee abstained from voting as the information was received after the last meeting. He further advised the agreement does not directly affect Tennessee but wanted to make the Board aware of it.

Request for Review – Attorney Exemption – Ms. Whaley presented a letter from a law firm requesting an opinion from the Board as to whether or not their business practices would be exempt for licensure as a collection service agency. After some discussion, Mr. Hellmann made a motion to defer a decision pending the receipt of additional information as requested by the Board. Mr. Harb seconded the motion. **MOTION CARRIED.**

Request for Review / Determine – License Requirement Based on Business Practices – Mr. Whittaker requested and the Board agreed to defer this matter until their next meeting.

Balance Sheet – Review / Discussion – Mr. Whittaker requested the Board defer this matter to allow him time to research the requirements and obtain additional information as requested by the Board. Mr. Harb made a motion to defer the review until the Board's next meeting, seconded by Ms. Dixon. **MOTION CARRIED.**

The Board recessed for break at 10:15 a.m. and reconvened at 10:20 a.m.

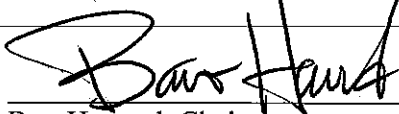
NEW BUSINESS OR UNFINISHED BUSINESS:

Chairman Howard announced the recent retirement of Executive Director Donna Hancock and commended her service to the Board.

Collection Agency Application Reviews – Chairman Howard presented three (3) collection agency applications for review. Legal counsel was in attendance and made presentations for discussion. A court reporter was present to transcribe the proceedings/discussion. A copy of the transcript is on file with the administrative office of the Tennessee Collection Service Board. At the conclusion of the presentations by counsel, the Board voted unanimously to take the

applications under advisement in order to allow sufficient time for the Board to review the documents submitted by counsel relative to the applications and to advise the applicants of the Board's decision as promptly as possible.

ADJOURN: Upon completion of the agency application reviews and there being no further business to discuss, the meeting adjourned at 12:47 p.m.

A handwritten signature in black ink, appearing to read "Bart Howard", written over a horizontal line.

Bart Howard, Chairman