TENNESSEE
COLLECTION SERVICE BOARD
MINUTES

DATE: September 12, 2012

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler, Vice Chairman
Elizabeth Dixon
Chip Hellmann

PRESENT: Staff Members:
Donna Hancock, Executive Director
Chris Whittaker, Assistant General Counsel
Susan Lockhart, Executive Assistant

CALL TO ORDER: Chairman Howard called the meeting to order at 9:35 a.m. and the following business was transacted:

Roll Call - Director Hancock called the roll. All four (4) board members were present.

Agenda – Ms. Trinkler made a motion to adopt the agenda, seconded by Mr. Hellmann. **MOTION CARRIED.**

Minutes – Ms. Trinkler made a motion to approve the minutes of the July 11, 2012 meeting, seconded by Mr. Hellmann. **MOTION CARRIED.**

Mr. Whittaker joined the meeting at 9:40 a.m.

CHRIS WHITTAKER, ASSISTANT GENERAL COUNSEL

Mr. Whittaker presented the following Legal Report for the Board's consideration:

1. 2012006181

The complaint alleges harassment, charging and attempting to collect from a debtor more money than the debtor owes, and wrongful repossession of the debtor's vehicle. The investigation revealed that the Respondent agency placed more than a hundred phone calls to the debtor in less than six months, including one month with thirty-eight phone calls.

Recommendation: Formal hearing with authorization to settle by Consent Order upon payment of a $ 5,000.00 civil penalty.

2. 2009015361
3. 2009012351
4. 2011010621
5. 2011010061
6. 2011026141
7. 2011031451

The above-referenced complaints were previously considered by the Board. Additional review by both program and litigation counsel for the Board, both attorneys agree that there is some evidence of minor legal violations in each of the above-referenced complaints. However, each of the above complaints contains evidentiary or other legal issues which would make these complaints very difficult to successfully prosecute at a formal hearing. Additionally, due to the minor nature of the alleged infractions, the amount of time, effort, and resources that would be have to be expended in order to attempt to prosecute these complaints is disproportionately high relative to the small or non-existent disciplinary sanction(s) that could legally be sought and/or obtained at a formal hearing. As such, a Letter of Warning is recommended as the appropriate disciplinary action for each of these complaints.

Recommendation: Close these complaints upon the issuance of a Letter of Warning.

8. 2009023231
9. 2010002501
10. 2010025071
11. 2010026581
12. 2010036211
13. 2011001951
14. 2011001971
15. 2011002661
16. 2011004911
17. 2011016101
18. 2011016131
19. 2011016291
20. 2011022591
21. 2011027731

The above-referenced complaints were previously considered by the Board. Additional review by both program and litigation counsel for the Board, both attorneys agree that all of the above-referenced complaints contain insufficient evidence of any violation(s) of state or federal law that could reasonably be expected to be proven at a formal hearing.

Recommendation: Dismiss the complaints.

22. 2012008291
23. 2012008841

The two above-referenced complaints are against the same agency. One complaint alleges failure by the agency to timely remit proceeds to a client, and the other complaint alleges that the agency failed to timely provide continuous proof of surety bond coverage to the Board. The

investigation revealed that the Respondent agency filed for Chapter 7 bankruptcy, that it is completely out of business and no longer able to be contacted, and that its surety bond coverage was revoked shortly after its bankruptcy filing. Additionally, by the time this complaint could be brought before the Board for a formal hearing to revoke the Respondent's license, the Respondent's license would already be expired and no longer valid.

Recommendation: Dismiss, close and flag the complaint. The Board reserves the right to re-open and pursue these complaints if the agency attempts to do business in Tennessee prior to the expiration of its license. If (as expected) the Respondent agency remains closed and does not attempt to conduct further business in Tennessee, its license shall be closed immediately upon its expiration.

24. 2012007901

The complaint alleges that the Respondent attempted to collect a debt not owed by the Complainant and that the agency failed to validate the alleged debt upon request. The investigation revealed that the agency mistakenly sent a letter to the Complainant stating that the account was paid in full. However, it appears that the paid in full letter was caused by a clerical error and was not intentional. It also appears that the Respondent's client (a federal government agency) made numerous reporting errors when reporting to the Respondent the correct amount of the debt owed by the Complainant. The Respondent, upon learning of its error, immediately notified the Complainant that a debt was still owed to the agency's client. Due to the multitude of issues surrounding the debt in question, the agency closed the account in its system, did not report the account to the credit bureaus, returned the account to its client, and advised the Complainant as to who to contact to obtain information regarding any debt owed. A Letter of Warning is appropriate to admonish the Respondent to be more vigilant in monitoring the correspondence sent to debtors, especially correspondence that purports to show a debt as paid in full.

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

25. 2012011981

The complaint alleges that the Respondent agency violated the FDCPA by placing numerous harassing phone calls to the Complainant, who was not the correct debtor. The investigation revealed that the Respondent never actually spoke to the Complainant, but that the Complainant did notify the Respondent by e-mail that he was not the correct debtor and did request that the Respondent not contact him in the future. Immediately upon receipt of the Complainant's request to cease and desist communication, the Respondent blocked the Complainant's phone number in its system and made a notation in the account in question that the Complainant is not the correct debtor and that his phone number should not be called in the future. A Letter of Warning is an appropriate sanction to admonish the agency to make sure that it does not violate the FDCPA by placing harassing phone calls at all hours of the day and night while attempting to collect a debt.

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

26. 2011031641

The complaint alleges that the Respondent failed to timely remit collection proceeds to the Complainant. The investigation revealed that the Complainant, a medical facility and now former client of the Respondent, terminated the services of the Respondent agency on very short notice. The actual amount in dispute by the Complainant is now less than $ 100.00 out of more than $ 6,000,000.00 dollars in accounts placed with the Respondent by the Complainant over the last eight years. The true nature of this dispute appears to be a breach of contract dispute between the Complainant and the Respondent. It appears that the appropriate forum for this dispute is in civil court. As such, there is insufficient evidence to prove any violation of state or federal law by the Respondent.

Recommendation: Dismiss the complaint.

27. 2012007201

The complaint alleges that the Respondent committed fraud and failed to validate an alleged debt upon written request from the Complainant. The investigation revealed that the Complainant's written validation request was neither timely sent nor timely received. However, upon receipt of the Complainant's validation request, the Respondent did verify that the Complainant was not the correct debtor. As a result, the agency closed the account in its system, did not report the account to the credit bureaus, returned the account to its client, and noted in its system that the Complainant was not the correct debtor.

Recommendation: Dismiss the complaint.

28. 2012008471

The complaint alleges that the Respondent attempted to collect a debt from the Complainant that the Complainant does not owe. After receiving a validation request from the Complainant stating that this account was fraudulent, the Respondent's client was unable to verify to the Respondent's satisfaction that the Complainant owed the debt. As a result, the agency closed the account in its system, did not report the account to the credit bureaus, returned the account to its client, and noted in its system that the Complainant was not the correct debtor.

Recommendation: Dismiss the complaint.

29. 2012006591

The complaint alleges that the Respondent failed to validate the debt in question upon written request. Although the alleged debt had already been reported to the credit bureau by the time the respondent received a validation request from the Complainant, the Respondent did attempt to validate the debt, but its client could not provide sufficient documentation to validate the debt. As a result, the agency closed the account in its system, returned the account to its client, and deleted all reports previously sent to the credit bureaus regarding the account in question.

Recommendation: Dismiss the complaint.

30. 2012008851

The complaint alleges that the Respondent agency placed harassing phone calls while attempting to collect a debt from the Complainant. The investigation revealed insufficient evidence to support the Complainant's claim. The Respondent removed the Complainant's phone numbers from its system at the request of the Complainant.

Recommendation: Dismiss the complaint.

31. 2012009261

The complaint alleges that the Respondent agency placed harassing phone calls while attempting to collect a debt from the Complainant. The investigation revealed insufficient evidence to support the Complainant's claim. The Respondent did place several calls to the Complainant, but only spoke with the Complainant once. The Respondent removed the Complainant's phone number from its system at the request of the Complainant.

Recommendation: Dismiss the complaint.

32. 2012009491

The complaint alleges that the Respondent agency placed harassing phone calls while attempting to collect a debt from the Complainant and that the agency improperly disclosed information to an unauthorized third party. The investigation revealed insufficient evidence to support the Complainant's claim. Additionally, the third party to whom improper disclosure of information was allegedly made was the Complainant's mother. The investigation revealed that the Complainant's mother told the representative she spoke with that she was the Complainant in order to see what the agency wanted, and that she subsequently passed that information on to her daughter (the correct debtor).

Recommendation: Dismiss the complaint.

33. 2012009571

The complaint alleges that the Respondent agency attempted to collect a debt from the Complainant which was not owed. The investigation revealed that the Respondent researched the Complainant's claim that she owed no debt at the Complainant's request, and that the Respondent informed the Complainant that she was correct in her claim that she had a zero balance on the debt in question. As such, the Respondent noted its system accordingly and will not contact the Complainant in the future.

Recommendation: Dismiss the complaint.

34. 2012010011

The complaint alleges that the Respondent agency attempted to collect a debt from the Complainant which was not owed and failed to validate the debt in question upon request. The investigation revealed that the Complainant is involved in heated civil litigation with the Respondent's client. As soon as the Respondent learned of the civil litigation, the Respondent closed the account in its system, returned the account to the client, and has not contacted the Complainant since it closed the account.

Recommendation: Dismiss the complaint.

35. 2012010021

The complaint alleges that the Respondent placed harassing phone calls while attempting to collect a debt from the Complainant that the Complainant does not owe. After receiving a validation request from the Complainant, the Respondent's client was unable to verify to the Respondent that the Complainant owed the debt. As a result, the agency closed the account in its system, did not report the account to the credit bureaus, returned the account to its client, and placed the account in "cease communication" status.

Recommendation: Dismiss the complaint.

36. 2012010201

The complaint alleges that the Respondent attempted to collect money that the Complainant does not owe. The investigation revealed that the Respondent purchased a large number of accounts from the bankruptcy estate of a large, nationwide movie chain which went out of business and bankrupt several years ago. The Respondent sent one collection letter to the Complainant, and the Complainant immediately disputed the debt in writing. Immediately after being advised that the account was disputed, the Respondent marked the account as disputed, closed the account in its system, and returned it to the bankruptcy trustee with a notation that no further collection activity would be conducted with regard to the Complainant's disputed account. There is no evidence of any legal violation(s) by the Respondent to support the imposition of disciplinary action against the Respondent regarding its conduct relative to the allegations in this complaint.

Recommendation: Dismiss the complaint.

37. 2012010331

The complaint alleges that the Respondent placed numerous harassing phone calls to the Complainant's ex-husband (from whom she has been divorced for 35 years and who is extremely ill) attempting to obtain personal information from him. It is unclear from the file whether the complainant actually owes any debt to the Respondent or to a client of the Respondent. Upon receipt of the complaint, the Respondent removed the phone number of the Complainant's ex-husband from their system and noted the account as "cease communication" relative to that

phone number. As such, there is insufficient evidence to prove any violation of state or federal law by the Respondent.

Recommendation: Dismiss the complaint.

38. 2012010341

The complaint alleges that the Respondent was not served with proper legal process by the Respondent's law firm regarding a debt. This does not appear to be a claim for which the Board has legal authority to grant relief. Because this matter is in civil litigation, it is being handled by a court and the Board has no jurisdiction over the Complainant's claim at this time.

Recommendation: Dismiss the complaint.

MOTION: Ms. Trinkler made a motion to accept Legal's recommendation on all of the complaints as presented, seconded by Mr. Hellmann. **MOTION CARRIED.**

ADMINISTRATIVE REPORT – DONNA HANCOCK, EXECUTIVE DIRECTOR

Location Manager Exam Contract – Update – Ms. Hancock advised that the contract has been finalized and hopes to have the test available in October 2012. She further advised an update had been posted on the Board's website and would be revised when more information becomes available. She said a conference call with the vendor would be held later that day to discuss the exam questions, registration process, etc.

The Board advised the questions released by the previous vendor were previously approved by the Board and, therefore would not require any additional review before the current vendor could use them.

Ms. Hancock advised the current vendor has several locations both inside and outside of Tennessee. She asked if they would allow applicants to choose to test at any of the locations or if the test should only be administered at the Tennessee locations. The Board advised the exam could be given by the vendor at any of its locations as long as it's secure and they verify the applicants' identities.

Agency Applications with Pending Location Manager Applications – Discussion – Ms. Hancock advised there is approximately forty (40) collection service agency applications waiting to be processed based on the outcome of their location managers' examinations. She said that questions had recently been raised about whether to issue the agency license conditional upon the location manager applicant passing the exam. Mr. Whittaker stated that his General Counsel had raised the question because of concerns from the applicants regarding the length of time it took to secure an exam contract. Mr. Whittaker advised the board that there is a specific provision under T.C.A. 62-20-126 for existing agencies that have lost their location managers. The Board determined that since the exam is so near in implementation the agency licenses can be issued once the managers have passed the examinations. They also determined that there is no need for Ms. Hancock to request new credit report, financial reports, etc. for pending applicants if they have already been approved to sit for the exam.

Location Managers Working for 2 Different Agencies at 2 Different Locations – Discussion

Ms. Hancock inquired as to whether or not a location manager may work for two different collection service agencies at two different locations. (She stated that this question has been presented to the board several times in the past but that no policy has been finalized on the subject.) The Board determined that a location manager must be employed full-time to oversee daily operations and, therefore, cannot work for more than one physical location or address. However, the Board added that a location manager may work for multiple agencies if the agencies are at the same physical address and under the same roof. The Board asked staff to send letters to all location managers and agencies they identify through their records as not being in compliance and advise them of the Board's policy regarding this matter.

Complaint Status Report - Ms. Hancock presented a comparison of the complaints pending in September 2011 to those currently pending. She reminded the Board that thirty-eight of the pending one hundred three complaints were presented earlier in the meeting.

2013 Meeting Calendar – Ms. Hancock presented a tentative schedule of the board meetings for 2013. Mr. Hellmann made a motion to approve the schedule, seconded by Ms. Trinkler. **MOTION CARRIED.**

Budget Report – Ms. Hancock presented a budget report comparison for the last three fiscal years with the report for FY 11/12 being a "preliminary" report. She advised that she plans to present this report at each meeting along with year to date totals showing the current fiscal year revenue and expenditure amounts.

LOCATION MANAGER APPLICATION REVIEW

Ms. Hancock presented the following new Location Manager Applications for the Board's consideration:

Stephanie Perry – Mr. Hellmann made a motion to approve the application, seconded by Ms. Trinkler. **MOTION CARRIED.**

Krystal Vasquez – Ms. Trinkler made a motion to approve the application, seconded by Ms. Dixon. **MOTION CARRIED.**

Umesh Ranglani – Mr. Hellmann made a motion to request additional information, seconded by Ms. Trinkler. **MOTION CARRIED.**

Kenneth Stumbo – Mr. Hellmann made a motion to approve the application, seconded by Ms. Trinkler. **MOTION CARRIED.**

James Annestedt, Jr. – Ms. Trinkler made a motion to deny the application pursuant to T.C.A. 62-20-125(3), seconded by Mr. Hellmann. **MOTION CARRIED.**

Ms. Hancock then presented the following Location Manager Reapplication and test waiver request for the Board's consideration –

Mark Hablenko – Mr. Hellmann made a motion to approve the application and test waiver request, seconded by Ms. Trinkler. **MOTION CARRIED.**

COLLECTION AGENCY APPLICATION REVIEW

Ms. Hancock presented the following Collection Agency Applications for the Board's consideration –

Bureau's Investment Group – Ms. Hancock advised there were multiple applications submitted for separate entities at one location with one location manager from this group. After some discussion, Mr. Hellmann made a motion to allow one location manager for multiple entities at one physical address location, seconded by Ms. Trinkler. **MOTION CARRIED.**

The board took a break at 10:55 a.m. and reconvened at 11:05 a.m.

Discussion regarding the applications from Bureau's Investment Group continued. Ms. Dixon made a motion to approve all of the applications presented, seconded by Ms. Trinkler. **MOTION CARRIED.**

Citimortgage, Inc. – Ms. Trinkler made a motion to approve the application, seconded by Mr. Hellmann. **MOTION CARRIED.**

Vantium Capitol, Inc. (current license, change in ownership) – Mr. Hellmann made a motion to approve the application, seconded by Ms. Dixon. **MOTION CARRIED.**

NEW BUSINESS OR UNFINISHED BUSINESS: None.

AJOURN: Being no further business to discuss, the meeting adjourned at 11:20 a.m.

Bart Howard, Chairman