

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *
Alma Rivera Mayen, *
Respondent. *

Case no. MITP-2021-0013

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on October 18, 2021. The allegations against Respondent Alma Rivera Mayen, as set forth in the Board's charge letter dated September 16, 2021, were as follows:

During all relevant periods, you [Ms. Rivera Mayen] were registered to provide services as an individual tax preparer in Maryland, Registration No. 7377. On or about December 30, 2019, you submitted an application by means of the Board's online licensing system for the renewal of your registration for the period December 30, 2019, through January 12, 2022. In your application, you claimed sixteen hours of continuing education ("CE") of which at least 4 were in Maryland tax-related subjects, pertaining to the renewal term. Further, on the registration renewal application, you certified to the accuracy of the information contained therein. The certification states, in pertinent part:

'I hereby certify, under penalty of perjury, that the information contained herein is true and correct to the best of my knowledge, information, and belief...'

Upon receipt of your application, the Board notified you that you were randomly selected for an audit of the claimed CE hours, and that you were being requested to submit supporting documentation to the Board. You failed to respond to the Board's directive. Further efforts by the Board to communicate with you were ignored. Specifically, on or about April 14,

2020, May 20, 2020, July 8, 2020, and August 12, 2020, respectively, the Board sent you correspondence regarding the CE audit, to which you did not respond.

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 21-309. Continuing Education

(a) *Regulations.--*

(2) An individual shall complete at least 16 hours of continuing education activities every 2 years.

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.

COMAR 09.38.01.05 Code of Professional Conduct.

A. 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.

E. Communications with the Board.

(1) An individual tax preparer shall respond in writing to any communications from the Board requesting a response, within 30 days of the mailing of these

communications, by registered or certified mail, to the last address furnished to the Board by the individual tax preparer.

COMAR 09.38.02.02 Basic Requirement.

A. A renewal applicant shall complete at least 16 hours of qualifying continuing education for each 2-year registration term.

B. A minimum of 4 hours of the continuing education for each 2-year registration term shall be in Maryland tax-related subjects.

COMAR 09.38.02.04 Controls and Reporting.

B. The Board, at its discretion, may verify the information and documentation supporting a renewal applicant's certification of continuing education credit. Upon request, the renewal applicant shall submit to the Board, or its designee, copies of the original documentation supporting the certification provided under §A of this regulation.

In its charge letter, the Board informed Ms. Rivera Mayen 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. Rivera Mayen was also informed that should the charges be proven, pursuant to BOP § 21-311, she would be subject to a possible reprimand, suspension or revocation of her registration, and/or the imposition of a penalty in the amount of up to \$5,000.00 per violation. At the October 18, 2021, hearing, Ms. Rivera Mayen failed to appear. Andrew J. Brouwer, Assistant Attorney General, presented evidence to the Board in support of the allegations.

As a preliminary matter, the Board finds that Ms. Rivera Mayen has been properly notified of the proceedings. The Notice of Charges and Order for Hearing was mailed via certified mail and regular mail to Ms. Rivera Mayen at her address of record with the Board, 456 Girard St., Apt. 303, Gaithersburg, MD 20877, and there was no indication that either mailing was returned as undeliverable. As an active registrant, pursuant to COMAR 09.38.01.05E(2), Ms. Rivera Mayen has an affirmative obligation to notify the Board of any change to her address within 15 days.

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) Alma Rivera Mayen was first registered with the Board as an individual tax preparer under registration number 7333 on January 14, 2018, and has been registered continuously since that time. Her registration is set to expire on January 14, 2022.

2) Ms. Rivera Mayen's address of record with the Board is 456 Girard St., Gaithersburg, MD 20877.

3) At the time Rivera Mayen submitted her registration renewal application on December 30, 2019, she had not completed the required hours of CE.

4) Ms. Rivera Mayen has not been previously disciplined by the Board.

III. Evaluation of the Evidence.

The Board believes that all charges in this case are supported. Based on the evidence presented at the hearing, at the time Ms. Rivera Mayen submitted her renewal application, she had not completed any of the 16 hours of continuing education required for renewal, but nonetheless certified under the penalty of perjury that she had. Further, on four separate occasions Ms. Rivera Mayen failed to respond in writing to correspondence from the Board. Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Ms. Rivera Mayen 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 §2-311(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, Ms. Rivera Mayen claimed she had earned the required 16 hours of continuing education when she had not done so in order to renew her registration. The continuing education requirements exist to ensure that registrants maintain a requisite level of competence to justify the public's reliance on the Maryland Individual Tax Preparer designation. Ms. Rivera Mayen sought the benefit of the continued use of the designation in Maryland in spite of not meeting the requirements. The Board does not have the staff and resources to audit every

renewal application for continuing education compliance and relies on its registrants to understand and follow the continuing education requirements. The Board thus considers this to be a significant violation.

Additionally Ms. Rivera Mayen failed on multiple occasions to respond to written Board communications notifying her of her CE deficiency. Further, these communications were intended to give Ms. Rivera Mayen an opportunity to explain her actions. The Board must be able to rely on registrants to respond to written communications from the Board.

With respect to good faith on the part of Ms. Rivera Mayen, she has shown none. Her failure to appear at the hearing and offer any evidence in mitigation cannot be ignored. Although the Board has not previously imposed discipline against Ms. Rivera Mayen, in light of the totality of the circumstances, the Board believes that 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 Linda Bibb, violated Business Occupations and Professions Article, Ann. Code of Maryland, Sections 21-309(a)(2), 21-311(a)(1), (5) and (6), COMAR 09.38.01.05A(1) and E(1), and COMAR 09.38.02.02A and 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 30 day of November, 2021,

ORDERED:

- 1) That the registration issued to Alma Rivera Mayen is hereby **REVOKED**;
- 2) That Alma Rivera Mayen pay a civil monetary penalty in the amount of \$750.00;
- 3) 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
- 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**

Steven P. Wions
Chair