

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-16-0044

Shanika Strong, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on June 26, 2017. The allegations against Respondent Tawanda Livingston, as set forth in the Board's charge letter dated May 12, 2017, were as follows:

You have never obtained a registration to provide services as an individual tax preparer.

On or about February 10, 2016, a complaint was filed with the Board by the Maryland Office of the Comptroller ("Comptroller") inquiring about your registration status and stating that it had suspended electronic filing privileges for you and multiple other tax preparers in the State due to suspicions regarding the propriety of filed returns. The Comptroller's complaint further advised that, as a professional tax preparer, you began filing Maryland individual tax returns for 2015 on behalf of taxpayers on or about January 28, 2016.

Upon receipt of the Comptroller's complaint and a subsequent Board investigation, it was determined that you provided, attempted to provide, or offered to provide individual tax preparation services to Maryland taxpayers

during 2016 while not registered by the Board. From approximately January 22, 2016, through approximately February 5, 2016, you filed at least 14 Maryland individual tax returns (Form 502) for the 2015 tax year. It was also determined that you filed at least 109 other Maryland individual tax returns during 2014 and 2015. At the times of filing of these returns, you were not registered by the Board to provide individual tax preparation services in Maryland, and thereby, you were in violation of the Maryland Individual Tax Preparers Act, Title 21-Business Occupations and Professions Article ("BOP"), Annotated Code of Maryland.

Based on the above described circumstances, you are charged with violating the following laws of the State of Maryland and provisions of the Code of Maryland Regulations (COMAR):

Business Occupations and Professions Article, Ann. Code of Maryland

Section 21-301. Registration required

An individual shall be registered by the Board before the individual may provide individual tax preparation services in the State.

Section 21-401. Practice without registration prohibited.

Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide individual tax preparation services in the State unless registered by the Board.

In its charge letter, the Board informed Ms. Strong of her right to a hearing on the charges, in accordance with the Business Occupations and Professions Article ("BOP") of the *Annotated Code of Maryland*, §21-312 *et seq.*, the Maryland Administrative Procedure Act as set forth in the State Government Article of the *Annotated Code of Maryland*, Title 10, Subtitle 2, and the Board's hearing rules set forth at COMAR 09.01.02. Ms. Strong was also informed that should the charges be proven, pursuant to BOP § 21-405(a), she would be subject to the imposition of a penalty not to exceed \$5,000.00 per violation. At the

June 26, 2017 hearing, Ms. Strong failed to appear. Kris King, Assistant Attorney General, presented evidence to the Board in support of the allegations.

As a preliminary matter, the Board finds that all reasonable efforts have been made to notify Ms. Strong of the proceedings. The May 25, 2017, Notice of Charges and Order for Hearing was mailed via certified mail and regular mail to Ms. Strong at four different addresses: 1) the two addresses provided by the Office of the Comptroller for Taxrite Tax Services¹, 3406 Belair Road, Baltimore, MD 21213, and 90 Shawgo Court, Middle River, MD 21220; 2) the address obtained from a Maryland Motor Vehicles Administration Driver License search for Ms. Strong, 1727 McHenry St., Baltimore, MD 21229; and 3) an address obtained from a web search for Maryland tax preparers, 5306 Eastbury Ave., Apt. J, Baltimore, MD 21206.

The certified mail notice sent to Ms. Strong at the 3406 Belair Road address was returned to the Board marked "RETURN TO SENDER, VACANT, UNABLE TO FORWARD" and the regular mail notice was not returned. The Board has no information concerning the certified mail notice sent to Ms. Strong at the 90 Shawgo Court address, and the regular mail sent to this address was returned marked "RETURN TO SENDER, ATTEMPTED NOT KNOW, UNABLE TO FORWARD." Both the certified mail and regular mail notices sent to Ms. Strong at the 1727 McHenry St., address were returned marked "RETURN TO SENDER, NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD." Finally, the Board has no

¹Taxrite Tax Services is owned by Nixon Okoniha. Mr. Okoniha entered into a consent order with the Board and paid a \$3,750.00 civil penalty for providing individual tax preparation services without a registration. See *Maryland Board of Individual Tax Preparers v. Nixon Okoniha*, Case No. MITP 16-0099.

information concerning the certified mail notice mailed to Ms. Strong at the 5306 Eastbury Ave., Apt. J address and the regular mail notice sent to this address was not returned. Accordingly the Board concludes that all reasonable efforts were made to provide Ms. Strong actual notice of the proceedings and will address the merits of the matter in Ms. Strong's absence.

II. Findings of Fact.

The Board includes in its factual findings the facts set forth in the procedural background of the matter. In addition, after examining all of the evidence, including both the testimony of witnesses and the documentary evidence submitted at the hearing, and having assessed the demeanor and credibility of those offering testimony, the Board makes the following additional findings of fact:

1) Ms. Strong is not a Certified Public Accountant, an attorney, an enrolled agent or otherwise exempt from the requirements of the Maryland Individual Tax Preparers Act pursuant to BOP § 21-102(b) and has presented no evidence that the returns in question were prepared free of charge.

2) Ms. Strong has not been previously disciplined by the Board.

3) By letters dated February 18, 2016, and October 28, 2016, the Board notified Ms. Strong of the complaint at issue in the instant case. Ms. Strong never responded to the Board's complaint.

III. Evaluation of the Evidence.

The Board believes that the charges in this case are supported. At the hearing in

this matter, the evidence demonstrated that, on at least 116 occasions, Ms. Strong provided individual tax preparation services, as defined in BOP § 21-101(f), without a registration issued by the Board and that Ms. Strong is not exempt from the registration requirement pursuant to BOP § 21-102(b).

Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Ms. Strong under these circumstances. The Board has the authority under BOP § 21-405 (a) to impose a penalty not exceeding \$5,000.00 per violation. In evaluating whether or not to impose a civil monetary penalty, BOP § 21-405(a) provides that the Board shall consider the following factors: 1) the seriousness of the violation; 2) the harm caused by the violation; 3) the good faith of the violator; 4) any history of previous violations by the violator.

With respect to the seriousness of and harm caused by the violation, Ms. Strong ignored the fundamental obligation of any non-exempt individual who provides individual tax preparation services in Maryland: being registered with the Board. Ms. Strong essentially took opportunities away from individuals who have taken the steps necessary to become registered, including demonstrating competence by satisfying the examination requirement. The Board simply has no information concerning Ms. Livingston's competence.

With respect to good faith on the part of Ms. Strong, she basically demonstrated none. She did not appear at the hearing to offer any explanation for her actions, and did not respond to the Board's complaint. While Ms. Strong does not have a prior disciplinary

did not respond to the Board's complaint. While Ms. Strong does not have a prior disciplinary history with the Board, the Board finds that, after weighing all the factors, a significant sanction is warranted.

CONCLUSIONS OF LAW

Based on the Findings of Fact, and using the specialized knowledge, training, and experience of its members, the Maryland State Board of Individual Tax Preparers hereby concludes as a matter of law that the Respondent Shanika Strong violated Business Occupations and Professions Article, Ann. Code of Maryland, Sections 21-301 and 21-401.

ORDER

In consideration of the Maryland State Board of Individual Tax Preparer's Findings of Fact and Conclusions of Law in this matter, it is this 14 day of August, 2017 **ORDERED:**

1) That Shanika Strong pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$700.00 for her violations of Business Occupations and Professions Article, Ann. Code of Maryland, Sections 21-301 and 21-401;

2) That this sanction is effective thirty (30) days from the date of this order unless the Respondent obtains a judicial stay of enforcement pursuant to Md. State Gov. Code Ann., § 10-222; and

3) That the records, files, and documents of the Maryland State Board of Individual Tax Preparers reflect this decision.

**MARYLAND STATE BOARD OF
INDIVIDUAL TAX PREPARERS**

Signature of File

By:

Jane Bourassa
Acting Chair

