

MARYLAND BOARD OF INDIVIDUAL *
TAX PREPARERS

v.

DAVID A. MILLER,
Respondent

BEFORE THE MARYLAND BOARD
OF INDIVIDUAL TAX PREPARERS

CASE NO.: MITP-19-0003

* * * * *

CONSENT ORDER

This matter comes before the Maryland Board of Individual Tax Preparers (the "Board") as a result of a complaint opened by the Board against David A. Miller (the "Respondent"), a registered tax preparer. The Respondent was notified that he was selected for audit in connection with Continuing Professional Education ("CPE") credits claimed in his license renewal application that was filed with the Board on or about June 20, 2018. Upon review of the complaint and a subsequent investigation, the Board determined that administrative charges were appropriate based on alleged violations of the Maryland Individual Tax Preparers Act. Prior to the issuance of formal administrative charges, the parties reached an agreement to resolve this matter by means of this Consent Order. The parties enter into this Consent Order as a full and final resolution of this matter, with terms as follows:

THE PARTIES AGREE AND STIPULATE:

1. At all times relevant to the matters set forth in this Consent Order, the Respondent was registered by the Board as an individual tax preparer and/or the Board had jurisdiction over the subject matter.

2. The Respondent became registered in Maryland as an individual tax preparer on or about August 19, 2014 (Registration No. 4978). The registration is currently due to expire on August 19, 2020.

3. On or about June 20, 2018, the Respondent filed a license renewal application with the Board for the period June 20, 2018 through August 19, 2020 by means of the Board's online licensing system.

4. On the renewal application, the Respondent claimed 16 hours of CPE credit that was earned during the previous license term.

5. The Board's license renewal application requires an applicant to certify to the accuracy of the information contained in the application. This certification states, in pertinent part:

"I hereby certify, under penalty of perjury, that the information contained herein is true and correct to the best of my knowledge, information, and belief . . ."

6. Following the Respondent's submission of the license renewal application and payment of the license renewal fee, the Respondent was advised that his application was selected for an audit of the CPE credits that were reported and that supporting documents for the CPE hours claimed were required to be submitted to the Board.

7. The Respondent failed to provide the requested supporting documentation regarding the claimed CPE credits. However, in or around December of 2018, the Respondent submitted documentation reflecting that he obtained 16 CPE hours in Federal Taxation during November of 2018. These credits shall be counted toward the Respondent's CPE credit deficiency and shall not be credited toward any future renewal period.

8. The Respondent admits that he did not meet the requirements to renew the license at the time when the renewal application was filed with the Board on or about June 20, 2018 because he failed to obtain and/or properly document a sufficient number of CPE credit hours

9. Based on the aforementioned facts, the Respondent admits to violations of Md. Ann. Code, Business Occupations and Professions Article ("BOP"), §§ 21-309(a)(2), 21-311(a)(5), 21-311(a)(6), COMAR 09.38.01.05(A)(1) and COMAR 09.38.02.02 which provide as follows:

BOP Section 21-309. Continuing Education.

(a) Regulations. -- (1) The Board shall adopt regulations that create, in accordance with this section, continuing education requirements as a condition to the renewal of a registration issued under this subtitle.

(2) An individual shall complete at least 16 hours of continuing education activities every 2 years.

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 any 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 09.38.01.05(A)(1) 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.

09.38.02.02 Basic Requirement.

A. A renewal applicant shall complete at least 16 hours of qualifying continuing education for each 2-year registration term.

B. A minimum of 4 hours of the continuing education for each 2-year registration term shall be in Maryland tax related subjects.

10. Based on his violations, the Respondent agrees to pay a total civil penalty in the amount of **\$500.00** to the Board within 7 days of the date of this Consent Order.

11. In addition, within 30 days of the date of this Consent Order, the Respondent shall obtain 4 continuing professional education (CPE) credits in Maryland tax related subjects through programs that qualify pursuant to COMAR 09.38.02.03. 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 to the Board within seven days of completion.

12. In the event that the Respondent fails to comply with the terms and conditions of this Consent Order regarding payment of the civil penalty or completion of CPE credits, his registration shall be immediately and automatically suspended until such time as compliance occurs.

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

14. The Respondent, by entering into this Consent Order, expressly waives the right to any further written notification 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.

15. 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 13 DAY OF May, 2019, BY THE MARYLAND BOARD OF INDIVIDUAL TAX PREPARERS:

ORDERED that the Respondent has violated BOP, Md. Ann. Code, Business Occupations and Professions Article ("BOP"), §§ 21-309(a)(2), 21-311(a)(5), 21-311(a)(6), COMAR

09.38.01.05(A)(1) and COMAR 09.38.02.02;

AND IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of **\$500.00** to the Board in accordance with the provisions of Paragraph 10 of this Consent Order;

AND IT IS FURTHER ORDERED that the Respondent shall obtain **4 hours of CPE credits** in accordance with the provisions of Paragraph 11 of this Consent Order;

AND IT IS FURTHER ORDERED that this matter shall be resolved in accordance with the terms and conditions 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 on File

~~David A. Miller~~
Respondent

3/26/2019
Date

Signature on File

~~Amy P. Hennen, Chair~~
Maryland Board of Individual
Tax Preparers

5/13/19
Date