



**COLLECTION SERVICE BOARD
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-3600**

**Board Meeting Minutes for August 16, 2017
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Collection Service Board met on August 16, 2017, in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Harb called the meeting to order at 9:32 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Steve Harb, Josh Holden, Bart Howard.

BOARD MEMBERS ABSENT: Angela Hoover, Chip Hellmann.

STAFF MEMBERS PRESENT: Roxana Gumucio, Glenn Kopchak, Matthew Reddish,
Ashley Thomas, Lindsey Shepard.

ROLL CALL / AGENDA

Mr. Howard introduced the new member of the board, Mr. Josh Holden. After the introduction and welcome, Mr. Harb motioned to adopt the agenda as written. This was seconded by Mr. Holden. The motion carried by unanimous vote.

NOTICE OF MEETING

Director Glenn Kopchak provided the notice of meeting.

MINUTES

Mr. Harb made a motion to adopt the minutes from the June 14, 2017 meeting as written. Mr. Holden seconded. The motion was carried by unanimous vote.

DIRECTOR'S REPORT

Director Kopchak read June's revenues and expenditures into the record. He also read in the Year End budget reports. At this time, Mr. Howard inquired as to the total number of licensees supervised by the board. Once collected, the results will be presented at the next board meeting. Mr. Holden inquired as to the nature of the net deficient represented in the month of February. Director Kopchak explained that was a result of a large refund for solicitor cards that were printed in error. Director Gumucio further elaborated that many of our out-of-state applicants have requested more solicitor cards than necessary due to a misinterpretation of statute. Director Gumucio further explained how administration has attempted to remedy by further clarifying both on the website and on the application.

Director Kopchak introduced the new staff attorney assigned to the board, Ms. Ashley Thomas. Ms. Thomas addressed the Board and was welcomed by the members.

Director Kopchak discussed TCA 62-20-104(e) which requires an annual election of officers to fill the following roles: chair, vice chair and secretary. It was decided by the Board to hold that election of officers at the next board meeting.

Director Kopchak noted that past anonymous complaints with no identifying information or those that lacked enough supporting information to warrant an investigation were never referred. Recently, it has been decided that each of those will be opened, and then closed if no corroborating information is provided. This will assist administration in tracking the volume. At the next board meeting, administration will request the Board to vote on granting support services the authority to close these complaints without bringing each to the Board.

LEGAL REPORT



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
TELEPHONE: (615) 741-3072
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TO: Tennessee Collection Service Board
FROM: Lindsey Shepard, Assistant General Counsel
Matthew Reddish, Assistant General Counsel
DATE: August 16, 2017
SUBJECT: August 2017 Legal Report

1. 2017025141

Status: Active
First Licensed: 9/16/1986
License Expiration: 12/31/2018
Disciplinary History: 2006 Letter of Warning; 2010 Letter of Warning; 2010 Consent Order

Complaint alleges Respondent attempted to collect a debt that he does not owe. Respondent submitted a request for proof that debt was owed but states it was never received. Respondent states proof was sent and that this is tied to a medical bill owed by Complainant. Investigation conducted to determine whether any violation occurred. Investigation found that Respondent has provided proof of the debt and that Complainant has received this proof. Complainant states it must have been his wife that took their child to the pediatrician because he has no recollection of it.

Recommendation: Close

Board Decision: CONCUR

2. 2017033941

Status: Active

First Licensed: 9/11/1997

License Expiration: 12/31/2018

Disciplinary History: 2007 Letter of Warning; 2008 Consent Order; 2009 Letter of Warning; 2016 Consent Order

Complaint alleges Respondent has failed to provide proof of debt as requested. Complaint also alleges Respondent called Complainant more times than allowed by law. Respondent states that multiple proof of debt letters have been sent and none have been returned. Additionally, Respondent provided proof that the debt in question is tied to a credit card balance unpaid by Complainant and ultimately charged off by Credit Card Company. Regarding the excess phone calls, Respondent states all calls were placed between 8:00 am and 9:00 pm as allowed by law. Complainant states additional phone calls came from area codes 931, 732, and 402. Respondent states these numbers are not associated with them. Complainant states Respondent failed to leave voicemails regarding what calls were for. Respondent stated they have a strict voicemail policy to ensure no confidential information is disbursed. Complainant's requested resolution is that a letter of debt be sent, Respondent has provided multiple credit card statements as proof of debt.

Recommendation: Close

Board Decision: CONCUR

3. 2017026771

Status: Unlicensed

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None

Complaint alleges Respondent scared them into paying for a pay day loan and threatening arrest if not paid. Complainant is a California resident and Respondent is based in New York. Legal found no evidence of a connection with Tennessee outside that Complainant used to live in Tennessee prior to moving to California.

Recommendation: Close

Board Decision: CONCUR

4. 2017028791

Status: Active

First Licensed: 9/01/2005

License Expiration: 12/31/2018

Disciplinary History: None

Complaint alleges Respondent was rude to them on collection calls and was charging an interest rate above what is legal. Respondent, in their Response, states they will cease collecting interest on the balance in an effort to resolve the matter. A review of the financial information provided by Respondent shows that interest rate alleged by Complainant is not in violation of state usury laws.

Recommendation: Close

Board Decision: CONCUR

5. 2017026671

Status: Unlicensed
First Licensed: N/A
License Expiration: N/A
Disciplinary History: None

This case arises out of a consumer complaint disputing the validity of a debt and alleging unlicensed activity. Complainant received a phone call from an unidentified third party claiming that they were ready to file suit for an unpaid payday loan due to Respondent. Complainant does not allege that Respondent participated in any collection activity.

Recommendation: Close

Board Decision: CONCUR

6. 2017027251

Status: Active
First Licensed: 9/02/2014
License Expiration: 11/05/2018
Disciplinary History: None

This case arises out of a consumer complaint alleging Respondent added a 25% fee to her outstanding debt. Respondent was collecting on a traffic ticket Complainant received in Colorado. Complainant did not pay her ticket or appear in court. A judgment was issued against Complainant. The 25% fee was permissible under Colorado law.

Recommendation: Close

Board Decision: CONCUR

7. 2017022021

Status: Active
First Licensed: 12/14/2006
License Expiration: 12/13/2018
Disciplinary History: 2011 Consent Order; 2012 Letter of Warning;

This case arises out of a consumer complaint. Complainant alleges she paid the settlement amount, but Respondent refused to send documentation stating that the debt had been settled. Complainant paid her outstanding debt on April 7, 2017. She filed her complaint that same day. Respondent sent Complainant a settlement letter showing that her outstanding balance was \$0.00 on April 18, 2017.

Recommendation: Close

Board Decision: CONCUR

8. 2017024171

Status: Active
First Licensed: 3/14/2006
License Expiration: 3/13/2019
Disciplinary History: None.

This case arises out of an out-of-state consumer complaint disputing the validity of an out-of-state debt. It appears Complainant filed a complaint with all states in which Respondent is licensed. Specifically, Complainant alleges Respondent is collecting a medical debt for which Complainant did not sign a financial responsibility form. Respondent timely responded to the complaint and attached a copy of a financial responsibility form signed by Complainant.

Recommendation: Close, as this complaint is outside the Board's jurisdiction

Board Decision: CONCUR

9. 2017023461

10. 2017022071-

Status: Active
First Licensed: 4/28/2009
License Expiration: 4/27/2019
Disciplinary History: None

These are two cases that arise out of consumer complaints alleging unlicensed activity. Complainants allege that Respondent sent them initial notice letters without a valid license. Respondent has held a valid collection service license since 2009. It appears Complainants searched for Respondent's registered DBA name rather than the name on their license.

Recommendation: Close

Board Decision: CONCUR

11. 2017031901

Status: Active
First Licensed: 11-20-2008
License Expiration: 11-19-2018
Disciplinary History: 2017 – Consent Order
2016 – Letter of Warning

This case arises out of a consumer complaint alleging Respondent continued to contact Complainant after disputing the debt. Complainant received an initial notice letter for a medical debt on March 8, 2017. Complainant timely called Respondent and disputed the debt. Respondent verified Complainant's debt with the medical provider. The provider verified insurance payments and adjustments to reduce the balance. Respondent sent a second initial notice letter to Complainant with the new balance on March 23, 2017. Complainant sent a written request for validation on April 27, 2017. Respondent sent Complainant a letter on May 4, 2017, with additional information, including the date of service and provider's identity. The letter also included a Release Form for Complainant to sign so Respondent could obtain copies of pertinent medical records. Complainant did not sign it.

Recommendation: Close

Board Decision: CONCUR

12. 2017037781

Status: Unlicensed

First Licensed: n/a

License Expiration: n/a

Disciplinary History: None.

This case arises out of a consumer complaint alleging misconduct. Complainant alleges a debt collection company called her mother-in-law and left a message asking for Complainant to call. When Complainant called the phone number, the caller claimed she had a subpoena that needed to be served for a fraud claim. It appears Complainant googled the name of the company the caller stated she worked for and provided that company's contact information on her complaint.

A request for response was sent to Respondent, the company identified on the complaint. Respondent claims that it strictly operates as a non-judicial foreclosure agent in Nevada. Respondent denies any affiliation with Complainant's caller. Respondent further denies having an account open for anyone with Complainant's last name.

Recommendation: Close

Board Decision: CONCUR

13. 2017037081

Status: Active

First Licensed: 5/21/1996

License Expiration: 12/31/2018

Disciplinary History: 2005 Letter of Warning

This case arises out of a consumer complaint disputing a debt. Respondent sent Complainant two initial notice letters for two different debts. Upon receipt of the complaint, Respondent stated that both accounts had been marked as "forgery" in their database and closed.

Recommendation: Close

Board Decision: CONCUR

14. 2017039971

Status: Unlicensed

First Licensed: n/a

License Expiration: n/a

Disciplinary History: None.

This case arises out of a consumer complaint alleging misconduct. Complainant alleges Respondent left voicemails on both her mobile and work phone. When Complainant returned the phone call, Respondent's representative told Complainant her date of birth, last four digits of her social, and address. Complainant became uncomfortable that Respondent would reveal that information without first confirming her identity. Respondent's representative then told Complainant that she owed money on a payday loan. Complainant

verbally disputed the debt. Complainant then requested that Respondent cease communication. Respondent did not send her an initial notice letter.

Respondent admits that the caller was their employee and that he was attempting to collect on a debt. Respondent claims the employee has been disciplined and sent for sensitivity retraining. Complainant is a resident of Tennessee. Respondent is unlicensed in Tennessee.

Recommendation: \$1,000.00 civil penalty, with formal charges authorized, for violation of § 62-20-115(b)(4) (unlicensed collection service business)

Board Decision: CONCUR

15. 2017041071

Status: Active

First Licensed: 6/5/1999

License Expiration: 6/4/2019

Disciplinary History: None.

This case arises out of a consumer complaint alleging Respondent refused to accept her payment as settlement. Respondent responded to the complaint stating that they had accepted her payment and notified Complainant that her account had been settled.

Recommendation: Close

Board Decision: CONCUR

16. 2017034991

Status: Active

First Licensed: 4/23/2013

License Expiration: 4/22/2019

Disciplinary History: None

This case arises out of a consumer complaint disputing the validity of a debt. Respondent completed an investigation and closed Complainant's account.

Recommendation: Close

Board Decision: CONCUR

17. 2017035791

Status: Unknown

This case arises out of a consumer complaint alleging she is receiving automated debt collection phone calls. Complainant did not know the caller's identity. Legal was unable to identify the owner of the phone number.

Recommendation: Close

Board Decision: CONCUR

COMPLAINTS TO BE RE-PRESENTED TO BOARD

18. 2016066921

Status: Unlicensed
First Licensed: N/A
License Expiration: N/A
Disciplinary History: None

Complainant alleges unlicensed activity by the Respondent and states she was contacted by a person from the Respondent's firm who identified themselves on the voicemail recording and left a message stating they were a process server and the Complainant should consider herself served. The Complainant returned the telephone call and she was told to call another person at another telephone number. Complainant was advised that it was an old credit card debt and specified the creditor. The amount owed was \$2,647.00 and the Respondent offered a settlement of \$1,853.53. Since the Complainant was unable to pay the entire balance, she agreed to pay the past due debt in three installments in the amount of \$882.39 to be taken out of her checking account. After the first payment was made, the Respondent contacted the Complainant concerning the second payment and stated that the funds were not available in her bank account and the Complainant needed to verify the funds and confirm the funds were available. The Respondent demanded full payment immediately and the Complainant had her bank contact the Respondent to state the funds were in the account. The Complainant was advised by her bank that the Respondent's staff yelled at bank staff. The Complainant's bank suggested that this may be a scam and advised the Complainant not to pay the debt.

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 unlicensed conduct, which is in violation of **T.C.A 62-20-105(a)**. 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: CONCUR

Update:

All efforts to locate this company have resulted in mailings being returned. Recommend closing due to inability to locate respondent.

New Recommendation: Close

Board Decision: CONCUR

ADDENDUM

19. 2017040481 – National Check Resolution

UNLICENSED

Complaint history: None

This case arises out of a consumer complaint alleging unlicensed activity. Complainant alleges that Respondent called him, his in-laws, and his boss in an attempt to collect a debt. Complainant further alleges that Respondent left threatening voicemails. Respondent is a third-party debt purchaser exempt from the FDCPA. Respondent is not licensed in Tennessee.

In response to the complaint, Respondent states that Complainant's account was part of a portfolio it purchased. Respondent claims that it did not realize that the State of Tennessee was represented in the portfolio. After responding to the complaint, Respondent submitted a license application. That application is currently pending.

Recommendation: \$1,000.00 civil penalty, with formal charges authorized, for violation of T.C.A. § 62-20-105(a) (unlicensed debt collection).

Board Decision: CONCUR

The Board accepted the Legal report as written. Mr. Holden motioned. Mr. Harb seconded. The motion was carried by unanimous vote.

In response to the Supreme Court opinion on June 12, 2017 which diminished some of the authority of the Fair Debt Collection Practices Act (FDCPA) in regards to governance of debt purchasers who collect on their own behalf within the state of Tennessee, Legal proposed rules for consideration that adopt provisions of the FDCPA by rule which will effectively eliminate any exemption for debt purchasers within the state. Mr. Holden recommended two changes to the rules proposed. Mr. Harb made a motion to adopt the rules with the two changes suggested. Mr. Holden seconded. The motion was carried by unanimous roll call vote.

APPLICATION REVIEW

The Board reviewed the application for renewal by NexCheck. The Board determined that NexCheck is engaged in collections during the 30 day period before final payment is made to the client for purchase of the debt. As a result, they must have enough money in trust to cover their clients. The Board voted to deny the application for renewal. Mr. Harb motioned, and Mr. Holden seconded. The motion was carried by unanimous vote.

NEW BUSINESS

Mr. Howard reminded the Board that he and Director Kopchak will be representing the Board at the NACARA conference in Bellevue, WA for October 2-4, 2017. Mr. Howard stated that he looks forward to providing a report upon their return.

ADJOURNMENT

There being no other new business, Mr. Harb made a motion to adjourn. Mr. Holden seconded. The motion was carried by unanimous vote. Mr. Howard adjourned the meeting at 11:00 a.m.