

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-16-0037

Hope Jones, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on March 27, 2017. The allegations against Respondent Hope Jones, as set forth in the Board's charge letter dated March 9, 2017, were as follows:

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

On or about February 8, 2016, a complaint was filed with the Board by the Maryland Office of the Comptroller ("Comptroller") 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 19, 2016.

Upon receipt of the Comptroller's complaint and a subsequent Board investigation, it was determined that you provided individual tax preparation services to Maryland taxpayers during 2016 while not registered by the Board. From approximately January 19, 2016, through approximately March 10, 2016, you filed at least 65 Maryland individual tax returns (Form 502) for the 2015 tax year. 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. Jones 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. Jones 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 March 27, 2017, hearing, Ms. Jones 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 properly notify Ms. Jones of the proceedings. This matter was originally scheduled for a hearing before the Board on February 13, 2017 at 11:00 a.m. Ms. Jones arrived on that date, and prior to the hearing before the Board, agreed in principle to a settlement of this matter. At that time, Ms. Jones provided to the Board's administrative staff her current address: 7317 Eden Brook Drive, Apt. 1, Columbia, MD 21046. That settlement was never finalized and the matter proceeded. The March 9, 2017, Notice of Charges and Order for Hearing was mailed via certified mail and regular mail to 7317 Eden Brook Drive, Apt. 1, Columbia, MD 21046. The certified mail notice was returned to the Board with the indication "Return to Sender. Unclaimed. Unable to Forward." The regular mail sent to this address was not returned. Accordingly the Board draws the inference that Ms. Jones was provided reasonable notice of the proceedings and considered the merits of the matter in Mr. Nwankwo'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. Jones has not presented evidence to the Board showing that she is 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), or that the 65 Maryland Individual Tax Returns (Form 502) that she filed from January 19, 2016, through approximately March 10, 2016, were prepared free of charge.

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

3) By letter dated February 18, 2016, the Board notified Ms. Jones of the complaint by the Office of the Comptroller in the instant case. In her response dated March 3, 2016, Ms. Jones acknowledged that she was not registered by the Board and explained that she had unsuccessfully taken the Maryland Tax Preparers Examination and believed she "could work while [she] was trying to take the test."

4) Ms. Jones still has not obtained a registration from the Board.

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 65 occasions, Ms. Jones provided individual tax preparation services, as defined in BOP § 21-101(f), without a registration issued by the Board and that Ms. Jones 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. Jones 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. Jones ignored the fundamental obligation of any non-exempt individual who provides individual tax preparation services in Maryland: being registered with the Board. Ms. Jones essentially took opportunities away from individuals who have complied with the registration requirement.

With respect to good faith on the part of Ms. Jones, she did acknowledge her violation, but did not appear at the hearing. While Ms. Jones 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 Hope Jones 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 30th day of

April, 2017 **ORDERED:**

1) That Hope Jones pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$3,250.00 for her 65 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.

Kay Riddle
Vice Chair