

DEPARTMENT OF CONSUMER AFFAIRS
CITY OF NEW YORK

NYC DEPARTMENT OF CONSUMER
AFFAIRS,

Complainant,
-against-

R & G BRENNER TAX CENTERS, INC.
111 E MERRICK RD
VALLEY STREAM, NEW YORK, 11580-5920

Respondent.

CONSENT ORDER

Violation Numbers:

CL000070560	CL000078431
CL000070566	CL000076087
CL000071027	CL000078985
CL000076310	CL000078982
CL000071929	CL000076101
CL000078921	CL000200781
CL000069656	CL000200764
CL000201287	CL005199038
CL000200936	CL005199220
CL000200790	CL005199230
CL005199511	CL005199083
CL005199417	OL006002451
CL005199158	OL006001575
CL005199172	OL006002556
CL005199434	OL006001027
CL005199032	CL000076848

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COUNSEL
DEPT. OF CONSUMER AFFAIRS

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Respondent agrees to this Consent Order with the New York City Department of Consumer Affairs ("Department") to settle the above captioned violations.

1. Respondent is a New York corporation with at least 11 tax office locations open in New York City during the 2012 tax season.
2. The Department served Respondent's tax office locations with the above Notices of Violation and Notices of Hearing for violations of Section 20-739 et seq. of the New York City Administrative Code ("Code") ("Tax Preparation Law"); Section 20-700 et seq. of the Code ("Consumer Protection Law"); Section 5-01 et seq. of the Rules of the

City of New York (“Rules”), Section 5-66 of the Rules; and Section 5-171 et seq. of the Rules.

3. Respondent and the Department are entering into this Consent Order to resolve the above violations without the necessity of hearings on these violations.

Definitions

4. For purposes of this Consent Order, the following definitions shall apply:
 - a. “Advertisement” or “Advertisements” mean all labels, packaging, promotional materials, statements, visual descriptions, or other representations of any kind disseminated in print, orally, or electronically by or on behalf of Respondent to New York City consumers including, but not limited to, mailings, postcards, signs, flyers, hand-outs, brochures, business cards, banners, billboards, awnings, window signs, in-store signs, store-front signs, newspaper print advertisements, television advertisements, radio advertisements and internet advertisements.
 - b. “Clear and conspicuous” and “clearly and conspicuously” with respect to disclosure of material exclusions, reservations, limitations, modifications or conditions on an advertising statement, shall mean that the disclosure is made in a manner that is readily apparent and understandable by an ordinary person from any distance from which a consumer is able to view the main message of the advertisement and complies with Sections 5-06 and 5-09 of the Rules. Considerations relevant to whether a disclosure is clear and conspicuous include, but are not limited to, use of plain language, relative type size, font, color contrast, location within an advertisement, and proximity to the statement or representation to which it applies. In addition,
 - (i) in print advertisements and mailings, the material disclosure, representation or term shall be presented in a manner that is easy to read and placed reasonably near the statement that it modifies; and
 - (ii) in radio advertisements, the disclosure, representation or term shall be made reasonably soon after the statement that it modifies, and at a volume and speed likely to be understood by an ordinary listener.
 - c. “Refund anticipation loan” shall mean any loan a taxpayer may receive against his or her anticipated income tax return.

Law and Rules Regarding Tax Preparers

5. Respondent shall comply fully with all relevant portions of the Code and the Rules that apply to tax preparation, including but not limited to, Section 20-739 et seq. of the Code; Section 20-700 et seq. of the Code; Section 5-01 et seq. of the Rules, Section 5-66 of the Rules; and Section 5-171 et seq. of the Rules.

Advertising

6. All disclosures required by Consumer Protection Law shall be clear and conspicuous from any distance from which a consumer is able to view the main message of the advertisement.
7. Respondent shall disclose clearly and conspicuously all material exclusions, reservations, limitations, modifications, qualifications, or conditions made to any advertisement.
8. In the case of Respondent's advertisements disseminated by means of an interactive electronic medium such as software, the Internet, or online services, a disclosure made through the use of a hyperlink shall not be deemed clear and conspicuous unless the hyperlink itself is clear and conspicuous, is clearly identified as a hyperlink, is labeled to convey the nature and relevance of the information it leads to, is on the same webpage, online service page, or other electronic page and near the representation it modifies, and takes the consumer directly to the disclosure on the click-through electronic page or other display window or panel.
9. Respondent shall maintain copies of all advertisements published or caused to be published by Respondent for a period of three (3) years from publication date. Upon written demand by the Department, Respondent shall provide to the Department, in electronic format, within fifteen (15) days of the demand, copies of advertisements published by Respondent for the period of time specified by the Department, but not to exceed a period of three years from its publication date. Respondent shall produce such advertisements to the Department with an affidavit stating the date, medium, and place of publication.

Refund Anticipation Loans

10. If Respondent advertises the availability of or offers to consumers refund anticipation loans, as defined by Section 20-739(2) of the Code, Respondent shall comply with all requirements related to refund anticipation loans set forth in the Tax Preparation Law and Rules and the Consumer Protection Law and Rules.

Department Training

11. An employee of Respondent with management responsibility shall attend a training, conducted by the Department, at a date and time set forth by the Department, on the law and rules enforced by the Department that apply to Income Tax Preparers, including but not limited to, the Tax Preparation Law and Rules and the Consumer Protection Law and Rules.
12. Respondent shall comply with Department instructions on submitting proof of attendance.

Price Disclosure

13. Respondent shall post the fees sign required by 6 RCNY §5-66(c)(1)(i) clearly and conspicuously in the reception area and in each office in which Respondent meets with consumers. If Respondent's fees depend on variables including, but not limited to, the number of forms and schedules prepared or the time spent preparing a tax filing, then the Respondent shall list each variable.

Compliance

14. Respondent shall provide to the Department, on the signature page of this Consent Order, an email address that Respondent regularly monitors year-round, and at which the Department may send communications.
15. If Respondent's business address changes, Respondent shall notify the Department, in writing, within ten (10) business days of Respondent's new business location.
16. For a period of three years and upon written demand by the Department, Respondent shall provide to the Department, within fifteen (15) days of Respondent's receipt of the demand; photographs, invoices, receipts, copies of advertisements or other proof of compliance with this Consent Order as requested by the Department.
17. Respondent shall require that all employees familiarize themselves with the requirements of this Consent Order and the Tax Preparation Law, the Consumer Protection Law, and the applicable Rules.
18. Respondent shall conduct an annual training before January 31 of every calendar year to ensure that all New York City employees are familiar and in compliance with this Consent Order, the Tax Preparation Law, the Consumer Protection Law, and the applicable Rules. Respondent shall maintain attendance logs for such employee trainings.
19. Respondent shall train all newly hired New York City employees on the requirements of this Consent Order, the Tax Preparation Law, the Consumer Protection Law, and the applicable Rules within two (2) days of the employees' start date.
20. Respondent shall maintain for inspection by the Department files of all consumer complaints it receives from any state or local agency, including the Department, in a manner that is organized and readily accessible. Respondent shall make all possible efforts in good faith to resolve all consumer complaints filed with the Department within twenty (20) days of receipt of copies of said complaints, but in all instances, it shall respond in writing to the Department regarding such consumer complaints within twenty (20) days of receipt of any complaints.

Fines and other Terms and Conditions

21. Respondent shall pay to the Department upon execution of this agreement the full amount of \$19,750.00 via a bank check, certified check, or money order made payable to “the NYC Department of Consumer Affairs” in resolution of the violations listed in the caption above.
22. Respondent acknowledges that in the event of a breach of a provision of this Consent Order occurring at any time in the next three years, Respondent shall pay to the Department a penalty of \$1,000.00 for each breach, in addition to any other penalties authorized by law. In the event Respondent fails to comply with the terms of paragraph 16 of this Consent Order, Respondent shall pay to the Department a penalty of \$3,000.00 in addition to the penalties provided for in this paragraph for a breach of any provision of this Consent Order.
23. Nothing in this Consent Order shall waive the Department’s right to impose additional fines for violations of the Consumer Protection Law, the Tax Preparer Law and other provisions of the Administrative Code and/or the Rules.
24. This Consent Order resolves only those charges in the above-captioned Notices of Hearing and Notices of Violation.
25. This Consent Order does not resolve any consumer complaints filed against Respondent and does not waive the Department’s right to seek relief for aggrieved consumers, nor the right of individual consumers to bring a civil action for redress pursuant to Section 20-743.1 of the Administrative Code or any other laws.
26. Respondent agrees that Respondent waives the right to a hearing on, or appeal of, the violations alleged in the above-captioned Notices of Hearing and Notices of Violation.
27. The acceptance of this Consent Order by the Department shall not be deemed approval by the Department of any of Respondent’s business practices, and Respondent shall make no representation to the contrary.
28. A scanned or electronic copy of this Consent Order shall have the full force and effect of an original signature.
29. Settlement of violations numbers OL006002451, OL006001575, OL006002556, OL006001027, and CL005199417 shall take effect upon notification to both parties that the decisions in these five matters have been vacated.

30. By signing below, I affirm that I am authorized to enter in to this Consent Order on behalf of Respondent.

Agreed to for Respondent

by:

Benjamin K. Brenner
Print Name

[Signature] 8/15/12
Signature Date

Accepted for Jonathan Mintz
Commissioner of Consumer Affairs
for the City of New York by:

[Redacted]
Print Name

[Signature] 8/21/2012
Signature Date