TENNESSEE
COLLECTION SERVICE BOARD
MINUTES

DATE: November 12, 2014

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

PRESENT: Board Members:
Elizabeth Dixon
Steve Harb
Chip Hellmann

ABESENT: Bart Howard, Chairman
Elizabeth Trinkler, Vice-Chairman

PRESENT: Staff Members:
Chris Whittaker, Assistant General Counsel
Kimberly Whaley, Director of Licensing
Visitors:
Steven Rust
Debbie Rust
Becky Givens

CALL TO ORDER: Mr. Hellmann serving as acting chairman called the meeting to order at 9:31 a.m. and the following business was transacted:

Roll Call – Ms. Whaley called the roll. Three 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 November 7, 2014. This meeting was also noticed on tn.gov's public meeting calendar."

RULE MAKING HEARING – See transcript

BOARD MEETING:

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

Minutes – Ms. Dixon made a motion to approve the minutes of the September 10, 2014 meeting, seconded by Mr. Harb. **MOTION CARRIED**

LEGAL REPORT - CHRIS WHITTAKER, ASSISTANT GENERAL COUNSEL

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

1. 2014005201

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 without possessing a Tennessee collection service license as required by law. The Board previously considered this matter and authorized settlement via Consent Order upon payment of a $ 1,000.00 civil penalty by the Respondent. However, additional investigation revealed that the alleged debt in question was a personal guarantee of a business debt. Because the legislature amended the Tennessee Collection Service Act to specifically state that collection of guarantees does not require a license, dismissal of this complaint is required.

Recommendation: Dismiss the complaint.

2. 2014021991

Year First Licensed: 2005
License Expiration: 12/31/2014

The complaint alleges that the Respondent unlawfully reported a debt that was timely disputed by the Complainant to a credit bureau. The investigation revealed that the Respondent mistakenly believed that it had previously sent correspondence to the Complainant advising her that she owed a debt and providing her with the information necessary to dispute the debt, but that that the initial debt notice was never sent due to an IT glitch. The investigation further revealed that a supervisor at the Respondent agency admitted to the Complainant that the disputed item should not have been reported to the credit bureau, but that the supervisor refused to remove the disputed item from the Complainant's credit report unless she could prove she did not owe it, thereby damaging the Complainant's credit score. As a mitigating factor, once the complaint was reviewed by counsel for the Respondent, the disputed item was immediately removed from the Complainant's credit report.

Recommendation: Formal hearing for disciplinary action against the Respondent's license with authority to settle via Consent Order upon payment of a $ 1,000.00 civil penalty by the Respondent.

3. 2014014601
4. 2014016411
5. 2014018131
6. 2014018141
7. 2014018151
8. 2014018851

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 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.

9. 2014017051

Year First Licensed: 2007
License Expiration: 10/28/2016

This complaint alleges that the Respondent entered into a settlement agreement with the Complainant regarding a debt but failed to provide the Complainant with a settlement confirmation letter, thereby resulting in collection attempts by another collection agency regarding the same debt. The Respondent advised that a settlement confirmation letter will be sent to the Complainant and/or to the other necessary parties as soon as possible. Given the Respondent's lack of prior complaint history with the Board, once the Respondent provides confirmation that the settlement letter has been sent to the Complainant and/or the other necessary parties, a Letter of Warning is recommended.

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

10. 2014022521

Year First Licensed: 2011
License Expiration: 10/08/2014 (Voluntary Surrender)

This complaint alleges that the Respondents failed to timely submit to the Board proof of current surety bond coverage as required by law. By the time this complaint was received by Board counsel, the Respondent had voluntarily surrendered its license. As such, dismissal of this complaint is recommended.

Recommendation: Dismiss the complaint.

11. 2014022531

Year First Licensed: 2013
License Expiration: 10/17/2014 (Voluntary Surrender)

This complaint alleges that the Respondents failed to timely submit to the Board proof of current surety bond coverage as required by law. By the time this complaint was received by Board counsel, the Respondent had voluntarily surrendered its license. As such, dismissal of this complaint is recommended.

Recommendation: Dismiss the complaint.

12. 2014014581

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. However, further review revealed that the documents submitted to the Board by the Respondent did provide the information sought by the Board. As such, dismissal of this complaint is required.

Recommendation: Dismiss the complaint.

13. 2014019851

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

The complaint alleges that the Respondent unlawfully reported a debt that the Complainant does not owe to a credit bureau. The investigation revealed that the Complainant submitted substantially the same complaint against the Respondent under another name (which is actually the current, correct name of the agency in question) and complaint number, and that complaint was dismissed. It further appears that the Respondent did not, in fact, credit report the debt in question to any of the three major credit bureaus to which it reports. As such, dismissal of this complaint is required.

Recommendation: Dismiss the complaint.

14. 2014022511

Year First Licensed: 2010
License Expiration: 02/11/2016

These complaints allege that the Respondents failed to timely submit to the Board proof of current surety bond coverage as required by law. The investigation revealed that the reason for the delay in providing the coverage certificate to the Board is that the Respondent's surety bond coverage carrier was late providing an updated coverage certificate to the Respondent (a factor beyond the Respondent's control), that the Respondent immediately provided the updated coverage certificate to the Board upon receipt of same, and that there was no lapse in coverage at any time. As such, dismissal of this complaint is recommended.

Recommendation: Dismiss the complaint.

MOTION: Mr. Harb made a motion to accept the Legal Report as presented, seconded by Ms. Dixon. **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 80% of complaints to receive formal action by the Board within 180 days of receipt. She further advised the Collection Service Board's current performance measure of 95.59% exceeds the benchmark.

Budget Report – Ms. Whaley presented a revenues and expense for the current fiscal year through September 30, 2014 for the Board's reference.

Application Reviews –

Renewal - Ms. Whaley presented a collection agency renewal application marked Tab 5 for the Board's review and consideration. This item was tabled from the last meeting pending the receipt of additional documentation. Ms. Whaley presented the additional information. After some discussion Mr. Harb moved the application be approved, seconded by Ms. Dixon. **MOTION CARRIED**

Renewal - Ms. Whaley presented a collection agency renewal application marked Tab 6 for the Board's review and consideration. This item was tabled from the last meeting pending the receipt of additional documentation. Ms. Whaley presented the additional information. After some discussion Mr. Harb moved the application be approved, seconded by Ms. Dixon. **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**

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. Mr. Whittaker and Ms. Whaley presented the proposed language.
MOTION: Mr. Harb made a motion to accept the apprenticeship program response as presented, seconded by Ms. Dixon. **MOTION CARRIED.**

Firm License Question – Ms. Whaley asked the Board if accepting a CPA firm license to meeting the CPA requirement was acceptable. After some discussion the board agreed that accepting the CPA firm license to meeting the CPA requirement was acceptable. .
MOTION: Mr. Harb made a motion to accept the CPA firm license seconded by Ms. Dixon. **MOTION CARRIED.**

Other- Mr. Whittaker presented and email for a company requesting the board whether they are required to be licensed. After some discussion the board decided that if the company is

contacting consumers in their own name they will need a license, if they are contacting consumers in their clients name only then no license is needed.

MOTION: If the company is contacting consumers in their own name they will need a license, if they are contacting consumers in their clients name only then no license is needed seconded by Ms. Dixon.
MOTION CARRIED.

New Business
Debbie Rust and Becky Givens representing the Tennessee Collectors Association appeared and discussed debt consolidation and repair companies making various demands and on collection agencies. Additionally the debt consolidation and repair companies are misleading the consumers. The Board advised that the Tennessee Collection Service Board does not have jurisdiction over these matters and suggested that the Association seek private legal counsel to assist them in dealing with these matters.

Meeting was adjourned at 11:00am

Bart Howard, Chairman