

MARYLAND BOARD OF INDIVIDUAL * BEFORE THE MARYLAND BOARD
TAX PREPARERS

v. * OF INDIVIDUAL TAX PREPARERS

JOSEPH A. BALCAR,
Respondent

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CASE NO.: MITP-17-0079
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CONSENT ORDER

This matter comes before the Maryland Board of Individual Tax Preparers (the "Board") as a result of a complaint filed by the Maryland Office of the Comptroller (the "Comptroller") against Joseph A. Balcar (the "Respondent"). Upon review of the complaint and a subsequent investigation, the Board determined that administrative action against the Respondent was appropriate and, on or about September 5, 2017, issued a Notice of Charges and Order for Hearing alleging that the Respondent had engaged in certain violations of the Maryland Individual Tax Preparers Act. 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. On or about January 17, 2012, the Respondent became registered with the Board to provide services as an individual tax preparer in Maryland (Registration No. 2368). The registration was subsequently renewed and is currently due to expire on or about January 17, 2018. 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 May 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 September 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 September 20, 2017

5. From approximately January 29, 2016 through April 19, 2017, the Respondent filed multiple 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 **\$750.00** to the Board in accordance with the following schedule:

a) The first payment shall be in the amount of \$250.00 and shall be due on December 1, 2017;

b) The second payment shall be in the amount of \$250.00 and shall be due on January 1, 2018; and

c) The third and final payment shall be in the amount of \$250.00 and shall be due on February 1, 2018.

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

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 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 13 DAY OF November, 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 **\$750.00** to the Board in accordance with the provisions of Paragraph 7 of this Consent Order;

AND IT IS FURTHER ORDERED that, in the event that the Respondent fails to

comply with the terms and conditions of this Consent Order regarding payment of the civil penalty, his registration shall be immediately and automatically suspended until such time as compliance occurs;

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

Joseph A. Balcar
Respondent

October 24, 2017

Date

Signature of File

Kay D. Riddle, Chairperson
Maryland Board of Individual
Tax Preparers

November 13, 2017

Date