

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-16-0043

Ryan D. Lee, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on August 8, 2016. The allegations against Respondent Ryan D. Lee, as set forth in the Board's charge letter dated June 13, 2016, were as follows:

On or about February 17, 2016, you obtained a registration from the Board as an individual tax preparer (Registration No. 6608). Prior to that date, you were not registered to provide individual tax preparation services 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 alleged 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 investigation, it was determined that you provided individual tax preparation services to Maryland taxpayers during 2015 and 2016 while not registered with the Board. From January 10, 2015 through January 8, 2016, you filed approximately 85 Maryland individual tax returns (Form 502) for the 2014 tax year. In addition, from January 5, 2016 through January 28, 2016, you field

approximately 88 individual tax returns for the 2015 tax year.

It is alleged that you prepared approximately 20 Maryland individual tax returns after becoming registered with the Board and that, in connection with your provision of those services as an individual tax preparer, you failed to provide required written disclosures to taxpayers in accordance with BOP Ar. 21-403(b)

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 21-311. Denial, suspension, revocation of registration; reprimands; penalties.

(a) In general.-- Subject to the hearing provisions of § 21-312 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a registration to any applicant, reprimand and registered individual, or suspend or revoke a registration if the applicant or registered individual:

(5) violates any regulation adopted under this title; or

(6) violates any provision of this title.

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.

Section 21-403. Maintenance of Records.

(b) Required disclosures. --

(1) Prior to rendering individual tax preparation services, an individual shall disclose to the customer, in writing:

- (i) the individual tax preparer's name, address, and telephone number;
- (ii) that the individual tax preparer is not a certified public accountant;
- (iii) services that the individual tax preparer is qualified to provide;
- (iv) the individual tax preparer's education and training, including examinations taken and successfully passed; and
- (v) any other information the Board requires.

(2) A disclosure required under this subsection shall be provided to a customer:

- (i) At an initial meeting between the individual tax preparer and the customer; and
- (ii) If the individual tax preparer maintains a website, on the website.

COMAR 09.38.01.05 Code of Professional Conduct.

A. Other Responsibilities and Practices.

(1) An individual tax preparer may not commit any act that reflects adversely on the individual tax preparer's fitness to provide individual tax preparation services.

In its charge letter, the Board informed Mr. Lee of his 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. Mr. Lee was also informed that should the charges be proven, pursuant to BOP § 21-311, he would be

subject to a possible reprimand, suspension or revocation of his registration, and/or the imposition of a penalty in the amount of up to \$5,000.00 per violation. At the August 8, 2016, hearing, Mr. Lee 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 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) Ryan Davon Lee was first registered with the Board as a individual tax preparer under registration number 6608 on February 17, 2016, after having passed the Maryland Registered Tax Preparer Examination on February 3, 2016. Mr. Lee has been continually registered since that time and his current registration is set to expire on February 17, 2018. Mr. Lee's current address of record with the Board is 3343 Belair Road, Apt. 2, Baltimore, Maryland 21213.

2) On January 15, 2014, Mr. Lee filed an application for registration with the Board. On February 24, 2014, Alicia Coar, the Board's secretary, sent an email to Mr. Lee requesting certain documents to complete his application, either a copy of the confirmation screen showing his 2014 Preparer Tax Identification Number ("PTIN") issued by the Internal Revenue Service ("IRS"), or a copy of the 2014 Welcome Letter issued by the IRS

after being issued his PTIN. After conversations with Ms. Coar, Mr. Lee attempted to send copies of the requested documents by facsimile. Mr. Lee could not produce a facsimile transmission confirmation, but nonetheless believed he had provided the requested documents. Mr. Lee did not telephone the Board to confirm that the material had been received.

3) By letters dated March 11, 2014, and April 8, 2014, sent to Mr. Lee at his address of record with the Board at that time, 1336 Homestead Street, Baltimore, Maryland 21218, Ms. Coar again requested either a copy of the confirmation screen showing his 2014 PTIN, or a copy of the 2014 Welcome Letter issued by the IRS after being issued his PTIN. The Board did not receive a response to either of these letters.

4) By letter dated April 25, 2014, sent to Mr. Lee's address of record, Douglas Blackstone, the Executive Director of the Board, advised Mr. Lee that his application was removed from the pending file because of his failure to respond to Board correspondence and supply the requested information.

5) Mr. Lee alleged that he did not receive the March 11, 2014, and April 8, 2014, correspondence from Ms. Coar, and the April 25, 2014 correspondence from Mr. Blackstone.

6) Upon receipt of the Notice of Complaint dated February 18, 2016, addressed to Mr. Lee at 3343 Belair Rd., Baltimore, Maryland 21213, Mr. Lee responded to the Board and has cooperated throughout the investigation.

6) Mr. Lee admitted that, while working for Liberty Tax Service for

compensation, he prepared approximately 85 tax returns for during the 2014 tax year and approximately 88 tax returns during the 2015 tax year.

7) Mr. Lee was issued PTIN P01746951 by the IRS, and has continuously maintained his PTIN from 2014 to date.

8) Mr. Lee acknowledged that when meeting with his clients for the first time, he did not make the required disclosures under BOP § 21-403(b).

III. Evaluation of the Evidence.

The Board believes that the charges in this case are supported. At the hearing in this matter, Mr. Lee forthrightly acknowledged that he provided individual tax preparation services for compensation to a number of individuals prior to receiving his registration on February 17, 2016, and thus violated BOP §§ 21-301 and 21-401. Additionally, after becoming registered, Mr. Lee also failed to make the disclosures required under BOP § 21-403(b). In mitigation, it appears that Mr. Lee did make a good faith effort to become registered but simply failed to properly follow up with the Board on the status of his application and failed to notify the Board of a change of address.

Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Mr. Lee under these circumstances. In addition to the authority granted by BOP § 21-311(a) to reprimand a registrant or suspend or revoke a registration, the Board also has the authority under BOP § 21-311(b) to impose a penalty not exceeding \$5,000.00 per violation. In evaluating whether or nor to impose a civil monetary penalty, BOP § 21-311(b) 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, the Board views the registration requirement as the cornerstone of the Maryland Individual Tax Preparers Act. Fortunately for Mr. Lee, there no evidence was presented at the hearing showing any negative consequence for the clients who utilized his services prior to the date he became registered, and the Comptroller has apparently taken no further action against Mr. Lee.

With respect to good faith on the part of Mr. Lee, as noted above, he attempted to become registered prior to performing individual tax preparation services, and it appears he would have qualified had he simply followed up with the Board and ensured that the requested documentation was received. Further, Mr. Lee cooperated with the investigation, did appear at the hearing, and candidly admitted his errors. Under the circumstances, the Board believes that a minimal 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, Ryan D. Lee, violated Business Occupations and Professions Article, Ann. Code of Maryland, Sections 21-301, 21-401, and 21-403(b).

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 29th day of September, 2016

ORDERED:

1) That Ryan D. Lee pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$250.00 for his violations of Business Occupations and Professions Article, Ann. Code of Maryland, §§ 21-301, 21-401 and 21-403(b);

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., § 10-226; 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**

Signature on File

By: _____

Fredric Bader
Chair