

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-16-0067

CHARITA DOUGLAS, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on October 24, 2016. The allegations against Respondent Charita Douglas, as set forth in the Board's charge letter dated September 22, 2016, were as follows:

You have never been registered with the Board 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 complain 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 26, 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 2015 and 2016 while not registered by the Board. From January 26, 2016, through May 24, 2016, you filed at least 59 Maryland individual tax returns (Form 502) for the 2015 tax year. In addition, from January 21, 2015 through May 24, 2016, you filed approximately 72 Maryland individual tax returns for the 2014 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. Douglas 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. Douglas was also informed that should the charges be proven, pursuant to BOP § 21-405(a), she would be subject to a possible reprimand, suspension or revocation of her registration, and/or the imposition of a penalty not to exceed \$5,000.00 per violation. At the October 24, 2016, hearing, Ms. Douglas appeared without counsel. Kris King, Assistant Attorney General, presented evidence to the Board in support of the allegations.

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 the 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. Douglas 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).

2) As of the date of the hearing in this matter, Ms. Douglas had never been registered with the Board as an individual tax preparer.

3) On April 2, 2016, Ms. Douglas registered with the PSI testing service to take the Maryland Registered Tax Return Preparer Examination.

4) As of the date of the hearing in this matter, Ms. Douglas had neither completed the Maryland Registered Tax Preparer Examination, nor had she applied for and received a waiver of the examination requirement pursuant to COMAR 09.38.01.02D.

5) As of the date of the hearing in this matter, Ms. Douglas had not submitted an application for registration with the Board as an individual tax preparer. Ms. Douglas testified that she has ceased filing any tax returns since March 2016, and that she has not yet completed the exam and registration process due to health and other problems which she has experienced.

6) Ms. Douglas began preparing tax returns in 2006, working for H & R Block. In 2007, Ms. Douglas left H & R Block and worked at Instant Tax Service until sometime in 2008-2009. Sometime during 2008 – 2009, Ms. Douglas started her own tax preparer business. For approximately the past three years, Ms. Douglas operated her tax preparation business under the trade name "The Tax Store."

7) On March 2, 2016, the Board issued a "Notice of Complaint" to Ms. Douglas informing her that the Board had received a written complaint from the Office of the Comptroller of Maryland against her, regarding her actions as a professional tax preparer. The March 2, 2016 notice also informed Ms. Douglas that a review of the Board's records showed that she was not registered with the Board to provide individual tax preparation services in Maryland as required by law.

8) Subsequent to the Notice of Complaint issued by the Board, on March 30, 2016, Ms. Douglas was interviewed at the Board's offices at 500 North Calvert Street in Baltimore.

9) Ms. Douglas testified that it had been her understanding, based on what she had been previously told by personnel at H & R Block and Instant Tax Service, that her "PTIN" (federal tax preparer identification number) was the only registration which she was required to have to prepare tax returns in Maryland. Ms. Douglas also testified that she had called DLLR "two or three years ago" and was told that she did not need a separate license from DLLR to prepare tax returns in Maryland. Ms. Douglas was unable to identify the person at DLLR with whom she claimed to have spoken.

10) Ms. Douglas' federal PTIN identification number is P00646644.

11) According to information provided by the Comptroller, Ms. Douglas prepared and filed a total of 62 individual Maryland tax returns which were filed on or after October 1, 2015. Said total included three returns for the 2014 tax year, and 59 returns for the 2015 tax year.

12) Mr. Douglas uses Drake Software to prepare tax returns for her clients and indicated that she had taken online continuing education courses through Drake Software and the IRS.

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 Ms. Douglas provided individual tax preparation services, as defined in BOP § 21-101(f), without a registration issued by the Board and that Ms. Douglas is not exempt from the registration requirement pursuant to BOP § 21-102(b). Although Ms. Douglas indicated she believed that her federal TPIN identification number was sufficient alone to permit her to provide individual tax preparation services in Maryland, there is no such provision in the law.

Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Ms. Douglas 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 nor 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. Douglas ignored the fundamental obligation of any non-exempt individual who provides individual tax preparation services in Maryland: being registered with the Board. Ms. Douglas essentially took opportunities away from individuals who have complied with the registration requirement. With respect to good faith on the part of Ms. Douglas, while the Board does find that Ms. Douglas violated her obligation to become registered, the Board does find credible, and takes into consideration, Ms. Douglas' testimony that she did cease filing returns in March 2016 after receiving the Notice of Complaint from the Board.

Under the totality of the circumstances, the Board believes that a civil penalty is warranted. While the statute allows the Board to impose a civil penalty of up to \$5,000.00 per violation, the Board believes that a penalty of \$50.00 per violation is warranted in this case, in light of the approximate amount of money Ms. Douglas earned for each tax return she prepared while unregistered. The Board finds that Ms. Douglas filed a total of 62 individual tax returns, while unregistered, on or after October 1, 2015. Accordingly, the Board will impose a total monetary penalty of \$3,100.00.

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 Charita Douglas, 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 18th day of November, 2016

ORDERED:

1) That Charita Douglas pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$3,100.00 for her 62 violations of Business Occupations and Professions Article, Ann. Code of Maryland, Sections 21-301 and 21-401;

3) That these sanctions are 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., § 10-226; and

4) 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**

By:

Signature on File

Fredric Bader
Chair

11-18-16