

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF INDIVIDUAL *
TAX PREPARERS, *

v. *

Case no. MITP-17-0067

Valerie T. Jenkins, *

Respondent. *

* * * * *

FINAL ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers ("the Board") on October 11, 2017. The allegations against Respondent Valerie T. Jenkins, as set forth in the Board's charge letter dated September 5, 2017, were as follows:

You have never been registered with the Board to provide services as an individual tax preparer in Maryland.

In or around May of 2017, the Board opened a complaint against you based on information provided by the Maryland Office of the Comptroller ("Comptroller") indicating that, as a professional tax preparer, you had filed tax returns with the comptroller on behalf of Maryland taxpayers during 2016 and 2017.

Based on a subsequent Board investigation, it was determined that you provided, attempted to provide, or offered to provide individual tax preparation services to Maryland taxpayers during 2016 and 2017 while not registered by the Board. From approximately February 2, 2016, through

approximately December 20, 2016, you filed at least 1712¹ Maryland individual tax returns (Form 502) for the 2013 through 2015 tax years. It was also determined that, from approximately January 11, 2017, through May 2, 2017, you filed at least 812 Maryland individual tax returns for the 2013 through 2016 tax years. 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. Jenkins 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. Jenkins was also informed that should the charges be proven, pursuant to BOP § 21-405(a), she would

¹At the hearing, the parties agreed that the "1712" value in this sentence was a typographical error and that the correct value should have been 900. The total number of tax returns alleged to have

be subject to the imposition of a penalty not to exceed \$5,000.00 per violation. At the October 11, 2017, hearing, Ms. Jenkins appeared on her own behalf. Kris King, Assistant Attorney General, presented evidence to the Board in support of the allegations.

II. Findings of Fact.

At the hearing the parties stipulated to the factual findings set forth in the Board's charge letter dated September 5, 2017, with the correction that, from February 2, 2016, through approximately December 20, 2016, Ms. Jenkins filed 900 Maryland individual tax returns for the 2013 through 2015 tax years.

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) Ms. Jenkins 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) and has presented no evidence that the returns in question were prepared free of charge.

2) Ms. Jenkins has not been previously disciplined by the Board.

3) Ms. Jenkins is 63 years old.

4) Ms. Jenkins has been involved in the tax preparation business for approximately 42 years. She began working with H & R Block before starting her own

been filed by Ms. Jenkins was 1712.

business, Jenkins Accounting Associates. Her daughter acts as her office manager. She has approximately 1100 clients. During tax season, Ms. Jenkins prepares an average of 10 returns per day and charges an average of \$130.00 per return.

5) As of 2015, Ms. Jenkins was aware that she needed a registration.

6) In 2017, Ms. Jenkins ultimately applied for a registration with the Board and indicated in her application that she had a criminal conviction. On February 9, 2017, the Board requested that Ms. Jenkins provide true test copies of the court documents concerning her conviction and a written explanation of the circumstances of her arrest, conviction, and the disposition of the case. Ms. Jenkins did send by facsimile on February 10, 2017, a document showing that in the case of *U.S. v. Valerie Jenkins*, U.S. Dist. Ct. for the District of Columbia, Case No. 07-349 (2008) she had been convicted of one count of Mail Fraud under 18 USC § 1341, and a minimal factual statement about the circumstances of the conviction. Ms. Jenkins did not include any information about her sentence.

7) At the October 11, 2017, hearing, Ms. Jenkins testified that while working as a bookkeeper for an optometrist, Dr. Harry Wachs, she defrauded Dr. Wachs of monies that she was supposed to set aside for the doctor's quarterly tax, medicare, and social security liabilities to the IRS. She was sentenced to 12 months and 1 day of incarceration, ordered to pay more than \$180,000.00 in restitution, and was to be on supervised release for 36 months. Ms. Jenkins testified that she was released early from the Anderson Women's Facility after 10 months, and that she had been paying the restitution at the rate of \$50.00 per month.

8) At the time of the hearing before the Board, Ms. Jenkins was still offering and providing individual tax preparation services in Maryland. At the hearing, Ms. Jenkins testified that she planned to take the Maryland Registered Tax Preparer Examination "next week."

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 1712 occasions, Ms. Jenkins provided individual tax preparation services, as defined in BOP § 21-101(f), without a registration issued by the Board and that Ms. Jenkins 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. Jenkins 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. Jenkins ignored the fundamental obligation of any non-exempt individual who provides individual tax preparation services in Maryland: being registered with the Board. Ms. Jenkins essentially took opportunities away from individuals who have taken the steps necessary to

become registered, including demonstrating competence by satisfying the examination requirement.

With respect to good faith on the part of Ms. Jenkins, she basically demonstrated none. Ms. Jenkins was aware of the registration requirement in 2015, but did not apply for registration until 2017, and when she did apply, she did not submit complete information concerning her criminal conviction--a conviction involving the defrauding of a client while providing accounting services. Finally, Ms. Jenkins provided and **is continuing to provide** individual tax preparation services without a registration issued by the Board. The knowledge of the registration requirement has made absolutely no impact on her activities.

While Ms. Jenkins 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 Valerie T. Jenkins 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 13 day of November,

2017 **ORDERED:**

- 1) That Valerie T. Jenkins pay to the Board, within 30 days of the date of this

order, a total civil monetary penalty in the amount of \$50,000.00 for her multiple 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**

By:

Signature of File

Kay Riddle
Vice Chair

