

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-16-0031

Denise Rabey, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on April 24, 2017. The allegations against Respondent Denise Rabey, as set forth in the Board's charge letter dated March 31, 2017, were as follows:

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

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 13, 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

11, 2016, through approximately March 28, 2016, you filed at least 19 Maryland individual tax returns (Form 502) for the 2015 tax year. It was also determined that you filed at least 39 Maryland Individual tax returns (Form 502) during 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. Rabey 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. Rabey 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 April 24, 2017, hearing, Ms. Rabey appeared on her own behalf. 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) Ms. Rabey 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) Ms. Rabey prepared the individual tax returns described above while employed by B & B Tax Services, LLC, located at 4704 Harford Rd, Suite B, Baltimore, MD 21214, owned by Benjamin Nwankwo¹. During that time, Mr. Nwankwo was not registered with the Board. Ms. Rabey, a student, worked part-time during tax season, approximately 12 hours per week, and was paid on a commission basis. In 2016, Ms. Rabey earned approximately \$2,000.00 for the individual tax return services she provided.

3) Ms. Rabey does not dispute the number of individual Maryland tax returns she filed for B & B Tax Services, LLC, in 2016. Ms. Rabey relied on Mr. Nwankwo's representation that she was permitted to prepare and file individual tax returns.

4) Ms. Rabey is no longer performing individual tax preparation services and

¹Benjamin Nwankwo has been disciplined by the Board in connection with his operation of B & B Tax Services, LLC. See *Maryland Board of Individual Tax Preparers v. Benjamin Nwankwo*,

does not intend to do so in the future.

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, and Ms. Rabey very forthrightly acknowledged, that on at least 19 occasions, Ms. Rabey provided individual tax preparation services, as defined in BOP § 21-101(f), without a registration issued by the Board and that Ms. Rabey 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. Rabey 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. Rabey ignored the fundamental obligation of any non-exempt individual who provides individual tax preparation services in Maryland: being registered with the Board. Ms. Rabey essentially took opportunities away from individuals who have complied with the registration requirement.

With respect to good faith on the part of Ms. Rabey, she did appear at the hearing

to present her explanation for her conduct, and was forthright in acknowledging her actions. Additionally, the Board believed Ms. Rabey's testimony that she ceased offering individual tax preparation services after receiving notice of the Comptroller's complaint, and does not intend to offer such services in the future. In mitigation, Ms. Rabey argued that she was unaware of the registration requirement and that she relied upon the representation of her employer that she was permitted to provide individual tax preparation services. While the Board believes Ms. Rabey's explanation, it does not diminish Ms. Rabey's ultimate responsibility to comply with the requirements of Maryland law. Ignorance of the law is not an excuse.

Finally, while Ms. Rabey does not have a prior disciplinary history with the Board, the Board finds that, after weighing all the factors, a reduced 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 Denise Rabey 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 22ND day of MAY,

2017 **ORDERED:**

- 1) That Denise Rabey pay to the Board, within 30 days of the date of this order,

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 Denise Rabey 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 22ND day of MAY,

2017 ORDERED:

- 1) That Shinae Rabey pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$1,400.00 for her 28 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 on File

By:

Kay Riddle
Vice Chair