



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

Board Meeting Minutes for February 7, 2018
First Floor Conference Room 1-B
Davy Crockett Tower

The Tennessee Collection Service Board met on February 7, 2018, in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Harb called the meeting to order at 9:40 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Steve Harb (teleconference), Josh Holden, Angela Hoover

BOARD MEMBERS ABSENT: Bart Howard, Chip Hellmann

STAFF MEMBERS PRESENT: Glenn Kopchak, Aisha Carney, Ashley Thomas,
Dennis Gregory, Carol McGlynn

NOTICE OF MEETING

Director Glenn Kopchak provided the notice of meeting and acknowledged that Mr. Howard was present for the meeting but was asked to appear before the Senate Government Operations Committee regarding a sunset hearing for the Collection Service Board. It was his intention to rejoin the meeting once the hearing had come to an end.

ROLL CALL / STATEMENT OF NECESSITY

Ms. Hoover motioned to adopt the statement of necessity. This was seconded by Mr. Harb. The motion carried by unanimous roll call vote.

AGENDA

Director Kopchak requested that the Legal Report be moved in front of the Director's Report in the interest of covering any actionable items in the event they were to lose one of their members on the phone and therefore lose quorum. Mr. Holden motioned to adopt the agenda as amended. This was seconded by Mr. Harb. The motion carried by unanimous roll call vote.

MINUTES

Mr. Holden made a motion to adopt the minutes from the January 8, 2018 meeting as written. Mr. Harb seconded. The motion was carried by unanimous roll call vote.

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
FACSIMILE: (615) 532-4750**

TO: Tennessee Collection Service Board
FROM: Dennis Gregory, Assistant General Counsel
DATE: February 7, 2018
SUBJECT: February 2018 Legal Report

1. 2017077961

Respondent:

Status: License - ACTIVE

First Licensed: 5/06/2005

License Expiration: 12/31/2018

Disciplinary History: None.

This complaint was filed, apparently, by an attorney representing the estate of the complainant's spouse. The Respondent sent the Complainant a collections letter regarding cable service in the deceased spouse's name. The letter included in the complaint was dated November 15, 2017. The spouse had died on April 11, 2014. The Respondent, in response to the complaint, closed the file and returned it to the creditor. There is no evidence in the file that multiple collections notices had been sent to the Complainant prior to the November 15, 2017 letter.

Recommendation: Close.

DECISION: CONCUR

2. 2017048801

Respondent:

Status: License - ACTIVE

First Licensed: 5/06/2005

License Expiration: 12/31/2018

Disciplinary History: None

Summary: The Complainant says she received two collections notices over the span of roughly a year stemming from a cell phone contract. The Complainant disputes the debt, but provides no specific reasons.

The Respondent acknowledges both the complaint and the Complainant's request to cease further communications with her. The Respondent indicates that they the account was placed with them for collections from the cell phone carrier. The Respondent now says they will return the matter to their client for further disposition. There are no apparent statutory or rule violations by the Respondent.

Recommendation: Close.

DECISION: CONCUR

3. 2017065751

Respondent:

Status: License - ACTIVE

First Licensed: 7/20/2007

License Expiration: 7/19/2018

Disciplinary History: None

Summary: The Complainant is a doctor's office. They received a refund request from the Respondent for a \$60.86 overpayment stemming from an insurance claim. The Complainant paid the amount, but then requested a receipt for IRS 1099 reasons. The Respondent has yet to respond to the Complainant.

The Respondent has not responded to this complaint either.

Recommendation: \$250 civil penalty and a Consent Order for failure of a licensee to respond to a sworn complaint in accordance with T.C.A. 62-20-115(3).

DECISION: CONCUR

4. 2017063181

Respondent:

Status: License - ACTIVE

First Licensed: 7/29/1999

License Expiration: 12/31/2018

Disciplinary History: None

Summary: The Complainant appears to owe a valid debt to a nation-wide cell phone provider. The Complainant claims he receives three phone calls a day from the Respondent.

The Respondent says they have never made contact with anyone at the number listed for the Complainant. While they did not state it, it appears that the Respondent was calling the number, but the Complainant was not answering. From the facts presented, it does not appear that the Respondent was violating any statutes or rules simply by calling the Complainant.

Recommendation: Close.

DECISION: CONCUR

5. 2017063281

Respondent:

Status: License - ACTIVE

First Licensed: 11/20/2008

License Expiration: 11/19/2018

Disciplinary History: 2014 Letter of Warning; 2017 Letter of Warning; 2017 Consent Order

Summary: The Complainant is disputing a sewage bill from a municipality. The Respondent's attorney provided a response in which he says that the account will be marked as "in dispute" and will also close the account as well. There appears to be no other issues with this complaint.

Recommendation: Close.

DECISION: CONCUR

6. 2017064361

Respondent:

Status: License - ACTIVE

First Licensed: 10/21/1987

License Expiration: 12/31/2018

Disciplinary History: *owes a fine*, 2010 Letter of Warning; 2010 Civil Penalty; 2012 Letter of Warning

Summary: The Complainant is a law firm. It alleges that a negotiated agreement was reached between the Complainant's client and the Respondent regarding the satisfaction of the Respondent's liens. A check was sent from the Complainant to the Respondent for \$2,497.08 in satisfaction of the liens. An additional check of \$2,478.27 was "inadvertently" enclosed in the same envelope made payable to a completely unrelated entity. The Respondent deposited both checks in its account. After the Complainant noticed the error, they began contacting the Respondent. According to the Complainant, the Respondent "refused" to return the additional check.

The Respondent admits they "inadvertently" deposited the additional check into their account. It also admits it took roughly two months in which to accomplish the return of the money. The reason for the delay appears to simply be inattention and too many levels of approval in order to send a check back.

Recommendation: Close.

DECISION: CONCUR

7. 2017064571

Respondent:

Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None

Summary: The complaint was filed by an attorney on behalf of a pending bankruptcy client. According to the complaint, the client received a phone call from a collector, saying they were an attorney. According to the client, the Respondent collector threatened criminal charges if the debt was not satisfied. The client claims to have no knowledge of the debt.

The Complainant's attorney then called the Respondent who denied having said he was an attorney. When the Complainant attorney asked for the Respondent's bar number, the Respondent told him to "shove it." There has been no further communication from the Respondent.

Recommendation: Close with Letter of Warning for unlicensed activity in violation of T.C.A. 62-20-105(a). The Respondent is unlikely to respond to any correspondence as it is most likely an unlicensed entity in whatever state it operates.

DECISION: CONCUR

8. 2017064761

Respondent:

Status: License - ACTIVE

First Licensed: 11/04/2014

License Expiration: 11/03/2018

Disciplinary History: None

Summary: The Complainant is represented by an attorney who filed the complaint. The Complainant appears to owe a valid debt. The debt stems from a contract that was entered into as part of the Complainant's business. The debt, therefore, appears to be commercial in nature and not subject to the Fair Debt Collections Practices Act (FDCPA). The Respondent has sent letters to the Complainant stating the correspondence is from a "Legal Department" (copies of letters were included).

The Respondent takes the view the FDCPA has no application, and that any mention of a "Legal Department" on a letter falls under the "Bona Fide Error Defense." The Respondent has since removed the reference to a legal department on their letters.

Recommendation: Close with Letter of Warning for violations of Rule 0320-2-02(1)(d) ("No collection service, or manager or solicitor hereof, shall state or imply that the collection service has a legal "department" or "affiliation").

DECISION: CONCUR

9. 2017064841

Respondent:

Status: License - ACTIVE

First Licensed: 12/01/2011

License Expiration: 11/30/2019

Disciplinary History: None

Summary: The Complainant is disputing a medical bill that was supposedly covered by a state Medicaid program. Complainant explains that the Respondent has called her personal phone over the course of 2017. The Complainant has also asked that the Respondent stop all collection calls.

The Respondent indicates that the subject account was not placed with them until August 2017. Further, the Respondent claims to have not spoken with a person regarding the account until September 26, 2017. The Respondent has now returned the account to the client and the matter is now closed with the Respondent.

Recommendation: Close.

DECISION: CONCUR

10. 2017065751**Respondent:****Status: License - ACTIVE****First Licensed: 7/20/2007****License Expiration: 7/19/2018****Disciplinary History: None**

Summary: This case is a duplicate of Complaint# 2017065751 above. The Complainant received a refund request from the Respondent for a \$60.86 overpayment stemming from an insurance claim. The Complainant paid the amount, but then requested a receipt for IRS 1099 reasons. The Respondent has yet to respond to the Complainant.

The Respondent has not responded to this complaint either.

Recommendation: Close as the case earlier already has a recommendation.

DECISION: CONCUR

11. 2017066741**Respondent:****Status: UNLICENSED****First Licensed: N/A****License Expiration: N/A****Disciplinary History: None**

Summary: This does not appear to be a collections matter. The Complainant had a timeshare contract that was taken over by a timeshare management company. From the complaint, it looks like they manage timeshares for people. The Respondent appears to be a “processing company” that simply collects the money for the timeshare management company. Apparently, the Complainant did not cancel the contract within the 21 day window, and so whatever fee applied, was taken out.

The Respondent is unlicensed as a collection agency, but as stated above, there does not appear to be any collection action here. At best, the Respondent would be exempt under T.C.A. 62-20-103(3).

Recommendation: Close.

DECISION: CONCUR

12. 2017067101**Respondent:****Status: License - ACTIVE****First Licensed: 5/21/1996****License Expiration: 12/31/2018****Disciplinary History: None**

Summary: The Complainant had four checks written on her account in July 2017 that she did authorize. The checks were used to purchase items at four different locations (all the same franchise). The bank credited the money back to the Complainant; however, the Respondent began calling the Complainant asking for information regarding the identity theft she sustained. The Respondent is acting

on behalf of the franchise chain where the checks were written. From what it looks like, the Complainant is just hypersensitive to giving out information to anyone after the incident.

The Respondent is not violating any statutes or rules. They say that they are trying to help the Complainant resolve the issue by getting her disassociated with the checks stemming from the incident. The Respondent is asking for a police report or affidavit from the Complainant to explain what occurred.

Recommendation: Close.

DECISION: CONCUR

13. 2017067591

Respondent:

Status: License - ACTIVE

First Licensed: 6/27/2017

License Expiration: 6/26/2018

Disciplinary History: 2018 Letter of Warning

Summary: The Complainant had a PayPal account that was used as part of corporation. The corporation was dissolved in 2016. The transaction that led up to this collection action took place in 2017. The Complainant claims to have notified PayPal that the account was closed and reported the matter as fraudulent. Eventually, the matter found its way to collections.

The Respondent says they have placed the account in a disputed status and closed the same. As of August 2017, the account has been returned to the original creditor.

Recommendation: Close.

DECISION: CONCUR

14. 2017068221

Respondent:

Status: License- ACTIVE

First Licensed: 10/26/1987

License Expiration: 12/31/2018

Disciplinary History: None

Summary: The Complainant has several accounts with the Respondent. In 2010, the Respondent obtained a civil judgement against the Complainant and Complainant's spouse. The first payment made was in July 2010 and the last payment was made in October 2013. These payments, however, only satisfied the judgments-not any of the other open accounts.

The Complainant continued to send money to the Respondent, which was then applied to other accounts still open. There appears to be a misunderstanding on the part of the Complainant as he believes he overpaid and should be refunded money. While the Respondent may have not explained full well what the Complainant owed after 2013, the money was applied to other open accounts with the Respondent.

Recommendation: Close.

DECISION: CONCUR

15. 2017068661

Respondent:**Status: UNLICENSED****First Licensed: N/A****License Expiration: N/A****Disciplinary History: None**

Summary: The Complainant says the Respondent is contacting her regarding a debt she knows nothing about. The Complainant has received no collection letters and did not include any attachments with the Complaint.

The Respondent is not licensed in TN and did not respond to the Complaint.

Recommendation: Close with Letter of Warning for unlicensed activity in violation of T.C.A. 62-20-105(a).

DECISION: CONCUR**16. 2017068841****Respondent:****Status: UNLICENSED****First Licensed: N/A****License Expiration: N/A****Disciplinary History: None**

Summary: The Complainant claims to be receiving calls from a collection agency stemming from a payday loan in 2014. The Complainant has also alleged that “someone” has called “pretending” to be a process server. The Complainant has never received a summons, so there is no way to know who actually called.

The Respondent is not unlicensed in TN and did not respond to the complaint.

Recommendation: Close with Letter of Warning for unlicensed activity in violation of T.C.A. 62-20-105(a).

DECISION: CONCUR**17. 2017068881****Respondent:****Status: UNLICENSED****First Licensed: N/A****License Expiration: N/A****Disciplinary History: None**

Summary: The Complainant alleges that she is receiving phone calls from a collection agency stemming from a payday loan. The Complainant says she never took out the loan. The Respondent claims to represent a client with a very generic sounding name. When asked for any account information, the Respondent says the statements were sent to the Complainant already. There is no physical address for the Respondent and the only point of contact found is an email address and fax number.

The Respondent is unlicensed in TN and did not respond to the complaint.

Recommendation: Close with Letter of Warning for unlicensed activity in violation of T.C.A. 62-20-105(a).

DECISION: CONCUR

18. 2017069231

Respondent:

Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None

Summary: The Complainant claims to be receiving phone calls from a collection agency. The Complainant does not acknowledge one way or the other whether he owes money to anyone. The Complainant provided no letters or attachments.

The Respondent is unlicensed in TN and did not respond to the complaint.

Recommendation: Close with Letter of Warning for unlicensed activity in violation of T.C.A. 62-20-105(a).

DECISION: CONCUR

19. 2017070381

Respondent:

Status: License - ACTIVE

First Licensed: 6/26/2009

License Expiration: 6/25/2019

Disciplinary History: None

Summary: The Complainant says he has received phone calls from a collection agency based in TN that is attempting to collect a debt from a medical bill. The Complainant resides out of state and says he has no knowledge of any medical bill from this hospital. The Complainant has also, apparently, asked for validation of the debt, but has yet to receive anything from the Respondent.

The Respondent has signed for the complaint, but has not responded.

Recommendation: \$250 civil penalty and a Consent Order for failure of a licensee to respond to a sworn complaint in accordance with T.C.A. 62-20-115(3) and failure to provide the requested validation under the Fair Debt Collections Practices Act (T.C.A. 62-20-115(b)(5)).

DECISION: CONCUR

20. 2017070491

Respondent:

Status: License - ACTIVE

First Licensed: 3/14/2006

License Expiration: 3/13/2019

Disciplinary History: None

Summary: The Complainant is receiving calls and letters from a collection agency stemming from an alleged debt. The Complainant filed this complaint due to her not receiving validation of the debt.

The Respondent claims to have sent the Complainant an itemization of the account in question after the Complainant filed a similar complaint with the Better Business Bureau. The debt in question appears valid based on the response from the Respondent.

Recommendation: Close.

DECISION: CONCUR

21. 2017070521

Respondent:

Status: License - ACTIVE

First Licensed: 2/25/2016

License Expiration: 2/24/2018

Disciplinary History: None

Summary: The Complainant says they have received phone calls and letters from the Respondent saying she owes money stemming from a cell phone contract with a nationwide cell phone carrier. The Complainant claims to have never had any contract with this particular cell phone carrier. The Complainant has contacted the local police to file an identity theft report.

The Respondent has acknowledged the possibility of a fraudulent account and has returned the matter to the creditor. The Respondent further claims to have requested any entries stemming from the account be removed from the Complainant's credit report.

Recommendation: Close.

DECISION: CONCUR

CASES TO BE RE-PRESENTED

22. 2017058881

Respondent:

Status: License - ACTIVE

First Licensed: 4/07/2004

License Expiration: 12/31/2018

Disciplinary History: None.

This complaint arises out of the Complainant's allegation that he was threatened by the Respondent. The Complainant alleges the Respondent contacted his employer on a number of occasions and informed the employer he was being "served papers." The Complainant also alleges the Respondent has threatened criminal prosecution, although a "civil warrant" is the document used for civil actions in Tennessee (may be some confusion as to terminology). The Complainant does admit a debt was owed to the original creditor, but states it was settled in 2012.

The Respondent acknowledges the account was placed with them for collection. According to them, the only record of phone calls to the Complainant was one call to the home phone, which was unanswered. The Respondent indicates that they "do not threaten legal action" and did not attempt to contact the Complainant at the place of employment. Finally, the Respondent states the account is being closed and there will be no further contact made.

Recommendation: \$1,000 civil penalty and a Consent Order in violation of the Fair Debt Collections Practice Act (False or Misleading Representations) and T.C.A. 62-20-115(b)(5).

DECISION: BOARD DISAGREES. THE BOARD WANTS LEGAL TO REQUEST THE TRANSCRIPT/RECORDING OF THE ALLEGED CALLS AND RE-PRESENT ONCE THEY HAVE BEEN REVIEWED.

New Information: Respondent does not have a recording of the call. The Respondent possesses only a call log.

New Recommendation: Close with Letter of Warning.

DECISION: CONCUR

23. 2017059921

Respondent:

Status: License - ACTIVE

First Licensed: 2/25/2016

License Expiration: 2/24/2018

Disciplinary History: None.

The Complainant alleges the Respondent is contacting him regarding an alleged debt of which the Complainant disputed with another collections agency a decade ago. The Complainant alleges the Respondent is being “re-aged” by the collection agency in order to make it appear that the Complainant opened the account in April 2017.

The Respondent signed for the complaint via certified mail and has failed to respond.

Recommendation: \$500 civil penalty and a Consent Order for failure of a licensee to respond to a sworn complaint in accordance with T.C.A. 62-20-115(3).

DECISION: CONCUR

New Information: The attorney for the Respondent got in touch with the legal department and explained that a response was sent to the Complainant, but not the Board. The reason for this was that the TDCI cover letter was not with the complaint (per Respondent’s staff). Consequently, the Respondent’s staff did not send the complaint to the Respondent’s servicing legal counsel who would have responded. Aside from the original “failure to respond,” there was no other violation that constituted any reason to recommend discipline.

New Recommendation: Close.

DECISION: CONCUR

DIRECTOR'S REPORT

Mr. Holden moved to accept Robert's Rules of Order as the standard of practice governing board business transactions and procedures during this year's meetings. Ms. Hoover seconded, and the motion carried by unanimous roll call vote.

Director Kopchak read November's revenues and expenditures into the record and provided a detailed review of the 2017 Fiscal Year. He also noted that there exists a net deficit for every one of the five (5) months reported in the 2018 Fiscal Year thus far. Director Kopchak explained that this deficit is due to an increase in legal expenses as a direct result of the Board handling roughly three times (3x) as many complaints as the year prior. In order to track all of the complaints that come through Regulatory Boards, Centralized Complaints and Customer Service Center has been opening every complaint and often referring them to the Legal Division, which now charges per billable hour. Director Kopchak provided a proposal to address the sharp increase in complaints referred to legal which have driven legal expenses beyond historical trends creating a net deficit for the last several months. The plan contained 3 prongs: complaints outside jurisdiction, withdrawals, and the possible use of an agreed citation schedule. Complaints outside of Board jurisdiction, i.e. disputed accounts regarding payment, sum balance, or terms, will be opened then administratively closed per Standard Operating Procedure (SOP). Complainant withdrawals received in writing where there is no indication of duress, the Board could vote to allow administration to open these complaints, and then close those without referring to legal. The last prong, an agreed citation schedule which assigns a standardized citation for each noted violation of statute according to predetermined categories, will need to be discussed at the next meeting.

Regarding complainant withdrawals received in writing where there is no indication of duress, Ms. Hoover motioned to allow administration to open these complaints, and then close those without referring to legal or the Board. This was seconded by Mr. Holden. The motion carried by unanimous roll call vote.

Regarding application reviews with pending litigation reported in the disclosure, if the financials are in order for an initial or renewal application, Ms. Hoover motioned to allow administration to approve these applications if there is no complaint or pending litigation in Tennessee or evidence of moral turpitude. This was seconded by Mr. Holden. The motion carried by unanimous roll call vote.

Assets reported by an entity or subsidiary owned by a parent company can be encumbered or comingled by that parent company. During the October meeting, the Board discussed the possibility of a recommendation to the State of Tennessee Legislature to consider raising the current bond limits to further protect clients from collection agencies that may have fiduciary or trust accounts that are encumbered due to their organizational and/or financial structure. Director Kopchak provided a comparative analysis of surrounding states and their bond limits. Upon review, it was determined that Tennessee is within regional range limits.

ADJOURNMENT

There being no other new business, Ms. Hoover made a motion to adjourn. Mr. Holden seconded. The motion was carried by unanimous roll call vote. Mr. Harb adjourned the meeting at 10:11 a.m.