

BEFORE THE MARYLAND STATE BOARD OF PUBLIC ACCOUNTANCY

MARYLAND STATE BOARD OF
PUBLIC ACCOUNTANCY,

v.

Sema Sickler

Respondent

*
*
*
*
*
*
*
*
*

Case nos. CPAS-08-0036

* * * * *

FINAL ORDER

The above-captioned case was heard before the Maryland State Board of Public Accountancy ("the Board") on June 30, 2010. The allegations against Respondent Sema Sickler, as set forth in the Board's charge letter dated May 12, 2010, were as follows:

On or about March 11, 2008 a complaint was filed with the Board against you by Victoria L. Grace, Esquire. On or about March 12, 2008, the Board sent a letter to you advising you of its receipt of the complaint and requesting a response. You failed to respond to the Board.

On or about April 15, 2009, the Board sent a second written request to you for a response. You failed to respond to that request as well.

Based on the above facts, you are charged with violating the following laws of the State of Maryland:

Business Occupations and Professions Article, Annotated Code of Maryland, Section 2-315. Denials, reprimands, suspensions, and revocations - Grounds; license certificate.

(a)(1) Subject to the hearing provisions of §2-317 of this subtitle, the Board, on the affirmative vote of a majority of its members, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(xii) violates a rule of professional conduct adopted by the Board.

COMAR 09.24.01.06. Code of Professional Conduct.

I. Other Responsibilities and Practices.

(5) A licensee 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 licensee.

In its charge letter, the Board informed Ms. Sickler 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*, §2-317 *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 .09.24.01.07. Ms. Sickler was also informed that should the charges be proven, she would be subject to a possible reprimand, suspension or revocation of her license, and/or the imposition of a penalty in the amount of \$5,000.00 per violation. At the June 30, 2010, hearing, Ms. Sickler failed to appear. Kris King, Assistant Attorney General, presented evidence to the Board in support of the allegations.

As a preliminary matter, the Board determined that Ms. Sickler had been properly notified of the proceedings. The Notice of Charges and Order for Hearing mailed via Certified Mail to Ms. Sickler at her address of record with the Board, 124 Murdock Road, Baltimore, MD 21212, was stamped delivered by the United States Postal Service on May 14, 2010, and the Return Receipt bears Ms. Sickler's signature. Additionally, Notice of Charges and Order for Hearing mailed via first class mail to the same address was not returned to the Board as undeliverable. Accordingly, the hearing proceeded in Ms. Sickler's

absence.

FINDINGS OF FACT

After examining all of the evidence, including both the testimony and the documentary evidence submitted at the hearing, and having assessed the demeanor and credibility of those offering testimony, the Board makes the following findings of fact:

1) Sema Sickler was licensed by the Board as a certified public accountant under registration number 26717 from October 29, 1998, until her license expired on December 12, 2008.

2) On March 11, 2008, the Board received a complaint from Victoria L. Grace, Esquire, concerning Ms. Sickler's failure to communicate and complete certain tax services for clients Maureen and Joseph Jockel during 2006 and 2007.

3) Upon receipt of Ms. Grace's complaint, by letter dated March 12, 2008, Dennis Gring, the Executive Director of the Board, notified Ms. Sickler of the complaint and, on behalf of the Board, requested a written response on or before April 11, 2008. Ms. Sickler did not respond to this correspondence.

4) By letter dated April 15, 2009, Mr. Gring again notified Ms. Sickler of Ms. Grace's pending complaint and, on behalf of the Board, requested a written response on or before May 15, 2009. Ms. Sickler did not respond to this correspondence.

5) By letter dated June 1, 2009, Mr. Gring notified Ms. Sickler of the Board referral of the complaint by Ms. Grace to the Office of the Attorney General for review to determine whether charges should be filed against her for her failure to respond to the Board's

correspondence. Mr. Gring specifically notified Ms. Sickler of §2-318 of the Business & Occupations Article of the Maryland Annotated Code ("BOP") which provides that a license may not expire by operation of law while a licensee is under investigation or awaiting a hearing or disposition on disciplinary charges.

DISCUSSION

Because Ms. Sickler failed to appear at the hearing, the evidence and testimony presented in support of the charges was uncontroverted. It is clear that Ms. Sickler violated COMAR .09.24.01.06(I)(5) by failing to respond to the Board in writing concerning the complaint filed by Ms. Grace concerning her failure to communicate and complete tax services for the Jockels during 2006 and 2007. By violating this provision of the Board's Code of Professional Conduct, Ms. Sickler has also violated BOP §2-315(a)(1)(xii). Further, pursuant to BOP §2-318, Ms. Sickler's license is considered to be active for purposes of disciplinary action by the Board, but not for any other purpose.

Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Ms. Sickler under these circumstances. In addition to the authority granted by BOP §2-315(a)(1) to reprimand a licensee or suspend or revoke a license, the Board also has the authority under BOP §2-315(a)(2) to impose a penalty not exceeding \$5,000.00 per violation. In evaluating whether or not to impose a civil monetary penalty, BOP §2-315(a)(2)(ii) 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; and 5) any other relevant

factors.

In this case, Ms. Sickler utterly failed in her duty communicate with the Board. This is a fundamental obligation on the part of a Certified Public Accountant in the State of Maryland. If Ms. Sickler had responded to the Board's correspondence, it is possible that the matter could have been resolved without the Board incurring the expense of conducting a formal hearing.

With respect to good faith on the part of Ms. Sickler, she simply has shown none. Her failure to respond to the Board or appear at the hearing and offer any explanation leaves the Board with little choice but to take decisive action to protect the public from any further harm. Additionally, although Ms. Sickler is currently unlicensed, should she desire to become licensed at some point in the future, the Board must take some action now to prevent Ms. Sickler from avoiding any negative consequence for her misconduct. Although Ms. Sickler has no prior disciplinary history with the Board, this factor is far outweighed by the others, and cannot preclude the imposition of sanctions by the Board.

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 Public Accountancy hereby concludes as a matter of law that the Respondent, Sema Sickler, violated Business Occupations and Professions Article, Ann. Code of Maryland, Section 2-315(a)(1)(xii) and COMAR .09.24.01.06(I)(5).

ORDER

In consideration of the Maryland State Board of Public Accountancy's Findings of Fact and Conclusions of Law in this matter, it is this 3rd day of August, 2010,

ORDERED:

- 1) That Ms. Sickler is hereby formally **REPRIMANDED** in connection with the above-captioned matter;
- 2) That Ms. Sickler pay to the Board, within 30 days of the date of this order, a civil monetary penalty in the amount of \$2,500.00 for violations of BOP §2-315(a)(1)(xii) and COMAR .09.24.01.06(I)(5).; and
- 3) That the records, files, and documents of the Maryland Board of Public Accountancy reflect this decision.

**MARYLAND STATE BOARD OF
PUBLIC ACCOUNTANCY**

(BOARD CHAIR'S SIGNATURE
APPEARS ON ORIGINAL ORDER)

H. Terry Hancock, CPA
Chair