

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-17-0032

Jizel Abu, *

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 Jizel Abu, 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, 2017, 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 2016 on behalf of taxpayers on or about January 22, 2017.

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 2017 while not registered by the Board. From approximately January 22, 2017, through approximately February 8, 2017, you filed at least 32 Maryland individual tax returns (Form 502) for the 2016 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. Abu 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. Abu 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. Abu 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. Abu 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. Abu prepared the individual tax returns described above while employed by ALR Tax and Financial Services, LLC ("ALR") located at 76 Ritchie Road, Capitol Heights, MD 20743, owned by Nicole Williams¹. During that time, Ms. Williams was not registered with the Board. Ms. Abu began working with ALR in 2013. In 2017, Ms. Abu, worked at ALR part-time during tax season and was paid \$12.00 to \$15.00 per hour. On some occasions, Ms. Abu was paid in cash². On others, she was paid by check.

3) By letter dated February 23, 2017, the Board notified Ms. Abu of the

¹Nicole Williams has been disciplined by the Board in connection with her operation of ALR Tax and Financial Services, LLC. See *Maryland Board of Individual Tax Preparers v. Nicole Williams*, Case No. MITP 17-0035.

²Ms. Abu testified that she did not report her cash earnings to the IRS or the Comptroller.

Comptroller's complaint. In that letter, the Board notified Ms. Abu of the registration requirement in BOP § 21-401, and that the Board has the authority to impose up to a \$5,000.00 civil penalty for violations of the Maryland Individual Tax Preparers Act.

4) On March 27, 2017, Ms. Abu met with Board staff concerning the complaint. From February 23, 2017, until March 27, 2017, Ms. Abu continued to provide, attempt to provide, and/or offer to provide individual tax preparation services in Maryland without a registration.

5) Ms. Abu is no longer offering, attempting to provide, or providing individual tax preparation services.

6) Ms. Abu received no formal training as an individual tax preparer. Ms. Abu has never taken the Maryland Tax Preparers Examination. Ms. Abu believed that Ms. Williams, ALR's owner, would make sure that Ms. Abu had all proper licenses/registrations necessary. Ms. Abu relied upon the Drake software used by ALR to stay informed about any changes in the tax law. Ms. Abu made no personal efforts to ensure that she was in compliance with all applicable laws and regulations relating to providing individual tax preparation services.

7) Ms. Abu was not aware that the instructions to Maryland Form 502 discuss the Board's registration requirement.

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 32 occasions, Ms. Abu provided

individual tax preparation services, as defined in BOP § 21-101(f), without a registration issued by the Board and that Ms. Abu 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. Abu 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. Abu ignored the fundamental obligation of any non-exempt individual who provides individual tax preparation services in Maryland: being registered with the Board. Ms. Abu essentially took opportunities away from individuals who have complied with the registration requirement. Additionally, Ms. Abu has never demonstrated her competence by passing the Maryland Tax Preparers Examination, something that current registrants are required to do. *See generally* COMAR 09.38.01.02.

With respect to good faith on the part of Ms. Abu, she did cooperate with the Board's investigation, and was forthcoming with her testimony. However, Ms. Abu continued to provide individual tax preparation services without a valid registration after receiving notice from the Board of the registration requirement.

Finally, while Ms. Abu does not have a prior disciplinary history with the Board, the Board finds that, after weighing all the factors, a 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 Jizel Abu 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 Jizel Abu pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$2,600.00 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:

Jañe Bourassa
Acting Chair