

MARYLAND BOARD OF INDIVIDUAL
TAX PREPARERS

v.

GERARDO A. MARTINEZ,
Respondent

* BEFORE THE MARYLAND BOARD
* OF INDIVIDUAL TAX PREPARERS

* CASE NO.: MITP-18-0020
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* * * * *

CONSENT ORDER

The Maryland Board of Individual Tax Preparers (the "Board") opened a complaint in this matter against Gerardo A. Martinez (the "Respondent"), a registered tax preparer, as a result of a referral by the Maryland Office of the Comptroller (the "Comptroller"). Upon review of the complaint and a subsequent investigation, the Board determined that administrative charges were appropriate. On or about December 21, 2017, the Board issued a Notice of Charges and Order for Hearing against the Respondent based on alleged violations of the Maryland Individual Tax Preparers Act. Prior to the scheduled administrative hearing on the 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 January 14, 2014 (Registration No.4442). The registration was due to expire on January 14, 2018, however, the Board retained jurisdiction for disciplinary purposes pursuant to Md. Ann. Code, Business Occupations and Professions Article ("BOP"), § 21-314 as a result of the pending charges in this matter.
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 January 19, 2018.
4. Due to his failure to pass the required examination, the Respondent was not qualified to hold a registration from January 1, 2016 to January 19, 2018.
5. From approximately January 30, 2016 through March 11, 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. The Respondent agrees to pay a total civil penalty in the amount of \$500.00 to the Board in accordance with the following schedule:

- a) There shall be five (5) consecutive monthly payments in the amount of \$100.00 each;
- b) The first of said payments shall be due on March 1, 2018 with remaining payments due on the first day of each month thereafter, respectively, until such time as the total penalty

amount has been paid in full; and

c) The Respondent shall make the first payment in the amount of \$100.00, and meet all legal requirements, prior to the reinstatement of his registration by the Board.

8. In addition, the Respondent shall obtain 4 continuing professional education (CPE) credits in the subject matter area of Practitioner Ethics and furnish documentary evidence of satisfactory completion to the Board within 30 days of the date of this Consent Order. The CPE credits obtained in accordance with this paragraph shall be above and beyond any normal statutory or regulatory CPE requirements, shall be obtained prior to the reinstatement of the Respondent's registration by the Board, and shall not be credited toward any future renewal period.

9. 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.

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

11. 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.

12. 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 12 DAY OF February, 2018, 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 \$500.00 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 4 hours of CPE credits in accordance with the provisions of Paragraph 8 of this Consent Order which shall be in addition to, and shall not be credited toward, the normal CPE requirements;

AND IT IS FURTHER ORDERED that the Respondent shall meet the required terms and conditions of this Consent Order, and meet all legal requirements, prior to the reinstatement of his

registration by the Board;

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

Gerardo A. Martinez
Respondent

02/05/2018
Date

Signature on File

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

2/12/18
Date