



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
COLLECTION SERVICE BOARD
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1741

May 13, 2015
Minutes
First Floor Conference Room (1-B)
Davy Crockett Tower

The Tennessee Collection Service Board met on May 13th, 2015, in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairman Bart Howard called the meeting to order at 9:30 a.m. and the following business was transacted. Ms. Whaley called the roll; three board members were present.

BOARD MEMBERS PRESENT

Bart Howard, Chairman
Elizabeth Trinkler, Vice-Chairman
Steve Harb

BOARD MEMBERS ABSENT

Elizabeth Dixon
Chip Hellmann

STAFF MEMBERS PRESENT

Kimberly Whaley, Director of Licensing
Keeling Baird Gamber, Assistant General Counsel

Notice of Meeting – Ms. Whaley read the following statement for the record, “this meeting’s date, time and location have been notice on the Tennessee Collection Board’s website, included as part of this year’s meeting calendar since August 4, 2014. Additionally, the agenda for this month’s meeting has been posted on the Tennessee Collection Service Board’s website since May 7, 2015. This meeting was also noticed on tn.gov’s public meeting calendar.

ADOPT AGENDA

Ms. Trinkler made a motion to adopt the agenda. It was seconded by Mr. Harb. The motion carried unopposed.

MINUTES

The March 11, 2015 minutes were reviewed. Ms. Trinkler made the motion to accept the minutes as written. It was seconded by Mr. Harb. The motion carried unopposed.

LEGAL REPORT

1. 2014018131

Year First Licensed:	2013
License Expiration:	8/13/2015

This complaint alleges that Respondent failed to timely submit to the Board proof of current surety bond coverage as required by law. Respondent’s bond expired on July 1, 2014. The investigation revealed that the Respondent experienced internal procedural errors (misrouted

correspondence, late arrival of mail etc.) which led to the delay in providing proof of surety bond coverage to the Board. This licensee has not had any prior disciplinary action imposed against it by the Board. This Respondent provided written assurance that the issues which led to the delay in timely providing proof of surety bond coverage to the Board have been fixed to prevent this from happening again. However, Respondent never submitted proof of current coverage to the Board, and currently, is without proper surety bond coverage.

Recommendation: Counsel recommends the authorization of a civil penalty in the amount of Two-Hundred Fifty Dollars (\$250) for failure to timely provide proof of current surety bond coverage to the Board, to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

DECISION: Board authorized a civil penalty in the amount of Two Hundred Fifty Dollars (\$250), plus proof of surety bond or Letter of Credit within thirty (30) days of execution of the Consent Order.

2. 2014026781

Year First Licensed:	2013
License Expiration:	7/4/2015

This complaint alleges Respondent has contacted Complainant, instead of Complainant's attorney, after being given notice not to do so. In addition, the complaint alleges that Complainant disputed the debt and requested verification of said debt, however, Respondent has failed to give Complainant verification. On June 16, 2014, Complainant's attorney sent Respondent a letter directing them to cease all contact with Complainant, disputing the alleged debt, and requesting written verification of the debt. On July 29, 2014, Complainant alleges that Respondent directly sent him another collection notice, despite his attorney's directive. On August 12, 2014, Complainant's attorney sent another letter to Respondent, urging Respondent to provide written verification of the alleged debt, and informing Respondent that it was in violation of the Fair Debt Collection Practices Act, 15 USC 1692(c), which provides that a debt collector may not communicate with a consumer in connection with the collection of any debt if the debt collector knows the consumer is represented by an attorney with respect to such debt. On October 3, 2014, Respondent sent Complainant another collection notice, but no verification.

Respondent failed to send a response to the complaint.

Legal counsel contacted Complainant's attorney on March 4, 2015. The call was not returned by counsel for Complainant.

Recommendation: Counsel recommends the authorization of a civil penalty in the amount of five hundred dollars (\$500) to be satisfied within thirty (30) days of execution of the Consent Order for violation of T.C.A. 62-20-115(b)(5). The statute states in pertinent part, "The board may suspend, revoke, or refuse to renew any license held under this chapter for any of the following causes: (5) Failing to comply with any applicable state or federal law or regulation pertaining to the credit and collection industry. Such terms are to be settled by Consent Order or Formal Hearing.

DECISION: Board authorized a Four Thousand Dollar (\$4,000) civil penalty to be satisfied within thirty (30) days of execution of the Consent Order.

3. 2014026981

Year First Licensed: (unlicensed)
License Expiration: (unlicensed)

This complaint alleges that Respondent has called Complainant, a Tennessee consumer, daily for someone that gave Complainant's phone number to Respondent. Complainant stated he does not know this person and never has heard of him. Respondent is not licensed with the Collection Service Board in Tennessee. Complainant attached a list in the file, documenting the number of times Respondent has called him from September 1, 2014 to October 3, 2014. The list contains approximately 100 phone calls from Respondent.

Respondent failed to respond to the complaint.

Recommendation: It appears that Respondent company, while unlicensed in Tennessee, is collecting its own debts as they pertain to automobile loans. There is insufficient evidence to prove a violation on the part of Respondent. Thus, counsel recommends that this matter be **Dismissed**.

DECISION: Board approved Counsel's recommendation.

4. 2014026991

Year First Licensed: (unlicensed)
License Expiration: (unlicensed)

This complaint alleges Respondent called Complainant on June 6, 2014, stating he was an investigator for the State of Tennessee, investigating a criminal complaint against Complainant and gave her a case number and a phone number. Complainant alleges that the caller wanted her to verify who she was. Complainant alleges that she asked the caller what the call was concerning, as she did not want to give any personal information to anyone. Complainant alleges that the caller begin to yell and stated that she could either verify the information or he would just forward this information to the State's attorney and he would be on her door step to arrest her if she did not verify who she was. Respondent is not licensed with the Tennessee Collection Service Board. Complainant alleges that she googled the phone number given to her by the caller, and it showed it was placed in Texas. Complainant alleges she found no connection with the State of Tennessee. Complainant then found out that the caller was an investigator that did work in Tennessee, but he also handled cases in Kentucky and a few other states. Complainant alleges she also received an email stating that a criminal complaint was about to be filed against her, with no explanation as to what the complaint was for. The website that was cited in the email contained the name of Respondent mediation service, but it appeared to be mediation in regards to family services. There is no mention of any sort of bill collections or criminal complaints, etc. Complainant states she is not sure if this is regarding a medical bill because she does not have a lot of those, currently. However, threatening her with being arrested and personal visits to her door has caused her a lot of stress and anxiety. Complainant alleged several violations of the Fair Debt Collection Practices Act. Complainant filed additional information with this office on January 23, 2015, stating that since the complaint was filed, she has been receiving more harassing phone calls from different organizations pertaining to the same thing. Complainant claims it is the same person making all the calls, but stating that he is claiming to represent various collection agencies.

Respondent failed to respond to the complaint.

Recommendation: The individual making the calls to the Complainant never identified himself as working for or in conjunction with Respondent mediation company. No violation was found on the part of Respondent mediation company, and it was never found that Respondent company was attempting to collect a debt from Complainant. As such, Counsel recommends that this matter be **Dismissed**.

DECISION: Board approved Counsel's recommendation.

5. 2014028551

Year First Licensed: (unlicensed)

License Expiration: (unlicensed)

This complaint was filed alleging Respondent violated T.C.A. 62-20-115(b)(5) and the Fair Debt Collection Practices Act, 15 USC 1692(b) and (e) by contacting Complainant's father-in-law on 2 separate occasions regarding a debt Complainant owed to a check cashing company. Complainant alleged Respondent told her father-in-law that unless Complainant called back, she was issuing an arrest warrant. Complainant stated she called Respondent and asked what company Respondent was working with, and Respondent stated she was not working with a company; rather she was working alone. Respondent also alluded to the fact that she used to work for a collection agency but that she had taken over the accounts and was working on her own, currently.

Respondent filed a response to the complaint, admitting that she did call Complainant on October 31, 2014, regarding a check that Complainant wrote on a closed account, but stating she told Complainant that she was working for a check cashing company to try and get people to pay for their returned checks. Respondent also stated she did not threaten the Complainant in any way. Respondent stated she never threatened to issue a warrant for Complainant's arrest. Respondent stated she did tell her that a civil warrant could be issued for both Complainant and her husband as this is a joint checking account from which the bad check was written. Respondent also sent proof of an email from Complainant to the check cashing service stating that she currently has an outstanding check with the company, and she wants to repay the money she owes; however, she cannot pay it all at once. Complainant stated in the email that she could pay \$10 a week toward her arrears. Once they decide to give her work hours back, she can increase the payment. Complainant enclosed a money order in the amount of \$10 as a "good faith" payment.

Subsequently, Complainant sent written correspondence to Respondent's company, stating that pursuant to her federal rights under debt collector laws, Complainant is requesting that Respondent cease and desist communication with her, as well as her friends and family, in relation to this debt and all other alleged debts that Respondent claims Complainant owes.

Recommendation: Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) to be satisfied within thirty (30) days of execution of the Consent Order for unlicensed conduct. Such Consent Order is to contain Cease and Desist language applicable to the Respondent and any agents working on its behalf prohibiting the Respondent and its agents from collecting debts in Tennessee until and unless appropriate licensure is obtained. Such terms are to be settled by Consent Order or Formal Hearing.

DECISION: Board deferred the matter to the May meeting for further investigation.

Ms. Trinkler made a motion to adopt the recommendations as modified; Mr. Harb seconded the motion. The motion carried.

ADMINISTRATIVE REPORT – KIMBERLY WHALEY DIRECTOR OF LICENSING

Complaint Comparison Report – Ms. Whaley presented the Board’s performance measure. She stated that the report showed 56 open complaints and the performance measure is 93.33%. Ms. Whaley state that there has been an increase in complaints due to bonds expiring.

Budget Report – Ms. Whaley presented a revenues and expense for the current fiscal year through March 2015 for the Board’s reference.

APPLICATION REVIEWS

Renewal - Paladin Commercial Group Inc. (1144)

Ms. Whaley presented this collection agency renewal application for the Board’s review and consideration. The applicant stated that they do not have a CPA because they are not required to have a license in Colorado. After some discussion the board determined that the applicant must have a CPA.

Vote: Ms. Trinkler made a motion to make this a requirement of this applicant. The motion seconded by Mr. Harb. The motion carried.

Initial/Reapply – Commercial Services Group, Inc. (752)

Ms. Whaley presented a collection agency application for the Board’s review and consideration. The applicant’s assets did not meet or exceed their liabilities. After some discussion the board determined the application should be approved.

Vote: The motion was made by Ms. Trinkler. The second was made by Mr. Harb. The motion carried.

Initial/Reapply – Dedicated Commercial Recovery, Inc. (1840)

Ms. Whaley presented a collection agency application for the Board’s review and consideration. The applicant provided a letter from their CPA, but not a compiled, reviewed or audited financial statement. After some discussion the board determined the application should be approved.

Vote: The motion was made by Ms. Trinkler. The second was made by Mr. Harb. The motion carried.

Renewal Update: Ms. Whaley provided an update on the number of agencies that have surrendered since the last meeting.

Legislative Report: Ms. Whaley provided the board with Public Chapter 291 which removes the (six month) budget requirement on new applications.

NEW BUSINESS

Ms. Whaley presented an email question to the board for consideration from a David Hicks regarding the definition of “collection service” per T.C.A. 62-20-102 (3) and the date the new amendment to the statute becomes effective.

Having no further business, Mr. Howard adjourned the meeting.