TENNESSEE
COLLECTION SERVICE BOARD
MINUTES

DATE: January 18, 2011

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler, Vice Chairman
James Mitchell

ABSENT: Beth Dixon
Shannon Polen

PRESENT: Staff Members:
Donna Hancock, Executive Director
Terrance Bond, Assistant General Counsel
Susan Lockhart, Executive Administrative Assistant

CALL TO ORDER: Chairman Howard called the meeting to order at 9:35 a.m. and the following business was transacted:

Roll Call - Director Hancock called the roll. Three (3) board members were present and two (2) were absent.

Robert's Rules of Order - Ms. Trinkler made a motion to adopt Robert's Rules of Order, seconded by Mr. Mitchell. **Motion Carried.**

AGENDA: Ms. Hancock noted some changes to the agenda. Ms. Trinkler made a motion to accept the agenda as amended, seconded by Mr. Mitchell. **Motion Carried.**

Minutes – Ms. Trinkler made a motion to approve the minutes of the December 7, 2010 meeting, seconded by Mr. Mitchell. **Motion Carried.**

LEGAL REPORT – TERRANCE BOND, ASSISTANT GENERAL COUNSEL

Mr. Bond presented the following Legal Report for the board's consideration:

1. Case No. 200801675-1

200801675-1: The Complainant alleges that she continued to receive calls from the Respondent for an individual that does not live her home and with whom she has not had recent contact. Complainant also states that when she requested to speak to a supervisor concerning the calls she was told, "She had no right to file a complaint."

Respondent states that it cannot locate the Complainant's phone number in its records but has taken action to ensure that the Complainant does not receive calls in the future.

Recommendation: Close with a Letter of Warning re: acquisition of location information.

2. Case No. 200901688-1

200901688-1: The board reviewed the Respondent's financial records after finding that its January 31, 2009 financial statement showed that the Respondent's assets exceeded its liabilities by approximately $148,000. Upon further review, it appears that not withstanding Respondent's liabilities it has been able to meet its clients' payables and its obligations as they mature.

Recommendation: Close with Letter of Warning re: financial responsibility requirement.

3. Case No. 200901693-1

200901693-1: The board reviewed the Respondent's financial after the 2008 financial statement showed that the Respondent's trust account balance appeared to be insufficient to pay clients. The Respondent provided a detailed financial summary in response to the board's inquiry which showed that the Respondent was able to meet all client's obligations that were due at the time of the inquiry. Additionally, no client of the Respondent has ever filed a complaint with the board office alleging that the Respondent failed to remit monies owed.

Recommendation: Close with no action.

4. Case No. 200902512-1

200902512-1: The Complainant alleges that the Respondent sent him a written payment demand after he timely submitted a written notice of dispute requesting validation of an alleged debt. The Respondent denies receiving the Complainant's written demand and states that it has policies and procedures in place to ensure proper handling and routing of written disputes. I requested copies of the written disputes as well as proof of the Respondent's continued demands from the Complainant – these were not received.

Recommendation: Close with no action.

5. Case No. 200902508-1

200902508-1: The Complainant alleges that the Respondent continued to contact her concerning an allegedly past due account after she verified with the Respondent's agent that she was not the responsible party. The Respondent states that it removed the Complainant's telephone number immediately after it spoke with the Respondent's agent by telephone but the Respondent's account notes indicated two (2) additional telephone calls were placed to the Complainant following its initial conversation with the Complainant.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $2,000 civil penalty.

6. Case No. 20092741-1

20092741-1: The Complainant alleges that the Respondent called his sister multiple times in an effort to reach him concerning his past due account. According to the Complainant, the Respondent's agent represented the Respondent to be a law firm. The Respondent denies that its agents ever made such representations. The Respondent also provided a copy of its account notes for the Complainant's account, which show two (2) telephone calls to the Complainant's sister. During the first call, the Respondent's agent noted that the Complainant's sister was overheard speaking to the Complainant before returning to the phone and indicating that he was "unavailable" and providing an alternate telephone number.

Recommendation: Close with no action.

7. Case No. 201000064-1

201000064-1: The Complainant alleges that the Respondent used abusive language during a collection-related telephone call. I spoke to the Respondent, and requested a copy of the recorded telephone conversation where the alleged abuse occurred. The Respondent indicated that the recording did exist and indicated that she would forward same to me; however, the Respondent later advised me that the recording would not be released because the Complainant did not reference the telephone call in his original complaint and the release of the telephone recording to me might constitute unlawful "third party" disclosure.

Recommendation: Close with a letter of instruction: scope of the "third party disclosure" rule.

BOARD: Directed counsel to draft a letter to the Respondent advising that release of the tape would not constitute impermissible third-party disclosure and directing the Respondent to release the tape recording to counsel for review and presentation to the board.

8. Case No. 201000068-1

201000068-1: The Complainant alleges that the Respondent uses its auto-dialer to harass him concerning an allegedly past due account that he disputes. Complainant also alleges that the Respondent refuses to validate the alleged debt. Respondent states that it only received one (1) letter from the Complainant demanding that it cease and desist collection activity and that such letter was received after the alleged account had already been recalled by its client. A review of the Respondent's dialer records shows that the Respondent called the Complainant no more than three (3) times a day on non-successive days.

Recommendation: Close with no action.

9. Case No. 201000250-1

201000250-1: The Complainant states that the Respondent refuses to accept a lesser payment amount relative to his past due account. Respondent accepted service of the complaint but failed to respond.

Recommendation: Authorize a formal hearing with authority to settle with Consent Order and payment of a $1,000 civil penalty.

BOARD: Reduced the civil penalty to $500.00.

10. Case No. 201000979-1

201000979-1: The Complainant alleges the Respondent engaged in unlawful activity in its efforts to collect an allegedly past due account from him by ignoring his verbal requests not to speak to his ill wife concerning the account, refusing to validate the account after he made verbal and written requests for such information, refusing to cease communicating with him about the debt after he made several verbal requests to the Respondent to cease communication and continuing to pursue collection of the account after the Respondent's attorney took a voluntarily nonsuit on the account. The Respondent states that it never received a written "cease communication" request from the Complainant relative to the account and that it has closed the account and will cease communications with the Complainant as an accommodation. The Respondent also provided its account notes, which show that the Respondent was advised by counsel of the Complainant's dispute in August 2006. The account notes indicate that the account was not placed in dispute status until January 09.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $3,000.00 civil penalty.

11. Case No. 201000980-1
Case No. 201000980-2
Case No. 201000980-3
Case No. 201000980-4

201000980-1: The Complainant alleges that the Respondent continued attempting to collect an alleged debt from her after she timely mailed the Respondent a notice of dispute and demand for validation. The Complainant documented at least two (2) telephone calls that the Respondent placed to her after the dispute notice and demand for validation were received. The Respondent states that it is no longer handling the alleged account and that such account has been returned to the client.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $2,000.00 civil penalty.

201000980-2: The Complainant alleges that the Respondent does not have a location manager for the location that attempted to collect an allegedly past due account from her. Additionally, the Complainant alleges that the Respondent failed to update her credit report to reflect her

dispute after she timely mailed written notice of a dispute and a request for validation relative to the alleged account. The Respondent provided the name of the location manager for the location in questions—the manager's license is valid until 2012. The Respondent states that it did not furnish information to the credit bureau relative to the Complainant's alleged account and that it closed the account and requested validation documents from its client upon receipt of the Complainant's demand. Respondent states that the client recalled the alleged account five (5) days following its request for validation documents to satisfy the Complainant's demand.

Recommendation: Close with no action.

201000980-3: The Complainant alleges that the Respondent engaged in numerous violations of the FDCPA during several collection-related telephone calls. The Respondent provided, among other things, its account notes and complete dialer/telephone activity roster for the period in question. The dialer/call roster and account notes are inconsistent with the Complainant's account of events.

Recommendation: Close with no action.

201000980-4: The Complainant alleges that the Respondent continued attempting to collect an alleged debt that she disputed, that the Respondent failed to timely send a validation notice and also failed to update her credit report to reflect her dispute. The Respondent states it has never communicated with the Complainant other than by letter, that the initial notice of collection was mailed to the Complainant three (3) days following the date its client assigned it the account and that it returned the Complainant's alleged account to its client marked "cease and desist" and requested validation of the account after receiving the Complainant's notice of dispute and validation demand.

Recommendation: Close with no action.

12. Case No. 201000981-1

201000981-1: The Complainant alleges that the Respondent continued attempting to collect an allegedly past due account from him after he timely mailed a notice of dispute and demand for validation relative to the account. Additionally, the Complainant alleges that the Respondent failed to update his credit report to reflect the dispute. The Respondent states that it contacted the Complainant on the date his notice of dispute was received; however, this was prior to receipt of the notice. The Respondent states that the Complainant's account was closed on the day the notice of dispute was received; subsequently, the account was recalled by the client. The Respondent states that it does not furnish credit reporting information—all such information is provided by the client.

Recommendation: Close with no action.

13. Case No. 201000982-1
Case No. 201000982-2
Case No. 201000982-3

201000982-1: The Complainant alleges that the Respondent: 1) failed to provide a validation notice within five (5) days of an initial communication relative to her alleged debt; 2) viewed her credit report for a non-permissible purpose; 3) failed to update her credit report after she transmitted written notice of her dispute of the alleged debt; 4)used abusive and/or harassing statements during a collection-related telephone call, 5) made misleading statements concerning the alleged past due account, 6) failed to meaningfully disclose the identity of the company; and 7) threatened to communicate false information relative to a past due account. In support of the complaint, the Complainant submitted typewritten entries documenting her interactions with the Respondent and its agent.

According to the entries, the Respondent's first communication with her occurred on February 19, 2010—during the call, the Respondent allegedly could not provide the Complainant with the name of the creditor or the amount of the alleged debt and refused to provide the name of the agency he or she represented. During such call, the agent allegedly indicated that the Complainant would receive a dunning notice within five (5) days of the February 19, 2010 contact.

The Complainant also documented a call from the Respondent on March 4, 2010, wherein the Respondent's agent allegedly indicated that no "letter" had been mailed yet. The Complainant also documented a call from the Respondent on March 5, 2010, where the agent allegedly stated that a validation notice had been mailed approximately fifteen (15) days prior to the call, although the exact date could not be confirmed.

According to the Complainant, when she attempted to request validation of the account, the agent allegedly accused her of trying "typical deadbeat stall tactics". The agent also allegedly made the following statements during the call: 1) that the Complainant should "admit that [she] has no money and that not even people who love [her] trust [her] enough to loan [her] some money so that she can make even a $25.00 payment, 2) that the agent "was simply trying to keep her out of court and help [her avoid the embarrassment of having to stand in open court and admit that [she] doesn't pay [her] bills and that [she] essentially steals from [creditor] because [she] now has goods from [creditor] that [she] refuses to pay for."; and, 3) that "obviously [creditor] was wrong to trust [her] and that since [creditor] was the only one who trusts [her], he was going to note the account that [she] refuses to make payment and refuses to honor [her] word." Immediately following this communication, the Complainant alleges that she contacted the Respondent and advised a "supervisor" of the agent's alleged action. According to the Complainant, she was told "if you don't fucking like it, pay your bills."

The Respondent states that an account validation notice was sent to the Complainant on January 1, 2010 and was not returned as undeliverable. The Respondent states also that it has not furnished any information relative to the Complainant's account to a credit reporting agency. Respondent admits that the March 4, 2010 call occurred and states that there was no discussion of a letter or a debt as a third party allegedly answered the telephone. The Respondent admits that the March 5, 2010 call occurred but denies al allegations that its agent took unlawful action during the telephone call, stating instead that the agent attempted to enter into a payment arrangement with the Complainant and was told by the Complainant that she had never received a validation notice. According to the Respondent, the Complainant's account has been placed in a "cease communication" status after receiving a letter from the Complainant on March 10, 2010 requesting validation of the account.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a civil penalty of not less than $5,000.00.

201000982-2: The Complainant alleges that the Respondent left several voicemail messages for her relative to a past due account wherein the Respondent stated that the Complainant should return the call immediately in order to avoid "legal action". The Complainant alleges that she received numerous other calls from the Respondent wherein the Respondent made unlawful statements concerning her alleged past due account, but it appears that such calls were made from the creditor or another entity unrelated to the Respondent. The Respondent admits that it made several attempts to reach the Complainant relative to a past due account, but states that no contact with the Complainant was ever made. The Respondent states that no disclosures regarding the Complainant's past due account or statements regarding "pre-legal" or "legal status" of the account were made in any of the voicemail messages. According to the Respondent, the Complainant's account was closed and returned to the client after the Respondent received a validation demand from the Complainant. The Complainant indicated that she could provide copies of some of the voicemail messages left by the Respondent—I requested such; however, they were never provided.

Recommendation: Close with no action.

201000982-3: The Complainant alleges that the Respondent does not have a location manager for the location from which they are contacting him. The Respondent provided a copy of the license for its location manager, which was valid at the time the Respondent sent correspondence to the Complainant relative to an allegedly past due account.

Recommendation: Close with no action.

14. Case No. 201000984-1

201000984-1: The Complainant alleges that he received two (2) collection-related telephone calls from the Respondent, wherein the Respondent's agent failed to advise the Complainant that the calls were an effort to collect a debt and that any information obtained would be used for such purposes. In addition, the Complainant alleges that he received a telephone call from the Respondent at 9:27 pm. The Respondent admits that its agent did fail to give the Complainant the "mini-miranda" warning during the telephone calls but denies placing a call to the Complainant after 9 pm.

Recommendation: Close with a letter of warning: required disclosures during a collection call.

BOARD: Directed counsel to draft a letter to the Respondent requesting that the Respondent provide a copy of the account notes for review.

15. Case No. 201000985-1

201000985-1: The Complainant alleges that the Respondent has called her on several occasions seeking an unfamiliar individual. Additionally, the Respondent allegedly refuses to identify

itself by company name after the Complainant requested such information on several occasions. The Respondent states that the Complainant's telephone number was provided as good contact information for a debtor but that it has now removed the Complainant's telephone number from its records and blocked the number from being added in the future. According to the Respondent, it blocked the Complainant's telephone number approximately thirteen (13) days after the complaint was filed and two (2) days after receiving notice of the complaint from the board.

Recommendation: Close with Letter of Warning re: acquisition of location information.

16. Case No. 201001341-1

201001341-1: The Complainant alleges that the Respondent committed the following the violations when attempting to collect a past due account: 1) One or more agents refused to identify themselves by name; 2) No validation notices were sent relative to the past due account; 3) The Respondent failed to disclose the existence of multiple past due accounts; and 4) One or more agents made threatening statement to her during collection telephone calls. The Respondent states that its employees always answer the phone with the company name and employee's first name. The Respondent further states that it sent letters for each past due account all of which set forth the Complainant's right to request validation of the accounts – this is confirmed by the Respondent's account notes. Upon review of the Respondent's account notes, it appears that there were mutually hostile exchanges between the Complainant and the Respondent regarding the past due accounts.

Recommendation: Close with no action.

17. Case No. 201001342-1

201001342-1: The Respondent indicates by letter dated December 3, 2010 that it has ceased doing business in this state as of July 20, 2010 and has returned its collection service license.

Recommendation: Close and flag all complaints against the Respondent.

18. Case No. 201001548-1

201001548-1: The Complainant alleges that the Respondent continued to demand payment on a past due account payable by her deceased ex-husband after she provided proof (via marital dissolution agreement) that the account was the husband's individual responsibility. Respondent states that it ceased collection efforts against the Complainant five (5) days after the account was assigned upon receipt of a cease and desist letter from the Complainant. After reviewing the file, it appears that the Complainant's primary dispute is with the creditor.

Recommendation: Close with no action.

19. Case No. 201001552-1

201001552-1: The Complainant alleges that the Respondent continues to contact him regarding his account after he made a verbal cease and desist request. Additionally, the Complainant asserts that the Respondent contacted his daughter regarding his past due account. The Respondent admits receiving one (1) verbal request and one (1) written request to cease communication from the Complainant. According to the Respondent, it ceased communication to the telephone number provided during the verbal request and ceased all communications to the Complainant after the written request. Respondent states that it contacted the Complainant's daughter in order to obtain location information for the Complainant and did not contact her again after she stated that she did not have contact information for the Complainant.

Recommendation: Close with no action.

20. Case No. 201002495-1

201002495-1: The board mailed notice to the Respondent requesting proof that it continued to hold a valid surety bond, to which the Respondent failed to respond despite accepting service of the request. Administrative office records now show that there was no lapse in coverage for the period in question; however, the Respondent's license expired September 26, 2010 and the late renewal period has lapsed.

Recommendation: Send notice to Respondent to CEASE and DESIST collection activity in this state and to comply with the requirement set forth in Tenn. Code Ann. 62-20-116.

21. Case No. 201002506-1

201002506-1: The board mailed notice to the Respondent requesting proof that it continued to hold a valid surety bond, to which the Respondent failed to respond despite accepting service of the request.

Recommendation: Authorize formal hearing with authority to settle by Consent Order, payment of a $1,000.00 civil penalty and provision of a valid surety bond.

22. Case No. 201002507-1

201002507-1: The board mailed notice to the Respondent requesting proof that the Respondent continued to hold a valid surety bond, to which the Respondent failed to respond, despite accepting service of the notice. Respondent currently holds a valid collection service license that expires September 16, 2011.

Recommendation: Authorize formal hearing with authority to settle by Consent Order, payment of a $1,000.00 civil penalty and provision of a valid surety bond.

23. Case No. 201002516-1

201002516-1: The board mailed notice to the Respondent requesting proof that the Respondent continued to hold a valid surety bond, to which the Respondent initially failed to respond, despite accepting service of the notice. Respondent's late-filed response included proof that no lapse in bond coverage occurred.

Recommendation: Close with a letter of warning re: duty to respond to complaints.

24. Case No. 201002524-1

201002524-1: The board mailed notice to the Respondent requesting proof that the Respondent continued to hold a valid surety bond, to which the Respondent failed to respond, despite accepting service of the notice. Respondent's collection service license expired December 31, 2010.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty.

25. Case No. 201002531-1

201002531-1: The board mailed notice to the Respondent requesting proof that the Respondent continued to hold a valid surety bond, to which the Respondent failed to respond, despite accepting service of the notice. Respondent currently holds a valid collection service license that expires July 1, 2011.

Recommendation: Authorize formal hearing with authority to settle by Consent Order, payment of a $1,000.00 civil penalty and provision of valid surety bond.

26. Case No. 201002578-1

201002578-1: The Complainant alleges that the Respondent is unlawfully adding a flat fee to accounts collected on behalf of governmental entities. The Respondent denies that the added fees are unlawful, stating that such fees are authorized by Tenn. Code Ann. 40-24-105, which addresses collection of criminal proceeding costs, fines and litigation taxes. After reviewing and researching the relevant law, it is the opinion of counsel that the provision cited by the Respondent does not authorize the addition of a flat fee to costs collected incident to a criminal proceeding; rather, the statute allows the Respondent to be paid a certain percentage of the total costs, fines or taxes collected.

Recommendation: Issue a CEASE and DESIST letter.

BOARD: Tabled consideration of this item.

27. Case No. 01002587-1

201002587-1: The Complainant alleges that the Respondent's agents continued to call her seeking an unfamiliar individual after she advised that she did not know the individual and demanded that the calls stop. The Respondent states that it ceased calling the Complainant after the Complainant advised that the wrong number was being dialed. The Respondent provided its account notes, which show that three (3) accounts were placed in the individuals name with the Complainant's telephone number as contact information for the individual. In each case, it appears that the Respondent ceased contacting the Complainant after she advised that the wrong number was being dialed.

Recommendation: Close with no action.

28. Case No. 201002624-1

201002624-1: The board mailed notice to the Respondent requesting proof that the Respondent continued to hold a valid surety bond, which the Respondent provided.

Recommendation: Close with no action.

29. Case No. 201002625-1

201002625-1: The board mailed notice to the Respondent requesting proof that the Respondent continued to hold a valid surety bond, to which the Respondent failed to respond, despite accepting service of the notice.

Recommendation: Authorize formal hearing with authority to settle by Consent Order, payment of a $1,000.00 civil penalty and provision of a valid surety bond.

30. Case No. 201002627-1

201002627-1: The board mailed notice to the Respondent requesting proof that the Respondent continued to hold a valid surety bond, which the Respondent provided.

Recommendation: Close with no action.

31. Case No. 201002628-1

2010002628-1: The board mailed notice to the Respondent requesting proof that the Respondent continued to hold a valid surety bond, which the Respondent provided.

Recommendation: Close with no action.

32. Case No. 201002658-1

201002658-1: The board mailed notice to the Respondent requesting proof that the Respondent continued to hold a valid surety bond, to which the Respondent failed to respond, despite accepting service of the notice. Respondent's collection service license expired December 31, 2010.

Recommendation: Authorize a formal hearing with authority to settle with Consent Order, payment of $1,000 civil penalty and provision of a valid surety bond.

33. Case No. 201002674-1

201002674-1: The Complainant alleges that the Respondent has failed to provide proof of its authority to collect her alleged debt. In addition, the Complainant alleges that the Respondent has violated multiple provisions of the Fair Credit Reporting Act (FCRA) relative to her account, but the Complainant failed to set forth any facts supporting her FCRA claims. Respondent states that it mailed an initial notice to the Complainant indicating that it was collecting on behalf of the Complainant's creditor. Additionally, the Respondent states that it updated the Complainant's credit report to reflect her dispute once it received written notice from the Complainant.

Recommendation: Close with no action.

34. Case No. 201002687-1

201002687-1: The board mailed notice to the Respondent requesting proof that the Respondent did not operate for more than one (1) year without a licensed location manager. The Respondent provided proof that it retained a licensed location manager on May 21, 2010. It appears that the Respondent operated without a location manager from February 4, 2008 until May 21, 2010, a period of approximately thirteen (13) months.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty.

BOARD: Closed with a letter of instruction/warning.

35. Case No. 201002688-1

201002688-1: The board mailed notice to the Respondent requesting proof that the Respondent did not operate for more than one (1) year without a licensed location manager. The Respondent provided proof that it continued to have a qualified location manager after its location manager of record separated from service.

Recommendation: Close with no action.

36. Case No. 201002742-1

201002742-1: The Complainant alleges that the Respondent's agent made unlawful threats during a telephone call relative to a past due account in her name. The Respondent states that it does not have sufficient information to confirm or deny the Complainant's allegations. The Respondent submitted its account notes in support of its response; the notes and the response show that the Complainant spoke to two (2) of the Respondent's agents; neither agent entered account notes reflecting the conversation between them and the Complainant.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $2,000.00 civil penalty.

37. Case No. 201002743-1

201002743-1: The Complainant alleges that he received telephone calls from the Respondent "at least once a week" seeking an unfamiliar individual. According to the Complainant, he informed the Respondent on several occasions that his was the wrong number to use for contacting the consumer, but the calls continued. The Respondent accepted service of the complaint, but failed to submit response.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty.

38. Case No. 201002744-1

201002744-1: The Complainant alleges that the Respondent sent him a dunning letter relative to his allegedly past due account after he sent the Respondent a "cease and desist" notice via certified mail. The Complainant states that the "cease and "desist" demand was mailed to the Respondent on June 8, 2010 and received on June 10, 2010. Respondent denies receipt of a June "cease and desist" letter, stating instead that two (2) "cease and desist" letters were received on January 4, 2010 and August 8, 2010 (the Complainant's account was placed twice by the client). Respondent states that it complied with both requests.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty.

39. Case No. 201002894-1

201002894-1: The Complainant is a third party who last name is identical to the debtor's and whose last four digits of his social security number match the debtor's. The Complainant alleges that the Respondent, who appears to be a debt buyer that assigns all collection activity, up to and including the filing of a lawsuit against a debtor, wrongfully levied his bank account and refused to correct the error after being made aware of same. The Respondent provided a copy of the summons that he obtained by request to the issuing court, which shows that the Respondent's agent provided proper information for the debtor on the request for a levy. It appears that the bank may have erroneously levied the Complainant's account given the similarities between the

Complainant's information and the debtor's information. The Respondent denies the allegations and states that the Complainant's alleged loss was solely due to a bank error.

Recommendation: Close with no action.

40. Case No. 201002897-1

201002897-1: The Complainant alleges that the Respondent is operating an unlicensed collection service in this state. The Respondent states that it is licensed under its corporate name but conducts business under a "dba" name. The Respondent provided a copy of its corporate name license, which is valid. The "dba" name is not of record in the Collection Service Board office. Additionally, the Respondent was sent a letter of warning in July 2010 regarding the use of an unlicensed trade name.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty.

BOARD: Add a CEASE and DESIST instruction to the Consent Order.

41. Case No. 201002909-1

201002909-1: The Complainant alleges that the Respondent's agent refused to identify herself by name and threatened to "ruin her credit" and contact her employer when she indicated that she could not make immediate payment on a past due account. The Respondent states that its agent did identify herself to the Complainant and denies that the agent did not threaten the Complainant. According to the Respondent, the Complainant became agitated, use profanity and terminated the telephone when the agent advised her that she (agent) did not have authority to accept a monthly payment arrangement relative to the account and inquired about her relationship to the co-debtor on the account. The Respondent's position in reflected in its account notes, which were provided with the response.

Recommendation: Close with no action.

42. Case No. 201002910-1

201002910-1: The Complainant states that the Respondent, a licensed collection agency, failed to honor its promise to delete a collection item from her credit report after she tendered settlement in full of the collection account. The Complainant provided a copy of a written agreement provided to her by the Respondent, which indicates that upon receipt of her payment, the collection account would be considered "settled in full"—the agreement is silent as to whether the Respondent's tradeline would be deleted after settlement. The Respondent states that it will request removal of its tradeline as an accommodation to the Complainant. It appears that the Respondent used the services of an unlicensed collection agency to secure payment from the Complainant.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty.

43. Case No. 201002911-1

201002911-1: The Complainant alleges that the Respondent unlawfully tendered a postdated check in payment of a settlement balance on a past due account after she paid the outstanding balance by debit card. Additionally, the Complainant alleges that the Respondent continued to demand payment from her after debit payment was made. The Respondent states that the check was presented due to a "bona fide error". The Respondent's account notes show that the Respondent placed at least two (2) collection-related telephone calls to the Complainant following its receipt of her settlement payment—during each of the calls, the Respondent documented the Complainant's assertion that the account had been settled in full and that no additional monies were due. The Respondent failed to update the Complainant's account status after the calls were received and only made efforts to rectify the error once a complaint was filed.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $2,000.00 civil penalty.

44. Case No. 201003409-1

201003409-1 The Respondent failed to respond to two (2) duly served administrative office requests for proof of renewed bond. To date, no proof of renewed bond has been received.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $2,000.00 civil penalty and instructions to CEASE and DESIST conducting business in this state until a valid bond can be provided.

45. Case No. 201003501-1

201003501-1 The Respondent failed to respond to a duly served complaint requesting proof of renewed bond. The Respondent has undergone a change in ownership structure and maintains a valid bond under the new ownership structure.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty.

46. Case No. 201003514-1

201003514-1 The Respondent failed to respond to a duly served complaint requesting proof of renewed bond.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a $1,000.00 and instructions to CEASE and DESIST conducting business in this state until a valid bond is obtained.

47. Case No. 201001078-1

201001078-1 The Complainant alleges that the Respondent continued attempting to collect an allegedly past due account which she timely disputed in writing and continued to dispute in writing each time she received a notice from the Respondent. According to the Complainant, the Respondent sent two (2) dunning letters to her after she mailed written notice of her dispute and requested validation documents. The Respondent states that upon receipt of the Complainant's first dispute notice, the alleged account was notated to prevent further verbal contact and a dispute acknowledgement letter was mailed to the Complainant along with a copy of an itemized bill relative to the alleged past due account. According to the Respondent, the validation document and dispute acknowledgement letter were mailed to the same address as all other correspondence with the Complainant and were not returned as undeliverable. The Respondent states that it has now received proof from the Complainant that the account was not owed and has closed the account and requested that its entries on the Complainant's credit report be removed.

Recommendation: Close with no action.

48. Case No. 201003352-1

201003352-1 The Respondent's location manager license was issued in error by the board office. The office sent the Respondent written notice of the error and a request to return the license within fifteen (15) days of receipt of the notice. Office records indicate that the Respondent failed to respond to the request, despite accepting service of same.

Recommendation: Send the Respondent and the employing agency (if any) a CEASE and DESIST notice.

49. Case No. 201003354-1

201003354-1 The Respondent's location manager license was issued in error by the board office. The office sent the Respondent written notice of the error and a request to return the license within fifteen (15) days of receipt of the notice. Office records indicate that the Respondent failed to respond to the request, despite accepting service of same.

Recommendation: Send the Respondent and the employing agency (if any) a CEASE and DESIST notice.

50. Case No. 201003355-1

201003355-1 The Respondent's location manager license was issued in error by the board office. The office sent the Respondent written notice of the error and a request to return the license within fifteen (15) days of receipt of the notice. The Respondent returned a copy of the license with the word "void" written across the copies. Administrative office records indicate that the original copy of the license was never returned.

Recommendation: Send the Respondent and the employing agency (if any) a CEASE and DESIST notice.

51. Case No. 201003356-1

201003356-1 The Respondent's location manager license was issued in error by the board office. The office sent the Respondent written notice of the error and a request to return the license within fifteen (15) days of receipt of the notice. The Respondent states that he sent both his license and an application to re-take the examination in response to the board's request, however, office records do not indicate that either of items were received.

Recommendation: Send the Respondent and the employing agency (if any) a CEASE and DESIST notice.

52. Case No. 201003357-1

201003357-1 The Respondent's location manager license was issued in error by the board office. The office sent the Respondent written notice of the error and a request to return the license within fifteen (15) days of receipt of the notice. The Respondent states that he destroyed the license after receiving the notice and understands that he does not have authority to act as a Tennessee-licensed location manager.

Recommendation: Close and flag.

53. Case No. 201003358-1

201003358-1 The Respondent's location manager license was issued in error by the board office. The office sent the Respondent written notice of the error and a request to return the license within fifteen (15) days of receipt of the notice. Office records indicate that the Respondent failed to respond to the request, despite accepting service of same.

Recommendation: Send the Respondent and the employing agency (if any) a CEASE and DESIST notice.

54. Case No. 201003531-1

201003531-1 The Respondent's location manager license was issued in error by the board office. The office sent the Respondent written notice of the error and a request to return the license within fifteen (15) days of receipt of the notice. The Respondent states that she threw the license away after receiving notice from the office.

Recommendation: Close and flag.

RE-PRESENTED CASES: [See Note on Item 59]

55. Case No. 201002072-1

201002072-1 The board previously authorized a formal hearing with authority to settle by Consent Order and payment of a $5,000.00 civil penalty on allegations that the Respondent conducted collection service business in Tennessee without a license. The Respondent is willing to enter into settlement, but has requested a reduction in the proposed civil penalty to $2,400.00.

Recommendation: Accept the settlement counteroffer.

56. Case No. 200901538-1

200901538-1 The board previously authorized a formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty on allegations that the Respondent threatened legal action against the Complainant without intent to promptly initiate such proceedings. Upon further review of the Respondent's records, it appears that an affidavit requesting authority to file suit was sent to the client approximately one (1) week after the Complainant was advised in writing of possible legal action.

Recommendation: Close with no further action.

57. Case No. 201001559-1

201001559-1 The board previously authorized a formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty on allegations that the Respondent failed to include required state law disclosures on its collection notice, to which the Respondent initially failed to respond. The Respondent's late-filed response states that its third-party letter vendor issued some letters without the required state notices—the Respondent indicates that the problem has been corrected.

Recommendation: Close with a letter of warning.

58. Case No. 200902425-1

200902425-1 The board previously authorized a formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty on allegations that the Respondent unlawfully attached the Complainant's bank account, to which the Respondent initially failed to respond. The Respondent's late-filed response states that It purchased the Complainant's account and outsourced all collection activity to a Tennessee law firm; accordingly, any allegations of unlawful conduct should be addressed to the law firm.

Recommendation: Close with no action.

59. Case No. 200901912-1

200901912-1 The board previously authorized a formal hearing with authority to settle by Consent Order of License Revocation (agency and location manager) and payment of a

$38,000.00 civil penalty against the Respondent on allegations that he unlawfully destroyed client records after closing his agency and failed to contact clients on outstanding collections after closing his office. The Respondent has submitted a written response to the offer of settlement.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and permanent revocation of the Respondent's location manager and agency licenses.

BOARD: Adopted recommendation and asked that the Respondent provide names of clients who might have outstanding remittance and advise them that they might be able to make a claim against the Respondent's surety bond.

60. Case No. 201002601-1

201001601-1 The board previously authorized a formal hearing with authority to settle by Consent Order and payment of a $1,000.00 civil penalty on allegations that the Respondent failed to respond to the Complainant's request for validation of an alleged debt that he disputed, to which the Complainant initially failed to respond. The Respondent filed a late response stating that the Complainant submitted a validation notice well after the validation notice period had run and that it will continue to report the Complainant's alleged account as a valid past due balance unless it receives proof from the Complainant that the debt is not owed.

Recommendation: Close with no action.

MOTION: Ms. Trinkler made a motion to accept Legal's recommendation on all of the complaints presented as amended. The motion was seconded by Mr. Mitchell. **MOTION CARRIED.**

The board recessed at 11:10 a.m. and reconvened at 11:15. a.m.

ADMINISTRATIVE REPORT – DONNA HANCOCK, EXECUTIVE DIRECTOR

CIBIL Reports – Ms. Hancock presented a request from Mr. Ellis asking that the board accept CIBIL Reports in lieu of credit bureau reports as means to qualify applicants for Location Manager licensing. After some discussion, the board determined that they will review CIBIL reports on a case by case basis and determine eligibility of the applicant depending on the amount and comprehensiveness of the information each report contains.

Complaint Status Report - Ms. Hancock presented a comparison of the complaints pending in January 2010 to those currently pending.

Budget Report – Ms. Hancock presented a budget comparison report for the last four (4) fiscal years. She also presented a breakdown of the administrative "costback" expenditures for the last fiscal year. The board advised that they would be interested to see the revenues broken down by civil penalties and license fees.

CONTRACT REVIEW – DONNA HANCOCK and TERRANCE BOND

Ms. Hancock distributed a copy of the current examination contract for collection location managers and advised that it is scheduled to expire on June 30, 2011. Therefore, she requested the board to review the current contract and recommend any changes before a new contract is released to potential bidders. After some discussion, the board recommended several changes to the breakdown and percentage of the examination's content.

COLLECTION AGENCY APPLICATION REVIEW

The following Collection Agency Branch Application was presented for consideration:

Adler, Wallach & Associates *(branch license)* – After some discussion, Ms. Trinkler made a motion to approve the application subject to a full-time location manager being employed at the branch's location, seconded by Mr. Mitchell. **MOTION CARRIED.**

The board recessed at 12:25 p.m. and reconvened at 12:30 p.m.

LOCATION MANAGER APPLICATION REVIEW

The following Location Manager Applications were presented consideration:

Stephen E. Chism: Ms. Trinkler made a motion to deny the application citing TCA 62-20-108(d)(1)(A-C), seconded by Mr. Mitchell. **MOTION CARRIED.**

Nakia Codie: Ms. Trinkler made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Mitchell. **MOTION CARRIED.**

Trent Aaron Littleton: Ms. Trinkler made a motion to approve the application, seconded by Ms. Trinkler. **MOTION CARRIED.**

Cassandra Letita Horne: Ms. Trinkler made a motion to approve the application, seconded by Mr. Mitchell. **MOTION CARRIED.**

Charlotte Elizabeth Musisi: Mr. Mitchell made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

Edward F. Richnausky: Ms. Trinkler made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Mitchell. **MOTION CARRIED.**

Vincent S. Saputo: Ms. Trinkler made a motion to approve the application, seconded by Mr. Mitchell. **MOTION CARRIED.**

Mark Joseph Sopata: Mr. Mitchell made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

Shannon N. Stewart: Ms. Trinkler made a motion to deny the application citing TCA 62-20-125(3), seconded by Mr. Mitchell. **MOTION CARRIED.**

Brian Joseph Valentin: Ms. Mitchell made a motion to deny the application citing TCA 62-20-125(3), seconded by Ms. Trinkler. **MOTION CARRIED.**

NEW BUSINESS OR UNFINISHED BUSINESS:

Ms. Hancock asked the board about their policy to allow the chairman and director to cancel a meeting due to lack of a quorum or due to the weather. The board confirmed that this is their policy.

Ms. Hancock announced that Julie Mix McPeak was recently named the Commissioner of the Tennessee Department of Commerce and Insurance – the department in which the board is located. Therefore, she plans to invite Ms. McPeak to a future meeting to meet the board members.

AJOURN: Being no further business to discuss, the meeting adjourned at 1:05 p.m.

Bart Howard, Chairman