

**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

DATE: September 10, 2014

PLACE: Davy Crockett Tower – Conference Room 1-B
500 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler, Vice-Chairman
Elizabeth Dixon
Steve Harb
Chip Hellmann

PRESENT: Staff Members:
Chris Whittaker, Assistant General Counsel
Kimberly Whaley, Director of Licensing
Judy Elmore, Regulatory Boards Administrative Assistant III
Visitors:
Terrance Bond
Steven Rust
Debbie Rust
Becky Givens

CALL TO ORDER: Chairman Howard called the meeting to order at 9:30 a.m. and the following business was transacted:

Roll Call – Ms. Whaley called the roll. All board members were present.

Notice of Meeting – Ms. Whaley read the following statement for the record, “This meeting’s date, time and location have been noticed on the Tennessee Collection Service Board’s website, included as part of this year’s meeting calendar since August 16, 2013. Additionally, the agenda for this month’s meeting has been posted on the Tennessee Collection Service Board’s website since September 5, 2014. This meeting was also noticed on tn.gov’s public meeting calendar.”

Agenda – Motion to adopt agenda was made by Mr. Hellmann, seconded by Mr. Harb.
MOTION CARRIED

Minutes – Ms. Trinkler made a motion to approve the minutes of the July 9, 2014 meeting, seconded by Ms. Dixon. **MOTION CARRIED**

LEGAL REPORT - CHRIS WHITTAKER, ASSISTANT GENERAL COUNSEL

Mr. Whittaker presented the following legal report for the Board's consideration:

1. 2014007001

Year First Licensed: N/A
License Expiration: N/A

The complaint alleges that the Respondent, a non-licensee, attempted to collect a debt from the Complainant that the Complainant does not owe. The investigation revealed that the Complainant did not submit any evidence of any kind which would indicate that the Respondent attempted to collect the alleged debt in question from him. Additionally, Board counsel attempted to reach the Complainant on numerous occasions by telephone and in writing to request that the Complainant submit any information and documentation he wished to be considered as part of the complaint. Given the Complainant's failure to provide any evidence that the Respondent attempted to collect a debt from him, dismissal of this complaint is required.

Recommendation: Dismiss the complaint.

2. 2014006171

Year First Licensed: 02/04/2008
License Expiration: 02/02/2015

The complaint alleges that the Respondent violated the federal Fair Debt Collection Practices Act ("FDCPA") by failing to appropriately validate the debt and by failing to identify the original creditor to whom the alleged debt in question was owed. The investigation revealed that all documents submitted by the Respondent to the Complainant relative to the debt in question contained sufficient information for the Complainant to identify the original creditor to whom the debt was owed. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

3. 2014009201

Year First Licensed: 2009
License Expiration: 05/06/2015

The complaint alleges that the Respondent attempted to collect a debt from the Complainant that the Complainant does not owe because the alleged debt in question was the result of identity theft. The Respondent advised that, according to its records, the Complainant had never stated that the alleged debt was a result of identity theft until she filed this complaint with the Board. Immediately upon learning that the debt could be the result of identity theft, the Respondent returned the account to its client and provided the Complainant with the forms that she needed to fill out in order to dispute the debt and to advise the creditor that the alleged debt resulted from identity theft.

Recommendation: Dismiss the complaint.

4. 2014014591

5. 2014016391

6. 2014016401

Year First Licensed: Varies by Respondent
License Expiration: Varies by Respondent

These complaints allege that the Respondents failed to timely submit to the Board proof of current surety bond coverage as required by law. In each case, the investigation revealed that the Respondents, all of whom are relatively new licensees (licensed less than one renewal cycle), experienced internal procedural errors (misrouted correspondence, late arrival of mail etc.) which led to the delay in providing proof of surety bond coverage to the Board. None of these licensees have had any prior disciplinary action imposed against them by the Board, and each Respondent has provided written assurances that the issues which led to the delay in timely providing proof of surety bond coverage to the Board have been fixed to prevent this from happening again. As such, each complaint should be closed with a Letter of Warning.

Recommendation: Close these complaints upon the issuance of Letters of Warning.

7. 2014014971

Year First Licensed: 2011
License Expiration: 03/22/2015

The complaint alleges that the Respondent engaged in harassing and/or abusive conduct by contacting her too frequently and by using overly aggressive language while attempting to collect a debt from the Complainant. The Respondent advised that, for a period of time, it did contact the Complainant by phone approximately once per day. The Respondent further advised that, during one of the early phone calls with the Complainant, the Complainant seemed agreeable to potentially settling the debt for less than the full amount owed. As such, the Respondent stated that it was simply following up with the Complainant regarding the possibility of settling the debt. After settlement discussions with the Complainant reached an impasse, the Respondent received a request from the Complainant to cease and desist communicating with her by phone. Immediately upon receipt of the cease and desist request from the Complainant, the Respondent returned the account to its client and discontinued all collection attempts. In light of the Complainant's allegations regarding the aggressiveness of one of the Respondent's collectors during one or more collection calls, a Letter of Information is recommended to remind the Respondent to admonish its employees regarding their conduct during collection calls.

Recommendation: Close this complaint upon the issuance of a Letter of Information.

8. 2014016381

Year First Licensed: 2013
License Expiration: 2014 (Voluntary Surrender)

The complaint alleges that the Respondent failed to timely provide proof of surety bond coverage to the Board as required by law. The investigation revealed that the Respondent voluntarily surrendered its license, but that the surrender paperwork arrived after a complaint had already been opened. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

9. 2014018861

Year First Licensed: 2013
License Expiration: 2014 (Voluntary Surrender)

The complaint alleges that the Respondent failed to timely provide proof of surety bond coverage to the Board as required by law. The investigation revealed that the Respondent failed to provide proof of surety bond coverage because it liquidated the company's assets and went out of business. It further appears that the Respondent voluntarily surrendered its license, but that the surrender paperwork arrived after a complaint had already been opened. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

10. 2014017271

Year First Licensed: N/A
License Expiration: N/A

The complaint alleges that the Respondent attempted to collect a debt from the Complainant that the Complainant does not owe without possessing a Tennessee collection service license as required by law. The investigation revealed that, although the Respondent did close the account and cease all communications with the Complainant upon receipt of this complaint, the Respondent did not possess a Tennessee collection service license at all times relevant to this complaint. As such, a Cease and Desist Letter is recommended.

Recommendation: Close this complaint upon the issuance of a Cease and Desist Letter.

11. 2014017931

Year First Licensed: N/A
License Expiration: N/A

The complaint alleges that the Respondent attempted to collect a debt in Tennessee without possessing a Tennessee collection service license as required by law. The investigation revealed that, although the Respondent stated that the Complainant was contacted in error, that they removed the Complainant's phone number from their computer system, and that they ceased all communications with the Complainant upon receipt of this complaint, the Respondent did not possess a Tennessee collection service license at all times relevant to this complaint. As such, a Cease and Desist Letter is recommended.

Recommendation: Close this complaint upon the issuance of a Cease and Desist Letter.

12. 2014017411

Year First Licensed: 2009
License Expiration: 12/08/2015

The complaint alleges that the Respondent failed to timely respond to a written request from the Board for information required to complete the Respondent's license renewal application. In its sworn response to the complaint, the Respondent apologized for its untimely response to the Board. The Respondent advised that its internal policies and procedures require letters from government agencies to be immediately forwarded to their compliance department, but that it appears that the Board's request for additional information was not provided to the Respondent's compliance department in accordance with company policy. It appears that the Respondent's compliance department did submit the required information the Board as soon as it received the request. Because the Respondent has no prior disciplinary history with the Board, a Letter of Warning is recommended.

Recommendation: Close this complaint upon the issuance of a Letter of Warning.

13. 2014017941

Year First Licensed: 2010
License Expiration: 02/10/2016

The complaint alleges that the Respondent failed to timely respond to a written request from the Board for information required to complete the Respondent's license renewal application. In its sworn response to the complaint, the Respondent apologized for its untimely response to the Board and advised that it was experiencing some financial hardship at the time of the Board's request, which resulted in some staff being let go. It appears that the Respondent did ultimately submit the required information to the Board, and that the financial difficulties experienced by the Respondent are not sufficient to call the Respondent's financial viability or responsibility into question. Because the Respondent has no prior disciplinary history with the Board, a Letter of Warning is recommended.

Recommendation: Close this complaint upon the issuance of a Letter of Warning.

14. 2014018161

Year First Licensed: 2013
License Expiration: 08/28/2015

The complaint alleges that the Respondent failed to timely provide proof of surety bond coverage to the Board as required by law. The investigation revealed that, although the Respondent did not submit timely proof of surety bond coverage to the Board, that the Respondent's failure to do so may have been caused, in part, by an incorrect and/or incomplete address on the envelope containing the letter sent to the Respondent. However, whether or not the Board sends a letter to a licensee reminding the licensee to provide proof of current surety bond coverage to the Board, it is ultimately the Respondent's responsibility to timely submit proof of surety bond coverage to the Board. Because the Respondent has no prior disciplinary history with the Board, a Letter of Warning is recommended.

Recommendation: Close this complaint upon the issuance of a Letter of Warning.

15. 2014018841

Year First Licensed: 2010
License Expiration: 01/24/2016

The complaint alleges that the Respondent failed to timely respond to a written request from the Board for information required to complete the Respondent's license renewal application. In its sworn response to the complaint, the Respondent provided proof that it had, in fact, submitted the requested information to the Board in a timely manner. It appears that, for reasons unknown, the timely response submitted by the Respondent never made it to the Board's office. As such, dismissal of this complaint is required.

Recommendation: Dismiss the complaint.

16. 2014019861

Year First Licensed: 1975
License Expiration: 12/31/2014

The complaint alleges that the Respondent attempted to collect a debt from the Complainant that the Complainant does not owe. The investigation revealed that it appears that the Complainant does owe the alleged debts in question, and that he may have thought he didn't owe any of the alleged debts because he called the wrong medical facility to inquire about the debts. Notwithstanding the validity of the debts, the Respondent removed the debts from the Complainant's credit report because the Complainant is disabled and has no ability to pay these debts if they are not covered by insurance. The Complainant submitted a letter to the Board stating that he is satisfied with the Respondent's decision to remove the debts in question from his credit report. As such, dismissal is recommended.

Recommendation: Dismiss the complaint.

MOTION: Mr. Hellmann made a motion to accept the Legal Report as presented, seconded by Ms. Trinkler. **MOTION CARRIED.**

ADMINISTRATIVE REPORT – KIMBERLY WHALEY, DIRECTOR OF LICENSING

Complaint Comparison Report - Ms. Whaley presented the Board's performance measure. She also advised the Department's performance measure for complaint processing sets a benchmark requiring at least seventy-five percent (75%) of complaints to receive formal action by the Board within one hundred eighty (180) days of receipt. She further advised the Collection Service Board's current performance measure of ninety-four and sixty-six hundredths percent (94.44%) exceeds the benchmark.

Application Reviews –

Renewal - Ms. Whaley presented a collection agency renewal application marked Tab 4 for the Board's review and consideration. Mr. Harb moved that the Board table the renewal pending

receipt of additional information about notes payable, seconded by Ms. Dixon. **MOTION CARRIED**

Renewal - Ms. Whaley presented a collection agency renewal application marked Tab 5 for the Board's review and consideration. Mr. Hellmann moved that the Board table the renewal pending receipt of new information about the timing of their statements and their bank reconciliation, seconded by Mr. Harb. **MOTION CARRIED**

Initial - Ms. Whaley presented a collection agency application marked Tab 6 for the Board's review and consideration. Ms. Dixon moved that the Board table the renewal pending receipt of a compilation report, seconded by Mr. Harb. Mr. Hellmann abstained. **MOTION CARRIED**

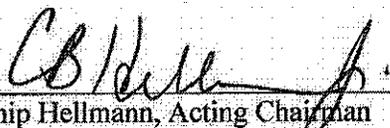
Collection Fee Question - Mr. Whittaker presented a letter from a company requesting an interpretation of T.C.A. 62-20-115(b)(2). After some discussion the board agreed that that company's interpretation was appropriate. Motion made by Ms. Trinkler and seconded by Mr. Harb. Mr. Hellmann abstained. **MOTION CARRIED**

Other- Ms. Whaley presented an example of a balance sheet that has recently been presented at renewal an inquired about what the board found to be acceptable in order to meet the renewal requirements. After some discussion Ms. Whaley was advised that this type of balance sheet was acceptable if it included a compilation report and/or signed off on by the PA/CPA along with the Board's form.

Other - Ms. Whaley inquired with the Board if it was ok to only hold agency applications open for 180 days rather than the existing 365 days given the removal of the location manager requirement. Motion made by Mr. Hellmann and seconded by Ms. Trinkler. **MOTION CARRIED**

Legislative Update - Public Chapter 881 requires that each board/division create an apprenticeship program. However, the Board does not license individuals. Therefore, the rule does not apply. The division will prepare a statement to submit to the legislature explaining the exemption. Mr. Whittaker and Ms. Whaley advised the Board that they are continuing to work to prepare the information.

Meeting was adjourned at 10:35


Chip Hellmann, Acting Chairman