



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
COLLECTION SERVICE BOARD
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1741

July 8th, 2015
Minutes
First Floor Conference Room (1-B)
Davy Crockett Tower

The Tennessee Collection Service Board met on July 8th, 2015, in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairman Bart Howard called the meeting to order at 9:30 a.m. and the following business was transacted. Director Avers called the roll and three members were present.

BOARD MEMBERS PRESENT

Bart Howard, Chairman
Steve Harb
Elizabeth Dixon

BOARD MEMBERS ABSENT

Charles (Chip) Hellman
Elizabeth Trinkler

STAFF MEMBERS PRESENT

Nikole Avers, Keeling Gamber, Jennaca Smith, Cody Kemmer, Dennis O'Brien

NOTICE OF THE MEETING

Director Avers read notice of the meeting into the record, as follows:
Notice of the July 8th, 2015 meeting of the Collection Service Board Meeting was posted to the Collection Service Board web site on June 29, 2015.

ADOPT AGENDA

Mr. Harb made a motion to adopt the agenda. It was seconded by Ms. Dixon. The motion carried unopposed.

MINUTES

The May 13th, 2015 minutes were reviewed. Ms. Dixon made the motion to accept the minutes as written. It was seconded by Mr. Harb. The motion carried unopposed.

DIRECTOR'S REPORT

Director Avers presented the budget information for the last four years, the year-to-date expenditure and revenue, license counts as of June 2015, and a summary on the complaint measures as of May 2015.

There were no legislative updates to report.

Since the North American Collection Agency Regulatory Association (NACARA) would be meeting in Denver, Colorado, September 28th to 30th, 2015 – Director Avers requested that the Board approve that the Executive Director and Board Attorney attend the conference so they could become more familiar with Collection Agency Regulatory requirements.

Vote: Mr. Harb made a motion to grant this travel request. This was seconded by Ms. Dixon. The motion carried unanimously.

The Collections License Voluntary Surrender list had been placed at the end of the Directors report for the Board's review.

To improve the process of renewals for collection agencies administrative staff had developed a form for the Board's consideration in a PDF fillable format. Ms. Avers requested that the Board members review that form to ensure that the content covered the current application requirements accurately. This was done in the hope that filling them out electronically would improve delivery speed and quality of submissions to the office. The form had been designed to auto calculate the financial information and indicated if assets did not exceed liabilities so as to incentivize companies to consult with their CPA's before submitting incorrect or incomplete data, or at a minimum prepare them to explain why their liabilities exceed their trust account reserve. The board members looked over the forms and requested that Mr. Harb assist staff member, Cody Kemmer, in getting the language and aim of this and the application form successfully completed.

An email from Ms. Trinkler was presented to the board with her suggestions on additional language the Board may want to consider on character and background, relevant to the principals involved in the business. The Board requested Legal and Staff members to form a set of character questions that would require simple Yes/No answers to bolster this section of the application, which could be presented at the next meeting.

Director Avers brought to the attention of the Board that several applications had been received where the collection agency was a subsidiary of a parent company and the application would include the parent company's financial information, but when completing the required financial statement form about the trust account and the owed to clients, they were reporting on the subsidiary information alone. The Board was requested to offer guidance on how the rules needed to be interpreted as to prepared financial statements.

Vote: Ms. Dixon made the motion that agencies applying should to keep funds separate from their parent companies and submit their own financials/funds prepared as required by the statute. This was seconded by Mr. Harb. The motion carried unanimously.

The following applications were then reviewed:

1. Recovery Services International (520) submitted an application (renewal) which is expired currently. When their application was received back in January of 2015 they did not submit the financial form signed by a CPA. There was a subsequent exchange of emails in later February 2015 where the Vice President, Mark Hursh, indicated that RSI is a wholly-owned internal entity of the ACE group, and financial statements are not prepared by a licensed CPA at that level. He indicated that their company was "rolled up" into the group's financials, which are ultimately audited by an external CPA firm. He indicated that they provided a certification page signed by the Chief Financial Officer for RSI, attesting to the accuracy of the statement, which is what they provided in past years. This similar email exchange occurred in late April with no resolution.

Vote: Mr. Harb made a motion that their current application be denied, and that they be allowed to reapply in the correct format under the entity that is asking for the license. This was seconded by Ms. Dixon. The vote carried unanimously.

2. Stonegate Mortgage Corporation (1861) checked "yes" to question 2 on the agency history information which reads, "Have you ever been denied a license in Tennessee or in any other state" and they indicated they were denied in Florida because their branch manager resigned during the application process. They stated they intend to reapply when a new branch manager is hired. They also answered "yes" to question 4 which reads, "In the last seven (7) years have you had any type of civil judgment against your agency. They indicated a \$5,000 judgment in Kentucky and a \$500 in Connecticut. Relevant documents were attached, with the full application at hand for the board's perusal if required.

Vote: Mr. Harb made a motion that their application be approved if all other requirements had been met. This was seconded by Ms. Dixon. The vote carried unanimously.

3. Reliant Capital Solutions, LLC (1874) checked to question 3 part (e) on the agency history information which reads, "In the last seven (7) years, have you: (e) Do you now have any civil actions pending against you or your agency?" The indicated the matter involved an alleged violation of Fair Debt Collection Practices Act. Documents from Oklahoma and California were attached for the Board's review. Relevant documents were attached, with the full application at hand for the board's perusal if required.

Vote: Ms. Dixon made a motion that their application be approved if all other requirements had been met. This was seconded by Mr. Harb. The vote carried unanimously.

4. Paladin Commercial Group, Inc. (1144) made application to renew their collection service agency license on March 10, 2015; however, the financial statements were not prepared by a CPA or PA,

instead they were prepared by an unlicensed PA. At the May 13, 2015 meeting this matter was presented to the Board and you indicated that it was required that this company get a CPA to prepare the financial statements. Traci Noffsinger and Dan Duncan from Paladin have written in to indicate that Colorado does not require licensing of PA's and the board has approved their application previously. The application documents were attached for review.

Vote: Mr. Harb made a motion that their current application be denied, and that they be allowed to reapply in the correct format after hiring a licensed CPA (in Colorado). This was seconded by Ms. Dixon. The vote carried unanimously.

5. Harvard Collection Services, Inc. (1195) made application to renew their collection service agency license on June 23, 2015; however, their financial statement included a qualified opinion. Please see documents. The Director requested that the Board decide if financial statements that include qualified opinions to be review by the board or shall processed administratively and suggested that the Board consider creating a Policy on this matter.

Vote: Mr. Harb made a motion that their application be approved if all other requirements had been met and that going forward, all such applications be brought before the Board for review. This was seconded by Ms. Dixon. The vote carried unanimously.

Many applications had been received where there was a parent-subsiary relationship and the financial documents submitted were inconsistent as they were either from the parent company or the CPA's Independent Financial Statement would be of the parent company, but the Board's Financial Statement Form would be of the Subsidiary-Collection agency.

Pending applications from TrueAccord (1828), The Receivable Management Services Corporation (1477, 1506, 1507, 1508, 1509, 1510, and 1511) and DT Credit Company, LLC (1870, and 1871), were also presented for review. On these the Board suggested that they get a compilation report from a licensed CPA for the main entity.

In ending, Director Avers presented a color-coded spreadsheet on the incomplete applications.

LEGAL REPORT

1. **2015007071**
2015007081
2015007111
2015007121
2015007131
2015007161
2015007171
2015007231
2015007391
2015007401
2015007411
2015007431
2015007441
2015007451
2015007481
2015007541
2015007551
2015007591
2015007601
2015007641

These complaints were opened by the administrative staff of the Tennessee Collection Service Board for failure to timely submit proof of current surety bond coverage as required by law. Subsequently, after being notified by the Board that coverage had expired, the Respondents in these matters complied by sending proof of current surety bond coverage to this office.

Recommendation: Dismiss.

2. 2015007091
2015007101
2015007141
2015007251
2015007271
2015007361
2015007381
2015007461
2015007561
2015007581
2015007621
2015007651
2015007661

These complaints were opened by the administrative staff of the Tennessee Collection Service Board for failure to timely submit proof of current surety bond coverage as required by law. Despite this office's attempts to contact Respondents via certified letter, telephone, and email, requesting a current bond, Respondents in these matters failed to submit a response and are currently without proper surety bond coverage.

Recommendation: Counsel recommends the authorization of a civil penalty in the amount of Two-Hundred Fifty Dollars (\$250) for failure to timely provide proof of current surety bond coverage to the Board, plus proof of current surety bond coverage, to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

3. 2015007151
2015007371
2015007491
2015007501
2015007571
2015007671

These complaints were opened by the administrative staff of the Tennessee Collection Service Board for failure to timely submit proof of current surety bond coverage as required by law. Subsequently, after being notified by the Board that coverage had expired, the Respondents in these matters opted to voluntarily surrender their licenses.

Recommendation: Dismiss.

4. 2014025181

Year First Licensed: 12/3/2013
License Expiration: 12/2/2015
History: No history of disciplinary action

This complaint alleges Respondent failed to provide validation of the debt within thirty (30) days of the request, as made by Complainant's attorney. Complainant has requested the removal of the tradeline from his credit report.

Respondent sent a response stating that it is a passive debt buyer. Although it does not initiate collection calls or generate demand letters, it places accounts for collection with its network of branch offices. The account at issue is a charged off consumer credit card account. Respondent purchased the account on or about April 23, 2014. The balance owed on the account at the time of the charge off was \$7,741.70. Respondent stated that the account was placed for collection with the attorney's office on May 2, 2014 and an initial notice letter was mailed to Complainant on or about May 2, 2014. On May 19, 2014, the attorney's office received the consumer's request for verification of the debt. The attorney's office notated the disputed status of the account, requested additional account documentation from Respondent,

and placed a hold on collection activity pending the receipt of such documentation. On July 29, 2014, the attorney's office mailed verification of the debt to the consumer in compliance with the law.

Respondent stated that contrary to the consumer's assertion, the Fair Credit Reporting Act does not impose on debt collectors a 30-day deadline to respond to requests for verification of debt. Thus, the July 29, 2014 response to the Complainant's request was timely. Respondent stated it has reported the disputed status of the account to the credit bureaus, and the account has been transferred to another agency for collection.

Recommendation: Due to insufficient evidence of a violation on the part of Respondent, Counsel recommends that this matter be **Closed with no further action.**

5. 2014032291

Year First Licensed: 10/21/1987
License Expiration: 12/31/2016
History: 2009005711—Letter of Warning
2009024241—\$500 Consent Order

This matter is being re-presented from the May 2015 meeting, at which time the Board authorized a civil penalty in the amount of Five Hundred Dollars (\$500) for failure to respond to the complaint, which is a violation of **T.C.A. 62-20-115(a)(3) & T.C.A. 62-20-115(b)(4)**. The facts as presented at the previous meeting are as follows:

This complaint alleges Respondent has failed to verify the subject third party debt. The complaint alleges that Respondent has ignored Complainant's request under the Fair Debt Collection Practices Act to provide verification of an alleged debt of Six Hundred Seventy Six Dollars and Twenty Two Cents (\$676.22). The debt appears to be owed to a medical provider. The allegation is a violation of T.C.A. 62-20-115(b)(5) and the Fair Debt Collection Practices Act 15 USC 1692g [Validation of debts] § 802, which states in pertinent part, as follows: (b) Disputed debts:

*If the **consumer notifies the debt collector in writing** within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or **that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification** or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector. Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.*

Respondent has failed to file a response with this office.

Office of legal counsel attempted to contact the Complainant in the matter. She did not answer, and her voicemail was not set up, so there was no way to leave a message. It appears that notification to the debt collector has to be in writing, but it states that collection of the debt must cease if it is disputed until information is provided. There is no proof in the file provided by Complainant that Respondent continued to attempt to collect. Complainant just states that they did not provide verification.

Recommendation: Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) for failure to respond to the complaint, which is a violation of **T.C.A. 62-20-115(a)(3) & T.C.A. 62-20-115(b)(4)**.

DECISION: Board approved Counsel's recommendation.

After the Consent Order was sent to Respondent, this office received correspondence from Respondent that it never received a copy of the complaint, and, thus, was not given a chance to respond to the complaint. Legal staff consulted the file to check this, and it appears that the complaint was never forwarded to the Respondent for response.

Subsequently, Respondent sent a response to the complaint stating that it never received the complaint and that its records do not reflect receiving notification from Complainant to validate the debt. Respondent stated it has policies and procedures in place to immediately validate any disputed debt once notification is received. Along with the response, Respondent sent a copy of the letter dated May 28, 2015 that it mailed to Complainant stating that it is in receipt of Complainant's dispute letter regarding Complainant's account. The letter also states that Respondent has verified with its own client that the charges are true and correct.

New Recommendation: Dismiss.

6. 2014026781

Year First Licensed: 7/5/2013
License Expiration: 7/4/2015
History: No history of disciplinary action.

This matter is being represented from the March 2015 Board meeting, at which time the Commission authorized a Four Thousand Dollar (\$4,000) Consent Order against Respondent for violations of T.C.A. 62-20-115(b)(5). The facts of the matter were presented at the previous meeting as follows:

This complaint alleges Respondent has contacted Complainant, instead of Complainant's attorney, after being given notice not to do so. In addition, the complaint alleges that Complainant disputed the debt and requested verification of said debt, however, Respondent has failed to give Complainant verification. On June 16, 2014, Complainant's attorney sent Respondent a letter directing them to cease all contact with Complainant, disputing the alleged debt, and requesting written verification of the debt. On July 29, 2014, Complainant alleges that Respondent directly sent him another collection notice, despite his attorney's directive. On August 12, 2014, Complainant's attorney sent another letter to Respondent, urging Respondent to provide written verification of the alleged debt, and informing Respondent that it was in violation of the Fair Debt Collection Practices Act, 15 USC 1692(c), which provides that a debt collector may not communicate with a consumer in connection with the collection of any debt if the debt collector knows the consumer is represented by an attorney with respect to such debt. On October 3, 2014, Respondent sent Complainant another collection notice, but no verification.

Respondent failed to send a response to the complaint.

Legal counsel contacted Complainant's attorney on March 4, 2015. The call was not returned by counsel for Complainant.

Recommendation: *Counsel recommends the authorization of a civil penalty in the amount of five hundred dollars (\$500) to be satisfied within thirty (30) days of execution of the Consent Order for violation of T.C.A. 62-20-115(b)(5). The statute states in pertinent part, "The board may suspend, revoke, or refuse to renew any license held under this chapter for any of the following causes: (5) Failing to comply with any applicable state or federal law or regulation pertaining to the credit and collection industry. Such terms are to be settled by Consent Order or Formal Hearing.*

DECISION: *Board authorized a civil penalty in the amount of four thousand dollars (\$4,000) to be satisfied within thirty (30) days of execution of the Consent Order for violation of T.C.A. 62-20-115(b)(5).*

After the Consent Order was sent to Respondent, the office of legal counsel received information from Respondent and its attorney that it never received the initial complaint, and, thus, was not given a chance to respond to the complaint, itself. This office did receive a certified mail green card, showing that the original complaint was signed for as received by someone at Respondent's office. However, Respondent stated that this person never got the complaint to the correct person within the office, and that is why it

was never responded to. Respondent also stated that the person responsible for the miscommunication is no longer working at Respondent office.

Respondent attorney did send a substantive response to the complaint after the issue was discovered. In that response Respondent stated that it wanted to apologize for not responding sooner. The lack of response was not intentional or due to any lack of respect. Rather, it was due solely to an internal problem in the Corporation's mail room. It was an isolated incident and will not happen moving forward. The employee responsible for the problem has been terminated, and special instructions and procedures have been implemented to bring regulatory correspondence to the immediate attention of the compliance officer.

Respondent stated that Complainant's complaint is based upon allegations that Respondent ignored letters of representation from legal counsel on behalf of Complainant. However, Respondent states, according to its records, it never received any written notice of representation from legal counsel. Respondent stated it spoke with Complainant on three different occasions in May 2014, in which she expressed she was attempting to work with the medical provider regarding the charges. On June 1, 2014, Respondent received a letter from Complainant asking if the charges could be filed with her new carrier. Respondent stated that in a good faith effort to resolve the events surrounding the matter, Respondent assures that Complainant will not be subjected to further debt collection efforts for the \$191.41 by the Respondent. Respondent has requested that the creditor also cease further collection efforts regarding this debt.

New Recommendation: Discuss.

NEW DECISION: Board authorized a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) for 2 violations of T.C.A. 62-20-115(b)(5) and 1 violation of T.C.A. 62-20-115(a)(3) & T.C.A. 62-20-115(b)(4) to be settled by Consent Order or Formal Hearing.

7. 2015007701

Year First Licensed:	3/17/1975
License Expiration:	12/31/2016
History:	2005027831—Consent Order
	2006001641—Consent Order
	2006005221—Letter of Warning
	2011026141—Letter of Warning
	2015009321—Under legal review
	2015009381—Under legal review
	2015013161—Under legal review

This complaint alleges Respondent came to Complainant's place of employment in January 2014 to serve Complainant with a garnishment notice. The complaint alleges that Respondent never spoke directly to or made an attempt to speak to Complainant but gave notice to other people who were third parties, as well as provided personal and private information regarding Complainant to those third parties. Complainant also alleged overpayment to Respondent.

Respondent sent a response to the complaint stating that it has had several conversations with Complainant and Complainant was served a warrant and garnishment. Respondent stated Complainant agreed to pay Fifty Dollars (\$50) per month, and there is not overpayment on the account. Specifically, Respondent stated that in January 2014, a process server came to Complainant's place of business in an attempt to serve him with a warrant, not a garnishment. Respondent stated that Complainant appeared to be confused about which documents were delivered in January 2014 versus September 2014, which was when a garnishment was issued. Respondent stated Complainant did, in fact, sign for the warrant. In September 2014, the county sheriff's department came to Complainant's place of business to serve a garnishment on his employer, which is proper. This is not a violation of third party disclosures.

After the Respondent sent a response to the complaint, Complainant filed an additional response stating that the garnishment notice was improper, as it was not delivered to his employers/payroll that would

have needed notice, but was instead delivered to supervisors/managers that have no role in mandating any collections and no authority to make such decisions.

Recommendation: Dismiss.

8. 2015009321

Year First Licensed: 3/17/1975
License Expiration: 12/31/2016
History: 2005027831—Consent Order
2006001641—Consent Order
2006005221—Letter of Warning
2011026141—Letter of Warning
2015007701—Under legal review
2015009381—Under legal review
2015013161—Under legal review

This complaint alleges that Respondent failed to give Complainant credit for the payments she has made. Respondent sent a response stating that the payment Complainant paid on December 29, 2014 was paid to a different Medical Group, rather than the one that Respondent is collecting for. Thus, Respondent stated that this complaint is unfounded and that there were no violations of any federal or state collection laws.

Recommendation: It appears from the documentation in the file regarding payment by Complainant that Complainant did make at least one payment to a different Medical Group, rather than the medical provider that is the client of Respondent. Thus, there is insufficient evidence of a violation on the part of Respondent. As such, Counsel recommends that this matter be **Closed with no further action.**

9. 2015009381

Year First Licensed: 3/17/1975
License Expiration: 12/31/2016
History: 2005027831—Consent Order
2006001641—Consent Order
2006005221—Letter of Warning
2011026141—Letter of Warning
2015007701—Under legal review
2015009321—Under legal review
2015013161—Under legal review

This complaint alleges that Respondent violated the Fair Debt Collection Practices Act. Complainant alleges that he mailed Respondent a request for proof of contract, regarding a debt that his insurance company may have erroneously paid. Complainant stated that Respondent was unable or unwilling to provide such evidence. Complainant also alleges that Respondent used his incorrect name and address, and Complainant demanded that they be removed.

Respondent sent a response to the complaint stating that in December 2014 and March 2015, Respondent received letters from Complainant, disputing two separate accounts. Subsequently, the two accounts were withdrawn from Complainant's credit record. After reviewing Complainant's complaint with the Board, Respondent has closed and returned 24 accounts to its clients, and requested all accounts to be withdrawn from Complainant's credit record.

Recommendation: Dismiss.

10. 2015013161

Year First Licensed: 3/17/1975
License Expiration: 12/31/2016

History: 2005027831—Consent Order
2006001641—Consent Order
2006005221—Letter of Warning
2011026141—Letter of Warning
2015007701—Under legal review
2015009321—Under legal review
2015009381—Under legal review

This complaint was filed alleging that in April 2015, Complainant ordered all of her credit reports as part of her annual review. On this date with Experian, Respondent stated she disputed that she was ever treated at the medical provider for which Respondent was attempting to collect a debt. Complainant alleged that Respondent listed incorrect information on her credit report. Complainant stated that the date the collection was opened was March 2012, and it was disputed in November 2012 but remained on her credit report. Complainant alleged that she spoke with a representative at Respondent office, however, she was informed that the case will remain on her report. Complainant also alleged that she contacted the medical provider to get a copy of her medical records and was informed that they have no record of her being treated there. Complainant stated that even the medical provider had attempted to contact Respondent on Complainant's behalf but was told that they could not give her information because of HIPPA. Complainant wants this information removed from all the credit reporting agencies.

Respondent sent a response to the complaint, outlining the timeline of events in the matter. According to Respondent, on March 1, 2013, its client, the above mentioned medical provider, placed an account with their office for collections in the amount of \$136.35. The account listed Complainant as the patient and guarantor. The account listed the date services were rendered as September 9, 2011. On March 2, 2012, Respondent stated it mailed an initial notice to Complainant, which included the necessary information concerning the debt and rights under the Fair Debt Collections Practice Act. On March 4, 2012, Complainant called in and disputed the account. The account was noted as disputed and reported to the three (3) major credit reporting agencies as disputed. On November 10, 2013, the account was withdrawn from the three (3) major credit reporting agencies. On May 6, 2015, Complainant sent an email to contact her concerning her account, and Complainant was contacted by Respondent. On June 1, 2015, the account was closed and returned to Complainant. All collection activity on this account has been ceased. On June 2, 2015 Respondent confirmed with the three (3) major credit reporting agencies that the account was withdrawn.

Recommendation: Dismiss.

11. 2015010271

Year First Licensed: 5/21/1996
License Expiration: 12/31/2016
History: 2005003921—Letter of Warning

This complaint alleges that Complainant attempted to pay on a debt owed, however, after 3 to 4 business days, the check was cancelled because she typed a number incorrectly. Complainant states this was not due to a bounced check or insufficient funds in Complainant's account. Complainant stated that as a result, she began getting unpleasant phone calls from Respondent up to 4 to 5 times a day. Complainant stated that eventually she changed her phone number and checking account number. Complainant stated she attempted to resend the money from the same account; however, he bank informed her that she did not owe any money and that the Respondent should not be calling her. Complainant alleged that Respondent is a fraud.

Respondent sent a response to the complaint stating that Complainant's account has been closed in all of Respondent's systems. Respondent regrets any confusion and/or inconvenience that Complainant may have experienced as a result of this issue.

Recommendation: Dismiss.

Vote: Ms. Dixon made a motion to accept counsel's recommendation on all the cases presented. This was seconded by Mr. Harb. The motion carried unanimously.

In ending, Ms. Gamber requested input from the Board towards answering a letter from the Ellis Law Firm on the question of using Affiliate locations and Affiliate employees. Since the firm maintained they would at all times direct, supervise and control such employees, the Board advised counsel that it was allowed since the Affiliate would in effect be acting as a temp agency in the employment of the firm.

There being no new business, Chairman Howard adjourned the meeting at 11:20am.