

**TENNESSEE  
COLLECTION SERVICE BOARD  
MINUTES**

**DATE:** March 12, 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, Accountant 3  
Judy Elmore, Administrative Assistant

**CALL TO ORDER:** Chairman Howard called the meeting to order at 9:29 a.m. and the following business was transacted:

**Roll Call** – Ms. Whaley then called the roll. All five (5) 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 March 5, 2014. This meeting was also noticed on tn.gov’s public meeting calendar.”

**Agenda** – Ms. Whaley that tab 5 of the posted agenda had been removed as the request no longer needed to be presented. Ms. Trinkler made a motion to adopt the agenda as modified, seconded by Mr. Hellmann. **MOTION CARRIED.**

**Minutes** – Mr. Hellmann made a motion to approve the minutes of the January 8, 2014 meeting, seconded by Ms. Trinkler. **MOTION CARRIED.**

**LEGAL REPORT - CHRIS WHITTAKER, ASSISTANT GENERAL COUNSEL**

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

**1. 2013019731**

Year First Licensed:	2009
License Expiration:	04/27/2015

The complaint alleges that the Respondent failed to provide validation of an alleged debt despite a written request for validation of the debt from the Complainant. The investigation revealed that the complaint was opened against an incorrect entity, and that the correct Respondent did provide timely written validation of the debt in question as required by law. As such, it is recommended that the name of the Respondent be changed to reflect the correct entity and that the complaint be dismissed.

**Recommendation:** Dismiss the complaint.

**2. 2013019771**

Year First Licensed: 2001  
License Expiration: 12/31/2014

The complaint alleges that the Respondent failed to timely submit to the Board proof of current surety bond coverage as required by law. The investigation revealed that the Respondent did have continuous surety bond coverage as required by law but submitted proof of surety bond coverage to the Board after the complaint had been opened. As such, because the Respondent has no prior complaint history with the Board, a Letter of Warning is recommended.

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

**3. 2013020241**

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

The complaint alleges that the Respondent failed to comply with Section 809(b) of the federal Fair Debt Collection Practices Act ("FDCPA") by failing to provide the Complainant with the name and address of the original creditor. That portion of the FDCPA states that a debt collector may not contact a debtor while a request for verification of the debt is pending, and that the collector may comply with this statute by providing the proof of validation the collector received from its client to the debtor -OR- by providing the Complainant with the name and address of the original creditor. Because the Respondent did not contact the Complainant while his request for validation of the debt was pending and because the Respondent did provide the Complainant with the validation documentation provided to the Respondent by its client, there is no evidence of any violation(s) of the FDCPA by the Respondent. Moreover, it appears that a clerical error by the Respondent's client inadvertently caused the accounts in question to go to collection instead of being billed to Medicare. Immediately upon being notified that the Complainant's father did have Medicare, the accounts in question were billed to Medicare, and all of the accounts that were formerly in collection have now been paid in full. In light of the foregoing, dismissal is recommended.

**Recommendation:** Dismiss the complaint.

**4. 2013020361**

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

The complaint alleges that the Respondent engaged in unlicensed conduct by attempting to collect an alleged debt from a Tennessee resident without possessing a Tennessee collection service license. The investigation revealed nothing that appears to contradict the Complainant's claims. Because the Respondent has no prior complaint history, a Cease and Desist Letter is recommended to advise the Respondent that it may not engage in collection service conduct in Tennessee without first obtaining proper licensure to do so.

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

**5. 2013020591**

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

The complaint alleges that the Respondent engaged in unlicensed conduct by attempting to collect an alleged debt from a Tennessee resident without possessing a Tennessee collection service license. The investigation revealed that the Respondent does not possess a Tennessee collection service license. However, the file contains no evidence that the Respondent ever attempted to collect a debt from the Respondent in Tennessee. It appears that the Complainant has addresses in Texas and Tennessee, and that the Respondent only sent letters to the Complainant at his Texas address. Although the file contains insufficient evidence of any legal violation(s) by the Respondent, a Letter of Warning is recommended to create a record that the Board has informed the agency that it may not engage in collection service conduct in Tennessee without first obtaining proper licensure to do so.

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

**6. 2013020821**

Year First Licensed: 1997  
License Expiration: 12/31/2014

The complaint alleges that the Respondent contacted him regarding an alleged debt more frequently than is allowed by the federal Fair Debt Collection Practices Act ("FDCPA"). The investigation revealed that the none of the Respondent's outbound calls ever reached the Complainant, that the Respondent only spoke with the Complainant one time, and that the Complainant never requested (verbally or in writing) that the Respondent not contact him. Additionally, upon receipt of the complaint, the Respondent placed the Complainant's phone number in "no contact" status. Finally, the file contains insufficient evidence to substantiate the Complainant's claims of unlawful harassment by the Respondent. As such, dismissal is recommended.

**Recommendation:** Dismiss the complaint.

**7. 2013023221**

Year First Licensed: 2010  
License Expiration: 01/27/2014

The complaint alleges that the Respondent failed to timely submit to the Board proof of current surety bond coverage as required by law. The investigation revealed that the Respondent did not respond to any of the Board's correspondence requesting an updated surety bond. By statute, the Respondent may renew its license on or before 3/28/14 (60 days from the license's expiration date). If the Board does not receive a completed license renewal application, including proof of current surety bond coverage, from the Respondent on or before 3/28/14, this complaint should be closed upon the issuance of a Cease and Desist Letter and the Respondent would be required to apply for and obtain a new license if it wished to continue operating in Tennessee.

**Recommendation:** If the Board does not receive a completed license renewal application, including proof of current surety bond coverage, from the Respondent on or before 3/28/14, close the complaint upon the issuance of a Cease and Desist Letter and place a notation in the Respondent's licensing file that its failure to renew its license on or before 3/28/14 means that the Respondent must file a new license application and obtain a new license if it wishes to operate in Tennessee.

**8. 2013024801**

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

The complaint alleges that the Respondent, a non-licensee, is unlawfully attempting to collect a debt that the Complainant has disputed in writing to the Respondent and that the Respondent is attempting to collect a debt in Tennessee without a collection service license. The Complainant further states that she has no record of owing the debt about which the Respondent has contacted her. The file reveals that the Respondent has not responded in any way to the Complainant's request for validation or to any Board correspondence regarding this matter.

**Recommendation:** Formal hearing with authority to settle by Consent Order which includes cease and desist language and upon payment of a \$ 1,000.00 civil penalty by the Respondent.

**9. 2013017741**

Year First Licensed: 2013  
License Expiration: 06/23/2015

The complaint alleges that the Respondent is unlawfully attempting to collect a debt that the Complainant does not owe because the alleged charge in question is a result of identity theft. The investigation revealed that, as a result of the Complainant's request, the Respondent closed the account in question and deleted all adverse entries it had placed on the Complainant's credit report.

**Recommendation:** Dismiss the complaint.

**10. 2013024921**

Year First Licensed: 2002  
 License Expiration: 12/31/2013

The complaint alleges that the Respondent failed to timely submit to the Board proof of current surety bond coverage as required by law. The investigation revealed that the Respondent did not respond to any of the Board's correspondence requesting an updated surety bond. By statute, the Respondent could have renewed its license on or before 3/3/14 (60 days from the license's expiration date), but its failure to do so means that the Respondent's license is now fully expired and may not be renewed.

**Recommendation:** Close the complaint upon the issuance of a Cease and Desist Letter and place a notation in the Respondent's licensing file that its failure to renew its license on or before 3/3/14 means that the Respondent must file a new license application and obtain a new license if it wishes to operate in Tennessee.

- 11. 2013024891**
- 12. 2013024901**
- 13. 2013024911**
- 14. 2014002711**
- 15. 2014002751**
- 16. 2013023251**

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 complaints filed against them, 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.

- 17. 2013023211**
- 18. 2013023231**
- 19. 2013023241**
- 20. 2013023261**
- 21. 2013024931**
- 22. 2014002631**
- 23. 2014002641**
- 24. 2014002651**
- 25. 2014002661**
- 26. 2014002731**
- 27. 2014002771**

28. 2014002781  
 29. 2014002801  
 30. 2014002811

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 did timely provide proof of surety bond coverage, but that there was a substantial and unexpected delay in delivery of mail and packages to several boards. As such, it appears that, by the time these Respondents' submissions were delivered to the Board, complaints had already been opened. Because it appears that these Respondents did not violate the law in any way and because the delay in the delivery of their submissions to the Board was beyond their control, dismissal is recommended.

**Recommendation:** Dismiss these complaints.

31. 2013024941

Year First Licensed: 2006  
 License Expiration: 05/30/2015

The complaint alleges that the Respondent failed to timely submit to the Board proof of current surety bond coverage as required by law. The file indicates that the Respondent signed for the Board's Certified Mail request for proof of surety bond coverage but did not respond to the Board's request in any way.

**Recommendation:** Formal hearing for revocation of the Respondent's license with authority to settle by Consent Order upon payment of a \$ 250.00 civil penalty by the Respondent and upon the Respondent providing proof of surety bond coverage as required by law.

**Legal Report** – Motion to approve was made by Ms. Dixon, seconded by Mr. Hellmann.  
**MOTION CARRIED**

### **ADMINISTRATIVE REPORT – KIMBERLY WHALEY, ACCOUNTANT 3**

**Complaint Comparison Report** - Ms. Whaley presented a comparison of the complaints pending in March 2013 to those currently pending. She also advised that the Collection Service Board's current performance measure of ninety-three and forty hundredths percent (93.40%).

**Budget Report** – Ms. Whaley presented a comparison of revenues generated in the past four (4) fiscal years and the current fiscal year through February 28, 2014 for the Board's reference.

**Collection Agency Application Review / Determine Eligibility** – Ms. Whaley presented an application for a collection agency for the Board's consideration. After some discussion, Mr. Harb made a motion to table the application and for staff to request additional information

regarding the company's current litigation and licensure in other states. The motion was seconded by Ms. Trinkler. **MOTION CARRIED.**

**Collection Agency Application Review / Determine Eligibility** – Ms. Whaley presented two separate collection agency applications marked “Tabs 7 and 8” from the same entity for the Board’s review and consideration. After some discussion, Mr. Harb made a motion to approve the applications seconded by Mr. Hellmann. **MOTION CARRIED.**

*The Board recessed for break at 10:28 a.m. and reconvened at 10:41 a.m.*

**Balance Sheet – Review / Discussion** – Mr. Harb presented an updated and simplified version of the balance sheet form for the board consideration. After some discussion Mr. Harb made a motion to have staff update the form and present it for approval at the May meeting, seconded by Ms. Dixon. **MOTION CARRIED.**

#### **LEGISLATIVE UPDATE**

Ms. Whaley advised the board of the current state of filed legislation and that a email would be forthcoming with more specific information related to the legislation from one of the Departments legislative liaisons.

#### **NEW BUSINESS OR UNFINISHED BUSINESS:**

**New Business:** Ms. Whaley advised the board that during their next meet that the Department’s Legal Division would be providing the board with a presentation related to the Sunshine Laws.

**ADJOURN:** There being no further business to discuss, the meeting adjourned at 10:55 a.m.

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Bart Howard, Chairman