

BEFORE THE MARYLAND STATE BOARD OF INDIVIDUAL TAX PREPARERS

MARYLAND STATE BOARD OF
INDIVIDUAL TAX PREPARERS,

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v.

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CASE NO.: MITP-110-2016

GEORGE E. DEUTSCH,

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Respondent

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FINAL DECISION AND ORDER

I. Procedural Background.

The above-captioned matter was heard before the Maryland State Board of Individual Tax Preparers (“the Board”) on October 24, 2016. The allegations against George E. Deutsch, Respondent, as set forth in the Board’s charge letter, dated September 21, 2016, were as follows:

During all relevant periods, you were registered in Maryland as an individual tax preparer. On or about May 5, 2016, the Board received a complaint filed against you by Joseph Sofi, a Maryland tax payer. In his complaint, Mr. Sofi alleges that he hired you to prepare his 2015 Federal and Maryland income tax returns in or around April of 2016. He states that, after the returns were filed, you were not responsive to his requests for copies of his 2015 tax returns and the return of personal financial documents that he provided to you in connection with your provision of services.

On or about August 5, 2016, the Board sent notice of the Sofi complaint to you by both certified and regular mail. The Board’s notice directed you to provide a written response to the complaint by September 6, 2016. You failed to provide any response to the Board.

It is alleged that your failure to respond as indicated above constitutes a violation of the Code of Professional Conduct.

Based on the above described circumstances, you are charged with violating the following laws of the State of Maryland and provisions of the Code of Maryland Regulations (COMAR):

Business Occupations and Professions Article, Ann. Code of Maryland

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.

COMAR 09.38.01.05 Code of Professional Conduct

E. Communications with the Board

(1) An individual tax preparer shall respond in writing to any communications from the Board requesting a response, within 30 days of the mailing of these communications, by registered or certified mail, to the last address furnished to the Board by the individual tax preparer.

In its charge letter, the Board informed Mr. Deutsch of his right to a hearing on the charges, in accordance with the Business Occupations and Professions Article, Annotated Code of Maryland, § 21-312 *et seq.*, the Maryland Administrative Procedure Act as set forth in the State Government Article of the Annotated Code of Maryland, Title 10, Subtitle 2, and the Board's hearing rules set forth at COMAR 09.01.02. Mr. Deutsch was also informed that should the charges be proven,

pursuant to BOP §21-311, he would be subject to possible reprimand, suspension or revocation of his registration, and/or the imposition of a penalty in the amount of up to \$5,000 per violation. Board Exhibit #1. Mr. Deutsch was also informed therein that the hearing would proceed in his absence if he failed to appear. *Id.* Neither Mr. Deutsch nor anyone on his behalf appeared at the October 26, 2016 hearing. Kris King, Assistant Attorney General, presented evidence to the Board in support of the allegations.

II. Findings of Fact.

The Board includes in its factual findings, the facts set forth in the procedural background of the matter. In addition, after examining all of the evidence, including both the testimony of witnesses and the documentary evidence submitted at the hearing, and having assessed the demeanor and credibility of those offering testimony, the Board makes the following additional findings of fact:

1) George E. Deutsch was first registered the Board was first registered with the Board as an individual tax preparer under registration number 2911 on February 14, 2012. Mr. Deutsch has been continually registered since that time and his current registration will expire on February 14, 2018. Mr. Deutch's address of record with the Board is 5225 Baltimore National Pike, Baltimore, Maryland 21229.

2) By letter dated May 5, 2016 to the Board, Joseph A. Sofi submitted a complaint against Liberty Tax Service and George E. Deutsch, Manager, alleging that, in April 2016, he had hired Mr. Deutsch to prepare and electronically file Mr. Sofi's 2015 Federal and State of Maryland tax returns. Mr. Sofi alleged that he met with Deutsch at the Liberty Tax Service Ellicott City

location¹ and that shortly after April 15, 2016, Mr. Sofi contacted Liberty Tax Service to arrange to obtain a copy of his 2016 tax return and materials he had provided to Mr. Deutsch in order for Mr. Deutsch to prepare the return. Mr. Sofi was instructed that he would have to pick up his materials and a copy of his returns at the main office of Liberty Tax Service, located at 5225 Baltimore National Pike, Baltimore, Maryland 21229. Mr. Sofi's complaint further alleged that he continued to attempt to contact Mr. Deutsch and Liberty Tax Service throughout April and early May 2016 at both the Ellicott City and Baltimore offices and attempted to contact Mr. Deutsch at home but was unable to arrange for the return his personal records or a copy of the tax returns prepared and allegedly filed by Mr. Deutsch through Liberty Tax Service. Mr. Sofi never received a reply to any of his messages and later determined that both the Baltimore and Ellicott City office locations of Liberty Tax Service had been vacated.

3) By letter dated August 5, 2016, sent by certified and first class mail to Mr. Deutsch's address of record, the Board attempted to provide Mr. Deutsch with a copy of the complaint against him and to notify him, by Board Executive Director, Dennis L. Gring, of his obligation to provide a written response to the complaint within 30 days.

4) Both the certified mail envelope and the first class mail envelopes were returned on or about August 17, 2016 with the post office notations: "ATTEMPTED — NOT KNOWN; UNABLE TO FORWARD."

5) By letter dated September 21, 2016 to Mr. Deutsch's address of record, the Board notified Mr. Deutsch of the charges it had brought against him for his failure to provide a written

¹ The Ellicott City office of Liberty Tax Service is located at 3920 North Ridge Road, Ellicott City, Maryland 21043. Board Exhibit #3.

response to allegations in the complaint against her filed by Mr. Sofi, which was also sent to Mr. Deutsch's address of record by certified and first class mail.

6) The certified mail envelope was returned on or about September 28, 2016 with the post office notations: "VACANT; UNABLE TO FORWARD." The first class mail envelope was not returned.²

7) To date, the Board has not received a response to the complaint from Mr. Deutsch nor anyone on his behalf, nor has Mr. Deutsch contacted the Board to provide an alternate mailing address.

III. Evaluation of the Evidence.

The Board finds that the charge in this case is supported. The Board received Mr. Sofi's complaint sometime after May 5, 2016 in which Mr. Sofi alleged that he had hired Mr. Deutsch to prepare and file his 2015 tax returns. Therein, Mr. Sofi alleged that he had provided Mr. Deutsch with his personal financial records other materials, that Mr. Deutsch had failed to provide Mr. Sofi with copies of the filed State and Federal tax returns or allow Mr. Sofi to retrieve the materials he had given to Mr. Deutsch, despite attempts to contact Mr. Deutsch or someone at Liberty Tax Service to do so. Board Exhibit #3.

After receipt of Mr. Sofi's complaint against Mr. Deutsch, the Board sent Mr. Deutsch a letter, "to the last address furnished...by the individual tax preparer," in compliance with COMAR 09.38.01.05E(1), requesting that he submit a written response to Mr. Sofi's complaint by September

² The first class mail envelope was not returned and is presumed to have been received, pursuant to a rebuttable presumption of delivery and receipt of mail that arises when the material in question is properly mailed. *See, e.g., Benner v. Nationwide Mut. Ins. Co.*, 93 F.3d. 1228, 1234 (4th Cir. 1996).

6, 2016, and provided him with a copy of the complaint. Board Exhibit #4. Both of the Board's attempts to notify Mr. Deutsch of the complaint and his obligation to respond thereto were unsuccessful because of Mr. Deutch's failure to provide the Board with an address at which he could be contacted.

As a result of the Board's inability to communicate with Mr. Deutsch, the Board has been unable to determine whether the complaint should be closed or if it alleges sufficient facts for, and warrants, administrative action. Mr. Deutsch has deprived his client, Mr. Sofi, of a prompt response by the Board to his complaint and has deprived the Board of an opportunity to verify his compliance with laws and regulations applicable to the provision of individual tax preparation services. Further, Mr. Deutsch's failure to notify the Board of a current address has cost the State of Maryland and the individual Board members the time, expense, and inconvenience of an otherwise unnecessary proceeding to afford Mr. Deutsch the required hearing to respond to the regulatory charges pending against him, arising from his failure to respond to the communication from the Board, so that it could carry out its duty to citizens of Maryland.

To date, Mr. Deutsch has failed to provide any response to the complaint, any reason for his failure to provide a written response to the complaint pending against him, nor has he contacted the Board to provide an alternate mailing address. The Board has met its obligation to notify Mr. Deutsch of the complaint pending against him, and of the hearing afforded him to present a defense to disciplinary charges brought against him, by mail sent to his last known address, in compliance with COMAR 09.38.01.05. Each of the Board's communications to him was returned as "undeliverable." As Mr. King, counsel presenting evidence on behalf of the Board, argued, and with

which the Board agrees, "if the Board cannot communicate with [Mr. Deutsch], the Board cannot regulate him. He is effectively outside the Board's jurisdiction."

The Board cannot permit a licensee to fail to provide the Board with adequate contact information or to update such information as necessary. A licensee who refuses to recognize the authority of the Board ought not have a registration issued by the Board. Consequently, the Board finds that Mr. Deutsch's failure to provide valid contact information to the Board and, as a result, failure to respond to the Board's written communication to him, warrants a sanction. The Board views the failure to respond to its written communication to be among a registration holder's most serious misconduct. In this case, Mr. Deutsch's failure to communicate with the Board prevented the Board from making a determination on allegations brought against him by a client and providing a timely response about the Board's intentions to the Complainant.

As a direct consequence of Mr. Deutsch's disregard of his obligations, the Board cannot determine whether the allegations contained in the complaint filed against him have merit and what, if any, administrative action is appropriate, one of the Board's most crucial duties. In addition, Mr. Deutsch's failure to communicate with the Board has prevented the Board from providing a timely response to a Maryland citizen regarding the action it deems appropriate on a pending complaint, if any.

The nature and effect of Mr. Deutsch's violation and resulting harm, disregarding communications from the Board and delaying the Board's ability to make a determination on the merits of a complaint filed against a registration holder, warrant the imposition of an administrative sanction.

CONCLUSIONS OF LAW

Based on the Findings of Fact and, using the specialized knowledge, training, and experience of its members, the Maryland State Board of Individual Tax Preparers hereby concludes as a matter of law:

That the Respondent, George E. Deutsch, violated Business Occupations and Professions, Article, Annotated Code of Maryland, § 21-311(a)(5) and COMAR 09.38.01.05E(1).

ORDER

In consideration of the Maryland State Board of Individual Tax Preparers' Findings of Fact and Conclusions of Law in this matter, it is this 18 day of November, 2016 **ORDERED**:

A. That as a result of these findings and conclusions, the registration issued by the Maryland State Board of Individual Tax Preparers to the Respondent, George E. Deutsch, are, hereby, **SUSPENDED** for one (1) year;

B. That, in addition, the Respondent, George E. Deutsch, pay a civil statutory penalty in the amount \$5,000.00 for these violations, pursuant to Business Occupations and Professions, Article, Annotated Code of Maryland, § 21-311(b) and that said penalty shall be paid in full to the Maryland State Board of Individual Tax Preparers within 30 days of the date of this Order;

C. That the registration issued to the Respondent, George E. Deutsch, shall be suspended automatically and the Respondent will be ineligible for registration renewal or reinstatement until such time as the appropriate civil penalty as set forth in paragraph B is paid in full to the D.

That this decision shall take effect 30 days from the date of this Order unless the Respondent

obtains a judicial stay of enforcement, pursuant to State Government Article, Annotated Code of Maryland, § 10-226; and

E. That the records and files of the Maryland State Board of Individual Tax Preparers reflect this Order.

MARYLAND STATE BOARD OF
INDIVIDUAL TAX PREPARERS

By: **Signature on File**
Frederic Bader, Chair

11-18-16