

BEFORE THE MARYLAND BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND BOARD OF INDIVIDUAL
TAX PREPARERS

v.

CASE NO. MITP 21-0036

DILMA FUENTES

Respondent

* * * * *

SETTLEMENT AGREEMENT AND CONSENT ORDER

This matter comes before the Maryland Board of Individual Tax Preparers ("Board") as the result of the Board conducting a random audit of Dilma Fuentes' ("Respondent") license renewal application to determine if the Respondent met the Board's license renewal continuing education ("CE") requirements in accordance with the Maryland Individual Tax Preparer's Act ("Act"), Md. Code Ann. Bus. Occ. & Prof. ("BOP"), §21-309(a)(2) and related regulations, Code of Maryland Regulations ("COMAR") 09.38.02.02A. As a result of the audit and subsequent investigation, the Board initiated a Complaint against Respondent. To resolve that Complaint, the Board and the Respondent (collectively "Parties") have agreed to enter into this Settlement Agreement and Consent Order ("Consent Order"). The Parties agree and stipulate as follows:

1. At all times relevant to the Complaint, the Board had jurisdiction over the Respondent, who holds a registration issued by the Board to prepare individual tax returns ("registration") under number 01-4834, and the subject matter of this Complaint.
2. The Respondent's current registration is due to expire on March 12, 2024.
3. The Act, BOP §21-309(a)(2), provides that "[a]n individual shall complete at least 16 hours of continuing education activities every 2 years." Code of Maryland Regulations ("COMAR") 09.38.02.02A and B require renewal applicants to complete at least 16 hours of qualifying continuing education ("CE") for each 2-year registration term, of which a minimum of 4 hours must be in Maryland tax-related subjects.
4. Pursuant to COMAR 09.38.02.04B, "The Board, at its discretion, may verify the information and documentation supporting a renewal applicant's certification of continuing education credit. Upon request, the renewal applicant shall submit to the Board, or its designee, copies of the original documentation supporting the certification provided under §A of this regulation."
5. COMAR 09.38.01.05E(1)(a) requires an applicant or individual tax preparer to respond in writing within 30 days of receiving a written communication requesting a response from the Board.

6. COMAR 09.38.01.05A(1) prohibits an individual tax preparer from committing any act that reflects adversely on the individual tax preparer's fitness to provide individual tax preparation services.

7. On or about March 21, 2020, the Respondent filed a registration renewal application with the Board for the period March 22, 2020 through March 12, 2022 via the Board's online registration system.

8. The Board's renewal application requires an applicant to certify to the accuracy of the information provided in the application. The Board alleges 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. . . "*

9. On the renewal application, the Respondent certified completion of the required 16 hours of CE as of the application date and the Board approved the renewal based upon the Respondent's certification.

10. When the Respondent submitted the registration renewal application, the Board initiated a random audit to confirm that the Respondent had completed the CE requirements and requested that the Respondent provide documentation for the CE's that the Respondent had certified completing.

11. The Respondent did not respond to the initial audit notice and the Board subsequently sent the Respondent multiple written communications between May 20, 2020, and September 2, 2020 by certified mail and regular mail to the Respondent's address of record with the Board, requesting documentation in response to the audit.

12. Only after the Board issued a Statement of Charges and Order for Hearing, did the Respondent respond to the audit.

13. The Act, BOP §21-311(a), provides "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." In addition, the Board may assess a violator a civil penalty not exceeding \$5000 per violation. BOP §21-311(b)(1).

14. To resolve this matter without a formal hearing, the Respondent hereby admits to a finding that the Respondent violated Bus. Occ. & Prof. §21-311(a)(5) as well as COMAR 09.38.01.05A(1) and E(1)(a), and consents to the Board entering an Order requiring that Respondent shall pay to the Board a civil monetary penalty in the amount of TWO HUNDRED AND FIFTY DOLLARS (\$250) by certified check, cashier's check, or money order made payable to the "Maryland Board of Individual Tax Preparers" within thirty (30) days of signing this Consent Order.

15. The Respondent agrees that should Respondent fail to pay the civil monetary penalty as agreed herein, the Board shall automatically suspend the Respondent's registration without a hearing, and that the suspension shall continue until the Respondent provides satisfactory evidence to the Board that Respondent has fully complied with this Consent Order's terms.

16. The Respondent agrees and acknowledges that this Consent Order shall constitute a Final Order of the Board and shall be enforceable as such.

17. By entering this Consent Order, the Respondent waives the right to have the administrative charges reduced to writing, to an administrative hearing before the Board or its designee on any charges, to the making of Findings of Fact and Conclusions of Law, to all other proceedings before the Board or its designee on this matter, and to all rights to appeal from this Consent Order to any court of competent jurisdiction.

18. The Parties agree that a waiver of any of the rights or duties provided herein must be explicit and in writing, and that any waiver constitutes a one-time waiver on a case-by-case basis and not a waiver of this entire Consent Order or the subject provision(s).

19. The Parties agree no provision of this Consent Order shall be interpreted for or against any Party by reason that said Party, or their legal representative, drafted all or any part hereof.

20. The Parties agree that this Consent Order represents the final expression of their intent and agreement relating to the subject matter of this Consent Order. The Parties further agree that this Consent Order contains all the terms the Parties agreed to on the subject matter of this Consent Order and intend for this Consent Order to replace all the Parties' previous discussions, understandings, and agreements relating to the subject matter.

21. The Respondent hereby agrees and acknowledges that the Respondent enters this Consent Order knowingly, voluntarily, and intelligently having read this Consent Order in full and after either having consulted with or after having had the opportunity to consult with private counsel.

22. The Parties agree and acknowledge that this Consent Order shall serve as the final resolution of Complaint No. MITP-21-0036 serve as the Final Order in this matter, be a part of the Respondent's record the Board maintains, and that the Board's records and publications shall reflect the Consent Order's terms.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS 5 DAY OF November, 2023, BY THE STATE BOARD OF INDIVIDUAL TAX PREPARERS HEREBY:

ORDERED that the Respondent violated Bus. Occ. & Prof. §21-311(a) (5) and COMAR 09.38.01.05A(1) and E(1)(a); and it is further

ORDERED that by certified check, cashier's check, or money order made payable to the

"Maryland Board of Individual Tax Preparers" within thirty (30) days of signing this Consent Order the Respondent shall pay to the Board a civil monetary penalty of TWO HUNDRED AND FIFTY DOLLARS (\$250); and it is further

ORDERED that if the Respondent fails to comply with the terms of this Consent Order, the Board will immediately and automatically suspend Respondent's registration without a hearing, and that the suspension will continue until the Board determines that the Respondent has evidenced compliance with the Consent Order's terms; and it is further

ORDERED that unless otherwise specified in this Consent Order, each provision herein shall remain in effect and enforceable as herein agreed unless the Board in writing stays, modifies, terminates, or suspends it; and it is further

ORDERED that this Consent Order shall constitute the Board's Final Order and the Board may consider this Consent Order and the facts set forth herein in connection with, and in deciding, any subsequent action or proceeding before the Board, and that this Consent Order may, if relevant, be admitted into evidence in any matter before the Board, its designee, and/or any court; and it is further

ORDERED that the Board's records and publications shall reflect that the Respondent and the Board resolved this matter through this Consent Order.

MARYLAND BOARD OF INDIVIDUAL
TAX PREPARERS

By:

**SIGNATURE ON
ORIGINAL DOCUMENT**

Chair

**SIGNATURE ON
ORIGINAL DOCUMENT**

Dilerna Fuentes, Respondent

Dilma

AGREED:

10/31/2023

Date