

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *
Antoin Johnson, *

Respondent. *

Case no. MITP-2021-0022

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers (“the Board”) on December 13, 2021. The allegations against Respondent Antoin Johnson, as set forth in the Board’s charge letter dated November 9, 2021, were as follows:

1. At all times relevant to the Complaint, the Board had jurisdiction over Antoin Johnson (“Respondent”) who holds a registration issued by the Board to prepare individual tax returns (“registration”) under number 01-1878, and the subject matter of this Complaint.
2. The Respondent’s current registration is due to expire on January 5, 2022.
3. BOP¹ §21-309(a)(2) provides that “[a]n individual shall complete at least 16 hours of continuing education activities every 2 years.”
4. Code of Maryland Regulations (“COMAR”) 09.38.02.02A and B require renewal applicants to complete at least 16 hours of qualifying continuing education (“CE”) for each 2-year registration term, of which a minimum of 4 hours must be in Maryland tax-related subjects.
5. On or about November 25, 2019, the Respondent filed a

¹Business Occupations and Professions Article, Maryland Annotated Code.

registration renewal application by means of the Board's online registration system.

6. The Board's registration renewal application requires an applicant to certify to the accuracy of the information provided in the application. 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...'

7. On the renewal application, the Respondent certified completion of the required 16 hours of CE as of the application date. The Board approved the renewal based upon that certification.

8. When the Respondent submitted the registration renewal application, the Board initiated a random audit to confirm that the Respondent had completed the CE requirements. The Board then requested that the Respondent provide documentation for the CE's that the Respondent had certified completing.

9. Further, the Board sent the Respondent multiple written communications between February 7, 2020, and September 2, 2020, by certified mail to the Respondent's address of record with the Board requesting documentation in response to the audit. The Respondent failed to respond to the Board's communications.

10. The Respondent has failed to supply documentation to the Board evidencing that he has completed the CES that he certified as having completed in his renewal application and as required by the audit.

Based on the aforementioned facts, the Respondent is charged with violating the following laws of the State of Maryland and COMAR provisions:

BOP §21-309. Continuing education

(a) Regulations.

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

BOP §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:

(1) fraudulently or deceptively obtains or attempts to obtain a registration for the applicant or registered individual or for another;

(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.

B. 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) Failure to Respond.

(a) If an applicant or individual tax preparer receives from the Board a written communication requesting a response, the applicant or individual tax preparer shall respond in writing within 30 days of the date of mailing.

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.

C. 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 Mr. Johnson 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. Johnson 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 December 13, 2021, hearing, Mr. Johnson appeared in proper person. Andrew J. Brouwer, 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) Antoin Johnson was first registered with the Board as an individual tax preparer under registration number 1878 on January 5, 2012. Mr. Johnson's

registration has been renewed continuously since that time. His current registration expired on January 5, 2022. Although Mr. Johnson's registration expired for practice purposes on January 5, 2021, the Board retains jurisdiction pursuant to BOP § 21-314 based on the fact that its investigation began prior to the expiration of the registration. Mr. Johnson's address of record with the Board is 1 Baslet Court, Windsor Mill, MD 21244. Mr. Johnson's current address is 7924 Allard Court, Apt. 202, Glen Burnie, MD 21061. He has not officially notified the Board of this change of address.

2) On January 9, 2020, Mr. Johnson submitted to the Board the Continuing Professional Education Checklist ("CPE Checklist"), a form provided to registrants undergoing an audit to identify CE courses taken by the registrant. All the courses identified by Mr. Johnson were internal courses from Liberty Tax Service, the provider for which Ms. Johnson worked. On the CPE Checklist, Mr. Johnson claims a total of 20 hours of CE. The CPE Checklist provides on its face that completion certificates must accompany all courses claimed on the checklist.

3) Mr. Johnson never provided completion certificates to the Board for any courses claimed on his CPE Checklist dated January 9, 2020.

4) Mr. Johnson never provided any corroborating evidence from Liberty Tax Service that he completed the courses claimed on January 9, 2020.

5) Based on the absence of course certificates or any corroborating evidence from Liberty Tax Service, the Board finds that Mr. Johnson did not complete the required hours of CE to renew his registration.

6) Mr. Johnson did not respond in writing to the correspondence from the Board dated February 7, 2020; April 21, 2020; May 20, 2020, and September 2, 2020. It is unclear to the Board if the correspondence dated February 7, 2020, and September 2, 2020 was delivered to Mr. Johnson's address of record. It is clear that the April 21, 2020, and May 20, 2020, correspondence was delivered to Mr. Johnson's address of record.

6) The Board has not previously disciplined Mr. Johnson.

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 Mr. Johnson submitted his renewal application, he had not completed the 16 hours of continuing education required for renewal, but nonetheless certified under the penalty of perjury that he had. Further, on at least two occasions Mr. Johnson 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 Mr. Wegi 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 not 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, Mr. Johnson did not present evidence supporting the continuing education hours he claimed at the time he renewed his registration. If Mr. Johnson had taken the claimed courses, it is unclear to the Board why he failed to produce any corroborating evidence from Liberty Tax Service showing his completion of the claimed courses. The Board's regulations make it clear that registrants must be able to affirmatively show the completion of continuing education hours claimed.

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. Mr. Johnson sought the benefit of the continued use of the designation in Maryland, and apparently continued to use the designation, 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 Mr. Johnson failed on at least two occasions to respond to written Board communications notifying him of his CE deficiency. Mr. Johnson testified that the reason he failed to respond was that he changed his address with the Motor Vehicle Administration, and assumed that the Board would be informed. Mr. Johnson's assumption is unfounded. Additionally, the Board's regulations require registrants to affirmatively notify the Board in writing of any change to their home or business

address within 15 days of the change. COMAR 09.38.01.05E(2). Finally, these communications were intended to give Mr. Johnson an opportunity to explain his 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 Mr. Johnson, he did appear for the hearing and presented his explanation for his actions. Additionally, Mr. Johnson has not previously been disciplined by the Board. The Board did consider these facts to weigh slightly in Mr. Johnson's favor. However, on balance, 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 Antoin Johnson, 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 _____ day of January, 2022,

ORDERED:

1) That the registration issued to Antoin Johnson is hereby **SUSPENDED** until Mr. Johnson provides to the Board supporting documentation from Liberty Tax Service of the completion of the continuing education hours claimed in the CPE Checklist dated January 9, 2020;

2) That Antoin Johnson pay a civil monetary penalty in the amount of \$350.00;

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**

Signature on File

By:

Steven P. Wions
Chair