

OHIO BOARD OF TAX APPEALS

Coldwell Banker Residential Real Estate,)	CASE NO. 2009-M-649
)	
Appellant,)	(PERSONAL PROPERTY TAX
)	PENALTY ABATEMENT)
vs.)	
)	ORDER
Richard A. Levin,)	
Tax Commissioner of Ohio,)	(Requiring Appellant to Show Cause)
)	
Appellee.)	

APPEARANCES:

For the Appellant-

Marvin F. Poer & Company
Elisa Smith
Four E Executive Park Suite 100
Atlanta, Georgia 30329

Coldwell Banker Residential Real Estate
P.O. Box 642
Parsippany, New Jersey 07054¹

For the Appellee-
Tax Commissioner

Richard Cordray
Ohio Attorney General
Sophia Hussain
Assistant Attorney General
Taxation Section
30 E. Broad Street, 25th Floor
Columbus, Ohio 43215

Entered June 23, 2009

The above-captioned appeal is now considered, sua sponte, by the Board of Tax Appeals following a review of matters presently pending on the board's

¹ The Board of Tax Appeals' rules of practice and procedure do not permit an accountant to represent a client before the board. Ohio Adm. Code 5717-1-02. However, the filing by a non-authorized representative does not run to jurisdiction, merely representation. Therefore, notice of this order will be sent to the entity filing the notice of appeal as well as the taxpayer.

docket. On June 19, 2009, the board received the following certification from the Tax Commissioner:

“The Final Determination issued by the Tax Commissioner on March 4, 2009, regarding the above-referenced assessment was sent by certified mail, return receipt requested, to the Appellant.

“The Final Determination was received by the Appellant on the 9th day of March 2009 by certified mail.

“The Tax Commissioner received a letter from the Board of Tax Appeals stating that it had received and docketed a notice of appeal from the Final Determination, filed by the Appellant.

“As of the 18th day of June 2009 no copy of said notice of appeal has been filed with the Tax Commissioner.”

R.C. 5717.02 provides the jurisdictional requirements to appeal from a final order of the Tax Commissioner to this board. R.C. 5717.02 reads, in pertinent part, as follows:

“Such appeals shall be taken by the filing of a notice of appeal with the board, and *with the tax commissioner if the tax commissioner’s action is the subject of the appeal* ***. The notice of appeal shall be filed within sixty days after notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner ***.” (Emphasis added.)

The Board of Tax Appeals is an administrative agency. Manifestly, strict compliance with the tax laws of this state is essential to vest jurisdiction upon this board. *Zephyr Room Inc. v. Bowers* (1955), 164 Ohio St. 287; *Fineberg v.*

Kosydar (1975), 44 Ohio St.2d 1; *Clippard Instrument v. Lindley* (1977), 50 Ohio St.2d 71.

The sixty-day requirement for filing notices of appeal is a jurisdictional prerequisite for review by this board of an action of the Tax Commissioner. Failure to comply with core jurisdictional requirements found in R.C. 5717.02 properly leads to dismissal of the petition. *Daiquiri Club, Inc. v. Peck* (1953), 159 Ohio St. 52; *Akron Standard Division v. Lindley* (1984), 11 Ohio St.3d 10; *VeriFone, Inc. v. Limbach* (1994), 69 Ohio St.3d 699, 702.

As the appellant does not appear to have met the statutorily prescribed filing requirements, the board seeks input from the appellant as to why this matter should not be dismissed.

The parties who wish to be heard upon the question of jurisdiction must provide written argument to this board within fourteen days of the issuance of this order.

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