

**BEFORE THE TAX APPEAL BOARD
OF THE STATE OF DELAWARE**

HELEN TUNNEY,)	
)	
Petitioner,)	
)	
v.)	Docket No. 1786
)	
STATE ESCHEATOR, ¹)	
)	
Respondent.)	

BEFORE: Todd C. Schiltz, Esq., Steven R. Director, Esq., Joan Winters, CPA,
Robert Slavin and M. Lynn Fuller

Helen Tunney, *pro se*

Anthony J. Testa, Jr., Esq., Deputy Attorney General, for Respondent

DECISION AND ORDER

This is an escheat case where shares of JP Morgan Chase & Company owned by petitioner Helen Tunney (“Petitioner”) were escheated to the State of Delaware and then sold by respondent State Escheator (“Respondent”) in 2017. After Petitioner submitted a claim regarding the shares, Respondent determined that Petitioner was entitled to recover the sale proceeds plus a cash dividend issued on the shares, and sent Petitioner a check covering that amount. Respondent filed a

¹ The petition incorrectly named the Director of Revenue, rather than the State Escheator, as the Respondent.

petition before this Board asking, among other things, that the Board order the Respondent to return the shares to Petitioner.

On November 24, 2021, Respondent filed a motion to dismiss the petition arguing that it failed to state a claim for relief. On February 9, 2022, this Board held an initial scheduling conference in this matter. At that conference, the Board established a briefing schedule for Respondent's motion to dismiss. Petitioner agreed to the schedule, which required her to file an answering brief on or before March 11, 2022.

Petitioner has not filed an answering brief in opposition to the motion to dismiss. On August 3, 2022, the Board's secretary sent Petitioner an email stating, in part, that "The Tax Appeal Board has advised me that, if you do not file an answer to the motion to dismiss on or before August 22, 2022, the Board will consider dismissing your petition for failure to prosecute." Petitioner has not responded to the email or filed papers in opposition to the motion to dismiss.

"[A] party must actively pursue a claim from its onset through its conclusion." *Breeding v. Hillandale Farms of Delaware, Inc.*, 2011 WL 378847, at *2 (Del. Super. Jan. 28, 2011). Superior Court Civil Rule 41(e) provides that if no action is taken in a case for six months, the Prothonotary shall mail notice to the parties stating that if no action is taken within 30 days, the matter will be dismissed for want of prosecution.

Here, the motion to dismiss has been pending for more than ten months. Petitioner has taken no action to address the motion for more than six months after agreeing to a briefing schedule set by the Board. Notice was then sent to Petitioner advising her that her case might be dismissed for want of prosecution if she failed to take action. Petitioner has failed to take action and ignored the briefing schedule set by the Board. Petitioner has offered no explanation for her inactivity. Under these circumstances, the Board believes that the case should be dismissed for want of prosecution.

For the reasons stated above, the Board dismisses Petitioner's petition for failure to prosecute. Judgment is entered for Respondent.

Jul C Self

Robert Slavin / YCS by consent

Joan M. Winters

M Lynn Fuller

SO ORDERED this 14th day of September, 2022.