

**BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS**

MARYLAND STATE BOARD OF INDIVIDUAL \*  
TAX PREPARERS, \*

v. \*

Case no. MITP-16-0028

Benjamin Nwankwo, \*

Respondent. \*

\* \* \* \* \*

**FINAL ORDER**

**I. Procedural Background.**

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on March 27, 2017. The allegations against Respondent Benjamin Nwankwo, as set forth in the Board's charge letter dated February 16, 2017, were as follows:

You have never obtained a registration to provide services as an individual tax preparer 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 advised that, as a professional tax preparer, you began filing Maryland individual tax returns for 2015 on behalf of taxpayers on or about January 20, 2016.

Upon receipt of the Comptroller's complaint and a subsequent Board investigation, it was determined that you provided individual tax preparation services to Maryland taxpayers during 2015 and 2016 while not registered by the Board. From approximately November 19, 2015 through approximately November 18, 2016, you filed at least 149 Maryland individual tax returns (Form 502) for the 2014 and 2015 tax years. It was also determined that you filed at least 490 other Maryland individual tax returns during 2014 and 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 Mr. Nwankwo 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. Nwankwo was also informed that should the charges be proven, pursuant to BOP § 21-405(a), he would be subject to the imposition of a penalty not to exceed \$5,000.00 per violation. At the March 27, 2017, hearing, Mr. Nwankwo failed to appear. Kris King, Assistant Attorney General, presented evidence to the Board in support of the allegations.

As a preliminary matter, the Board finds that all reasonable efforts have been made to properly notify Mr. Nwankwo of the proceedings. The February 16, 2017, Notice of Charges and Order for Hearing was mailed via certified mail and regular mail to Mr. Nwankwo at two different addresses: 1) the address provided by the Office of the Comptroller for B and B Tax Service, 4707 Harford Road, Suite B, Baltimore, MD 21214, the entity through which Mr. Nwankwo electronically filed tax returns in Maryland; and 2) the address obtained from a Maryland Motor Vehicles Administration Driver License search for Mr. Nwankwo, 4212 Harford Terrace, Baltimore, MD 21214. Neither the certified mail nor the regular mail sent to Mr. Nwankwo at the 4707 Harford Road, Suite B, Baltimore, MD 21214 address was returned. Both the certified mail notice and the regular mail sent to Mr. Nwankwo at 4212 Harford Terrace, Baltimore, MD 21214, was returned to the Board with the indication "Return to Sender. Not deliverable as addressed. Unable to Forward." Because the mail sent to the business address used by Mr. Nwankwo was not returned, the Board draws the inference that Mr. Nwankwo was provided reasonable notice of the proceedings and considered the merits of the matter in Mr. Nwankwo's absence.

## **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) Mr. Nwankwo has not presented evidence to the Board showing that he is 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), or that the 149 Maryland Individual Tax Returns (Form 502) that he filed from November 19, 2015, through November 18, 2016, were prepared free of charge.

2) Mr. Nwankwo has not been previously disciplined by the Board.

3) By letter dated February 18, 2016, the Board notified Mr. Nwankwo of the complaint at issue in the instant case. Mr. Nwankwo never responded to the Board's complaint.

### **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 149 occasions, Mr. Nwankwo provided individual tax preparation services, as defined in BOP § 21-101(f), without a registration issued by the Board and that Mr. Nwankwo 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 Mr. Nwankwo 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, Mr. Nwankwo ignored the fundamental obligation of any non-exempt individual who provides individual tax preparation services in Maryland: being registered with the Board. Mr. Nwankwo essentially took opportunities away from individuals who have complied with the registration requirement.

With respect to good faith on the part of Mr. Nwankwo, he basically demonstrated none. He did not appear at the hearing to offer any explanation for his actions, and did not respond to the Board's complaint. While Mr. Nwankwo does not have a prior disciplinary history with the Board, the Board finds that, after weighing all the factors, a significant 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 Benjamin Nwankwo 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 20th day of

April, 2017 **ORDERED:**

1) That Benjamin Nwankwo pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$7,450.00 for his 149 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: \_\_\_\_\_

Kay Riddle  
Vice Chair