

MARYLAND BOARD OF INDIVIDUAL * BEFORE THE MARYLAND BOARD
TAX PREPARERS

v.

* OF INDIVIDUAL TAX PREPARERS

HECTOR H. NEIRA HERRERA,
Respondent

*

CASE NO.: MITP-18-0083

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CONSENT ORDER

The Maryland Board of Individual Tax Preparers (the "Board") opened a complaint in this matter against Hector H. Neira Herrera (the "Respondent") as a result of a referral by the Maryland Office of the Comptroller (the "Comptroller"). Upon review and a subsequent investigation, the Board determined that administrative action against the Respondent is appropriate based on alleged violations of the Maryland Individual Tax Preparers Act. Prior to the issuance of formal administrative charges, the parties agreed to enter into this Consent Order as a full and final resolution of this matter, with terms as follows:

THE PARTIES AGREE AND STIPULATE:

1. On or about June 15, 2011, the Respondent became registered with the Board to provide services as an individual tax preparer in Maryland (Registration No. 23). The registration was subsequently renewed and later expired on or about June 15, 2017. At all times relevant to the matters set forth in this Consent Order, the Board had jurisdiction over the subject matter.

2. In or around July of 2017, the Board received information from the Comptroller alleging that, as a professional tax preparer, the Respondent had filed Maryland individual tax returns on behalf of taxpayers during 2016 and 2017. The Board's records reflected that the Respondent had not passed the Board's required examination and had not been granted a waiver.

3. The Respondent was required to pass the Maryland Individual Tax Preparers Examination given by the Board by December 31, 2015 in order to remain qualified to hold a registration. The Respondent did not pass the examination until October 20, 2017.

4. Due to his failure to pass the required examination, the Respondent was not qualified to hold a registration from January 1, 2016 to October 20, 2017.

5. During 2016 and 2017, the Respondent filed Maryland individual tax returns (Form

502) as a professional tax preparer on behalf of individual taxpayers while not qualified to hold a registration.

6. Based on the aforementioned facts, the Respondent admits to violations of Md. Ann. Code, Business Occupations and Professions Article ("BOP"), §§ 21-302(a), 21-302(e), 21-311(a)(5), 21-311(a)(6), COMAR 09.38.01.02(B) and COMAR 09.38.01.05(A)(1) which provide as follows:

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
 - (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.

7. As a result of his violations, the Respondent agrees to pay a total civil penalty in the amount of **\$1500.00** to the Board in accordance with the following schedule:

a) There shall be five consecutive monthly payments in the amount of \$300.00 each. The first payment shall be due on December 15, 2017;

b) Subsequent payments shall become due on the fifteenth day of each month thereafter, respectively, until such time as the total civil penalty amount is paid in full; and

c) The Respondent shall make the first two required payments in the amount of \$300.00 each in accordance with the terms outlined in this paragraph 7, and meet all other legal requirements, prior to the reinstatement of his registration by the Board. In the event that the Respondent's registration is reinstated by the Board, his failure to make any of the required payments in accordance with the terms of this Consent Order shall result in the immediate and automatic suspension of his registration until such time as the required payment is made.

8. In addition, the Respondent shall obtain 16 continuing professional education (CPE) credits in subject matter areas described in Code of Maryland Regulations (COMAR) 09.38.02.03F prior to the reinstatement of his registration by the Board. At least 4 of the 16 required CPE credits shall be in the subject matter area of Practitioner Ethics. The CPE credits obtained in accordance with this paragraph shall be above and beyond any normal statutory or regulatory CPE requirements and shall not be credited toward any future renewal period. The Respondent shall furnish documentary evidence of satisfactory completion of the CPE training prior to the reinstatement of his registration by the Board.

9. The Respondent shall abide by the provisions of the Maryland Individual Tax Preparers Act and applicable regulations in all relevant future activities.

10. The Respondent, by entering into this Consent Order, expressly waives the right to any further written notice of administrative charges, an administrative hearing on the charges and the making of Findings of Fact and Conclusions of Law, any and all further proceedings before the Board to which the Respondent may otherwise be entitled in this matter, and any rights to appeal from this Order.

11. The Respondent enters into this Consent Order freely, knowingly and voluntarily, and with the opportunity to seek advice of counsel.

BASED ON THESE STIPULATIONS, IT IS, THIS 6th DAY OF December, 2017, BY THE MARYLAND BOARD OF INDIVIDUAL TAX PREPARERS:

ORDERED that the Respondent has violated BOP, §§ 21-302(a), 21-302(e), 21-311(a)(5), 21-311(a)(6), COMAR 09.38.01.02(B) and COMAR 09.38.01.05(A)(1);


AND IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of **\$1500.00** to the Board in accordance with the provisions of Paragraph 7 of this Consent Order;

AND IT IS FURTHER ORDERED that the Respondent shall obtain additional CPE credits in accordance with the provisions of Paragraph 8 of this Consent Order;

AND IT IS FURTHER ORDERED that this matter shall be resolved in accordance with the terms of this Consent Order, and that the same shall be reflected among the records of the Board;

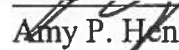
AND IT IS FURTHER ORDERED that this Consent Order shall constitute a Final Order of the Maryland Board of Individual Tax Preparers.

Signature of File


Hector H. Neira Herrera
Respondent

11/15/2017
Date

Signature of File


Amy P. Hennen, Chairperson
Maryland Board of Individual
Tax Preparers

12/6/17
Date