

BEFORE THE MARYLAND STATE BOARD OF PUBLIC ACCOUNTANCY

MARYLAND STATE BOARD OF
PUBLIC ACCOUNTANCY,

v.

Donald L. Abrecht,

Respondent

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Case no. CPAS-16-0014

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FINAL ORDER

The above-captioned case was heard before the Maryland State Board of Public Accountancy ("the Board") on June 7, 2016. The allegations against Respondent Donald L. Abrecht, as set forth in the Board's charge letter dated May 3, 2016, were as follows:

You were licensed in Maryland as a certified public accountant ("CPA") from September 1, 1982 through December 31, 1994. You have not been licensed as a CPA in Maryland since the end of that licensing period.

During 2015 and 2016 you represented yourself as a CPA in Maryland by various means while not licensed. In or around September of 2015, you described yourself as a CPA in advertisements for business purposes which were accessible to Maryland consumers on the internet. Also around that time, you maintained a Facebook page accessible to Maryland users which contained the same description. In or around March of 2016 you maintained a prominent sign at your place of business at 102 North Main Street in Woodsboro, Maryland describing yourself as a "Certified Public Accountant."

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, Md. Annotated Code of Maryland

Section 2-601. Practicing without license

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice certified public accountancy in the state unless licensed by the Board or qualified for a practice privilege under § 2-321 of this title.

Section 2-603. Misrepresentation as authorized practitioner

(a) *In general.* - Subject to subsection (b) of this section and unless authorized under this title to practice certified public accountancy, a person may not represent to the public, by use of a title, including "licensed certified public accountant", "certified public accountant", "public accountant", or "auditor", by use of the abbreviation "CPA", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice certified public accountancy in the State.

...

(c) *Evidence of violation.* -

(1) The display, distribution, or other use by a person of the person's name, in conjunction with any of the following list of titles or abbreviations in a card, sign, advertisement, directory listing, or other instrument or device, is, in any proceeding under this title, prima facie evidence that the person represents to the public that the person is authorized to practice certified public accountancy:

- (i) "licensed certified public accountant";
- (ii) "certified public accountant";
- (iii) "public accountant";
- (iv) "auditor"; or
- (v) an abbreviation of any of these titles.

In its charge letter, the Board informed Mr. Abrecht 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*, §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. Mr. Abrecht

was also informed that should the charges be proven, he would be subject to the imposition of a civil penalty in the amount of up to \$5,000.00 per violation. At the June 7, 2016, hearing, Mr. Abrecht 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 Mr. Abrecht had been properly notified of the proceedings. The Notice of Charges and Order for Hearing was mailed on May 3, 2016, via Certified Mail and regular mail to Mr. Abrecht at his address of record with the Board, 102 North Main St., Woodsboro, MD 21798, and neither was returned to the Board as undeliverable. Accordingly, the hearing proceeded in Mr. Abrecht'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) Donald L. Abrecht was first licensed by the Board as a certified public accountant under registration number 8710 on September 1, 1982. Mr. Abrecht was licensed from that time until his license expired on December 31, 1994. Mr. Abrecht is not currently licensed.

2) Donald L. Abrecht operates A to Z Business Services, located at 102 N. Main Street, Woodsboro, Maryland 21798.

3) On September 10, 2015, the Facebook page for A to Z Business Services, located at 102 N. Main St., Woodsboro, Maryland, 21798, showed a photograph of a sign at the

business that included the words "Certified Public Accountant" under Mr. Abrecht's name.

4) On September 10, 2015, the website Tuugo had a listing for Donald L. Abrecht, CPA, with a business address of 102 N. Main St., Woodsboro, Maryland 21798.

5) On September 10, 2015, the website Angie's List had a listing for Donald L. Abrecht, CPA, with a business address of 102 N. Main St., Woodsboro, Maryland 21798.

6) On September 10, 2015, the online Yellow Pages website had a listing for Donald L. Abrecht, CPA, with a business address of 102 N. Main St., Woodsboro, Maryland 21798.

7) On March 31, 2016, photographs taken of A to Z Business Services, located at 102 N. Main Street, Woodsboro, Maryland 21798, showed a sign at the business that included the words "Certified Public Accountant" under Mr. Abrecht's name. At the time the photographs were taken, the business was open for customers.

8) By letter dated April 1, 2016, Dennis Gring, Executive director of the Maryland Board of Public Accountancy notified Mr. Abrecht that the Board's licensing records showed that he was not currently licensed as a CPA and that his use of the CPA designation while unlicensed violated the Maryland Public Accountancy Law. Mr. Gring advised Mr. Abrecht that he could resolve the matter by removing any references to himself as a CPA in his signage, stationery, letterhead, business cards, and online, and then notifying the Board of the steps he had taken. Mr. Gring indicated that the matter required Mr. Abrecht's "immediate attention" and that he should call should he have any questions.

9) Mr. Abrecht did not respond in writing to Mr. Gring's correspondence dated April 1, 2016. Mr. Abrecht did not respond to Mr. Gring prior to the date of the Board's Charge

Letter in this matter, May 3, 2016. After receiving the charge letter, Mr. Abrecht telephoned Mr. Gring and advised him that, although he understood that the Board could impose a civil monetary penalty against him if the charges were supported, he would not be attending the hearing on June 7, 2016.

10) As of June 7, 2016, the websites Tuugo, Angie's List, and the Yellowpages all contained a listing for Donald L. Abrecht, CPA, with a business address of 102 N. Main St., Woodsboro, Maryland 21798.

11) As of June 7, 2016, the Facebook page for A to Z Business Services, located at 102 N. Main St., Woodsboro, Maryland, 21798, no longer included a photograph of a photograph of a sign at the business that included the words "Certified Public Accountant" under Mr. Abrecht's name.

DISCUSSION

Because Mr. Abrecht failed to appear at the hearing, the evidence and testimony presented in support of the charges was uncontroverted. The evidence is clear that Mr. Abrecht attempted or offered to practice certified public accountancy while unlicensed as evidenced by operating A to Z Business Services and using the CPA designation in connection with that business. Additionally, Mr. Abrecht misrepresented to the public, through signage and online listings, that he was licensed as a CPA at a time when he was in fact unlicensed.

Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Mr. Abrecht under these circumstances. The Board 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.

With respect to the seriousness of and harm caused by the violation, Mr. Abrecht used the CPA designation to mislead the public and draw customers to his business, potentially depriving actually licensed CPAs of those customers. The Board recognizes its obligation to protect the integrity of the profession and the value of the CPA designation. The Board is particularly troubled that Mr. Abrecht, as a CPA licensed by the Board for 12 years, would choose to hold himself out to the public as a CPA while unlicensed. Mr. Abrecht sought the benefit of the continued use of the CPA designation without taking the steps to maintain the use of the designation. For example, Mr. Abrecht failed to complete the required 80 hours of continuing education for each two-year license term.

With respect to good faith on the part of Mr. Abrecht, he chose not to appear at the hearing to provide any explanation for his actions or acknowledge any wrongdoing and has not cured the violations in question. Under the circumstances, the Board chooses to take action to protect the public from any further harm. Although Mr. Abrecht had no prior disciplinary history with the Board, this factor is 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, Donald L. Abrecht, violated Business Occupations and Professions Article, Ann. Code of Maryland, §§ 2-601 and 2-603.

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 13th day of September, 2016,

ORDERED:

1) That Donald L. Abrecht pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$5,000.00 for his violations of BOP §§ 2-601 and 2-603; and

2) That Donald L. Abrecht immediately cease and desist any representation to the public, by the use of the title "licensed certified public accountant", "certified public accountant", "public accountant", or "auditor", by use of the abbreviation "CPA", by description of services, methods, or procedures, or otherwise, that he is authorized to practice certified public accountancy in Maryland;

3) That Donald L. Abrecht immediately cease and desist offering or providing any services that amount to the "practice of certified public accountancy" as that term is defined in BOP §2-101(f); and

4) 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 DOCUMENT)

By:

Arthur E. Flach, CPA
Chair