



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

**Board Meeting Minutes for August 8, 2018
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Collection Service Board met on August 8, 2018, in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Howard called the meeting to order at 9:29 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Bart Howard, Steve Harb, Angela Hoover & Josh Holden

BOARD MEMBERS ABSENT: Chip Hellmann

STAFF MEMBERS PRESENT: Glenn Kopchak, Aisha Carney, Ashley Thomas,
Dennis Gregory and Carol McGlynn

NOTICE OF MEETING / ROLL CALL

Director Glenn Kopchak provided the notice of meeting. Director Kopchak took a roll call and noted a physical quorum.

AGENDA

Ms. Hoover motioned to adopt the agenda. This was seconded by Mr. Harb. The motion carried by unanimous vote.

MINUTES

Ms. Hoover made a motion to adopt the minutes from the April 11, 2018 meeting as written. Mr. Holden seconded. The motion was carried by unanimous vote.

DIRECTOR'S REPORT

Director Kopchak presented the 2019 board meeting dates. Ms. Hoover motioned to adopt the meeting dates as proposed. This was seconded by Mr. Harb. The motion carried by unanimous vote.

Director Kopchak read revenues and expenditures into the record and provided a detailed review of the 2018 Fiscal Year thus far. At the meeting in February, three (3) prongs were introduced to addressing rising legal costs due to complaints: complaints outside jurisdiction, withdrawals, and the possible use of an agreed citation schedule. Complaints outside Board jurisdiction will continue to be closed per Standard Operating Procedure (SOP). At that meeting, the Board voted in favor to discontinue referring to the Legal division for review those complaints adequately withdrawn by the complainant. Director Kopchak noted the dramatic reduction in legal costs since February when the first two prongs were effectively instituted.

LEGAL REPORT

1. 2018008891

Respondent:

License Status: - ACTIVE

First Licensed: 3/18/2014

License Expiration: 3/31/2020

Disciplinary History: None

Summary:

This complaint arises from two medical bills. The Complainant says he had a compensable injury that was covered under workers compensation. The Respondent placed two medical bills on the Complainant's credit report. The Complainant says he verified that neither bill was his responsibility as they had been paid through worker's compensation.

The Respondent is a TN licensee, but has never responded to the complaint. This may be due, however, to some internal issue with how the Respondent responds to mail rather than simply ignoring the complaint. This is a common theme with out-of-state licensees.

Recommendation: Letter of Warning for failure of a licensee to respond to a sworn complaint in accordance with T.C.A. 62-20-115(3).

BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO SEND A CONSENT ORDER WITH A CIVIL PENALTY OF \$250.00 FOR FAILURE TO RESPOND TO A COMPLAINT.

2. 2018009181

Respondent:

License Status: - ACTIVE

First Licensed: 4/25/2011

License Expiration: 4/24/2019

Disciplinary History: None

Summary:

This complaint was lodged by an employee of a bankruptcy trustee. The trustee sent payment to a listed creditor as part of a chapter 13 bankruptcy payment plan. The Respondent has contacted the trustee with a collections notice after the original creditor claimed that the check was returned for insufficient funds.

The Complainant says the check was, in fact, good as the Complainant provided proof of the check clearing. The Respondent is an out of state licensee, but has not responded to the complaint. It appears the notice went out in error, although there is no way to know any back-story until the Respondent answers the complaint. As in the complaint above, this appears to be another instance where the Respondent received the complaint, but has never made it to the correct desk for a response.

Recommendation: Letter of Warning for failure of a licensee to respond to a sworn complaint in accordance with T.C.A. 62-20-115(3).

BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO SEND A CONSENT ORDER WITH A CIVIL PENALTY OF \$250.00 FOR FAILURE TO RESPOND TO A COMPLAINT.

3. 2018010751

Respondent:

License Status: - ACTIVE

First Licensed: 9/7/2016

License Expiration: 9/6/2018

Disciplinary History: None

Summary:

This Complainant is paying on what appears to be a monthly payment plan to the Respondent for a past medical bill. The original creditor appears to have changed collection services. The Complainant asked for an itemized payment history, but the customer service representative refused. There is a statutory obligation to provide a debtor with such an itemized list if requested.

Since the filing of the complaint, the Respondent has provided the Complainant with the requested information.

Recommendation: Close.

BOARD DECISION: CONCUR

4. 2018011991

Respondent:

License Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None

Summary:

The Complainant says she is being contacted by the Respondent alleging that she owes a debt stemming from an old pay day loan. The Complainant denies ever having a pay day loan with any entity in the past. The Respondent has not responded to the complaint.

The Respondent appears to be an active collection agency, but not licensed in TN.

Recommendation: Consent Order for \$250 and authorization for formal hearing for violation of T.C.A. 62-20-105(a) (unlicensed activity).

BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO INCREASE THE AMOUNT OF THE CIVIL PENALTY TO \$500.00.

5. 2018012371

Respondent:

License Status: - ACTIVE

First Licensed: 5/17/2017

License Expiration: 5/16/2019

Disciplinary History: None

Summary:

This complaint stems from an alleged debt dealing with an apartment lease. The matter ended up in collections with the Respondent. The Complainant disputed the underlying debt, arguing that notice was given before moving out of the apartment.

The Respondent explains that the file has been returned to the original creditor and the matter is now closed. The Respondent has also requested that any negative credit information be removed.

Recommendation: Close.

BOARD DECISION: CONCUR

6. 2018012481

Respondent:

License Status: - ACTIVE

First Licensed: 1/28/2010

License Expiration: 1/27/2020

Disciplinary History: None

Summary:

This complaint stems from an alleged debt with a major nation-wide bank. The Complainant disputed the debt, saying that he had never had an account with the particular bank. The debt went back to 2011.

The Respondent has closed the file and returned the matter to the original creditor.

Recommendation: Close.

BOARD DECISION: CONCUR

7. 2018014061

Respondent:

License Status: - ACTIVE

First Licensed: 10/19/2010

License Expiration: 10/18/2018

Disciplinary History: None

Summary:

The complaint stems from a medical bill. The Complainant, apparently, had two accounts that were sent to collections. There was a good deal of confusion on the part of the Respondent in accepting payments for both accounts. Consequently, the Complainant's payment plan was impacted.

The Respondent has now reconciled both accounts and has, apparently, linked them so the Complainant's payment plan will work.

Recommendation: Close.

BOARD DECISION: CONCUR

8. 2018015111

Respondent:

License Status: - EXPIRED

First Licensed: 10/15/2013

License Expiration: 10/14/2017

Disciplinary History: None

Summary:

The complaint stems from a Yellow Pages contract that was held by a company that underwent a change of ownership. The Complainant purchased the assets of the old company, but not the liabilities. The Respondent is handling the collection of what is, apparently, a debt from a Yellow Pages advertisement contract.

The Respondent has not responded and has been expired since October 14, 2017, although the Complainant did not include any information regarding the dates of collection notices received or phone calls.

Recommendation: Close.

BOARD DECISION: CONCUR

9. 2018017911

Respondent:

License Status: - ACTIVE

First Licensed: 2/8/2013

License Expiration: 2/7/2019

Disciplinary History: None

Summary:

The complaint stems from an alleged unpaid medical bill(s). The Complainant claims to be a low-income person and says the bills are handled under her "hardship program." The matter has been reported to the Complainant's credit report.

The Respondent has not responded to the complaint. This is another out-of-state licensee.

Recommendation: Letter of Warning for failure of a licensee to respond to a sworn complaint in accordance with T.C.A. 62-20-115(3).

BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO SEND A CONSENT ORDER WITH A CIVIL PENALTY IN THE AMOUNT OF \$250.00 FOR FAILURE TO RESPOND TO A COMPLAINT.

10. 2018018781

Respondent:

License Status: - ACTIVE

First Licensed: 7/20/2007

License Expiration: 7/19/2018

Disciplinary History: 2018 Letter of Warning

Summary:

The complaint stems from a collection notice received on an account that was discharged in the Complainant's bankruptcy.

The Respondent explained that they had just recently received the account from the creditor and was unaware of the discharge. The Respondent has returned the account to the creditor and closed the file.

Recommendation: Close.

BOARD DECISION: CONCUR

11. 2018020031

Respondent:

License Status: - ACTIVE

First Licensed: 6/5/2008

License Expiration: 6/4/2019

Disciplinary History: 2009 Letter of Warning

Summary:

The complaint stems from collection notice received by the Complainant dealing with an auto accident. The Complainant says there is liability insurance on the vehicle in question so he is at a loss as to why the Respondent has contacted them.

The Respondent says they are acting on behalf of the auto insurance subrogation claim. They say they were not aware of any insurance information. Now that there is a liability policy to which the insurance company can make a claim, the file is now being closed.

Recommendation: Close.

BOARD DECISION: CONCUR

12. 2018021311

Respondent:

License Status: - ACTIVE

First Licensed: 2/4/2008

License Expiration: 2/2/2019

Disciplinary History: None

Summary:

The complaint stems from a radiology bill that has been placed with the Respondent for collection. The Complainant has requested an itemized statement of services, but has not yet received that. The Complainant says he needs to "determine if payment is warranted or not."

The Respondent says they provided the Complainant with a statement. The Complainant, however, says the summary was a one-line summary and would not be what a hospital would submit to an insurance carrier.

Recommendation: Close.

BOARD DECISION: CONCUR

13. 2018020231

Respondent:

License Status: - ACTIVE

First Licensed: 3/14/2006

License Expiration: 3/13/2019

Disciplinary History: None

Summary:

This complaint stems from a dental bill. Based on the Complainant's side of the story, it sounds as if there was a dispute over the quality of the dental work. The Complainant's insurance has paid for the majority of the services; however, there is roughly \$221.67 left in issue. The Complainant admits he owes it, but is disputing the Respondent's method of collection. According to the Complainant, the Respondent hangs up on the Complainant when he requests any information (i.e., the bill). He also is disputing any accrued interest as uncollectible.

The Respondent has provided an itemized copy of the bill from the dentist. The Respondent says they will no longer attempt to contact the Respondent, but it appears they will continue collection efforts otherwise. The Respondent did not comment on the allegations of hanging up on the Complainant.

Recommendation: Letter of Instruction to abide by all applicable Fair Debt Collections Practices

BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO SEND A LETTER OF WARNING THAT SPECIFICALLY ADDRESSES THE AGENCY'S ABILITY TO COLLECT INTEREST ON AN ACCOUNT.

14. 2018021361

Respondent:

License Status: - ACTIVE

First Licensed: 3/14/2006

License Expiration: 3/13/2019

Disciplinary History: None

Summary:

The complaint stems from a dental bill. The Complainant says the bill is paid in full. In fact, the itemization from the creditor shows a "0" balance. The Complainant has seen the information on his credit report. An included email from the creditor says the account is still at a "0" balance.

The Respondent says the additional money owed is from interest accrued.

Recommendation: Letter of Warning for violation of Fair Debt Collections Practices Act

BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO SEND A LETTER OF WARNING THAT SPECIFICALLY ADDRESSES THE AGENCY'S ABILITY TO COLLECT INTEREST ON AN ACCOUNT.

15. 2018021471

Respondent:

License Status: - ACTIVE

First Licensed: 3/3/1977

License Expiration: 12/31/2018

Disciplinary History: None

Summary:

The Complainant is, by all accounts, a small business that received a collections notice from the Respondent. The complaint does not state what the debt stems from, although it may deal with a medical bill given the name of the original creditor. In any event, the Complainant is requesting some proof before paying \$986.70.

The Respondent's response was from its attorney. The attorney says their client requested they make no other attempts to collect the debt. Therefore, aside from the October 2017 collections notice received, the debt is no longer being pursued by the named Respondent. The debt appears to be in the hands of a separate collections agency as of April 2018. The Complainant needs to open a complaint against the other collections agency or the Board may.

Recommendation: Close.

BOARD DECISION: CONCUR

16. 2018021551

Respondent:

License Status: - ACTIVE

First Licensed: 8/11/2011

License Expiration: 8/10/2019

Disciplinary History: None

Summary:

This complaint stems from what appears to be an ambulance service bill (\$148.49). The bill was placed with the Respondent for collections. The Complainant, who is located in New York state, says the Respondent has called his home numerous times, but never leaves a message and only hangs up. He also claims to have noticed negative information on his credit report. The Complainant neither admits nor denies owing the amount in controversy.

The Respondent provided a letter in which they claim to have the dates they have contacted the Complainant. The Complainant, in rebuttal, says the Respondent is lying. Without any recordings, there is no way to establish that the Respondent is simply calling and hanging up on the Complainant.

Recommendation: Close.

BOARD DECISION: CONCUR

17. 2018026131

Respondent:

License Status: - ACTIVE

First Licensed: 9/11/1997

License Expiration: 312/31/2018

Disciplinary History: 2007 Consent Order, 2010 Letter of Warning, 2018 Consent Order

Summary: The Complainant found a negative notation her credit report from what was supposedly a charged-off credit card. The Complainant contacted the collection agency in an effort to get proof of the debt. Apparently, the Complainant did not recognize that particular account. The Complainant also alleges that the Respondent is unlicensed in TN.

The Respondent says they became the servicer of the disputed account on behalf of the original purchaser who has a similar name as the Respondent. The account stems from a charged-off Wal-Mart credit card. One of the accounts has already resulted in an agreed judgement. Based on a review of the licensing records, the Respondent is fully-licensed. It appears that when the original collection service was about to go out of business, these accounts were sold to the Respondent (who has a similar name).

Recommendation: Close.

BOARD DECISION: CONCUR

18. 2018027641

Respondent:

License Status: - ACTIVE

First Licensed: 7/23/1991

License Expiration: 12/31/2018

Disciplinary History: None

Summary: The Complainant lodged the complaint on behalf of her elderly mother. The issue is that the mother has adequate insurance; however, she was billed, then turned over to collections for two EMS bills.

The Respondent says one of the bills now has a "0" balance; however, the other still has a \$500.00 balance. This is more of an insurance matter than a collections licensing problem.

Recommendation: Close.

BOARD DECISION: CONCUR

CASES TO BE RE-PRESENTED

19. 2018000221

Respondent:

License Status: - ACTIVE

First Licensed: 5/6/2013

License Expiration: 5/5/2019

Disciplinary History: 2014 Letter of Warning

Summary: The complaint stems from what appears to be a payday loan account. The Complainant says payments are being made to the Respondent; however, he claims that the Respondent's representatives are "threatening" to send court papers to his home.

The Respondent says the Complainant has been sending inconsistent payments since the account was placed with them in October 2017. Eventually, the account was sent to a collections law firm. The Respondent says they have not attempted to sue the Complainant.

Recommendation: Close.

BOARD DECISION: The Board rejected the recommendation and elected to add this matter as a re-present for decision in August.

New Information: The Respondent is a collections service and not a law firm. Therefore, the Respondent is not exempt from the collections service act. Despite this, it would still be rather difficult prove the allegations of FDCPA violations related to threats of suing.

New Recommendation: Close.

NEW BOARD DECISION: CONCUR

20. 2017072971

Respondent:

License Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None

Summary: The complaint stems from an apartment lease contract. The Complainants moved from Tennessee to another state and, apparently, left owing rent. The Complainants were denied financing on a home due to the negative information on the credit report. The Complainants allege they worked out a settlement of roughly 25% of the owing balance with the collection service. The Complainants asked for the settlement acceptance in writing, but never received anything from the Respondents.

The Respondent held a TN collection services license at one time, but it is now expired.

Recommendation: Close with Letter of Warning for unlicensed activity in violation of T.C.A. 62-20-105(a).

BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO AUTHORIZE A FORMAL HEARING AND SEND A CONSENT ORDER WITH A \$1000.00 TOTAL CIVIL PENALTY. \$500.00 FOR UNLICENSED ACTIVITY AND \$500.00 FOR FAILURE TO RESPOND TO THE COMPLAINT.

New Information: Counsel spoke with the Respondent following the Respondent's acknowledgement of the new Consent Order. The Respondent had undergone a change in ownership, which also resulted in a license# change. The Respondent was licensed at the time the Complainant lodged the complaint. The Complainant, however, was unaware of the change in ownership. The Respondent had a valid license number of _____ before the complaint was made.

New Recommendation: Close

NEW BOARD DECISION: CONCUR

21. 2016043131

Respondent:

License Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None

Summary: Previously presented on September 14, 2016.

Previous Recommendation: Authorize formal and send a Consent Order for unlicensed activity with a civil penalty of \$1000.00.

New Information: The debtor is deceased and the Respondent is no longer attempting to collect on the debt. Based on documents provided by the Respondent, the Complainant's grandfather did, in fact, sign an agreement in 2001. Thus, it appears there was a debt. The Respondent, however, was simply not licensed at the time. Based on a conversation with the Respondent, the Respondent claims they were unaware the Respondent's grandfather was deceased. The Respondent explained they are closing the file as they are now aware of the deceased's status and will make no further collection attempts.

New Recommendation: Close with Letter of Warning for unlicensed activity.

NEW BOARD DECISION: THE BOARD REJECTED THE RECOMMENDATION AND ELECTED TO AUTHORIZE A FORMAL HEARING AND SEND A CONSENT ORDER WITH A CIVIL PENALTY OF \$500.00 FOR UNLICENSED ACTIVITY.

New Information: The Respondent's counsel has asked that Counsel for the Board re-present the matter as Respondent's counsel believes the applicable statute does not apply to his client as the client was not physically located in Tennessee while attempting to collect the particular debt.

New Recommendation: Counsel believes the statute as written applies to any person or firm regardless whether the collection service business is physically in the state or not. The Respondent attempted to collect a debt from the Complainant's grandfather while unlicensed by the Tennessee collection service board. Sustain the previous decision to impose a \$500.00 civil penalty.

NEW BOARD DECISION: CONCUR

Chairman Howard made a request for Legal to research payday lending loans to determine if law forbids litigation against this specific type of lending.

LEGISLATIVE UPDATES

Ashley Thomas, Staff Attorney, provided a summary of HB2248/SB2465, referred to as the "Fresh Start Act", which generally speaking will not allow for denying an applicant for licensure due to a felony unrelated to the license for which the applicant applied. In addition, HB2386/SB2603 revises law regarding venue for review of contested cases under the Uniform Administrative Procedures Act. Lastly, HB2437/SN1573 requires agencies, when statutorily required to hold a public hearing as part of their rulemaking process, to make copies of the rule available in redline form to persons in attendance at the hearing.

RULE 0320-05-.01(5) DISCUSSION

When defining debt, Rule0320-05-.01(5) provides that "The term includes any debt, whether defaulted or not." The Board determined that the line could create some confusion and requested that the line be removed.

AGREED CITATION SCHEDULE

Upon reviewing the current Agreed Citation Schedule draft, the Board expressed an interest in removing the following violations: "Unlicensed activity" under TCA 62-20-105(a) & "Engaging in false and/or misleading representations" under TCA 62-20-115(b). The Board also determined that the penalties currently in draft should be increased. Once a working draft with these and any other necessary edits are included, the Board decided to review for a possible vote at the next meeting.

NEW BUSINESS

NACARA ANNUAL CONFERENCE

Director Kopchak updated the Commission on the upcoming NACARA conference that will be held in Charleston, SC in October. Ms. Hoover motioned to have Mr. Howard and Director Kopchak to attend the NACARA conference. This was seconded by Mr. Harb. The motion carried by unanimous vote.

CSB MATTERS IN COLLECTION

Director Kopchak informed the Board that one (1) company is currently in collections due to nonpayment of fines assessed as a result of a complaint, and four (4) companies have had their cases moved to "Formal Charges Authorized" status. The Board noted that they would prefer to see suspension language for nonpayment included in the original consent orders. It was further reiterated that "cease and desist" language be included to clarify to the potential Respondent what the implications of a suspension would entail. Effective immediately, Ms. Hoover motioned that if the civil penalty imposed results in nonpayment within thirty (30) days that the consent order includes language that would require the license to be suspended with the "cease and desist" clarifier until payment is made in full. This was seconded by Mr. Harb. The motion carried by unanimous vote.

ADJOURNMENT

There being no other new business, Mr. Howard adjourned the meeting at 10:54 a.m.