

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-16-0097

Trena S. Hudnall, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on December 19, 2016. The allegations against Respondent Trena S. Hudnall, as set forth in the Board's charge letter dated November 10, 2016, were as follows:

On or about December 28, 2011, you obtained a registration from the Board to provide services as an individual tax preparer in Maryland. Your registration expired on December 28, 2013, and was not renewed. Therefore, you have not been registered to provide services as an individual tax preparer in Maryland since December 28, 2013.

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 2016 while not registered by the Board. From January 20, 2016, through approximately February 27, 2016, you filed at least 154 Maryland individual tax returns (Form 502) for the 2015

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. Hudnall 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. Hudnall 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 December 19, 2016, hearing, Ms. Hudnall 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 Ms. Hudnall of the proceedings. As a former registration holder, Ms. Hudnall would have been aware of her obligation to notify the Board of any change to her address. The Notice of Charges and Order for Hearing was mailed via certified mail and regular mail to Ms. Hudnall at her address of record, 1055 Ingleside Avenue, #100, Catonsville, MD 21228. The certified mail notice was returned to the Board with the indication "Return to Sender. Not deliverable as addressed. Unable to Forward." The regular mail notice was not returned. On March 2, 2016, The Board had previously mailed notice of the instant complaint to Ms. Hudnall at her address of record via certified mail and regular mail. The certified mail was signed for at that address and the regular mail was not returned. The Board thus draws the inference that Ms. Hudnall was aware of the complaint and should have notified the Board had she wished to change her address of record. Accordingly, the Board proceeded to the merits of the matter in Ms. Hudnall'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) Trena S. Hudnall was first registered by the Board on December 28, 2011, under registration number 1607. Ms. Hudnall's registration expired on December 28, 2013.

2) Ms. Hudnall has not presented evidence to the Board showing that she 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).

3) As of the date of the hearing in this matter, Ms. Hudnall had not submitted an application to renew or reinstate her registration with the Board as an individual tax preparer.

4) As of the date of the hearing in this matter, Ms. Hudnall had not completed either the Maryland Registered Tax Preparer Examination, or the Registered Tax Return Preparer Examination given by the Internal Revenue Service from November 1, 2011, through January 18, 2013, and had not applied for and received a waiver of the examination requirement pursuant to COMAR 09.38.01.02D.

5) As of the date of the hearing, Ms. Hudnall had not scheduled a date to take the Maryland Individual Tax Preparers Examination.

6) Ms. Hudnall has not been previously disciplined by the Board.

7) On March 2, 2016, the Board notified Ms. Hudnall of the complaint at issue in the instant case. Ms. Hudnall 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 154 occasions, Ms. Hudnall provided individual tax preparation services, as defined in BOP § 21-101(f), without a registration issued by the Board and that Ms. Hudnall 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. Hudnall 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. Hudnall ignored the fundamental obligation of any non-exempt individual who provides individual tax preparation services in Maryland: being registered with the Board. Ms. Hudnall essentially took opportunities away from individuals who have complied with the registration requirement.

With respect to good faith on the part of Ms. Hudnall, she basically demonstrated none. She did not appear at the hearing to offer any explanation for her actions, and did not respond to the Board's complaint. While Ms. Hudnall 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 Trena S. Hudnall 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 23rd day of January, 2017

ORDERED:

1) That Trena S. Hudnall pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$7,700 for her 154 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:


Frederic Bader
Chair