

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-16-0064

Waldo Charles, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on September 29, 2016. The allegations against Respondent Waldo Charles, as set forth in the Board's charge letter dated August 12, 2016, were as follows:

You have never been registered with the Board to provide services as an individual tax preparer in Maryland. 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 complain 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 21, 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 2015 and 2016 while not registered by the Board. From approximately January 20, 2015 through June 4, 2015, you filed at least 38 Maryland individual tax returns (Form 502) for the 2014 tax year. Further, from approximately January 21, 2016 through February 22, 2016, you filed at least 45 Maryland individual tax returns for the 2015 tax year. At the time of filing 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 Mr. Charles 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*, §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. Charles 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 his registration, and/or the imposition of a penalty in the amount of up to \$5,000.00 per violation. At the September 29, 2016, hearing, Mr. Charles was represented by William Burton, Esq. 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) Mr. Charles is not 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).

2) Mr. Charles is not registered with the Board as an individual tax preparer and has not applied for and received a waiver of the examination requirement pursuant to COMAR 09.38.01.02D.

3) Mr. Charles is originally from Haiti and has resided in the United States for approximately nine years. When Mr. Charles first moved to the United States, he lived in Florida. In 2008, Mr. Charles began working in the tax industry in Florida. Mr. Charles studied accounting in Haiti.

4) In 2009, Mr. Charles moved to the Eastern Shore area of Maryland and began working for the Perdue Company as a technician. In 2011, Mr. Charles began preparing tax returns for clients under the business name Charles Multi Services, located at 216 Carsons Court, Pocomoke City, Maryland 21851. Mr. Charles has also prepared tax returns for clients at his home address, 106 Winter Quarters Drive, Pocomoke City, Maryland

21851. Mr. Charles is also an ordained pastor.

5) Mr. Charles has business cards for his tax preparation business Charles Multi Services. He handed out his business cards while employed with the Perdue Company in order to obtain clients. Mr. Charles also has obtained clients through his church. Mr. Charles primarily relies on word of mouth to acquire his clients.

6) Mr. Charles's clients include both Virginia and Maryland residents. Mr. Charles estimates that the bulk of his clients are Virginia residents.

7) Mr. Charles usually charges between \$100 and \$200 for preparing a tax return.

8) For the period of 2013 through 2016, Mr. Charles was issued Preparer Tax Identification Number P01546435 by the internal revenue service.

9) In 2016, Mr. Charles registered with the National Directory of Registered Tax Return Preparers and Professionals, Ltd.

10) Mr. Charles sat for the Maryland Tax Preparer Examination on September 22, 2016 but did not receive a passing score. Mr. Charles testified that he intended to take the examination again in November of 2016.

11) After being interviewed by the Board's investigator on March 12, 2016, and being advised of the registration requirements in Maryland, Mr. Charles filed two tax returns in Maryland in spite of the fact that he was not registered.

III. Evaluation of the Evidence.

The Board believes that all the charges in this case are supported. At the hearing in

this matter, Mr. Charles did not dispute the allegations in the Board's charge letter. Mr. Charles prepared at least 38 Maryland individual tax returns for the 2014 tax year and at least 45 Maryland individual tax returns for the 2015 tax year. For the Board's purposes, although Mr. Charles testified that he prepared 20 of the 45 Maryland individual tax returns for the 2015 tax year free of charge, the Board did not find his testimony on this point credible. Mr. Charles did not submit records or invoices of any kind at the hearing, much less any showing that he prepared any returns free of charge. Additionally, at no time during his interview with the Board's investigator did Mr. Charles indicate that he ever prepared tax returns free of charge.

Accordingly, the sole remaining issue before the Board is what, if any, sanction it must impose against Mr. Charles under these circumstances. 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 violations, the Board views the registration and examination requirements as the cornerstones of the Maryland Individual Tax Preparers Act. Mr. Charles provided individual tax preparation services prior to becoming registered with the Board thereby taking business from properly registered individuals. Fortunately for Mr. Charles, no evidence was presented at the hearing showing any negative consequence for the clients who utilized his services and the Comptroller has

apparently taken no further action against him. However, Mr. Charles potentially took business from properly registered tax preparers. To the extent that Mr. Charles claimed that he was unaware of the registration and examination requirement, Mr. Charles has an obligation to determine applicable law prior to entering into a business. The Had he made a cursory visit to the Board's website he would have found information explaining the registration and examination requirement.

With respect to good faith on the part of Mr. Charles, he did appear at the hearing and acknowledged his errors, and has attempted the Maryland Tax Preparer Examination, albeit unsuccessfully. However, after weighing all the factors, the Board believes that 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 Waldo Charles, violated on multiple occasions 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 24th day of October, 2016

ORDERED:

- 1) That Waldo Charles immediately cease and desist providing, attempting to

provide, or offering to provide individual tax preparation services in Maryland until such time as he is registered as an individual tax preparer with the Board or otherwise exempt from the law's requirements;

2) That Waldo Charles pay to the Board, within 30 days of the date of this order, a total civil monetary penalty in the amount of \$4,500.00 for his multiple violations of Business Occupations and Professions Article, Ann. Code of Maryland, §§ 21-301 and 21-401;

3) That this sanction is effective thirty (30) days from the date of this order unless the Respondent obtains a judicial stay of enforcement; 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**

Signature on File

By:

Kay Riddle
Vice Chair