



**COLLECTION SERVICE BOARD
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-3600**

**Board Meeting Minutes for October 11, 2017
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Collection Service Board met on October 11, 2017, in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Harb called the meeting to order at 9:31 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Steve Harb, Josh Holden, Bart Howard.

BOARD MEMBERS ABSENT: Angela Hoover, Chip Hellmann.

STAFF MEMBERS PRESENT: Glenn Kopchak, Aisha Carney, Ashley Thomas, Lindsey Shepard, Carol McGlynn.

ROLL CALL / AGENDA

Mr. Harb motioned to adopt the agenda as written. This was seconded by Mr. Holden. The motion carried by unanimous vote.

NOTICE OF MEETING

Director Glenn Kopchak provided the notice of meeting.

MINUTES

Mr. Harb made a motion to adopt the minutes from the August 16, 2017 meeting as written. Mr. Holden seconded. The motion was carried by unanimous vote.

DIRECTOR'S REPORT

Director Kopchak read July's revenues and expenditures into the record and provided a detailed review of the 2017 Fiscal Year.

From October 2nd thru October 4th, Director Kopchak and Chairman Howard attended the North American Collection Agency Regulatory Association (NACARA) annual conference and training event in Bellevue, WA. Director Kopchak and Chairman Howard summarized lessons learned and potential benefits to the State of Tennessee which will require further discussion and potential implementation.

First, assets reported by an entity or subsidiary owned by a parent company can be encumbered or comingled by that parent company. The State of Tennessee through legislative session may consider raising the current bond limits to further protect clients from collection agencies that may have fiduciary or trust accounts that are encumbered due to their organizational and/or financial structure.

Second, the NACARA conference provided an opportunity to cooperate with other states who share the same licensees and authority level. One platform for interstate cooperation and streamlining of processes is the Nationwide Multistate Licensing System and Registry (NMLS) 2.0. Eight (8) states are currently members of NMLS and use the system for collections licensing. The updated 2.0 version is not projected to go live till September 2018, but it is the intention of Administration to continue to monitor the project's development for potential benefits to the State of Tennessee and consideration of membership.

During the August meeting, Director Kopchak noted that past anonymous complaints with no identifying information or those that lacked enough supporting information to warrant an investigation were never referred. Recently, it has been decided that each of those will be opened, and then closed if no corroborating information is provided. After further discussion, the board gave Administration the authority to close anonymous complaints due to not enough information being received to investigate. Mr. Holden made a motion to grant Administration discretionary authority to close anonymous complaints. Mr. Harb seconded. The motion was carried by unanimous vote.

LEGAL REPORT



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
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TO: Tennessee Collection Service Board
FROM: Lindsey Shepard, Assistant General Counsel
DATE: October 11, 2017
SUBJECT: October 2017 Legal Report

- 1. 2017028851**
Status: EXPIRED on 12/31/2014
First Licensed: 12/20/1976
License Expiration: 12/31/2014
Disciplinary History: None.

This case arises out of a creditor complaint alleging failure to provide a final accounting. Respondent's license expired on December 31, 2014. Complainant placed accounts with Respondent for collection prior to December 31, 2014. Complainant alleges Respondent did not provide an accounting upon request as required by § 62-20-114(2). Complainant then obtained a judgment against Respondent.

Respondent, a corporation, was dissolved in December 2016. Respondent's owner is critically ill and is no longer operating as a debt collector. Complainant stated that they have closed the matter on their end.

Recommendation: Close and flag

DECISION: CONCUR

2. 2017031801

Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None.

This case arises out of a consumer complaint alleging unlicensed activity. Complainant, a Tennessee resident, alleges that he received a phone call from Respondent claiming that he owed a payday lender. Complainant verbally disputed the debt. Complainant claims he did not receive an initial notice letter. Respondent is not licensed in this state.

Our investigator was unable to locate Respondent's business address. A class action against Respondent has already been dismissed due to failure to obtain proper service. Our investigator did locate someone whom claims to be legal counsel for Respondent.

Recommendation: Letter of Warning for violation of § 62-20-105(a) (unlicensed debt collection)

DECISION: CONCUR

3. 2017039951

Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None.

This case arises out of a consumer complaint alleging Respondent is sending threatening debt collection emails. Complainant is a Tennessee business. Respondent is third party debt collector not licensed in the state of Tennessee.

Respondent cooperated fully with the investigation. Both Respondent and the creditor are located in Nebraska. Respondent claims that it does not solicit business within Tennessee or have a Tennessee office. Respondent did not think it needed a license to attempt collection against a Tennessee corporation.

Recommendation: Letter of Warning for violation of § 62-20-105(a) (unlicensed debt collection)

DECISION: CONCUR

4. 2017048161

Status: ACTIVE

First Licensed: 6/27/14

License Expiration: 6/26/2018

Disciplinary History: None

This case arises out of a consumer debt dispute. Complainant disputed a debt collected by Respondent. Respondent submitted verification of the debt to Complainant. Complainant paid the debt, but submitted a cover letter stating that he still did not believe the debt was valid. Complainant forwarded a copy of his correspondence to the Board. Respondent states that Complainant's account was placed in "disputed" status. Respondent has not reported the debt to credit bureaus.

Recommendation: Close

DECISION: CONCUR

5. 2017041671

Status: ACTIVE

First Licensed: 2/25/16

License Expiration: 2/24/2018

Disciplinary History: None.

Complainant alleges that Respondent is attempting to collect a debt that is not valid. Complainant alleges that Respondent agreed that there was no contract with the creditor. Respondent states that the charges are for an early termination fee. Respondent states they have ceased collection and that the creditor has recalled the account stating that it was "placed in error".

Recommendation: Close

DECISION: CONCUR

6. 2017045691

Status: ACTIVE

First Licensed: 10/21/2011

License Expiration: 10/20/2017

Disciplinary History: None

Complainant alleges unlicensed activity and misconduct. Respondent was licensed at all times relevant.

Complainant, a current resident of Tennessee, first learned of an outstanding debt when Respondent reported it to credit agencies. Respondent did not contact Complainant. Complainant initiated contact with Respondent.

Complainant alleges that Respondent offered to resolve the matter if Complainant would give them her bank account number. Complainant was unwilling to provide Respondent with her bank account number and instead requested a statement. Respondent provided her with the requested statement within two weeks.

Respondent responded to the complaint stating that the creditor had already recalled Complainant's account. Respondent has also deleted their claim from Complainant's credit reports. Respondent's agent asked for Complainant's bank account number because the agent erroneously believed he could not accept payment via cashier's check. That agent is being retrained on company policy.

Recommendation: Close

DECISION: CONCUR

2017032911

Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None.

Complainant alleges that a caller threatened to file a lawsuit against Complainant for fraudulent activity. The caller identified herself as a representative of Respondent. Respondent never sent any written correspondence, only phone calls. Complainant, through her own research, discovered that Respondent is a collection agency. Complainant alleges that at no time did the caller ever state that they were calling to collect a debt. Complainant also states that the caller has made multiple calls to her family members and discussed the debt. Respondent has not responded to the complaint.

This case was sent for investigation. The investigator was unable to locate the Respondent. It appears Complainant was called from a voice over internet protocol (VOIP), which can be utilized from anywhere. Respondent used to be registered with the California Secretary of State; however, records show it is now out of business. The number Complainant was directed to call goes to an individual's voicemail, suggesting the caller may be a scam.

Recommendation: Close due to inability to locate Respondent

DECISION: CONCUR

7. 2017034601

Status: ACTIVE

First Licensed: 5/13/2015

License Expiration: 5/12/2019

Disciplinary History: None.

Complaint was opened internally due to Respondent's renewal application showing inadequate funds in its fiduciary account. Respondent's initial application showed a deficit of approximately \$11,000.00. Respondent explained that their use of a third-party filer caused a miscommunication on their accounting practices.

Respondent states that when a payment is received, the company makes an equal and offsetting entry to the company's trust account. The Respondent also states that when a consumer promises to make a future payment, they record that promised payment in the fiduciary liability account. Respondent does not adjust the Company's trust account to reflect payments that were merely promised. Promised but unreceived amounts are subtracted from the Company's fiduciary liability account at the end of each month. This accounting process reflects, for at least part of the month, that there is more money owed to creditors than Respondent has actually received. Respondent states that subtracting promised but unreceived amounts from the fiduciary liability account results in a fiduciary account balance equal to their company trust account.

Recommendation: Close

DECISION: CONCUR

8. 2017036201 – RESPONDENT 1

Status: ACTIVE

First Licensed: 4/7/2011

License Expiration: 4/6/2019

Disciplinary History: 2012 Cease and Desist Letter

9. 2017036221 – RESPONDENT 2

Status: EXPIRED - GRACE

First Licensed: 7/10/2009

License Expiration: 7/09/2017

Disciplinary History: 2011 Letter of Warning

Respondents 1 & 2 are different out-of-state offices of the same company. Complainant, also located out-of-state, is a “whistle-blower” and alleges that Respondent is in danger financially. Complainant “believes” that Respondent has co-mingled funds and thinks the company “may” have a net worth. Complainant does not provide any proof or documentation to support his allegations.

Respondent responded through an attorney that the Complainant is a former employee that was terminated for poor job performance and has launched a campaign of ill will against the Respondent. Respondent states that Complainant made a barrage of harassing phone calls to family members of the Chairman of the Board. Respondent states that they have served Complainant with a draft Petition for Injunction, as well as a Cease and Desist Letter. Respondent states that Complainant worked remotely and would not even have been privy to the sort of improprieties that are the subject of his allegations. Respondent attached emails and texts messages that appear to indicate that Complainant was upset about a delayed expense check. Complainant did not submit a rebuttal.

The Board already evaluates financials during the license and application renewal process. It appears Complainant may have filed a Complainant in every state where Respondent is licensed. This complaint would be better addressed by the state in which Respondent is headquartered.

Recommendation: Close

DECISION: CONCUR

10. 2017037351

Status: ACTIVE

First Licensed: 6/4/2007

License Expiration: 6/3/2019

Disciplinary History: None.

Complaint was initiated by the Program. Respondent’s renewal application reflected that, as of December 31, 2016, Respondent did not have sufficient funds in its fiduciary account. Respondent attributes the deficit to legal fees incurred in a lawsuit against a former vendor. In May 2017, Respondent was awarded a large judgment, plus attorney’s fees, punitive damages, and interest. That judgment largely exceeds the amount of Respondent’s 2016 fiduciary account deficit.

Recommendation: Letter of Warning for § 62-20-114(3) (requiring that collection agencies maintain a separate fiduciary account with sufficient funds at all times to disburse amounts due all clients.)

DECISION: CONCUR

11. 2017037801

Status: ACTIVE

First Licensed: 12/7/1979

License Expiration: 12/31/2018

Disciplinary History: 2012 Consent Order

Complainant alleges that Respondent is not accurately marking accounts as paid and that they have not timely reported the accounts as paid to the credit bureaus. Respondent responded to the complaint and denies the allegations. They state that all of Complainant's accounts are paid in full and have been removed from her credit report. Respondent further states that they have reached out to the creditor to ensure the creditor's records reflect Complainant's payments.

Recommendation: Close

DECISION: CONCUR

12. 2017038851

Status: ACTIVE

First Licensed: 6/27/2006

License Expiration: 2/7/2019

Disciplinary History: 2012 Letter of Warning

Complainant alleges that her loan was sold to Respondent and she was never informed of this. Complainant was served a civil warrant by a law firm retained by Respondent. Respondent states that Complainant was notified by letter and provides a copy of the letter.

Recommendation: Close

DECISION: CONCUR

13. 2017039611

Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None.

Complainant, a Tennessee resident, alleges that Respondent is attempting to collect a debt that was paid several years ago. Respondent is located in North Carolina. Complainant states that she had proof of payment to a previous collection agency, but that it was lost in a fire. Complainant contacted the previous collection agency and was told by the Agency that the Respondent was a scam and the North Carolina Attorney General's Office was investigating.

Respondent responded to the complaint and denies the allegations of the previous collection agency and the Complainant. Respondent states that the previous collection agency is committing slander by making these statements. Respondent is not licensed in Tennessee with the Collection Services Board.

Recommendation: \$1,000.00 civil penalty, with formal charges authorized, for violation of § 52-6-105(a) (unlicensed debt collection)

DECISION: CONCUR

14. 2017040071

Status: ACTIVE

First Licensed: 9/16/1986

License Expiration: 12/31/2018

Disciplinary History: 2008 Consent Order; 2010 Consent Order; 2010 Letter of Warning

Complainant is a caregiver for the person who allegedly owes the debt. Complainant alleges that Respondent has continued to call his phone regularly over several months. Although the phone belongs to Complainant, the debtor uses it as her own. Complainant has contacted Respondent and requested that they contact the debtor exclusively by mail.

Respondent denies that any harassing phone calls took place, but states that they have removed the complainant's number from their database.

Recommendation: Close

DECISION: CONCUR

15. 2017040941

Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None.

Complainant is an out-of-state resident receiving calls threatening legal action and stating that there are two charges pending against him. Complainant alleges that he has never done business with the company that the Respondent claims to represent. Respondent has not provided a response to the complaint.

Recommendation: Close, as the Board has no jurisdiction over the communications of non-licensees with out-of-state residents

DECISION: CONCUR

16. 2017034471

Status: ACTIVE

First Licensed: 11/19/1997

License Expiration: 12/31/2018

Disciplinary History: 2009 Consent Order; 2010 Consent Order

Complainant alleges that Respondent is refusing to validate a debt and that Respondent's rep cursed at him during the telephone call. Specifically, Complainant alleges that Respondent threatened to come to his home and assault him until he pays the money. Respondent denies these allegations. Respondent states that dates of service were provided to complainant.

Respondent is troubled by Complainant's behavior and communication. Respondent's first response, which was sent to Complainant, stated that they were willing to cancel the account if Complainant ceases to contact them. Complainant continued to contact Respondent many times. Respondent still closed Complainant's account.

Recommendation: Close

DECISION: CONCUR

17. 2017042441

Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None.

Complainant alleges that Respondent called and told him that there was a warrant out for his arrest because of a debt that was owed. Respondent refused to give information about the debt unless Complainant provided his social security number and date of birth. Complainant refused to give out his personal information and terminated the call. Complainant wanted to put the Department on notice regarding this company.

There are other complaints online of people receiving similar phone calls. This appears to be part of a scam to acquire personal information rather than a legitimate collection attempt. No response was requested from Respondent. Legal was unable to locate a company with Respondent's name.

Recommendation: Close, as this matter would be best handled through consumer education

DECISION: CONCUR

APPLICATION REVIEW

The Board reviewed an application due to a civil litigation notice that was pending on the new application. Due to disclosing the information, the board recommended a conditional approval if the facts due indeed match the information on the PACER (federal court electronic record). Mr. Holden made a motion to have Administration approve the application based upon the findings. Mr. Harb seconded. The motion was carried by unanimous vote.

NEW BUSINESS

During the August meeting, Director Kopchak discussed TCA 62-20-104(e) which requires an annual election of officers to fill the following roles: chair, vice chair and secretary. It was decided by the Board to hold that election of officers at the next board meeting.

CHAIRMAN: Mr. Harb made a motion to make Mr. Howard the Chairman of the board. Mr. Holden seconded. The motion was carried by unanimous vote with Mr. Howard abstaining.

VICE CHAIRMAN: Mr. Holden made a motion to make Mr. Harb the Vice-Chairman of the board. Mr. Howard seconded. The motion was carried by unanimous vote with Mr. Harb abstaining.

SECRETARY: Mr. Howard made a motion to make Mr. Holden the Secretary of the board. Mr. Harb seconded. The motion was carried by unanimous vote with Mr. Holden abstaining.

ADJOURNMENT

There being no other new business, Mr. Harb made a motion to adjourn. Mr. Holden seconded. The motion was carried by unanimous vote. Mr. Howard adjourned the meeting at 10:14 a.m.