



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

**Meeting Minutes for April 10, 2024
Davy Crockett Tower
Conference Room 1-B**

The Tennessee Collection Service Board met on April 10, 2024, in the first-floor conference room of the Davy Crockett Tower in Nashville, Tennessee. The following business was transacted:

BOARD MEMBERS PRESENT: Chip Hellmann, Tony Zikovich and Jason Hill.

BOARD MEMBERS ABSENT: Laurie Hadwyn, Gregg Swersky

STAFF MEMBERS PRESENT: Roxana Gumucio, Joseph Wharton, and Robert Hunter

CALL TO ORDER/ROLL CALL

Director Gumucio called the meeting to order at 9:34 a.m. and took roll, establishing that a physical quorum was present.

NOTICE OF MEETING

Director Gumucio read the notice of the meeting as follows: "Notice of the April 10, 2024, meeting of the Collection Service Board including date, time, and location has been noticed on the website since July 14, 2023; additionally, this month's agenda has been posted on the website since April 3, 2024."

AGENDA

Mr. Chip Hellman motioned to adopt the agenda as amended. This was seconded by Mr. Jason Hill. The motion passed unanimously.

JANUARY MINUTES

Upon review of the minutes from January's meeting, Mr. Chip Hellman motioned to accept them. This was seconded by Mr. Jason Hill. The motion passed unanimously.

DIRECTOR'S REPORT

Budget Report

Director Gumucio provided the financial information through February 2024 reflecting an additional deficit of \$56,560 leaving the reserves with \$858,162.

LEGAL

Legal Report (Presented by Joseph Wharton)

1. 2023059451

Respondent:

License Status: #Active

First Licensed: 10/20/2021

License Expiration:10/19/2025

Disciplinary History: 2023-LOW

Summary: This complaint involves the same Respondent as complaint 2024003031. The complaint alleges that the Respondent reported inaccurate information to the credit bureaus for months after the Complainant disputed the debt and provided the necessary documentation to resolve the account. The underlying debt is a medical bill, and the creditor sent the account to the Respondent for collection services. The Respondent issued an initial collection notice to the Complainant on March 1, 2023. The Respondent also reported the account to the credit bureaus. Upon receipt of the Respondent's collection notice, the Complainant contacted the Respondent and disputed the account. On April 26, 2023, the Complainant emailed the Respondent a copy of their health insurance claim summary that proved the debt was paid in full. However, one of the Respondent's staff members failed to upload the insurance claim summary to the Complainant's file, and the Respondent continued to issue bills to the Complainant and report the account to the credit bureaus. The Complainant disputed the debt several times, but the Respondent refused to stop reporting the account to the credit bureaus until the Complainant sent the insurance claim summary again on November 18, 2023. The Respondent's issuance of inaccurate information to the credit bureaus for months hurt the Complainant's credit score and prevented her from obtaining additional financing. The Respondent's communications with the credit reporting agencies after the Complainant provided the insurance claim summary on April 26, 2023, constitute false or misleading representations and violate the standards of practice established by the Board. See Rules of the Tennessee Collection Services Board. 0320-05-.05(1)(h) (False or Misleading Representations: communicating or threatening to communicate to any person credit information that is known or that should be known to be false, including the failure to communicate that a disputed debt is disputed.). Once the insurance documentation was received on April 26, 2023, the Respondent should have known that the account was closed and stopped reporting the account as open to the credit agencies. However, the Respondent continued to report false credit information to the credit bureaus for an additional 6 months and negatively impacted the Complainant's credit score.

Recommendation: Consent Order with a \$500.00 civil penalty and authorization for formal hearing for violation of Rules of the Tennessee Collection Services Board. 0320-05-.05(1)(h) (False or Misleading Representations).

BOARD DECISION: The Board accepted legal counsel's recommendation.

2. 2023060131

Respondent:

License Status: #Active

First Licensed: 11/24/2020

License Expiration:11/23/2024

Disciplinary History: None

Summary: This complaint is related to complaint 2022030071, which was presented to the Board on the October 2022 legal report. The complaint alleges that the Respondent on behalf of the original creditor filed a release of claim in the wrong court deliberately to interfere with a probate case. The Complainant is also trying to obtain health information related to the underlying debt. The Complainant is a parent of the deceased individual involved in the probate case. The Respondent provided collection services for a medical creditor that performed services for the Complainant's child. As part of the probate case, the Respondent issued a release of claim for a medical debt to the wrong court in August 2022. The Complainant asserts that the Respondent issued the release to the wrong court intentionally to prevent the probate case from proceeding. The Respondent's letter issued with the release included the correct court's name, but the address related to a different court. The attorney representing the original creditor issued a letter to the Complainant on November 21, 2023, advising that the Respondent previously issued the release to the incorrect court by mistake, and the release of claim was now filed in the correct court. The Respondent and attorney for the original creditor assert that the Complainant is not the executor of the deceased's estate and therefore, is not entitled to the health information related to the debt. This basis of this complaint is the intentional interference of a probate case and is outside of the Board's jurisdiction.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

3. 2023062611

Respondent:

License Status: #Active

First Licensed: 11/24/2020

License Expiration: 11/23/2024

Disciplinary History: None

Summary: This complaint involves the same Respondent as complaint 2023060131. This complaint alleges that the Respondent refused to accept a payment plan proposed by the Complainant and engaged in harassing communications. The underlying debt is a medical bill. The original creditor sent the account to the Respondent for collection services. The Respondent issued a validation letter to the Complainant on May 19, 2023. The Complainant contacted the original creditor regarding the account on May 23, 2023, and the creditor advised that the account had been sent to the Respondent. On May 31, 2023, the Complainant contacted the creditor again and advised that she was going to apply for financial assistance. The Respondent attempted to contact the Complainant via phone on June 5, 2023, and October 30, 2023, to discuss the account. The Respondent did not receive a response from the Complainant after either phone call. On November 7, 2023, the Complainant emailed the Respondent to advise that she cannot afford the minimum payment of \$86.00, but she is willing to pay \$20.00 per month on the account. On November 9, 2023, the Respondent called the Complainant to discuss payment options, but the Complainant did not answer or return the call. The Complainant emailed the Respondent again on November 25, 2023, and advised that she did not receive a response to her previous email, and she was still willing to pay \$20.00 per month on the account. The Complainant requested that the Respondent set up the payment plan on their website so that she could start making payments. The Complainant also asked the Respondent to confirm acceptance of the payment plan via email. The Complainant sent a third email to the Respondent on December 1, 2023, requesting once again the establishment of a \$20.00 per month payment on the account and that the Respondent allow her to make those payments through their website. The Respondent called the Complainant on December 5, 2023, but the Complainant did not answer or return the call. The complaint was filed on December 9, 2023. The Respondent advised in their response to the complaint that the Complainant's phone number has been removed from the account since she does not want to receive phone calls, and she can contact their customer service agent or manage her account on their website. On December 21, 2023, the Complainant advised that she is having issues with the Respondent's website. The Tennessee Collection Service Act and the rules of the Board do not mandate that a collection services business accept every payment arrangement proposed by a consumer. The Act and rules also do not mandate that a collection services business communicate via email. The Respondent's phone calls were

made in response to the Complainant's communications and do not constitute "harassment or abuse" as defined by Tenn. Comp. R. & Regs. 0320-05-.04. *See Rules of the Tennessee Collection Services Board.* 0320-05-.04(1) (Harassment or Abuse: Use or threats of violence; use of obscene or profane language; publication of consumers who refuse to pay debts, except to a consumer reporting agency; advertisement for sale of any debt to coerce payment; causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the dialed number; and placement of calls without meaningful disclosure of the caller's identity). There does not appear to be a violation of the Tennessee Collection Service Act or the rules promulgated thereunder.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

4. 2023060731

Respondent:

License Status: #Expired

First Licensed: 08/12/2004

License Expiration:12/31/2022

Disciplinary History: None

Summary: This complaint alleges that the Respondent performed collection services in Tennessee without a valid license. The Complainant is a Tennessee resident. The Complainant received a collection letter from the Respondent on October 19, 2023. After receiving the collection letter, the Complainant conducted a license search on the Respondent and discovered that the Respondent does not hold an active Tennessee collection service license. The Respondent's collection service license expired on December 31, 2022. The Respondent stated in their response that they switched to a new licensing management software and failed to enter the Tennessee licensing information into the program. As a result, the Respondent failed to renew their license. The Tennessee Collection Service Act requires that all collection service businesses operating in Tennessee hold a valid license. *See* Tenn. Code Ann. § 62-20-105 (No Person shall commence, conduct, or operate any collection service business in this state unless the person holds a valid collection service license issued by the board under this chapter or prior state law.). The Respondent violated the Tennessee Collection Service Act by operating as a collection service in Tennessee without a valid license.

Recommendation: Consent Order with a \$500.00 civil penalty and authorization for formal hearing for violation of Tenn. Code Ann. § 62-20-105(a) (Licenses).

BOARD DECISION: The Board accepted legal counsel's recommendation.

5. 2023062751

Respondent:

License Status: #Active

First Licensed: 12/14/2006

License Expiration:12/13/2024

Disciplinary History: 2010-consent order, 2010-consent order, 2010-consent order,2011-letter of warning ,2012- letter of warning,2023-letter or warning, 2023-letter or warning, 2023-letter or warning

Summary: This complaint was referred to the Department of Commerce and Insurance from the State of Tennessee Division of Consumer Affairs. The complaint alleges that the Respondent failed to validate the debt and furnished inaccurate information to the credit bureaus causing a negative impact on the Complainant's credit score. The underlying debt is a credit card account. The Respondent purchased the account from the original creditor. The account was listed on the Complainant's Experian credit report in September 2021. The Complainant issued a letter to the Respondent on July 26, 2023. The Complainant's letter requested a validation of the debt and advised that the debt was disputed. On August 8, 2023, the Respondent issued a written response to the Complainant acknowledging that the debt was disputed and advising that an investigation on the account established the debt's validity. The Respondent's response also included the name of the original creditor, the account number, and account balance. The Complainant

issued a second letter to the Respondent on August 22, 2023. The second letter demanded that the Respondent cease and desist all collection activities until the debt was properly verified. The complaint was filed on November 7, 2023. The Complainant attached a copy of their Experian credit report to the complaint. The credit report shows that the Respondent did not communicate to Experian that the debt was disputed after receiving the Complainant's written disputes in August 2023. The Respondent stated in their response to the complaint that they investigated the account, closed the account, requested that the credit reporting agencies delete the account tradeline from the Complainant's reports, and ceased all collection communications regarding the account unless otherwise permitted by law. The rules of the Board prohibit collection services from communicating false credit information to any person, including the failure to communicate that a disputed debt is disputed. See Rules of the Tennessee Collection Services Board. 0320-05-.05(1)(h) (False or Misleading Representations). The Respondent's failure to inform the credit bureaus that the debt was disputed in August 2023 constitutes a false or misleading a representation and violates the rules of the Board.

Recommendation: Letter of warning regarding false or misleading representations articulated in Rules of the Tennessee Collection Services Board, 0320-05-.05 (False or Misleading Representations).

BOARD DECISION: The Board accepted legal counsel's recommendation.

6. 2023064451

Respondent:

License Status: #Active

First Licensed: 10/11/2018

License Expiration:10/10/2024

Disciplinary History: None

Summary: This complaint involves the issuance of a vehicle title after the account was paid in full. The Complainant alleges that she paid off her vehicle contract with the Respondent on September 14, 2023. Despite multiple requests, the Respondent did not provide the vehicle title to the Complainant. This complaint was filed on December 19, 2023. The Respondent stated in their response to the complaint that they apologize for the delay in releasing the title, and the title was issued to the Complainant on December 29, 2023. The Complainant confirmed that they received the title to the vehicle after the complaint was filed. The Board does not have jurisdiction over the issuance of vehicle titles. This complaint falls outside of the Board's jurisdiction because it concerns the issuance of a vehicle title as opposed to the Respondent's collection practices.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

7. 2023063541

Respondent:

License Status: #Active

First Licensed: 10/02/2014

License Expiration:10/01/2024

Disciplinary History: 2023 Letter of warning, 2024- letter of warning

Summary: This complaint involves the same Respondent as complaint 202400911. The complaint involves the Respondent's validation of debts. The Respondent is providing collection services for several medical creditors asserting debts against the Complainant. The Complainant disputed several of the debts and requested a validation of the accounts in October 2023. The Respondent received the debt disputes on August 20, 2023. On September 11, 2023, the Respondent issued a validation of the accounts to the Complainant. The Complainant contacted the Respondent on September 22, 2023, and advised that several of the statements included in the validation of debts were illegible. The Complainant requested more legible copies of the statements. The Respondent contacted the original creditors and requested clearer versions of the account statements. On December 1, 2023, the Respondent mailed the validation documents to the Complainant. The Complainant received the documents and asserts that they are still

illegible. The Complainant contacted the Respondent again on December 14, 2023, and requested more legible validation documents. The Respondent advised the Complainant that they have provided all the validation documents supplied by the original creditors. The complaint was filed the same day. In their response to the complaint, the Respondent provided the original creditors' names, account numbers, addresses, and balances. The Respondent advised that they requested additional validation documents from several of the creditors and will provide those documents to the Complainant once they are received. The Respondent stated that they will not contact the Complainant regarding those accounts until the validation documents are issued, and the accounts have not been reported to the Complainant's credit report. If a consumer notifies a collection service that a debt is disputed, the collection service shall cease collection of the debt until verification of the debt is mailed to the consumer. *See Rules of the Tennessee Collection Services Board*. 0320-05-.07(2) (Validation of Debts; Disputed Debts: If the consumer notifies the debt collector or collection service in writing within the thirty-day period described in paragraph (1) that the debt, or any portion thereof is disputed, or that the consumer requests the name and address of the original creditor, the collection service shall cease collection of the debt, or any disputed portion thereof, until the collection service obtains verification of the debt or a copy of the judgment, or name and address of the original creditor is mailed to the consumer by the collection service.). The Respondent provided the Complainant with the validation documents produced by the original creditors. The Respondent also provided the creditor name, address, account number, and balance of each debt to the Complainant as part of their response to the complaint. There does not appear to be a violation of the Tennessee Collection Service Act or the rules promulgated thereunder.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

8. 2024000911

Respondent:

License Status: #Active

First Licensed:10/02/2024

License Expiration:10/01/2024

Disciplinary History: 2023 Letter of warning, 2024- letter of warning

Summary: This complaint involves the same Respondent as complaint 2023063541. The complaint alleges that the Respondent tried to collect a medical debt months after the Complainant provided proof to the Respondent that the underlying account was paid in full. The Respondent sent the Complainant a collection notice for the underlying account in April 2023. The Complainant's spouse contacted the Respondent after receiving the collection notice and provided the Respondent with an insurance explanation of benefits and an account statement that demonstrated the original creditor was paid in full on January 9, 2023. Once the Respondent received the documentation from the Complainant, the Respondent reached out to the creditor for validation of the debt, and the account was put in disputed status. The debt was involved in an insurance dispute for months and then the creditor advised the Respondent that the debt was valid. On December 3, 2023, the Respondent issued another collection notice regarding the debt. The Complainant filed this complaint on January 4, 2024. Upon receipt of the complaint, the Respondent requested another validation of the debt from the creditor. The creditor then advised the Respondent that the account was closed. The Respondent stated in their response to the complaint that the Complainant's account is now closed in their system and there will be no further communication with the Complainant regarding this matter. The Respondent's collection attempt in December was based on the creditor's assertions that the debt was valid. Once the debt was disputed, the Respondent ceased collection activity on the account and requested a validation of debt from the creditor pursuant the rules of the Board. There does not appear to be a violation of the Tennessee Collection Service Act or the rules promulgated thereunder.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

9. 2024000261

Respondent:

License Status: #Active

First Licensed:03/18/2021

License Expiration:03/17/2025

Disciplinary History: None

Summary: This complaint was referred to the Department of Commerce and Insurance from the State of Tennessee Division of Consumer Affairs. The complaint involves a debt dispute. The underlying debt is a residential lease balance. The Respondent is providing collection services for the property management company that currently holds the rights to the lease. The Complainant noticed an account reported by the Respondent on her credit report and filed a written dispute with the Consumer Financial Protection Bureau on June 16, 2023. The dispute requested that the credit reporting bureaus investigate the account and remove it from her credit reports. After not receiving a response, the Complainant filed a debt dispute with the Respondent in October 2023. The dispute asserted that the lease balance of \$4,634.84 was incorrect. The original balance was based on a move out date of April 21, 2022. The Complainant provided documentation to the Respondent that demonstrated she vacated the leased residence in December 2021. The Complainant also contacted the property management company, and the lease ledger was revised to reflect that the Complainant vacated the property in December 2021. The balance on the lease was reduced to \$1,124.34, and the Complainant provided the revised ledger to the Respondent. Upon receipt of the dispute and revised ledger, the Respondent contacted the property management company and requested a validation of the debt. The property management company did not respond to the Respondent's request for validation of the debt, and the Respondent reduced the account balance to reflect the revised balance of \$1,124.34. The Respondent included both ledgers as well as a copy of the residential lease in their response to the complaint. The allegations in this complaint amount to a debt dispute. The Board does not have jurisdiction over debt disputes i.e., disputed accounts regarding payment, sum balance, or terms. There does not appear to be a violation of the Tennessee Collection Service Act or the rules of the promulgated thereunder.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

10. 2023035071

Respondent:

License Status: #Active

First Licensed:09/11/1997

License Expiration:12/31/2024

Disciplinary History:2006-consent order, 2007-letter of warning,2008-consent order, 2009-Letter of warning,2011-consent order, 2016- consent order, 2018- consent order

Summary: This complaint was referred to the Department of Commerce and Insurance from the State of Tennessee Division of Consumer Affairs. The complaint alleges that the Respondent made false or misleading representations when they advised the Complainant to establish a payment plan on the account to avoid any further legal action but proceeded to take judgment against the Complainant after a payment plan was in place. The Complainant received a letter from the Respondent advising that there was a balance of \$4,202.96 on an account in her name. The letter also stated to contact the Respondent in order to "Resolve your legal collections account" and "avoid any further legal action." The Complainant then received a summons to appear in court on June 26, 2023, for a collection suit filed by the Respondent. After receiving the summons, the Complainant went to the Respondent's website and enrolled in a payment plan. The Respondent made the first payment pursuant to the payment plan on June 2, 2023. Several days after establishing the payment plan through the website, the Complainant called the Respondent because she had not received confirmation of the plan in writing. A representative for the Respondent advised that a letter confirming the payment plan would be issued later that day. The representative also advised that the Respondent was not going to withdraw the suit filed in state court and would proceed with taking judgment. However, the Respondent would not initiate a wage garnishment

against the Complainant since a payment plan was established. The Respondent's communications do not constitute false or misleading representations because the payment plan was established after the issuance of the summons. *See Rules of the Tennessee Collection Services Board*. 0320-05-.05(1) (False or Misleading Representations). The Respondent had already initiated the legal action against the Complainant when the payment plan was set up on their website, and they had no obligation to dismiss it. The Respondent agreed to not garnish the Complainant due to the establishment of the payment plan, which provides a benefit in return to the Complainant. There does not appear to be a violation of the Tennessee Collection Service Act or the rules promulgated thereunder.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

11. 2023062691

Respondent:

License Status: #Unlicensed

First Licensed: n/a

License Expiration: n/a

Disciplinary History: None

Summary: This complaint was referred to the Department of Commerce and Insurance from the State of Tennessee Division of Consumer Affairs. The complaint alleges that the Respondent attempted to collect a debt from the Complainant that they do not owe. The Respondent contacted the Complainant via phone call on October 31, 2023, and attempted to collect on a personal loan. The Respondent informed the Complainant that they were providing collection services for an online loan company. The Respondent also advised that Complainant's spouse previously made two payments on the account. The Complainant asked for information relating to their spouse and the previous payments because they did not remember opening a loan with the original creditor. The date of birth provided by the Respondent did not match the date of birth of the Complainant's spouse. The complaint was filed the same day as the collection call. The Respondent advised in their response to the complaint that the call was made in error. One of the Respondent's agents attempted to contact a consumer that lives in another state and accidentally mistyped the phone number resulting in the call with the Complainant. After the phone call ended, the Respondent realized the error, and the Complainant's phone number was marked as cease and desist in their database on October 31, 2023. The Respondent is not trying to collect on a debt owed by the Complainant and does not currently provide collection services in the state of Tennessee. There does not appear to be an intentional violation of the Tennessee Collection Service Act.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

12. 2023064081

Respondent:

License Status: #Unlicensed

First Licensed: n/a

License Expiration: n/a

Disciplinary History: None

Summary: This complaint alleges that the Respondent violated the Board's rules regarding communication in connection with debt collection by stating that they did not have to speak to the Complainant's attorney regarding a debt owed by the Complainant's LLC. The Complainant is a Tennessee resident. The Respondent provided collection services for a merchant cash advance company. The underlying debt was incurred by the Complainant's LLC, which closed approximately two years ago. The Respondent contacted the Complainant on December 5, 2023, to collect the debt, and the Complainant advised that he was represented by legal counsel. The Respondent stated that they do not have to discuss the debt with Complainant's legal counsel because the debt is owed by the LLC not the Complainant individually. The Respondent also stated that they do not have to adhere to the Fair Debt Collection Practices Act (FDCPA) because the act does not apply to the collection of business debt. The complaint

was filed on December 18, 2023. The Complainant and creditor reached a settlement on the account after the complaint was filed with the Department. During the review of the complaint, the Board's legal counsel conducted a Core search on the Respondent to verify that they possess a valid Tennessee collection service license. The Board's legal counsel could not find a collection service license for the Respondent in Core. The Respondent was asked to provide their Tennessee licensing information and as of March 27, 2024, no information has been provided. The Tennessee Collection Service Act requires that all collection service businesses operating in Tennessee hold a valid license. *See* Tenn. Code Ann. § 62-20-105(a) (No Person shall commence, conduct, or operate any collection service business in this state unless the person holds a valid collection service license issued by the board under this chapter or prior state law.).

Recommendation: Letter of warning if proof of a Tennessee collection service license is provided within 30 days. Otherwise, Consent Order with a \$500.00 civil penalty, and authorization for formal hearing for violation(s) of Tenn. Code. Ann. § 62-20-105(a) (Licenses).

BOARD DECISION: The Board accepted legal counsel's recommendation.

13. 2024003141

Respondent:

License Status: #Active

First Licensed: 02/20/1975

License Expiration:12/31/2024

Disciplinary History: None

Summary: This consumer complaint alleges that the Respondent engaged in harassment during the collection of a medical bill. The Respondent provided collection services for an account opened with a medical provider. The Complainant made several partial payments on the account via personal checks. On December 12, 2023, the Complainant issued a personal check to the Respondent in the amount of \$307.74. In the memo section of the check, the Complainant wrote the account reference number and "paid in full." The Respondent accepted the check and issued a receipt of partial payment to the Complainant stating the account balance was \$2,866.18 on December 22, 2023. The receipt of partial payment included the following language, "This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose." The Complainant asserts that the Respondent's statement regarding collection of the debt and information after they accepted the personal check with "paid in full" written on the memo constitutes harassment. The parties did not enter into a payment agreement before the Complainant's issuance of the "paid in full" check. The Respondent stated in their response that their payment processing vendor made an error by posting the Complainant's check. The Respondent does not accept checks marked as "paid in full" without a previous agreement with the consumer. However, since the check was accepted, the Respondent honored the payment, and the account was marked as paid in full. The Respondent's conduct does not constitute harassment or abuse pursuant to the rules of the Board. *See Rules of the Tennessee Collection Services Board*. 0320-05-.04(1) (Harassment or Abuse: the use or threat of violence or other criminal means to harm the physical person, reputation, or property; the use of obscene or profane language; the publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency; the advertisement for sale of any debt to coerce payment; causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse or harass; or the placement of telephone calls without meaningful disclosure of the caller's identity). The Respondent issued an account statement to the Complainant because there was no explicit agreement between the parties that the account was settled upon receipt of the check dated December 12, 2023. There does not appear to be a violation of the Tennessee Collection Service Act of the rules promulgated thereunder.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

14. 2024003031

Respondent:

License Status: #Active

First Licensed: 10/20/2021

License Expiration:10/19/2025

Disciplinary History: 2023-LOW

Summary: This complaint involves the same Respondent as complaint 2023059451. The complaint alleges that the Respondent failed to provide a validation of debt and continued to contact the Complainant after receiving a written request to validate the debt and cease communication. The Respondent was retained by the original creditor in 2020 to provide collection services for two medical bills. The Complainant issued a letter to the Respondent on October 7, 2022, requesting that the Respondent provide a validation of debt and cease communications regarding the account. The Respondent placed the Complainant's account in a cease communication and disputed status on October 17, 2022. The validation of debt documentation was provided to the Complainant on November 10, 2022. Nearly a year later, the Complainant received collection texts from the Respondent on September 22, 2023, and September 25, 2023. The Respondent stated in their response to the complaint that the collection texts were issued due to a technical anomaly. Generally, if a consumer notifies a collection service in writing that they wish the collection service cease further communication regarding a debt, the collection service shall not communicate further with the consumer. *See Rules of the Tennessee Collection Services Board, 0320-05-.03(3)(a).* (Ceasing Communication: If a consumer notifies a debt collector or collection service in writing that the consumer refuses to pay a debt of that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector or collection service shall not communicate further with the consumer with respect to such debt, except 1. To advise the consumer that the debt collector's further efforts are being terminated; 2. To notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or 3. Where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy.). The Respondent's texts to the Complainant in September 2023 violate the rules of the Board because they were issued after the Complainant requested that communications cease in November 2022. However, based on the Respondent's assertion that the texts were issued because of a "technical anomaly" eleven months after the account was placed in a cease communication status and no evidence of other collection communications, the violations do not appear to be intentional.

Recommendation: Letter of warning regarding ceasing communication articulated in Rules of the Tennessee Collection Services Board, 0320-05-.03(3) (Ceasing Communication).

BOARD DECISION: The Board accepted legal counsel's recommendation.

15. 2024007781

Respondent:

License Status: #Active

First Licensed: 05/25/2022

License Expiration:05/24/2024

Disciplinary History: None

Summary: This complaint was referred to the Department of Commerce and Insurance from the State of Tennessee Division of Consumer Affairs. The complaint alleges that the Respondent reported an account on the Complainant's credit reports and failed to provide a validation of the debt. The Complainant asserts that they never entered into a debt with the Respondent, and they dispute the debt. Additionally, the Complainant's personal information was accessed by an unauthorized party that breached the Respondent's database in February 2023. The Complainant previously filed debt disputes with the Respondent in June and September 2020. The Respondent advised in their response that the underlying debt was purchased from the original creditor on March 23, 2018. The Respondent mailed a letter to the Complainant advising of the debt transfer on March 26, 2018. The Respondent issued the Complainant documentation that validated the debt in response to the Complainant's disputes in 2020. The Respondent attached the validation documentation previously issued to the Complainant to their response. The documents include copies of the loan agreement between the Complainant and the original creditor, the account history, and the assignment and bill of sale of the account. The Respondent issued the validation documentation to the Complainant's address identified on the complaint. The Respondent provided the

Complainant with the necessary documentation to validate the debt and complied with the rules of the Board. See Rules of the Tennessee Collection Services Board. 0320-05-.07(2) (Validation of Debts; Disputed Debts: If the consumer notifies the debt collector or collection service in writing within the thirty-day period described in paragraph (1) that the debt, or any portion thereof is disputed, or that the consumer requests the name and address of the original creditor, the collection service shall cease collection of the debt, or any disputed portion thereof, until the collection service obtains verification of the debt or a copy of the judgment, or name and address of the original creditor is mailed to the consumer by the collection service.). Finally, the Respondent's data breach is outside of the jurisdiction of the Board. There does not appear to be a violation of the Tennessee Collection Service Act of the rules promulgated thereunder.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

16. 2024009491

Respondent:

License Status: #Active

First Licensed: 02/20/1975

License Expiration:12/31/2024

Disciplinary History: None

Summary: This complaint was referred to the Department of Commerce and Insurance from the State of Tennessee Division of Consumer Affairs and involves the same Respondent as complaint 2024003141. The complaint alleges that the Respondent collected a payment of \$250.00 from the Complainant after the debt was paid in full. On July 25, 2023, the Complainant and the Respondent entered into a payment agreement whereby the Complainant would pay \$250.00 per month on a debt held by the Respondent. On December 19, 2023, the Complainant submitted a payment of \$4,990.84 to the Respondent to pay off the debt. After the debt was paid in full, the Respondent collected a payment of \$250.00 from the Complainant on January 3, 2024. The Complainant contacted the Respondent and demanded a \$250.00 refund. The Complainant stated that the Respondent refused to issue a refund. The Respondent advised in their response that a refund of \$250.00 was issued to the Complainant on January 23, 2024. A collection service should not collect an amount that exceeds the balance on the account. See Rules of the Tennessee Collection Services Board. § 0320-05-.06(1)(a) (Unfair Practices: the collection of any amount (including interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or is permitted by law.). The Respondent temporarily collected funds from the Complainant that they were not authorized by law to collect.

Recommendation: Letter of warning regarding unfair practices articulated in Rules of the Tennessee Collection Services Board. 0320-05-.06(1) (Unfair Practices).

BOARD DECISION: The Board accepted legal counsel's recommendation.

17. 2024010341

Respondent:

License Status: #Active

First Licensed: 07/12/2023

License Expiration:07/11/2025

Disciplinary History: None

Summary: This consumer complaint alleges that the Respondent failed to provide a verification of the debt after the Complainant made a written request that they do so. The underlying debt relates to a gym membership contract with a third-party company. The Complainant received a collection email from the Respondent on October 11, 2023. The Complainant sent a reply email to the Respondent on October 12, 2023, requesting validation of the debt. Several days later, the Complainant realized that the Respondent's collection email was issued by a "noreply" email address, and her response email was not delivered. The Complainant then printed out her email and mailed it to the Respondent at the end of October 2023. The Complainant received another collection email from the Respondent on November 9, 2023, and the debt

appeared on her credit report on February 7, 2024. The Complainant filed this complaint on February 19, 2024, because the Respondent had not responded to her request for verification of the debt. The Respondent stated in their response that they have no record of receiving the Complainant's email or letter. The Respondent advised that due to the complaint they are now aware of the dispute. The Respondent issued a request for validation documents to the original creditor and provided those documents to the Complainant on March 11, 2023. If a consumer issues a written request for verification of a debt to a collection service, the collection service must cease collection of the debt until they obtain such verification. *See Rules of the Tennessee Collection Services Board. 0320-05-.07(2). (Validation of Debts; Disputed Debts: If the consumer notifies the debt collector or collection service in writing within the thirty-day period described in paragraph (1) that the debt, or any portion thereof is disputed, or that the consumer requests the name and address of the original creditor, the collection service shall cease collection of the debt, or any disputed portion thereof, until the collection service obtains verification of the debt or a copy of the judgment, or name and address of the original creditor is mailed to the consumer by the collection service.)*. The Complainant mailed the written request for validation to the Respondent at the end of October 2023, and the Respondent continued to attempt to collect the debt for three months until the complaint was filed in February 2024. However, the letter was sent via U.S. standard mail instead of certified mail, and the Respondent denies receiving it. The central issue is whether the Respondent was "notified" of the validation request. In the context of debts disputes and requests to cease communication, if a consumer sends such notice by mail, notification shall be complete upon receipt. *See Rules of the Tennessee Collection Services Board. 0320-05-.03(3)(b) (Communication in Connection with Debt Collection; Ceasing Communication)*. The rules on Validation of Debts do not provide an explicit definition of "notify" but it reasonable to assume the meaning of the word is the same as *Rules of the Tennessee Collection Services Board. 0320-05-.03(3)(b)*. Due to the Respondent's assertion that the Complainant's letter was not received and the lack of a certified mail card to refute that assertion, there is a genuine question of fact as to whether or not the Respondent was notified of the validation request. As such, the Respondent's conduct merits the issuance of a letter of warning as opposed to a civil penalty.

Recommendation: Letter of warning regarding validation of debts articulated in Rules of the Tennessee Collection Services Board. 0320-05-.07(2) (Validation of Debts).

BOARD DECISION: The Board accepted legal counsel's recommendation.

18. 2024004421

Respondent:

License Status: # Expired

First Licensed:08/21/2014

License Expiration: 08/20/2018

Disciplinary History: None

Summary: This complaint was filed on January 24, 2024, and alleges that the Respondent engaged in unlicensed collection activity. The Complaint is a Tennessee resident. The Complainant noticed that the Respondent reported a collection account on their credit reports on January 11, 2024. The Respondent's Tennessee collection service license expired on August 20, 2018. The Respondent stated in their response to the Complaint that the Complainant's account has been cancelled and removed from their office. The Respondent issued a request to have the account removed and deleted from the three major credit bureaus. The Respondent is also in the process of applying for a Tennessee Collection Service license. The Respondent submitted the required documentation to a third-party licensing company to file with the Department in March 2024. The Tennessee Collection Service Act requires that all collection service businesses operating in Tennessee hold a valid license. *See Tenn. Code Ann. § 62-20-105(a) (No Person shall commence, conduct, or operate any collection service business in this state unless the person holds a valid collection service license issued by the board under this chapter or prior state law.)*. The Respondent violated the Tennessee Collection Service Act by operating as a collection service in Tennessee without a valid license.

Recommendation: Consent Order with a \$500.00 civil penalty and authorization for formal hearing for violation of Tenn. Code Ann. § 62-20-105(a) (Licenses).

BOARD DECISION: The Board accepted legal counsel's recommendation.

19. 2024004841

Respondent:

License Status: # Closed

First Licensed: 11/29/2022

License Expiration: 11/28/2024

Disciplinary History: None

Summary: This complaint alleges that the Respondent failed to remit all funds owed to the Complainant pursuant to the collection service contract between the parties. The Complainant hired the Respondent to provide collection services on several medical accounts in 2016. The Complainant is a doctor located in another state. The Complainant asserts that the Respondent collected a total of \$742.34 on their accounts, and they are owed an additional \$196.81 from the Respondent. The Complainant attached an account ledger showing the balances and amounts collected on each account held by the Respondent. The ledger shows that a total of \$742.34 was collected on the Complainant's accounts. The account ledger complies with Tenn. Code Ann. § 62-20-114(1) (Licensees; powers and duties; records and accounts: each collection service shall keep and retain for a period of three (3) years accurate individual records of collections, including the amount and date of payment and the names of the debtor and creditor). The Complainant also attached a portion of the collection service contract executed by the parties. The contract includes a schedule of contingency rates owed to the Respondent for collection services performed on accounts. The Respondent's legal counsel submitted the response to the complaint. The response stated that the Respondent has provided the Complainant all amounts due minus the Respondent's collection fees. The Respondent stated that one of the checks issued to the Complainant has not yet been deposited. Separate from the complaint, the Respondent advised the Department in an email dated January 3, 2024, that the Respondent's agency located in Tennessee was closed in 2023. The Respondent's file in Core was updated to reflect this information. The basis of the complaint is a debt dispute arising from the contract between the parties. The Board does not have jurisdiction over debt disputes, and this matter should be adjudicated in a court with appropriate jurisdiction.

Recommendation: Close.

BOARD DECISION: The Board accepted legal counsel's recommendation.

Collections Cases to be Represented

20. 2023058501

Respondent:

License Status: Unlicensed

First Licensed: n/a

License Expiration: n/a

Disciplinary History: None

Summary: This complaint involves an unlicensed collection service engaging in harassing conduct. The Complainant is a Tennessee resident. The Respondent is a collection service that is headquartered in another state. The Complainant alleges that they entered into a debt repayment agreement and conditional release with the Respondent. However, after the agreement was entered into by both parties, the Respondent continued to call the Complainant on a daily basis, including multiple calls during Complainant's work hours. The Complainant advised the Respondent of their work schedule, but the Respondent continued to call during the Complainant's work hours. The Respondent did not refute this allegation in their response. Upon review of the complaint, legal counsel for the Board discovered that the Respondent does not hold a Tennessee collection service license. The Respondent is in violation of the Tennessee Collection Service Act, which requires all collection service businesses and debt collectors

that operate or conduct business in Tennessee to hold a valid license. See Tenn. Code Ann. § 62-20-105(a). (No person shall commence, conduct, or operate any collection service business in this state unless the person holds a valid collection service license issued by the board under this chapter or prior state law.). The Respondent's excessive and continuous phone calls to the Complainant violate the rules of communication in connection to debt collection and constitute harassment. See Rules of the Tennessee Collection Services Board. § 0320-05-.04(1)(e). (Harassment or Abuse: causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the dialed number.).

Recommendation: Consent Order with a \$500.00 civil penalty and authorization for formal hearing for violation of Tenn. Code Ann. § 62-20-105(a) (License Requirement) and Rules of the Tennessee Collection Services Board § 0320-05-.04(1)(e) (Harassment or Abuse).

BOARD DECISION: The Board accepted legal counsel's recommendation.

New Information: Upon receipt of the consent order, the Respondent contacted legal counsel for the Board and provided proof of licensure. The license was issued to a company with a different name dba as the Respondent. The Respondent produced, a copy of their collection service license and trade name registration. The Respondent also refuted that the Complainant advised them of her work schedule and requested that they not contact her during those hours. Legal counsel for the Board asked the Complainant to provide evidence that demonstrated the Respondent was advised of her work hours. The Complainant stated that this information was provided verbally to the agent assigned to her account, and she does not have documentation proving that fact.

New Recommendation: Letter of warning regarding harassing and abusive communications pursuant to Rules of the Tennessee Collection Services Board § 0320-05-.04(1)(e) (Harassment or Abuse).

New Board Decision: The Board accepted legal counsel's recommendation

21. 2023053691

Respondent:

License Status: #Active

First Licensed: 03/18/2019

License Expiration:03/17/2025

Disciplinary History: None

Summary: This complaint was referred to the Department of Commerce and Insurance from the Division of Consumer Affairs. The Complainant alleges that the Respondent used false or misleading representations in the collection of a debt. The Respondent holds a writ of garnishment against the Complainant for an outstanding debt. The Complainant received a garnishment notice from his employer's payroll company in September 2023. The Respondent garnished \$518.19 from the Complainant on September 15, 2023. The Complainant contacted the Respondent in order to stop the garnishment. The Complainant alleges that the manger for the Respondent claimed to be an attorney during the conversation. The parties entered into a payment plan that required the Complainant to make a payment every two weeks and the Respondent would release the garnishment. The Complainant made an electronic payment of \$552.84 on September 18, 2023. The Complainant's next paycheck was issued on September 29, 2023. Despite entering into the payment plan and agreeing to release the garnishment, the Respondent garnished \$534.83 from the Complainant's September 29, 2023 paycheck. The Complainant contacted the Respondent and asked why the garnishment was not released as parties

previously agreed. The Respondent advised that the issue would be investigated and that the garnished wages would be reimbursed as long as the payment plan was still in place. The Complainant was unable to perform pursuant to the payment plan because of the garnishment on September 29, 2023, and the Respondent did not issue a refund of the \$534.83 garnishment. A debt collector may not use any false, deceptive, or misleading representation in the collection of a debt. See Rules of the Tennessee Collection Services Board. § 0320-05-.05(1). (False or Misleading Representations). The false representation or implication that any individual is an attorney or that any communication is from an attorney is a violation of the Board's rules. See Rules of the Tennessee Collection Services Board. § 0320-05-.05(1)(c). The Respondent denies that any of its representatives claimed to be an attorney, and the Complainant did not provide written evidence of this fact. However, the Respondent's failure to release the garnishment and honor its agreement with the Complainant also constitutes a false or misleading representation. See Rules of the Tennessee Collection Services Board. § 0320-05-.05(1)(j), (False or Misleading Representations: the use of any false representation or deceptive means to collect or attempt to collect any debt or obtain information concerning a consumer.). The Complainant made a voluntary payment on September 18, 2023, with the understanding that the Respondent would release the garnishment. The Respondent received the payment and did not release the garnishment before September 29, 2023; thereby, misleading the Complainant into making a payment in addition to the garnishment. The Respondent's failure to release the garnishment after the Complainant performed under the agreement constitutes a violation of the Board's rules.

Recommendation: Consent Order with a \$500.00 civil penalty and authorization for formal hearing for violations of Tenn. Code Ann. § 62-20-115(b)(4) (Investigations; revocation, suspension or nonrenewal) and Rules of the Tennessee Collection Services Board § 0320-05-.05(1) (False or Misleading Representations).

BOARD DECISION: The Board accepted legal counsel's recommendation.

New Information: The Respondent contacted legal counsel for the board several days before the consent order deadline expired. The Respondent provided a copy of the stamped release of garnishment on file with the General Sessions Court. The release of garnishment establishes that the Respondent faxed the release to the Court on September 15, 2023, but the clerk did not process the release until September 28, 2023. The clerk's delay in processing the release prevented the garnishment from being released before the Complainant received his next paycheck on September 29, 2023. The evidence produced by the Respondent demonstrates that the Respondent attempted to perform in accordance with the agreement between the parties and did not intentionally mislead the Complainant into making an additional payment on the account.

New Recommendation: Letter of warning regarding false or misleading representations pursuant to Rules of the Tennessee Collection Services Board § 0320-05-.05(1) (False or Misleading Representations).

New Board Decision: The Board accepted legal counsel's recommendation.

22. 2023032791

Respondent:

License Status: #Active

First Licensed:06/01/2022

License Expiration:05/31/2024

Disciplinary History: None

Summary: This administrative complaint alleges failure to renew bond. Program staff attempted to contact Respondent multiple times with a request that Respondent provide information relating to the replacement bond as is required by statute. *See* Tenn. Code Ann. § 62-20-110(a)). Respondent has not renewed their bond.

Recommendation: Letter of warning if proof of a renewed bond is provided within 30 days. Otherwise, Consent Order with a \$250.00 civil penalty, proof of bond, and authorization for formal hearing for violation(s) of Tenn. Code. Ann. § 62-20-110 (Bond; certificate of deposit).

BOARD DECISION: The Board accepted counsel's recommendation.

New Information: After not receiving a response to the letter of warning and consent order, legal counsel for the Board researched the status of the Respondent. Legal counsel was able to identify the Respondent's registered agent in the state of New York. The registered agent advised that the Respondent was dissolved on February 1, 2023. The registered agent produced a copy of the Respondent's articles of dissolution.

New Recommendation: Flag the entity and close the complaint.

New Board Decision: The Board accepted legal counsel's recommendation.

23. 2023056311

License Status: #Active

First Licensed: 10/11/2018

License Expiration: 10/10/2024

Disciplinary History: None

Summary: This complaint involves the same Respondent as complaint 2023041931. The underlying debt is a vehicle lease-to-own contract. The account was purchased by the Respondent after the original creditor went out of business. On March 17, 2023, the Complainant contacted the Respondent and requested a pay-off amount on the vehicle. The Respondent advised that the balance on the contract was \$8,238.47. The Complainant sent a cashiers check to the Respondent to pay-off the contact, and the Respondent deposited the check on March 21, 2023. On July 28, 2023, the vehicle was repossessed by the Respondent. The Complainant was informed that the vehicle was repossessed because there was still a contractual balance of \$3,110.61. The Complainant paid the remaining balance off on August 2, 2023. The Complainant was instructed to call back several days later and request the title to the vehicle. When the Complainant contacted the Respondent about the vehicle title, the Respondent requested another payment and advised that there was no title to the vehicle. At that point in time, the Complainant hired an attorney and issued a written demand for the vehicle title to the Respondent. A debt collector or collection service may not use any false, deceptive, or misleading representation in the collection of a debt. *See* Rules of the Tennessee Collection Services Board. § 0320-05-.05(1). (False or Misleading Representations). The Respondent's communications regarding the contractual balance of the debt constitute false or misleading representations and violate the rules of this Board. *See* Rules of the Tennessee Collection Services Board. § 0320-05-.05(1)(b)(1). (A debt collector or collection service may not use any false, deceptive, or misleading representations or means in connection with the collection of any debt. Without limiting the general application of this prohibition, the following conduct is a violation of this section: The false representation of the character, amount, or legal status of any debt.). The Respondent's statements regarding the account balance were false and misled the Complainant into believing that making payments in those amounts would result in the satisfaction of the debt and receipt of the vehicle's title.

Recommendation: Consent Order with a \$500.00 civil penalty and authorization for formal hearing for violations of Tenn. Code Ann. § 62-20-115(b)(4) (Investigations; revocation, suspension or nonrenewal) and Rules of the Tennessee Collection Services Board § 0320-05-.05(1) (False or Misleading Representations).

BOARD DECISION: The Board accepted legal counsel's recommendation.

New Information: The Respondent asserts that the Complainant was advised during the conversation on March 17, 2023 that the \$8,238.47 figure represented the remaining lease payments on the vehicle and that she would still have to execute the purchase option in order to receive the title. The Respondent produced biweekly account statements issued to the Respondent's email address between April 21, 2023, and July 28, 2023. The email address provided by the Respondent matches the email address that the Complainant identified on the complaint form. The Respondent sent the electronic statements with read receipts and advised that the Complainant only opened the statement issued on June 2, 2023. The Respondent's issuance of account statements to the Complainant's email address refutes the Complainant's summary of facts. The Complainant asserted that there was no communication from the Respondent between March 21, 2023, and July 28, 2023.

New Recommendation: Close.

New Board Decision: The Board accepted legal counsel's recommendation.

Chip Hellman motioned to approve the legal counsel's recommendations, and this was seconded by Jason Hill.

Attorney Joseph Wharton presented draft rules which will be part of a rulemaking hearing at the July 10, 2024, board meeting. Members agreed to the rules as presented.

Chip Hellman motioned to hold rulemaking hearing at July 10th meeting, this was seconded by Tony Zikovich.

Director Gumucio suggested the board come up with a complaint process to handle cases that fall into common categories. This would expedite the complaint process and have consistent resolutions. The members were in complete support.

NEW BUSINESS/ADJOURNMENT

Director Gumucio asked if anyone in the public, participating in person or remotely using Teams, had comments as they relate to the agenda. There were no comments provided.

Director Gumucio let the board know the 2024 NACARA conference and training will be held in Sacramento California on September 30 – October 2.

ADJOURN

There being no new business, Mr. Zikovich made a motion to adjourn. This was seconded by Mr. Hill. The motion passed unanimously. The meeting adjourned at 10:15 a.m.