

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-16-0093

Marcel Eimunjeze, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers (“the Board”) on June 25, 2018. The allegations against Respondent Marcel Eimunjeze, as set forth in the Board’s charge letter dated May 25, 2018, were as follows:

On or about January 23, 2014, you obtained a registration from the Board to provide services as an individual tax preparer in Maryland. Your registration expired on January 23, 2016 and was not renewed. Therefore, you have not been registered to provide services as an individual tax preparer in Maryland since January 23, 2016.

Further, as a registration holder, you were required to pass the Maryland Individual Tax Preparer's examination given by the Board by December 31, 2015 in order to remain qualified to hold a registration. To date, you have not passed the examination, therefore it is alleged that you have not been qualified to hold a registration since December 31, 2015.

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 17, 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 qualified to hold a registration, and also during times when you were not registered by the Board. From approximately January 17, 2016 through approximately January 22, 2016, you filed at least 17 Maryland Individual Tax Returns (Form 502) for the 2015 tax year while not qualified to hold a registration because you had not passed the Board's required examination. Further, from approximately January 25, 2016 through February 17, 2016 you filed approximately 34 Maryland individual tax returns at times when you were not registered by the Board to provide individual tax preparation services in Maryland. Therefore, your actions 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 21-302. Qualifications

(a) In general. - To qualify for a registration, the applicant shall be an individual who meets the requirements of this section.

(e) Examination. - Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

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:

(5) violates any regulation adopted under this title; or

(6) violates any provision of this title.

COMAR 09.38.01.02 The Examination.

B. After December 31, 2015, an individual shall pass the Examination given by the Board in order to qualify for a registration unless the individual meets the requirements of §D of this regulation.

COMAR 09.38.01.05 Code of Professional Conduct.

A. 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.

In its charge letter, the Board informed Mr. Eimunjeze of the 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. Eimunjeze was also informed that, should the charges be proven, pursuant to BOP § 21-311, he would be subject to a possible reprimand, suspension or revocation of registration, and/or the imposition of a penalty in the amount of up to \$5,000.00 per violation. At the June 25, 2018, hearing, Mr. Eimunjeze 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 Mr. Eimunjeze had been properly notified of the proceedings. The Notice of Charges and Order for Hearing was mailed via certified mail and regular mail to Mr. Eimunjeze at his current address of record, 2610 Harford Road, Baltimore, MD 21218. The certified mail notice was returned to the Board

with the indication "Return to Sender. Not Deliverable as Addressed. Unable to Forward."

Additionally, the Board sent notice by certified mail and regular mail to Mr. Eimunjeze at 294 Mountain Ridge Court, Apt. H, Glen Burnie, MD 21061, an address obtained from a Maryland Motor Vehicles Administration driver's license search. Under the circumstances, the Board proceeded to hear the matter in Mr. Eimunjeze's absence.

II. Findings of Fact.

The Board hereby adopts and incorporates 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. Eimunjeze was registered by the Board as an individual tax preparer under registration number 4523 from January 23, 2014, until January 23, 2016.

2) As of the date of this order, Mr. Eimunjeze has not passed the Maryland Individual Tax Preparers Examination given by the Board. Additionally, Mr. Eimunjeze has not applied for a waiver of the examination requirement, and has not submitted evidence that he passed the Registered Tax Return Preparer Examination given by the Internal Revenue Service from November 1, 2011, through January 18, 2013.

2) Mr. Eimunjeze has not presented evidence to the Board 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 51 Maryland Individual Tax Returns (Form 502) that Mr. Eimunjeze filed from January 17, 2016 through February 17, 2016, were prepared free of charge.

3) As of the date of the hearing, Mr. Eimunjeze had not scheduled a date to take the Maryland Individual Tax Preparers Examination.

4) Mr. Eimunjeze has not been previously disciplined by the Board.

III. Evaluation of the Evidence.

Because Mr. Eimunjeze did not appear for the hearing, the evidence presented was uncontroverted. The Board believes that all the charges in this case are supported. Mr. Eimunjeze prepared 17 Maryland individual tax returns while registered but prior to passing the examination after the examination requirement was in effect, and prepared 34 Maryland individual tax returns despite being unregistered at the time and despite being aware of the registration requirement.

Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Mr. Eimunjeze 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 § 21-311(b) to impose a penalty not exceeding \$5,000.00 per violation. In evaluating whether or nor 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 violations, the Board

views the registration and examination requirements as the cornerstones of the Maryland Individual Tax Preparers Act. Mr. Eimunjeze did not pass the Maryland Individual Tax Preparers Examination, as required under COMAR 09.38.01.02, prior to providing individual tax preparation services from January 21, 2016 through May 10, 2017, potentially taking business from registered individuals who had complied with the examination requirement and demonstrated their competence. More distressing for the Board is Mr. Eimunjeze's decision to continue providing individual tax preparation services after his registration had expired.

With respect to good faith, Mr. Eimunjeze has simply shown none—Mr. Eimunjeze did not appear at the hearing to provide any explanation or acknowledge any wrongdoing. While Mr. Eimunjeze 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 Respondent Marcel Eimunjeze violated Business Occupations and Professions Article, Ann. Code of Maryland, § 21-302, and COMAR 09.38.01.02B, and 09.38.01.05E.

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 14th day of September,

2018 **ORDERED:**

1) That Marcel Eimunjeze pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$2,125.00 for multiple violations of Business Occupations and Professions Article, Ann. Code of Maryland, § 21-302 and COMAR 09.38.01.02B and 09.38.01.05E;

3) That this sanction is effective thirty (30) days from the date of this order unless Marcel Eimunjeze obtains a judicial stay of enforcement pursuant to Md. State Gov. Code Ann., § 10-222; 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:

Signature on File

Amy P. Hennen
Chair