



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

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

The Tennessee Collection Service Board met on January 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, Gregg Swersky, Tony Zikovich and Jason Hill.

BOARD MEMBERS ABSENT: Laurie Hadwyn

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

CALL TO ORDER/ROLL CALL

Director Gumucio called the meeting to order at 9:30 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 January 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 January 3, 2024."

Director Gumucio introduced Joseph Wharton who is the boards new attorney hired to take Hugh Cross's programs.

AGENDA

Mr. Swersky motioned to adopt the agenda as amended. This was seconded by Mr. Hellmann. The motion passed unanimously.

OCTOBER MINUTES

Upon review of the minutes from October's meeting, Mr. Hellmann motioned to accept them. This was seconded by Mr. Zikovich. The motion passed unanimously.

DIRECTOR'S REPORT

Roberts Rules of Order

Mr. Hill motioned to agree and adhere to Robert's Rules of Order to conduct meetings. This was seconded by Mr. Swersky. The motion passed unanimously.

Election of Officers

The Board decided for the officers to remain the same as the previous year.
Motion by Mr. Swersky seconded by Mr. Hill for Mr. Hellman to remain as Chair.

Motion by Mr. Hellmann and a second by Mr. Hill for Mr. Swersky to remain as Vice Chair.

Motion by Mr. Hill and a second by Mr. Swersky for Mr. Zikovich to remain as Secretary.

Budget Report

Director Gumucio provided the financial information for Fiscal year 22-23 reflecting a deficit of \$13,566. The surplus was \$914,722. Fiscal year 23-24 through November reflects an additional deficit of \$20,558 leaving the reserves with \$894,164.

LEGAL

Legal Report (Presented by Joseph Wharton)

1. 2023033681

Respondent:

License Status: Unlicensed

First Licensed: n/a

License Expiration: n/a

Disciplinary History: None

Summary: This complaint alleges unlicensed activity and disputes the underlying debt. The Complainant is a company located in Tennessee. The Complainant asserts that they received a debt collection email from the Respondent on July 10, 2023. However, the Complainant did not provide a copy or proof of the collection email. The Complainant also asserts that the underlying debt is not owed. The Complainant researched the Respondent's collection service license status and discovered that the Respondent does not have a Tennessee collection service license. The Respondent did not file a response to the complaint to deny or provide proof that a collection attempt was not made. This board does not have jurisdiction over debt disputes i.e., disputed accounts regarding payment, sum balance, or terms.

Recommendation: Close.

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

2. 2023038561

Respondent:

License Status: #Active

First Licensed: 5/12/2014

License Expiration: 05/11/2024

Disciplinary History: None

Summary: This complaint involves the same Respondent as complaint 2023056131. The complaint is based on a debt dispute. The Complainant alleges that the Respondent reported a debt to their TransUnion and Equifax credit reports, and the Complainant never received notice of the state court hearing connected to the underlying debt. The Complainant broke a residential lease with a property management company without providing proper notice, and the property management company obtained a judgment for possession against the Complainant. The property management company enlisted the Respondent to collect the residential lease balance which consisted of damages, past-due rent, and fees. The Complainant disputes the debt based on the physical condition of the residence and believes the debt was inappropriately reported on his credit. Upon receipt of the complaint, the Respondent contacted the property management

company to verify the debt, and the Respondent provided the judgment information, residential lease, and ledger in their response. This board does not have jurisdiction over debt disputes i.e., disputed accounts regarding payment, sum balance, or terms. The board also cannot assist the Complainant or the creditor in negotiating a settlement or seeking a refund. There does not appear to be a violation.

Recommendation: Close.

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

3. 2023041891

Respondent:

License Status: Active

First Licensed:07/03/2018

License Expiration: 07/02/2024

Disciplinary History: None

Summary: This administrative complaint alleges that the Respondent failed to renew their surety bond. The Respondent's surety bond expired on June 8, 2023. Program staff attempted to contact the Respondent on four separate occasions requesting that the Respondent provide information relating to the replacement bond as is required by statute. *See* Tenn. Code Ann. § 62-20-110(a). The 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 legal counsel's recommendation.

4. 2023041931

Respondent:

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 2023056311. This complaint alleges that the Respondent breached the underlying vehicle lease agreement by refusing to honor the service warranty provided by the original creditor. Complainant asserts that their vehicle needs various repairs, and if the Respondent will not cover the repair costs under the service warranty, they would like to turn in the vehicle. The original creditor in this transaction is a large auto dealer which went out of business. Respondent asserts that they are the collection service provider for the creditor. However, since the original creditor is no longer in business, any warranty or promises provided by the creditor, are no longer valid. The Respondent advised the Complainant that the vehicle could be returned and there would still be an amount owed on the lease pursuant to the terms of the contract. This complaint amounts to a contract dispute with the creditor and does not appear to involve an alleged violation of collection services. This board does not have jurisdiction over debt disputes i.e., disputed accounts regarding payment, sum balance, or terms. The board also cannot assist the Complainant or the creditor in negotiating a settlement or seeking a refund. There does not appear to be a violation.

Recommendation: Close.

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

5. 2023043501

Respondent:

License Status: #Active

First Licensed:05/09/2012

License Expiration:06/13/2025

Disciplinary History: None

Summary: This complaint involves the same debt and facts as complaint 2023046711. The complaint involves a debt settlement dispute between Complainant, Respondent, and Respondent's legal counsel. Respondent retained legal counsel and filed a collection lawsuit against Complainant in General Sessions Court. Complainant sent a written settlement offer and a \$600.00 check to Respondent's legal counsel. The settlement offer stated, "The Plaintiff/Creditor acknowledges that by depositing, cashing, holding (past the 30 day check expiration) of this disbursement, the payment will be considered uncontested and agreed to, by both parties." The check was received by Respondent's legal counsel and deposited into their escrow account. Respondent's legal counsel shortly thereafter issued a \$600.00 check to Complainant and advised that the settlement offer was not accepted. Complainant then filed an affidavit of settlement offer and acceptance with the General Sessions Court. Complainant filed this complaint because Respondent's legal counsel originally deposited the settlement check and then later advised that Respondent rejected the settlement offer and issued Complainant a \$600.00 check in return. Respondent has since decided to accept Complainant's settlement offer, and on September 25, 2023, an Agreed Order was filed in General Sessions Court mutually releasing each other from liability and dismissing the collection action with prejudice. This board does not have jurisdiction over debt disputes i.e., disputed accounts regarding payment, sum balance, or terms. The board also cannot assist the Complainant or the creditor in negotiating a settlement or seeking a refund. There does not appear to be a violation.

Recommendation: Close.

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

6. 2023043581

Respondent:

License Status: Active

First Licensed:09/11/1997

License Expiration:12/31/2024

Disciplinary History: 2005-consent order,2007-consent order,2008- letter of warning, 2010- letter of warning, 2011- letter of warning, 2016, consent order, 2017-consent order

Summary: This complaint alleges that Respondent has engaged in harassment and the Complainant disputes the debt. The debt in question originated as a credit card account with a third-party company. The original holder of the debt sold the account to the Respondent on February 22, 2023. On February 27, 2023, the Respondent mailed the Complainant a validation letter, which informed the Complainant that the Respondent had purchased the account and advised of rights pursuant to the Fair Debt Collection Practices Act. The Respondent alleges that the Complainant requested that communications cease on March 2, 2023. The Respondent mailed the Complainant a "Prelegal Notification Letter" on August 23, 2023, advising that the account could be referred to an attorney that lives in the Complainant's state for possible litigation. The letter cited statute 15 U.S.C. § 1692(c)c. The Complainant disputes the underlying debt itself. The Complainant asserts that the multiple communications with the Respondent demonstrate harassment, and the "Prelegal Notification Letter" violates the cease of communication request. The Complainant also reported the Respondent's conduct to the Consumer Financial Bureau. This board does not have jurisdiction over debt disputes i.e., disputed accounts regarding payment, sum balance, or terms. If a consumer requests in writing that a collection service business cease further communication with the consumer, the collection service business shall not communicate with the consumer further with respect to such debt unless an exception applies. *See Rules of the Tennessee Collection Services Board*. § 0320-05-.03(3) (Ceasing communication if the consumer notifies a debt collector or collection service that the consumer refuses to pay a debt or that the consumer wishes the debtor collector to cease further communication with the consumer.). One of the exceptions to the communication bar is a communication that notifies the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debtor collector or creditor. *See Rules of the Tennessee Collection Services Board*. § 0320-05-.03(3)(a)(2). The Respondent advised that they routinely refer accounts to attorneys who practice in the state of a debtor to pursue collection or a judgment. The "Prelegal Notification Letter" falls into this exception. Finally, the Respondent's conduct does not constitute harassment or abuse as defined by the rules of the Board. *See Rules of the Tennessee Collection Services Board*. § 0320-05-.04(1)

(Any conduct the natural consequence of which is to harass, oppress, or abuse: the use or threat of use of violence; use of obscene or profane language; publication of a list of consumers who allegedly 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; the placement of telephone calls without meaningful disclosure of the caller's identity.).

Recommendation: Close.

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

7. 2023046031

Respondent:

License Status: #Active

First Licensed:04/18/2022

License Expiration:04/17/2024

Disciplinary History: None

Summary: This complaint alleges that the Respondent failed to provide a validation of the debt, violated a request to cease and desist contact, and engaged in harassing conduct toward the Complainant. The Complaint also alleges that the Respondent violated several provisions of the Fair Debt Collection Practices Act. The Complainant entered into an unsecured personal loan with a third-party organization on January 6, 2022. The Respondent purchased the underlying debt account from the third-party on October 31, 2022. The Respondent assigned the account to a debt collection service on April 10, 2023. The debt collection service provided the account ledger and underlying loan contract to the Complainant to validate the debt on April 26, 2023. After several communications with the Complainant, the Respondent decided to transfer the account from the original debt servicer to another debt servicing company on June 27, 2023. The second debt servicing company supplied the Complainant with the account ledger and copy of the loan contract to validate the debt on August 29, 2023. The Respondent included the validations of debt provided by both collection servicers in their response to the complaint. The debt collection servicers employed by the Respondent appear to have satisfied the rules on validation of debts. *See Rules of the Tennessee Collection Services Board*. §§ 0320-05-.07(1)-(2). (Notice of debt, contents; Disputed debts). In the context of collection services, harassment involves conduct such as the use of threats or violence, obscene or profane language, continuous or repeated phone calls, and the placement of telephone calls without meaningful disclosure of the caller's identity. *See Rules of the Tennessee Collection Services Board*. § 0320-05-.04(2)(1), There was no evidence of harassment produced by the Complainant.

Recommendation: Close.

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

8. 2023048021

Respondent:

License Status: Active

First Licensed:10/20/2021

License Expiration:10/19/2025

Disciplinary History: None

Summary: This complaint involves the same Respondent as complaints 2023049361 and 2023056581. The complaint concerns the Complainant's request that the Respondent remove the accrued interest on three medical bills. The Complainant alleges that they received collection notices from the Respondent regarding medical bills two years after the services were rendered. The total amount of interest that had accrued on the accounts was approximately \$495.00. The Respondent advised in their response to the complaint that the interest on the accounts was assessed pursuant to Tenn. Code Ann. § 47-14-103 (Maximum rates of interest), but they have decided to waive the interest on the accounts and work with the Complainant to resolve the balances. There does not appear to be a violation.

Recommendation: Close.

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

9. 2023050051

Respondent:

License Status: Active

First Licensed:10/02/2014

License Expiration:10/01/2024

Disciplinary History: 2023 Letter of warning

Summary: This complaint alleges that the Respondent failed to validate the debt upon the Complainant's request for information. The underlying debt is a credit card account. The original creditor sent the account to the Respondent for collection services on July 10, 2023. The Complainant was informed by both the original creditor and the Respondent that the account was transferred to the Respondent for collections. Specifically, the Respondent mailed a letter to the Complainant dated July 20, 2023, advising that they were providing collection services for the original creditor. The Complainant retained a debt negotiation company to manage several of her debts including this account. After the account was transferred to the Respondent, the Complainant and their debt negotiation company were unable to obtain the original account number from Respondent despite multiple attempts. Without the original account number, the Complainant's debt negotiation company could not work to resolve the account, and the Complainant had to remove the debt from their assigned accounts. The account has grown over time due to interest and fees. In their response to the complaint, the Respondent advised that they have stopped collection efforts on the account and a request for a validation of the debt is in process. The Board cannot assist the creditor or the Complainant in negotiating a settlement. A collection service is required to provide certain information to a debtor after acquiring an account. *See Rules of the Tennessee Collection Services Board*. §§ 0320-05-.07(1)-(2). (Notice of debt, contents; Disputed debts). The required disclosures include the amount of the debt and the name of the creditor to whom the debt is owed, but do not include the account number used by the original creditor. The only evidence of a potential wrongdoing is regarding the validation of debts.

Recommendation: Letter of instruction regarding validation of debts.

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

10. 2023053721

Respondent:

License Status: Unlicensed

First Licensed: n/a

License Expiration: n/a

Disciplinary History: None

Summary: This complaint involves unlicensed activity, a debt dispute and failure to provide validation of the debt. On October 13, 2023, the Complainant noticed that their Transunion credit report listed a debt that they did not recognize. The Complainant contacted the Respondent and was informed that the original creditor on the account was a home security company. The Complainant disputes the debt based on the fact that they did not open an account with the original creditor. The Complainant requested documentation to validate the debt, and the Respondent replied that they are not required by law to produce documentation relating to the original debt. If a consumer notifies a collection service in writing that the debt or any portion thereof is disputed, the collection service shall cease collection of the debt, or any disputed portion thereof, until the collection service obtains verification of the debt and the information is mailed to the Consumer. *See Rules of the Tennessee Collection Services Board* § 0320-05-.07(2). The Respondent appears to be in violation § 0320-05-.07(2). The complaint also asserts that the Respondent is not licensed as a credit service business in the state of Tennessee. The Respondent stated in their response that they believed they were exempt from having to obtain a Tennessee collection service license because they only have a handful of accounts in the state. No person shall commence, conduct or operate any collection service business in Tennessee unless the person holds a valid collection service license issued by the Board. *See Tenn. Code Ann. § 62-20-105(a)*. The Respondent does not hold a valid collection

service license and has not filed an application for a license with the collection service board. The Respondent's conduct is a violation of Tenn. Code Ann. § 62-20-105(a).

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-.07(2) (Validation of Debts- Disputed Debts).

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

11. 2023056131

Respondent:

License Status: Active

First Licensed: 05/12/2014

License Expiration: 05/11/2024

Disciplinary History: None

Summary: This complaint involves the same Respondent as complaint 2023038561. The complaint involves a debt dispute between the Complainant and the Respondent. The underlying debt is a residential lease balance. The Complainant vacated the leased property before the lease was terminated, and the property management company asserted that there was a remaining balance on the account. The property management company sent the account to the Respondent for collections on April 11, 2022. The Respondent contacted the Complainant and advised of several different avenues of repayment on the account. The Complainant refused to pay on the account and disputed the debt nine times between June 5, 2022, and October 13, 2023. The Complainant also filed a complaint with the Consumer Financial Protection Bureau. The Respondent marked the account as disputed and responded to each debt dispute. The Respondent included the underlying residential lease and account ledger in their response to this complaint. The Respondent is reporting the debt to the credit bureaus and intends to continue doing so. This complaint amounts to a debt dispute between the Complainant and property management company and does not appear to involve an alleged violation of collection services. This board does not have jurisdiction over debt disputes i.e., disputed accounts regarding payment, sum balance, or terms. The board also cannot assist the Complainant or the property management company in negotiating a settlement or seeking a refund. There does not appear to be a violation.

Recommendation: Close.

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

12. 2023049361

Respondent:

License Status: Active

First Licensed: 10/20/2021

License Expiration: 10/19/2025

Disciplinary History: None

Summary: This complaint involves the same Respondent as complaints 2023048021 and 2023056581. The complaint focuses on the Respondent's issuance of a refund after an overpayment on an account. A medical creditor employed the Respondent to collect the Complainant's account. The Complainant entered into a payment plan with the Respondent on January 31, 2020, whereby the Complainant agreed to pay \$50.00 per month to the Respondent until the account was paid in full. The Complainant provided their bank account information to the Respondent and agreed to allow \$50.00 per month to be electronically withdrawn from the account. On August 30, 2023, the Complainant's remaining balance on the account was \$15.90, but the Respondent withdrew the regular amount of \$50.00. The account was overpaid by \$34.10. The Complainant contacted the Respondent and requested a refund. The Respondent advised that the refund would not be issued until the next billing cycle which took place on September 30, 2023. The Complainant filed this response on September 14, 2023. The Respondent issued the refund check on October 2, 2023. The Complainant confirmed receipt of the refund. 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. The best practice in this circumstance would have been for the Respondent to reduce the final payment amount to the account balance since the balance was less than the monthly payment.

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.

13. 2023052911

Respondent:

License Status: Active

First Licensed: 06/18/2013

License Expiration:06/17/2025

Disciplinary History: None

Summary: This complaint alleges that the Respondent reported a debt on the Complainant's credit report without notifying the Complainant beforehand, and the Respondent failed to verify the debt after the debt was disputed. The Complainant entered into a personal loan with the original creditor on July 8, 2015. On October 22, 2021, all rights, title, and interest on the underlying debt were assigned to the Respondent. The Respondent sent a "Credit Reporting Notice" to the Complainant on June 28, 2023. The notice informed the Complainant that the account could be reported to the credit bureaus if they failed to fulfill their contractual obligations pursuant to the loan agreement. However, the notice was sent to a previous address of the Complainant. The Complainant noticed the debt on his credit report on August 28, 2023, and contacted the Respondent to dispute the account and request a verification of the debt. The Respondent mailed a "Response to Dispute and Verification Notice" to the Complainant on September 1, 2023. The letter included all the required information to verify the debt. *See Rules of the Tennessee Collection Services Board, § 0320-05-.07(2)*. (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 collections service shall cease collection of the debt, or any disputed portion thereof, until the collection service obtains verification or judgment, or the name and address of the original creditor is mailed to the consumer by the collection service.). The letter also advised that the credit bureaus were informed that the account was in dispute. However, the letter was mailed to an address that did not include the Complainant's apartment number. After not receiving the verification letter, the Complainant contacted the Respondent on eight separate occasions between September 6, 2023, and September 27, 2023, to dispute the debt and request verification information. The Complainant filed this complaint on October 2, 2023. The Respondent mailed a second debt verification letter to the Complainant on October 6, 2023, but once again, the mailing address did not include the appropriate apartment number. A third letter was mailed to the Complainant at the correct address on November 13, 2023. The Respondent's failure to send the debt verification information to the correct address after the Complainant provided his current address constitutes a violation of Rules of the Tennessee Collection Services Board, § 0320-05-.07(2). (Verification of Disputed Debt).

Recommendation: Letter of warning regarding verification of disputed debts pursuant to Rules of the Tennessee Collection Services Board § 0320-05-.07(2) (Verification of Disputed Debts).

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

14. 2023055521

Respondent:

License Status: Active

First Licensed: 03/18/2021

License Expiration: 03/17/2025

Disciplinary History: None

Summary: This complaint involves a debt dispute, allegations of harassment, and the Respondent's failure to validate the underlying debt. The Complainant also filed a complaint with the Better Business Bureau. The underlying debt is a residential lease. The Complainant vacated the leased property before the expiration of the lease and a balance is owed on the account. The Respondent was retained to provide collection services for the current holder of the account on January 10, 2023. The Complainant alleges that they mailed the Respondent a cease-and-desist letter on February 10, 2023. The Respondent has no record of a cease-and-desist letter sent in February 2023. However, the Complainant did not provide proof of the February cease-and-desist letter, and the Respondent has no record of the letter. The Complainant supplied two letters addressed to the Respondent dated July 10, 2023, and July 24, 2023. The July letters request that the Respondent cease-and-desist contacting the Complainant, request a validation of the underlying debt, and dispute the Respondent's right to collect the debt. The Respondent provided the Complainant with a copy of the residential lease and a statement articulating the outstanding balance. The Respondent also noted the cease-and-desist request and stopped contacting the Complainant to collect the debt. The Respondent's only communications with the Complainant since the July letters were responses to the filed debt disputes. There was no evidence of harassment provided by the Complainant. The Respondent's conduct appears to conform with the Tennessee Collection Service Act and the Rules of the Tennessee Collection Service Board. There does not appear to be a violation.

Recommendation: Close.

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

15. 2023056581

Respondent:

License Status: Active

First Licensed: 10/20/2021

License Expiration: 10/19/2025

Disciplinary History: None

Summary: This complaint involves the same Respondent as complaints 2023048021 and 2023049361. The complaint alleges that the Respondent continued to contact the Complainant after the debt was disputed, and the Respondent failed to provide validation of the underlying debt. The underlying debt is a medical bill. The account was placed with the Respondent for collection services on May 18, 2023. The Respondent holds an active Tennessee collection service license. The Complainant contacted the Respondent and disputed the debt several months ago. However, the Complainant did not provide proof of that communication. The Respondent claims that they never received the previous debt dispute and validation request. The Respondent sent a second collection letter to the Complainant on October 20, 2023. The Complainant filed this complaint after receiving the Respondent's second collection letter. The Complainant included a letter in the complaint advising the Respondent that the debt is disputed and requesting validation of the debt. The Respondent stated in their response that the Complainant's account has been placed in disputed status and no future collection calls will be made on the account. The Respondent also stated that they issued the debt validation information directly to the Complainant. The Respondent's conduct appears to conform with the Tennessee Collection Service Act and the Rules of the Tennessee Collection Service Board. There does not appear to be a violation.

Recommendation: Close.

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

16. 2023056741

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- consent order,2012-LOW,2023- LOW

Summary: This complaint involves the same Respondent as complaint 2023059461. The complaint alleges that the Respondent and their process server made false or misleading representations while attempting to collect a debt from the Complainant. The underlying debt is a credit card account that the Respondent purchased from a third party in July 2023. On September 25, 2023, the Respondent filed a civil collection action against the Complainant in state court. The Complainant asserts that the Respondent's process server threatened to have the Complainant arrested if she did not accept service of process. The Complainant then called the Respondent and spoke with one of their agents. During the phone conversation, the Respondent's agent asked the Complainant for her personal information but refused to disclose the nature of the case. The Respondent asserts that they investigated the complaint and found no records or proof these allegations. The Respondent has no record of receiving any phone calls from the Complainant. A collection service cannot make the representation that nonpayment of any debt will result in the arrest or imprisonment of the debtor unless such action is lawful. See Rules of the Tennessee Collection Services Board. § 0320-05-.05(1)(d). (False or Misleading Representations: the representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt or creditor intends to take such action.). The process server's assertion that the Complainant would be arrested if she did not accept service of a civil collection summons was a false or misleading representation. The Complainant cannot be arrested for a credit card debt under Tennessee Law. The Respondent's failure to disclose the nature of the summons in the initial phone call with the Respondent also constitutes a false or misleading representation. See Rules of the Tennessee Collection Services Board. § 0320-05-.05(1)(k). (False or Misleading Representations: the failure to disclose in the initial communication with the consumer, whether written or oral, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.).

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).

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

17. 2023059461

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- consent order,2012-LOW,2023- LOW

Summary: This complaint involves the same Respondent as complaint 2023056741. The complaint alleges that the Respondent failed to perform due diligence and engaged in harassment by serving a civil warrant meant for someone else to the Respondent's residence. The Respondent hired legal counsel and filed a collection action in state court on August 22, 2023. On September 16, 2023, a process server delivered the civil warrant to the Complainant's home. The civil warrant included several statements reflecting the balance on the underlying debt. The defendant identified on the warrant is not the Complainant. The Complainant has lived at this residence since 2006 and her ownership of the property is recorded in the property tax assessment database. The Complainant asserts that the Respondent failed to perform due diligence and engaged in harassment by serving the warrant on an incorrect party. The Respondent stated in their response that they investigated the complaint and found no records supporting the allegation that they did not do their due diligence in issuing the warrant. Without the prior consent of the consumer, a collection service may not communicate, in connection with the collection of any debt, with any person other than the consumer, their attorney, a consumer reporting agency, the creditor, the attorney of the creditor, or the attorney of the collection service. See Rules of the Tennessee Collection Services Board. § 0320-05-.03(2)(a) (Communication with Third Parties). The issuance of a civil warrant along with statements on the underlying debt to an unrelated third party violates the rule on communications with third parties. In the context of collection services, harassment involves conduct such as the use of threats or violence, obscene or profane language, continuous or repeated phone calls, and the placement of telephone calls without meaningful disclosure of the caller's identity. See Rules of the Tennessee Collection Services Board. § 0320-05-.04(2)(1), There was no evidence of harassment produced by the Complainant.

Recommendation: Letter of warning regarding communications with third parties pursuant to Rules of the Tennessee Collection Services Board. § 0320-05-.03(2)(a) (Communication with third parties).

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

18. 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.

19. 2023052081

Respondent:

License Status: Application denied

First Licensed: 05/28/1998

License Expiration: 12/31/2001

Disciplinary History: None

Summary: This complaint involves the conduct of a private student loan lender. The underlying debt is a private student loan issued by the Respondent. The Respondent contacted the Complainant and their family members on numerous occasions to collect on a student loan account. The complaint asserts that the Respondent's collection communications are improper. The Respondent does not have a Tennessee collection service license. There are several statutory exemptions to the Tennessee Collection Service Act. See Tenn. Code Ann. § 62-20-103. (Exemptions). The statute exempts any person engaged in the collection of indebtedness incurred in the normal course of business or the business of a parent, subsidiary or affiliated firm or corporation. See Tenn. Code Ann. § 62-20-103(a)(3). The Respondent does not provide third-party collection services. The Respondent performs collection services only on student loans that it issues directly; therefore, the Respondent is exempt from the statute and outside of the Board's jurisdiction.

Recommendation: Close.

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

20. 2023046711

Respondent:

License Status: Volu Surrender

First Licensed: 10/24/2013

License Expiration: 10/23/2015

Disciplinary History: None

Summary: This complaint is based on the same facts and underlying debt as complaint 2023043501. This Respondent is an affiliate of the Respondent in complaint 2023043501. This Respondent sold the underlying debt on August 29, 2022, and does not appear to have engaged in the conduct giving rise to the complaint. There does not appear to be a violation.

Recommendation: Close.

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

21. 2023053901

Respondent:

License Status: Active

First Licensed: 02/27/1975

License Expiration: 12/21/2024

Disciplinary History: 2008- consent order

Summary: This complaint involves a debt dispute. The underlying debt is a cell phone contract. The Complainant entered into a contract to purchase a cell phone from a cellular service provider in July 2022. The cell phone was never delivered to the Complainant, and the Complainant advised the cellular service provider of this fact. On July 22, 2023, the cellular service provider sent the Complainant's account to the Respondent for collections. The Respondent sent the Complainant an initial notice letter on July 24, 2023. However, the letter was mailed to an address that did not include the Complainant's apartment number. The Respondent started reporting the account to the credit bureaus on September 10, 2023. The Complainant saw the account on her credit report and contacted the Respondent to inquire about the debt. The Respondent provided the name of the creditor, and the Complainant advised the Respondent that the debt is disputed because the cell phone was never delivered. The Respondent then requested verification documentation from the creditor, stopped reporting the account to the credit bureaus, and suspended collection activity. The Complainant confirmed that the account was removed from her credit report. This 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.

Recommendation: Close.

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

22. 2023056311

Respondent:

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.

23. 2023060761

Respondent:

License Status: Active

First Licensed: 09/27/2007

License Expiration: 09/26/2024

Disciplinary History: None

Summary: This complaint alleges improper communication and disputes the debts. The underlying debts are two medical bills. The Respondent was retained by the creditor to perform collection services on the first account on October 31, 2023, and on the second account on November 7, 2023. The Complainant asserts that they do not owe the debts because they had insurance on the dates of service. The creditor asserts that the Complainant's insurance coverage lapsed and was not in effect on the dates of service. The Complainant advised the Respondent verbally that the debt was disputed, and her insurance coverage did not lapse. The Complainant believes that the creditor needs to resubmit the claim with her insurance company and the debt will be paid by the insurer. The Respondent contacted the creditor regarding the account, and the creditor stated that the insurance policy shows as inactive on the dates of service, and they will try to resubmit the claims with the insurance company. The Complainant alleges that the Respondent has called repeatedly despite being told to stop calling regarding the accounts. The Respondent provided a copy of their call log regarding the Complainant's accounts, and the call history shows that the Respondent only discussed the accounts with the Complainant on November 28, 2023, which is the same date that the complaint was filed. The Complainant did not provide proof of any other calls made by the Respondent. This 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.

Recommendation: Close.

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

24. 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.

Motion by Mr. Swersky and a second by Mr. Hill to accept the legal report recommendations.

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.

There being no new business, Mr. Hill made a motion to adjourn. This was seconded by Mr. Zikovich. The motion passed unanimously. The meeting adjourned at 9:55 a.m.