

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-16-0111

Ozoda Jahonova, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on August 8, 2016. The allegations against Respondent Ozoda Jahonova, as set forth in the Board's charge letter dated June 13, 2016, were as follows:

At all relevant times, you [Ms. Jahonova] were registered by the Board to provide individual tax preparation services in the State. On or about March 31, 2015, you submitted an application by means of the Board's online licensing system for the renewal of your registration as an individual tax preparer for the period from March 31, 2015 through April 1, 2017. In your application you claimed that you had met the 16 hour continuing professional education (CPE) requirement pertaining to the renewal term. The application form advised that, if audited, proof of courses completed would be required. Further, on the license 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 CPE hours, and that you were being requested to submit supporting documentation to the Board. You failed to respond.

On or about May 6, 2015, the Board sent you a letter by certified mail noting your prior failure to respond to its request for supporting documentation and requesting you respond by May 20, 2015. You again did not provide any response to the Board. A similar letter was sent by certified mail on or about June 4, 2015 requesting a response. No response was received.

On or about July 10, 2015, the Board sent a letter to you by certified mail advising that it had opened a formal complaint against you based on your failure to respond to its previous communications. In this correspondence, the Board requested that you respond to the issues raised in the complaint before August 10, 2015. You failed to provide a response.

It is alleged that your failure to provide responses as indicated above constitutes a violation of the Code of Professional Conduct.

It is further alleged that you had no verifiable CPE credits at the time of your submission of your application for renewal. Therefore, when you submitted your renewal application, you misrepresented to the Board that you had fulfilled the CPE requirements for renewal though, in fact, the requirements were not met.

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.--*

(1) The Board shall adopt regulations that create, in accordance with this section, continuing education requirements as a condition to the renewal of a registration issued under this subtitle.

(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:

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

A. Other 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. Jahonova 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. Jahonova 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 August 8, 2016, hearing, Ms. Jahonova appeared without counsel. 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) Ozoda Jahonova was first registered with the Board as a individual tax

preparer under registration number 4021 on April 1, 2013. Ms. Jahonova has been continually registered since that time and her current registration is set to expire on April 1, 2017.

2) Ms. Jahonova's address of record with the Board is 2041 East Fayette Street, Apt. 304, Baltimore, MD 21231.

3) At the time Ms. Jahonova submitted her registration renewal application on March 31, 2015, Ms. Jahonova had not completed any of the required 16 hours of continuing education.

4) At the August 8, 2016, hearing before the Board, Ms. Jahonova submitted the following documentation of continuing education hours earned with Golden State Tax Training Institute, Inc.:

- on June 28, 2016, Ms. Jahonova earned 2 hours in Ethics and Professional Conduct;
- on June 29, 2016, Ms. Jahonova earned 4 hours in Maryland Tax Law;
- on July 22, 2016, Ms. Jahonova earned 10 hours in Federal Tax Law; and
- on July 28, 2016, Ms. Jahonova earned 3 hours in Federal Tax Updates.

5) At the time Ms. Jahonova applied for renewal of her registration, she worked at Beers Tax and Accounting. Ms. Jahonova is not currently working as a tax preparer.

III. Evaluation of the Evidence.

The Board believes that all charges in this case are supported. At the hearing in this matter, Ms. Jahonova admitted that at the time she submitted her renewal application, she had not completed the necessary continuing education hours for renewal. Although at the hearing she testified that she was "confused" by the renewal application and that there was

a "language barrier", the Board found this testimony not credible. Ms. Jahonova testified in English, and apparently performed her work for the employer while speaking English. On the renewal application, Ms. Jahonova answered in the affirmative that she had completed the 16 hours of continuing education hours, and then certified under the penalty that her application was true and correct when she in fact knew that it was not.

With respect to Ms. Jahonova's failure to respond in writing on three separate occasions to correspondence from the Board, Ms. Jahonova also admitted that she had not so responded. Ms. Jahonova testified that she left Baltimore to take her mother to Russia for medical treatment and did not receive the correspondence in question. Additionally, Ms. Jahonova testified that she had moved to a new address. Ms. Jahonova did not provide clear dates for either her trip to Russia, or the date she moved to a new address. Further, Ms. Jahonova never notified the Board of any change of address as required under COMAR 09.38.01.05E(2)(b). Finally, Ms. Jahonova did personally sign the certified mail return receipt for the June 13, 2016, charge letter in this case, and that letter was mailed to the address of record with the Board, 2041 East Fayette Street, Apt. 304, Baltimore, MD 21231, the address to which all Board mailings were sent. Ms. Jahonova was on notice of the charges, and could have responded to the Board in writing prior to the hearing, but chose not to do so.

Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Ms. Jahonova 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, Ms. Jahonova claimed she had earned 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. Jahonova sought the benefit of the continued use of the designation in Maryland without putting in the work required to keep it. Additionally the Board relies on the honesty of its registrants with respect to reporting continuing education. The Board does not have the staff and resources to audit every renewal application for continuing education compliance. Ms. Jahonova abused the trust placed in her by the Board. The Board thus considers this to be a significant violation. Further, on multiple occasions the Board communicated in writing with Ms. Jahonova concerning the absence of continuing education documentation, but received no response. 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. Jahonova, she did appear at the hearing, admitted her errors, and did provide evidence of completion of the necessary

continuing education hours for the renewal of her registration. However, the Board believes that this factor is outweighed by the others. Under the circumstances, the Board believes that sanctions are 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, Ozoda Jahonova, violated Business Occupations and Professions Article, Ann. Code of Maryland, Sections 21-309(a)(2), 21-311(a)(1), (5) and (6), and COMAR 09.38.01.05(A)(1) and (E)(1).

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 29th day of September, 2016

ORDERED:

- 1) That Ozoda Jahonova is hereby **REPRIMANDED**;
- 2) Ozoda Jahonova pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$500.00 for her violations of Business Occupations and Professions Article, Ann. Code of Maryland, Sections 21-309(a)(2), 21-311(a)(1), (5) and (6), and COMAR 09.38.01.05(A)(1) and (E)(1);
- 3) That these sanctions are 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., § 10-226; 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: 
Fredric Bader
Chair

